



## **Ombudsman Report**

**Investigation into a complaint about an emergency meeting  
held by council for the Township of Coleman  
on July 15, 2025**

**Paul Dubé  
Ombudsman of Ontario**

**March 2026**

## Complaint

- 1 My Office received a complaint about an emergency meeting of council for the Township of Coleman (the “Township”) held on July 15, 2025. The complaint alleged that the circumstances surrounding the meeting were not an emergency and that a closed session held during the meeting did not fit within the cited open meeting exception for advice subject to solicitor-client privilege under section 239(2)(f) of the *Municipal Act, 2001* (the “Act”).<sup>1</sup>
- 2 My investigation determined that the July 15, 2025 meeting did not qualify as an emergency pursuant to the Township’s procedure by-law and that notice of the meeting should have been provided to the public. I also determined that the Township’s procedure by-law does not provide for public notice of special meetings, in contravention of section 238(2.1) of the Act.
- 3 Additionally, council’s closed session discussions on July 15, 2025 did not fit within the cited exception for advice subject to solicitor-client privilege. However, I have determined that the exception for personal matters about an identifiable individual under section 239(2)(b) of the Act applied to the discussion.

## Ombudsman jurisdiction

- 4 Under the *Municipal Act, 2001*, all meetings of council, local boards, and committees of either must be open to the public, unless they fall within prescribed exceptions.<sup>2</sup>
- 5 As of January 1, 2008, the Act gives anyone the right to request an investigation into whether a municipality or local board has complied with the Act in closing a meeting to the public.<sup>3</sup> Municipalities may appoint their own investigator.<sup>4</sup> The Act designates the Ombudsman as the default investigator for municipalities or local boards that have not appointed their own.<sup>5</sup> The Ombudsman is the closed meeting investigator for the Township of Coleman.
- 6 When investigating closed meeting complaints, we consider whether the open meeting requirements in the Act and the applicable procedure by-law have been observed.

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

<sup>2</sup> *Ibid*, s 239.

<sup>3</sup> *Ibid*, s 239.1.

<sup>4</sup> *Ibid*, s 239.2(1).

<sup>5</sup> *Ibid*, s 239.1.

- 7 My Office has reviewed and investigated hundreds of closed meeting complaints 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](http://www.ombudsman.on.ca/en/info-public-bodies-and-officials/municipal-government/municipal-meeting-digest).
- 8 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](http://www.ombudsman.on.ca/en/make-complaint/what-we-can-help-you/organizations-you-can-complain-about).

## Investigative process

- 9 On July 28, 2025, my Office advised the Township of our intent to investigate this complaint.
- 10 Members of my Office's open meeting team reviewed the Township's procedure by-law and materials from the July 15, 2025 meeting, including the agenda, and the open and closed meeting minutes. My Office also spoke with the Clerk and interviewed all members of council.
- 11 My Office received full co-operation in this matter.

## Council procedures

- 12 The Township's procedure by-law requires that public notice for regular meetings be given by way of posting a copy of the meeting agenda on the Township's bulletin board by 4:00 p.m. on the Thursday preceding the meeting.<sup>6</sup> Special meetings may be called by petition of council or by the head of council with 24

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<sup>6</sup> *Ibid*, s 3.2.1.5.

hours' notice.<sup>7</sup> The Clerk explained to my Office that the Township's practice is to provide the public with 24 hours' notice of special meetings by posting the notice on the Township's website and the door to the municipal office. The procedure by-law does not specify how public notice of special meetings is given.

