

Tri-County Water Board of Management

Agenda

August 20, 2026, 7:00 p.m.

Electronic Participation Meeting via Zoom

Zoom Link: <https://us02web.zoom.us/j/87077721728?pwd=MFncBTb3aLyojfe5bbXFXLtPj75MGT.1>
Pages

1. **Call to Order**

2. **Adoption of Agenda**

Recommendation:

That Tri-County Water Board hereby adopts the Agenda for August 20, 2026, as presented.

3. **Disclosure of Pecuniary Interest**

4. **Adoption of Previous Meeting Minutes**

1

Recommendation:

That the Tri-County Water Board hereby adopts the minutes of August 11, 2026, as presented.

5. **Business Arising from Minutes**

6. **Items of Discussion**

6.1 **Final Ombudsman Report, Dated August 17, 2026**

5

Recommendation:

That Tri-County Water Board hereby endorse the findings and recommendations received in the Ontario Ombudsman Report, dated August 17, 2026.

7. Adjournment

Recommendation:

That the Tri-County Water Board hereby adjourn at _____ pm, to meet again at 7:00pm, on Tuesday, September 18, 2026, or at the Call of the Chair.

Tri-County Water Board of Management

Minutes

Date: August 11, 2026, 7:00 p.m.

Location: Rodney Recreation Centre
135 Queens Line
Rodney, ON

Present: Allan Mayhew, Southwest Middlesex
Taraesa Tellier, West Elgin
Mike Hentz, Dutton Dunwich
Amarilis Drouillard, Dutton Dunwich
Bill Denning, West Elgin
Don McCallum, Southwest Middlesex
Kevin Derbyshire, Newbury
Mike Sholdice, Southwest Middlesex
Ryan Statham, West Elgin
Darren Galbraith, Chatham-Kent
Philip Sousa, West Elgin

Regrets: Corey Pemberton, Dutton Dunwich

Staff Present: Terri Towstiuć, Recording Secretary/Clerk, West Elgin
Robin Greenall, CAO, West Elgin
Amanda Gubbels, CAO, Southwest Middlesex
Emma Nilsson, Treasurer, West Elgin

Regrets: Cathy Case, Clerk/Treasurer, Newbury
Tony Houad, CAO, Dutton Dunwich

This meeting was held in a Hybrid format

1. Call to Order

Vice-Chair Mike Sholdice called the meeting to order at 7:02 pm.

2. Adoption of Agenda

Moved: Bill Denning, West Elgin

Seconded: Allan Mayhew, Southwest Middlesex

That Tri-County Water Board hereby adopts the Agenda for August 11, 2026, as presented.

Disposition: Carried

3. Disclosure of Pecuniary Interest

No disclosures

4. Adoption of Previous Meeting Minutes

Recording Secretary noted an error in the previous minutes. The minutes indicated Cathy Case, Administrator for Village of Newbury, was presented, however she was not present for the July 8, 2026, meeting.

Moved: Mike Hentz, Dutton Dunwich

Seconded: Don McCallum, Southwest Middlesex

That the Tri-County Water Board hereby adopts the minutes of July 8, 2026, as amended.

Disposition: Carried

5. Business Arising from Minutes

None.

6. Presentation of Draft 2025 Financial Statements, Christene Scrimgeour, Auditor

Moved: Bill Denning, West Elgin

Seconded: Mike Hentz, Dutton Dunwich

That Tri-County Water Board hereby receive and approve the 2025 Draft Financial Statements, as presented by Christene Scrimgeour, Auditor.

Disposition: Carried

7. Closed Session

Moved into Closed Session at 7:18pm.

Moved: Mike Hentz, Dutton Dunwich

Seconded: Don McCallum, Southwest Middlesex

That Tri-County Water Board hereby move into Closed Session to discuss matter pursuant to the Municipal Act, Section 239(3)(b), *an ongoing investigation respecting the municipality, a local board or a municipally controlled corporation by the Ombudsman appointed under the Ombudsman Act*; And

Section 239(2)(i), being 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.*

Disposition: Carried

8. Report from Closed Session

Report from Closed Session at 7:42pm.

Tri-County Water Board received two (2) items pursuant to Section 239 of the Municipal Act for information purposes, with further discussion to take place in Open Session.

9. Staff Reports

9.1 A. Gubbels, Project Manager

Southwest Middlesex CAO advised that the board received two (2) consulting proposals; Pine Haddad Consulting in the amount of \$73,900 and Collier Project Leaders in the amount of \$74,525.

Moved: Allan Mayhew, Southwest Middlesex

That the Tri-County Water Board:

1. Receive the report entitled *Tri-County Water System – Governance and Strategic Review Update* for information; and
2. Proceed with consideration of the confidential proposals received for consulting services associated with the approved governance and strategic review through the related closed-session agenda item.
3. Direct administration to move forward with Pine Haddad Consulting, for the purpose of a Project Manager.

