



## **Ombudsman Report**

**Investigation into meetings held by the  
Niagara Central Dorothy Rungeling Airport Commission  
on April 8, April 23, May 13, August 19  
and August 30, 2021**

**Paul Dubé  
Ombudsman of Ontario**

**May 2023**

## Complaint

- 1 My Office received a complaint about five closed meetings held by the Niagara Central Dorothy Rungeling Airport Commission (the “Commission”) on April 8, April 23, May 13, August 19 and August 30, 2021. The complainant told us that the Commission did not pass a resolution to proceed into closed session on April 8, 2021 and that there was no notice provided for the Commission’s meetings on April 23, May 13, August 19 and August 30, 2021.
- 2 The complainant also told us that the Commission’s *in camera* discussion during the meetings on April 8 and August 19, 2021 did not fall within any of the prescribed exceptions in the *Municipal Act, 2001*.<sup>1</sup> The complainant also said that the Commission lacked a procedure by-law and does not adhere to the best practice of reporting back in public after its closed sessions.

## The Niagara Central Dorothy Rungeling Airport Commission

- 3 The Niagara Central Dorothy Rungeling Airport Commission is a joint local board responsible for managing the Niagara Central Dorothy Rungeling Airport. The Commission was previously known as the Niagara Central Airport Commission.<sup>2</sup>
- 4 The Commission manages the airport on behalf of four local municipalities: the City of Welland, the City of Port Colborne, the Township of Wainfleet, and the Town of Pelham.

## Ombudsman jurisdiction

- 5 Under the *Municipal Act, 2001* (the “Act”), all meetings of council, local boards, and committees of either must be open to the public, unless they fall within prescribed exceptions.
- 6 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.

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<sup>1</sup> SO 2001, c 25.

<sup>2</sup> *Niagara Central Dorothy Rungeling Airport Act*, 2015, SO 2015, c Pr7 - Bill Pr20.

- 7 The Ombudsman is the closed meeting investigator for the Niagara Central Dorothy Rungeling Airport Commission.
- 8 When investigating closed meeting complaints, we consider whether the open meeting requirements in the Act and the applicable procedure by-law have been observed.
- 9 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).

## Investigative process

- 10 On October 7, 2021, my Office advised the Commission of our intent to investigate this complaint.
- 11 We reviewed the meeting materials and correspondence pertaining to each of the five meetings. We also reviewed the Commission's website and relevant portions of an undated, unsigned draft procedure by-law provided to us by Commission staff.
- 12 We interviewed each Commission member<sup>3</sup> and the Commission's website administrator. We also interviewed the Commission's bookkeeper and the Deputy Clerk for the City of Port Colborne, who both assisted the Commission with preparing agendas, minutes, motions, and meeting links.
- 13 My Office received full co-operation in this matter.

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<sup>3</sup> Based on the Commission's membership at the time of our investigation. Three of the seven Commission members changed following the municipal election in October 2022.

## Procedure by-law

- 14 Section 238(2) of the Act requires that every local board pass a procedure by-law that governs the calling, place, and proceedings of meetings. The procedure by-law must also provide for public notice of meetings. When a municipality, local board or committee of either decides to close a meeting or part of a meeting to the public, it has to comply not only with the requirements of the Act, but also with any additional requirements set out in its procedure by-law.
- 15 My Office first advised the Commission to create a procedure by-law in November 2013,<sup>4</sup> at which time the Commission undertook to create one.
- 16 When asked about the procedure by-law during my investigation into this complaint, Commission staff and the Chair told us they were not aware of the Commission having a procedure by-law. Several Commission members we interviewed told us they had seen what they believed to be a draft procedure by-law from 2014, but none of the Commission members could confirm if the Commission had ever finalized the document.
- 17 Failing to adopt a procedure by-law is a contravention of the Act. It left the Commission without the required rules regarding meeting notice, and the calling, place, and proceedings of meetings. This omission made it difficult for the public to access and observe meetings in process, as required by the open meeting rules.
- 18 During the course of my investigation, the Commission enacted a procedure by-law on September 29, 2022. I commend the Commission for taking steps to address this omission and comply with the Act.

