

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

ORDER MO-3613

Appeal MA17-3

Municipality of Chatham-Kent

May 28, 2018

Summary: The Municipality of Chatham-Kent (the municipality) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* for access to the municipality's costs for alternative ambulance and fire service delivery models.

This order finds that the information at issue in the record regarding the municipality delivering these services itself is not exempt under the discretionary closed meeting exemption in section 6(1)(b) or the discretionary exemptions for economic or other interests in sections 11(a), (c), (e), (f) and (g). The municipality is ordered to disclose the information at issue in the record.

Statutes Considered: *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, sections 6(1)(b) and 11(a), (c), (e), (f) and (g); *Municipal Act, 2001*, sections 239(1)(b), (d) and (f).

OVERVIEW:

[1] The Municipality of Chatham-Kent (the municipality) received a request under the *Municipal Freedom of Information and Protection of Privacy Act* (*MFIPPA* or the *Act*) for access to:

A copy of all supporting evidence and documentation detailing total financial, operational costs: direct, indirect and associated with the Implementation, cost of 1st year and subsequent years' annual costings of operation for proposals A; B; C as submitted in "preliminary" only by

administration to council and the public on June 27/2016, respecting the FIRE/EMS amalgamation of services and alternatives described under proposal A; B.

[2] The municipality located the responsive records and issued a decision granting partial access to them. The municipality granted full access to the total financial and operational costs for proposals (Models) A, B and C. However, the municipality denied access to a Spreadsheet of Costing and Options for Models A, B and C, pursuant to the discretionary economic and other interest exemption in section 11 of the *Act*.

[3] The requester (now the appellant) appealed the municipality's decision.

[4] In the course of mediation, the appellant indicated that he was seeking all the supporting documentation/evidence that would support the municipality's final report to council and which would demonstrate and match the end results of each of the reports submitted to council and the public, as Models A, B and C respecting the FIRE/EMS amalgamation report.

[5] The municipality issued a decision granting access to additional information and stating:

Access to four open session slides relating to the cost comparisons were provided to you at your initial request. In addition, we are currently providing you bar graphs that were prepared for an open session meeting that occurred at a later date to help explain the models and options council had to choose from.

We are continuing to deny access to the closed session document and the following exemptions apply...

[6] The municipality cited sections 6(1) (closed meeting), 10(1) (third party information) and 11 of the *Act* to deny access to a Spreadsheet of Costing and Options for Models A, B and C.

[7] No further mediation was possible. As such, this file was transferred to the adjudication stage where an adjudicator conducts an inquiry.

[8] Representations were exchanged amongst the municipality, the appellant, and the affected party, which is a company that provides emergency ground ambulance pre-hospital care to the municipality, in accordance with section 7 of the IPC's *Code of Procedure* and *Practice Direction 7*.

[9] The appellant stated in his representations that the private costing of the affected party in Model A is not in issue and that he is only seeking access to the information in Models B and C. As section 10(1) was only claimed for Model A, and the appellant is not interested in receiving access to this model, section 10(1) is no longer

at issue.

[10] In this Order, I find that sections 6(1)(b) and 11(a), (c), (e), (f) and (g) do not apply to exempt Models B and C of the record. I find, further, that section 11 does not apply to exempt Models B and C of the record. I order the municipality to disclose the information under the Models B and C columns to the appellant.

RECORD:

[11] The municipality describes the record, a one-page Spreadsheet of Costs and Options for Models A, B, and C, as a single spreadsheet presented to council to lay out the financial implications of three alternative Ambulance Service delivery models that council could consider, as follows:

Model A - This model was a continuation of the contracted service with [the affected party] that was in place at the time of the relevant council meeting. This was the model ultimately selected by council;

Model B - This model involved bringing Ambulance Service work "in-house" and directly providing this service, instead of contracting the service out. This model would have resulted in the Ambulance Service continuing to operate as a standalone division of the municipality, which can be contrasted with the proposed Model C.

Model C - Like Model B, this model involved bringing Ambulance Service work "in house" and directly providing this service, instead of contracting the service out. However, it also proposed blending the Ambulance Service and Fire Service to produce a new division whereby staff would be hired and trained to provide both Fire and Ambulance Services. This is a novel approach to Fire and Ambulance Service delivery in Ontario.

[12] Only Models B and C are at issue in this order.

ISSUES:

- A. Does the discretionary economic and other interests exemption at sections 11(a), (c), (e), (f) or (g) apply to Models B and C of the record?
- B. Does the discretionary closed meeting exemption at section 6(1)(b) apply to Models B and C of the record?

