



MANITOBA
OMBUDSMAN

OMBUDSMAN ACT INVESTIGATION REPORT

Rural Municipality
of Cornwallis

Disclosure of
Closed Session
Confidential
Information

Initial Report Issued
January 8, 2025

Public Report Released
September 4, 2025



TABLE OF CONTENTS

THE COMPLAINT	3
MANITOBA OMBUDSMAN ROLE	3
ISSUE	3
EVIDENCE REVIEWED	4
BACKGROUND	4
ISSUE AND ANALYSIS	6
CONCLUSION	10
A RESPONSE TO THIS REPORT	11
RECOMMENDATIONS	13
THE RESPONSE OF THE RM COUNCIL	14

This report differs from the final report submitted to the Rural Municipality of Cornwallis in that the report has been edited to exclude the specific personal information included in the complaint.

FILE # MO-07023 | Public Report
Available in alternate formats upon request.

MANITOBA OMBUDSMAN
300 - 5 Donald Street, Winnipeg, MB R3L 2T4
204-982-9130 | 1-800-665-0531 | ombudsman@ombudsman.mb.ca
www.ombudsman.mb.ca



THE COMPLAINT

Manitoba Ombudsman received a complaint on February 21, 2024, that the Reeve disclosed confidential information outside of a closed session of the Rural Municipality of Cornwallis (the RM) council. The complaint included that the Reeve shared information with another person outside of the closed session of council, where it was discussed.

MANITOBA OMBUDSMAN ROLE

Under the authority of The Ombudsman Act, Manitoba Ombudsman investigates administrative actions and decisions made by municipalities, their officers, and employees.

An administrative matter for investigation can include any practice, procedure, action, or decision that government makes as it implements or administers its laws and policies. We assess whether administrative processes and procedures are followed according to applicable legislation, regulation and/or existing policies.

Manitoba Ombudsman investigations review complaints to identify areas requiring administrative improvement. Our reviews take a broad view that considers the fairness and reasonableness of government actions and administrative decisions.

ISSUE

The administrative matter under investigation is:

Did the Reeve violate Section 83(1)(d) of the Municipal Act when he disclosed the confidential information outside of a closed session of the RM council or otherwise held in confidence by the RM?

EVIDENCE REVIEWED

Our investigation of this complaint included a review of the following:

- Documents provided by the complainant,
- Interview with the complainant,
- Interview with the Reeve,
- Interviews with individual citizens recommended by the Reeve,
- Interviews with two council members,
- Interview with the CAO in place at the time these events occurred,
- The Procedures By-Law of the RM,
- Documents provided by the RM and,
- The Municipal Act.

BACKGROUND

The complaint alleges the Reeve disclosed confidential information outside of a closed session of the RM council. The complaint refers to a violation of Section 83(1)(d) of The Municipal Act, which states:

83(1) Each member of a council has the following duties:

(d) to keep in confidence a matter that is discussed at a meeting closed to the public under subsection 152(3) and that the committee decides to keep confidential¹ until the matter is discussed at a meeting of the council or of a committee conducted in public;

(d.1) to comply with the code of conduct for members of council;

The Procedures By-Law of the RM uses similar wording:

15.13 A member must keep in confidence a matter that is discussed at a meeting closed to the public under subsection 152(3) of The Act until the matter is discussed at a council meeting conducted in public.

Disclosing confidential information is one of the reasons for disqualification from office under Section 94(1)(h) of The Municipal Act, stressing the seriousness of this matter. The Act reads as follows:

94(1) A member of a council is disqualified from council if he or she

¹ It is important to note that this section refers to the committee as the group deciding what to keep confidential.

...

(h) breaches the requirement of confidentiality under clause 83(1)(d).

The Procedures By-Law also states a council member who breaches the confidentiality of a closed session of the RM council becomes disqualified from office. Both the Act² and the Procedures By-Law³ state disqualification is automatic if a council member breaches the confidentiality of a closed session of the RM council.

