



Ombudsman Report

**Investigation into meetings
held by the Board of Management
for the Elora Business Improvement Area**

**Barbara Finlay
Acting Ombudsman of Ontario**

August 2026

Complaints

- 1 My Office received complaints about meetings held by the Board of Management (the “Board”) of the Elora Business Improvement Area (“BIA”). The Board of the Elora BIA is a local board of the Township of Centre Wellington.
- 2 The first complaint alleged that the Board did not provide the public with sufficient notice of its December 17, 2024 meeting, and that, as a result, it was effectively closed to the public, contrary to the open meeting rules under the *Municipal Act, 2001* (the “Act”).¹ The complaint also alleged that the Board did not have a procedure by-law in place, contrary to the Act.
- 3 The second complaint alleged that the topic discussed in closed session at the Board’s March 18, 2025 meeting did not fit within the exceptions to the open meeting rules. Further, the complaint alleged there was no open meeting prior to the closed session during which the public could observe the Board passing a resolution to close the meeting. Finally, the complaint alleged that the Board improperly held a closed meeting on April 2, 2025 when several of its members met informally to discuss hiring a new Administrator.
- 4 The third complaint alleged that the Board changed the meeting room location of its August 21, 2025 meeting without providing sufficient notice to the public, resulting in the meeting being effectively closed to the public. Additionally, the complaint alleged the Board had improperly met at some point prior to the meeting to discuss BIA business. Finally, the complaint alleged that the Board continued discussing BIA business after the meeting was adjourned, resulting in an improperly closed meeting under the Act.
- 5 The fourth complaint alleged that the Board held an improperly closed meeting on or around October 10, 2025 to discuss its position on the Elora Green Space Lighting Project.
- 6 My investigation found that the Board did not provide public notice of the December 17, 2024 meeting. As a result, the meeting was effectively closed to the public in contravention of the Act. The Board also contravened sections 238(2) and (2.1) of the Act by failing to have a procedure by-law in place.
- 7 Furthermore, I find that the Board contravened the Act on March 18, 2025 by failing to hold an open meeting prior to the closed meeting during which the public could observe the Board passing a resolution to move into closed session. The Board also contravened section 239(4)(a) of the Act by failing to

¹ SO 2001, c 25.

provide a description of the general nature of the matter to be discussed in the resolution to move into the closed session. The Board's discussion during the closed meeting fit within the open meeting exception for personal matters about an identifiable individual.

- 8 I further find that an informal gathering that occurred on April 2, 2025 constituted a "meeting" under the Act that was improperly closed to the public.
- 9 I find there was no contravention of the open meeting rules on August 21, 2025, either in terms of the change of meeting room or the brief discussion that occurred after the meeting was formally adjourned. I also find there was no improperly closed meeting of the Board members prior to the August 21 meeting to discuss an item of business.
- 10 I find that the Board held an improperly closed meeting on October 10, 2025 when members discussed the Elora Green Space Lighting Project via email.

Ombudsman jurisdiction

- 11 Under the *Municipal Act, 2001*, all meetings of council, local boards, and committees of either of them must be open to the public, unless they fall within prescribed exceptions.
- 12 As of January 1, 2008, the Act gives anyone the right to request an investigation into whether a municipality or local board has complied with the Act in closing a meeting to the public. Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.
- 13 The Ombudsman is the closed meeting investigator for the Township of Centre Wellington and the Board of the Elora Business Improvement Area.
- 14 When investigating closed meeting complaints, we consider whether the open meeting requirements of the Act and the applicable governing procedures have been observed.
- 15 Our Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting

procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/en/info-public-bodies-and-officials/municipal-government/municipal-meeting-digest.

- 16 The Ontario Ombudsman also has the authority to conduct impartial reviews and investigations of hundreds of public sector bodies. This includes municipalities, local boards, and municipally-controlled corporations, as well as provincial government organizations, publicly funded universities, and school boards. In addition, the Ombudsman's mandate includes reviewing complaints about the services provided by children's aid societies and residential licensees, and the provision of French language services under the *French Language Services Act*. Read more about the bodies within our jurisdiction here: www.ombudsman.on.ca/en/make-complaint/what-we-can-help-you/organizations-you-can-complain-about.

Investigative process

- 17 My Office advised the Board of our intent to investigate the four complaints on February 18, May 8, October 23, and November 18, 2025, respectively.
- 18 We reviewed the Board's Constitution, the Township of Centre Wellington's procedure by-law, open and closed meeting agendas and meeting minutes from both the BIA Board and the Township, and other relevant email correspondence and documents. We also interviewed members of the Board, the Board's Administrator, and the Township Clerk. We spoke with the Board's former Administrator prior to her resignation and a staff member at the Elora Legion, where the Board sometimes holds meetings.
- 19 My Office received full co-operation in this matter.

