



**Ombudsman  
Saskatchewan**  
*Promoting Fairness*

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## **Investigation Report**

**Complaint about the Rural Municipality of  
Pleasantdale No. 398's Fees for Furnishing Copies of  
Council Meeting Minutes**



**April 2020**

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## THE COMPLAINT AND THE ISSUE

We received a complaint from a resident of the Rural Municipality of Pleasantdale No. 398 who was concerned about the RM charging \$30 to furnish copies of its council meeting minutes. We investigated whether the RM's policy for furnishing municipal documents, including the fees it charges, meets the requirements of section 117 of *The Municipalities Act*.

## FACTS

In 2012, the RM adopted a policy stating: "Minutes are available for sale for the price of \$100.00 per year, or \$20.00 per meeting (Municipalities Act Section 117)."

At its October 18, 2017 meeting, the RM's council passed the following resolution:

### **296/17 MEETING MINUTE CHARGES**

... THAT the minutes for meeting be free of charge for the public to view at the RM Office. Public is able to request a mailed out/email copy from the RM Office at a \$30.00 charge (Minutes only, no attachments).

In a January 10, 2018 letter, the complainant expressed his disappointment to the council and the administrator with the decision to charge \$30 to have copies of minutes emailed to ratepayers. He wrote:

This decision does not improve transparency in local government, or allow ratepayers to stay current on the issues, decisions, and policy or by-law changes happening at the RM. An example being no notification on the facebook page of the policy change [regarding] the minutes; and no notice given to the ratepayers currently receiving the approved minutes.

The meetings are public and the record of the meeting[s] should be made easier for the ratepayers to obtain, not more difficult. The RM of Lake Lenore posts their minutes on their website as an example. There is little staff time involved to send emails out to interested ratepayers who are already funding the RM. The minutes could be posted on the facebook page if council considers that staff time to [sic] costly.

The complainant asked for "a reply explaining the reasoning behind the fee for the minutes[.]" Not receiving one, he emailed the RM on February 5, 2018, again asking for the council's response noting that: "According to the provincial government website on municipal administration - 'Any person may obtain a copy of the approved minutes for a fee set by council that shall not exceed the reasonable cost incurred by the municipality to produce the copies.'" He asked: "How did the RM calculate \$30 as a reasonable rate to email out the minutes and exclude any attachments that are also public documents?"

The administrator replied: "Council acknowledged your letter as information at its council meeting." We were told that this was recorded in its January 11, 2018 meeting minutes. The administrator did not, however, answer how the RM determined that charging \$30 to email a copy of meeting minutes was reasonable.

Not getting any answers to his questions, on March 5, 2018, the complainant emailed the RM again, asking for a response to his letter. The administrator responded in a letter dated the same day:

Your letter was acknowledge [sic] and filed by council. Meeting minutes show decisions that the council makes at the meeting. Resolutions are recorded as either passed or defeated. Minutes do not include discussions so therefore there is nothing recorded.

Again, the RM did not give the complainant any explanation as to how it determined that the \$30 it charges for meeting minutes to be mailed or emailed was based on its reasonable costs. Instead, at its April 12, 2018 meeting, the council passed resolution 121/18 to delete the word “email” from resolution 296/17, signifying that the RM would not email copies of minutes to people who asked for them.

## **ANALYSIS AND FINDINGS**

Subsection 117(1) of *The Municipalities Act* states that any person is at any time during regular business hours, entitled to inspect and obtain copies of certain municipal documents including, among other things, contracts approved by the council, bylaws, and all approved council meeting minutes. Subsections 117(2) and (3) limit what municipalities can charge for furnishing copies of these documents:

(2) Within a reasonable time after receiving a request, the administrator shall furnish the copies requested on payment of any fee that the council may fix.

(3) For the purposes of subsection (2), the fee set by council must not exceed the reasonable costs incurred by the municipality in furnishing the copies.

[Emphasis added.]