## April 8, 2021 meeting

- 19 The agenda for the Commission's April 8, 2021 meeting indicates that a closed meeting was to occur at 5:15 p.m. to permit the Commission "to discuss an identifiable individual and financial. (*sic*)"
- 20 The open meeting minutes state that the closed meeting began at 5:30 p.m., and that it was held to discuss issues about an "identifiable individual property matters", as well as "legal matters."

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<sup>4</sup> *Niagara (District Airport Commission) (Re)*, 2013 ONOMBUD 1, online: <<https://canlii.ca/t/gtmh2>>.

- 21 The complainant told us that the Commission did not pass a resolution to proceed *in camera* and that the topic of discussion did not fit within any closed meeting exception found in the Act.
- 22 There is no record of a resolution being passed to proceed *in camera* prior to the closed session. Some interviewees speculated that one may have been passed, while others thought it unlikely.
- 23 There were no meeting minutes for the closed session. When asked why this was the case, interviewees told our Office that the Commission did not have a process to ensure closed-meeting minutes were taken.
- 24 We received conflicting information about what may have been discussed in closed session. None of those interviewed could recall or explain with any certainty what was discussed during the closed meeting.

## Analysis

### *In camera* discussion

- 25 The agenda and minutes for the April 8 meeting indicated that the meeting was closed to discuss “identifiable individual,” “financial,” “property,” and “legal matters”. It is not clear which exceptions “financial,” “property,” and/or “legal matters” refer to in the context of this meeting.
- 26 As noted above, we heard differing accounts from interviewees about what was discussed during the *in camera* session on April 8, 2021. There were no closed meeting minutes or video or audio recordings to facilitate our investigation into the nature of the discussion.
- 27 Given the failure of the Commission to create and maintain meeting records, and the lack of information from interviewees about what was discussed during the April 8, 2021 meeting, I am unable to determine if the open meeting provisions of the Act were respected or if the discussion that took place was permitted within the exceptions in the Act.

### Failure to pass a resolution to move *in camera*

- 28 Under section 239(4) of the Act, before moving into a closed session, a municipality, local board, or committee of either must state by resolution in open session that a closed meeting will be held. It must also state the general nature of the matter to be considered at the closed meeting.

- 29 In *Farber v. Kingston*, the Ontario Court of Appeal recognized the significance of the rule requiring municipal councils, local boards, and their committees to pass a resolution before closing a meeting to the public.<sup>5</sup> While explaining that a resolution should not undermine the reason for closing a meeting, the court emphasized that it should “maximize the transparency of municipal governance so far as possible in the circumstances.”<sup>6</sup>
- 30 This procedural requirement is not a mere formality. The Act’s provisions are intended to increase the public’s confidence in the integrity of local government and ensure that municipal power is exercised in an open and transparent manner. The passing of a resolution to proceed into closed session is an important procedural requirement intended to maximize the transparency of local government decision-making, even when matters must be discussed out of public view.
- 31 In this case, the Commission contravened the Act when it failed to pass a resolution to close the meeting on April 8, 2021.

## April 23, 2021 meeting

- 32 The complainant told my Office that no notice was provided for the April 23, 2021 Commission meeting. The complainant told us that they check the Commission’s website weekly and saw no evidence of notice being posted. The complainant did not raise any concerns about the content of the Commission’s discussion at this meeting.
- 33 There is a general notice to the public on the Commission’s website which states that the Commission meets on the second Thursday of each month, September through June. However, the April 23, 2021 meeting took place on a Friday.
- 34 The Commission was unable to locate any materials, including open or closed session minutes, for the April 23, 2021 meeting. However, minutes for the Commission’s meetings on April 8 and May 13, 2021 indicate that the Commission met electronically on April 23, 2021 at 2:00 p.m. for an *in camera* meeting.