10. Correspondence

Moved: Mike Hentz, Dutton Dunwich

Seconded: Bill Denning, West Elgin

That all correspondence be received and filed.

Disposition: Carried

10.1 Letter from West Elgin Resident A. Cammaert

11. Adjournment

Moved: Philip Sousa, West Elgin

Seconded: Mike Hentz, Dutton Dunwich

That the Tri-County Water Board hereby adjourn at 7:53 pm, to meet again at 7:00pm, on Thursday, August 20, 2026 (Virtual Meeting), or at the Call of the Chair.

Disposition: Carried

Mike Sholdice, Vice-Chair

Terri Towstiuc, Recording Secretary



BY E-MAIL

August 17, 2026

Tri-County Water Board
c/o Terri Towstiuic, Clerk
Municipality of West Elgin
22413 Hoskins Line
Rodney Ontario, N0L 2C0

Dear Members of the Tri-County Water Board:

Re: Report – Office of the Ontario Ombudsman

I have completed my investigation into a meeting held by the Tri-County Water Board for the Village of Newbury and the Municipalities of Chatham-Kent, Dutton Dunwich, Southwest Middlesex, and West Elgin.

In accordance with subsection 14.1(8) of the *Ombudsman Act*, the Board should make my report available to the public, and we ask that this be done no later than the next meeting. In accordance with subsection 239.2(12) of the *Municipal Act, 2001*, the Board should pass a resolution stating how it intends to address this report.

Pursuant to subsection 14.1(9) of the *Ombudsman Act*, I will also post a copy of the report on my website at www.ombudsman.on.ca.

Sincerely,

A handwritten signature in black ink that reads 'Barb Finlay'.

Barbara Finlay
Acting Ombudsman of Ontario



Ombudsman Report

**Investigation into a meeting held by the
Tri-County Water Board for Chatham-Kent, Dutton Dunwich,
Newbury, Southwest Middlesex, and West Elgin**

**Barbara Finlay
Acting Ombudsman of Ontario**

August 2026

Complaint

- 1 My Office received a complaint that the Tri-County Water Board (the “Board”) for the Village of Newbury and the Municipalities of Chatham-Kent, Dutton Dunwich, Southwest Middlesex, and West Elgin held a meeting in West Elgin on December 9, 2025 that did not comply with the open meeting rules in the *Municipal Act, 2001* (the “Act”).¹ The complainant raised concerns that the closed meeting discussion on this date did not fit within the cited exception to the open meeting rule for education or training.
- 2 My investigation determined that the discussion fit within the exception. However, I found that the Board contravened the Act by voting informally in closed session.

Ombudsman jurisdiction

- 3 Under the *Municipal Act, 2001*, all meetings of council, local boards, and committees of either of them must be open to the public, unless they fall within prescribed exceptions.
- 4 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. Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.
- 5 The Ombudsman is the closed meeting investigator for a majority of the member municipalities to the Board, including West Elgin, which administers and hosts the Board’s meetings.
- 6 When investigating closed meeting complaints, we consider whether the open meeting requirements of the Act and the applicable governing procedures have been observed.
- 7 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

¹ SO 2001, c 25.

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.

- 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.

Investigative process

- 9 On March 20, 2026, we advised the Board of our intent to investigate this complaint.
- 10 We spoke with West Elgin's Clerk and CAO, the Chairperson for the Board at the time of the meeting, and the solicitor who gave a presentation in closed session. We also reviewed the open and closed minutes and agenda for the meeting, the PowerPoint presentation given at the meeting, and the memorandum circulated to member municipalities after the meeting.
- 11 My Office received full co-operation in this matter.

Background – Tri-County Water Board

- 12 The Tri-County Water Board is a joint board created by the Village of Newbury and the Municipalities of Chatham-Kent, Dutton Dunwich, Southwest Middlesex, and West Elgin to assist in providing clean, safe drinking water to residents.
- 13 The Board is currently composed of 13 members, including a chairperson, and 11 are council members in the participating municipalities. The Board does not have its own terms of reference and instead relies on West Elgin's procedural by-law. Its meetings are held in, and administered by, West Elgin.

- 14 The Act defines a “local board” as “a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities”.² To constitute a local board, a body’s activities must also be “integral to the day-to-day operations of the business of the municipality”.³
- 15 The Board was established and operates as a joint municipal service board under the Act.⁴ As a joint municipal service board that assists with the provision of safe drinking water to residents of its partner municipalities, the Board constitutes a local board under the Act. It is subject to the open meeting requirements.

