

**Agendas, minutes and times, dates, or locations of Parks and Recreation Advisory Steering Committee meetings were not provided.**

The Parks and Recreation Advisory Committee's role of acting as a Steering Committee for planning purposes did not follow the Advisory Committees of Council Policy and Procedure (COUN-ADM1). Agendas, minutes, and times, dates, or locations of meetings were not provided.

On September 19, 2016 during the Regular Council Meeting, the following motion 343-16 was passed by Town Council:

FURTHER THAT the **Parks and Recreation Advisory Committee be asked to act as a Steering Committee** for this planning process by providing input and advice to the Director of Recreation and Culture who will: procure expert services with considerable experience and expertise in the design of waterfront communities and stakeholder management; engage the public and all local stakeholders with an active interest in the design and use of the waterfront to develop a comprehensive user needs assessment; and create a comprehensive waterfront design to be presented to Council for its consideration by the spring of 2017;

Having the Parks and Recreation Advisory Committee **act as** a Steering Committee does not exempt this committee from following the procedures of Advisory Committees of Council Policy and Procedure (COUN-ADM1). It failed to comply with

- Publishing agendas and times, dates, and locations of the Parks and Recreation Advisory Steering Committee meetings.
- Providing a written record of meetings, including all resolutions, decisions, and other proceedings.
- Being open to the public to ensure accountability and transparency.

Between April 30 and May 9, 2018, six emails were sent to the Town asking for the Parks and Recreation Advisory Steering Committee agendas, minutes, dates, times, or locations of meetings. [See Attachment 1](#) & [Attachment 2](#). The last reply to the Cobourg Taxpayers Association came from the Director of Recreation and Culture, Dean Hustwick, on May 9, 2018. In his correspondence, he stated, "I have not made a decision yet about whether the minutes from the Steering Committee will be made public". The Cobourg Taxpayers Association has still not received the information requested.

We believe that the Director failed to follow the Accountability and Transparency Policy (LEG-ADM8)

- **Providing public access and participation** to ensure the decision making process is open and responsive to the public
- **Providing accessibility and disclosure of public information** in compliance with Provincial Legislation

In accordance with the Town of Cobourg's Public Comment and Complaint Policy (LEG-ADM19), the Cobourg Taxpayers Association lodged a formal complaint with the Town on May 3, 2018 about the Parks and Recreation Advisory Steering Committee not following the procedures of an Advisory Committee as outlined in Advisory Committees of Council Policy and Procedure (COUN-ADM1). See [Attachment 3](#).

On May 4, 2018, The Town Clerk responded with a letter from Ian Davey, Director of Corporate Services. For a copy of the reply letter, see [Attachment 4](#).

We believe this response does not adequately address the issue. The Parks and Recreation Advisory Committee was asked to **act as** a Steering Committee. As such, it is still an Advisory Committee, and is required to follow Advisory Committees of Council Policy and Procedure (COUN-ADM1).

### **Parks and Recreation Advisory Steering Committee meetings were not open to the public**

In the RFP-CO-16-21, Request for Proposal, Waterfront User Needs Assessment and Detailed Project Design Plan, on page 6, it states:

Regular meetings are expected with the project Steering Committee throughout the course of this project **(which are open to the Public)**, and consultations should be held with key stakeholders...

On May 4, 2018, a Parks and Recreation Advisory Steering Committee meeting regarding the Waterfront was held at the Cobourg Community Centre. The following individuals tried to attend the meeting: Lydia Smith, Ken Strauss, Bryan Lambert, and Ted Williams. Director Dean Hustwick ejected them from the meeting and refused to answer what authority he was using. He refused to call the Municipal Clerk when he was asked to do so.

Lydia Smith called the Municipal Clerk, Brent Larmer, from the reception desk of the Cobourg Community Centre. Brent Larmer said, "That meeting is not open to the public". Ms. Smith asked, "Under what authority?" At that point, Mayor Gil Brocanier came on the line and said, "Lydia, that meeting is not open to the public". When asked under what authority, he said an explanation would be sent to us.

To date, no explanation has been provided with regards to the Parks and Recreation Advisory Steering Committee meetings not being open to the public.

### **The Town of Cobourg did not respond to complaints about the Parks and Recreation Advisory Steering Committee meetings not open to the public.**

The Cobourg Taxpayers Association submitted a formal complaint on May 10, 2018, in accordance with the Town of Cobourg's Public Comment and Complaint Policy (LEG-ADM19). The Town failed to comply with acknowledging receipt of the complaint within two regular business days.

Between May 10 and May 16, two follow up emails were sent. To date, the Town has still not replied to the meeting ejection complaint.

