



Ombudsman Report

**Investigation into complaints about meetings
held by council for the Township of Russell
in 2023 and 2024**

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Ombudsman of Ontario**

March 2025

Overview

- 1 My Office received complaints about closed meetings held by council for the Township of Russell (“the Township”) on November 2, 2023, December 11, 2023, January 29, 2024, February 12, 2024, and March 11, 2024. The complaints raised concerns about items discussed during the *in camera* portions of these meetings and the adequacy of certain reports back to the open sessions.
- 2 One complaint also raised concerns about the Township’s practice of not livestreaming the open portion of the council meeting that takes place after a closed session, and gave the January 29, 2024 council meeting as an example.
- 3 For the reasons set out below, my investigation has determined that the Township has complied with the open meeting rules for all the meetings under investigation. While council meetings are held in person, and livestreaming of the meetings is only provided as a courtesy, as a best practice, I encourage the Township to clearly address on its website its livestreaming practices for council meetings by indicating that the livestream of a meeting will end when council moves into a closed session and will not resume afterward.

Ombudsman jurisdiction

- 4 Under the *Municipal Act, 2001*¹ (the “Act”), all meetings of a council, local board, and committee of either must be open to the public unless they fall within prescribed exceptions.
- 5 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 or use the services of the Ombudsman. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.
- 6 The Ombudsman is the closed meeting investigator for the Township of Russell.
- 7 In investigating closed meeting complaints, we consider whether the open meeting requirements in the Act and the municipality’s governing procedures have been observed.

¹ SO 2001, c 25.

- 8 Since 2008, my Office has investigated hundreds of closed meetings in municipalities throughout Ontario. 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. Summaries of the Ombudsman's previous decisions can be found in the digest:
www.ombudsman.on.ca/digest.
- 9 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/have-a-complaint/who-we-oversee.

Investigative process

- 10 On July 29, 2024, my Office advised the Township of our intent to investigate the complaints.
- 11 Members of my Office's open meeting team reviewed relevant portions of the Township's procedural by-law and purchasing policy, as well as the Act. We also reviewed the open and closed meeting records, including minutes and relevant materials (such as presentation decks and staff reports) for the five meetings that were the subject of complaints.
- 12 Finally, a member of my Office's open meeting team spoke with the former Mayor (while he was still in Office, having resigned in April 2024), the current Mayor, the Clerk, and the Township's Director of Parks and Recreation.
- 13 My Office received full co-operation in this matter.

November 2, 2023 council meeting

- 14 We received one complaint about whether a matter discussed *in camera* during the November 2, 2023 special council meeting was appropriate for discussion in closed session. The complaint questioned whether a costing update for a new recreation complex qualified under the open meeting exceptions.

- 15 On November 2, 2023, council met in chambers at 6:00 p.m. At 6:44 p.m., the closed session was called to order to consider a staff report relating to a costing update for the recreation complex. To discuss this item *in camera*, council cited the exception for information belonging to the municipality and the exception for plans and instructions for negotiations.
- 16 The recreation complex had been approved during the previous term of council in December 2021. At the time of the November 2, 2023 council meeting, the project was in its planning phase and had not yet moved to the tendering process.
- 17 The closed meeting discussions were detailed in the minutes and confirmed in our conversations with the former Mayor and staff. We were told that staff provided a verbal update to council regarding the financial content of a staff report which included a costing update for the recreation complex. We were told that the cost estimates were provided by consultants hired by the Township. The closed meeting minutes note that council and staff discussed the cost estimates for the project, and we were told that this included council's expectations about the project cost. We were also told that staff sought instructions from council on options for proceeding with the Township's financial contribution to the project. Council provided direction to staff to prepare a report for a future meeting addressing certain costing matters.
- 18 The open portion of the meeting reconvened at 8:14 p.m. and council reported back that it had been briefed on the matter and had given the aforementioned direction to staff. The meeting was adjourned at 8:15 p.m.
- 19 Both staff and the former Mayor explained to our Office that discussing this item in closed session was necessary to protect the integrity of the procurement process, so that potential bidders on the project would not have specific knowledge of the amount the Township was willing to contribute before awarding the contract.
- 20 In April 2024, the tender for construction services for the project was published. In June 2024, council approved one of the bids.
- 21 Staff told our Office that, under the Township's purchasing policy, the Township can engage in post-tender negotiations with a bidder on the amount of a bid. That policy notes that negotiations may be used in certain circumstances, including when the lowest bid exceeds the budget amount, when identical bids are received, or if it appears that no bid is obviously the most advantageous. In this case, however, we were told that no post-tender negotiations took place as the Township was satisfied with the submission it ultimately approved.