The administrator told us that the RM’s increase of the fee from \$20 to \$30 to obtain a copy of council meeting minutes was justified based on what she first said was the government’s \$1.00 per page charge and then what she later said was the \$1.00 per page charged by “Saskatchewan Justice.” While the tariffs of costs in *The Court of Appeal Fees Regulations, 2019*, *The Queen’s Bench Regulations* and *The Provincial Court Fees Regulations, 2018* state that photocopies of documents on court files are charged at \$1.00 per page, this does not apply to the Ministry of Justice or the rest of the Government of Saskatchewan. Like all provincial government ministries, the Ministry of Justice states that it charges \$0.25 per page for a photocopy of documents requested under *The Freedom of Information and Protection of Privacy Act*. Publications Saskatchewan charges \$0.25 per page for printed documents, but most of its publications can be downloaded for free from the government’s website.

The administrator also suggested that the RM’s \$30 fee was in keeping with what other municipalities charge. She said it was ‘standard’ among municipalities in the area. She gave the example of the Village of Annaheim, where she is also the administrator. We did some checking among other municipalities in the area. The RM of Barrier Valley makes its meeting minutes available for free on its website.

According to a fee look-up service provided by the *Saskatoon StarPhoenix* in a December 20, 2019 online article, *Fees May Apply*, the RM of Star City charges a flat ‘access to information’ fee of \$20, and the RM of Kelvington charges no fees. The Town of Star City and the Town of Kelvington charge no fees – their bylaws and meeting minutes are available for free on their websites. Therefore, the administrator’s claim that the RM’s fee reflects a standard in the area is not supported by the evidence we gathered.

The reeve told us he contacted “several” municipalities “down south.” When pressed further, he told us that the RM of Elfros and the RM of Big Quill charge \$30 for meeting minutes. However, according to the *Fees May Apply* search, Elfros charges \$1.00 per page and Big Quill charges \$1.00 per page, plus \$5.00 postage. Therefore, the reeve’s claim is also not supported by the evidence we gathered.

Despite the administrator and the reeve not providing us with verifiable examples, we nevertheless acknowledge that several municipalities appear to be charging high fees for providing copies of public records. This does not mean, however, that it is acceptable for any municipality, including this RM, to charge unreasonably high fees.

Even if the RM had set its fees based on a standard \$30-dollar flat fee used by the municipalities in the area (which we find it did not, because no such standard exists), this is not what subsection 117(3) requires the council to do. To comply with subsection 117(3), a municipality needs to first assess what its actual costs for furnishing copies of municipal documents are, take steps to ensure its costs are reasonable, and then set its fees accordingly.

For example, copies of approved council meeting minutes are frequently requested public documents, and municipalities are required to have them available for public inspection. Therefore, *The Municipalities Act* requires the RM to take steps to ensure these costs are reasonable. This means the RM needs to ensure that its records management practices make it reasonably efficient for the administrator to furnish copies of them. The RM’s more current approved minutes should be readily available to the administrator electronically, so in normal circumstances, we suggest it would take just a minute or two to print a copy of them. It would take no more time to attach a copy of them to an email and send it to whomever has made the request.

Lastly, the RM told us it set the fees – not to ensure they were reasonable as required by the Act – but to discourage citizens from asking for copies of documents. We were even told that the ability to email them was removed to make it more difficult for citizens to share the copies with others.

The reeve told us the fee was increased to “curtail” complaints about meeting minutes. He also said that if someone tried to take a picture of the meeting minutes, or if they requested them to be emailed, there would still be a \$30 charge.

One council member told us the increase was made because people were ‘using up too much of the administrator’s time.’ The reeve, the council member, and the administrator all said the fee and the decision to not email meeting minutes out was to prevent individuals altering meeting minutes and distributing them. All three said the fees were increased to deal with “problematic requests.”

