Dear [Redacted]:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MAE/75/2017]

On September 7, 2017, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

"September 5, 2017
Section 206(1) of the Municipalities Act states: "The office of a councillor becomes vacant where (i) without leave of council, he or she (ii) does not attend regular public meetings of council for 3 successive meetings.

REQUEST
1. Records showing procedure/how leave of absence shall be obtained.
2. Record showing clarification: If a councillor notifies the Town in writing that he/she will be away from meetings with reason, record showing that council has to acknowledge and approve or deny leave, verbally or in writing.
3. Record that a particular leave of absence Form must be completed for the town and copy of this approved Form.
4. Record showing that a meeting cancelled is a missed meeting by a councillor.
5. Record showing that participating in a Council meeting by teleconference is not acceptable for attendance at a Council meeting.
6. Record showing that if Council votes to approve a leave of absence, a Department of Municipal Affairs official has the authority to negate or override that decision of Council.
7. Record that resigning from Council does not pre-empt dismissal from Council at a later date on the allegation of missing 3 successive meetings."

Please be advised that the Deputy Minister has reviewed this request and the Department of Municipal Affairs and Environment has no records responsive to your request. However, in the spirit of duty to assist in ATIPP (2015), the department has attached a copy of a Circular to Municipalities Re: Remote Meetings Attendance and Youth Representatives. The following list will provide explanations of where you may find your requested records.

1. Records showing procedure/how leave of absence shall be obtained.
   - These records may exist with the relevant municipality.

P.O. Box 8700, St. John’s, NL, Canada A1B 4J6 709 729 5677 709 729 0943 www.gov.nl.ca
2. Record showing clarification: If a councillor notifies the Town in writing that he/she will be away from meetings with reason, record showing that council has to acknowledge and approve or deny leave, verbally or in writing.
   o These record may exist with the relevant municipality.

3. Record that a particular leave of absence Form must be completed for the town and copy of this approved Form.
   o These record may exist with the relevant municipality.

4. Record showing that a meeting cancelled is a missed meeting by a councillor.
   o This record may exist with relevant municipality.

5. Record showing that participating in a Council meeting by teleconference is not acceptable for attendance at a Council meeting.
   o These record may exist with the relevant municipality. Although this is the case in the Implementation section on page one on the Circular to Municipalities Re: Remote Meetings Attendance and Youth Representatives suggests that “Councils that wish to allow remote meeting attendance for councillors should take following steps...” and gives best practices for council to follow for remote meetings.

6. Record showing that if Council votes to approve a leave of absence, a Department of Municipal Affairs official has the authority to negate or override that decision of Council.
   o No responsive records exist and this statement is not consistent with authority outlined in the Municipalities Act, 1999-
     (http://www.assembly.nl.ca/Legislation/sr/statutes/m24.htm).

7. Record that resigning from Council does not pre-empt dismissal from Council at a later date on the allegation of missing 3 successive meetings.
   o No responsive records exist and this statement is not consistent with authority outlined in the Municipalities Act, 1999-
     (http://www.assembly.nl.ca/Legislation/sr/statutes/m24.htm).

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

P.O. Box 8700, St. John's, NL, Canada A1B 4J6  709 729 5677  709 729 0943  www.gov.nl.ca
You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-7183 or by e-mail at lisas@gov.nl.ca.

Sincerely,

LISA SULLIVAN
ATIPP Coordinator

Enclosures
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.
Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).
CIRCULAR TO: Municipalities

RE: Remote Meeting Attendance and Youth Representatives

(1) Remote Meeting Attendance

Explanation

Section 31 of the City of Corner Brook Act, section 31 of the City of Mount Pearl Act, section 39 of the City of St. John's Act, and sections 24 and 51 of the Municipalities Act, 1999 have been amended to authorize the following:

"... council may allow a councillor to participate in a meeting by electronic means where the electronic means enables the councillor to listen to the proceedings and to be heard."