Background

- 20 The Elora BIA and its Board were established by by-law in 1992. In accordance with section 204(2.1) of the Act, the Board is a local board of the Township of Centre Wellington.
- 21 Since my Office received the first of these four complaints, membership on the Board has changed four times. The first Board was in place at the time of the December 17, 2024 meeting. Following that meeting, several members, including the Chair, resigned.

- 22 The second iteration of the Board was in place at the time of the March 18 and April 2, 2025 meetings.
- 23 In the spring of 2025, Township staff discovered that a 1992 by-law stipulating the composition of the Board was still in effect. Staff told us that the Board's membership at that time did not align with the by-law's requirements. To correct this situation, on June 16, 2025, council for the Township of Centre Wellington voted to remove the entire Board and appoint an interim Board composed of Township staff and council members until a general election for new Board members could be held.
- 24 On July 22, 2025, the interim Board held an annual general meeting, at which three people were nominated to the Board. Township council confirmed the new members and appointed one councillor as a fourth member at a Township meeting held on August 25, 2025.

December 17, 2024 meeting

- 25 The Board held a meeting on December 17, 2024 at 6:30 p.m. The Administrator who worked for the Board at the time told my Office that, as was her practice, she provided notice of the meeting by emailing the agenda to the members of the BIA, as well as by posting it in a private Facebook group for BIA members only.
- 26 At the meeting, four new members joined the Board. The Board and membership discussed seasonal holiday events in Elora, such as the Christmas market. Those we spoke to described this meeting as explosive, hostile, tense, and chaotic.
- 27 Following the meeting, the Chair, Vice Chair, and one of the new Board members resigned.

Analysis

Notice

- 28 The complaint my Office received about this meeting alleged that the Board did not provide notice to the public, resulting in the meeting being effectively closed to the public.
- 29 Section 239(1) of the Act requires that all meetings of a local board be open to the public, subject to prescribed exceptions.

- 30 In order for a meeting to be open to the public, the public must be able to attend to observe decision-making in progress.² Without adequate notice of where and when a meeting will occur, the meeting is effectively closed to the public, in violation of the Act.³ Adequate public notice requires a local board to provide notice of the time and place of a meeting, and then proceed to meet at the time and place specified in the notice.⁴
- 31 In a 2018 report to the City of Hamilton, the Ombudsman found that a committee of council contravened the open meeting requirements in the Act by failing to provide notice of its meetings to the public.⁵ While the City's website listed the times for the committee's meetings, no location was provided and the meetings were not actually held at the times given.
- 32 Here, while the Board provided notice of its meetings to the BIA membership, it did not provide notice to the general public. My Office was told that notice of Elora BIA Board meetings was provided by the Administrator sending the agenda to BIA members via email, posting it in the private Facebook group for BIA members, or both. While we were also told that meeting agendas were occasionally posted to the BIA's public Facebook page, this was described as a rare occurrence and, in any event, was not done for the December 17, 2024 meeting.
- 33 As a result, I find that the Board failed to provide notice to the public for its December 17, 2024 meeting, contrary to the open meeting requirements under the Act, resulting in the meeting being effectively closed to the public.
- 34 In response to a preliminary version of this report, the Board told my Office that it now provides public notice of meetings by posting the agenda on the BIA website several days before the meeting date. The Board informed us that this notice includes the date, time, and location of the meeting. I commend the Board for taking these steps to ensure that notice of meetings is provided to the public.

² *Saugeen Municipal Airport Commission (Re)*, 2021 ONOMBUD 18 at para 41, online: <<https://canlii.ca/t/jl964>>.

³ *Ibid.*

⁴ *Russell (Town of) (Re)*, 2020 ONOMBUD 1 at para 41, online: <<https://canlii.ca/t/j6n2t>>.

⁵ *Hamilton (City of) (Re)*, 2018 ONOMBUD 5 at paras 23-26, online: <<https://canlii.ca/t/hvmtt>>.