DISCUSSION:

A. Does the discretionary economic and other interests exemption at sections 11(a), (c), (e), (f) or (g) apply to Models B and C of the record?

[13] Section 11 states in part:

A head may refuse to disclose a record that contains,

- (a) trade secrets or financial, commercial, scientific or technical information that belongs to an institution and has monetary value or potential monetary value;
- (c) information whose disclosure could reasonably be expected to prejudice the economic interests of an institution or the competitive position of an institution;
- (e) positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of an institution;
- (f) plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public;
- (g) information including the proposed plans, policies or projects of an institution if the disclosure could reasonably be expected to result in premature disclosure of a pending policy decision or undue financial benefit or loss to a person;

[14] The purpose of section 11 is to protect certain economic interests of institutions. Generally, it is intended to exempt commercially valuable information of institutions to the same extent that similar information of non-governmental organizations is protected under the *Act*.¹

[15] For sections 11(c) or (g) to apply, the institution must provide detailed and convincing evidence about the potential for harm. It must demonstrate a risk of harm that is well beyond the merely possible or speculative although it need not prove that disclosure will in fact result in such harm. How much and what kind of evidence is needed will depend on the type of issue and seriousness of the consequences.²

¹ *Public Government for Private People: The Report of the Commission on Freedom of Information and Individual Privacy 1980*, vol. 2 (the Williams Commission Report) Toronto: Queen's Printer, 1980.

² *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*, 2014 SCC 31 (CanLII) at paras. 52-4.

[16] The failure to provide detailed and convincing evidence will not necessarily defeat the institution's claim for exemption where harm can be inferred from the surrounding circumstances. However, parties should not assume that the harms under section 11 are self-evident or can be proven simply by repeating the description of harms in the *Act*.³

[17] The fact that disclosure of contractual arrangements may subject individuals or corporations doing business with an institution to a more competitive bidding process does not prejudice the institution's economic interests, competitive position or financial interests.⁴

Section 11(a): information that belongs to government

[18] For section 11(a) to apply, the institution must show that the information:

1. is a trade secret, or financial, commercial, scientific or technical information;
2. belongs to an institution; and
3. has monetary value or potential monetary value.

Part 1: type of information

[19] The municipality states that Models B and C for Ambulance Service Delivery was provided to council in order to consider whether Ambulance Services should be delivered directly by the municipality under these two models, rather than being delivered by the affected party, an external contractor.

[20] The municipality submits that the record contains financial information as it includes the cost changes between the various different staff level options and pricing practices, which could be used to determine overhead and operating costs of the models.

[21] The municipality also submits that the record contains commercial information as it includes information dealing with the exchange of ambulance services. It states that even though the exchange of services is between the municipality and itself, the nature of this matter dealt with an "in house bid" for ambulance service and thus this information is commercial in nature.

[22] The appellant did not address this issue directly.

³ Order MO-2363.

⁴ Orders MO-2363 and PO-2758.

Analysis/Findings re: part 1

[23] The types of information referred to by the municipality are listed in section 11(a) and have been discussed in prior orders:

Financial information refers to information relating to money and its use or distribution and must contain or refer to specific data. Examples of this type of information include cost accounting methods, pricing practices, profit and loss data, overhead and operating costs.⁵

Commercial information is information that relates solely to the buying, selling or exchange of merchandise or services. This term can apply to both profit-making enterprises and non-profit organizations, and has equal application to both large and small enterprises.⁶ The fact that a record might have monetary value or potential monetary value does not necessarily mean that the record itself contains commercial information.⁷

[24] The record is a spreadsheet with specific costing information. It clearly contains financial information. I disagree with the municipality that Models B and C of the record contain commercial information as these models are merely a listing of the municipality's own costs and does not relate to the buying, selling or exchange of merchandise or services by the municipality.

[25] As Models B and C of the record contain financial information, part 1 of the test has been met.

Part 2: belongs to

[26] The municipality states that Models B and C contain information that was generated by its staff regarding the delivery of ambulance services. It also states:

Model C relates to a novel approach of delivering Fire and Ambulance Service. This information would be recognized at law as belonging to the municipality; no other party has any legal interest in the information.

All of this information, if disclosed, would provide information to private ambulance service companies regarding the municipality's pricing etc. of the service. The value to this information is that it is not generally known to others.

[27] The appellant states that the record does not contain a novel approach to the delivery of fire and ambulance services and that he is requesting verifiable supporting

⁵ Order PO-2010.

