



Ombudsman Report

**Investigation into a complaint
about meetings held by council
for the Township of Sables-Spanish Rivers**

**Paul Dubé
Ombudsman of Ontario**

March 2026

Complaint

- 1 My Office received a complaint about meetings held by council for the Township of Sables-Spanish Rivers.
- 2 The complaint alleged that the topic discussed in closed session at council's February 28, 2024 meeting did not fit within the exceptions to the open meeting rules under the *Municipal Act, 2001* (the "Act").¹
- 3 The complaint also alleged that council may have held an illegal closed meeting in council chambers prior to its January 8, 2025 regular council meeting. Lastly, the complaint alleged that part of council's discussion during the closed session at its February 26, 2025 meeting, which was not included in council's resolution to proceed into closed session, did not fit within the exceptions to the open meeting rules.
- 4 For the reasons set out below, I have concluded that the discussion that occurred in the closed session during council's February 28, 2024 meeting did not violate the *Municipal Act, 2001*, as the discussion fit within the exception for personal matters about an identifiable individual pursuant to section 239(2)(b) of the Act. Further, I have concluded that the discussion that occurred in council chambers prior to council's January 8, 2025 regular council meeting was not a "meeting" within the definition in the Act. Additionally, I have found that the discussion that occurred in the closed session during council's February 26, 2025 meeting did not violate the *Municipal Act, 2001*, as the discussion fit within the exception for personal matters about an identifiable individual pursuant to section 239(2)(b) of the Act.
- 5 However, I have concluded that the Township contravened section 239(4) of the Act by failing to include in its resolution to proceed into closed session on February 26, 2025 the matter concerning the dispute between two council members.

Ombudsman jurisdiction

- 6 Under the *Municipal Act, 2001*, all meetings of council, local boards, and committees of either must be open to the public, unless they fall within prescribed exceptions.²

¹ SO 2001, c 25.

² *Ibid*, s 239.

- 7 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.³ Municipalities may appoint their own investigator.⁴ The Act designates the Ombudsman as the default investigator for municipalities or local boards that have not appointed their own.⁵
- 8 The Ombudsman is the closed meeting investigator for the Township of Sables-Spanish Rivers.
- 9 When investigating closed meeting complaints, we consider whether the open meeting requirements in the Act and the applicable procedure by-law have been observed.
- 10 My Office has reviewed and investigated hundreds of closed meeting complaints 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.
- 11 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.

³ *Ibid*, s 239.1.

⁴ *Ibid*, s 239.2(1).

⁵ *Ibid*, s 239.1.

Investigative process

- 12 On August 1, 2025, my Office advised the Township of our intent to investigate this complaint.
- 13 Members of my Office's open meeting team reviewed the open and closed meeting agendas and minutes, as well as the video recordings for the February 28, 2024 and February 26, 2025 closed meetings. We also interviewed the Clerk-Administrator and six of the seven members of council.
- 14 My Office received full co-operation in this matter.

February 28, 2024 council meeting

- 15 Council met on February 28, 2024 at 6:30 p.m. for a regular meeting of council. At 6:31 p.m., council passed a resolution to move into a closed session to discuss various items under the open meeting exception for personal matters about an identifiable individual pursuant to section 239(2)(b) of the Act. The first item for discussion concerned two named individuals. The other items were not the subject of the complaint.
- 16 During the closed session, council received a delegation from a Township resident and a representative from the Ontario Federation of Agriculture about the Township's animal control by-law. During the delegation, the resident discussed an ongoing dispute with his neighbour, who was identified by name in the meeting, and related interactions with a Township by-law enforcement officer about his livestock guardian dog. Council discussed the matter and asked the delegates questions, following which the delegates left the closed session and council proceeded to discuss the remaining items on the closed session agenda. Council did not conduct a vote or pass any resolution related to the delegation.
- 17 At approximately 7:56 p.m., council reconvened in open session.