- 13 The procedure by-law provides that an emergency meeting may be held by council without notice "to deal with the emergency or extraordinary situation,"<sup>8</sup> and that only business dealing directly with the emergency or extraordinary situation shall be transacted at such meetings.<sup>9</sup>

## Background

### Refinery Property Task Force Committee

- 14 There is a decommissioned refinery located in the Township. The refinery was originally operated as a cobalt and silver refinery, following which it was used for processing photographic film, arsenical concentrate, electronic scrap, and the production of ferric sulphate. The refinery has not been in use since 2007. We were told by those we interviewed that environmental, health, and safety risks associated with the refinery are issues of considerable public interest in the Township.
- 15 In March 2025, council formed a Refinery Property Task Force Committee (the "Committee") composed of residents and two council members. The terms of reference state that the Committee's purpose was to advocate for the remediation of the site and challenge the position of the Ministry of the Environment, Conservation and Parks (the "Ministry") that adjacent landowners are responsible for the environmental assessment of the refinery site.<sup>10</sup>

### Council meeting on July 14, 2025

- 16 Council met for a regular meeting on July 14, 2025 at 6:00 p.m. The meeting agenda included a report from the Committee for consideration by council. The report made several recommendations, including that council dissolve the Committee and obtain legal advice regarding the Township's liability related to the refinery.

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<sup>7</sup> Township of Coleman, by-law No 16-35, *Being a by-law to govern the proceedings of council, the conduct of its members and the calling of meetings*, (12 December, 2016), s 3.1.4 ["*procedure by-law*"].

<sup>8</sup> *Ibid*, s 3.1.7.1.

<sup>9</sup> *Ibid*, s 3.1.7.2.

<sup>10</sup> Report No. 2025-S-24, Approval of Terms of Reference for the Refinery Property Task Force, March 6, 2025.

- 17 Council passed a resolution dissolving the Committee and tabled consideration of motions to adopt the remaining recommendations. Members of council told my Office that the motions regarding the Committee's recommendations were tabled for two reasons. First, the agenda for the July 14, 2025 meeting was already full, and members wanted to ensure there was sufficient time for a full discussion of the recommendations. Second, council members believed that the recommendations related to legal advice should be discussed in a closed session, and no closed session had been scheduled for the July 14, 2025 meeting.
- 18 The meeting minutes show that council passed a resolution directing the Clerk to schedule an emergency council meeting the next day at 7:00 p.m. "to address an 'extraordinary situation', specially matters relating to the Cobalt Refinery Property."
- 19 My Office was told that an emergency meeting, instead of a special meeting, was required because the issues posed by the refinery qualified as an extraordinary situation due to associated safety risks and the potential risk of liability to the Township. My Office was told that the only evening council could meet for that week was on July 15, 2025.

## Emergency meeting on July 15, 2025

- 20 At approximately 10:00 a.m. on July 15, 2025, a meeting agenda was posted to the Township's website. The agenda contained the tabled motions and a closed session to consider the Committee's recommendations that the Township obtain legal advice regarding the refinery. Council met at 7:00 p.m. that evening.
- 21 During the open session, council discussed the Committee's recommendations and voted on the tabled motions. Council resolved to adopt a communication protocol between Township staff and residents regarding issues related to the refinery.
- 22 Before council closed the meeting to the public, the Clerk read out a statement regarding the applicability of the open meeting rules to the closed session agenda items. The Clerk stated that if council proceeded into closed session, the discussions should be limited to the Committee's recommendations that the Township obtain legal advice, and that other matters related to the refinery or the Committee were not to be discussed during the closed meeting.

- 23** Council acknowledged the Clerk’s guidance and passed a resolution to proceed into a closed session to discuss the Committee’s recommendations that the Township obtain legal advice, citing the exception for advice subject to solicitor-client privilege under section 239(2)(f) of the Act.
- 24** During the closed session, council discussed which lawyer the Township should retain to provide advice related to the refinery. Council named and considered several lawyers and council members provided their opinions for each. No other topic was discussed in the closed session. The closed session lasted approximately 15 minutes.
- 25** After rising from closed session, council passed a resolution directing the Clerk to engage a specific lawyer to obtain an opinion on the Township’s risk and liabilities concerning the refinery.
- 26** Council adjourned the meeting at 7:58 p.m.

## Analysis

Was the meeting an “emergency meeting” under the Township’s procedure by-law?

