

November 23, 2017

John Espinosa, Town Clerk
Town of Georgina
26557 Civic Centre Road, R.R. #2
Keswick, Ontario L4P 3G1

Re: Closed meeting complaint – Meeting date October 4, 2017

Dear Mr. Espinosa,

I am writing regarding the outcome of our review of a complaint made about a closed meeting held by council for the Town of Georgina on October 4, 2017.

Authority of the Ombudsman

As of January 1, 2008, the *Municipal Act, 2001* (the Act) gives citizens the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public.¹ The Ombudsman is the closed meeting investigator for the Town of Georgina.

Closed meeting complaint

My office received a complaint about a closed meeting of council for the Town of Georgina held on October 4, 2017.

The complaint alleged that council's in camera discussion about the town's organizational alignment did not fit within the exception for "personal matters" in section 239(2)(b) of the *Municipal Act*. At this meeting, council received a confidential report, titled Service Delivery Progress Report No. CAO-2017-0011, and discussed changes to the organizational structure of the town's administration.

¹ SO 2001, c 25, s 239.1.

Review

In reviewing the complaint, we considered the meeting records from the open and closed sessions of the council meeting on October 4, 2017. We also spoke to the town's Chief Administrative Officer ("CAO") and Mayor Margaret Quirk.

October 4, 2017 closed meeting

We understand that the Town of Georgina is in the process of conducting a service delivery review, which includes reviewing its corporate organization and structure. According to the CAO, previous progress reports from staff were brought to council and were public.

The October 4, 2017 council meeting was closed to discuss an organizational review of certain departments within the town administration as part of the larger service delivery review. The CAO explained that the meeting was held in camera under the personal matters exception because the discussion involved information about identifiable employees in their roles with the town.

During the closed meeting, council received a confidential staff report titled Service Delivery Progress Report No. CAO-2017-0011. The report provided information on the organizational design of certain departments within the town. Council's in camera discussion focused on information presented in the report, specifically as it related to the impact of restructuring of certain senior staff roles on identified employees. For example, council reviewed the performance of certain employees and discussed whether to alter the duties included in the job descriptions of those employees.

There were no votes taken or directions given during the closed meeting.

After returning to open session, council voted in public to implement the staff recommendations contained in the Service Delivery Progress Report.

Analysis

Generally, discussions about an organizational review or municipal restructuring do not fit within the exceptions to the open meeting rules in the Act. However, my Office has previously found that discussions about an organizational review as it affects individual employees and their roles are permitted in closed session under the "personal matters" exception and the "labour relations" exception.²

² Ontario Ombudsman, Letter to the Town of Amherstburg (December 9, 2013) <https://www.ombudsman.on.ca/Files/sitemedia/Images/Reports/Amherstburg-Closing-Letter-Dec-9.pdf>.

J. Paul Dubé, Ombudsman

Based on information provided by the CAO and Mayor Quirk, while in camera on October 4, council discussed the performance of particular employees in relation to the restructuring options presented by staff in the Service Delivery Progress Report.

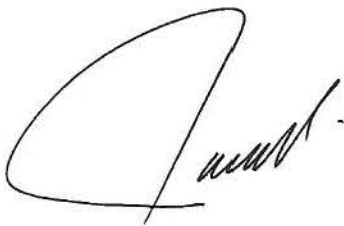
Accordingly, the in-camera discussion fit within the “personal matters” exception to the open meeting requirements. Although it was not cited when council proceeded in camera, the “labour relations” exception – s. 239 (2)(d) of the Act – could also have applied to this discussion.

Conclusion

My Office’s review found that the closed meeting held by the Town of Georgina on October 4, 2017 fit within the exceptions for closed meetings set out in the *Municipal Act, 2001*.

You indicated to us that this letter would be included as correspondence at the next meeting of council.

Sincerely,



Paul Dubé
Ombudsman of Ontario