

June 18, 2014

Dear Clyde Wells,

I have worked as a journalist (newspapers, radio and magazines) in Alberta, the Northwest Territories and Newfoundland for the past 27 years. For the last 14 years, I have been reporting for, and publishing, The Northeast Avalon Times — a regional newspaper covering Torbay, Portugal Cove-St. Philip's, Logy Bay-Middle Cove-Outer Cove, Pouch Cove, Bauline and Flatrock, and recently we have included Bell Island in our coverage area.

Because of my work, I have first-hand knowledge of the effect of the new privacy legislation on municipal government, which I believe is not only eroding public access to information but redefining public information, discourse and municipal governance, in ways I cannot believe were intended by provincial legislators.

The first impact of the privacy legislation is simply that every name — with the exception of provincial ministers, councillors and town staff — is blacked out on every council document before it is released to the public, and in some cases is blacked out by town staff before the information is given to councillors.

This includes: the names of developers and their companies on development applications and correspondence; the names of properties on any documentation, study or correspondence; the names of groups and organizations; the names of provincial government officials on reports and correspondence; the names of residents on applications to council and correspondence; the names of family land on maps; the names of groups participating in events; the names of events not run by council; and even the names of citizens on public petitions.

In some cases, staff “redact” these names before the information goes to council. Last year, one mayor declared in frustration that he could not figure out what council was discussing and therefore did not know how to vote.

When asked about this severing, I have been told repeatedly, and by several different councils, that town staff are following the instructions of the provincial government, and they had been warned that towns could be sued if they did not follow these new rules. I thought the privacy legislation was for medical records and personnel files — not for public documents, government reports and tabled correspondence, and certainly not for public petitions or letters from developers and citizens.

This means that councils are voting on applications to build subdivisions by unnamed companies, sometimes on unnamed land. Sometimes these applications are contested by unnamed citizens belonging to unnamed groups with numbers of unnamed citizens signing petitions, against the unnamed developers of the unnamed land.

Provincial reports about developments — for example, from provincial transportation or environment — might as well be unsigned, as the public is not able to find out who wrote them.

This not only leaves towns open to accusations of conflict of interest, it impedes the public's basic right to information about what is happening in their towns and treats citizens' concerns and petitions with disrespect — downgrading their efforts to participate in their local democracy to the level of anonymous bloggers.

Accountability of government officials, developers and citizens is degraded to anonymous information, which citizens have to take on faith is valuable.

If this is allowed to continue, the public record for these towns in the future will be a farce. The only people recorded to have participated in the towns will be the current town councillors and staff.

This leads me to my second, and more important, point — the privacy legislation, as town staff have been told to follow it, is leading in some towns to a degradation of the definition of public information and even to how public governance is carried out.

Since all names are now severed from correspondence and reports, some councils and staff have taken the next step — and now consider the severed documents themselves to be private information between citizens, developers, businesses, government officials and council. In some cases this public documentation never even gets to councillors, but is seen only by staff, who decide which correspondence councillors need to see.

I have repeatedly asked for letters discussed at council meetings only to find that these letters and reports never made it into the council package — all councillors received was a summary of the information from staff.

For information that does make it to councillors, I have been told that councillors decide which information to table, and therefore which information is public.

This has included public petitions, letters to council from citizens, council reports, government reports, and letters and reports from developers and businesses.

Even if correspondence makes it to the public record, it is severed of any names. Some councils say they have to contact the person or group and ask permission to release this public information to the public.

This means council is accountable only to itself — citizens have no way of knowing if their concerns ever made it to council, as they are never put on the public record. Citizens can't know what discussions council is having with developers, the provincial government or anyone else.

Major changes can happen in towns without any notice — including major excavations, dynamiting etc. — as none of this information ever makes it to the council chamber.

Several years ago, a town in The Times coverage area undertook a project to build a half-million-dollar artificial turf soccer field. No correspondence or other information about this field was ever tabled at the council until it was discovered that the field had been built too small for its intended purpose.

I later found out that there had been several attempts via email to staff, and perhaps council, to inform the town that the field they were planning was too small. If this information had come, as it should have, before council, this mistake could not have happened and the citizens of that town would have the soccer pitch they paid to build.

Another area of concern is emailed reports and correspondence. Some councils believe the automatic disclaimer that comes on some emails makes the document a private one — between the writer and staff, or the writer and council. Since most correspondence is now emailed, documents and letters which in the past have always been public information may now be deleted for “privacy reasons” once they are read by staff.

Municipal government is the most basic level of democracy in our province. The decisions made by town councils have immediate effects on citizens. The provincial government has failed the citizens of these towns, and their town councils, by not properly instructing them in what constitutes public information, who should have access to it and what must be put into the public record. The people who have been training councils in the privacy legislation clearly do not understand public information and should not be pushing towns to erase all names and other identifiers from the public record with warnings about threats of lawsuits.

I believe the Department of Municipal Affairs is greatly responsible for this mess. These councils are dealing with multimillion-dollar budgets and growing populations. Municipal Affairs should clearly outline what is public information, why it is public and how it must be made public.

It is impossible to use the Access to Information process if citizens, and in some cases elected officials, can't even find out what information the council has.

Regards
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