



**MANITOBA
OMBUDSMAN**

OMBUDSMAN ACT INVESTIGATION REPORT

Municipality of
Harrison Park

Public Notice of
Council Committee
Meetings

Issue Date:
January 2025



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THE COMPLAINT

Manitoba Ombudsman received a complaint that the Municipality of Harrison Park (the municipality) failed to provide adequate public notice of a council committee meeting.

OUR INVESTIGATION PROCESS

We received the complaint in January 2023. After making efforts to informally resolve the matters raised, we opened an investigation in June 2023.

We investigated whether the municipality provided adequate notice of a council committee meeting. We obtained relevant information through documentary evidence and interviews. We considered the municipality's procedures by-law, The Municipal Act, and The Municipal Act Procedures Manual.

The complaint also included concerns about the municipality's short-term rental regulation strategy, which we investigated separately.

THE INVESTIGATION

Did the municipality provide adequate notice of the December 2022 council committee meeting?

In December 2022, the complainant learned about an upcoming council committee meeting. They requested and received information from the Chief Administrative Officer (CAO) about the date, time, and location of a council committee meeting. At the time, the complainant asked the CAO if public notice and agendas were issued in advance of these meetings. The CAO told the complainant this did not occur. The complainant viewed this as a procedural irregularity and was concerned the council was not conducting its business in an open and transparent manner.

When our office received the complaint, the municipality did not have a procedure to give the public notice of the date, time and place of council committee meetings. In July 2023, council approved Policy CO-02 2023 “Committee Meetings”, a policy proposed by administration to provide public notice of council committee meetings. The policy requires the agenda containing the date, time and location of the council committee meeting to be posted on the municipality’s website and Facebook page at least 48 hours prior to the committee meeting. The municipality told us it also continues the pre-existing practice of providing the information upon request.

Analysis & Findings

Section 152 of The Municipal Act (the Act) requires every meeting of a council or council committee to be conducted in public. It sets out the public’s right to be present at a meeting of a council or council committee, with limited exceptions. The Act does not prescribe how a municipality is expected to fulfill the public’s right to be present nor does it define what constitutes conducting a meeting in public. However, the spirit and intent of these sections is to ensure councils operate in an open and transparent manner.

The Municipal Act requires municipalities to establish, by by-law, their organizational structure and rules of procedure. Councils must govern themselves in accordance with these by-laws. Together, these by-laws ensure municipal business is conducted in an open and transparent manner. They support the public’s right to be present and participate in decision-making processes.

Councils are required to establish council committees in the organizational by-law. They have flexibility and may establish council committees for any municipal purpose. There are two types of council committees: standing committees and ad hoc committees.

Harrison Park’s organizational by-law establishes four Standing Committees of Council and sets out their duties. The four committees are:

- Legislative, Finance & Policy Committee
- Transportation Services Committee
- Water and Sewer Utility Committee
- Economic Development Committee

Harrison Park’s organizational by-law also provides that Special Committees of Council may be appointed from time to time by resolution, including the Recreational Trails Special Committee.

The rules of procedure are established in a municipality's procedures by-law. The procedures must be followed when conducting municipal business. Section 149(3) of The Municipal Act requires a procedures by-law to provide for the date, time, and place of regular meetings of the council, and the type and amount of notice to be given for regular meetings of the council. It also requires the procedures by-law to provide rules respecting the conduct of council meetings such as procedure to suspend rules, quorum, participating by communication facility, and preparing and posting the agenda.

The Municipal Act says the council may, in its procedures by-law, provide for other such matters including the conduct of council committee meetings. Part 1 "Title" of Harrison Park's procedures by-law states "the following rules and regulations shall be observed in council, and in all committees thereof". The procedures by-law is not entirely clear on which sections apply to council committees, and which do not. Discerning this requires the reader to understand and interpret the difference between regular or special council and council committee meetings, and the nuances between notice of a meeting (what happens before a meeting) and conduct of a meeting (what happens during a meeting).

Section 7 "Agenda" of the municipality's procedures by-law specifically refers to the agenda of each regular council meeting. This section includes procedures for public notice of regular council meetings, including posting the agenda in advance of the meeting at the municipal office. Because this section specifically applies to regular council meeting agendas, it does not apply to council committees. The procedures by-law also set out the date, time and place of regular council meetings, and procedures that must be followed to vary the date and time of a regular meeting.

The Municipal Act Procedures Manual provides guidance on public notice of council committee meetings. Part 5, subject 4 notes "...the type and amount of notice for committee meetings are often the same as that for council meetings. There may be variations, however, to reflect the different types of committees and their varying responsibilities".

We reviewed the municipality's July 2023 policy. We found it provides adequate public notice of committee meetings. It is consistent with The Municipal Act requirement that every meeting of a council committee be conducted in public, and the public's right to be present at meetings, with limited exceptions.

Embedding the notice requirements in a policy provided an expedient short-term solution to guide public notice of council committee meetings. However, our view is the notice requirements are best suited to be in the procedure by-law to:

- ensure the practice remains consistent over time,

- reduce the “sources of truth” guiding municipal procedures, and
- to remain consistent with the intent and purpose of the organizational and procedures by-laws.

We acknowledge the complainant’s concern that the July 2023 policy was not in place at the time of the complaint. We share the complainant’s concern about the importance of conducting municipal business in an open and transparent manner. Every meeting of a council committee must be conducted in public. The public has a right to be present at council committee meetings. However, we are satisfied the municipality’s policy mitigated the fairness concerns raised.

CONCLUSIONS AND ADMINISTRATIVE SUGGESTIONS

Our investigation found the municipality did not have a formal procedure at the material time to proactively inform the public of council committee meetings. Its approach was reactive and in response to public inquiries about when the meetings were occurring.

We did not see evidence the municipality acted in bad faith nor sought to intentionally infringe upon the public’s right to be present at the council committee meeting in question. The municipality did, however, provide information upon request and following the complaint to our office, implemented a new policy providing for public notice of council committee meetings.

Transparent decision-making is foundational to good municipal governance. Having a process to provide public notice of council committee meetings recognizes the importance of this foundation. It also builds on the legal requirement to conduct meetings in public and supports the public’s right to be present at meetings.

As a result of this investigation, Manitoba Ombudsman makes the following administrative suggestion to build on existing practices:

- **Administrative Suggestion 1.** That council add the public notice requirements from Policy CO-02 2023 “Committee Meetings” to its procedures by-law by July 2025, to ensure its application and enhance public notice of council committee meetings.

Response from Municipality of Harrison Park

The Municipality of Harrison Park accepted this suggestion.

This report concludes Manitoba Ombudsman’s review of this matter.