⁶ Order PO-2010.

⁷ Order P-1621.

financial findings to substantiate the institution's final costing reports for Models B and C. He states that the plethora of private ambulance services and industry professionals in Ontario and in Canada cumulatively carry the largest collection of any alleged "novel" ideas and operational secrets. He states that these are not secrets once implemented and that these "novel" ideas would eclipse anything that the small Municipality of Chatham-Kent would propose to have or create.

[28] The municipality did not provide reply representations in this appeal.

Analysis/Findings re: part 2

[29] For information to "belong to" an institution, the institution must have some proprietary interest in it either in a traditional intellectual property sense – such as copyright, trade mark, patent or industrial design – or in the sense that the law would recognize a substantial interest in protecting the information from misappropriation by another party.

[30] Examples of information belonging to an institution are trade secrets, business-to-business mailing lists,⁸ customer or supplier lists, price lists, or other types of confidential business information. In each of these examples, there is an inherent monetary value in the information to the organization resulting from the expenditure of money or the application of skill and effort to develop the information. If, in addition, the information is consistently treated in a confidential manner, and it derives its value to the organization from not being generally known, the confidential business information will be protected from misappropriation by others.⁹

[31] I disagree with the municipality that the costing information in Models B and C is information that belongs to the municipality in accordance with section 11(a). The two models simply list the costs to the municipality of two options for the municipality itself delivering ambulance or fire and ambulance services. From my review of the information at issue and the municipality's representations, I do not see how the information is proprietary information such as copyright, trademark, patent or industrial design or that it is information that may be misappropriated by another party.

[32] Therefore, I find that part 2 of the test under section 11(a) has not been met.

Part 3: monetary value

[33] For the sake of completeness, I will consider whether part 3 applies.

[34] The municipality only claims that part 3 is applicable to Model C. Therefore,

⁸ Order P-636.

⁹ Order PO-1736, upheld on judicial review in *Ontario Lottery and Gaming Corporation v. Ontario (Information and Privacy Commissioner)*, [2001] O.J. No. 2552 (Div. Ct.); see also Orders PO-1805, PO-2226 and PO-2632.

without supporting evidence and based on my review of Model B, I find that part 3 is not met for Model B.

[35] Concerning Model C, the municipality states that it has developed this information and that the knowledge associated with this approach could be sold to other municipalities or ambulance service delivery companies. It states that the Province of Ontario is currently proposing two pilot projects for a crossover of Fire and ambulance service personnel and that this increases the likelihood that the information developed by the municipality will be sought by other Ontario municipalities. It states:

By way of comparison, the municipality is currently considering various revenue streams in the fire sector, including offering its training expertise to other municipalities for a fee. This demonstrates that the Municipal Fire & Emergency Service Division could reasonably be expected to monetize the information reflected in the record.

[36] The appellant states that a multitude of variations of the models have been so widely distributed and that a multitude of variations of similar if not identical operations have been discussed by many municipal councils and by respective jurisdictional media. He, therefore, submits that it is reasonably presumed any described novel ideas are generally known.

[37] The appellant states that although the municipality claims to consider (but has not yet implemented) to offer to sell its training expertise to other municipalities, such expertise is already controlled by the paramedic industry Canada-wide, as it is with any firefighter training. Additionally, he states that the municipality's firefighters collectively only possess standard first aid and CPR required certification and that it is unrealistic and inconceivable that the institution could successfully claim a monetary value for these services. He states that his position is further defended, in that his request is for disclosure of taxpayer funded costs, not the form, function, format or project structure.

Analysis/Findings

[38] To have "monetary value", the information itself must have an intrinsic value. The purpose of section 11(a) is to permit an institution to refuse to disclose a record where disclosure would deprive the institution of the monetary value of the information.¹⁰

[39] The mere fact that the institution incurred a cost to create the record does not mean it has monetary value for the purposes of this section.¹¹ Nor does the fact, on its

¹⁰ Orders M-654 and PO-2226.

¹¹ Orders P-1281 and PO-2166.

own, that the information has been kept confidential.¹²

[40] At issue are the proposed costs to the municipality as set out in Model C. Model C does not reveal the details of the ambulance or fire services. I cannot see any monetary value to other organizations in this information, which is specific to the municipality.

[41] I find that the information in Model C does not have monetary value or potential monetary value and part 3 of the test under section 11(a) has not been met.

[42] Accordingly, I find that section 11(a) does not apply to Models B or C.

