

***REPORT
ON A
CLOSED MEETING COMPLAINT***
by
Darren Trist

**REGARDING
A
MEETING
OF FIVE MEMBERS OF
COUNCIL & OTHERS
HELD
August 15, 2018**

**PAUL S. HEAYN, CLOSED MEETING INVESTIGATOR
FOR THE CITY OF DRYDEN
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Complaint:

On September 27th, 2018 I received a Complaint forwarded to me by Clerk, Debra Kincaid of the City of Dryden, that included a complaint from Darren Trist, Pronger Pky., Dryden, ON.

Mr. Trist's complaint centered around a meeting that was held on August 15, 2018 at the Holiday Inn, Dryden, ON. Mr. Trist was told by a third party that five Dryden Council members and "a few candidates were seen exiting a hotel conference room". He stated in his complaint that "it is my understanding that no more than three councilors could be present to discuss municipal matters without having minutes taken by a city employee". He found the meeting "very suspect, especially when the other two Councilors had no idea a meeting was planned". The Dryden Councilors involved were Beyak, Carlucci, MacKinnon, Bush and Mayor Wilson. Mr. Trist took his complaint of what appeared to be "a closed meeting" to the Ontario Ombudsman who directed his complaint back to the City.

Investigating the Complaint:

Darren Trist:

I had a telephone conversation with Mr. Trist on Sept. 30th, 2018 to determine who actually saw the Councilors exiting the meeting room and he advised me that he was told "by a third party". I asked who the candidates were that were at that meeting and he said it was his understanding that Dave McKay and Michelle Price were two that he was aware of.

I advised Mr. Trist of the procedure that I will follow to investigate this complaint and that a report will be going to Council in due course. A copy of my report can be made public after it is dealt with by Council.

Michelle Price:

I interviewed Michelle Price by telephone on October 1, 2018 who advised that Dave McKay had brought in a consultant to help candidates that were running or rerunning for Council, to assist them in running their campaigns. She advised that Tanis D. was from Fort Frances and has had experience as a campaign manager. Ms. Price advised that Tanis provided advice on things like sign size, attend Council meetings, make sure your platform is clear and concise, keep up to date on local issues and how to differ from other candidates.

Ms. Price stated that there was no municipal business discussed at the meeting.

Dave McKay:

I interviewed Dave McKay by Telephone who advised me that he brought a lady in to help with some of his friends with their campaign efforts. Ms. Tanis Drysdale is from Fort Frances and is known to Councilor Nick Beyak as a consultant that could provide

help with campaign advice. Not everyone was invited to the meeting, only friends that he wanted to invite. He stated that no municipal issues or business was discussed.

John Carlucci:

I interviewed Councilor John Carlucci by telephone on Oct. 1, 2018. Councilor Carlucci advised that he was invited to the meeting by Councilor Beyak. The meeting was about how to run a campaign, with advice on signs and a Facebook page. Mr. Bruce Taylor (not a candidate in the upcoming election or a Councilor) was also in attendance. No municipal business was discussed.

Nick Beyak:

I interviewed Councilor Beyak by telephone on October 1, 2018 who confirmed that four councilors and the mayor were in attendance. He helped organize the meeting and is an acquaintance of Tanis Drysdale. The group is similar to some of the same group that Ms. Drysdale spoke to four years ago with Dave McKay, Michelle Price and Bruce Taylor added. The meeting started at 4:00 p.m. and the room was available until 6:00 p.m.

There was no municipal business discussed.

Martin MacKinnon:

I interviewed Councilor MacKinnon by telephone on October 1, 2018. Councilor MacKinnon was invited by Councilor Beyak. The meeting was to do with tips on how to run a campaign e.g. what to put on social media, etc. He was aware that the speaker was the same person four years ago that spoke to some of the candidates for Council. There was no municipal business discussed at the meeting.

Mayor Greg Wilson:

I interviewed Mayor Wilson by telephone on October 2, 2018 who advised that the spokesperson gave advice on the do's and don'ts of running a campaign. She talked about brochures, printing contract options, signs and pictures and how to use them. Apparently she has had experience in running a provincial election campaign. No municipal business was discussed.

Norm Bush:

I was unable to contact Councilor Bush. Several calls went to voicemail and I left a message for Mr. Bush to return my call. Since I had interviewed all the principals at the meeting, I prepared my report without Mr. Bush's input.

Mary Trist:

I interviewed Councilor Trist on October 2, 2018. She was not aware of the meeting at the time but has been questioned by two citizens about the meeting. I advised her that the meeting was about running a campaign, with a consultant present to offer advice.

Roger Valley:

I interviewed Councilor Valley on October 2, 2018 who was not aware of the meeting. I also advised him that the meeting was about how to run a campaign with consultant Tanis Drysdale. Councilor Valley advised me that he is aware of Ms. Drysdale's political involvement.

The Essence of the Complaint as it Relates to Section 239 of the M.A:

Section 239 of the Municipal Act deals with Closed Meetings of Council. The preface of Section 239 states:

Meetings open to public

239. (1) Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).

Of course, there are exceptions that enable Council to do business in a confidential manner and they are:

Exceptions

(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act. 2001, c. 25, s. 239 (2).

What Constitutes a “Meeting?”

The Ombudsman of Ontario and the Ministry of Municipal Affairs have debated this question since Section 239 of the Municipal Act came into being. Basically the rule of thumb should be:

1. The meeting is one which the entire membership of the body is entitled to attend or which a specified number of members is entitled to attend, such as the meeting of a committee or other designated division of the body.
2. The purpose of the meeting is to deliberate on or do anything within the jurisdiction or terms of reference of the body, committee or other division.
3. The number of members in attendance constitutes a quorum or, in the absence of a quorum requirement in the rules or terms of reference to the body, committee or other division, a majority.
(2) A meeting includes an electronic or telephone meeting to which the conditions described in subsection (1) apply.

Findings:

It is clear to me that the meeting held on August 15th, 2018 in which five (5) members of the Dryden Council were in attendance, was **not** a Council meeting. I am quite confident that there was no municipal business discussed at this meeting.

The meeting was a private meeting where invitees, friends and colleagues attended at the favour of those arranging the training session on how to run a municipal campaign. The organizer(s) are quite within their rights to invite whomever they want.

Recommendations:

I have no recommendations for Council.