

BY EMAIL

March 10, 2026

Council for the City of Peterborough
City Hall
500 George Street North
Peterborough, ON K9H 3R9

Dear Members of Council for the City of Peterborough:

Re: Closed meeting complaints

My Office received complaints about a closed meeting held by council for the City of Peterborough (the “City”) on September 3, 2025. The complaints alleged that the closed session discussion did not fit within the exceptions to the open meeting rules in the *Municipal Act, 2001* (the “Act”).¹

I am writing to advise that my review has determined that council’s discussion did not contravene the Act.

Ombudsman’s role and authority

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. My Office is the closed meeting investigator for the City of Peterborough.

My 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

¹ SO 2001, c 25 [*Municipal Act, 2001*].



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.

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.

Review

My Office reviewed materials from the meeting on September 9, 2025, including minutes of the closed session and open session. We spoke with the City Clerk and City Solicitor.

Background

The open session agenda for the September 3, 2025 council meeting included a staff report about renovations to the Peterborough Police Service (PPS) headquarters and another PPS building.² During council’s discussion of the staff report, members raised questions related to the City’s obligations under the *Community Safety and Policing Act*.³ At this point, council passed a resolution to close the meeting, citing the exception for advice that is subject to solicitor-client privilege at s. 239(2)(f) of the Act.

While in closed session, the City Solicitor provided legal advice to council. Council subsequently invited the Chief of the PPS as well as Chair and Vice-Chair of the Peterborough Police Service Board into the closed session. The Police Chief provided council with additional information. Council then discussed the legal advice and the information provided by the Police Chief.

After rising from closed session, council passed a resolution approving recommendations from the staff report.

² Staff Report FCSFPM25-028.

³ *Community Safety and Policing Act*, 2019, S.O. 2019, c. 1, Sched. 1.

Analysis

Section 239(2)(f) of the Act allows a municipal council to meet in closed session to receive “advice that is subject to solicitor-client privilege, including communications necessary for that purpose.” The exception applies when a municipality is discussing legal advice that is intended to be confidential, and it includes related communications made for the purpose of obtaining or discussing that advice.⁴ The intent of the exception is to ensure that municipal officials can speak candidly with legal counsel without fear that their discussions will later be disclosed.

The Supreme Court of Canada has found that solicitor-client privilege extends when three pre-conditions are met:

- (1) there is a communication between a lawyer and a client;
- (2) which entails the seeking or giving of legal advice; and
- (3) which is considered to be confidential by the parties.⁵

During the closed session on September 3, 2025, the City Solicitor provided legal advice to council. Council subsequently discussed this advice. This type of exchange falls within the scope of solicitor-client privilege, as it consisted of confidential communication of legal advice provided by the City Solicitor to council and council’s interpretation of that advice.

Council also invited the Police Chief, as well as the Chair and Vice-Chair of the Peterborough Police Services Board, into the closed session. The Police Chief provided information relevant to the legal advice which council was considering. Although the Police Chief is not legal counsel, information provided by non-lawyers may still fall within the exception for solicitor-client privilege if the information is needed to meaningfully understand and discuss the legal advice being sought.⁶

In a report to the City of Hamilton, I found that closed session information provided by staff to council was necessary for council to receive, understand, and discuss legal advice provided by the City’s legal counsel. In that case, the information provided by staff was tied to the same issue as the legal advice and had legal ramifications for the City of Hamilton.⁷ Similarly, in a report to the Town of Pelham, I found that financial information provided by the Treasurer during a closed session fit within the exception for solicitor-client privilege because it was necessary to explore the issues fully with the Town’s lawyers, who were present. Without the financial information, council would not have been able to meaningfully understand or apply the legal advice.⁸

⁴ *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 (CanLII), online: <<https://canlii.ca/t/jr5rc>>.

⁵ *Solosky v. The Queen*, 1979 CanLII 9 (SCC), online: <<https://canlii.ca/t/1mjtg>>.

⁶ *Hamilton (City of) (Re)*, 2023 ONOMBUD 14 (CanLII) at para 28, online: <<https://canlii.ca/t/k1856>>.

⁷ *Ibid* at paras 28-30.

⁸ *Pelham (Town of) (Re)*, 2018 ONOMBUD 4 at paras 39-43, online: <<https://canlii.ca/t/hvmtr>>.

In the present case, the information provided by the Police Chief was necessary for the purpose of receiving solicitor-client privileged advice. The information was intertwined with the City Solicitor's legal advice to council and was used by council to meaningfully understand and discuss that advice.

Accordingly, council's closed session discussion fit within the exception for advice subject to solicitor-client privilege.

Conclusion

Council for the City of Peterborough did not contravene the *Municipal Act, 2001* on September 3, 2025 when it discussed legal advice in closed session.

The Clerk indicated that 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: John Kennedy, City Clerk, City of Peterborough

Cette lettre est aussi disponible en français