

J. Paul Dubé, Ombudsman

June 7, 2018

Council for the Township of Russell  
c/o Joanne Camiré Laflamme, Clerk  
Township of Russell  
717 Notre-Dame Street  
Embrun, ON  
K0A 1W1

By e-mail: [joannecamirelaflamme@russell.ca](mailto:joannecamirelaflamme@russell.ca)

Dear Council for the Township of Russell:

**Re: Closed meeting complaint – May 22, 2018**

I am writing further to my Office's telephone conversation with the Clerk on June 6, 2018. As discussed in that call, my Office received a complaint regarding a closed meeting held by council for the Township of Russell on May 22, 2018. The complaint alleged that council's discussion did not fit within the closed meeting exceptions in the *Municipal Act, 2001* and raised a concern about the level of detail in the resolution to move into closed session.

**Review**

During our review of this complaint we spoke with the township's Clerk. We also reviewed the agenda, closed meeting minutes, staff report and appendices discussed during the closed session on May 22, 2018. In addition, we reviewed by-laws 78-2012 (authorizing the township to sell a road allowance in Embrun) and 2018-066 (repealing by-law 78-2102).

May 22, 2018 meeting

According to the Clerk and agenda, council proceeded in camera under the "disposition of land" closed meeting exception found in section 239(2)(c) of the Act, to discuss "disposition

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of land in Embrun”. The closed session minutes reflect that a report was presented regarding the history and status of the closure and sale of part of Séguin Street in Embrun.

Once council returned to open session, council passed by-law 2018-066, which repealed by-law 78-2012, the by-law that permitted the sale of part of the street. The sale was never completed.

### Analysis

#### 1. The closed meeting exception

Council relied on s. 239(2)(c) – the closed meeting exception for the acquisition or disposition of land – to discuss the disposition of part of Séguin Street in Embrun.

The purpose of the acquisition or disposition of land exception is to protect the municipality’s bargaining position by permitting discussions about a proposed or pending acquisition or disposition of land by a municipality to be held in closed session.<sup>1</sup>

The Clerk told us that during the May 22, 2018 meeting council reviewed a staff report related to the disposition of the municipal road allowance. The staff report provided a historical and current appraisal of the road allowance property and outlined recent negotiations with parties interested in purchasing the property. Accordingly, the municipality was entitled to rely on the “acquisition or disposition of land” closed meeting exception.

#### 2. Level of detail in the resolution

Our Office received a complaint that council’s resolution to proceed in camera lacked sufficient detail about the matter to be discussed. The resolution described council’s intended topic as “disposition of land in Embrun”.

As noted in my May 25, 2018 letter to the township, the Act requires municipalities, before holding a closed meeting, state “the fact of holding a closed meeting and the general nature of the matter to be considered at the closed meeting”.<sup>2</sup> The Ontario Court of Appeal noted in *Farber v. Kingston (City)*<sup>3</sup> that

[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.

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<sup>1</sup> See, for example, Port Colborne (City of), 2015 ONOMBUD 32 (CanLII), online: <http://canlii.ca/t/gtp7c>.

<sup>2</sup> *Municipal Act, 2001*, s. 239(4)(a).

<sup>3</sup> 2007 ONCA 173.

This requirement is echoed in the Township of Russell's procedure by-law.<sup>4</sup>

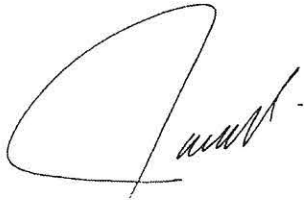
In this case, the resolution referenced the general nature of the matter to be considered ("disposition of land in Embrun"). In the future, the township may wish to consider providing greater detail where possible and where further information will not undermine the reason for closing the meeting to the public.

## Conclusion

My Office's review found that the closed meeting held by council for the Township of Russell on May 22, 2018, fit within the exceptions for closed meetings set out in the *Municipal Act, 2001*.

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

Sincerely,



Paul Dubé  
Ombudsman of Ontario

Cc: Pierre Leroux, Mayor

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<sup>4</sup> The Corporation of the Township of Russell, Procedural By-law No. 2018-026