For a copy of the emails, see [Attachment 5](#).

## Attachment 1

From: Brent Larmer [mailto:blarmer@cobourg.ca]  
Sent: May-01-18 4:03 PM  
To: Lydia Smith  
Cc: Dean Hustwick; Teresa Behan  
Subject: FW: SECOND REQUEST Parks and Rec Steering Committee

Hello Lydia,

I apologize for the late reply. I have attached a copy of the Motion that was passed by Council which requests that the Parks and Recreation Advisory Committee be asked to act as the Steering Committee.

I have copied the Director of Recreation and Culture to this email as also stated within the motion that the steering committee is to provide input and advice to the Director of Recreation and Culture.

As this committee has been directed to not provide recommendations to Council; the Municipal Clerk's office does not keep a copy of the records of the meeting. Your request should go to the recreation and culture division for a copy of any Agendas, Minutes and dates and times of the next meetings of the Steering Committee.

Regards,

Brent Larmer  
Municipal Clerk  
Manager of Legislative Services  
Town of Cobourg  
P:905-372-4301 Ex:4401  
C:289-251-5098  
55 King Street West,  
Cobourg ON K9A 2M2  
W: www.cobourg.ca E: blarmer@cobourg.ca

NOTE:

Individuals who submit letters and other information to Council and its Committees should be aware that any personal information contained within their communications may become part of the public record and may be made available through the agenda process which includes publication on the Town of Cobourg website.

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: Tuesday, May 1, 2018 3:41 PM  
To: Brent Larmer <blarmer@cobourg.ca>  
Subject: SECOND REQUEST Parks and Rec Steering Committee

Hi Brent

Did you get this?

Thanks.  
Lydia

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: April-30-18 7:27 AM  
To: Brent Larmer  
Subject: Parks and Rec Steering Committee

Hi Brent

Where can I find information on this committee, please?

I'm looking for:

Agenda

Minutes

Date/Time/Location of Next Meeting

Thanks.

Regards

Lydia Smith

**The Corporation of the Town of Cobourg**

**MOTION**

**Date: September 19, 2016**      **No. 343-16**

Moved by:

*Brian F. Warkentin*

Seconded by:

*Ann R. ...*

---

WHEREAS the Committee of the Whole has considered a Memo from the Director of Recreation and Culture regarding the Parks Master Plan Implementation: Phase I - Waterfront Use and Design;

NOW THEREFORE BE IT RESOLVED THAT Council approve implementation of Cobourg's 2013 Parks Master Plan in phases beginning with a waterfront user assessment and detailed waterfront design;

AND FURTHER THAT the Parks and Recreation Advisory Committee be asked to act as a Steering Committee for this planning process by providing input and advice to the Director of Recreation and Culture who will: procure expert services with considerable experience and expertise in the design of waterfront communities and stakeholder management; engage the public and all local stakeholders with an active interest in the design and use of the waterfront to develop a comprehensive user needs assessment; and create a comprehensive waterfront design to be presented to Council for its consideration by the spring of 2017;

AND FURTHER THAT the \$45,000 allocated in the approved 2016 Budget for the West Harbour be re-allocated for this planning process;

AND FURTHER THAT the Director of Recreation and Culture, in consultation with the Parks and Recreation Advisory Committee, prepare a report to Council if additional funds are required to complete this phase of the implementation process.

## Attachment 2

Email to Lydia Smith dated May 9, 2018

From: Dean Hustwick [mailto:dhustwick@cobourg.ca]  
Sent: May-09-18 9:18 PM  
To: Lydia Smith  
Cc: Ian Davey; Brent Larmer; Stephen Peacock  
Subject: RE: THIRD Request for Parks and Rec. SC Information

Good evening Lydia. I apologize for the delay.

I have not made a decision yet about whether the minutes from the SC meetings will be made public. The SC has simply been providing advice to me and thinc design, the consultants hired by the Town to develop a Waterfront User Needs Assessment and Detailed Design, on the overall process. The final report will be presented to the Parks and Recreation Advisory Committee for consideration and then to Council as a final document. The consultants have been utilizing their professional expertise and experience to lead this process, to engage the community and to interpret the community's input to develop recommendations they believe will address the community's best long-term interests regarding the waterfront.

In the meantime, you are certainly free to submit a Freedom of Information request through the Clerk's Office for additional information.

The Waterfront User Needs Assessment process has involved perhaps the most extensive public engagement process ever conducted by the Town of Cobourg. It has been a fully transparent, accessible and engaging process, which will become most evident in the final report. However, I would be happy to answer any specific questions you may have related to the process and/or the SC.