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<sup>5</sup> *Farber v. Kingston (City)*, 2007 ONCA 173, online: <<https://canlii.ca/t/1qtzl>>.

<sup>6</sup> *Ibid* at para 19.

- 35** The Commission's website administrator told us that when he receives notice of a meeting from the Commission, he immediately posts it to the website. In this case, none of the interviewees could provide evidence that they asked the website administrator to post notice of this meeting.
- 36** We were told that the Commission does not retain records to show whether or not meeting notice had been posted. Commission staff told us its website does not keep a log of past notices. Once a meeting has occurred, notice for that meeting is deleted and replaced with notice for the next meeting, and there is no log of changes made.

## Analysis

### Notice to the public

- 37** Under the *Municipal Act*, every municipality and local board must pass a procedure by-law that governs the calling, place, and proceedings of meetings. The Act also requires that municipalities include a public notice requirement in their procedure by-law. The Act does not specify what the content of the public notice requirement should be. As noted previously, the Commission did not have a procedure by-law in place at the time of these meetings.
- 38** There is no evidence to suggest that notice was provided to the public ahead of the Commission's meeting on April 23, 2021. The existing notice on the website would not have alerted the public to this meeting and interviewees could not provide evidence that notice was provided. The complainant told us that they did not see notice of this meeting although they check the Commission's website weekly.
- 39** Based on the limited evidence to demonstrate otherwise, I find on a balance of probabilities that notice was not provided to the public for the April 23, 2021 meeting.

### May 13, 2021 meeting

- 40** The agenda and meeting minutes state that the Commission met electronically on May 13, 2021 at 6:00 p.m. for a regular meeting.

- 41 The complainant told us that they do not believe that notice was provided for this meeting because they did not see any notice posted despite checking the Commission's website weekly.
- 42 As noted previously, the website administrator told us that when he receives notice of a meeting from the Commission, he immediately posts it to the website. We were provided with an email dated May 7, 2021 from the Commission's bookkeeper to the website administrator in which the website administrator was asked to post notice of this meeting.
- 43 There is a general notice to the public on the Commission's website, which states that the Commission meets on the second Thursday of each month, September through June. The May 13, 2021 meeting was one of these regularly scheduled meetings, for which an associated Zoom link was provided on the website.
- 44 Further, the April 2021 meeting minutes posted on the Commission's website noted "next meeting [to occur on] May 13, 2021 at 6:00 p.m. via Zoom, details to be posted on the NCDRA website."

## Analysis

### Notice to the public

- 45 The evidence I reviewed indicates that the Commission provided notice to the public for the May 13, 2021 meeting.
- 46 The general notice provided on the Commission's website alerted the public to the May 13, 2021 meeting and how to access it. Specific notice of the May 13, 2021 meeting was also provided in the Commission's April minutes. I am satisfied that the Commission posted notice for this meeting.

### August 19, 2021 meeting

- 47 The agenda and the open session minutes indicate that the Commission met electronically on August 19, 2021 at 6:00 p.m. for a regular meeting.
- 48 The complainant alleged that the discussions during this meeting did not fit in the exceptions to the open meeting rules.



