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### **Resident filing complaint against mayor**

Thu Feb 21, 2008

By Jennifer Stone

CLARINGTON -- A Clarington resident says he will file an official complaint with the Province over what he calls Mayor Jim Abernethy's "dereliction of duties" in representing Clarington's view at Regional council.

But the mayor says he has not broken any rules.

Clarington's procedural bylaw lays out the duties of mayor, including that he should "represent and support the decisions of council, declaring its will and explicitly and implicitly obeying its decisions in all things."

In January, council voted by a narrow 4-3 motion to ask the Region to hold off on adopting a Courtice site for a proposed incinerator until a technology and vendor has been selected.

Mayor Abernethy and the two other regional councillors, Charlie Trim and Mary Novak, voted against the motion, which nonetheless became Clarington's official position given the fact all four local councillors voted for it.

But at a subsequent Regional council meeting, the mayor voted to allow site selection to go ahead.

That contravenes the procedural bylaw, said Orono resident Jim Richards.

"Mr. Mayor, you should know that I will be filing an official complaint regarding your dereliction of duties to the Ontario Minister of Municipal Affairs and to the Provincial Ombudsman," he said during a recent council meeting.

But the mayor contends he didn't break any rules. The Municipal Act, which supersedes local bylaws, says every municipality must have a procedural bylaw "but it doesn't say it may be written in such a fashion that it may fetter my vote" at the Region.

"Are you saying Clarington's procedural bylaw is out of order?" asked Wendy Bracken, a Newcastle resident.

"If it's contrary to the (Municipal) Act then it is out of order," the mayor said. "If you look at the Act itself, it doesn't say the procedural bylaw will go anything beyond saying when, where and why," meetings should be called.

The portion of the procedural bylaw stating the mayor's duties is being misinterpreted, said the Mayor.

"It doesn't say that if four councillors decide they want to control how a regional councillor is going to vote, that they can do that," said Mayor Abernethy in an interview. "Council can't control who a vote will be cast, how their representative's votes will be cast at the Region."

It is the position of staff and the Municipality's solicitor that Clarington's procedural bylaw "is written in compliance with the (Municipal) Act," clerk Patti Barrie said.

Procedural bylaws are among the changes to the Municipal Act that took effect recently, said Jeff Neal of the Ministry of Municipal Affairs and Housing. As amended, the Act is "less prescriptive" than in the past, he said.

"How they shape their procedural bylaw is very much each municipality's responsibility," he said, noting setting out the role of mayor and some municipal staffers are "sometimes included" in procedural bylaws.

"How far, how specific they go -- a lot of that is up to the municipality," Mr. Neal said.

But it's more of a local debate than something that ought to involve the Province, he said.

"To my understanding, Municipal Affairs wouldn't get involved in trying to interpret whether a municipality was following its own bylaw."