Analysis

The exception for information belonging to the municipality

- 22** Paragraph 239(2)(j) of the Act provides an exception to the open meeting rules for discussions about “a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value.”
- 23** For this exception to apply, a municipality must demonstrate that the discussion was about:
- i. A trade secret, or financial, commercial, scientific or technical information;
 - ii. That belongs to the municipality or local board; and
 - iii. That has monetary value or potential monetary value.²
- 24** The former Mayor told our Office that the information discussed consisted of commercial and financial information that had a monetary value. We were told that even if this information was provided by consultants hired by the Township, his understanding was that the information belonged to the Township. Similarly, staff told our Office that the discussion involved commercial or financial information belonging to the Township, and the information had a monetary value because making it public could impact the bidding amounts in the tendering process.
- 25** Of the types of information listed in the exception, “commercial” and “financial” are the closest match to the information discussed during the closed session. “Commercial information” is information relating to the buying, selling or exchange of merchandise or services. “Financial information” is information relating to the use or distribution of money, containing or referring to specific data.³
- 26** In this case, council discussed cost estimates associated with the construction of the recreation complex in the Township. Accordingly, the information discussed related to purchasing construction services and would qualify as commercial information. Furthermore, some of the information discussed, namely the specific cost to realize the project, fits within the definition of “financial information.”

² *Hamilton (City of) (Re)*, 2019 ONOMBUD 3, online: <<https://canlii.ca/t/j2b49>> [*Hamilton*].

³ *Leeds and the Thousand Islands (Township of) (Re)*, 2022 ONOMBUD 5 (CanLII), online: <<https://canlii.ca/t/jnkk9>>.

- 27 Information belongs to a municipality if it is owned by the municipality.⁴ In this case, the staff report and verbal update provided to council contained financial information about the project that was based on cost estimates prepared by external consultants hired by the Township. Since the Township retained the external consultants, it had a proprietary interest in the information. Therefore, the financial information belonged to the municipality.
- 28 The third part of the test requires that the information itself have monetary value. This means that the information must have intrinsic value, and that disclosure would deprive the institution of that monetary value.
- 29 In a report to the City of Hamilton, my Office found that the potential for harm to the municipality if the information were to be disclosed is not relevant to determining whether information has monetary value.⁵ In that case, I considered whether financial information related to the City's contribution as a potential host city for the Grey Cup had intrinsic monetary value. The City argued that disclosure of the information would negatively impact its competitive position as a potential host city for the event. I held that the information did not have intrinsic monetary value even if it could negatively impact the City's competitive position against other potential host cities to secure the Grey Cup.
- 30 Although not binding on our Office, this interpretation is consistent with the Information and Privacy Commissioner's (the IPC) interpretation of the analogous exception under freedom of information legislation.⁶ The IPC has found that information which affects an organization's ability to secure contracts does not equate to information with monetary value. To qualify as having monetary value, the information must have an intrinsic value and financial harm or adverse effects as a result of disclosure are not relevant considerations.
- 31 In the present case, we were told that monetary value existed in the costing update because the discussions about a costing update, if held in public, would negatively impact the Township's competitive position with future bidders for the project. The Township's position strictly focused on the future harm of the disclosure (i.e., the potential loss of economic benefits).

⁴ *Pelham (Town of) (Re)*, 2022 ONOMBUD 9 (CanLII), online: <<https://canlii.ca/t/jpsh5>>.

⁵ *Hamilton*, *supra* note 2.

⁶ See, for example: *Ontario (Attorney General) (Re)*, 2009 CanLII 7944 (ON IPC), online: <<https://canlii.ca/t/22m86>>; *Ontario Power Generation (Re)*, 2016 CanLII 46208 (ON IPC), online: <<https://canlii.ca/t/gsmnl>>; *Thunder Bay Catholic District School Board (Re)*, 2017 CanLII 78367 (ON IPC), online: <<https://canlii.ca/t/hnvfw>>; *Limestone District School Board (Re)*, 2020 CanLII 17859 (ON IPC), online: <<https://canlii.ca/t/j5qfd>>.