December 9, 2025 meeting

- 16 The Board met on December 9, 2025, and after calling the meeting to order, resolved to enter closed session under the exception for education or training.
- 17 In the closed session, the Board received a presentation from its solicitor about the rules and nature of municipal services corporations. My Office was told that at this time, the Board was considering transitioning to becoming a municipal services corporation, and the presentation was to educate the Board on the subject.
- 18 The presentation was accompanied by a PowerPoint slide deck, which provided information about provisions under the Act relating to municipal services corporations, general benefits and drawbacks, a general financial overview, and an overview of the typical structure of a municipal services corporation. Members asked questions about how municipal services corporations function, which were answered by the solicitor.
- 19 The minutes note that “it was established” that a communication be sent to council members for the partner municipalities, and an “administrative direction” was provided to West Elgin’s CAO to draft and provide a summary memorandum of the presentation.

² *Supra* Note 1 at s. 1(1).

³ *Ibid.*

⁴ Municipality of West Elgin, *Tri-County Water Board Financial Statements*, 31 December 2024, online: <<https://www.westelgin.net/public/download/files/347318>>.

- 20 I understand from interviews my Office conducted that the Board came to a verbal consensus to provide this direction, rather than voting on a formal resolution.

Analysis

Exception for education or training, s. 239(3.1)

- 21 The Board relied on the exception for education or training to close its December 9, 2025 meeting. This exception allows a meeting to be closed to the public if it is held for the purpose of “educating or training” members, and if no member discusses or otherwise deals with a matter in a way that materially advances the business or decision-making of the municipality, local board, or committee. Business or decision-making is likely to be materially advanced where a specific proposal, course of action, or strategy is discussed or debated.⁵
- 22 My Office has previously determined that the exception for education or training is narrowly construed. It will only apply to closed session discussions that are solely for the purpose of educating or training council members.⁶ Any attempt to rely on this exception must be carefully scrutinized.⁷
- 23 At its December 9, 2025 meeting, the Board received information about the benefits, structure, and general function of municipal services corporations. The information provided in the presentation was general and unspecific to the Board itself.
- 24 The Board received information, but did not apply it to any discussion or debate. I’m satisfied that, for example, the Board did not discuss or debate whether it should become a municipal services corporation.
- 25 Consequently, I’m satisfied the Board did not materially advance any business or decision-making in closed session. The closed meeting in which the council learned about municipal services corporations fit under the exception to the open meeting rule for education or training.

⁵ *Grimsby (Town of), Lincoln (Town of) and West Lincoln (Township of) (Re)*, 2024 ONOMBUD at para 27, online: <<https://canlii.ca/t/k6vh1>>.

⁶ *Welland (City of) (Re)*, 2014 ONOMBUD 7, at para 57, online <<https://canlii.ca/t/gtmhx>>.

⁷ Ontario Ombudsman, *The ABCs of Education and Training: Investigation into City of Oshawa Development Services Committee Special Meeting of May 22, 2008* (March 2009) at para 29, online: <<https://www.ombudsman.on.ca/en/our-work/municipal-meetings/city-oshawa-abcs-education-and-training-march-23-2009>>.

Voting

- 26** Section 239(6) of the Act permits voting in closed session only if a vote is procedural or to direct staff, and the meeting is closed under section 239(2) or 239(3). No votes are permitted in a meeting closed under section 239(3.1) for education or training.
- 27** My Office has determined that reaching a “verbal consensus” is a vote of council for the purposes of the open meeting rules, as it reflects coming together to make a decision.⁸ Although the Board did not formally vote, it made a decision by consensus, which constitutes a vote of the Board in closed session. The Board could have concluded the closed portion of its meeting, and reconvened in open session to conduct a vote on this direction.
- 28** Because no votes can be taken in a session closed under the exception for education or training, this vote contravened the open meeting rules.

Opinion

- 29** My investigation found that the Tri-County Water Board contravened section 239(5) of the *Municipal Act, 2001* on December 9, 2025, when it conducted an informal vote during a meeting closed under the exception for education or training.
- 30** My investigation found that the discussion itself in the closed session on December 9, 2025 fit within the exception for education or training.

Recommendations

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

Recommendation 1

All members of the Tri-County Water Board should be vigilant in adhering to their individual and collective obligation to ensure that it complies with its responsibilities under the *Municipal Act, 2001*.

⁸ *Plympton-Wyoming (Town of) (Re)*, 2021 ONOMBUD 4, online: <<https://canlii.ca/t/jd49k>>.

Recommendation 2

The Tri-County Water Board should ensure that when discussing matters in closed session under the exception for education or training within section 239(3.1) of the *Municipal Act, 2001*, no votes be taken, including decisions made by consensus.

Report

- 32 Board members of the Tri-County Water Board were given the opportunity to review a preliminary version of this report and provide comments to my Office. Any comments received were considered in the preparation of this final report.
- 33 This report will be published on my Office's website and should be made public by the Tri-County Water Board as well. In accordance with section 239.2(12) of the *Municipal Act, 2001*, the Board should pass a resolution stating how it intends to address this report.



Barbara Finlay
Acting Ombudsman of Ontario