

**CITY OF BELLEVILLE INTEGRITY
COMMISSIONER/CLOSED MEETING INVESTIGATOR,
DAVID G. BOGHOSIAN**

Citation: Closed Meeting Complaint re: March 23, 2026 Council Declaration of Surplus Lands - DGB-Norfolk CountyCMI-2026-01

Date: June 17, 2026

REPORT ON COMPLAINT

OVERVIEW

[1] In addition to being the Integrity Commissioner for the City of Belleville, I am its Closed Meeting Investigator.

[2] I received a Complaint filed by Belleville resident Alex Wideman from the City Clerk on June 12, 2026 regarding an alleged breach of the closed meeting provisions of the *Municipal Act, 2001* in connection with the declaration of surplus land during an in camera session of the Council meeting held on March 23, 2026.

COMPLAINT

[3] The Complaint was as follows:

1. Introduction

I am writing to formally request an investigation into the conduct of Council during the meeting held on **March 23, 2023**. It is my concern that Council improperly exercised its authority by declaring a publicly owned property surplus during a closed session, in direct contravention of the "Open Meeting" requirements set out in **Section 239** of the *Municipal Act*.

2. Statement of Facts

As per the public record and subsequent staff reports, the following timeline has been established:

- **March 23, 2026:** Council met in a closed session under **In-Camera Report No. MRPS-2026-02**. The stated reason for the closed session was the "potential acquisition or disposition of land" (Section 239(2)(c)).

- **Subsequent Evidence:** Public Staff **Report No. MRPS-2026-03** explicitly states: “*The City has already declared this property surplus to its needs by Report No. MRPS-2026-02 on March 23, 2026.*”
- **May 11, 2026:** Council passed a motion to reverse this surplus designation, acknowledging a potential procedural or policy error.

3. Nature of the Concern

Under **Section 239(6)** of the *Municipal Act*, a vote may only be taken in a closed meeting if the vote is for a procedural matter or for giving directions to officers, employees, or agents of the municipality.

The act of **declaring land surplus** is a substantive policy decision. It changes the legal status of a public asset and is a prerequisite for the sale of land. My concerns are as follows:

- **Improper Voting:** A vote to declare land surplus is a final decision-making power that does not fall under "giving instructions" or "procedural matters." It must occur in an open meeting.
- **Lack of Public Notice:** By declaring the property surplus in-camera, the public was denied the opportunity to provide feedback on the transaction before the decision was finalized.
- **Transparency Requirements:** While the *negotiation* of a price may be confidential, the *intent* to sell (the surplus declaration) is a matter of public interest.

4. Requested Action

As the appointed Closed Meeting Investigator, I request that you:

1. Review the minutes and any recordings of the closed session on **March 23, 2026**.
2. Determine whether the vote to declare the property surplus complied with the requirements of the *Municipal Act*.
3. Provide a public report on your findings and issue recommendations to Council to ensure future compliance with open meeting rules.

APPLICABLE LEGISLATION

[4] The relevant provisions of the *Municipal Act, 2001* are as follows:

Meetings open to public

239 (1) Except as provided in this section, all meetings shall be open to the public.

Exceptions

(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- (h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
- (i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or
- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

....

Exception

- (6) Despite section 244, a meeting may be closed to the public *during a vote* if,
- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and
 - (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board.

Investigation

239.1 A person may request that an investigation of whether a municipality or local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public be undertaken,

- (a) by an investigator referred to in subsection 239.2 (1); or
- (b) by the Ombudsman appointed under the *Ombudsman Act*, if the municipality has not appointed an investigator referred to in subsection 239.2 (1).

Investigator

239.2 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an investigator who has the function to investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation.

....

Report and recommendations

(10) If, after making an investigation, the investigator is of the opinion that the meeting or part of the meeting that was the subject-matter of the investigation appears to have been closed to the public contrary to section 239 or to a procedure by-law under subsection 238 (2), the investigator shall report his or her opinion and the reasons for it to the municipality or local board, as the case may be, and may make such recommendations as he or she thinks fit.