Analysis

Exception for personal matters about an identifiable individual

- 18 Council's resolution to proceed into closed session cited the open meeting exception for personal matters about an identifiable individual at section 239(2)(b) of the Act. I have previously determined that the exception for personal matters will apply to discussions of personal information that can be

reasonably expected to identify an individual if the information were disclosed publicly.⁶ To qualify as personal information, information must be about an individual in their personal capacity, rather than their professional or official capacity.⁷ However, the exception can include discussions about a person in their professional capacity if something personal is revealed.⁸ My Office has also found that discussions about the conduct of private citizens fit within the exception for personal matters.⁹

- 19 In this case, the delegation and council's subsequent discussion concerned the conduct of residents in the context of a private dispute. Accordingly, these portions of the discussion fit within the exception for personal matters.
- 20 However, the delegation also included a discussion of the Township's animal control by-law and of a by-law enforcement officer in their professional capacity. These portions of the discussion did not fit within the exception for personal matters.

Parsing the discussion

- 21 Because only parts of council's discussion fit within the open meeting exception, it is necessary to determine whether the discussion could have been parsed.
- 22 In *St. Catharines v IPCO*, the Divisional Court found that it is unrealistic to expect municipal councils to split up discussions between open and closed sessions where it would "detract from free, open and uninterrupted discussion."¹⁰ In other words, where it would be unrealistic to expect council to parse intertwined subjects, topics that do not otherwise fit within an open meeting exception may still be discussed *in camera*.¹¹ However, if the topics can be separated, council is expected to return to open session for those portions of the discussion that do not fit within an open meeting exception.

⁶ *Ontario (Ministry of Correctional Services) v Goodis*, [2008] OJ No 289 (ON SCDC) at para 69, online: <<https://canlii.ca/t/1vkb1>>.

⁷ *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 at para 19, online: <<https://canlii.ca/t/jr5rc>>; *Amherstburg (Town of) (Re)*, 2015 ONOMBUD 13 at para 22, online: <<https://canlii.ca/t/gtp5z>>.

⁸ *Burk's Falls / Armour (Village of / Township)*, 2015 ONOMBUD 26 at para 68, online: <<https://canlii.ca/t/gtp6w>> ["*Burk's Falls*"].

⁹ *Amherstburg (Town of) (Re)*, 2018 ONOMBUD 8 at para 66, online: <<https://canlii.ca/t/hvmv1>>; *South Huron (Municipality of) (Re)*, 2015 ONOMBUD 6, online: <<https://canlii.ca/t/gtp80>>.

¹⁰ *St. Catharines (City) v IPCO*, 2011 ONSC 2346 at para 42, online: <<https://canlii.ca/t/fkqfr>>.

¹¹ *Plympton-Wyoming (Town of) (Re)*, 2021 ONOMBUD 4 at para 26, online: <<https://canlii.ca/t/jd49k>>.

- 23 In a 2015 report to the Township of McKellar, my Office reviewed a committee’s discussion about the comments and conduct of certain council members and identifiable private citizens under the exception for personal matters.¹² My Office determined that even though the discussion about the identifiable private citizens fit within the exception, and the discussion about the conduct of the council members in their official capacities did not, it would nonetheless have been unrealistic for the committee to parse the discussions, because they were directly related.
- 24 In this case, the portions of the delegation and council’s discussion concerning the Township’s animal control by-law and the by-law enforcement officer could not be parsed. These portions of the discussion were directly related to and intertwined with the personal matters about identifiable individuals, namely the resident and his neighbour. Because these portions of the discussion could not have realistically been parsed, the exception for personal matters applied to the entire discussion.

January 8, 2025 gathering ahead of the council meeting

- 25 Council met on January 8, 2025 at 6:30 p.m. in council chambers for a regular meeting. My Office was told by members of council we interviewed that four members of council were in council chambers discussing various topics about 10 to 15 minutes before the start of the meeting. My Office was told that the four members of council were engaged in conversation unrelated to council business. We were also told that the council chambers were open to the public at the time in question.
- 26 Other members of council began entering council chambers approximately 10 to 15 minutes prior to the start of the regular meeting in order to review the agenda and prepare for the meeting.

Analysis

- 27 For a gathering to be considered a “meeting” under the *Municipal Act, 2001*, two criteria must be met:
- i. A quorum of council must be present; and
 - ii. The discussions must materially advance the business or decision-making of council.¹³

¹² *McKellar (Township of) (Re)*, 2015 ONOMBUD 39 at paras 50–52, online: <<https://canlii.ca/t/gtp7s>>.