Thank you.  
Dean

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: Wednesday, May 9, 2018 2:04 PM  
To: Dean Hustwick <dhustwick@cobourg.ca>  
Cc: Ian Davey <idavey@cobourg.ca>; Brent Larmer <blarmer@cobourg.ca>; Stephen Peacock <speacock@cobourg.ca>  
Subject: THIRD Request for Parks and Rec. SC Information

Dear Dean

I am writing to let you know that I have not received anything from you.

Could you, please, confirm that you have received my request and provide me with a timeline as to when you expect to be able to provide the information to us?

Thanks.

Sincerely

Lydia Smith  
President  
Cobourg Taxpayers Association

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: May-07-18 12:30 PM  
To: Dean Hustwick (dhustwick@cobourg.ca)  
Cc: Ian Davey (idavey@cobourg.ca); Brent Larmer; speacock@cobourg.ca  
Subject: Second Request for Parks and Rec. SC Information

Dear Dean

On Monday April 30, 2018, Brent Larmer copied you on his email reply to the Cobourg Taxpayers Association request for information regarding the Parks and Recreation SC. On May 4, when I asked you about it (as you were asking us to leave the SC meeting), you replied that you did not recall seeing it.

I am writing again, on behalf of the Cobourg Taxpayers Association, to formally request all past, present, and future agendas, minutes and time/date/location information for the Parks and Recreation SC.

Please confirm that you have received this Email and advise when we might expect to receive the materials we have requested.

Thank you for your attention to this matter.

Sincerely

Lydia Smith  
President  
Cobourg Taxpayers Association

### Attachment 3

From: Brent Larmer [mailto:blarmer@cobourg.ca]  
Sent: May-04-18 3:50 PM  
To: Lydia Smith  
Cc: Ian Davey  
Subject: RE: Formal Complaint Regarding SC

Hello Lydia,

Please find attached a response in regards to the Formal Complaint as submitted by the Cobourg Taxpayers Association pursuant to the Town of Cobourg Public Comment and Complaint Policy LEG-ADM19.

Regards,

Brent Larmer  
Municipal Clerk  
Manager of Legislative Services  
Town of Cobourg  
P:905-372-4301 Ex:4401  
C:289-251-5098  
55 King Street West,  
Cobourg ON K9A 2M2  
W: www.cobourg.ca E: blarmer@cobourg.ca

NOTE:

Individuals who submit letters and other information to Council and its Committees should be aware that any personal information contained within their communications may become part of the public record and may be made available through the agenda process which includes publication on the Town of Cobourg website.

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: Thursday, May 3, 2018 7:26 AM  
To: Brent Larmer <blarmer@cobourg.ca>  
Subject: Formal Complaint Regarding SC

Dear Mr. Larmer

The Cobourg Taxpayers Association would like to lodge a formal complaint with respect to the lack of public information regarding the Parks and Recreation SC.

When I wrote to you on April 30, 2018, to ask for the Parks and Rec SCs Agendas, Minutes and Time/Date/Location of its next meeting (because I could not find them on civicweb), you replied to me by saying,

“I have copied the Director of Recreation and Culture to this email as also stated within the motion that the SC is to provide input and advice to the Director of Recreation and Culture; and

As this committee has been directed to not provide recommendations to Council; the Municipal Clerk’s office does not keep a copy of the records of the meeting. Your request should go to the recreation and culture division for a copy of any Agendas, Minutes and dates and times of the next meetings of the SC”.

Section 239 of the Municipal Act states,

Record of meeting

(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not.

In addition, the Town of Cobourg does not appear to be following its own Transparency and Accountability Policy which defines “transparency as,

“Transparency shall mean the principle that the Town of Cobourg will conduct its everyday business in an accessible, clear and visible manner, and that the Town’s decision making process is open and clear to the public”.

This SC is not “accessible, clear and visible” nor is its decision making process "open and clear to the public".

We fail to see how this is the responsibility of the Director of Parks and Recreation and not that of the Municipal Clerk since it is governed by the same policy that governs the Parks and Rec. Advisory Committee.

Under “Scope”, the policy states that,

“This policy applies equally to Council Members, Town of Cobourg Employees, Advisory Committees and Local Boards”.

We have not had a response from Mr. Hustwick.

We look forward to hearing from you soon. Thank you.