Procedure by-law

- 35 The complaint my Office received also alleged the Board was in contravention of the *Municipal Act, 2001* by failing to have a procedure by-law in place, which would provide for public notice of meetings.
- 36 Sections 238(2) and (2.1) of the Act require every local board to pass a procedure by-law governing the calling, place, and proceedings of meetings, and providing for public notice of meetings.⁶
- 37 At the time of the December 17, 2024 meeting, the Board did not have a procedure by-law in place – it had neither passed its own nor adopted the Township’s procedure by-law. The only governing document the Board had at the time was a constitution (the “Constitution”). However, the Constitution did not provide for the place, proceedings, or public notice of meetings. With respect to notice, it required the agenda to be sent to the Board’s members two days prior to the meeting. Under the Constitution, the members were the owners or operators of businesses within the BIA’s designated geographic boundaries and registered with the Township’s Clerk.
- 38 Accordingly, I find that the Board breached sections 238(2) and (2.1) of the *Municipal Act, 2001* by not having a procedure by-law in place governing the calling, place and proceedings of meetings and providing for public notice.
- 39 During our investigation, the Board adopted the Township’s procedure by-law to be used in concert with the Constitution on an interim basis. We were told the Board plans to draft and adopt its own procedure by-law in future.
- 40 In response to a preliminary version of this report, the Board acknowledged that it requires a new procedure by-law. I encourage the Board to take active steps to adopt a procedure by-law that meets the requirements of the Act.

March 18, 2025 meeting

- 41 On March 18, 2025, the Board held a meeting at the Elora Legion. The former Township Clerk told us she was present to assist with taking minutes and to provide procedural advice to the Board.
- 42 The agenda stated that the meeting would commence at 6:30 p.m. However, one of the first items of business was a closed meeting, which the agenda stated would begin at 6 p.m.

⁶ *Municipal Act, 2001*, *supra* note 1, ss 238(2) and (2.1).

- 43 We were told that the Chair called the meeting to order at 6 p.m. and the Board passed a resolution to move into closed session in accordance with section 239(2)(b) of the Act to discuss “a personal matter about an identifiable individual, including municipal or local board employees”. No further information about the topic of discussion was provided on the agenda or in the resolution as it was recorded in the meeting minutes.
- 44 We were told that the purpose of the closed session was to discuss an employment matter. According to those we interviewed, during the closed session, the Board discussed an employee’s performance and duties.
- 45 At 6:19 p.m., the Board passed a resolution to reconvene in open session. At the start of the open session, the Chair indicated that a closed meeting was held and that the Board had nothing to report.

Analysis

Notice of meeting start time

- 46 The complaint my Office received alleged there was no meeting that was open to the public prior to the Board moving into closed session.
- 47 When a meeting begins with a closed session, the council, local board, or committee of either of them must first hold an open session, which the public is entitled to attend, during which it passes the resolution to move into closed session.⁷
- 48 Here, while the agenda for the March 18, 2025 meeting included the start time of the closed session, it did not clearly identify that an open session would be held at 6 p.m. Instead, according to the agenda, the meeting was to begin at 6:30 p.m. A member of the public would not necessarily know that if they wanted to observe the Board passing the resolution to move into closed session, they would need to attend at 6 p.m.
- 49 Because the Board failed to provide proper notice of the start time of the meeting, it was effectively closed to the public when it commenced at 6 p.m., in contravention of the Act.

⁷ *Municipal Act, 2001*, *supra* note 1, s 239(4); *Temagami (Municipality of) (Re)*, 2021 ONOMBUD 3 at para 57, online: <<https://canlii.ca/t/jcxs0>>.

Resolution

- 50 My Office also considered the sufficiency of the resolution that was passed to move into closed session on March 18, 2025.
- 51 Section 239(4)(a) of the Act requires a local board to pass a resolution prior to entering a closed meeting that includes the fact of holding the closed meeting and the general nature of each matter to be considered. In *Farber v. Kingston*, the Ontario Court of Appeal noted that a resolution to proceed 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 proceeding into closed session.⁸
- 52 My Office has previously interpreted this to mean that more should be included in the resolution than merely citing the open meeting exception from the Act that council or the local board is relying upon.⁹
- 53 Publicly stating that a meeting will be closed and identifying what issues will be discussed in the closed session is not a mere procedural technicality.¹⁰ The purpose of this obligation is to enhance the transparency of local democracy and ensure that decision-makers are accountable when they discuss matters behind closed doors. Failing to comply with this requirement can result in a loss of public confidence in municipal governance.
- 54 In the matter at hand, the Board cited in the resolution the open meeting exception it was relying upon to move into closed session, but it did not include a description of the general nature of the matter to be discussed in closed session. Neither the agenda nor the resolution to proceed into closed session provided any information about the Board’s intended topic of discussion.
- 55 My Office was told that the Board could not have provided more details to the public without undermining the purpose of the closed meeting because of the nature of the discussion about an employee.
- 56 There may be instances where additional information beyond the general wording of the open meeting exception cannot be included in the resolution, but, in my experience, those cases are rare. In this instance, the Board could have described the topic of discussion as, for example, an “employment-related matter” or “human resources matter,” without undermining the reason for having the discussion behind closed doors.

