

BY EMAIL

March 18, 2026

Members of Council for the Town of Pelham
20 Pelham Town Square
P.O. Box 400
Fonthill, ON L0S 1E0

Dear Members of Council for the Town of Pelham:

Re: Closed meetings complaint

My Office received a complaint about closed meetings held by council for the Town of Pelham on March 26 and April 16, 2025. The complainant expressed concern that discussions on these dates about filling vacancies on the councils for the Town and the Regional Municipality of Niagara may not have fit within the cited closed meeting exception under the *Municipal Act, 2001* (the “Act”¹).

I am writing to share that based on my Office’s review, I find that these meetings complied with the Act’s open meeting rules.

Ombudsman jurisdiction

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. My Office is the closed meeting investigator for the Town of Pelham.

¹ SO 2001, c 25 [*“Municipal Act, 2001”*]

My Office has investigated hundreds of closed meetings. 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/municipalgovernment/municipal-meeting-digest.

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-helpyou/organizations-you-can-complain-about.

Review

My Office reviewed the open and closed meeting minutes, agendas, and closed meeting recordings for the March 26 and April 16, 2025 meetings. We also spoke with the Town's Clerk.

March 26, 2025 meeting

On March 26, 2025, council held an in-person regular meeting. The open meeting minutes indicate council resolved to proceed *in camera* to discuss "1 item (non-union)" under the open meeting exception for personal matters about an identifiable individual.

The *in camera* session on this date was regarding the filling of a vacant seat on council for the Regional Municipality of Niagara. The Regional Municipality of Niagara consists of 12 lower-tier area municipalities, including the Town of Pelham. Its council is composed of representatives from each lower-tier council.

The discussion began with one councillor noting that a specific member of the public had expressed in correspondence their opinion regarding the appointment process. There was subsequently a brief discussion about that individual, the concerns raised, and the councillor's own opinion. Following this, the Clerk and CAO provided a brief overview of the process to fill the vacancy. Council proceeded to assess the suitability of individual candidates. Council discussed multiple named candidates and opinions about each candidate's suitability and qualifications for the role.

Applicability of the exception for personal matters about an identifiable individual

Section 239(2)(b) of the Act permits *in camera* discussions regarding personal matters about an identifiable individual. The exception for personal matters applies to discussions that reveal personal information about an identifiable individual. To qualify as personal information, it must be reasonable to expect that an individual could be identified if the information were disclosed publicly.² Information that has already been publicly discussed or is generally known to the public does not generally come within the exception for personal matters.³

My Office has consistently found that information relating to an identified individual's work experience as well as scrutiny or opinions of that individual's suitability for a position can qualify as personal information and may be discussed *in camera*.⁴ My Office has made that determination in the context of *in camera* discussions of candidates for vacant council positions.⁵ However, the information discussed must still be personal, rather than professional, and must not be generally known to the public.

In the present case, council discussed multiple named candidates by providing opinions relating to each one's suitability and qualifications for the role. The information discussed went beyond professional information about the candidates. This discussion fit within the exception for personal matters about an identifiable individual.

² *Ontario (Ministry of Correctional Services) v Goodis* [2008], OJ No 289 at para 69, online: <<https://canlii.ca/t/1vkb1>>.

³ Letter from the Ontario Ombudsman to the Town of Midland (4 February, 2014), online: <<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/town-midland-february-4-2014>>.

⁴ 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>>; Cochrane (Town of) (Re), 2024 ONOMBUD 19, online: <<https://canlii.ca/t/k85jb>>.

⁵ *Ibid* [Township of South Algonquin].

Council's brief discussion of a named individual's concerns about the appointment process also fits within the exception, as it contained personal information about an identifiable individual.

The discussion also included a brief overview of the process to fill the vacancy. My Office has found that procedural discussions regarding the filling of vacant seats will not fit within the exception for personal matters if no personal information is discussed.⁶ In this case, the brief overview of the appointment process did not contain any personal information and was not about any identified individual. However, the overview was brief and closely intertwined with the discussion about individual candidates.

In *St. Catharines v IPCO, 2011*, the Divisional Court found it is unrealistic to expect municipal councils to split up discussions between open and closed session where it would "detract from free, open and uninterrupted discussion".⁷ In this instance, it would have been unreasonable to expect council to have parsed out this brief overview of the process from its broader discussion about the candidates. Consequently, I find that it would have been unrealistic to expect council to parse this portion of the discussion from the closed session.

April 16, 2025 meeting

Council met in person for a regular meeting on April 16, 2025. The open meeting minutes indicate council resolved to go *in camera* to discuss "Consideration of Appointment to Town of Pelham Council" under the open meeting exception for personal matters about an identifiable individual. The Clerk explained to our Office that following the recent appointment of a Town councillor to Regional council as described above, there was a resultant vacant seat on the Town's council that had to be filled.

In closed session, the Clerk briefly set out that the appointment process would unfold as it had at the previous meeting. Individual councillors offered their opinions on the qualifications and suitability of several identified candidates. Council subsequently returned to open session and voted on the candidates.

⁶ *The North Shore (Township of) (Re)*, 2018 ONOMBUD 9, online: <<https://canlii.ca/t/hvmv3>>.

⁷ *St. Catharines (City) v IPCO*, 2011 ONSC 2346 at para 42, online: <<https://canlii.ca/t/fkqfr>>. See also: *Leeds and the Thousand Islands (Township of) (Re)*, 2016 ONOMBUD 15, online: <<https://canlii.ca/t/h2ssz>>; *Plympton-Wyoming (Town of) (Re)*, 2021 ONOMBUD 4 at para 26, online: <<https://canlii.ca/t/jd49k>>.

Applicability of the exception for personal matters about an identifiable individual

In the *in camera* meeting, council discussed and scrutinized individual candidates' qualifications for the role of Town councillor and offered opinions on their suitability for the role. Consequently, this discussion included personal information and fit within the exception for personal matters about an identifiable individual.

While the introductory portion of the discussion, in which the Clerk briefly set out the appointment procedure that would unfold to fill the vacancy, did not include personal information, the portion in question was a one-sentence explanation that the process would unfold identically to the previous meeting. Given its brevity and relation to the broader discussion, it would have been unrealistic to expect council to parse this portion of the discussion from the closed session.

Conclusion

I find that the meetings on March 26 and April 16, 2025 did not contravene the open meeting rules under the *Municipal Act, 2001*. I would like to thank the Town for its co-operation during my Office's review.

The Clerk indicated this letter will be shared with council and placed on the agenda for the next council meeting, and that a copy will be made available to the public prior to that meeting. At that time, I will also post a copy of this letter on my website at www.ombudsman.on.ca.

Sincerely,



Paul Dubé
Ombudsman of Ontario

CC: Sarah Leach, Clerk, Town of Pelham

Cette lettre est aussi disponible en français