- 32 The fact that the disclosure may adversely affect the Township's ability to secure advantageous contracts in the future does not mean that the information has an intrinsic monetary value. In this case, we were not provided with evidence that the costing update itself had intrinsic monetary value, nor was there any indication that disclosure of the information would deprive the municipality of its monetary value. Accordingly, the exception for information belonging to the municipality does not apply.

The exception for plans and instructions for negotiations

- 33 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."⁷
- 34 In order for the exception to apply, the municipality must show that:
- 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.⁸
- 35 The former Mayor explained that the Township had to protect its future bargaining position during the tendering process and that it would be detrimental to the Township if potential bidders were aware of the financial information discussed by council, which included the amount the Township was willing to contribute to the project. Similarly, the current Mayor and staff told us that the negotiations referred to the future tendering process for the project.
- 36 Council was strategically discussing its expectations regarding its financial contribution to the recreation complex project, in light of a future tendering process. Council also gave instructions to staff relating to the cost of the project. The discussions therefore consisted of plans and instructions.

⁷ *Grey Highlands (Municipality of) (Re)*, 2021 ONOMBUD 11 at para 17, online: <<https://canlii.ca/t/jfzr8>>.

⁸ *St. Catharines (City of)*, 2019 ONOMBUD 1 (CanLII), online: <<https://canlii.ca/t/hxrk5>>.

- 37 Although there were no ongoing negotiations at the time of the meeting, based on the evidence we gathered, including from the Township's Director of Parks and Recreation, there was a possibility that the Township would engage in negotiations with bidders after the tendering process, as permitted under its purchasing policy. Such negotiations would be conducted on behalf of the Township.
- 38 A discussion revealing how much the Township is willing to spend on a project goes beyond discussing a mere estimate of cost and can reasonably be construed as a relevant piece of information for another party in a negotiation. In the context of negotiations, knowledge of the other party's expectations is strategic information that could inform bidding amounts. Those we spoke to at the Township told us that public knowledge of council's costing expectations could weaken the Township's bargaining position in future negotiations with bidders. Accordingly, I am satisfied that the plans and instructions discussed *in camera* were intended to be applied to negotiations. The exception for plans and negotiations therefore applies.

December 11, 2023 council meeting

- 39 We received two complaints about whether a matter discussed *in camera* during the December 11, 2023 council meeting was appropriate for discussion in closed session. The complaints questioned whether a verbal update relating to the Sports Dome (a multisport centre) qualified under the open meeting exceptions.
- 40 Council met in chambers on December 11, 2023, at 6:00 p.m. At 7:40 p.m., the closed session was called to order to consider a verbal report on the Sports Dome. Council relied on the exception for plans and instructions for negotiations to discuss this item *in camera*.
- 41 We were told that this item pertained to negotiations between the Township and the upper-tier municipality, the United Counties of Prescott and Russell. The minutes show that, during the closed session, council discussed an initiative to obtain funds from a United Counties program that would give free access to the Sports Dome for all residents of the United Counties. Council directed staff to negotiate with the United Counties administration for a specific contribution amount and report back to the Mayor before he presented the Township's initiative to the United Counties council for final approval.
- 42 The open portion of the meeting reconvened at 8:04 p.m. and council reported back that it had been briefed, and that a direction had been given to staff on how to proceed. The meeting was adjourned at 8:05 p.m.

- 43 The former Mayor, who was in office at the time of the meeting on December 11, 2023, told our Office that he wanted to discuss his initiative with council before the Township staff negotiated with the United Counties for a specific amount. We were told that after the meeting, staff negotiated with the United Counties and an agreement was reached.

Analysis

The exception for plans and instructions for negotiations

- 44 As explained above, the exception for plans and instructions for negotiations applies if the following criteria 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.⁹
- 45 Council's discussion pertained to the Township's position on negotiations with the upper-tier municipality for funds to open access to the Sports Dome to all residents of the United Counties. Council also gave a direction to staff to negotiate for a specific amount.
- 46 The position and instructions developed by council were subsequently applied to negotiations with the upper-tier municipality. Such negotiations were conducted by the municipality. Accordingly, the exception for plans and instructions for negotiations applies.

January 29, 2024 council meeting

- 47 We received one complaint about whether a matter discussed *in camera* during the January 29, 2024 council meeting was appropriate for discussion in closed session. The complaint questioned whether a verbal report from staff about a proposed sale of land in the Township's industrial park qualified under the open meeting exceptions because the transaction did not appear to be imminent at the time.