⁸ *Farber v. Kingston (City)*, 2007 ONCA 173 at para 21, online: <<http://canlii.ca/t/1qtzl>>.

⁹ *Emo (Township of) (Re)*, 2020 ONOMBUD 6 at para 18, online: <<https://canlii.ca/t/jb1q6>>.

¹⁰ *Casselman (Municipality of) (Re)*, 2022 ONOMBUD 14 at para 18, online: <<https://canlii.ca/t/jrkx7>>.

- 57 Accordingly, I find that the Board's resolution contravened section 239(4)(a) of the Act.

Applicability of the exception for personal matters about an identifiable individual

- 58 The complaint we received also alleged that the topic discussed in closed session at the Board's March 18, 2025 meeting did not fit within the exceptions to the open meeting rules.
- 59 The open meeting exception for personal matters about an identifiable individual applies to discussions of "personal information" that can reasonably be expected to identify an individual.¹¹
- 60 To qualify as personal information, the information must be about an individual in their personal capacity, rather than their professional or official capacity. However, the exception may also apply to discussions about a person in their professional capacity, if something personal is revealed.¹² My Office has previously determined that discussions about an individual's job performance¹³ and salary¹⁴ fall within the exception for personal matters about an identifiable individual.
- 61 During the closed session that occurred at the Board's March 18, 2025 meeting, the Board discussed an employee's job performance and salary. Accordingly, the Board's discussion during the closed session fit within the exception for personal matters about an identifiable individual under the Act.

Reporting back

- 62 Although it is not a requirement under the Act, my Office recommends as a best practice that councils, local boards or committees of either of them report back after closed session and provide general information about what occurred behind closed doors.¹⁵ A report back may consist of a general

¹¹ *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 at para 19, online: <<https://canlii.ca/t/jr5rc>> [*"Amherstburg 2022"*]; *Amherstburg (Town of) (Re)*, 2015 ONOMBUD 13 at para 22, online: <<https://canlii.ca/t/gtp5z>>.

¹² *Burk's Falls / Armour (Village of / Township)*, 2015 ONOMBUD 26 at para 68, online: <<https://canlii.ca/t/gtp6w>>.

¹³ *Kirkland Lake (Township of) (Re)*, 2021 ONOMBUD 12 at paras 26 -32, online: <<https://canlii.ca/t/jgvld>>.

¹⁴ *Nipissing (Township of) (Re)*, 2023 ONOMBUD 2 at paras 23 and 28, online: <<https://canlii.ca/t/jv6ch>>; *Russell (Township of) (Re)*, 2015 ONOMBUD 29 at para 31, online: <<https://canlii.ca/t/gtp73>>.

¹⁵ *Amherstburg 2022*, *supra* note 11 at para 70.

discussion in open session of subjects considered in closed session, together with information about any decisions, resolutions, and directions given to staff. In other cases, the nature of the discussion might allow for considerable information about the closed session to be provided publicly.¹⁶

- 63 In the matter at hand, interviewees told my Office that nothing could have been included in the report back. However, in my view, the Board could have reported back with information about the general nature of the matter discussed and the direction provided by the Board to one of its members.
- 64 Reporting back after each closed session provides meaningful information to the public about the issues discussed behind closed doors and inspires confidence that the meeting has been properly closed. I strongly encourage the Board to adopt the best practice of reporting back whenever possible.

April 2, 2025 gathering

- 65 At the open meeting on March 18, 2025, the Administrator resigned. My Office was told that, following this, four members of the Board gathered on April 2, 2025 to draft a new job description for the Administrator role for the purpose of creating a job posting.
- 66 The gathering took place in the morning at one of the four members' businesses, before it opened. No notice of this gathering was provided to the public and no minutes were taken. Three of the four members interviewed recalled that the gathering lasted over an hour, while one member told my Office that the meeting lasted over two hours.
- 67 All four members told us that prior to the gathering, one of the four members had met with the former Administrator to go over her duties. They told us that at the gathering, they worked to update the previous job description, based on what the former Administrator had told them and what they believed the new Administrator's duties should be.
- 68 While none of the members had notes from the gathering to share, they all recalled that the discussion focused on updating the previous job description. No one recalled discussing the former Administrator's job performance.
- 69 My Office was told that the only outcome from the discussion was that one member typed up the new job description that they had agreed upon and posted it.