- 49 The complainant also initially told us that they believed there was no notice provided for the August 19, 2021 meeting. The complainant later acknowledged seeing notice for the August 19, 2021 meeting on the Commission's website after the meeting occurred. None of the interviewees could confirm whether notice was posted in advance of this meeting or details of when it may have been posted.
- 50 We were provided with a copy of an email exchange, dated August 17, 2021, between Commission staff regarding agenda preparation. In this email, Commission staff said that they would send the meeting information to the website administrator.
- 51 According to the open meeting minutes, the Commission resolved to close the meeting to discuss "Update on Future Development/Business Opportunity."
- 52 The closed meeting minutes indicate that the discussion was closed pursuant to "subsection 239(2)(c) a proposed or pending acquisition or disposition of land by the municipality or local board." The minutes indicate that the Commission discussed financial agreements related to airport property, and that a motion was passed allowing the Commission to proceed with a financial agreement with a specific third party under certain terms.
- 53 While the extent of the discussion was not clear from the minutes, interviewees told us that the Commission members discussed a potential land transaction as well as a potential financial agreement to facilitate the Commission's future business development.
- 54 We were also told that the Commission discussed a potential financial agreement involving various terms. My Office was told that there was consensus to approve proceeding with the financial agreement with the third party, pursuant to the terms discussed during the closed session.
- 55 When asked why these matters were discussed in closed session, interviewees told us that the discussion was held *in camera* in part because the Commission was discussing the value of the land and other financial information. We were told that had these discussions been held in public, the negotiating position of the Commission would have been adversely impacted.

- 56 The open meeting minutes indicate that “[t]he Commission reconvened into open session at approximately 7:47 p.m.” and that the meeting adjourned at 7:48 p.m. The minutes for this meeting do not state that there was a report back in open session following the closed session, and the Commission members could not recall if this occurred.

## Analysis

### Exception for acquisition or disposition of land

- 57 This meeting was closed pursuant to subsection 239(2)(c), the exception for acquisition or disposition of land. The primary purpose of this exception is to protect the bargaining position or negotiation strategy of the municipality. For example, in our investigation of meetings in the City of London (2015),<sup>7</sup> my Office found that the municipality’s bargaining position in relation to a land sale would have been adversely impacted if discussions around the expressions of interest received had been made public. My Office also noted that even when there is no pending land transaction, the exception may apply where there is discussion of a specific piece of land and a target price for that land has been set.<sup>8</sup>
- 58 The exception for acquisition or disposition of land applies where the municipality, board or committee is either the owner or prospective owner (or lessor/lessee) of land subject to a land transaction that is currently proposed or pending.<sup>9</sup>
- 59 In this case, the conversation included a potential land transaction with a specific third party who sought to work with the Commission.
- 60 In the present case, the Commission did have a bargaining position to protect with respect to the potential land transaction. This portion of the discussion fit within the cited exception.

### Exception for plans and instructions for negotiations

- 61 Although the exception at section 239(2)(k) for discussions about plans and instructions for negotiations was not cited by the Commission to move into closed session on August 19, 2021, interviewees suggested that it was applicable.

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<sup>7</sup> *London (City of) (Re)*, 2015 ONOMBUD 19, online: <<https://canlii.ca/t/gtp6c>>.

<sup>8</sup> *London (City of) (Re)*, 2015 ONOMBUD 19 at para 34, online: <<https://canlii.ca/t/gtp6c>>.

<sup>9</sup> *Norfolk (County of) (Re)*, 2021 ONOMBUD 6, online: <<https://canlii.ca/t/jdr8d>>.

**62** Section 239(2)(k) of the Act allows discussions about plans and instructions for negotiations to occur in closed session. The purpose of this exception is to protect information that could undermine the Commission’s bargaining position or give another party an unfair advantage during an ongoing negotiation. In order for the exception to apply, the Commission must show that:

1. The *in camera* discussion was about positions, plans, procedures, criteria, or instructions;
2. The positions, plans, procedures, criteria, or instructions are intended to be applied to negotiations;
3. The negotiations are being carried on currently, or will be carried on in future; and
4. The negotiations are being conducted by or on behalf of the Commission.<sup>10</sup>

**63** In a recent report to the Town of Saugeen Shores, my Office considered the applicability of the “plans and instructions for negotiations” exception where council reviewed and discussed a report which outlined the status of ongoing negotiations about a leasing agreement.<sup>11</sup> In that case, we found that the discussion fit within this exception.

