



Ombudsman Report

**Investigation into a meeting
held by the Township of Scugog
on October 16, 2024**

**Barbara Finlay
Acting Ombudsman of Ontario**

July 2026

Complaint

- 1 My Office received a complaint that council for the Township of Scugog held a meeting on October 16, 2024 that did not comply with the requirements in the *Municipal Act, 2001* (the “Act”).¹ The meeting was held in the Town of Ajax to interview candidates for the position of Chief Administrative Officer (CAO).
- 2 The complaint alleged there was insufficient notice for the meeting, that the closed session discussion did not fit under any of the open meeting exceptions within the Act, that there were improper votes taken during the closed session, and that the meeting was held in another municipality contrary to the Act.
- 3 My investigation determined that the closed session discussion at this meeting fit within the cited exception for personal matters about an identifiable individual, that the meeting was permitted to be held in a nearby municipality, that sufficient notice was provided, and that there were no improper votes taken in closed session.

Ombudsman jurisdiction

- 4 Under the *Municipal Act, 2001* (the “Act”), all meetings of council, local boards, and committees of council must be open to the public, unless they fall within prescribed exceptions.
- 5 As of January 1, 2008, the Act gives anyone the right to request an investigation into whether a municipality 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.
- 6 The Ombudsman is the closed meeting investigator for the Township of Scugog.
- 7 When investigating closed meeting complaints, we consider whether the open meeting requirements of the Act and the municipality’s governing procedures have been observed.

¹ SO 2001, c 25.

- 8 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.
- 9 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

- 10 My Office spoke with the Clerk/CAO and Mayor for the Township. We also reviewed the Township's procedure by-law and the meeting materials, including the open and closed meeting minutes and agenda for the October 16, 2024 meeting.
- 11 My Office received full co-operation in this matter.

October 16, 2024 meeting

- 12 Council for the Township of Scugog held a special meeting on October 16, 2024 in the Town of Ajax. Notice was posted on the Township's website on September 24, 2024 that a special meeting would be held on October 16, with the location to be determined. The agenda for the meeting was subsequently published on the Township's website on October 11, 2024, indicating the meeting would take place at 8:30 a.m. at the location "Off Site – Hilton Garden Inn Ajax".

- 13 Those we interviewed indicated that the meeting was scheduled at this location to protect the privacy of candidates being interviewed for the CAO role, whose identities could have been deduced more easily by members of the public if the meeting had been held in Scugog.
- 14 After calling the meeting to order in open session, council resolved to enter *in camera* to discuss the subject of “Chief Administrative Officer Recruitment” under the exceptions for personal matters about an identifiable individual and labour relations or employee negotiations.
- 15 In closed session, individual candidates provided presentations to council members about their qualifications and suitability for the CAO role and answered questions from council. After each presentation and once the candidate had left the room, council members discussed their opinions on each candidate.
- 16 While still in closed session, council selected a candidate through an informal group consensus and briefly discussed conditions of a draft contract and background check for the candidate. Council voted to direct the Township’s recruiter and Human Resources Manager to prepare an employment contract to return to council for review, and for the recruiter to make an offer of employment to the candidate.
- 17 Council subsequently returned to open session and adjourned the meeting.

Analysis

Exception for personal matters about an identifiable individual

- 18 My Office has consistently determined that the exception for personal matters will apply to discussions of “personal information” that can be reasonably expected to identify an individual.² To qualify as personal information, the information must be about an individual in their personal capacity, rather than their professional or official capacity.

² *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>>.

- 19** However, the exception for personal matters can include discussions about a person in their professional capacity if something personal is revealed.³ We have found that the exception for personal matters can apply to discussions regarding something of a personal nature about an individual⁴, scrutiny of an individual's conduct⁵, and information relating to an individual's work experience and suitability for a position.⁶
- 20** Because information relating to an individual's work experience and suitability for a position qualifies as personal information, the presentations by individual candidates and subsequent discussion about each candidate on October 16 fit under the exception for personal matters about an identifiable individual.

