

August 13, 2020

Council for the Municipality of West Nipissing
101-225 Holditch St.
Sturgeon Falls, ON,
P2B 1T1

Sent by email to mducharme@municipality.westnipissing.on.ca

Dear Members of Council for the Municipality of West Nipissing:

Re: Ombudsman review of closed meeting complaint

My Office received a complaint about closed meetings held by council for the Municipality of West Nipissing on April 20 and May 26, 2020. The complaint alleged that neither meeting was audio or video recorded, contrary to requirements in the municipality's procedure by-law.

Ombudsman Jurisdiction

Under the *Municipal Act, 2001*, all meetings of council, local boards, and committees of council must be open to the public, unless they fall within prescribed exceptions. As of January 1, 2008, 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. Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own. The Ombudsman is the closed meeting investigator for the Municipality of West Nipissing. In investigating closed meeting complaints, we consider whether the open meeting requirements of the Act and the municipality's governing procedures have been observed.

To assist municipal councils, staff, and citizens, we have developed an online digest of open meeting decisions that contains summaries of the Ombudsman's open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's past 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 a matter should or may be discussed in closed session, as well as issues related to open meeting procedure. Summaries of many of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/digest.

Our Review

In response to this complaint, we reviewed the relevant meeting documents, including minutes, and the municipality's procedure by-law. Section 28.3 of the procedure by-law provides that:

Closed Session Meetings shall be video and audio recorded, however such recordings will not be available to the public nor broadcast in any way.

We were told that council meetings are normally recorded using equipment located in council chambers.

On April 20, council met at 6:30pm for a special meeting held by teleconference. According to the municipality, this was its first meeting held remotely due to the COVID-19 pandemic. Council passed a resolution to close the meeting to discuss a "Human Resources Investigation Matter".

We were told that, due to inadvertence, no audio or video recording was taken of this closed meeting as no one participated in the meeting from council chambers where the recording equipment is located. We were also told that the in camera council meeting on May 26 was not recorded for the same reason.

It goes without saying that municipalities in Ontario are currently facing an unprecedented challenge with respect to adapting governance practices during the pandemic. I am satisfied that the regular practice for the Municipality of West Nipissing is to record its open and closed meetings, and that the two instances complained of were inadvertent occurrences. The municipality assured my Office that all closed meetings after May 26 have been recorded in accordance with the municipality's procedure by-law. We were also told that the municipality apologized for the recording oversight at a recent council meeting.

Thank you for your co-operation during our review. This letter should be provided to council and made available to the public no later than the next meeting of council.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Dubé". The signature is written in a cursive style with a large initial "P" and a trailing flourish.

Paul Dubé
Ombudsman of Ontario

Cc: Joanne Savage, Mayor - jsavage@municipality.westnipissing.on.ca