



J. Paul Dubé, Ombudsman

## BY EMAIL

July 29, 2022

Mayor Pierre Leroux  
Clerk Joanne Camiré-Laflamme  
Council for the Township of Russell  
717 Notre Dame Street  
Embrun, ON K0A 1W1

Dear Council for the Township of Russell:

### **Re: Closed meeting complaint – January 10, 2022**

My Office received a complaint about a special council meeting held on January 10, 2022, by the Township of Russell (the “Township”). Council held an *in camera* session to discuss two agenda items. The complaint relates only to the first agenda item, an update on potential disposition of land, which was discussed in closed session pursuant to the exception for the acquisition or disposition of land under section 239(2)(c) of the *Municipal Act, 2001* (the “Act”).<sup>1</sup> The complainant expressed concern that council discussed zoning changes while *in camera*, and that the subject matter did not fit within any of the exceptions to the open meeting rules in the Act.

I am writing to advise that my review has determined that council did not violate the Act as the closed meeting discussion fit within the cited exception.

### **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 Township of Russell.

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<sup>1</sup> *Municipal Act, 2001*, SO 2001 c 25.

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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/digest](http://www.ombudsman.on.ca/digest).

## Review

My Office reviewed documentation related to the January 10, 2022 meeting, including the open meeting agenda and minutes. We also reviewed the closed meeting agenda, minutes and a staff report considered at the meeting (Report CS-01-2022).

Additionally, we spoke with the Clerk and the Director of Planning (the "Director"), and reviewed materials from other meetings where this land disposition was discussed.

## Council meeting on January 10, 2022

Council met for a special council meeting at 6:00 p.m. on January 10, 2022.

According to the open meeting minutes, at 6:01 p.m., council passed a resolution to proceed into closed session to discuss two matters, including an "Update on Potential Disposition of Land in Embrun to a Non-Profit Organization" pursuant to the exception for acquisition or disposition of land.

The closed meeting minutes note that once *in camera*, the Director presented a staff report (Report CS-01-2022) about a proposed disposition of land and recommendations from staff related to the sale, including with respect to a zoning change that would be required if the sale proceeded. Council discussed the proposed sale and asked staff questions. The related zoning change was not specifically discussed by council during the closed meeting.

After returning to open session at 6:23 p.m., council directed the Mayor and Clerk to enter into an agreement to sell the land, and passed related resolutions.

## Analysis

### *Applicability of the exception for acquisition and disposition of land*

Council cited the exception for acquisition and disposition of land under section 239(2)(c) of the Act to proceed *in camera* to discuss the land sale on January 10, 2022. The purpose of that exception is to protect council's bargaining position during negotiations to purchase or sell land.<sup>2</sup>

<sup>2</sup> *Fort Erie (Town of) (Re)*, 2015 ONOMBUD 12 at para 23, online: <<https://canlii.ca/t/gtp5w>>.



Our review confirmed that council's *in camera* discussion related to a proposed land disposition. The Township was the seller of the land and had received a purchase offer from the buyer. The staff report considered by council stated that a zoning change for the property would be required, but council did not discuss this zoning change at the January 10, 2022 meeting.

Accordingly, council's *in camera* discussion on January 10, 2022 fit within the cited exception for acquisition and disposition of land.

## Conclusion

My review indicates that the exception for acquisition or disposition of land applied to council's discussion of a land sale on January 10, 2022, and that this meeting was appropriately held *in camera*.

I would like to thank the Township of Russell 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: Joanne Camiré-Laflamme, Clerk, Township of Russell

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