¹⁶ *Ibid.*

Analysis

- 70 The complaint my Office received alleged that the gathering on April 2, 2025 was an illegal closed meeting under the *Municipal Act, 2001*.
- 71 For a gathering of council, a local board or a committee to be considered a “meeting” under the Act, two criteria must be met:
- i. A quorum of members must be present; and
 - ii. The discussions must materially advance the business or decision-making of the council, local board, or committee.¹⁷

Quorum

- 72 Two of the Board members told us they received advice from Township staff that meetings of “working groups” or “sub-committees” do not necessarily need to be open to the public.
- 73 My Office has previously found that the name or title of an entity does not determine whether or not its meetings are subject to the open meeting rules under the Act.¹⁸ What matters is whether it is a council, local board, or committee of either of them.
- 74 In this case, four out of the seven members of the Board were present at the April 2, 2025 gathering. Accordingly, a quorum of the Board was present.

Materially advancing business or decision-making

- 75 Discussions, debates, or decisions that are intended to lead to specific outcomes or to persuade decision-makers one way or another are likely to be found to materially advance the business or decision-making of a council or local board.¹⁹ The mere receipt or exchange of information is unlikely to materially advance business or decision-making, as long as there is no attempt to discuss or debate that information as it relates to a specific matter that is or will be before a council or local board.²⁰

¹⁷ *Municipal Act, 2001*, *supra* note 1, s 238(1).

¹⁸ *Cobalt (Town of) (Re)*, 2026 ONOMBUD 3 at para 26, online: <<https://canlii.ca/t/kjffw>>; *Cornwall (City) (Re)*, 2023 ONOMBUD 4 at para 25, online: <<https://canlii.ca/t/jvc71>>.

¹⁹ *Casselman (Village of) (Re)*, 2018 ONOMBUD 11 at para 31, online: <<https://canlii.ca/t/hvmtk>> [“Casselman”].

²⁰ *Ibid.*

- 76 In the matter at hand, the four members of the Board who were present at the April 2, 2025 gathering were consistent in their recollections that they discussed the duties of the Administrator role at the time, and what they believed the duties of the new Administrator would be, in order to come up with a revised job description for the role.
- 77 The members were deciding on what the new Administrator's role and duties would be – a decision that was within the authority of the Board. Because the members were discussing and making decisions with the intent of leading to a specific outcome, I find that the discussion materially advanced the business and decision-making of the Board.
- 78 Accordingly, I find that the April 2, 2025 gathering was a “meeting” within the meaning of the Act.
- 79 Without adequate notice of where and when a meeting will occur, it is effectively closed to the public. The Board did not provide any public notice of this meeting. Accordingly, I find that the BIA Board of Management held an improperly closed meeting when four of its members met on April 2, 2025.

August 21, 2025 meeting

- 80 By the time of the August 21, 2025 meeting, the Elora BIA had a new board in place, composed of only four members: Three who had been selected from amongst the BIA general membership at a meeting on July 22, 2025, and one councillor who had been appointed by the Township. The Board had also hired a new Administrator.
- 81 On August 21, 2025, the new Board met for a meeting at 6:30 p.m. According to the agenda, which was published on the Elora BIA's website in advance of the meeting, the location was the “Elora Legion Patio Room upstairs.”
- 82 My Office was told that on the evening of the meeting, the location of the meeting was changed from the Legion's Patio Room to its Hall because the latter happened to be unoccupied that evening and had air conditioning available.
- 83 We were told the Patio Room and the Hall are adjacent to one another on the upper floor of the Elora Legion, separated by a kitchen and a small side room. No effort was made to alert the public to the change of rooms.

- 84 At the meeting, one of the items of business was for the Board to select roles for its new members. According to the minutes, one member was nominated as President, one as Vice President, and one as Secretary/Treasurer. The Township councillor was not appointed to a specific role. The Board passed the motion appointing the members to their new roles.
- 85 We were told that after the meeting formally adjourned, there was a short discussion amongst the Board members and the Township Clerk, who had been present at the meeting. The Township's solicitor had been drafting suggested amendments to the BIA's original constituting by-law, and the Clerk asked members how they wanted to receive those amendments. We were told the Board members told the Clerk that they wished to receive the information by email, in addition to receiving a presentation from the solicitor.