Publication of reports

(11) The municipality or local board shall ensure that reports received under subsection (10) by the municipality or local board, as the case may be, are made available to the public.

Requirement to pass resolution re report

(12) If a municipality or a local board receives a report from a person referred to in clause 239.1 (a) or (b) reporting his or her opinion, and the reasons for it, that a meeting or part of a meeting that was the subject-matter of an investigation by that person appears to have been closed to the public contrary to section 239 or to a procedure by-law under subsection 238 (2), the municipality or the local board, as the case may be, shall pass a resolution stating how it intends to address the report.

City of Belleville Procedural By-law (By-law 2019-48)

[5] I have determined from reviewing the Procedural By-law that it contains no provisions of relevance to this Complaint.

INVESTIGATION

Staff Report MRPS-2026-02 Considered at Closed Session, March 23, 2026 Council Meeting¹

[6] The report recommended that certain lands owned by the City (“the Property”) be declared surplus by Council and that staff be directed to take steps to enter an agreement of purchase and sale of the Property to an adjacent property owner. The reasons for the interest in the Property by the neighbouring property owner, as well as the history of the Property under City ownership, was explained in the Report.

Minutes of Closed Session, March 23, 2026 Council Meeting²

[7] A resolution was passed giving effect to the recommendations in Staff report MRPS-2026-02.

Minutes of April 13, 2026 Meeting (Open Session), including draft By-law 2026-046

[8] Item 9.10 of the Agenda and Minutes of this meeting was draft By-law 2026-046 “to Declare Surplus and Convey to the Abutting Owner lands legally described as PIN 40477-0092

¹ Given that the recommendations in this report were set out in staff report MRPS-2026-03, a public report, I regard confidentiality over this report to have been waived to the extent of what I have set out concerning it herein.

² Given that the resolution passed in this in camera session relating to the Property was effectively disclosed in staff report MRPS-2026-03, a public report, I regard confidentiality over the resolution passed at this meeting regarding the Property to have been waived.

(LT) Lot 1 & 3, Part Lots 2, 4 & 5, Registered Plan 17, City of Belleville, County of Hastings (South John Street).” The proposed consideration in the draft By-law was \$0.00

[9] The disposition of the item was as follows:

Resolution No. BC-260413-18

Moved by Councillor Kathryn Brown

Seconded by Councillor Paul Carr

That Bylaw Number 2026-046 be tabled and referred to staff to evaluate the process including determination whether options are available that would benefit the neighbourhood as a whole.

Recorded Vote Requested by Kelly Henderson

Mayor Neil Ellis	In Favour
Councillor Kathryn Brown	In Favour
Councillor Paul Carr	In Favour
Councillor Lisa Anne Chatten	Opposed
Councillor Barbara Enright-Miller	In Favour
Councillor Kelly Henderson	Opposed
Councillor Sean Kelly	Opposed
Councillor Margaret Seu	In Favour
Councillor Garnet Thompson	Opposed

Carried 5-4 on a recorded vote

The result of the resolution was that draft By-law 2026-046 was deferred to a future date.

Staff Report MRPS-2026-03 Considered at May 11, 2026 Council Meeting

[10] The Report notes that “The City has already declared this property surplus to its needs by Report No. MRPS-2026-02 on March 23, 2026.³ The tabled by-law is required to complete the transfer of the property from the City to the abutting landowner at no cost to the City and also releasing all indemnity and liability from the City.” The Report further notes that the Property

³ This can only be a reference to the vote on the matter relating to the acquisition or disposal of property referred to in the agenda for the in camera session at the March 23rd meeting.

was transferred to the City for nominal consideration in 1973, was previously used to house gasoline storage tanks, that the soil is contaminated with hydrocarbons as a result of its previous use and no remediation has taken place on the Property. It is suggested that transfer of the lands to private ownership would pass on the considerable cost of remediation of the Property (estimated at \$300-500,000,00) onto the purchaser. It is stated that an abutting landowner contacted the City in 2023 and advised that they wished to build a larger house on the abutting lot and inquired about acquiring the property from the City as they were unable to build the size of house desired based on current development considerations without purchasing the Property.