**64** In the present case, the Commission was assessing whether or not to accept a financial agreement as proposed. The Commission was determining a course of action with respect to ongoing negotiations with another party. Accordingly, this portion of the *in camera* discussion on August 19, 2021 fit within the exception under section 239(2)(k) of the Act.

## Notice to the public

**65** The evidence I reviewed indicates that the Commission provided notice to the public for the August 19, 2021 meeting.

**66** The complainant acknowledged seeing notice for the August 19, 2021 meeting on the Commission’s website after the meeting occurred and we were provided with an email exchange indicating that Commission staff would provide the meeting information to the website administrator.

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<sup>10</sup> *St. Catharines (City of) (Re)*, 2019 ONOMBUD 1 at paras 30-31, online: <<https://canlii.ca/t/hxrk5>>.

<sup>11</sup> *Saugeen Shores (Town of) (Re)*, 2020 ONOMBUD 3, online: <<https://canlii.ca/t/j93c3>>.

- 67 On a balance of probabilities, I find that notice for the August 19, 2021 meeting was posted, based on the information from the complainant and the emails provided by Commission staff.

### *Vote in camera*

- 68 During the closed meeting on August 19, 2021, the Commission decided to proceed with a financial agreement with a third party. We were told that during the meeting, Commission members came to a consensus to accept the financial agreement in accordance with the terms discussed. The Commission's decision was recorded in the closed meeting minutes as an approval by the Commission to proceed with a financial agreement with a third party, noting certain details of the financial agreement.
- 69 Generally, voting in a closed meeting is not permitted by subsection 239(5) of the Act. However, the Act (s. 239(6)) states that votes may be taken *in camera* if the vote is for a procedural matter, or for the purpose of directing staff or officials where the meeting is otherwise permitted to be closed to the public.
- 70 For the purposes of the open meeting rules, reaching a consensus is considered to be a vote.<sup>12</sup> Further, the August 19, 2021 closed meeting minutes indicate that the Commission resolved to proceed with the financial agreement while in the closed meeting. The closed meeting minutes record this decision without indicating that it was a direction to staff or for a procedural matter.
- 71 While the August 19, 2021 meeting was permitted to be closed to the public, the vote to approve the financial agreement was not a vote for a procedural matter or a direction to staff or officials, and was not permitted.
- 72 The Commission should take care to ensure that its resolutions comply with the rules in the Act, and that decisions made in closed session are limited to procedural matters or directions to staff or officials.

### **August 30, 2021 meeting**

- 73 The agenda for the Commission's August 30, 2021 meeting indicates that an electronic meeting was to occur at 7:00 p.m., including a closed session.

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<sup>12</sup> *South Bruce Peninsula (Town of) (Re)*, 2015 ONOMBUD 25, online: <<https://canlii.ca/t/gtp6t>>.

- 74 According to the closed meeting minutes, the Commission met electronically on August 30, 2021 at 7:05 p.m. for an *in camera* meeting.
- 75 The complainant told us that they had not seen a notice for the August 30 meeting when they checked on the morning of August 27. The complainant later acknowledged seeing notice for the August 30 meeting on the Commission’s website on August 31.
- 76 My Office was provided with the email exchange between the Commission’s bookkeeper and website administrator. In one email, sent at 11:34 a.m. on August 27, the bookkeeper asked the website administrator to post notice for the August 30 meeting. We were told that the agenda was subsequently posted at 8:02 p.m. on August 27 on the Commission’s website, with the associated Zoom link.
- 77 The open meeting minutes indicate that “[t]he Commission reconvened into open session at approximately 7:50 p.m.” and that the meeting was adjourned at 7:56 p.m. The minutes do not state if there was a report back and interviewees could not recall if there was a report back in open session.