- 27** I have previously determined that a procedure by-law may allow for a council meeting to be held as soon as practicable in the face of a “bona fide emergency” requiring urgent action.<sup>11</sup> Generally, an “emergency” requires unexpected circumstances requiring immediate or urgent action.<sup>12</sup>
- 28** The procedure by-law allows council to meet without notice to the public to deal with an emergency or extraordinary situation. The procedure by-law does not define either “emergency” or “extraordinary situation.”
- 29** The members of council interviewed by my Office explained that the tabled motions were an extraordinary situation that had to be dealt with using the emergency meeting provisions because of pressure from the Committee to address the safety risks associated with the refinery. My Office was also told by two members of council that they were concerned about the possibility of members of the public commencing litigation against the Township in relation to the refinery, although they did not have notice of or specific knowledge concerning any litigation, and the possibility of litigation was not discussed during the emergency meeting.

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<sup>11</sup> *West Elgin (Municipality of) (Re)*, 2024 ONOMBUD 22 at para 29, online: <<https://canlii.ca/t/k8c51>>.

<sup>12</sup> *Ibid*; *Magnetawan (Municipality of) (Re)*, 2015 ONOMBUD 20 at para 31, online: <<https://canlii.ca/t/gtp6h>>.

- 30** The refinery is a longstanding issue in the Township. While members of council may have believed that an extraordinary situation existed due to the safety risks posed by the refinery, the Committee's recommendations to council were not an emergency that required immediate or urgent action. The recommendations related to correspondence with the Ministry, proposed communication protocols, and legal advice. Council also had notice of the Committee's motions for almost one month before the July 14, 2025 meeting. Had this been a bona fide emergency or extraordinary situation, council could have called a meeting to discuss the motions prior to July 14, 2025. While there may be circumstances where seeking immediate legal advice is necessary, the Township did not identify any reason why it needed to obtain advice urgently in this case, beyond council's desire to demonstrate to the public that it was taking the matter seriously.
- 31** There was no reason to classify the tabled motions as an extraordinary situation in order to use the emergency meeting provision in the procedure by-law. Accordingly, while council may have desired to discuss the matter urgently, I find that this was not an emergency meeting as defined in the procedure by-law, and therefore public notice containing the date, time and location of the meeting was required.
- 32** The Township provided some advance notice to the public that a meeting would take place on July 15, 2025. Council's resolution the day before, on July 14, 2025, to call the emergency meeting stated the date and purpose of the meeting. Additionally, the Clerk posted the meeting agenda on the website in the morning of July 15, 2025 which included the date and time of the meeting. However, neither the agenda nor council's resolution indicated the location of the meeting, and the period of notice for the meeting was fewer than 24 hours.

The Township's procedure by-law does not address public notice of special meetings

- 33** Section 238(2.1) of the Act requires that the Township's procedure by-law provides for public notice of meetings. This requirement applies to all meetings of council, committees, or local boards, including special or emergency meetings. The Township's procedure by-law does not address how notice of special meetings should be given to the public, although it does contemplate providing notice of a special meeting to council members.
- 34** The Township should communicate to the public clearly and predictably when and where meetings will be held. The Township should amend its procedure by-law to specify that the date, time, and place be included in a public notice for a special meeting, as well as define clear timeframes for providing public notice of its special meetings.

## Closed meeting

### *Applicability of the exception for advice subject to solicitor-client privilege*

- 35** Council cited the exception for advice subject to solicitor-client privilege to discuss the retention of a lawyer in closed session. Section 239(2)(f) of the Act allows a municipality to proceed in closed session to discuss advice that is subject to solicitor-client privilege, including communications necessary for that purpose.<sup>13</sup> The purpose of the exception is to ensure that municipal officials can speak freely about legal advice without fear of disclosure.<sup>14</sup>
- 36** Communication will only be found to be subject to solicitor-client privilege if it is: (1) between a client and their solicitor, where the solicitor is acting in a professional capacity; (2) made in relation to the seeking or receiving of legal advice; and (3) intended to be confidential.<sup>15</sup>
- 37** The privilege, once established, is considerably broad and all-encompassing. The solicitor-client relationship may arise as soon as the client takes the “first steps” which may even occur before the formal retainer is established.<sup>16</sup> The privilege applies to information about the legal problem that a lawyer requires from the potential client to decide if the lawyer will agree to act, and remains even if the lawyer does not agree to advise or act.<sup>17</sup> However, the scope of the privilege does not extend to communications where legal advice is not sought or offered.<sup>18</sup>
- 38** I have found that solicitor-client privilege does not apply to discussion of a solicitor’s hourly rate or generic discussions about the amount of money to spend on legal fees, since this would not, on its own, reveal any privileged information.<sup>19</sup>
- 39** In a report to the Town of Collingwood, council discussed in a closed session quotes received by the CAO from prospective law firms, as the CAO advised of the need to seek independent counsel for a judicial inquiry.<sup>20</sup> The quotes provided contained information about the ongoing legal proceeding and proposed strategy, and the fee quotes were provided to the CAO in confidence.<sup>21</sup> My Office