⁹ *Ibid.*

- 48 Council met in chambers on January 29, 2024, at 6:00 p.m. At 7:20 p.m., the closed session was called to order to consider, amongst other items, a verbal report from staff on the proposed sale of a piece of municipally owned land. To discuss this item *in camera*, council cited the exception for acquisition or disposition of land.
- 49 The closed meeting minutes note that staff gave a verbal report to council about the sale of municipally owned land. The closed meeting minutes we reviewed indicate that after the presentation, council gave a direction to staff with a specified course of action relating to the disposition of the land.
- 50 The open portion of the meeting reconvened at 8:07 p.m. and council reported back that it had been briefed on the subject, had given a direction to staff on how to proceed, and had requested a further report to be brought back to council. The meeting was adjourned at 8:08 p.m.

Analysis

The exception for acquisition or disposition of land

- 51 The exception for acquisition or disposition of land at paragraph 239(2)(c) of the Act allows closed session discussions about a proposed or pending acquisition or disposition of land by a municipality.¹⁰ The exception does not apply to speculative discussions about land transactions. Rather, its primary purpose is to protect the municipality's bargaining position where there is potential harm to the municipality.¹¹
- 52 In this case, the evidence reviewed establishes that the closed session discussion concerned a pending land transaction related to a specific piece of municipally owned land, for which the Township had a bargaining position to protect. There is no strict requirement for the sale or acquisition to be imminent for the exception to apply as long as an actual land transaction is pending or proposed.
- 53 The land transaction was a contemporaneous matter that was pending at the time of the closed session. Accordingly, the exception for acquisition or disposition of land applies.

¹⁰ *Letter from Ombudsman to the Town of Orangeville* (24 January 2014), online: <<https://www.ombudsman.on.ca/resources/reports-and-case-summaries/municipal-meetings/2021/township-of-russell-1>>.

¹¹ *Burk's Falls / Armour (Village of / Township)*, 2015 ONOMBUD 26, online: <<https://canlii.ca/t/gtp6w>>.

February 12, 2024 council meeting

- 54 We received one complaint about whether a matter discussed *in camera* during the February 12, 2024 council meeting was appropriate for discussion in closed session. The complaint questioned whether a discussion about an amendment to a contract relating to the sale of municipally owned land in the Township's industrial park qualified under the open meeting exceptions. The piece of land in question at this meeting was unrelated to the one discussed during the January 29, 2024 council meeting.
- 55 The complaint also raised a concern about the lack of a report back for a different closed meeting matter: A verbal report regarding the potential lease of a property.
- 56 Council met in chambers on February 12, 2024, at 6:00 p.m. At 7:40 p.m., the closed session was called to order to consider three items, including an amendment to a contract relating to the sale of municipally owned land in the Township's industrial park. To discuss this item *in camera*, council cited the exception for acquisition or disposition of land.
- 57 The closed meeting minutes note that staff gave a verbal summary of a report concerning an amendment to an agreement of purchase and sale with a prospective purchaser of the land. The staff report recommended a course of action. Council was in agreement with the recommendation.
- 58 The open portion of the meeting reconvened at 8:42 p.m. and, with respect to the contract relating to the sale of municipally owned land in the Township's industrial park, council reported back that it had been briefed on the subject. Council then adopted a resolution that council approve the amendment to the agreement of purchase and sale.
- 59 Council also reported back on the closed session item regarding the potential lease of a property. The report back noted that, "Council was briefed on the subject." The former Mayor and the Clerk told our Office that there was nothing further to report back on this item: Council's consideration of this item in closed session consisted of a verbal update for information purposes, and no direction had been given to staff. The meeting was adjourned at 8:44 p.m.

Analysis

The exception for acquisition or disposition of land

- 60 As explained above, the exception for acquisition or disposition of land allows closed session discussions about a proposed or pending acquisition or disposition of land by a municipality, as long as the discussions about land transactions are not purely speculative.
- 61 In this case, the closed session discussions concerned a pending land transaction related to a specific piece of municipally owned land, for which the Township had a legitimate bargaining position to protect in negotiations with a prospective purchaser. The exception for acquisition or disposition of land applies to this discussion.