Analysis

Change of location

- 86 The complaint my Office received alleged that the Board changed the location of its August 21, 2025 meeting without providing sufficient notice to the public, resulting in the meeting being effectively closed to the public.
- 87 Section 238(2.1) of the Act requires that a procedure by-law provide for notice to the public of all meetings. However, the Act does not specify what the content of notice must be.
- 88 My Office has previously found that a reasonable interpretation of what constitutes adequate "notice" includes the time, date and location at which a meeting will take place.²¹ Without proper notice of where the meeting will take place, the public is effectively denied the right to observe the meeting in progress.²²
- 89 In a previous report, my Office found that the City of Owen Sound failed to provide proper notice of a meeting when council met for the first portion of a meeting in a basement boardroom, rather than council chambers as had been identified on the agenda.²³ In that case, the City's procedure by-law also incorrectly identified a second-floor room in the building as the location for the first portion of council meetings. As a result, I found that council had failed to provide accurate notice of where the first portion of the meeting would occur.

²¹ *Owen Sound (City of) (Re)*, 2015 ONOMBUD 36 at para 26, online: <<https://canlii.ca/t/gtp7l>>.

²² *Ibid* at para 27.

²³ *Ibid* at para 28.

- 90 In the present case, interviewees acknowledged that on the evening of the meeting, the room where it was held changed from the Patio Room to the Hall.
- 91 However, both rooms are on the upper floor of the Legion and they are connected by a kitchen and a side room. In addition, we were told that the most common way to enter the Patio Room is by crossing through the Hall and then going through either the kitchen or side room into the Patio Room. The only other entrance to the Patio Room is from the outside patio. Most individuals attempting to access the Patio Room would therefore first pass through the room where the meeting was taking place.
- 92 Those we interviewed expressed the view that they did not think it was necessary to post a sign or otherwise notify the public about the change of rooms. One person told us the two rooms are so connected, they are practically the same space. Others told us they believed that anyone in the Patio Room would necessarily have seen or heard the meeting in the Hall. It was also explained to us that if anyone entered the Legion through its downstairs “Clubroom” entrance, staff would have directed them to the Hall.
- 93 The proximity and connection between the Patio Room and Hall can be distinguished from the circumstances in the Owen Sound report, where the public had been told that the meeting would be occurring on a different floor of the building. I find that, in these circumstances, the change of meeting room from the Patio Room to the adjacent Hall on the same floor of the Elora Legion was not a change of location such that members of the public did not have notice of where the August 21, 2025 meeting was to take place.

Alleged closed meeting prior to August 21, 2025

- 94 The complaint to my Office alleged that the three new Board members who had been selected from amongst the general BIA membership at the July 22, 2025 meeting met sometime prior to August 21, 2025 to discuss and agree on who would become the Chair, Vice Chair, and Treasurer. According to the complaint, there was no discussion at the August meeting, yet each member put their name forward for only one role.
- 95 All three Board members told my Office that they did not meet between July 22, 2025 and August 21, 2025. They all told us they met before the July meeting, prior to being selected as the new Board, and decided at that time what role each would have if they were selected or elected to be on the Board. I find the evidence of the three Board members credible, and my Office was not provided with any evidence suggesting the discussion took place at another time.

- 96 Accordingly, I find there was no improperly closed meeting of the Board prior to August 21, 2025.

Post-meeting discussion

- 97 The complaint to my Office also raised a concern that, following the formal adjournment of the meeting on August 21, 2025, there was a discussion that advanced the Board's business, such that it constituted an improperly closed meeting under the Act.
- 98 As previously set out in this report, the definition of "meeting" under the *Municipal Act, 2001* requires that a quorum of members of the local board gathers and discusses matters in a way that materially advances its business or decision-making. If a quorum gathers but does not materially advance its business or decision-making, the gathering is not a meeting subject to the open meeting rules. My Office has previously determined that discussions about procedural options generally do not materially advance business or decision-making.²⁴
- 99 For example, in a letter to the City of London, the Ombudsman found that an email from the Mayor to the rest of council containing an informational update and a request about when members should bring motions did not materially advance business or decision-making because it was procedural in nature.²⁵
- 100 Here, interviewees told my Office that the discussion after the August 21, 2025 meeting was about amendments to the BIA Board's 1992 constituting by-law. We were told the Township Clerk advised Board members that the Township's solicitor was working on these amendments and asked how they wanted to receive the amended by-law. We were told there was no discussion of the substance of the amendments. The solicitor presented the amended by-law at the Board's meeting on October 21, 2025.
- 101 I find that the discussion in this instance involved the mere exchange of procedural information. There was no attempt to discuss or debate that information. Accordingly, the brief exchange that occurred among the Board members and the Township Clerk after the adjournment of the August 21, 2025 meeting did not constitute a "meeting" within the meaning of the Act.

²⁴ Ombudsman Letter to City of London (October 2, 2025), at 4, online:

<<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/city-london-october-10-2025>>.