Minutes of May 11, 2026 Council Meeting (Open Session)

[11] Report MRPS-2026-03 was considered as item 8.a.5 of the Agenda for this meeting. The disposition of the matter was recorded in the Minutes of the Meeting as follows:

Resolution No. BC-260511-7

Moved by Mayor Neil Ellis

Seconded by Councillor Kelly Henderson

That the surplus designation of the lands on South John Street be removed.

And That By-law Number 2026-046 be defeated.

And That staff determine costing for the development of the property.

Recorded Vote Requested by Lisa Anne Chatten

Mayor Neil Ellis	In Favour
Councillor Kathryn Brown	In Favour
Councillor Paul Carr	In Favour
Councillor Lisa Anne Chatten	In Favour
Councillor Barbara Enright-Miller	Absent
Councillor Kelly Henderson	In Favour
Councillor Sean Kelly	In Favour
Councillor Margaret Seu	In Favour
Councillor Garnet Thompson	In Favour

Carried 8-0 on a recorded vote

ANALYSIS

Preliminary Issue – Do I Have Jurisdiction Over the Subject-matter of This Complaint?

[12] Pursuant to s. 239.2(1) of the *Municipal Act, 2001*, the role of the closed meeting investigator is to “investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 ... in respect of a meeting or part of a meeting that was closed to the public.” One could argue, adopting a strict interpretation of the mandate of a closed meeting investigator, that my jurisdiction is limited to determining if the matter considered in a closed session fell within one of the exceptions to the “open meeting principle” set out in ss. 239(2), (3) or (4) of the Act. I reject such a narrow interpretation of my mandate. I note that s. 239.1 does not limit my investigation to whether the subject-matter of a closed meeting session falls within one of the exceptions to the open meeting principle set out in ss. 239(2),(3) or (4) of the Act, but encompasses s. 239 generally. Section 239(6) effectively requires that all votes by Council (whether on a motion, resolution or by-law) be held in open session unless both aspects of s. 239(6)(a) and (b) are met ie. not only must the matter fall within the definition of one of the sub-paragraphs of ss. 239(2), (3) or (4) in order to be properly held in camera but also that any vote on the matter is limited to a procedural matter or the giving of directions or instructions to staff (usually in respect of further information requested and/or investigation to be conducted).⁴

[13] I therefore find that I have jurisdiction to investigate not only whether the subject-matter of the matter considered in camera at the March 23, 2026 Council meeting was properly considered in camera pursuant to ss. 239(2), (3) or (4) but also whether a vote was improperly held in camera pursuant to the provisions of s. 239(6) of the *Municipal Act, 2001*.⁵

Did City Council Violate Section 239(6) of the *Municipal Act, 2001* In Declaring Certain Lands to Be Surplus during the In Camera Session of the March 23rd Council Meeting?

(a) Did the Matter Considered In Camera at the March 23, 2026 Council Meeting Fall Within An Exception to the Open Meeting Principle in Ss. 239(2), (3) or (4) of the *Municipal Act, 2001*?

[14] The matter addressed during the in camera session was whether to declare certain municipal lands surplus as the first step in conveying them to a third party. S. 239(2)(c) provides for an exception to the open meeting principle where the matter involves “a proposed or pending acquisition or disposition of land by the municipality or local board.” Based on authority, the

⁴ See *Farber v. Kingston (City)*, 2007 ONCA 173 at [para 23](#); *Georgina (Town of) (Re)*, 2026 ONOMBUD 11 at [para 40](#); and *Welland (City of) (Re)*, 2017 ONOMBUD 20 at [para 32](#);

⁵ The Ombudsman of Ontario reached the same conclusion in his report, *Welland (City of) (Re)*, [2017 ONOMBUD 20](#), wherein he, acting as the City’s Closed-Meeting Investigator, concluded that Council had improperly held a vote to fill a vacant Council seat during a closed section of its meeting.

determination of whether to declare lands surplus for the purpose of sale to a third party falls within this exception.⁶ I therefore find that the matter considered in camera at the March 23rd Council meeting was properly considered in camera.