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<sup>13</sup> *Municipal Act, 2001*, *supra* note 1, s 239(2)(f).

<sup>14</sup> *Solosky v The Queen*, 1979 CanLII 9 (SCC) at p 837, online: <<https://canlii.ca/t/1mjtq>> [“Solosky”]; *McMurrich/Monteith (Township of) (Re)*, 2022 ONOMBUD 4 at para 20, online: <<https://canlii.ca/t/jncmn>>.

<sup>15</sup> *Ibid* at para 21.

<sup>16</sup> *Descoteaux v Mierzwinski*, 1982 CanLII 22 (SCC) at ps 876 and 893, online: <<https://canlii.ca/t/1lpc6>>.

<sup>17</sup> *Re Ontario Securities Commission and Greymac Credit Corp, Re Ontario Securities Commission and Prousky*, 1983 CanLII 1894 (ON DC) at para 11, online: <<https://canlii.ca/t/g168p>>; *Glegg v Glass*, 2019 ONSC 6623 at para 136, online: <<https://canlii.ca/t/j3gq5>>.

<sup>18</sup> *Solosky*, *supra* note 14 at p 835.

<sup>19</sup> *Norfolk (County)*, 2016 ONOMBUD 7 at para 38, online: <<https://canlii.ca/t/h2sth>> [“Norfolk”]; *Saugeen Municipal Airport Commission (Re)*, 2022 ONOMBUD 8 at para 64, online: <<https://canlii.ca/t/jpplh>>.

<sup>20</sup> *Collingwood (Town of) (Re)*, 2022 ONOMBUD 1, online: <<https://canlii.ca/t/jlvk1>> [“Collingwood”].

<sup>21</sup> *Ibid* at paras 36-37.

determined that this discussion fell within the scope of seeking and receiving legal advice, as the information provided by the lawyers went beyond the quoted hourly rates and included communication protected by privilege.<sup>22</sup>

- 40** In the matter at hand, however, neither council nor staff had engaged in any communication with any of the lawyers being considered, nor did the discussion involve information about the refinery that would have been provided to the lawyer retained by the Township to provide advice. The discussion was focused on individual council members' opinions of lawyers the Township could retain to provide legal advice on issues related to the refinery. The Township did not have notice of or specific knowledge concerning any litigation, and the possibility of litigation was not discussed. At the time of the meeting, there was no solicitor-client relationship and no legal advice or communications protected by solicitor-client privilege before council. Accordingly, the discussion did not fit within the exception.

#### *Applicability of the exception for personal matters about an identifiable individual*

- 41** Although not cited by the Township, we considered whether the discussion fit within the exception for personal matters about an identifiable individual under section 239(2)(b) of the Act. As there was no evidence that there was a reasonable prospect of litigation, we did not consider the application of the exception for litigation or potential litigation under section 239(2)(e).
- 42** I have previously determined that the exception for personal matters will apply to discussions of personal information that can be reasonably expected to identify an individual.<sup>23</sup> To qualify as "personal information," information must be about an individual in their personal capacity, rather than their professional or official capacity. However, the exception for personal matters is not limited to discussions of personal information and can include discussions about a person in their professional capacity, if something personal is revealed.<sup>24</sup> I have previously determined that the exception for personal matters has applied to discussions regarding something of a personal nature about an individual,<sup>25</sup> or scrutiny of an individual's conduct.<sup>26</sup> This includes discussion of an individual's job performance,<sup>27</sup> and it is not necessary for the individual to be an employee of the municipality.<sup>28</sup>

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<sup>22</sup> *Ibid* at paras 44-46.