²⁵ *Ibid.*

Elora Green Space Lighting Project

- 102** On October 10, 2025, the Board sent a letter to the BIA's general membership asking for feedback on a proposal to help fund lighting the "Green Space" in downtown Elora for the 2025-2026 winter season (the "Elora Green Space Lighting Project"). It was signed by three members of the Board.
- 103** Attached to the Board's letter was a report to Township council from staff, setting out the cost of the project and proposing that it be paid for through the General Capital Reserve. However, the Board's letter to the BIA membership stated that the lighting was "typically a BIA responsibility." It went on to state that the Board was unsure how much they would be able to contribute, but that they wanted to share with Township council that they supported the initiative and would try to find money in the BIA budget to help. The Board asked BIA members to provide their thoughts and feedback ahead of the Township meeting on October 14, 2025, where the Board planned to speak publicly on the matter.
- 104** The three members of the Board told my Office that the letter was the result of staff from the Township reaching out to the Chair of the Board to ask for financial support for the lighting and seeking a prompt response. The three Board members had communicated with one another by email and decided to send a letter soliciting feedback from BIA members and to draft and finalize the letter that was then sent out by the Administrator. All three told us that, at the time the letter was sent, the Board had not yet decided to help pay for the lighting.
- 105** The Administrator told us that he shared the feedback he received from the BIA membership by forwarding any emails received to the Board members. The three Board members told us they did not have any discussions about the feedback received.
- 106** On October 14, 2025, the Chair of the Board spoke to Township council at a public meeting and signalled the BIA's support for the project, though he stated he could not share information about the BIA's specific financial contribution until the issue had been discussed at the next Board meeting.
- 107** At a BIA Board meeting on October 21, 2025, the Board discussed the Green Space Lighting Project. Township staff presented. According to the minutes, the Board took the position that further financial clarification was needed before it could commit BIA funds to the lighting project. The item was deferred pending the Board receiving an updated financial review.

Analysis

- 108** My Office received a complaint alleging that the BIA Board held one or more illegal closed meetings on or around October 10, 2025 and prior to October 14, 2025. The complaint alleged that this meeting occurred because the Board's letter to the BIA membership on October 10 suggested that a decision had already been made to support the project, even though it had not been discussed at any BIA meeting. Additionally, the complaint noted that at the October 14 Township council meeting, the Chair communicated a position on behalf of the Board without there having been a public meeting where that position was discussed.
- 109** My Office has previously determined that for the purposes of quorum, members may be "present" in an "electronic place," which includes when they exchange emails.²⁶
- 110** In this case, the emails my Office reviewed showed that three of the four Board members participated in email discussions about sending a letter to the general membership to canvass members' views on whether the BIA should support the Green Space Lighting Project. Although we were told the Board had not yet decided what it would do, some of the language used in the emails and in the letter suggests otherwise.
- 111** The Chair's delegation at the Township council meeting on October 14, 2025 suggested that the Board had already decided that its goal was to provide financial assistance to the Elora Green Space Lighting Project, both in 2025 and in future years.
- 112** As previously stated in this report, discussions that are intended to lead to specific outcomes or to persuade decision-makers one way or another are likely to materially advance the business or decision-making of a local board.²⁷
- 113** Here, the discussion amongst the Board members was intended to materially advance decision-making regarding the Board's support for the lighting project. Moreover, the discussion related to a specific matter that would later come before the BIA Board at its meeting on October 21, 2025.²⁸

²⁶ *Frontenac Islands (Township of) (Re)*, 2025 ONOMBUD 5 at paras 22-24, online: <<https://canlii.ca/t/kdx12>>; *The North Shore (Township of) (Re)*, 2025 ONOMBUD 1 at paras 8-9, online: <<https://canlii.ca/t/k98j5>>.

²⁷ *Casselman*, *supra* note 19 at para 31.

²⁸ *Ibid*.

- 114 Accordingly, I find that the BIA Board held an improperly closed meeting when it discussed the Elora Green Space Lighting Project by email on October 10, 2025.
- 115 In response to a preliminary version of this report, the Board acknowledged it had not followed proper procedures. However, it emphasized that it was seeking to accommodate the Township's preference for a prompt decision on the financing of the holiday lighting, and as a result, the Board felt it had limited time in which to make this decision. While I acknowledge the Board's intention and the circumstances, I would encourage the Board in the future to consider alternative options that conform to the open meeting rules and applicable by-laws, including convening a special meeting where appropriate.