The report back

- 62 Although reporting back is not a requirement under the Act, our Office recommends as a best practice that municipalities report back after closed sessions and provide general information about what occurred *in camera*.¹² Reporting back after each closed session provides meaningful information to the public about the issues discussed *in camera* and inspires confidence that the meeting has been properly closed.
- 63 The Township's procedure by-law indicates that, after the completion of a closed meeting, decisions and directions to Township staff should be reported back to the extent that the public interest permits.
- 64 With respect to the *in camera* verbal update about a potential lease of a property, the Clerk told our Office that the report back captured the extent of council's consideration of the item: Council had been briefed on the subject. The Clerk told us that in her opinion nothing further could be reported back.
- 65 There was no decision taken or direction given to staff under this item in closed session, and, accordingly, there was no further information to report back.

¹² *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 (CanLII), online: <<https://canlii.ca/t/jr5rc>>.

March 11, 2024 council meeting

- 66 We received one complaint about whether certain *in camera* discussions that may have taken place during the March 11, 2024 council meeting contravened the open meeting rules. The complaint raised concerns that while in closed session, council discussed the repeal of a by-law during its consideration of a matter related to the sale of municipally owned land in the Township's industrial park. The piece of land in question at this meeting was the same one discussed at the January 29, 2024 council meeting. The complaint alleged that discussions about repealing a by-law did not fit under any of the open meeting exceptions and also raised concerns that the report back after this closed session did not mention this repeal.
- 67 Council met in chambers on March 11, 2024, at 6:00 p.m. At 6:54 p.m., the closed session was called to order to consider two items, including the sale of a piece of municipally owned land in the Township's industrial park. To discuss this item *in camera*, council cited the exception for acquisition or disposition of land.
- 68 The closed meeting minutes note that staff presented a verbal summary of a report concerning the sale of the land to a prospective purchaser. The report recommended that council proceed with the sale and repeal By-Law 2021-090, which we were told authorized the sale of the land to a different party in 2021, but that sale did not proceed. According to the minutes, all members of council agreed with the approach recommended in the report.
- 69 We were told by both the Clerk and the current Mayor that they did not recall any *in camera* discussion specifically about repealing the 2021 by-law and that this was simply an incidental matter that had to be addressed to authorize the sale of the land to the new prospective purchaser.
- 70 The open portion of the meeting reconvened at 6:59 p.m. and, with respect to the relevant item, council reported back that it had been briefed on the subject. It then approved a by-law that council proceed with the sale of the land to the prospective purchaser and adopt a by-law authorizing the Mayor and the Clerk to sign the documents for the sale. This newly adopted by-law incidentally repealed By-Law 2021-090. The meeting was adjourned at 7:01 p.m.

Analysis

The exception for acquisition or disposition of land

- 71 The exception for acquisition or disposition of land allows closed session discussions about a proposed or pending acquisition or disposition of land by a municipality. These discussions cannot be purely speculative.
- 72 In this case, the closed session discussion concerned the pending sale of a piece of municipally owned land. The Township had a bargaining position to protect in the context of negotiations with the prospective purchaser.
- 73 Council did not specifically discuss repealing By-Law 2021-090 *in camera*. We were told that the repeal of that by-law was simply the legal consequence of the authorization to sell that same land to a new purchaser. The exception for acquisition or disposition of land applies.

The report back

- 74 As explained above, reporting back is not required by the *Municipal Act, 2001*, but it is a best practice that municipalities report back after closed sessions and provide general information about what occurred *in camera*. The Township's procedure by-law states that council should report back after holding a closed meeting to the extent that the public interest permits.
- 75 The Clerk explained to our Office that closed session discussions may lead to passing new by-laws in open session which amend or repeal existing by-laws, and that it is not the Township's normal practice to list this information in a report back.
- 76 The purpose of a report back is to provide general information about what was discussed *in camera* to enhance transparency. In this case, a report back was provided as required by the Township's procedure by-law: Council was briefed on the subject in closed session and, as a result, a motion was presented for consideration in open session. There was no reason include the reference to By-Law 2021-090 as it did not form part of council's discussion.
- 77 Further, council's motion to adopt a new by-law (which incidentally repealed the 2021 by-law) was open session council business, even though it was passed during the report back portion of the meeting. Accordingly, the public was not deprived of its right to observe council's decision.

