

September 8, 2016

Ms. Vanessa Latimer, Clerk  
The Township of Leeds and the Thousand Islands  
1233 Prince St.  
P.O. Box 280  
Lansdowne, ON  
K0E 1L0

**Re: Closed meeting complaint**

Dear Ms. Latimer:

I am writing to provide the outcome of our review of a complaint made about a closed meeting held by council for the Township of Leeds and the Thousand Islands (the Township) on April 18, 2016. For the reasons outlined below, we have determined that we will not be proceeding further with this complaint. However, we are making suggestions to help improve the Township's closed meeting practices.

**Authority of the Ombudsman**

As of January 1, 2008, the *Municipal Act, 2001* (the Act) gives citizens the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public. The Ombudsman is the closed meeting investigator for the Township.

**Closed meeting complaint**

Our Office received a complaint about a closed special meeting of council that occurred on April 18, 2016.

The complaint raised concerns that in camera discussions at that meeting pertained to broad discussions about assignment of the Chief Administrative Officer's duties, and did not fit within the cited exception to the open meeting requirements, which was "personal matters about an identifiable individual" (s. 239(2)(b) of the Act).

## Review

In reviewing the complaint, we considered the agenda and minutes for the meeting. We also reviewed the Township's procedure by-law and spoke with you.

### The April 18 meeting

The April 18 meeting was a special council meeting that began at 4:00 p.m. Notice of the meeting was provided in accordance with the procedure by-law.

The agenda indicates that council would be proceeding in camera to consider personal matters about an identifiable individual, including municipal or local board employees.

The open session minutes state that council passed a resolution to proceed in camera for the reason outlined on the agenda. No further information was provided.

The closed session minutes show that the in camera discussion pertained to two issues, both involving personal matters about Township staff members. The second matter related to the duties of the Chief Administrative Officer, and is the subject of the complaint to our Office.

The minutes indicate that this discussion concerned the specific skills and work experience of identified employees, who were being considered for the interim Chief Administrative Officer role. There was a brief mention of the CAO hiring process, but this was incidental to the main discussion and was not explored in detail.

In previous reports, our Office has found that consideration of the skills and qualifications of identifiable individuals is permitted in camera under the "personal matters" exception<sup>1</sup>.

When the open session resumed, council passed a resolution to direct that the administrative responsibilities currently performed by the Chief Administrative Officer would be shared by two staff members: the treasurer and the director of public works. Council also voted to discuss the hiring process at the next Committee of the Whole meeting.

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<sup>1</sup> See, for example, our December 2014 report regarding the Town of Amherstburg, available online: <https://www.ombudsman.on.ca/Resources/Reports/Town-of-Amherstburg-%285%29.aspx>

## Analysis

The April 18 meeting was closed under the “personal matters” exception. Council discussed the qualifications of identifiable individuals, namely staff members who were being considered to fill the Chief Administrative Officer position on an interim basis. This was permissible under the cited exception.

Although general consideration of the CAO hiring process would not have fit within this exception, our review indicates that any such discussions were brief and incidental to the main discussion. The hiring process was discussed in open session at a subsequent Committee of the Whole meeting.

## Procedural matters

### *Resolution*

Section 239(4) of the Act requires that councils pass a resolution, stating the fact of holding a closed meeting and the general nature of the matter to be considered, before holding a closed session. As noted by the Ontario Court of Appeal in *Farber v. Kingston City*<sup>2</sup>

[T]he resolution to go into closed session should provide a general description of the issue to be discussed in a way that maximizes the information available to the public while not undermining the reason for excluding the public.

In this case, neither the agenda nor the resolution to proceed in camera provided any information about the subject matter of the discussion, beyond the exception authorizing the closed session.

As our Office previously noted in an April 18, 2012 letter to the Township, council should generally describe closed meeting items with as much detail as possible, while balancing the need to protect confidential and sensitive information from disclosure.

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<sup>2</sup> [2007] OJ No 919, at p 151.

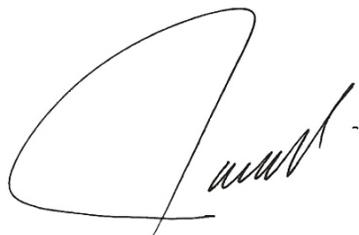
## Conclusion

The April 18 closed meeting of council to discuss the reallocation of responsibilities of the CAO position to identified individuals, was permitted within the cited personal matters exception under section 239 (2)(b) of the *Municipal Act*. Council is encouraged to implement the recommended best practices, set out above.

You indicated to us that this letter would be included as correspondence at the next available meeting of council.

We thank you for your co-operation during our review.

Sincerely,



J. Paul Dubé  
Ontario Ombudsman