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January 28, 2018

Municipal Legislation Review  
Department of Municipal Affairs and Environment  
4th Floor, West Block, Confederation Building  
P.O. Box 8700  
St. John's, NL A1B 4J6

Dear Sir/Madam:

Recently, your department announced that the *Municipalities Act* would be reviewed and likely amended to reflect current circumstances. You have asked for public input on this important project. I could not agree more on your stated objective of a comprehensive review of the provisions and operations of the municipal legislation.

I am a long-time resident of Mount Carmel - Mitchells Brook - St. Catherine's, [REDACTED] [REDACTED] and was recently elected as counsellor of our municipality. I, as well as several other residents, would like to raise several issues with the Working Group on the Comprehensive Review of Municipal Legislation.

As a new Councillor on the Mount Carmel - Mitchells Brook - St. Catherine's Town Council, I have difficulty with some sections of the *Municipalities Act* and how they are applied and enforced.

I respectfully offer the following:

***I. TOR - Increasing openness and transparency by examining how to enhance public access to municipal documentation and information;***

Under the *Act*, the Mayor and Deputy Mayor are required to be elected by secret vote.

**Election of mayor and deputy**

**18.** (1) At the first meeting held following the first election and each general election the councillors shall

(a) where there has not been a separate election for mayor, elect one councillor to be mayor; and

(b) elect one councillor to be deputy mayor.

(2) An election under subsection (1) shall be conducted by the town clerk or returning officer and shall be done by a secret ballot of councillors.

When I contacted Municipal Affairs on this matter, they advised that a show of hands can elect the Mayor and the Deputy Mayor. In our case, the Mayor and Deputy Mayor were elected in a backroom meeting (kitchen in Council building). I was not present for this meeting but the Mayor confirmed his election to me. When I asked about the nomination process, he advised that it had already taken place and that "he was the Mayor".

While Section 17 makes a reference to special elections and 2/3 majority, it is still not clear exactly how a mayor should be elected.

This is what happens when there is no enforcement of the provisions of the *Act*. [REDACTED]

[REDACTED]

[REDACTED] I feel I understand the importance following regulations as they are written.

**Recommendation: Either consolidate Section 17 and 18 or amend Section 18 to allow for straw votes or show of hand vote or enforce the existing requirement for a secret ballot conducted by the town clerk.....in plain language, describe the process for election of mayor and deputy mayor.**

**2. TOR – Examining ways to address councillor and municipal staff code of conduct and conflict of interest;**

Avoiding a conflict of interest or the even the perception of a conflict of interest is critical to the proper functioning of a municipality.

Currently, the process for reporting, investigating, and resolving potential conflict of interests appears to be inadequate.

Last year, residents reported a possible conflict of interest related to a member of council to Municipal Affairs. Municipal Affairs advised that the same council must address the matter. This year, as a councillor, I raised the possibility of a different conflict of interest by a new councillor and town council refused to second my motion for a review.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Although Section 15 of the Municipal Election Act appears to be clear:

**Qualification**

- 15. (1) A person is qualified to be nominated as a candidate for councillor who.....
- (b) is not in arrears of taxes or other charges payable to the municipality; and

Our Mayor/Council (apparently with the support of Municipal Affairs) ruled that taxes/fees owed by a business are not taxes/fees owed by the owner.

**Recommendation: Create an independent process for the reporting, investigating, and resolving of real or perceived conflicts of interest by the mayor or town councillors.**

**3. TOR - Modernizing legislation that supports increased and improved local and regional decision-making, service delivery and accountability; Examining ways to empower municipalities to govern while enhancing municipal accountability and transparency;**

There is currently no regulatory requirement for municipality to develop and follow a Town Plan. Yet, clearly, most municipalities with a significant footprint would benefit from an evergreen forward-looking plan that could guide town development for a decade or longer.

Recently, our council was given a presentation on town planning by an expert in her field. The response by council was surprisingly negative even though such an approach would clearly engage residents and enable our council to manage future development in the best interests of the residents.

**Recommendation: All municipalities with a footprint greater than x miles<sup>2</sup> should be required to develop and maintain a Town Plan.**

**4. TOR - Increasing openness and transparency by examining how to enhance public access to municipal documentation and information;**

Finally, and in addition to my 3<sup>rd</sup> recommendation, we need to explore ways to improve resident access to municipal processes and documents. Whether this equates to increased use of web tools or just encouraging citizen engagement, new approaches are needed to provide greater transparency.

**Recommendation: Develop an inventory of best practices related to transparency and citizen engagement (from within and outside the Province) that can be shared and adopted by NL municipalities.**

In closing, I believe we need clear unambiguous regulations, increased transparency, and an independent mechanism to deal with conflict of interest.

Richard J. Didham