

Municipal Services Office
North (Sudbury)

159 Cedar Street, 4th Floor
Sudbury ON P3E 6A5
Tel.: 705 564-0120
Toll-free: 1 800 461-1193

Bureau des services aux
municipalités du Nord (Sudbury)

159, rue Cedar, 4^e étage
Sudbury ON P3E 6A5
Tél.: 705 564-0120
Sans frais: 1 800 461-1193

December 1, 2023

Reeve and Council
Township of Johnson

Dear Reeve Henderson and Council:

Since July 2023, staff in the ministry's Northern Municipal Services Office in Sudbury have attended eight council meetings and have spoken to municipal employees, the head of council and numerous residents.

The Ministry has made some interim observations and has prepared this correspondence as a reminder to the Township of Jocelyn of the statutory framework for council, its officers and employees as set out in the *Municipal Act, 2001*.

- **Officers of a municipality:** In reviewing your council minutes, it is not clear that the clerk and treasurer positions (this can be a joint, single position, as it has been in the past at your municipality) have been filled with proper appointments being made by council. It also appears that duties assigned to the clerk and treasurer under the *Municipal Act, 2001*, are not being carried out by a clerk and treasurer or their council-appointed deputies.

A municipal council is required to appoint a clerk and treasurer and may appoint deputies. The duties of these municipal officers are described in sections 228 and 286 respectively. These appointments, including prescribed duties, must be formalized by by-law. While the *Municipal Act, 2001* does not specify that a clerk, deputy clerk, treasurer or deputy treasurer are required to be employees of the municipality, individuals such as volunteers filling those statutory positions are required to adhere to all statutory provisions of the Act or any other Act regardless of how those individuals are compensated. Additionally, we would like to remind council that established processes/protocols contained in the townships' hiring policy(ies) should be followed when appointing/hiring individuals to fill staff positions.

We would like to remind council that the municipality may have legal obligations towards individuals appointed to positions who council deem to be volunteers. For instance, there may be requirements under federal or provincial legislation such as the *Workplace Safety and Insurance Act* and the *Occupational Health and Safety Act* that council may need to consider. It is suggested that municipal staff reach out to the Office of the Employer Advisor with the Ministry of Labour, Training and Skills Development and the Workplace Safety and Insurance Board for additional information and clarity.

- **Role of Council and Employees:** We understand that the Reeve may be doing work that is to be done by municipal staff. For instance, we have observed the head of council using the email account intended for administration staff (admin@jocelyn.ca) to respond to certain public inquiries. The role of council and the Reeve as head of council is set out in sections 224 and 225 of the *Municipal Act, 2001*. The role of officers and employees of a municipality is set out in section 227 which includes implementing “council’s decisions and establishing administrative practices and procedures to carry out council’s decisions”. According to section 258, an employee of a municipality or a person who is not an employee of the municipality but who holds any administrative position of the municipality cannot be a member of council. A member of council cannot perform duties of a municipal employee while holding a position on council.
- **Financial administration:** We have been informed that donation boxes are set up in the municipality to collect donations to supplement the municipality’s budget. While municipalities may accept donations, they must appropriately account for all revenues. At this time, it is not clear what internal control processes/procedures have been put in place by the township to properly account for the funds raised by public donations.

According to the *Municipal Act, 2001*, the treasurer is responsible for “maintaining accurate records and accounts of the financial affairs of the municipality”. According to section 296, a municipality is required to appoint a licensed auditor under the *Public Accounting Act, 2004*. The municipal auditor may be able to provide the municipality with suggestions on implementing internal controls for the safeguarding of all funds raised by the municipality.

- **Decorum at Meetings:** We have heard concerns about the lack of decorum at council meetings. The calling, place and procedures of council meetings shall be conducted in accordance with the procedure by-law required by section 238 of the *Municipal Act, 2001*. Most municipal procedure by-laws contain provisions for ensuring that council, staff, and members of the public maintain decorum during the meetings and provide responsibility to the chair of the meeting to enforce the provisions/requirements of the procedure by-law.
- **Accountability and Transparency:** Some members of the public have made claims about a lack of accountability and transparency by council and newly appointed staff. The concerns include a lack of a comprehensive complaint mechanism and delays in responding to public inquiries. According to section 270 of the *Municipal Act, 2001*

a municipality shall adopt policies respecting the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.

One way that council can demonstrate it is being accountable and transparent is by establishing a comprehensive complaint mechanism that outlines a clear process for administering complaints, including how the municipality will communicate with the complainant.

As a result of the above concerns:

- We will continue to monitor the municipality, including attending council meetings. As such, please ensure that municipal staff are providing notices of all council meetings to the ministry's Municipal Advisor for Jocelyn Township (see below for contact information).
- We ask that you provide us with copies of your appointment resolutions and/or by-laws (including the confirmatory by-laws) for the clerk and treasurer and all their deputies.
- We also ask that you provide us with copies of the following policies and by-law in order to shape potential training opportunities for municipal staff.
 - Hiring policy
 - Council and staff relationship policy
 - Notice to the public policy
 - Accountability and transparency policy
 - Delegation of powers and duties policy
 - Procedure By-law

We would like to reiterate our offer to provide an in-person training session in January or February for all administration staff. This training can be divided into two half day sessions (e.g., afternoon on day 1 and morning of day 2) or one full day. We are happy to discuss what dates in January or February may be suitable for everyone.

In the meantime, all council members and staff should review the [Ontario Municipal Councillor's Guide](#), which provides general information about council and staff roles and how the municipality is expected to operate.

We look forward to maintaining a collaborative relationship with the Township of Jocelyn council and staff to enhance the delivery of municipal duties and responsibilities. Our shared objective is to provide you with the necessary tools and information, promote effective service delivery, safeguard the financial health of the municipality, and ensure the provision of good governance to your ratepayers.

If you have any questions or would like clarification about anything in this letter, please do not hesitate to reach out to Enrique Paraco, Municipal Advisor, by phone at 705-280-0641

or by email at Enrique.paraco@ontario.ca or to Kathy Horgan, Manager, Local Government and Housing, by phone at 705-677-8167 or by email at Kathy.horgan@ontario.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Bridget Schulte-Hostedde". The signature is written in a cursive, flowing style.

Bridget Schulte-Hostedde
Regional Director