Section 11(c): prejudice to economic interests

[43] The municipality states that Models B and C could be used by competitor private sector companies or unions to determine the estimated costs of the municipality and that this could be used to gain a competitive advantage against the municipality in negotiations, which would be to its economic detriment.

[44] The municipality states that it is on the leading edge of considering a new approach to fire and ambulance services by blending those services and that this approach required considerable effort to determine the estimated costs. It submits that this information could be sold to other municipalities or private sector companies who wish to pursue this approach to service delivery.

[45] The appellant disputes the municipality's claims under section 11(c) that the information is commercially valuable or is information unknown to other organizations. He states that that the information in Models B and C is merely the back-up financial documentation that would verify the final financial total costs submitted to council and the taxpayers by the municipality in its reports.

Analysis/Findings

[46] The purpose of section 11(c) is to protect the ability of institutions to earn money in the marketplace. This exemption recognizes that institutions sometimes have economic interests and compete for business with other public or private sector entities, and it provides discretion to refuse disclosure of information on the basis of a reasonable expectation of prejudice to these economic interests or competitive positions.¹³

[47] This exemption is arguably broader than section 11(a) in that it does not require the institution to establish that the information in the record belongs to the institution,

¹² Order PO-2724.

¹³ Orders P-1190 and MO-2233.

that it falls within any particular category or type of information, or that it has intrinsic monetary value. The exemption requires only that disclosure of the information could reasonably be expected to prejudice the institution's economic interests or competitive position.¹⁴

[48] I disagree with the municipality that a private sector company or union could use the information in the record to gain a competitive advantage against the municipality in negotiations, which would be to its economic detriment. The information is merely estimated costs for the models to the municipality for it to provide its own fire and ambulance services. As it is specific to the municipality, it is not reasonable to expect that this information could be sold to other municipalities or private sector companies to the prejudice of the municipality's economic interests.

[49] Therefore, I find that section 11(c) does not apply as disclosure could not reasonably be expected to prejudice the economic interests or competitive position of the municipality.

Section 11(e): positions, plans, procedures, criteria or instructions

[50] The municipality states that the financial information in Models B and C consists of plans for labour relations matters, insofar as it shows the estimated costs of the various delivery options and that these plans could include changes to job descriptions, wages, responsibilities and severances.

[51] The municipality states that labour relations contract negotiations may need to be carried out in the future should the municipality determine that "in-house" delivery of ambulance and fire services is the desired approach. It states:

The financial information is relevant to negotiations as it demonstrates the estimated costs of the various service delivery models considered by council. If disclosed this would be information that would give the unions and staff involved a competitive advantage during negotiations.

[52] The appellant states that disclosure of the information at issue does not involve the release of the specifics of positions, plans and procedures, or of certain criteria or instructions.

Analysis/Findings

[53] In order for section 11(e) to apply, the institution must show that:

1. the record contains positions, plans, procedures, criteria or instructions,

¹⁴ Orders PO-2014-I, MO-2233, MO-2363, PO-2632 and PO-2758.

2. the positions, plans, procedures, criteria or instructions are intended to be applied to negotiations,
3. the negotiations are being carried on currently, or will be carried on in the future, and
4. the negotiations are being conducted by or on behalf of an institution.¹⁵

[54] Section 11(e) applies to financial, commercial, labour, international or similar negotiations, and not to the development of policy with a view to introducing new legislation.¹⁶

[55] The terms "positions, plans, procedures, criteria or instructions" suggest a pre-determined course of action. In order for this exemption to apply, there must be some evidence of an organized structure or definition to the course of action.¹⁷

[56] This office has adopted the dictionary definition of "plan" as a "formulated and especially detailed method by which a thing is to be done; a design or scheme".¹⁸

[57] The section does not apply if the information at issue does not relate to a strategy or approach to the negotiations but rather simply reflects mandatory steps to follow.¹⁹

[58] As noted above, the information at issue is the municipality's estimated costs to deliver its own ambulance or fire and ambulance services. The municipality has not provided details as to how the actual estimated costs, which are global figures broken down by year for ambulance costs or fire and ambulance costs, can be used for negotiations.

[59] I find that the information at issue is not a "formulated and especially detailed method by which a thing is to be done; a design or scheme". Nor is this information a pre-determined course of action. It is just overall cost information to operate a municipal service.

[60] As well, I do not have sufficient evidence to determine how or whether the information at issue, the municipality's own internal overall costs to deliver its own ambulance and fire services, is information that is intended to be applied to negotiations.

[61] Therefore, I find that section 11(e) does not apply as the information at issue in

¹⁵ Order PO-2064.