Livestreaming council meetings

- 78 We received one complaint that the Township does not livestream the open portion of council meetings after the closed sessions. The complaint pointed to the January 29, 2024 council meeting as an example of such an occurrence, but noted that it was a consistent practice observed at every council meeting.
- 79 We were told that this part of the meeting usually lasts only a few minutes before the meeting is adjourned. We were told that in-person meetings of council are typically simultaneously livestreamed online by the Township, but that once council moves *in camera*, the livestream ends.
- 80 The Clerk confirmed that the Township does not livestream the open portion of a council meeting after a closed session. She explained that the staff who run the livestream leave once council moves *in camera* and that interested persons could contact Township staff if they have questions about what happened after the closed session.
- 81 The Clerk also told our Office that the meeting is still open to the public after the closed session since members of the public can observe it in person. We were told that the Township offers meeting livestreams as an “option” and that the Township website indicates that the broadcast is for viewing purposes only because the meeting is held in person. Similarly, the former Mayor told us that there is no obligation to livestream under the Township’s procedure by-law, but it is the Township’s practice to do so. He further stressed that the in-person meeting is always open to the public after a closed session.

Analysis

- 82 Neither the Act nor the Township’s procedure by-law require the Township to livestream its meetings online. Moreover, the Township’s procedure by-law indicates that, unless extenuating circumstances dictate otherwise (namely, in the event of an emergency), all meetings of council are held in council chambers.
- 83 The public notice of a meeting is contained in the agenda, which only contains the address of the physical meeting location of council meetings (i.e., the Township Hall). The public notice for the January 29, 2024 meeting does not contain any reference to a livestream to observe the meeting.

- 84 Although the public notice does not reference the livestream, it is available on the Township's website. As of January 2025, when consulting events in the Township's calendar, a note is included, stating, "Watch the live broadcast on our YouTube page. Please note the broadcast is for viewing only."
- 85 This situation is different from the one that was described in my report to the Township of McKellar,¹³ where the Township ceased livestreaming a meeting because the staff responsible for the livestream did not stay for the part of the meeting after the closed session. In that case, the public's only option to observe the council meeting was by using the livestream, and the portion of the meeting that was not livestreamed was illegally closed.
- 86 The situation in this case is also distinguishable from a recent letter to the Municipality of West Elgin,¹⁴ where council advertised a meeting as "hybrid" in the public notice but failed to ensure that the portion of the meeting following the closed session was accessible to the public observing via the livestream.
- 87 Conversely, in this case, the Township's procedure by-law is clear that meetings are held in council chambers, and the Township does not advertise the meeting livestream in the public notice of meetings.
- 88 Although the Township is not obligated to livestream its council meetings, the Township should consider, as a best practice, including more descriptive language on its website beyond "the broadcast is for viewing only." In the spirit of transparency and openness that underlies the open meeting rules, the Township may wish to state explicitly on its website that the segment of the meeting after the closed session will not be livestreamed.

Opinion

- 89 Council for the Township of Russell did not contravene the *Municipal Act, 2001* on November 2, 2023 when it discussed a costing update for a recreation complex, nor did it contravene the Act on December 11, 2023 when it discussed a verbal update relating to the Sports Dome. Council for the Township of Russell also did not contravene the Act on January 29, 2024, on February 12, 2024, or on March 11, 2024 when it discussed the acquisition or disposition of municipally owned land in the Township's industrial park. All these discussions could properly take place *in camera* under the open meeting exceptions.

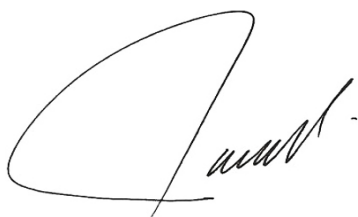
¹³ *McKellar (Township of) (Re)*, 2023 ONOMBUD 3 (CanLII), online: <<https://canlii.ca/t/jv6ck>>.

¹⁴ Letter from the Ontario Ombudsman to the Municipality of West Elgin (7 September 2023), online: <<https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/municipal-meetings/2023/municipality-of-west-elgin>>.

- 90 Council for the Township of Russell also did not contravene the *Municipal Act, 2001* on January 29, 2024, when it did not livestream the open portion of the meeting after the closed session since members of the public could observe the meeting in person, as provided in the Township's procedure by-law. The Township should consider including an explicit notice on its website that the livestream will end when council moves into a closed session.

Report

- 91 Council for the Township of Russell was given the opportunity to review a preliminary version of this report and provide comments to my Office. No comments were received.
- 92 The Township's Clerk indicated that my report would be made available to the public at the next council meeting. It will also be published on our website at www.ombudsman.on.ca.



Paul Dubé
Ombudsman of Ontario

Ce rapport est aussi disponible en français