



BY EMAIL

April 10, 2026

Council for the Town of The Blue Mountains
32 Mill Street
Thornbury, ON N0H 2P0

Dear Members of Council for the Town of The Blue Mountains:

Re: Closed meeting complaint

My Office received a complaint about a closed meeting held by council for the Town of The Blue Mountains (the “Town”) on October 21, 2024. The complaint alleged that council held a closed session vote contrary to the open meeting rules in the *Municipal Act, 2001* (the “Act”) to cancel the Campus of Care project.¹

The Campus of Care project involved the sale of land owned by the Town for the development of a long-term care facility. The project was initiated in 2022, and at the time of the October 21, 2024 meeting, the Town was conducting negotiations with developers to sell the land. On November 8, 2024, the Town announced that negotiations for the Campus of Care project had been terminated.²

I am writing to advise that my review has determined that council did not contravene the Act during its meeting on October 21, 2024.

Ombudsman’s role and authority

The Act gives anyone the right to request an investigation into whether a municipality has complied with the open meeting rules 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 Town of The Blue Mountains.

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

² Campus of Care Project Update Report, online: <<https://www.thebluemountains.ca/town-hall/news-notices/campus-care-project-update-report>>.

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 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 materials from the meeting on October 21, 2024, including closed session and open session minutes. We also reviewed a video recording of the closed session and spoke with the Town's Clerk. We commend the Town for its practice of making recordings of its closed meetings, as this provides investigators with an accurate and complete meeting record.

October 21, 2024 council meeting

Council met on October 21, 2024. During the meeting, council passed a resolution to move into closed session. The complaint to my Office pertains to council's closed session discussion about a staff report regarding the Campus of Care. According to the video recording of the closed session, council received an update from staff about the negotiations with the developers to sell the land for development into the Campus of Care. Staff shared legal advice from the Town's solicitor and made recommendations to council regarding options for next steps. The video recording and the closed meeting minutes show that council held a vote directing staff to take specific steps with respect to the negotiation.

Council relied on three open meeting exceptions to hold the discussion in closed session: (1) plans or instructions for negotiations; (2) acquisition or disposition of land; and (3) advice subject to solicitor-client privilege.

The purpose of the exception for plans and instructions for negotiations at paragraph 239(2)(k) of the Act is to allow “a municipality to protect information that could undermine its bargaining position or give another party an unfair advantage over the municipality during an ongoing negotiation.”³ In order for the exception to apply, the municipality must show that the following conditions are met:

- i. The *in camera* discussion was about positions, plans, procedures, criteria, or instructions;
- ii. The positions, plans, procedures, criteria, or instructions are intended to be applied to negotiations;
- iii. The negotiations are being carried on currently, or will be carried on in future; and
- iv. The negotiations are being conducted by or on behalf of the municipality.⁴

In this case, council discussed potential courses of action for the Campus of Care project based on information shared by staff. This discussion concerned the Town’s position regarding ongoing negotiations with the developers and the developers’ requests. Accordingly, this discussion fit within the exception for plans and instructions for negotiations.

Both the exception for acquisition or disposition of land and the exception for solicitor-client privilege also applied to the discussion.

The purpose of the exception for acquisition or disposition of land at paragraph 239(2)(c) of the Act is to protect a municipality’s bargaining position during negotiations to purchase or sell land.⁵ My review confirmed that council’s closed session discussion involved the negotiations and pending sale of Town-owned land for the Campus of Care. As there was a specific land transaction under consideration, the Town’s discussion fit into this exception.

The exception for advice subject to solicitor-client privilege at paragraph 239(2)(f) applies to discussions between a municipality and its lawyer in seeking or receiving legal advice intended to be confidential.⁶ It is not necessary that the municipality’s lawyer be present in order for the exception to apply. I have previously found that the exception for advice subject to solicitor-client privilege can apply to circumstances where staff conveys

³ *Grey Highlands (Municipality of) (Re)*, 2021 ONOMBUD 11 at para 17, online: <<https://canlii.ca/t/jfzr8>>.

⁴ *St. Catharines (City of)*, 2019 ONOMBUD 1 (CanLII), at paras 30-31, online: <<https://canlii.ca/t/hxrk5>>.

⁵ *Fort Erie (Town of) (Re)*, 2018 ONOMBUD 2, online: <<https://canlii.ca/t/hvmtm>>.

⁶ *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 at para 26, online: <<https://canlii.ca/t/jr5rc>>.

communications or advice from a solicitor to a council.⁷ In this case, during the closed session, staff presented council with legal advice obtained from the Town's solicitor regarding the Campus of Care negotiations. Council considered the legal advice during its discussion.

The Act does not allow voting during closed session unless the meeting was permitted to be closed under one of the open meeting exceptions and the vote pertains to a procedural matter or for giving directions to employees of the municipality.⁸ In this case, council was permitted to discuss the matter in closed session, and the vote directed staff to take specific steps in the Town's negotiations with the developers for the Campus of Care project. Accordingly, the closed session vote met the requirements of the Act and was permissible.

Conclusion

Council for the Town of The Blue Mountains did not contravene the *Municipal Act, 2001* on October 21, 2024 when it voted 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,



Barbara Finlay
Acting Ombudsman of Ontario

CC: Corrina Giles, Town Clerk, Town of the Blue Mountains

Cette lettre est aussi disponible en français

⁷ See, for example: *Owen Sound (City of) (Re)*, 2015 ONOMBUD 36 at paras 20-21, online: <<https://canlii.ca/t/gtp7l>>; *Collingwood (Town of) (Re)*, 2022 ONOMBUD 1 at para 42, online: <<https://canlii.ca/t/jlvk1>>; and Letter from the Ontario Ombudsman to the Town of Grimsby (29 November 2023), online: <<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/town-grimsby-november-29-2023>>.

⁸ *Municipal Act, 2001*, s 239(4)(a).