## Analysis

### Notice to the public

- 78 The evidence I reviewed indicates that the Commission provided notice to the public for the August 30, 2021 meeting.
- 79 As discussed earlier, the complainant acknowledged seeing notice for the August 30, 2021 meeting on the Commission’s website after the meeting occurred and we were provided with evidence from Commission staff that notice was posted on August 27, 2021 on the Commission’s website. I am satisfied that the public was provided with notice of the August 30, 2021 meeting.

## Procedural matters

### Inadequate record-keeping

- 80 Section 239(7) of the Act requires that a local board such as the Commission keep a record, without note or comment, of all resolutions, decisions and other proceedings at its meetings. This requirement applies to every meeting, “whether it is closed to the public or not”.

- 81 My Office has explained that “keeping complete and accurate minutes of closed session meetings ensures that members of the public feel confident that matters dealt with in closed session were appropriate for *in camera* discussion and that requirements of the *Municipal Act* and local by-laws have been followed.”<sup>13</sup>
- 82 The Commission failed to record closed session minutes during its April 8, 2021 meeting, and did not record any meeting minutes, either from the open or closed session, on April 23, 2021.
- 83 On August 19, 2021, the Commission recorded closed session minutes, but failed to include important details, including a description of the discussion about the financial agreement and the potential land transaction.
- 84 The failure to record meeting minutes, or to ensure minutes are accurate and complete, undermines the public’s confidence in the Commission and leaves the Commission without a record of discussions and decisions made. It also hinders my Office’s ability to investigate a closed meeting complaint.
- 85 We have recommended that records of a closed meeting include the following:
- Where the meeting took place;
  - When the meeting started and adjourned;
  - Who chaired the meeting;
  - Who was in attendance, with specific reference to the Clerk or other designated official responsible for recording the meeting;
  - Whether any participants left or arrived while the meeting was in progress and if so, at what time this occurred;
  - A detailed description of the substantive and procedural matters discussed, including reference to any specific documents considered;
  - Any motions, including who introduced the motion and seconders;
  - All votes taken, and all directions given.<sup>14</sup>
- 86 While minutes are not required to record a verbatim transcript of the discussion at a meeting, the substance of all discussions should be recorded.

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<sup>13</sup> *Tehkummah (Township of) (Re)*, 2018 ONOMBUD 3 at para 60, online: <<https://canlii.ca/t/hvmtp>>.

<sup>14</sup> *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 at para 55, online: <<https://canlii.ca/t/jr5rc>>.

- 87** Minutes that do not reflect the entirety of issues and matters discussed and decisions made during a meeting do not provide the accurate record required to protect the local board, should the meeting be subject to an investigation or litigation. Incomplete minutes also leave officials without a record to consult in future in order to understand how an issue was considered or a decision was reached.
- 88** I strongly encourage municipalities, local boards or committees of either to make audio or video recordings of meeting proceedings, both open and closed. This provides the most clear, accessible record for closed meeting investigators to review, and assists in ensuring that officials do not stray from the legal requirements during closed meetings. In this case, audio recordings of the open and closed sessions would have greatly assisted in reviewing this and other meetings of the Commission.

## Reporting back

- 89** The complaint to my Office alleged that the Commission did not adhere to the best practice of reporting back in public after the conclusion of its closed meetings on April 8, August 19, and August 30, 2021.
- 90** My Office was told that the Commission does not generally report back after closed session. Two interviewees told us that there was no report back after closed session on August 19, 2021 and that there could not have been because the agreements discussed in closed had not been finalized.
- 91** Although there is no requirement under the Act to report back in public after the conclusion of a closed meeting, numerous closed meeting investigators, including my Office, have recommended the adoption of reporting back as a best practice to increase transparency in the closed meeting process.<sup>15</sup>
- 92** I encourage the Commission to report back on what occurs in camera, at least in a general way. In some cases, public reporting might simply consist of a general discussion in open session of subjects considered in closed session, similar to the information in the resolution authorizing the session together with information about staff directions, decisions and resolutions. In other cases, however, the nature of the discussion might allow for considerable information about the closed session to be provided publicly.

