

Public notice changes under fire

Manitoba newspaper community says bills will obscure government transparency

By Adam Peleshaty

Opposition politicians and newspaper publishers across Manitoba are up in arms over two bills tabled by the provincial government that they believe will leave taxpayers in the dark on important issues.

BILL 8

Last December, Minister of Culture, Sports and Heritage Cathy Cox introduced Bill 8, The Government Notices Modernization Act, into the Manitoba Legislature. It would eliminate requirements in 24 other acts to publish government notices in newspapers, making Manitoba the first province to do so.

Some of these acts include The Environment Act, The Highways Protection Act, The Human Rights Code, The Municipal Board Act, The Public Health Act, The Public Schools Act and The Water Protection Act.

The *Manitoba Gazette*, a government publication established in 1871, available online to paid subscribers and mainly used to publish estate claims and name changes, would become free to read online and the new host for government notices on the Province of Manitoba's website.

"These changes will be beneficial to everyone as the notices will be available publicly at all times, 24/7, in the new online *Gazette*, a one-stop shop for information," Cox said, during first reading of the bill Dec. 5.

"It will be easier to view current and archived government notices."

The same day, Cox endured questions from opposition MLAs on Bill 8, which included concerns about finding information and how people in communities without reliable Internet access can access the *Gazette*.

"Is there going to be a reminder (that) comes to their home to say, 'Look at the Internet every day because there might be something there?'" Of course not. So how does the minister really think this is going to make for more transparent and better communication with people?" Flin Flon NDP MLA Tom Lindsey asked.

Contacted by *The Clipper*, Cox's office provided an emailed statement that Bill 8 was part of an "overall effort to increase transparency and improve accessibility of information" by bringing legal and public notices together using mobile-friendly online tools.

The minister's office

added that as is routine with government bills, the Government Notices Modernization Act will make its way through the Committee Stage, which is a public process that allows stakeholders and citizens the opportunity to share their views and suggest possible amendments.

BILL 19

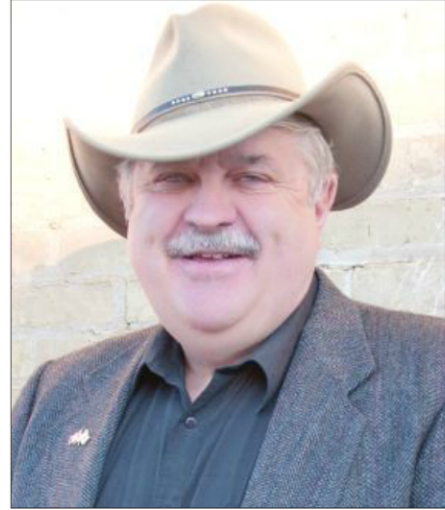
Last month, Minister of Municipal Relations Jeff Wharton introduced Bill 19, The Planning Amendment Act. While the bill mostly consists of changes to how zoning bylaws and livestock operations are approved, one section would also make it optional for municipalities to publish

their own government notices in newspapers.

"(Notice) of a hearing is not required to be published in a newspaper or posted in any location if the notice: (a) is posted on a publicly accessible website of the applicable planning district or municipality; and (b) remains posted on the website throughout the 27-day period before the hearing," Section 25 of the bill reads.

On April 6, Wharton's office released a statement regarding Bill 19 to *The Clipper* claiming, "Bill 19 does not remove the requirement for newspaper advertising, but rather provides municipalities

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File photo

Ken Waddell (pictured) and the MCNA has launched an advertising campaign along with a series of editorials in its 48 member publications to bring attention to both bills.

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with the option of posting notice of hearings on their websites as an alternative to advertising in newspapers. We're giving municipalities a fair say and letting them decide how best to communicate to their community."

"The government recognizes that Internet service and usage varies across the province and that Internet posting may not be well suited in some areas," the emailed statement continued. "Municipalities are in the best position to know how to engage their local citizens. Regardless of whether newspaper or Internet posting is utilized, the subject property and adjacent neighbours will continue to receive direct notice for any site specific zoning amendments."

Winnipeg Free Press publisher Bob Cox (no relation to Cathy Cox) is stridently opposed to both bills.

"(Wharton) is either lying or he does not understand Bill 19," he wrote in an email, responding to the April 6 statement from Wharton's office. "It does not remove the option of newspaper ads, but it removes this form of mandatory public notice... To say that 'Bill 19 does not remove the requirement for newspaper advertising' is false. Full stop. If the minister is spreading this message then he is misinforming people."

Manitoba Community Newspapers Association (MCNA) president Ken Waddell, who also publishes and owns both the *Neepawa Banner* and *Rivers Banner* along with his wife Christine, disagreed with Wharton's statement and believes the legislation would make finding information much harder.

"People are not going to go to (the *Gazette*) searching for something because

it's not readily accessible," Waddell said. "(Newspapers provide) tens of thousands of copies potentially across the province and people will discuss (the news) and will draw it to their friends' attention and discuss it at the kitchen table."

On April 9, Wharton's office backtracked on their previous email to *The Clipper*. They supplied a second statement that was almost identical to the first with the exception that the wording "Bill 19 does not remove the requirement for newspaper advertising," was omitted.

"This is an important matter. The government should be careful not to misinform people when it is changing the laws of Manitoba," Bob Cox said of the differing statements.

According to Waddell, MCNA's efforts to enter into discussions with the government have been "mostly rebuffed." He added the MCNA has launched an advertising campaign against both bills along with running a series of editorials in its 48 member publications.

He disagreed with the premise that most news readers will eventually go online.

