



Ombudsman Report

**Investigation into emails exchanged
by council for the Township of Frontenac
Islands on August 15 and August 16, 2024**

**Paul Dubé
Ombudsman of Ontario**

July 2025

Complaint

- 1 My Office received a complaint alleging council for the Township of Frontenac Islands (the “Township”) contravened the *Municipal Act, 2001*¹ (the “Act”) by holding an informal meeting over email on August 16, 2024.
- 2 My investigation found that a quorum of council engaged in a discussion over emails exchanged between August 15 and August 16, 2024. These emails materially advanced the business or decision-making of council and were meetings held in contravention of the Act.

Ombudsman jurisdiction

- 3 Under the Act, all meetings of council, local boards, and committees of either must be open to the public, unless they fall within prescribed exceptions.
- 4 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. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.
- 5 The Ombudsman is the closed meeting investigator for the Township of Frontenac Islands.
- 6 When investigating closed meeting complaints, we consider whether the open meeting requirements in the Act and the municipality’s procedure by-law have been observed.
- 7 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.

¹ SO 2001, c 25.

- 8 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

- 9 On October 15, 2024, my Office advised the Township of our intent to investigate this complaint.
- 10 Members of my Office's open meeting team reviewed the relevant emails exchanged between council members on August 15 and 16, 2024, as well as the meeting materials and video recording of the open session of the Township's May 13, 2024 council meeting. We interviewed the CAO/Clerk and all five members of council.
- 11 My Office received full co-operation during this investigation.

May 13, 2024 council meeting and resolution to request delegation meetings at AMO

- 12 During its May 13, 2024 meeting, council discussed a staff report prepared by the CAO/Clerk that recommended submitting a delegation request for the upcoming Association of Municipalities of Ontario (AMO) conference. Delegations are opportunities for municipal officials to speak with provincial ministers and their staff about local matters affecting municipalities.
- 13 Council resolved to direct staff to submit delegation requests to the Ministry of Transportation to discuss ferries, the Ministry of Infrastructure to discuss roads, and the Ministry of Health to discuss paramedic services and "rural and remote isolation designation."² Our Office was told that one councillor and the Mayor would participate in the delegation to the Ministry of Health. In particular, the councillor would request restoration of paramedic services on Wolfe Island and the

² Township of Frontenac Islands, Resolution No 099-24 (13 May 2024).

Mayor would request a designation as a rural and remote municipality so that the Township could access funding for a nurse practitioner for its medical clinic.

First email thread

- 14 On August 15, 2024, the CAO/Clerk emailed all of council, attaching the delegation letter addressed to the Minister of Infrastructure regarding roads, and the delegation letter addressed to the Minister of Health regarding paramedic services.
- 15 The Mayor replied via email to the CAO/Clerk and the councillor who would be attending the delegation with her, stating that paramedic services was not the only issue to be raised during the delegation to the Minister of Health, and that the councillor would be sharing his time with her. The CAO/Clerk then sent an email to the Mayor requesting a separate delegation letter about the other issues she wished to raise with the Minister of Health to circulate to the other members of council for their input. The CAO/Clerk told my Office that the intent of the email was to obtain council's approval of the delegation letter.
- 16 After receiving the delegation letter from the Mayor, the CAO/Clerk then copied the rest of council on the email chain, attaching a revised delegation letter to the Minister of Health, and asking if council members had any changes to suggest.
- 17 Three council members replied to the CAO/Clerk's email and included all members of council in the email thread. They stated their opinions on who would lead the delegation to the Minister of Health and how the time should be divided between the Mayor and the councillor attending with her. The Mayor responded to all members of council and the CAO/Clerk disagreeing with the councillors' emails.

Second email thread

- 18 On August 16, 2024, the CAO/Clerk sent an email to all of council with a final version of the delegation letter to the Minister of Health from the Mayor. The CAO/Clerk stated in the email that if members of council were satisfied with the delegation letter, it would be sent to the Minister of Health.
- 19 In a series of emails afterward, each member of council replied to the group expressing opinions on the delegation letter and on the role of the Mayor during the delegation. For example, one councillor responded that he was not in favour of sending the delegation letter, prompting the Mayor to send a reply. Another council member also responded saying that he did not support sending it, either.