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<sup>15</sup> *Magnetawan (Municipality of) (Re)*, 2015 ONOMBUD 20 at para 54, online: <<https://canlii.ca/t/gtp6h>>.

## Opinion

- 93** The Commission was in contravention of section 238 of the *Municipal Act, 2001* as it had not adopted a procedure by-law at the time of these meetings. The Commission has since complied with the requirements of the Act by adopting a procedure by-law on September 29, 2022.
- 94** In failing to pass a resolution in open session prior to closing the meeting to the public on April 8, 2021, the Commission contravened the Act. It is not possible to conclude whether the in camera discussion on April 8, 2021 fit within any exception, due to inadequate meeting records and insufficient information from interviewees. In failing to keep a record of the closed meeting discussion and associated decisions on April 8, 2021, the Commission failed to fulfill its statutory obligation to record closed meeting proceedings per section 239(7) of the Act.
- 95** The Commission contravened the Act by failing to provide any notice for the April 23, 2021 meeting. The Commission also failed to fulfill its statutory obligation to keep a record of open and closed meeting minutes on April 23, 2021 in contravention of section 239(7) of the Act.
- 96** I am satisfied that the Commission did provide notice for its May 13 and August 30, 2021 meetings.
- 97** I am also satisfied that the Commission provided notice for its August 19, 2021 meeting. However, the Commission failed to record important details of the closed meeting discussion on August 19, 2021 in contravention of section 239(7) of the Act. The Commission also violated the open meeting rules by conducting an illegal vote in closed session on August 19, 2021 to approve proceeding with a financial agreement. While the Commission's closed session discussion fit within the exceptions for the acquisition or disposition of land and for plans and instructions for negotiations, the vote to approve proceeding with the financial agreement was not a procedural matter or a direction to staff.

## Recommendations

- 98** I make the following recommendations to assist the Commission in fulfilling its obligations under the Act and enhancing the transparency of its meetings:



**Recommendation 1**

All members of the Niagara Central Dorothy Rungeling Airport Commission should be vigilant in adhering to their individual and collective obligation to ensure that the Commission complies with its responsibilities under the *Municipal Act, 2001*.

**Recommendation 2**

The Niagara Central Dorothy Rungeling Airport Commission should ensure that prior to each *in camera* meeting, a resolution to proceed *in camera* is passed in open session.

**Recommendation 3**

The Niagara Central Dorothy Rungeling Airport Commission should ensure that complete and accurate records are kept of all meetings and that the records reflect all of the substantive and procedural items that were discussed.

**Recommendation 4**

The Niagara Central Dorothy Rungeling Airport Commission should provide public notice in advance of each meeting.

**Recommendation 5**

As a best practice and to assist in future closed meeting investigations, the Niagara Central Dorothy Rungeling Airport Commission should keep records of when notice has been posted.

**Recommendation 6**

The Niagara Central Dorothy Rungeling Airport Commission should ensure that its closed session votes comply with section 239(6) of the *Municipal Act, 2001*.

**Recommendation 7**

As a best practice, the Niagara Central Dorothy Rungeling Airport Commission should consider audio or video recording its proceedings, including closed meetings.

**Recommendation 8**

The Niagara Central Dorothy Rungeling Airport Commission should adopt the best practice of reporting back in a meaningful way, when possible, following closed session discussion.

## Report

- 99** The Niagara Central Dorothy Rungeling Airport Commission was given the opportunity to review a preliminary version of this report and provide comments. No comments were received. I thank the Commission for their co-operation during my investigation.
- 100** This report will be published on my Office's website, and should also be made public by the Niagara Central Dorothy Rungeling Airport Commission. In accordance with paragraph 239.2(12) of the *Municipal Act, 2001*, the Commission is required to pass a resolution stating how it intends to address this report.



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Paul Dubé  
Ombudsman of Ontario

*Ce rapport est aussi disponible en français*