Sincerely

Lydia Smith  
President  
Cobourg Taxpayers Association

< Formal Complaint Response Cobourg Taxpayers Association.pdf >





# THE CORPORATION OF THE TOWN OF COBOURG

LEGISLATIVE SERVICES DEPARTMENT  
VICTORIA HALL  
55 KING STREET WEST  
COBOURG, ONTARIO, K9A 2M2

Telephone: (905) 372-4301  
Toll Free 1-888-972-4301  
Fax: (905) 372-7558  
www.cobourg.ca

Emailed

May 4, 2018

Dear, Lydia Smith, President, Cobourg Taxpayers Association

**Re: Formal Complaint regarding the Waterfront Use and Design Steering Committee**

The following response is related to the receipt of a Formal Complaint issued to the Town of Cobourg on behalf of the Cobourg Taxpayers Association (CTA) dated May 3, 2018 at 7:26 P.M.

On September 19, 2016 Council passed a motion regarding the Parks Master Plan Implementation: Phase 1 – Waterfront Use and Design, and asked the Parks and Recreation Advisory Committee to act as the 'Steering Committee' for this planning process by providing input and advice to the Director of Recreation and Culture. **Res No.343-16 (attached to this correspondence).**

The Parks and Recreation Advisory Committee acts as the 'Steering Committee' for the Parks Master Plan Implementation: Phase 1 – Waterfront Use and Design, which is separate from the Parks and Recreation Advisory Committee mandate which the advisory committee reports and makes recommendations to Council as set out in their terms of reference.

Further to the reference by the CTA in regards to Section 239 (7) of the Municipal Act:

Record of meeting:

(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not.

*Section 239 Municipal Act Subsection (8) states:*

*(8) The record required by subsection (7) shall be made by,*

- a) the clerk, in the case of a meeting of Council; or*
- b) **the appropriate officer, in the case of a meeting of a local board or committee.***

Subsection (b) provides clarity of the response by the Municipal Clerk which was quoted by the CTA:

**'As this committee has been directed to not provide recommendations to Council; the Municipal Clerk's office does not keep a copy of the records of the meeting. Your request should go to the recreation and culture division for a copy of any Agendas, Minutes and dates and times of the next meetings of the Steering Committee'.**



# THE CORPORATION OF THE TOWN OF COBOURG

LEGISLATIVE SERVICES DEPARTMENT  
VICTORIA HALL  
55 KING STREET WEST  
COBOURG, ONTARIO, K9A 2M2

Telephone: (905) 372-4301  
Toll Free 1-888-972-4301  
Fax: (905) 372-7558  
www.cobourg.ca

Council approved Resolution #343-16 which gives direction to the Steering Committee to provide input and advice to the Director of Recreation and Culture and not Council directly. Thus the Agendas, Minutes and input and advice would be recorded by the Recreation and Culture Division in order to help create a comprehensive waterfront design study to be presented to Council for its consideration.

In response to the CTA's reference of the Town of Cobourg's Transparency and Accountability Policy, the Steering Committee does not provide any recommendations nor does the Committee make any decisions. The Committee was established by Council to provide input and advice to the Director of Recreation and Culture for a specific project being the Waterfront Use and Design study which will be brought to Council for consideration and a decision once complete.

In regards to the Advisory Committee of Council Policy and Procedure, Section 2 Purpose and Application provides a specific section of the Committees the policy applies to, which is all Council approved Advisory Committees and the last bullet states 'Council Ad Hoc Committees established from time to time.' The Steering Committee would not fall under this policy, but would follow the rules and standards set out by but not limited to the *Municipal Act, 2001* 239 (7)(8)(b).

In relation the CTA's question of a need for clarification of the role of the Municipal Clerk, in order to help give your association a better understanding, under Section 228 (1) of the Municipal Act states:

*Section 228 (1) A municipality shall appoint a clerk whose duty it is,*

- (a) to record, without note or comment, all resolutions, decisions and other proceedings of the **council**;*
- (b) if required by any member present at a vote, to record the name and vote of every member voting on any matter or question;*
- (c) to keep the originals or copies of all by-laws and of all minutes of the proceedings of the **council**;*
- (d) to perform the other duties required under this Act or under any other Act; and*
- (e) to perform such other duties as are assigned by the municipality. 2001, c. 25, s. 228 (1).*

Please consider this correspondence as a final response to the formal complaint submitted by the Cobourg Taxpayers Association (CTA), finding that the Steering Committee for the comprehensive waterfront use and design study is following all applicable processes and rules as established by Council.

If you wish to inquire about receiving specific records, the Municipal Freedom of Information and Protection of Privacy Act application process is available to your organization.



# THE CORPORATION OF THE TOWN OF COBOURG

LEGISLATIVE SERVICES DEPARTMENT  
VICTORIA HALL  
55 KING STREET WEST  
COBOURG, ONTARIO, K9A 2M2

Telephone: (905) 372-4301  
Toll Free 1-888-972-4301  
Fax: (905) 372-7558  
[www.cobourg.ca](http://www.cobourg.ca)

As per section 3.3 of the Public Comment and Complaint Policy, If your association is not satisfied with the response from the Town of Cobourg the complaint will be forwarded to the Municipal Ombudsman for initial review in accordance with the Municipal Ombudsman Investigation Complaint Protocol Policy LEG-ADM18.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ian D. Davey".