Exception for labour relations or employee negotiations

- 21** The purpose of the exception for labour relations is to protect discussions relating to the relationship between a municipality and its employees.⁷ My Office has consistently found that the exception applies to discussions regarding qualifications⁸, terms of employment⁹, and the hiring of employees.¹⁰
- 22** As council interviewed several candidates for the CAO position, and discussed their qualifications, the contract for the chosen candidate, and logistics regarding the hiring of that candidate, the entirety of the discussion fit within the exception for labour relations or employee negotiations.

³ *Burk's Falls / Armour (Village of / Township)*, 2015 ONOMBUD 26 at para 68, online: <<https://canlii.ca/t/gtp6w>>.

⁴ *Ibid.*

⁵ *Lanark Highlands (Township of) (Re)*, 2018 ONOMBUD 1 at para 50, online: <<https://canlii.ca/t/hvmtf>>.

⁶ Letter from the Ontario Ombudsman to the Township of South Algonquin, (19 November 2021), online: <<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/township-south-algonquin-november-19-2021>>.

Russell (Township of) (Re), 2015 ONOMBUD 29 at para 31, online: <<https://canlii.ca/t/gtp73>>; *Supra* note 3.

⁷ *Norfolk (County) (Re)*, 2024 ONOMBUD 17, online: <<https://canlii.ca/t/k81rh>>.

⁸ *Baldwin (Township of) (Re)*, 2014 ONOMBUD 10, online: <<https://canlii.ca/t/gtmh6>>; *Amherstburg (Town of) (Re)*, 2014 ONOMBUD 12, online: <<https://canlii.ca/t/gtmhb>>.

⁹ *Leeds and the Thousand Islands (Township of) (Re)*, 2013 ONOMBUD 4, online: <<https://canlii.ca/t/gtmhn>>.

¹⁰ *Amherstburg (Town of)*, 2015 ONOMBUD 33, online: <<https://canlii.ca/t/gtp7d>>.

Voting

- 23** A vote is permitted in closed session under section 239(6) of the Act if the meeting is allowed to be closed based on one of the exceptions within the Act. The vote must be either for a procedural matter or for giving direction to officers, employees, or agents of the municipality, local board or committee of either of them, or persons retained by or under contract with the municipality or local board.
- 24** In this instance, council reached consensus on a specific candidate and voted to direct its recruiter to make an employment offer to that candidate. Council also voted to direct the recruiter and the Township's Human Resources Manager to prepare an employment contract to come before council for review.
- 25** These were specific directions for identified staff members. As the discussion was permitted in closed session, these votes to direct staff were also permitted in closed session.

Notice

- 26** Section 238(2.1) of the Act requires that every municipality's procedure by-law provide for public notice of meetings.
- 27** Under the Township's procedure by-law, the Clerk is required to provide notice for special meetings by publishing notice in the Township's announcement section in the weekly newspaper if time permits, posting the agenda for the special meeting on the Township's website, and providing digital copies of the agenda to those who have asked to be on a circulation list.¹¹
- 28** In this instance, notice was provided on the Township's website approximately 20 days ahead of the October 16 meeting, but the notice did not specify the location. The notice was updated five days ahead of the October 16 meeting to add the meeting location. Accordingly, notice was provided to the public in accordance with the by-law's requirements.

¹¹ Township of Scugog, *Procedure By-Law – By-Law Number 66-18*, at s. 5.13, online: <<https://www.scugog.ca/media/spxgffl4/consolidated-by-law-66-18-procedure-by-law-table-of-contents-copy.pdf>>.

- 29** However, I note that the Township’s procedure by-law does not indicate how much notice is required for either special or regular meetings of council. This omission leaves the public without clear and predictable time frames for notice of meetings. I urge the Township to amend its procedure by-law to specify when notice to the public must be posted ahead of both regular and special meetings.