Training

- 116 Local boards are often composed of public volunteers. That is the case for the Elora BIA, where all members other than one Township council representative are volunteers.
- 117 We were told that the Board members serving at the time of the December 17, 2024 meeting had, after they were first elected, received training on the open meeting rules under the *Municipal Act, 2001*. However, the members who have subsequently served on the Board have not received training.
- 118 It is important that municipalities ensure that not only members of council, but also all members of committees and local boards, fully understand their open meeting obligations and how to meet them. The Township of Centre Wellington should ensure that training on the open meeting rules is delivered to the members of local boards and committees who need it in a timely manner. My office has created resources, including our previously referenced online digest, our "Open Meetings - Guide for Municipalities," our tip cards, and our online webinars that can be used to support this training.
- 119 In response to a preliminary version of this report, the Board told my Office that the current Township Clerk has offered to provide this training when the new council receives it, following the municipal elections in October 2026. I encourage both the Board and the Township to ensure that this training takes place in order to assist all Board members in complying with their obligations under the *Municipal Act, 2001*.

Opinion

- 120** The Board of Management of the Elora Business Improvement Area did not provide public notice of the December 17, 2024 BIA meeting, resulting in the meeting being effectively closed to the public in contravention of the Act. Moreover, the Board contravened sections 238(2) and (2.1) of the Act by failing to have a procedure by-law in place.
- 121** The Board also contravened the Act on March 18, 2025 by failing to hold an open meeting at the start of its public meeting during which the public could observe the Board passing a resolution to move into closed session. On that date, the Board also contravened section 239(4)(a) of the Act by failing to provide a description of the general nature of the matter to be discussed in the resolution to move into the closed session. However, the Board's discussion during the closed meeting fit within the open meeting exception for personal matters about an identifiable individual.
- 122** The informal gathering that occurred on April 2, 2025 constituted a "meeting" under the Act that was improperly closed to the public.
- 123** There was no contravention of the open meeting rules on August 21, 2025, when the Board changed the room in which it held the meeting and when it held a brief discussion on a procedural question after the meeting was formally adjourned. In addition, my investigation has found there was no improperly closed meeting of Board members prior to the August 21, 2025 meeting to discuss the specific roles to which each member would be assigned.
- 124** I find that the Board held an improperly closed meeting on October 10, 2025 when members discussed the Elora Green Space Lighting Project via email.

Recommendations

- 125** I make the following recommendations to assist the Elora BIA's Board of Management in fulfilling its obligations under the Act and enhancing the transparency of its meetings:

Recommendation 1

All members of the Board of Management for the Elora Business Improvement Area should be vigilant in adhering to their individual and collective obligation to ensure that the board complies with its responsibilities under the *Municipal Act, 2001*.

Recommendation 2

The Board of Management for the Elora Business Improvement Area should adopt its own procedure by-law governing the calling, place and proceedings of meetings, in accordance with its obligations under the *Municipal Act, 2001*.

Recommendation 3

The Board of Management for the Elora Business Improvement Area should ensure that the public is provided with notice of all board meetings and should ensure that the notice includes the date, time, and location of the meeting.

Recommendation 4

The Board of Management for the Elora Business Improvement Area should ensure that a resolution is passed in open session stating the fact of a closed meeting and the general nature of the subject(s) to be discussed before going into a closed meeting.

Recommendation 5

The Board of Management for the Elora Business Improvement Area should follow a practice of reporting back publicly afterwards on matters that were considered during a closed session.

Recommendation 6

The Board of Management for the Elora Business Improvement Area should ensure that no business or decision-making is materially advanced outside of formal meetings.

Recommendation 7

The Board of Management for the Elora Business Improvement Area should be mindful that electronic written communications, such as emails, that are sent to a quorum of board members can be considered a meeting under the *Municipal Act, 2001*.

Recommendation 8

The Board of Management for the Elora Business Improvement Area should take care when using electronic communications to avoid circulating information by email that could materially advance the business or decision-making of the board.

Recommendation 9

The Board of Management for the Elora Business Improvement Area should work with the Township of Centre Wellington to obtain education and training for each of its members with respect to the open meeting requirements under the *Municipal Act, 2001*.

Report

- 126** The Board of Management for the Elora Business Improvement Area and council for the Township of Centre Wellington were given the opportunity to review a preliminary version of this report and provide comments to our Office. All comments received were considered in the preparation of this final report.
- 127** This report will be published on my Office's website, and should be made public by the Board of Management for the Elora Business Improvement Area as well. In accordance with section 239.2(12) of the *Municipal Act, 2001*, the Board should pass a resolution stating how it intends to address this report.



Barbara Finlay
Acting Ombudsman of Ontario

Ce rapport est aussi disponible en français