Ian D. Davey, BBA CPA CA  
Director of Corporate Services

The Corporation of the Town of Cobourg

MOTION

Date: September 19, 2016 No. 343-16

Moved by:

*Brian F. Martineau*

Seconded by:

*Chris Burt*

---

WHEREAS the Committee of the Whole has considered a Memo from the Director of Recreation and Culture regarding the Parks Master Plan Implementation: Phase I - Waterfront Use and Design;

NOW THEREFORE BE IT RESOLVED THAT Council approve implementation of Cobourg's 2013 Parks Master Plan in phases beginning with a waterfront user assessment and detailed waterfront design;

AND FURTHER THAT the Parks and Recreation Advisory Committee be asked to act as a Steering Committee for this planning process by providing input and advice to the Director of Recreation and Culture who will: procure expert services with considerable experience and expertise in the design of waterfront communities and stakeholder management; engage the public and all local stakeholders with an active interest in the design and use of the waterfront to develop a comprehensive user needs assessment; and create a comprehensive waterfront design to be presented to Council for its consideration by the spring of 2017;

AND FURTHER THAT the \$45,000 allocated in the approved 2016 Budget for the West Harbour be re-allocated for this planning process;

AND FURTHER THAT the Director of Recreation and Culture, in consultation with the Parks and Recreation Advisory Committee, prepare a report to Council if additional funds are required to complete this phase of the implementation process.

## Attachment 5

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: May-16-18 7:44 PM  
To: Brent Larmer  
Subject: Third Request - Complaint - Closed Meeting Parks and Recreation SC

Dear Brent

The Cobourg Taxpayers Association is writing to you again to let you know that we have not received an acknowledgement of receipt from the Town of Cobourg regarding our formal Closed Meeting complaint originally sent on May 10, 2018.

Since the Town's policy states that normal response will be within 48 hrs, and since 48hrs have passed for the third time, we ask that you provide us with a time frame as to when we might expect to hear from the Town.

Thank you for your attention to the matter.

Regards

Lydia Smith  
President  
Cobourg Taxpayers Association

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: May-14-18 8:15 PM  
To: Brent Larmer  
Subject: Second Request - Complaint - Closed Meeting Parks and Recreation SC

Dear Brent

Could you confirm that you received this, please? We have not seen a response from you.

Thanks.

Lydia Smith

From: Lydia Smith [mailto:lrsmith200@gmail.com]  
Sent: May-10-18 2:44 PM  
To: Brent Larmer  
Subject: Complaint - Closed Meeting Parks and Recreation SC

Dear Brent

I am writing on behalf of the Cobourg Taxpayers Association (CTA) to lodge a formal complaint with respect to a closed meeting.

On May 4, 2018 at 10AM, 4 CTA directors attended a Parks and Recreation SC meeting held at the Cobourg Community Centre. Dean Hustwick, Director of Parks and Recreation, insisted that we leave the meeting because it was, "not open to the public".

Page 6 of RFP #CO-16-21 Waterfront User Needs Assessment and Detailed Project Design Plan states that, "Regular meetings are expected with the project SC throughout the course of this project (which are open to the public)..." We had the RFP with us and pointed out the paragraph to Dean. He still insisted that we leave.

As per the Procedural Bylaw 003-2016, and the Terms of Reference Bylaw 008-2016, the SC would fall under the definition of an Ad Hoc Committee, which is defined as a Committee under this bylaw.

This SC would then be subject to all of the conditions that apply to advisory committees and would require these meetings to be open to the public and have the agenda and minutes available to the public.

In Bylaw 003-2016:

Section 4.5 states: "The Clerk shall provide notice to the public and media of all the meetings of Council or Committee, Agendas, Agenda items..."

Section 5.9 states: "Pursuant to Section 228 (1) (a) of the Municipal Act 2001 2001, as amended, the Clerk shall provide a written record of meetings, without note or comment, including all resolutions, decisions and other proceedings of the Council or Committees."

Section 3.16 states: "All meetings of the Council and its Committees shall be open to the public except as provided for pursuant to Section 239 (2) of the Municipal Act 2001..."

Since, none of the closed meeting criteria were met, the meeting should have been open to the public.

Thank you for your attention to this matter.

Sincerely

Lydia Smith  
President  
Cobourg Taxpayers Association