

April 24, 2014

Mayor Joe Fontana and
Clerk Cathy Saunders
300 Dufferin Avenue
London, ON N6A 4L9

Dear Mayor Fontana and Ms. Saunders,

Re: Closed Session re: Fire Services (Strategic Priorities and Policy Committee Budget Meetings, 2014)

I am writing further to our conversation on April 14, 2014 regarding the outcome of our review of a complaint that the Strategic Priorities and Policy Committee discussed the City of London Fire Services budget at its January 31, 2014 closed meeting and may have made decisions on the budget allocation.

The complaints to our Office stated that although the closed session was closed under the “labour relations” exception to the open meeting requirements, it was believed that the subject matter discussed extended beyond labour relations.

As you know, the *Municipal Act, 2001* (the Act) requires that all meetings of council, local boards, and committees of either be open to the public, with limited exceptions.

In reviewing this complaint our Office obtained and reviewed the relevant meeting documents, spoke with the Clerk, and considered the relevant sections of the City’s Procedure By-Law and the *Municipal Act, 2001*.

Background:

The Strategic Priorities and Policy Committee (the Committee) is a standing committee of council that is comprised of all the members of City Council. According to the City’s Procedure By-Law (No. A-45), the Committee’s mandate includes making recommendations and reports to Council on such matters as the annual operating and capital budgets and strategic plans.

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This year, the Committee held public budget meetings on January 30, January 31, February 6, February 7, February 10, and February 25, 2014.

The City has been in negotiations with the London Professional Fire Fighters Association to reach a new collective agreement since the agreement expired on December 31, 2010. The matter is scheduled to go to Arbitration, with hearing dates scheduled in 2014.

The January 31, 2014 Strategic Priorities and Policy Committee Budget Meetings

The Agenda for the Committee budget meetings that was posted on the City's website outlined the various motions that were before the Committee to consider, including a motion on the fire services budget.

The Agenda stated that a closed session would be held in order to consider:

A matter pertaining to reports, advice and recommendations of officers and employees of the Corporation concerning labour relations and employee negotiations in regard to the Corporation's employees.

The record of the public Committee budget meetings (the 5th Report of the Strategic Priorities and Policy Committee – 2014 Budget) states that a motion was before the Committee to recommend limiting the Fire Services Budget to a 2% increase despite the London Professional Firefighters Association's request for salary and benefit increases representing a 4% budget increase. The public record shows that Council voted to defer consideration of the motion until after the in camera meetings.

The Clerk stated that a number of personnel/labour relations matters were to be considered in the closed session under the "labour relations or employee negotiations" exception to the open meeting requirements. The closed sessions were convened at different times throughout the course of the lengthy budget meetings. The closed meeting on January 31, 2014 was held from 2:58 p.m. to 4:30 p.m. A resolution was passed in the open session to discuss the labour relations issues as described in the Agenda (as per wording noted above).

Our Office obtained and reviewed a confidential report of the closed sessions and it indicated that at the January 31, 2014 closed session, the Committee heard a verbal overview from the City Manager, the Managing Director - Corporate Services and

Chief Human Resources Officer, and the Managing Director – Neighbourhood, Children, and Fire Services with respect to labour relations matters concerning Fire Services.

According to the information from the Clerk, Council’s closed meeting discussion pertained to labour relations matters concerning fire services. The Clerk provided our Office with a copy of the slide presentation that was delivered at the closed session. The slides showed that the focus of the discussion was on labour relations and other employment related matters.

The Clerk stated that there were no votes in the closed session, other than a procedural vote to receive the verbal report and presentation from senior staff.

In the public session, the Strategic Priorities and Policy Committee passed a motion to recommend to Council that it limit the fire services budget increase to 2%, which was then considered and passed by City Council at its February 27, 2014 public meeting.

Analysis

The *Municipal Act, 2001* does not clarify what is intended to be captured under the “labour relations or employee negotiations” exception¹ to the open meeting requirements. However, privacy legislation and decisions of the Information and Privacy Commissioner can provide some guidance.

The Information and Privacy Commissioner has stated that the term “labour relations” refers to the collecting bargaining relationship between an institution and its employees, as governed by collective bargaining legislation, or to analogous relationships.²

Our review of the information from both the Clerk and the documents presented at the closed meeting confirmed that the subject matter discussed during the meeting fell within the “labour relations or employee negotiations” exception.

We did not find any evidence that decisions were made in the closed meetings or votes taken that were not permitted in closed session. The Act does allow for closed

¹ *Municipal Act, 2001* s. 239 (2) (d)

² Information and Privacy Commission (IPC) Order MO-2352, Appeal MA07-409, Order PO-2613

session votes on procedural matters or directions to staff. We were advised that the only vote in closed session was a vote to receive the presentation from staff.

On April 14, 2014 we discussed our review and findings with you and provided you with an opportunity to provide feedback. You stated that you did not have any concerns with our findings.

You agreed to include this letter on your next public Council meeting and to post a copy of this letter on your website as part of the meeting agenda package.

Thank you for your cooperation with this review.

Sincerely,



Yvonne Heggie
Early Resolution Officer
Open Meeting Law Enforcement Team