Under *The Municipalities Act*, the RM is accountable to its citizens and responsible for encouraging and enabling public participation in the governance process. This broad duty is reflected in several provisions of the Act. For example, the RM must ensure the council's decisions are made in public, it is required to give public notice of its intention to make certain decisions (closing roads, disposing of municipal property, etc.), and it is to provide for members of the public to attend its public meetings and make submissions to the council about the matters being discussed.

A fundamental requirement for a citizen to meaningfully participate in the RM's governance process – which is central to this case, is the ability to review and get copies of public documents. A citizen cannot make meaningful submissions to the council unless the RM provides access to information about the decisions and topics the council decides and discusses. In our view, based on the information we gathered, the RM has set its fees to actively discourage public access, and therefore, participation in local government.

*The Municipalities Act* does not permit the council to set the fees for furnishing documents for the purpose of preventing people from altering them or distributing them, or to discourage people from asking for them. The documents listed in section 117 are public documents. Anyone can review them, and anyone can get copies of them for a *reasonable* fee. The RM has no authority to set its fees to accomplish any other purpose except to provide the documents to anyone who asks for them.

Since the RM has admitted to setting the fees for the purpose of discouraging public access to them and curtailing them being distributed to the public, we find the RM has set the fees for an improper purpose – specifically in contravention of one of the key purposes of *The Municipalities Act*, which is to ensure municipalities are responsible for encouraging and enabling public participation in the governance process.

## **SUMMARY AND RECOMMENDATION**

In summary, we find that the \$30 fee the RM of Pleasantdale charges to furnish copies of its meeting minutes is unreasonable and contravenes section 117 of *The Municipalities Act*. We also find the RM's stated purposes for setting the fee – to curtail people from distributing them or altering them and to limit the time the administrator is required to furnish them – are improper and not in keeping with its duty to foster and promote public participation in the governance process.

Therefore, we recommend that:

- 1. The Rural Municipality of Pleasantdale No. 398 immediately take steps to fix the fees it charges for furnishing copies of municipal documents under by section 117 of *The Municipalities Act* so they do not exceed the reasonable costs incurred by it to furnish them.**

## **RESPONSE TO DRAFT REPORT**

On February 18, 2020, we sent a draft version of this report to the RM, and asked it make representations to us about the accuracy of our findings and the reasonableness of our recommendation. On April 13, 2020, the RM gave us a written response. It did not accept our recommendation. Instead it directed the administrator to write to us to state that until *The Municipalities Act* requires all municipalities to “do the same thing”, the RM will continue to charge ratepayers the fees it is currently charging – the \$30 flat fee, a fee that we found to be unreasonable and in contravention of *The Municipalities Act*.

The citizens of the RM should be able to expect it to have fair and reasonable administrative processes and fees for providing access to public municipal documents. At the very least, they should be able to expect the RM to comply with *The Municipalities Act*.

## ABOUT US

The Ombudsman is an independent officer of the Legislative Assembly of Saskatchewan. Under *The Ombudsman Act, 2012*, one of our roles is to investigate complaints about administrative actions and decisions of provincial ministries, agencies of the government, publicly-funded health entities, municipal entities, and their council members, board members, officers and employees. After an investigation, we can make recommendations to a government entity if the Ombudsman is of the opinion the government entity or officials:

- Have made a decision, an omission or a recommendation to a minister, or has acted in a way that appears to be: contrary to law; wrong, unreasonable, unjust, oppressive, improperly discriminatory, based on a mistake of law or fact; or was made or done in accordance with a law or a practice that is unreasonable, unjust, oppressive or improperly discriminatory.
- Have exercised a power, duty or function conferred or imposed on them by an Act for an improper purpose, on irrelevant grounds, or by taking into account irrelevant considerations.
- Should have given reasons for a decision, action, omission or recommendation that was the subject-matter of the investigation.

Ombudsman Saskatchewan does not advocate for the people who complain to us nor for the government entities and officials we investigate. We are neutral, impartial and independent from the government entities and officials we oversee. Our mission is to promote and protect fairness and integrity in the design and delivery of provincial and municipal government services.