The fact that the disclosure of confidential information obtained through a closed session of council could result in the disqualification from office is emphasized in materials for new council members provided by the Association of Manitoba Municipalities.⁴

² The Municipal Act goes on to say:

Disqualified person must resign

95(1) A member of a council who is disqualified under this Act must resign immediately.

Application to court

95(2) If the member of a council does not resign immediately upon disqualification, the court may, on application, declare the member to be disqualified and his or her position on the council to be vacant.

...

Who may apply

95(4) An application for a declaration under this section may be made by the council or by 10 or more voters.

When application may be made

95(5) An application under this section must be made during the member's term of office.

Powers of court on application

95(6) After hearing an application under this section, the court may

- (a) declare the member to be disqualified and the member's position on the council to be vacant; or
- (b) dismiss the application.

³ It is noted that there is a typographical error in the wording of Section 15.14 of the Procedures By-Law. It should state Section 15.13 instead of 14.13 as written. It is clear that this section of the Procedures By-Law refers to the previous section and should be read as such.

⁴ Association of Manitoba Municipalities, *2022 Council Members Guide: Once Elected, What's Expected*, Portage la Prairie, MB, 2022. Pages 26 and 43.

ISSUE AND ANALYSIS

1. Did the Reeve violate Section 83(1)(d) of the Municipal Act when he disclosed confidential information outside of a closed session of the RM council or otherwise held in confidence by the RM?

The complainant believes the Reeve disclosed confidential that was discussed in a closed session of the RM council and, therefore, was to be kept confidential by all council members.

According to the former Chief Administrative Officer (CAO), the council of the RM entered in-camera discussions on May 15, 2023 in accordance with The Municipal Act, Section 152(3)(b)(iv) to deal with legal matters. The minutes for the council meeting confirm there was an in-camera portion of the meeting.⁵ The only people present for this discussion were the former CAO and the five members of council.

During this closed session of the RM council meeting, a council member raised a concern regarding a personnel issue. This item was not on the agenda but, given personnel matters are one of the approved reasons for closing a meeting to the public, council took the opportunity to discuss it. In the discussion, the former CAO advised council about various personnel matters.

According to the former CAO, they provided the RM council with an update on the personnel matters immediately following the conclusion of the June 1, 2023 Transportation Services Committee Meeting. According to the former CAO, only they and the five members of the RM council were present. The former CAO cautioned members of council that the session was confidential, similar to that of a closed session of council. The former CAO verbally advised council of the status of the personnel information under discussion, including the names of relevant persons.

The Reeve asked the former CAO at this June 1st meeting for certain information regarding the personnel matters under discussion. The former CAO could not confirm this information at that time but advised they would get back to the Reeve with the information.

Our office consulted with Municipal Governance and Advisory Services, part of the Department Northern and Municipal Relations, on the continuation of the confidentiality

⁵ Minutes are taken for the in-camera portion of the RM council meeting but are not disclosed to the public. The only resolution that can be made during the in-camera portion of the RM Meeting is a resolution to exit the in-camera portion of the meeting. No resolutions followed when the in-camera session was over.

requirements of closed meetings to subsequent information updates to council in an informal setting. They noted that, the confidentiality of the information disclosed during a closed session still applies to any subsequent meeting, including an ad hoc or informal meeting of council, until such time the RM council decides to make these matters public.

On June 8, 2023, the former CAO provided the Reeve an email confirming the information they had inquired about on June 1, 2023. Since this email dealt with a matter raised at a closed session of council, there was an expectation the information contained in the email was confidential.

Our office reviewed evidence showing from June 8 to 23, 2023, the Reeve sent several text messages to an individual referring to the personnel information shared at the June 1, 2023 closed council meeting. Sharing the confidential information, which was received in a closed session of the RM council is, in itself, a violation of the confidentiality provisions of a closed session of the RM council.