¹³ *Ibid*, s 238(1).

Quorum

- 28 I have previously determined that in order to constitute a quorum, members of council must be “present” as a group either physically or electronically.¹⁴
- 29 There are seven members on council. Therefore, a majority of council members was present in council chambers for the discussion that occurred prior to council’s January 8, 2025 meeting. Accordingly, a quorum of council was present.

Materially advancing business or decision-making

- 30 Discussions, debates, or decisions 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 council.¹⁵ 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 council.¹⁶
- 31 Based on the evidence gathered, there is no reasonable basis to conclude that the discussion that occurred in council chambers prior to the start of the meeting related to any matter before council. As a result, the discussion did not materially advance the business or decision-making of council and there was no “meeting” within the definition of the Act.

February 26, 2025 council meeting

- 32 Council met on February 26, 2025 at 6:30 p.m. for a regular meeting. At 7:20 p.m., council passed a resolution to move into a closed session to consider two items: “personal matters about identifiable individuals, including municipal or local board employees – employee probation and labour relations” and “matters relating to solicitor-client privilege.”
- 33 During the closed session the Mayor requested that the Clerk-Administrator add a third item for discussion, under the open meeting exception for personal matters. The Mayor explained to my Office that the purpose was to provide two members of council the opportunity to “air their differences at the council table” during the closed session and resolve a personal dispute, with the goal of preventing the dispute from further impacting council’s work. The other

¹⁴ *Casselman (Municipality of) (Re)*, 2024 ONOMBUD 1 at para 31, online: <<https://canlii.ca/t/k235v>>.

¹⁵ *Casselman (Village of) (Re)*, 2018 ONOMBUD 11 at para 31, online: <<https://canlii.ca/t/hvmtk>>.

¹⁶ *Ibid.*

members of council we spoke with confirmed that the closed session included a confrontation between two members of council, including accusations of “interference” in a by-law enforcement proceeding. Although this third item was discussed during the closed meeting, as described below, it was not listed alongside the other two in the resolution to move into closed session.

- 34** During the closed session, upon completing the discussions of the two items described in the resolution, the Clerk-Administrator indicated that a member of council had something to say. At that point, one of the two members of council involved in the personal dispute began raising his concerns, and then the other member of council involved in the personal dispute raised their issues, which included accusations of personal attacks and inappropriate comments. Following a lengthy discussion, council adjourned the closed session at 9:15 p.m. and resumed the regular meeting in open session.

Analysis

- 35** As noted above, the open meeting exception for personal matters about an identifiable individual under section 239(2)(b) of the Act can include discussions about a person in their professional capacity if something personal is revealed.¹⁷ My Office has previously determined that the exception for personal matters has applied to discussions regarding something of a personal nature about an individual,¹⁸ or scrutiny of an individual’s conduct.¹⁹
- 36** Scrutiny of the conduct of a member of council may sometimes extend beyond mere commentary on someone’s conduct in a purely professional capacity such that it becomes a personal matter, typically when connected to unsubstantiated allegations. For example, I have previously determined that the exception for personal matters applied to discussions about specific councillors’ emails with named residents in the context of speculative information and contested allegations,²⁰ about whether to proceed with a code of conduct complaint based on unproven allegations,²¹ and about an alleged but uninvestigated and unproven council member’s breach of confidentiality.²²

¹⁷ *Burk’s Falls*, *supra* note 8.

¹⁸ *Ibid.*

¹⁹ *Lanark Highlands (Township of) (Re)*, 2018 ONOMBUD 1 at para 50, online: <<https://canlii.ca/t/hvmtf>>.

²⁰ *Emo (Township of) (Re)*, 2020 ONOMBUD 6 at paras 11 and 17, online: <<https://canlii.ca/t/jb1g6>>.

²¹ Letter from the Ontario Ombudsman to the Municipality of Temagami (9 February 2017), online: <<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/municipality-temagami-february-9-2017>>.

