

BY EMAIL

March 16, 2026

Council for the County of Simcoe
c/o Basil Clarke, Warden
County Administration Centre
1110 Highway 26
Midhurst, ON L9X 1N6

Dear Members of Council for the County of Simcoe:

Re: Closed meeting complaint

My Office received a complaint that a quorum of council for the County of Simcoe held an illegal meeting on March 25, 2025. The complainant told my Office that, after council took a short recess from an ongoing open meeting, 17 (of 32) members of council did not return to council chambers. As a result, quorum was lost and the meeting was adjourned. The complainant speculated that council business and decision-making had been advanced by the 17 members during the recess, including that they must have come together to agree not to return to the meeting.

I did not find evidence to support that a quorum of council met during its recess on March 25, 2025 to advance council business or decision-making. Accordingly, I have determined that council for the County did not contravene the open meeting requirements in the *Municipal Act, 2001*.

Ombudsman's role and authority

The *Municipal Act, 2001* ("the Act")¹ 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, but 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 County of Simcoe.

¹ SO 2001, c 25.

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/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 the March 25, 2025 council meeting material, including the audio-video recording of the meeting. We also reviewed staff reports, relevant media coverage, the relevant portions of the County's procedure by-law, as well as the Act.

My Office also spoke with the Clerk, four members of council, including the Warden, who were present at the meeting. Three of the four members of council we spoke with left council chambers at some point during the recess and two of them were amongst those who did not return to the meeting afterward.

Background

At its March 25, 2025 meeting, council considered a draft by-law proposing to reduce the size of council from 32 members to the 16 mayors of the constituent municipalities of the County of Simcoe, plus one full-time Warden appointed by council. The draft by-law would also preserve council's weighted-vote system while making the necessary adaptations to account for the change of composition. The draft by-law was subject to the "triple majority" process set out at s. 219 of the *Municipal Act, 2001*: once passed by the County, the by-law would then need to garner the consent of a majority of the lower-tier municipalities representing a majority of electors.

March 25, 2025 meeting

Council for the County met on March 25, 2025 at 9 a.m. in chambers. At 9:06 a.m., council received the draft by-law proposing to change the composition of council. Extensive debate amongst members followed. An amendment that the draft by-law be referred back to staff to repeal the weighted-vote system was defeated on a weighted vote. At 10:41 a.m., after a member's motion to suspend the rules of procedure, council took a 10-minute recess.

At 10:59 a.m., the Warden noted that council no longer had quorum and, in accordance with the County's procedure by-law, the meeting would adjourn within 15 minutes should quorum not be achieved. At that time, only 15 members of council's 32 members were present in chambers. At 11:17 a.m., the Warden confirmed that quorum was lost and the meeting was adjourned. A Committee of the Whole meeting began at 11:20 a.m., immediately after the adjournment. All 17 members of council who had been absent following the recess returned to chambers at that time.

Recess

We were told by staff and the members of council we spoke with that some members stayed in chambers during the recess, while others left, primarily to an area adjacent to chambers. This area was consistently described to our Office as a space with different rooms including a foyer, a lounge, meeting rooms, and bathrooms.

One member of council, who was not amongst those who left chambers during the recess, told my Office that it was difficult to believe that the other 17 members all independently reached a decision not to return without some sort of understanding amongst themselves. However, the members of council we spoke with who were amongst those who did not return to chambers after the recess told my Office that they arrived at the meeting with an open mind and that they independently decided not to return to the meeting following the recess. My Office was also told by these members that they had not agreed on this course of action at once or sequentially.

The members of council we spoke with who left chambers during the recess indicated that they did not hold discussions with a quorum of council present. We were told that members were alone or in small groups in different rooms during the recess and that some were outside the area adjacent to chambers entirely (i.e., outside or in the public area). We were also told that nothing was decided or materially advanced during that time.

Both the Warden and the Clerk told my Office that, when they realized that members of council were not returning to chambers, they went, separately, to the area adjacent to chambers to speak with the members of council who had not returned to the meeting. Both the Warden and the Clerk indicated that, from their perspective, members were in different groups throughout the area and were not discussing all together. The Warden

explained to my Office that, when he attended the area adjacent to chambers, he stated to a group of eight or nine members in the foyer that there was important business to be dealt with and called on members to return to the meeting.

Analysis

Section 239(1) of the *Municipal Act, 2001* requires all meetings of a council, local board, or committee of either, to be open to the public, subject to the listed exceptions. In order for a gathering to be considered a “meeting” under the open meeting rules:

- i. A quorum of a council, of a local board or of a committee of either must be present; and
- ii. The discussions must materially advance the business or decision-making of the council, local board, or committee.²

Section 237 of the Act provides that a majority of the members of a municipal council is necessary to form a quorum. In this case, council is composed of 32 members, such that 17 members are required to form a quorum.

With respect to whether a matter is materially advanced, I have explained in past reports that “materially advances” involves considering the extent to which the discussions at issue moved forward the business of the municipality, based on factual indicators. Discussions, debates or decisions that are intended to lead to specific outcomes or to persuade decision-makers one way or another are likely to materially advance council business or decision-making. Conversely, mere receipt or exchange of information is unlikely to materially advance business or decision-making, as long as there is no attempt to discuss or debate that information as it relates to a specific matter that is or will be before a council, committee or local board.³

In this case, a majority of council members left chambers during the recess, and a majority did not return when the meeting was called back to order. Based on the information we received, during this time, members were on their own or in small groups, in different areas adjacent to chambers, or outside of them entirely.

My Office’s review revealed no evidence that the 17 members who did not return to chambers discussed any matters or made any decisions as a group. Members of council we spoke with specifically denied coordinating their decision not to return to chambers.

² *Casselman (Village of) (Re)*, 2018 ONOMBUD 11, online: <<https://canlii.ca/t/hvmtk>>.

³ *Ibid.*

While my review does not exclude the possibility that this course of action was discussed by *some* members (through sequential discussions, one-on-one, or in small groups), my Office has confirmed that this course of action was not discussed at once or sequentially by all 17 members who did not return. Accordingly, I am satisfied that a quorum of council did not meet to coordinate their decision not to return to chambers following the recess.

Conclusion

No quorum of council was present to discuss or advance council business during the recess from the meeting on March 25, 2025, and I found no evidence of a collective decision not to return to council chambers following the recess. Accordingly, no illegal meeting took place and council did not contravene the open meeting rules.

I urge members of council for the County of Simcoe to be mindful of how their conduct reflects perceived adherence to the open meeting rules. It is understandable that the events that took place on March 25, 2025 left members of the public with the reasonable apprehension that a strategic bloc may have been formed behind closed doors to obstruct council business. Members should remain vigilant in their adherence to the open meeting rules and should strive to be seen to be upholding the principles of transparency.

I would like to thank the County for its co-operation during my review. The Clerk has confirmed that this letter will be included as correspondence at an upcoming council meeting.

Sincerely,



Paul Dubé
Ombudsman of Ontario

Cc: Jonathan Magill, Clerk, County of Simcoe

Cette lettre est aussi disponible en français