Meeting location

- 30** The complainant raised concerns that the October 16 meeting was held in the nearby municipality of Ajax rather than in Scugog.
- 31** Under section 236(1) of the Act, the council of a municipality shall hold its meetings and keep its public offices “within the municipality or an adjacent municipality at a place set out in the municipality’s procedure by-law”. Under section 238(3), the procedure by-law “may provide that meetings be held and public offices be kept at a place outside the municipality within an adjacent municipality”.
- 32** The Township’s procedure by-law states that the Mayor may approve holding a meeting anywhere in the Township or in a neighbouring municipality as long as notice of the meeting is provided.¹²
- 33** The Act does not define “adjacent” and the Township’s procedure by-law does not define “neighbouring”. The courts have not specifically interpreted the meaning of “adjacent” within section 236(1) or 238(3) of the Act.
- 34** My Office previously assessed section 236(1) of the Act in a 2019 report on meetings held by a committee of the City of Hamilton in Niagara-on-the-Lake. Similarly, the meetings were held off site to protect the privacy of candidates being interviewed for the position of city manager. In that case, my Office found that because section 236 does not refer to committees of council, it did not apply. However, it was noted that the city had a “practical and legitimate interest in maintaining confidentiality during the recruitment process” and that the meeting was held at a “suitable location” off site.¹³

¹² *Ibid* at s. 5.4.

¹³ *Hamilton (City of) (Re)*, 2019 ONOMBUD 7 at para 91, online: <<https://canlii.ca/t/j2pwf>>.

- 35 Courts and tribunals in other contexts have typically interpreted “adjacency” broadly to mean nearby rather than directly bordering.¹⁴
- 36 In addition, the Act itself directs a broader interpretation. Section 8 of the Act states: “The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues.”
- 37 It is apparent that “adjacency” does not precisely and narrowly refer to abutting locations, and is sufficiently broad to include locations that are nearby.
- 38 In this instance, the Township expressed a rationale underlying the off-site meeting location to protect the privacy of applicants. The Township’s procedure by-law also contemplates meetings outside of the Township.
- 39 I find that the Township complied with its procedure by-law and the “adjacency” requirement set out in the Act when it held its October 16 meeting in Ajax.

Opinion

- 40 Council for the Township of Scugog did not contravene the *Municipal Act, 2001* when it met with candidates and discussed their suitability for its CAO position at its October 16, 2024 meeting, as the discussion fit within the exceptions for personal matters and for labour relations or employee negotiations.
- 41 Council for the Township of Scugog complied with the requirements in the *Municipal Act, 2001* during its meeting on October 16 in voting to direct staff in closed session.
- 42 Council complied with the requirements in the *Municipal Act, 2001* when it provided notice in accordance with its procedure by-law for its October 16 meeting, and in holding the meeting in the nearby municipality of Ajax. As a best practice, I encourage council for the Township of Scugog to amend its

¹⁴ *Re Russell and Banbury et al*, 1955 CanLII 144 (ON SC), online: <<https://canlii.ca/t/g182w>>; *Re Van Vlasselaer et al. and County of Elgin Land Division Committee et al.*, 1977 CanLII 1324 (ON SC), online: <<https://canlii.ca/t/g160d>>; *Enviro Park Solar Ltd. v. Nissa Corporation*, 2018 ONSC 5750 at para 62, online: <<https://canlii.ca/t/hvjw9>>.

procedure by-law to provide for the amount of notice required for all meetings, including special meetings.

Report

- 43 The Mayor and Clerk for the Township of Scugog were given the opportunity to review a preliminary version of this report and provide comments to our Office. Any comments received were considered in the preparation of this final report.
- 44 The Clerk indicated that my report would be made available to the public at council's upcoming meeting. It will also be published on our website at www.ombudsman.on.ca.



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Acting Ombudsman of Ontario

Ce rapport est aussi disponible en français