



Staff Report

Administration

Report To: Committee of The Whole
Meeting Date: April 8, 2019
Report Number: FAF.19.052
Subject: Keeping and Maintaining of Public Records
Prepared by: Corrina Giles, Town Clerk

A. Recommendations

THAT Council receive Staff Report FAF.19.052, entitled "Keeping and Maintaining of Public Records";

AND THAT Council direct staff to remove the deputation material of Terry Kellar, Blue Mountain Ratepayers Association, of November 19, 2018 from the Town website.

B. Overview

This staff report is a follow up to the request from Terry Kellar on behalf of the Blue Mountain Ratepayer's Association, requesting that his deputation material of November 19, 2018 "B.4 Deputation Terry Kellar Re STA", be removed from the Town's website.

C. Background

At the January 16, 2019 Committee of the Whole Meeting, Mr. Terry Kellar, on behalf of the Blue Mountain Ratepayer's Association, provided a deputation to the Committee of the Whole (see Attachment #1) requesting that Council direct staff to remove his deputation material of November 19, 2018 from the Town website. In response to this request, Council, at the January 30, 2019 Council Meeting, resolved as follows:

THAT Council direct staff to investigate the keeping and maintaining of all public records of public meetings and report back to Council, CARRIED.

D. Analysis

The municipality speaks through its records. The statutory duty to make and maintain records, including minutes, is found in the *Municipal Act* ("Act"). Section 228(1) of the Act provides that the Clerk is responsible to record Council proceedings as noted below:

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 Council.

Under section 253 of the Act, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, any person may inspect any of the records under the control of the clerk, including

253(1) Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, any person may, at all reasonable times, inspect any of the records under the control of the clerk, including,

- (b) minutes and proceedings of regular, special or committee meetings of the council or local board, whether the minutes and proceedings have been adopted or not;

Section 254 of the Act requires a municipality to retain and preserve the records of the municipality and its local boards in a secure and accessible manner. Despite section 254, a record may be destroyed if a retention period for the record has been established and the retention period has expired in accordance with the Town's Records Retention By-law No. 2011-8, it being noted that Council Minutes are kept permanently.

Any alteration of the minutes of the proceedings would be illegal. If, however, there was an error or material omission in the minutes after their approval, the minutes can be corrected by means of a motion to "Amend Something Previously Adopted". Mr. Kellar is not requesting a correction to the minutes, but is requesting that his deputation material be removed from the Town's website.

With respect to the webcast recording of the November 19, 2018 Council Meeting, it should be noted that this recording is a "record" of the Town and is required to be retained in accordance with the Records Retention By-law. Although the webcast recording is not the official "minutes" of the meeting, it does provide clarification of the proceedings of Council.

Although Mr. Kellar may regret his November 19, 2018 statements, the Town has an obligation to protect the integrity of the Town's records. It is for this reason that it is not advisable to edit the November 19, 2018 webcast recording to remove the portion that included Mr. Kellar's deputation.

Mr. Kellar has requested that his November 19, 2018 deputation material be removed from the Town website. The Town website is not a statutorily mandated record of Council's proceedings and is not subject to the rules of the Act regarding minutes. With Council direction, staff can remove the November 19, 2018 deputation material from the website.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners
Objective #1 Improve External Communication with our Constituents

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

1. Shawn Everitt, Interim CAO
2. Harold Elston, Solicitor

I. Public Engagement

The topic of this Staff Report will not be subject to a Public Meeting.

J. Attached

1. Terry Kellar, Blue Mountain Ratepayer's Association, Deputation Material of January 16, 2019

Respectfully Submitted,

Corrina Giles
Town Clerk

Shawn Everitt
Interim Chief Administrative Officer

For more information, please contact:
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**B.1.1 Terry Kellar,
Blue Mountain Ratepayer's Association**

I, Terry Kellar, on behalf of the Blue Mountain Ratepayer's Association, hereby retract and apologize for the comments I made at the deputation before the Town of the Blue Mountains on November 19th, 2018, "respecting short-term accommodation matters", that Mr. Finbow and others may have felt were defamatory and slanderous.

My comments represented a lapse in judgment on my part which I regret. They were unwarranted, and I apologize for having made them.

I hereby respectfully request that Council give direction to staff to have the document "B.4-Deputation-Terry Kellar-Re-STA", under the heading of November 19th, 2018 Council, removed from the Town's Agendas, Minutes and Reports page of the Town's Website.