According to the former CAO, the RM council went in-camera during the June 20, 2023 regular meeting in accordance with The Municipal Act, Section 152(3)(b)(ii) and (iv)⁶ and the meeting was closed to the public. The former CAO verbally advised the Reeve and the other four members of council of the status of the confidential information previously discussed. The former CAO advised identifying information was only shared with council members, and that they had taken other steps to address the matters raised.

In an interview with our office, the current Reeve stated all discussions on these matters took place during an open session of the RM council or, in the case of the events of May 15, 2023, in an open forum after the RM council meeting held on that day had come to an end.

⁶ This section of the Municipal Act states:

When council or council committee may close meeting

152(3) Despite subsections (1) and (2), a council or council committee may close a meeting to the public

...

(b) if the matter to be discussed relates to

...

(ii) an employee, including the employee's salary, duties and benefits and any appraisal of the employee's performance,

...

(iv) the conduct of existing or anticipated legal proceedings,

The Reeve also maintains items related to this personal health information of employees would not have been dealt with in a closed session of the RM council. As the Reeve commented:

"So, I don't know what the...what's so secret about it. The way I read the [Municipal] Act... that shouldn't even be an in camera item."

The Reeve also noted that, when the RM council goes into a closed session of the RM council, they retire to the nearby boardroom of the Keystone Planning District for their deliberations.

The complaint to our office included that another ratepayer who is not a council member had information about the matter discussed in a closed session. The complainant asserts the only way the ratepayer could know about this matter, is if the Reeve discussed a matter raised in a closed session of the RM council with them. The Reeve asserts these matters were discussed in an open session of the RM council⁷ or in an open forum after the RM council meeting was over, with members of the audience present, and that the ratepayer likely heard about it all at that meeting. The Reeve said two ratepayers called him after the meeting to inquire further about the topic.

As part of this investigation, we interviewed the two citizens identified by the Reeve as witnesses to his version of events on May 15, 2023. In these interviews, the two individuals offered two different accounts of the events that took place. They both stated the former CAO did not attend the closed session of the RM council meeting and, instead, stayed in the council chambers to chat with the members of the audience, including the two witnesses. One individual stated the former CAO, out of frustration with the various challenges they were facing in the job, revealed the personal information in question.

The second individual also stated the former CAO stayed behind while the council members went into the closed session. This individual remarked that the former CAO revealed the personal information of an individual but stated the former CAO did not mention a specific name.

We asked the former CAO if they stayed behind while the RM council went into closed session on May 15, 2023. The former CAO stated they did not stay behind. Instead, they stated it was their regular practice to attend closed sessions of the RM council. The only

⁷ It should be noted that there are no agenda items referring to this matter in the minutes of either the May 15, 2023 or the June 20, 2023 RM council meetings.

time they would not be in the closed session would be those times when the former CAO was the topic under discussion.

In interviews with two council members, both confirmed the former CAO attended the closed session of the RM council on May 15, 2023. They also said the former CAO brought up the personnel information in the closed session of the RM council meeting.

Regarding the text messages sent by the Reeve starting on June 8th, the current Reeve said he was trying to resolve the subject issue in an informal manner. However, the evidence obtained in our investigation reveals that the former CAO received written confirmation on June 7th that this issue had been resolved, and the Reeve was informed by email of the resolution on June 8th.

Section 83(1)(d) of The Municipal Act establishes a duty of confidentiality that applies to council members. Based on the language of the provision, three things must occur for the duty to apply:

1. a matter must be discussed at a meeting closed to the public under subsection 152(3) of the Municipal Act (the closed meeting requirement);
2. Council must decide to keep the matter confidential (the confidentiality requirement); and
3. the matter must not have been discussed at a public meeting (the public disclosure requirement).

In this case, the meeting was closed under 152(3)(b)(iv) of the Municipal Act to discuss a legal matter.

During the meeting, council began discussing a personnel issue. Under 152(3)(b)(ii) of The Municipal Act, council can discuss matters such as employee performance, pay and benefits in a closed meeting. Based on the evidence of the former CAO, the council members we interviewed, and the subject matter of the discussion, we are satisfied that the matters discussed during the closed portion of council's May 15, 2023 meeting met the closed meeting requirement.