<sup>23</sup> *Amherstburg (Town of) (Re)*, 2022 ONOMBUD 11 at para 19, online: <<https://canlii.ca/t/jr5rc>>; *Amherstburg (Town of) (Re)*, 2015 ONOMBUD 13 at para 22, online: <<https://canlii.ca/t/gtp5z>>.

<sup>24</sup> *Burk's Falls / Armour (Village of / Township)*, 2015 ONOMBUD 26 at para 68, online: <<https://canlii.ca/t/gtp6w>>.

<sup>25</sup> *Ibid*.

<sup>26</sup> *Lanark Highlands (Township of) (Re)*, 2018 ONOMBUD 1 at para 50, online: <<https://canlii.ca/t/hvmtf>>.

<sup>27</sup> *Niagara Falls (City of) (Re)*, 2015 ONOMBUD 9 at para 48, online: <<https://canlii.ca/t/gtp86>>.

<sup>28</sup> *Cochrane (Town of) (Re)*, 2015 ONOMBUD 3 at para 23, online: <<https://canlii.ca/t/gtp75>>.

- 43** In a report to the County of Norfolk, I considered a portion of a committee’s closed session discussion concerning the performance of individual lawyers as part of the committee’s consideration of whether to extend a contract to one of their firms.<sup>29</sup> The committee referred to the lawyers by name and discussed their performance, responsiveness, and expertise.<sup>30</sup> I found that this portion of the discussion fit within the exception for personal matters about an identifiable individual.<sup>31</sup>
- 44** Similarly, council’s discussion in the matter at hand was focused on the performance and responsiveness of individually named lawyers. The discussion included council members’ opinion on these lawyers, including scrutiny of their work performance, responsiveness, and timeliness. This qualifies as personal information. Accordingly, the closed session discussion fit within the exception for personal matters about an identifiable individual.

## Opinion

- 45** My investigation found that the July 15, 2025 meeting of council for the Township of Coleman did not qualify as an emergency meeting under its procedure by-law and public notice of the meeting was required. As a result, the meeting was illegally closed to the public.
- 46** The Township also contravened subsection 238(2.1) of the *Municipal Act, 2001* by failing to provide for public notice about the calling, place and proceedings of special meetings in its procedure by-law.
- 47** My investigation also found that, had the July 15, 2025 meeting been properly convened, council’s discussion would not have fit within the exception for advice subject to solicitor-client privilege as cited by council, but would have been permitted under the exception for personal matters about an identifiable individual.

## Recommendations

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

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<sup>29</sup> *Norfolk*, *supra* note 19.

<sup>30</sup> *Ibid* at para 32.

<sup>31</sup> *Ibid*.

**Recommendation 1**

**Council for the Township of Coleman should be vigilant in adhering to their individual and collective obligation to ensure compliance with their responsibilities under the *Municipal Act, 2001* and the Township's procedure by-law.**

**Recommendation 2**

**Council for the Township of Coleman should ensure that the public is provided with notice of all council meetings that contains the date, time, and location of the meetings.**

**Recommendation 3**

**The Township of Coleman's procedure by-law should be amended to provide clear timeframes for public notice of its special meetings.**

**Recommendation 4**

**When relying on the emergency meeting provisions in its procedure by-law to hold a meeting without public notice, the Township of Coleman should ensure it meets the standard set by its procedure by-law for an emergency.**

## Report

- 49** Council for the Township of Coleman was given the opportunity to review a preliminary version of this report and provide comments to my Office. No comments were received.
- 50** This report will be published on my Office's website and should be made public by the Township. In accordance with section 239.2(12) of the *Municipal Act, 2001*, the Township 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*