Analysis

A quorum of council members was present during the discussions held over email between August 15 and August 16, 2024

- 20 Under section 238(1) of the Act, a “meeting” is defined as any regular, special or other meeting of a council, of a local board or of a committee of either of them, where “a quorum of members is present, and members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee.”³
- 21 This definition of a meeting in the Act requires that a quorum of members be present when a meeting occurs.
- 22 Changes to the Act in 2020 permitted members to count towards quorum when participating electronically in meetings.⁴ My Office has determined that for the purposes of an electronic meeting, the meeting “place” is electronic⁵ and that members may be “present” when they come together electronically to discuss and advance business.
- 23 In a report to the Township of the North Shore, I determined that when members of council exchange written electronic communications, they are present in an electronic place, satisfying the presence requirement of the definition of “meeting” under the Act. In that case, a quorum of council held a discussion over group text message.⁶
- 24 This case involves an exchange of emails among all members of council. Email is a form of written electronic communication similar to text messages. Accordingly, when members of council exchange emails they are present in an electronic place.
- 25 Council for the Township of Frontenac Islands is composed of a Mayor and four councillors. Council members exchanged emails in two separate threads on August 15 and August 16, 2024. All of council was included at some point in each email thread. Although some individual email replies did not include all of council at the beginning of the first email thread on August 15, 2024, those exchanges were eventually circulated to all council members.

³ *Municipal Act, 2001*, SO 2001, c 25, s 238(1).

⁴ *Ibid*, ss 238(3.1)–(3.3).

⁵ *McKellar (Township of) (Re)*, 2023 ONOMBUD 3 at para 48, online: <<https://canlii.ca/t/jv6ck>>.

⁶ *The North Shore (Township of) (Re)*, 2025 ONOMBUD 1, online: <<https://canlii.ca/t/k98j5>>.

- 26 Since all council members were included on the email communications, a quorum of council was present, satisfying the first part of the definition of “meeting” in the Act.

The email messages materially advanced council business and decision-making

- 27 The second part of the test for whether a meeting occurred requires that council materially advance its business or decision-making. My Office has stated that assessing material advancement “involves considering the extent to which the discussions at issue moved forward the business of the municipality, based on factual indicators.”⁷
- 28 Although mere updates on recent activities or communication of information are unlikely to materially advance business or decision-making, my Office has previously determined that “votes, agreements, direction or input to staff, and discussion or debates of a proposal, course of action, or strategy are likely to materially advance business or decision-making.”⁸
- 29 The councillors that we interviewed told us that the emails did not materially advance the business of the municipality because no decisions were made, and the emails followed up on council’s previous resolution regarding the AMO delegations.
- 30 Updates or communications of information do not normally materially advance decision-making. In this case, however, the email discussion was not merely a follow-up to the May 13, 2024 resolution. The CAO/Clerk’s email sought council input on and approval of the delegation letter to the Minister of Health. Over email, council members debated the nature of the delegation, the contents of the delegation letter, and whether to send it. These discussions formed a material part of council’s decision-making about whether to approve and send the delegation letter. For example, two council members stated via email reply to all members of council that they did not support sending it.
- 31 As the emails were about council business and the councillors weighed in on the question of whether the delegation letter should be approved and sent, the emails materially advanced council business. Consequently, the emails constitute a meeting under the Act.

⁷ *Casselman (Village of) (Re)*, 2022 ONOMBUD 13 at para 26, online: <<https://canlii.ca/t/jrkx5>>.

⁸ *Ibid* at para 27.

Opinion

- 32 My investigation found that council for the Township of Frontenac Islands contravened the *Municipal Act, 2001*, when a quorum of council held informal discussions over email on August 15 and 16, 2024 that materially advanced council business or decision-making.

Recommendations

- 33 I make the following recommendations to assist the Township of Frontenac Islands in fulfilling its obligations under the Act and enhancing the transparency of its meetings:

Recommendation 1

All members of council for the Township of Frontenac Islands should be vigilant in adhering to their individual and collective obligation to ensure compliance with their responsibilities under the *Municipal Act, 2001*.

Recommendation 2

Council for the Township of Frontenac Islands should ensure that no council business or decision-making is materially advanced outside of formal meetings, including over electronic written communications, such as emails.

Recommendation 3

Council for the Township of Frontenac Islands should be mindful that electronic written communications, such as emails, exchanged by a quorum of council can be considered a meeting under the *Municipal Act, 2001*.

Recommendation 4

Council for the Township of Frontenac Islands should take care when using electronic communications to avoid materially advancing the business or decision-making of council.

Report

- 34 Council for the Township of Frontenac Islands was given the opportunity to review a preliminary version of this report and provide comments to my Office. All comments we received were considered in the preparation of this final report.

- 35** This report will be published on my Office's website and should also be made public by the Township of Frontenac Islands. In accordance with section 239.2(12) of the *Municipal Act, 2001*, council 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