These various sections have also been amended so that a councillor participating by electronic means is considered to be in attendance at the meeting. Furthermore, the ability to remotely attend by electronic means applies to public, privileged, and special meetings. The ability to attend meetings remotely is only applicable for councillors.

This now means that councils may permit councillors to participate in council meetings remotely rather than in-person. This will allow greater flexibility for councillors to attend meetings while juggling other commitments and should assist councils with continuing to conduct business even when council members are not able to attend in-person.

Implementation

Councils that wish to allow remote meeting attendance for their councillors should take the following steps, with consideration to the identified best practices below:

1. Develop a policy which outlines how the process will work, including notice requirements and participation limits;
2. Ensure technology requirements are met allowing anyone who participates remotely to listen and to be heard; and
3. Communicate policy to councillors, administrative staff and residents.

Best Practices

A jurisdictional scan has identified the following best practices for remote meeting attendance:

(a) In-person Attendance vs. Remote Meeting Attendance
Remote meeting attendance should only occur when in-person attendance is either impossible or impractical. It would be useful for councils to clearly outline under what circumstances remote meeting attendance will be allowed. As examples, councils may require: that the Chair must always attend in-person; and/or limiting the number of times a councillor may attend meetings remotely in a given year.

It is also important for councils to determine whether remote meeting attendance is allowed for special and privileged meetings, as well as public meetings. While the amendment applies to all meeting types, councils can determine when remote meeting attendance is permissible. As examples, councils may want to consider: requiring in-person attendance for any resolution where a 2/3 majority is required (e.g., appointing or suspending a town manager and/or clerk); and/or not allowing remote meeting attendance for privileged meetings.

(b) Technology Requirements, Options and Associated Costs

The legislation requires that anyone attending meetings remotely must be able to listen to the proceedings and to be heard by all in attendance.

Technology options could include videoconferencing, Lync, Skype and FaceTime. However, a simple telephone with a speaker feature at the meeting location will allow the person attending remotely to be heard by everyone in attendance. The only additional requirement being that the person attending remotely must be able to hear the proceedings.

Any capital or operational costs associated with technology used to allow remote meeting attendance will be borne by the municipality.

If the municipality offers a per diem for attendance at meetings, the council will need to determine whether the per diem will apply to remote meeting attendance as well as in-person attendance, or if a reduced rate will be applied for remote meeting attendance.

(c) Procedures for Remote Meeting Attendance

Materials should be provided in advance for anyone attending by electronic means. If materials are of a private nature, council may need to use encryption technologies to protect confidentiality. For example, Microsoft Office offers the ability to protect Word and Excel documents using password protections.
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RE: Remote Meeting Attendance and Youth Representatives

Anyone wishing to participate remotely should be required to notify the clerk within a specified period of time (e.g., 3 days before the meeting). This will allow time to organize the necessary logistics (e.g., meeting materials and the necessary technology are both available).

Councils should also determine how technical difficulties will be addressed. For example, if communication is lost to one or more electronic participants during a meeting, a 10 minute recess is called to try and re-establish the link. If the link cannot be re-established after the recess, the electronic participants are deemed to have left the meeting. If this means there is no longer a quorum of councillors in attendance, then the meeting is adjourned.

(d) Declaration of Vacancy

Section 20 of the City of Corner Brook Act, section 20 of the City of Mount Pearl Act, section 9 of the City of St. John’s Act, and section 206 of the Municipalities Act, 1999 continue to apply when determining whether a councillor’s seat has become vacant. This means that, regardless of the ability to attend meetings remotely, a councillor’s seat is still vacated in the following circumstances:

- he/she has been absent from the municipality for more than one year;
- he/she stops being ordinarily resident in the municipality (not applicable in the City of St. John’s);
- without leave of council, he/she does not attend regular public meetings of council, either in person or remotely, for three successive months (not applicable in the City of St. John’s).

