



Office of the  
Saskatchewan Information  
and Privacy Commissioner

## **INVESTIGATION REPORT 237-2016**

### **Rural Municipality of Rosthern**

**November 15, 2016**

**Summary:** The Complainant had concerns about the disclosure of his personal information in the Rural Municipality of Rosthern's (the RM) council meeting minutes. The minutes were posted on the RM's website. While the Office of the Information and Privacy Commissioner (IPC) found that there is authority under *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP) for the disclosure of personal information, the IPC recommended the RM undertake best practices.

#### **I BACKGROUND**

- [1] The Rural Municipality of Rosthern (the RM) published the minutes of its July 5<sup>th</sup>, 2016 council meeting on its website. The minutes contained a description of Council's decision regarding what action Council would take in regards to the Complainant. It also included the Complainant's name.
- [2] On August 22, 2016, the Complainant contacted the RM by e-mail to complain about his name being published in the minutes.
- [3] In a letter dated September 2, 2016, the RM requested that the Complainant provide the RM with the "statutory basis for the complaint". The RM advised the Complainant that it had suspended online access to the minutes pursuant to the Complainant's request.

- [4] In an email dated September 12, 2016, the Complainant asserted that the RM violated section 24 of *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP).
- [5] In a letter dated September 23, 2016, the RM stated that the Complainant's name is not personal information. It stated that section 24 of LA FOIP applies to personal information as defined in section 23 of LA FOIP.
- [6] The Complainant was dissatisfied with the RM's response. Therefore, he requested my office to undertake an investigation.
- [7] On October 14, 2016, my office notified both the Complainant and the RM that it would be undertaking an investigation.

## **II DISCUSSION OF THE ISSUES**

- [8] The RM qualifies as a "local authority" as defined by subsection 2(f) of LA FOIP.

### **1. Does the information at issue qualify as "personal information"?**

- [9] The information at issue is a sentence contained within the minutes of the July 5, 2016 council meeting. As described in the background, the sentence contains the Complainant's name and a description of Council's decision regarding what action Council would take in regards to the Complainant.

- [10] Subsection 23(1)(k) of LA FOIP defines "personal information" as follows:

23(1) Subject to subsections (1.1) and (2), "personal information" means personal information about an identifiable individual that is recorded in any form, and includes:

...

(k) the name of the individual where:

- (i) it appears with other personal information that relates to the individual; or
- (ii) the disclosure of the name itself would reveal personal information about the individual.

[11] Based on a review of the council meeting minutes, I find that the information at issue qualifies as personal information pursuant to subsection 23(1)(k)(i) of LA FOIP. The name of the Complainant coupled with the description of the Council's decision reveals circumstances involving the Complainant.

**2. Did the RM have authority to disclose the Complainant's personal information?**

[12] Disclosure is the sharing of personal information with a separate entity. By publishing the council meeting minutes on its website, the RM was disclosing the Complainant's personal information to the public.

[13] In its submission to my office, the RM asserted that subsection 28(2)(r) of LA FOIP authorizes disclosure, which provides:

28(2) Subject to any other Act or regulation, personal information in the possession or under the control of a local authority may be disclosed:

...

(r) for any purpose in accordance with any Act or regulation that authorizes disclosure;

[14] The RM indicated that subsection 120(1) of *The Municipalities Act* requires council meetings to be public and that section 117 of *The Municipalities Act* requires council minutes be public documents after adoption.

[15] Subsection 28(1) of LA FOIP provides that a local authority may disclose personal information with the consent of the individual or in accordance with section 28 or section 29 of LA FOIP. Since the Complainant in this case did not provide consent for the disclosure, I must determine if there was authority for the RM to disclose personal information pursuant to section 28 or section 29 of LA FOIP.

[16] As mentioned earlier, the RM asserted that subsection 28(2)(r) of LA FOIP authorizes disclosure, which provides:

28(2) Subject to any other Act or regulation, personal information in the possession or under the control of a local authority may be disclosed:

...

(r) for any purpose in accordance with any Act or regulation that authorizes disclosure;

[17] Subsection 117(1)(d) of *The Municipalities Act* provides that any person is entitled at any time during regular business hours to inspect the minutes of council after they have been approved by council:

117(1) Any person is entitled at any time during regular business hours to inspect and obtain copies of:

...  
(d) the minutes of the council after they have been approved by the council.

[18] Based on subsection 28(2)(r) of LA FOIP and subsection 117(1)(d) of *The Municipalities Act*, the RM has the authority to disclose the Complainant's personal information by releasing a copy of the minutes of the meeting after they are adopted.

[19] I find that the RM had authority to disclose the Complainant's personal information in its Council meeting minutes.

[20] I note, though, that the purpose of LA FOIP is to ensure that local authorities operate transparently while ensuring those same local authorities protect the privacy of Saskatchewan residents. So while I support local authorities in publishing its council meeting minutes on its website, I also encourage that they implement measures to protect the privacy of Saskatchewan residents.

[21] So while I find that the RM has authority to disclose the Complainant's personal information pursuant to subsection 28(2)(r) of LA FOIP and subsection 117(1)(d) of *The Municipalities Act*, I suggest the RM de-identify or redact the personal information when publishing the meeting minutes to its website. Below are a few best practices I recommend the RM undertake.

[22] First, the RM should provide notice to the public about how personal information submitted to it could become a part of public council or committee agendas or meetings, and could also be published to the RM's website. Such a notice would be in accordance with subsection 25(2) of LA FOIP, which provides:

25(2) A local authority that collects personal information that is required by subsection (1) to be collected directly from an individual shall, where reasonably practicable, inform the individual of the purpose for which the information is collected.

[23] The notice can appear on brochures, its website, or any other medium that contains the contact information of the RM and/or council members' contact information. This notice will help residents determine what personal information they will include in their correspondence to the RM.

[24] Second, if the correspondence contains sensitive personal information (such as health or financial information), then the RM should provide council members with a redacted version of the information for the council meeting, such as agendas. If council members need to know the sensitive personal information in order to make a decision, then council should consider closing the council or committee meeting to the public.

[25] Third, the RM should record the least amount of personal information necessary in its council meeting minutes. For example, an RM could in its minutes refer to "an Applicant", "a Complainant", "a Rate payer", "a Tax payer" or could use the initials of the person they are dealing with.

#### **IV FINDINGS**

[26] I find that the information at issue qualifies as personal information pursuant to subsection 23(1)(k)(i) of LA FOIP.

[27] I find that subsection 28(2)(r) of LA FOIP authorizes the disclosure of personal information by the RM in minutes once they are adopted.

#### **V RECOMMENDATIONS**

[28] I recommend the RM provide notice to the public about how personal information can become a part of public council or committee agendas or meetings, and could also be published to the RM's website. This notice should appear on brochures, the RM's

website, and any other place where the RM's or council members' contact information is made available.

- [29] I recommend the RM redact sensitive personal information when distributing information for the council meeting, such as agendas.
- [30] I recommend the RM consider closing council or committee meetings to the public when the personal information being discussed is sensitive.
- [31] I recommend that the RM when preparing minutes of council at committee meetings insert the least amount of personal possible and redact names or use initials.
- [32] I recommend that when the RM publishes its minutes on its website that it follow the best practices referred to in paragraphs [21] to [25].

Dated at Regina, in the Province of Saskatchewan, this 15th day of November, 2016.

Ronald J. Kruzeniski, Q.C.  
Saskatchewan Information and Privacy  
Commissioner