Regarding the confidentiality requirement, Section 15.13 of the municipalities' Procedures By-Law (the By-Law) requires council members to keep in confidence matters discussed at closed meetings. Council passed an amended Procedures By-Law in the late fall of 2022, prior to May 15, 2023, meaning that they were individually and collectively aware of the provisions of this By-Law. Based on this fact, we are satisfied that council had agreed to keep matters discussed in closed meetings confidential.

We are also satisfied the information was not discussed at a public meeting prior to the Reeve's conversation with a ratepayer regarding the information, which the Reeve also referred to in a text message. This meets the public disclosure requirement.

CONCLUSION

The failure to keep in confidence a matter that is discussed at a meeting closed to the public under Section 152(3) of The Municipal Act until the matter is discussed by the RM council in a public meeting, is a serious matter. So serious that, if a council member discloses information from such a closed meeting, it results in their disqualification from office under both The Municipal Act and the RM's Procedures By-Law.

Based on our review of the evidence, and the weighing of the testimony provided, the Manitoba Ombudsman concludes the Reeve did disclose information from a closed session of the RM council that should have been held in confidence.

There is evidence and confirming testimony to support the information provided by the former CAO regarding their representation of events over time. There is evidence to support the former CAO's presence in the closed session of the May 15, 2023 RM council meeting, where the confidential information was first discussed. There is also evidence information was only provided to the RM council on June 1, 2023.

It was only after the former CAO provided the Reeve an update, through a confidential email on June 8, 2023, that the Reeve initiated a series of text messages in which they revealed the confidential information. If we are to believe the Reeve, that he knew about this information on May 15, 2023, there is no reason the Reeve would wait until June 8, 2023 to send these text messages.

The witnesses provided by the Reeve shared differing accounts about what the former CAO allegedly said to them. They were in agreement that the former CAO stayed behind while a closed session of the RM council took place. This is when the former CAO allegedly made the comments concerning the confidential personnel information. This is contrary to the timeline provided by the Reeve in their version of events.

We believe it is highly unlikely the former CAO absented themselves from a closed session of the RM council. Further, we have the confirmation of two council members⁸

⁸ There are a total of four councillors plus the Reeve who make up the RM council.

that the former CAO was in attendance during this closed session of the RM council meeting.

We believe all discussions related to the confidential personnel information were made during closed sessions of RM council meetings and in related gatherings and communications to council where confidentiality was expected.

We find the Reeve's statements about the discussion of confidential personnel matters not requiring a closed session and discussing such matters in open sessions of the RM council, contrary to the provisions of the Municipal Act. These provisions govern when a municipal council can go into a closed session to discuss confidential matters.⁹ The Act states:

When council or council committee may close meeting

152(3) Despite subsections (1) and (2), a council or council committee may close a meeting to the public

...

(b) if the matter to be discussed relates to

...

(ii) an employee, including the employee's salary, duties and benefits and any appraisal of the employee's performance,

The matter under discussion clearly falls under this provision of the Act. The belief that confidential personnel matters can be discussed during open sessions of the council undermine the credibility of the Reeve regarding his account of events.

A RESPONSE TO THIS REPORT

Under Section 28 of The Ombudsman Act, any person, public body, or organization who may be adversely affected by a report from the Ombudsman must have the opportunity to make representations in respect of the matter. The Reeve was given this opportunity and provided a response to our office.

The Reeve asserted that the former CAO revealed the personnel information, not himself, when there were ratepayers in the council chambers. The Reeve also noted the only in-camera discussion referred to in the agenda for the May 15th meeting related to a legal

⁹ Council meetings are by default open to the public. The decision to go in-camera must not be taken lightly and must meet the stringent criteria set out in The Municipal Act.

matter and there are no minutes of the closed session of the RM council meeting to show the personnel matters were discussed.

