

***How to Pursue Economic
Development Opportunities in an
Era of Enhanced Transparency and
Accountability***

***Presentation by
Fred Dean & Nigel Bellchamber
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Introducing Fred Dean

- **Municipal Lawyer & coach**
- **Former Sudbury City Solicitor**
- **Acts exclusively for municipalities and municipal associations**
- **Chair of ROMA/OGRA Question Box Panel**
- **Association of Municipalities of Ontario (AMO)**
 - **Facilitator & Trainer**
 - **2007 named to Honour Roll**
- **Amberley Gavel**
 - **Closed Meeting Investigations**
 - **Integrity Commissioner**
 - **Academy**

Introducing Nigel Bellchamber

- **Former County CAO and City Treasurer**
- **Consulting practice includes recruiting CAOs and Senior Managers; Strategic Planning; Organizational, Fiscal, and Policy Reviews**
- **Past Chair PSAB**
- **Association of Municipalities of Ontario (AMO)**
 - **Facilitator & Trainer**
 - **2007 named to Honour Roll**
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The Feds, the Province and You

- **Municipalities are most open governments**
- **Feds & Province can negotiate in ways you cannot**

The Municipal Role

- **Not to make a profit**
- **Act as steward of public's resources**
- **Without some of the checks F&P believe that they have**
- **An essential part of your stewardship is transparency**

Bonusing

- **Prohibition against bonusing**
- **Section 106 Municipal Act**
- **Limited opportunities elsewhere-CIPs**

Open or Closed Meeting?

- **Open meetings are cornerstone of transparency**
- **Legislation allows for closed meetings in limited circumstances**
 - **Acquisition or disposition of land**
 - **Solicitor / client privilege advice**
 - **Just because solicitor presents, doesn't automatically include the matter**

Open or Closed

- **Land transfer requires a By-law at open session**
- **At closed meeting, council may give direction**
- **Exercise of powers still needs by-law**

Who should Attend Closed Meeting?

- **“Transmogrification”**
- **Developers & Vendors want to talk to Council behind closed doors**
 - **Don’t let them manipulate you!**

Negotiations

- **Delegate responsibility to CAO, Staff, Solicitor, Agent**
 - **Limited authority**
 - **Cannot commit Council**
 - **Often includes Head of Council**
- **Caution: if you delegate negotiations to a Committee of Council**
 - **Same closed meeting rules apply**

Negotiations

Best practice

- **Negotiation should be at arms length from Council or Committee**

Solicitor / Client Privilege

- **Always seek advice regarding bonusing**
- **Relationship of lawyer & client**
- **Not all advice is protected by the privilege**
- **How to receive the advice**

Education & Training Exemption

- **ss 239 (3.1) Education and Training**
- **Skill or technique building**
- **A briefing is not education or training**
- **Cannot give direction at the closed session**

Education & Training Exemption

- **Consequences of breach**
 - Investigation
 - Possible quashing of by-law
- **MFIPPA can be a means of accessing records of illegal closed meeting**

Members' Personal Obligations

- **Key element of Accountability & Transparency**
- **Code of Conduct**
- **Conflict of Interest**
- **Duty to act in best interest of corporation**

Navigating the Choppy Waters of Economic Development as Council

- **In summary...**
 - **Legislation does not have to hinder Council in pursuing economic development**
 - **But it must be done transparently**