²² Letter from the Ontario Ombudsman to the City of Elliot Lake (8 September 2014), online: <<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/city-elliott-lake-september-8-2014>>.

- 37 In the matter at hand, council’s discussion concerned the interactions of two members of council, including allegations of personal attacks, inappropriate comments, and “interference” in a by-law enforcement proceeding. I am satisfied that the discussion included unsubstantiated allegations that went beyond scrutiny of the council member in their professional capacity. Accordingly, the conduct subject to the discussion was personal in nature and the discussion fit within the exception for personal matters.
- 38 While the exception for personal matters applied to council’s discussion of the personal dispute between the two councillors, council’s resolution to proceed into closed session did not include this topic for discussion. Section 239(4) of the Act establishes a procedural obligation for council to state by resolution in open session that a closed meeting will be held. The resolution must also include a description of the general nature of the matters to be discussed at the closed meeting in order to maximize the information available to the public while not undermining the reason for excluding the public.²³ My Office has previously recommended that, where possible, councils should provide substantive detail in the resolution to close a meeting.²⁴
- 39 In the matter at hand, council failed to include in its resolution to proceed into closed session a description of one of the items of discussion, contrary to section 239(4) of the Act. This failure is significant. As I have previously commented, it is council’s responsibility to ensure that closed session discussions remain on topic as disclosed to the public. This approach will assist councils to discuss only topics that fit within the open meeting exceptions.²⁵
- 40 In the interest of transparency, I will be recommending that council endeavor, wherever possible, to individually and collectively ensure that its discussion in closed session is focused on those matters within the statutory exceptions, as set out in the resolution to close the meeting.

Opinion

- 41 Council for the Township of Sables-Spanish Rivers did not contravene the *Municipal Act, 2001* on February 28, 2024 when it received a delegation in closed session, as its discussion fit within the open meeting exception for personal matters about an identifiable individual pursuant to section 239(2)(b) of the Act.

²³ *Farber v Kingston (City)*, 2007 ONCA 173 at para 21, online: <<http://canlii.ca/t/1qtz/>>.

²⁴ *Niagara (District Airport Commission) (Re)*, 2016 ONOMBUD 22, online: <<http://canlii.ca/t/h2stf/>>.

²⁵ *Amherstburg (Town of)*, 2016 ONOMBUD 9, online: <<http://canlii.ca/t/h2stm/>>.

- 42 Council did not contravene the *Municipal Act, 2001* on January 8, 2025 when four members of council had a conversation in council chambers prior to the start of the regular council meeting, as the gathering was not a “meeting” within the definition of the Act.
- 43 The discussion of the dispute between two council members during the closed session at council’s February 26, 2025 meeting did not contravene the *Municipal Act, 2001*, as it fit within the exception for personal matters about an identifiable individual pursuant to section 239(2)(b) of the Act.
- 44 However, council for the Township of Sables-Spanish Rivers contravened section 239(4) of the Act when, on February 26, 2025, it failed to include in its resolution to proceed into closed session that it would be discussing a third matter, namely the dispute between two council members.

Recommendations

- 45 I make the following recommendations to assist the Township of Sables-Spanish Rivers in fulfilling its obligations under the Act and enhancing the transparency of its meetings:

Recommendation 1

All members of council for the Township of Sables-Spanish Rivers should be vigilant in adhering to their individual and collective obligation to ensure that the municipality complies with its responsibilities under the *Municipal Act, 2001*.

Recommendation 2

Council for the Township of Sables-Spanish Rivers should individually and collectively ensure that it includes in its resolutions to proceed into closed session all items it plans to discuss and to be guided by those resolutions in how it determines the scope of its discussion.

Report

- 46 Council for the Township of Sables-Spanish Rivers was given the opportunity to review a preliminary version of this report and provide comments to my Office. Council elected to provide no comments and indicated it was satisfied with the report’s contents.

47 This report will be published on my Office’s website and should be made public by the Township of Sables-Spanish Rivers. In accordance with section 239.2(12) of the *Municipal Act, 2001*, the Township is required to pass a resolution stating how it intends to address this report.



Paul Dubé
Ombudsman of Ontario

Ce rapport est aussi disponible en français