The Reeve stated that the provisions of The Municipal Act that allow for closed meetings would not have applied to the information discussed, and that the specific information was not confidential.

The Reeve stated that they acted in good faith and had been told to contact the person subject of one of the personnel matters on this issue. The Reeve also stated that the former CAO had previously discussed matters during closed sessions which was contrary to The Municipal Act.

Evidence collected in our investigation does not support the Reeve's perspective. As noted above, based on interviews with the former CAO and two council members, we are satisfied the information subject of this complaint was discussed during the closed session of the RM council meeting of May 15, 2023.

In our view, the lack of minutes documenting the discussion does not outweigh the other evidence or establish that the matter was not discussed in a closed session. Nor does it invalidate the need to keep the information discussed confidential. The item not appearing on the agenda as an in-camera item also does not establish that it was not discussed, nor does it invalidate the need to keep the information confidential.

The Reeve raised the point that the information subject of the complaint was not confidential and pointed to the minutes of an August 17, 2021 meeting, posted on the RM's website, as supporting this view. In our view, this does not negate the duty of confidentiality that would apply to matters discussed during the May 15, 2023 closed session.

The Reeve stated the former CAO failed to do their job when they turned down the request by the Reeve to take certain actions related to the matter, and instead, asked the Reeve to take on this task. The Reeve stated he was acting in good faith when he sent the text messages noted herein.

Regardless of the Reeve's stated intentions, the contents of some of the text messages referred to earlier in this report do not demonstrate good faith, but rather poor conduct. Further, the text messages were sent the day after the former CAO informed the Reeve that the matter was resolved. There would have been no reasonable basis for the Reeve to send the text messages when the matter had been fully addressed the day prior. In addition, the content of the text messages themselves are evidence the Reeve disclosed

confidential information which was discussed during a closed session of the RM council meeting.

The Manitoba Ombudsman emphasizes any information brought up during a closed session of a RM council meeting is confidential, and must be kept confidential, by council members.

RECOMMENDATIONS

Recommendation One

The Manitoba Ombudsman recommends the RM council and CAO receive training on their responsibilities under Section 83(1)(d) of The Municipal Act. This would include items that should be considered in a closed session of a RM council meeting, as well as the procedures to close a meeting.

Recommendation Two

The finding that the Reeve disclosed confidential information outside a closed session of the RM council meeting is contrary to Section 83(1)(d) of The Municipal Act. Further, Section 94(1) of The Municipal Act and Section 15.14 of the Procedures By-Law states this action disqualifies the person from office. In accordance with Section 95(1) of The Municipal Act, "A member of a council who is disqualified under this Act must resign immediately."

If, upon receipt of this report, it is recommended the RM council:

1. Consider whether the Reeve has been disqualified from council for breaching Section 83(1)(d) of the Municipal Act and Section 15.14 of the RM's Procedures By-Law; and
2. Consider whether it is necessary to bring an application under Section 95 of The Act for a declaration that the Reeve be disqualified and their position be vacated.

Recommendation Three

It is the responsibility of the RM to protect the confidential information in its custody. While the disclosure of this information was due to actions of one member of council, this action reflects on council as a whole. Therefore, we make the following recommendation.

1. Council should issue a formal apology to the complainant.

THE RESPONSE OF THE RM COUNCIL

In a meeting held on October 17, 2024, the RM council accepted all three recommendations made by the Manitoba Ombudsman.

Regarding Recommendation One, the municipality is currently in discussion with Municipal Governance and Advisory Services of Manitoba Municipal and Northern Relations on the provision of training to the RM council. This recommendation is in progress.

Regarding Recommendation Two, the Reeve initially refused to resign on the receipt of the report, so the RM was preparing an application to the courts. However, the Reeve resigned from their position on April 7, 2025. This recommendation is complete.

Regarding Recommendation Three, the RM council confirmed the text of the apology letter on June 17, 2025 and a letter to the complainant was sent out shortly afterwards. This recommendation is complete.

Manitoba Ombudsman