(b) Was the Vote to Declare Certain Lands Surplus A Vote that Involved Only a Procedural Matter or the Giving of Directions or Instructions to Staff?

[15] As previously noted, the two sub-clauses of s. 239(6) are conjunctive, meaning that both elements need to be satisfied in order for a vote in camera to be lawful. The second element provides that an in camera vote may only involve a procedural matter or the giving of direction or instructions to staff. I find, based on authority, that a declaration that municipal lands are surplus is a substantive, rather than a procedural, matter, and cannot be characterized as merely a direction or instructions to staff, although a direction to staff to prepare an agreement of purchase and sale of the Property was also included in the resolution passed in camera at the March 23rd meeting.⁷

Conclusion

[16] Based on the foregoing findings, I have determined that the resolution concerning the Property passed in camera at the March 23rd meeting should not have been voted on in camera and should have been conducted in open session. I therefore find that Council breached s. 239(6) of the *Municipal Act, 2001* in respect of this matter.

CITY'S RESPONSE

[17] Pursuant to s. 239.1(2) of the *Municipal Act, 2001*, I am required to follow the investigation protocol set out for municipal ombudsmen in conducting a closed meeting investigation. Section 223.14(2) of the Act pertaining to ombudsman investigations requires that where the investigator determines that they may make a report or recommendation that may adversely affect the municipality, they shall give it an opportunity to make representations.

[18] On June 12th, after being apprised of the Complaint, I spoke with Doug Irwin, City Clerk, who is charged with ensuring procedural compliance with the *Municipal Act, 2001* and the City's Procedural By-law. During the conversation, Mr. Irwin did not offer any defence as to why the vote to declare the Property surplus lands took place during the closed session, other than it was historic practice at the City for votes on in camera matters to be held in camera. He was aware that this arguably violated s. 239(6) of the *Municipal Act, 2001*. I further note that a response from the

⁶ In his Report titled *Carleton Place (Town of) (Re)*, [2018 ONOMBUD 12](#), the Ontario Ombudsman concluded that the Town of Carleton Place did not contravene the *Municipal Act* by discussing the process to sell land, and declaring the land as surplus ([para 17](#)). The Ombudsman concluded that this discussion was “inextricably linked” to the sale of those properties and the Town’s future bargaining position.

⁷ The Ombudsman Ontario has concluded that a substantive decision which binds a municipality to a course of action and does not include an explicit direction to staff is not procedural (*Georgina (Town of) (Re)*, 2026 ONOMBUD 11 at [para 34](#)). Past examples of decisions that the Ombudsman determined not to fall within the s.239(6) exception include a vote in closed session to approve an offer to purchase property (Letter from the Ontario Ombudsman to Municipality of Casselman ([23 January 2023](#))) and a vote in closed session to approve a financial agreement (*Niagara Central Dorothy Rungeling Airport Commission (Re)*, [2023 ONOMBUD 8](#)).

City is largely, if not completely, redundant in this case as Council voted to rescind its in camera resolution regarding the Property during the open session of its May 11, 2026 meeting.

DISPOSITION

[19] I have found that s. 239(6) of the *Municipal Act, 2001* was breached in respect of the subject-matter of the Complaint.

[20] This breach was fully rectified at the May 11, 2026 Council meeting where Council voted unanimously to rescind the resolution passed in camera at the March 23rd Council meeting declaring the Property to be surplus so no further action is required on the part of Council.

[21] I make the following recommendations in light of the foregoing findings:

- A) In order to reinforce Council's commitment to abide by s. 239(6) of the *Municipal Act, 2001*, the Procedural By-law be amended to mirror the wording of that subsection ie. to provide that any vote on a matter considered in a closed session, other than a procedural matter or the giving of directions or instructions to staff, shall not be voted on in closed session and must be voted on in open session;
- B) Following the conclusion of a closed session, report back in open session on what transpired in the closed session, providing as much detail as the subject matter permits without disclosing confidential information.

[22] This concludes my investigation.

Respectfully Submitted,



David G. Boghosian,
Integrity Commissioner/Closed
Meeting Investigator,
City of Belleville