"The problem is (the government) is going to lose transparency and is going to lose accountability," Waddell added. "As long as newspapers are local and do a good job at reporting, they are the No. 1 source of information within the community."

PUBLIC NOTICE VS PUBLIC ACCESS

In a prior interview, Bob Cox said the government is forcing residents to search for news rather than it being delivered to the public.

"The point of using newspapers, and other me-



Photo by Mike Deal/Winnipeg Free Press

Bill 19, brought forward by Minister of Municipal Relations Jeff Wharton (pictured), will make the government less accountable, according to MCNA president Ken Waddell.

dia, for mandatory public notices was that the government had to make some effort to go where people are looking to tell them what is going on. The changes allow the government to put (notices) up on a website and say, 'Okay, it's there. Why didn't you find it?'" he explained.

He added the *Gazette* would make finding the information more difficult, not easier, as it would force people to comb through a host of other announcements in order to find a certain public notice.

MCNA chair and *Clipper* publisher Kim MacAulay expressed "grave concerns" with the government removing obligations to place advertisements in independent media, adding there is a glaring difference between 'public access' and 'public notice.'

"To me, when you post something on a website, that's public access, not public notice," MacAulay said. "If you put it in a newspaper, people are notified that something important is about to happen... How are people supposed to find something online if they don't know they're supposed to be looking for it?"

"Go ahead, post the information online on government websites or wherever. That's great as it does provide public access," MacAulay added. "But governments should be required to notify people that information has been posted."

NEWSPAPER READERSHIP

AdWest Marketing recently commissioned a study from Totum Research about the media consumption habits of Manitoba and Saskatchewan residents in communities with a population of less than 50,000. In total, 47.1 per cent of respondents said the print edition of a community newspaper was their preferred source of information, compared to 27.5 per cent from web searches, social media and newspaper digital editions combined.

In the same study, 79 per cent of respondents stated they personally read or looked at a community newspaper within the last week.

A total of 20.9 per cent of respondents stated they had no Internet access.

Regarding Internet shortfalls, Cathy Cox's office stated there are very few areas of the province without Internet access, and most communities have places such as libraries where the Internet is available.

They added that although Bill 8 changes, in some instances, the government's legal requirement from publication in a newspaper to publication in the *Gazette*, it does not preclude public notification by other means when it is determined that would be an effective course of action to reach the public.

"On certain subjects, the most effective way to

communicate to Manitobans is through their local newspapers," the statement from Minister Cox's office read. "Departments will continue to place ads in newspapers along with other targeted measures of communication."

LEGAL CHALLENGES

Waddell said even if every person in Manitoba had Internet access, he believes notices posted on websites could lead to additional legal challenges as he says website postings are difficult to provide proof of publication.

"Faced with a lower cost legal option, planning districts will take that option. It will not be as effective, and in the case of a disputed issue, web postings will open the door to very expensive litigation by offended parties who will be able to legitimately claim that proper notice was not given," Waddell said. "The lawyers will love Bill 19."

MacAulay said the elephant in the room is that this basic requirement for accountable governing curbs the opportunity for an elected official to be swayed by a special interest group or their own agenda.

"We presume every elected official will act entirely in the best interest of their constituents, but what if that isn't the case?" MacAulay asked. "We all hope that would never happen and the requirement to publish notices through independent media is the

best way to ensure that. Why would anyone want to remove that basic assurance? It protects our elected officials as much as it does citizens."

KPMG FISCAL PERFORMANCE REVIEW

While the Totem Research numbers show community newspapers are in good standing, MacAulay is less sure about the government's numbers. In a fiscal performance review conducted by KPMG for the provincial government in September 2016, it was recommended the province immediately suspend all communication department paid advertising unless directed from central government.

The report claimed that \$5 million was spent on print advertising in the 2015-16 fiscal year.

However, after *The Clipper* requested the amount of spending by the government on print media, two government communication representatives replied via email that the total was \$2.1 million for that year, and \$897,000 in 2016-17.

"I've asked the government to let me know where the \$5 million number came from," MacAulay said. "If this is a fiscal exercise to save Manitobans millions of dollars, I would like to see that verified."

Alberta, Saskatchewan and Ontario also publish public notices in their own provincial 'gazettes' (which are already free to read online), but most of their public notices are also in newspapers.

In the U.S., state press associations have created online databases for government notices that have already been published in print.

The Association of Manitoba Municipalities is also attempting to start discussions with the province regarding the bills.

RM of Brokenhead Reeve Brad Saluk thinks the government should be more open in informing the public.

"With parts of our area having limited Internet service, I think the only way (to inform the public) is in newspapers for the time being until something changes in the long run," Saluk said. "I agree to publish anything that we can, in any paper that we have to."

- with files from Mark T. Buss

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BILL 8, BILL 19 MAKE GOVERNMENT LESS OPEN



The recently introduced Planning Amendment Act and Government Notices Modernization Act recommend amendments to 25 provincial government statutes relating to the publication of official notices.

These acts will remove the requirement for municipalities and the provincial government to provide 'public notice' of valuable information that impacts our daily lives, in exchange for 'public access' to that information. It allows them to post information only on their own government websites rather than using independent media to inform citizens what they are doing.

If these bills are passed, it will suddenly be up to you to find out if you're going to be living down the road from a new feedlot operation, if your property will be overshadowed by a new high-rise condo, or if your favourite fishing hole has been designated as protected.

It will be up to you to seek out information you don't even know exists.

Bills 8 and 19 will effectively bury government notices in an Internet backwater, calling into question the openness of government and the very nature of democracy.

Call, write or visit your MLA to let them know you deserve PUBLIC NOTICE, not just public access.

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A message from the Manitoba Community Newspapers Association