(e) Adoption of Remote Meeting Policy and/or Amendment to Rules of Procedure

Prior to allowing remote meeting attendance, councils should develop a policy specifically addressing remote meeting attendance (or amend their rules of procedure accordingly).
CIRCULAR TO: Municipalities

RE: Remote Meeting Attendance and Youth Representatives

(2) Youth Representatives

Explanation

Section 13.1 of the City of Corner Brook Act, section 13.1 of the City of Mount Pearl Act, section 5.01 of the City of St. John’s Act, and section 13.1 of the Municipalities Act, 1999 authorize the following:

“... council may appoint one or more persons with the title “youth representative” to sit with the council and participate in its deliberations for a term and on conditions that the council may decide.”

This amendment gives councils an additional tool to engage youth in their communities, to obtain a youth perspective on issues before council, and to generate interest among youth in local government. It is hoped that through their involvement with council, youths will better understand what their city or town does allowing a mentoring opportunity so they consider running for council in the future.

These various sections specify that a youth representative must be less than 18 years of age at the time of appointment and are not members of council so do not count for the purpose of determining quorum or deciding a vote.

In short, whether to appoint, the number of appointments, as well as the length and conditions of any appointments are all determined by council.

Implementation

Councils that wish to appoint a youth representative should take the following steps, with consideration to the identified best practices below:

1. Develop a policy which outlines how the process will work, including the term and conditions of appointment;
2. Determine the roles and responsibilities of a youth representative;
3. Communicate policy to councillors, administrative staff and residents;
4. Communicate information regarding the opportunity to be appointed as a youth representative to local schools and youth organizations; and
5. Appoint one or more youth representatives according to the method of appointment outlined in the policy.
Best Practices

A jurisdictional scan has identified the following best practices for appointing youth representatives:

(a) Youth Representative vs. Youth Representatives

A youth participating in a council meeting may feel more comfortable (and thus more likely to add value and have a positive experience) with other youths in attendance rather than being the sole representative.

(b) Identifying Youth Representatives

Residency in the community, as well as school enrollment, should be conditions of identifying potential youth representatives. Any council interested in appointing youth representatives could contact local schools and/or youth organizations in order to communicate youth representative opportunities.

(b) Selection of Youth Representatives

Once potential youth representative candidates are identified, possible selection options could include: an application process; an application and interview process; a community nomination process; or an election process. For example, councils that nominate Male and Female Youths of the Year may consider appointing them to council as youth representatives.

(c) Term, Conditions, and Authority

A term of one year is common in other jurisdictions, where the representatives are chosen before the summer hiatus and start their term in September.

Once appointed, the youth representatives typically engage in dialogue and share their perspectives; however, they cannot vote. They should be expected to demonstrate consistent attendance at council meetings and may be asked to provide reports regarding issues to youth in the community.
CIRCULAR TO: Municipalities

RE: Remote Meeting Attendance and Youth Representatives

(d) Public Meeting Attendance

Youth representatives are typically invited to attend and participate in all public meetings. This will ensure they are aware of the rules of procedure, issues that municipal councils face, and can input on debate, as necessary. The youth should have a reserved seat in council chambers.

(e) Privileged and Committee Meeting Attendance

Youth representatives are typically not invited to attend and participate in privileged meetings where confidential information is discussed, unless the particular circumstances warrant participation by the youth representatives. Attendance at committee meetings by the youth representatives will depend on the committee and the issues to be discussed.

(f) Establishment of Youth Advisory Committee and/or Youth Positions on Committees

In addition to appointing youth representatives, councils may wish to consider establishing a youth advisory committee and/or youth positions on current committees to further enhance the level of youth engagement in local governance. A youth representative can act as a liaison between a committee and the council.

(g) Adoption of Youth Representative Policy and/or Amendment to Rules of Procedure

Prior to appointing youth representatives, councils should develop a policy specifically addressing the terms, conditions and authority of this appointment (or amend their rules of procedure accordingly).

(h) Youth Representative Orientation Training

The Department provides councillor orientation training to new councillors. It is equally important that the Department also provides similar orientation training to youth representatives. This training is currently being developed and it is anticipated that it will be available for delivery in the Fall 2014.