¹⁶ Orders PO-2064 and PO-2536.

¹⁷ Orders PO-2034 and PO-2598.

¹⁸ Orders P-348 and PO-2536.

¹⁹ Order PO-2034.

Models B and C is not positions, plans, procedures, criteria or instructions to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

Section 11(f): plans relating to the management of personnel

[62] The municipality states that while neither Model B nor C was pursued by council, that either one could be used in the future for delivery of ambulance service. It further states that both models deal with managing ambulance personnel, and Model C also addresses managing fire personnel.

[63] The appellant disputes that the information at issue comes within section 11(f).

Analysis/Findings

[64] In order for section 11(f) to apply, the institution must show that:

1. the record contains a plan or plans, and
2. the plan or plans relate to:
 - a. the management of personnel, or
 - b. the administration of an institution, and
3. the plan or plans have not yet been put into operation or made public²⁰

[65] This office has adopted the dictionary definition of “plan” as a “formulated and especially detailed method by which a thing is to be done; a design or scheme”.²¹

[66] As set out in my findings regarding section 11(e), I disagree with the municipality that the information at issue is a plan. Therefore, I find that section 11(f) does not apply as Models B and C are not plans relating to the management of personnel or the administration of an institution that have not yet been put into operation or made public.

Section 11(g): proposed plans, policies or projects

[67] The municipality states that Models B and C can be considered projects, as the financial information demonstrates the estimated costs of the various service delivery models considered by council. It submits that this would be information that would give the unions involved a competitive advantage during negotiations.

[68] The municipality further states that the financial information contained in the

²⁰ Orders PO-2071 and PO-2536.

²¹ Orders P-348 and PO-2536.

record reflects potential instruction from council to municipal administration regarding the negotiation of future contracts. It states that:

It is impossible to negotiate the best possible "deal" for the municipality in labour relation negotiations, if the unions that may be involved already know what the municipality expects the cost to be. This amount then becomes the floor from which negotiations start. This could reasonably lead to an undue financial loss to the municipality.

[69] The appellant states that the record only shows end result costing or assumptions by the institution as to which model council should choose.

Analysis/Findings

[70] In order for section 11(g) to apply, the institution must show that:

1. the record contains information including proposed plans, policies or projects of an institution; and
2. disclosure of the record could reasonably be expected to result in:
 - a. premature disclosure of a pending policy decision, or
 - b. undue financial benefit or loss to a person.²²

[71] The term "pending policy decision" refers to a situation where a policy decision has been reached, but has not yet been announced.²³

[72] As set out above, I have found that the record does not contain proposed plans. I also find that it does not contain policies or projects. I also find that disclosure could not reasonably be expected to result in premature disclosure of a pending policy decision as neither Model B nor C was pursued by council.

[73] Nor do I find that disclosure of the costs at issue could reasonably be expected to result in undue financial benefit or loss to a person. Even if a union or other individuals knew the overall costs in for each model, the records does not reveal individual staffing costs that can be utilized by others.

[74] Therefore, I find that the last section 11 exemption claimed by the municipality, section 11(g), does not apply to the information at issue in the record.

²² Order PO-1709, upheld on judicial review in *Ontario (Minister of Health and Long-Term Care) v. Goodis*, [2000] O.J. No. 4944 (Div. Ct.).

²³ Order P-726.

B. Does the discretionary closed meeting exemption at section 6(1)(b) apply to Models B and C of the record?

[75] Section 6(1)(b) reads:

A head may refuse to disclose a record,

that reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public.

[76] For this exemption to apply, the institution must establish that

1. a council, board, commission or other body, or a committee of one of them, held a meeting
2. a statute authorizes the holding of the meeting in the absence of the public, and
3. disclosure of the record would reveal the actual substance of the deliberations of the meeting²⁴

[77] Previous orders have found that:

- “deliberations” refer to discussions conducted with a view towards making a decision;²⁵ and
- “substance” generally means more than just the subject of the meeting.²⁶

[78] Section 6(1)(b) is not intended to protect records merely because they refer to matters discussed at a closed meeting. For example, it has been found not to apply to the names of individuals attending meetings, and the dates, times and locations of meetings.²⁷

[79] The first and second parts of the test for exemption under section 6(1)(b) require the institution to establish that a meeting was held by the institution and that it was properly held *in camera*.²⁸

[80] In determining whether there was statutory authority to hold a meeting *in camera* under part two of the test, the purpose of the meeting needs to deal with the

²⁴ Orders M-64, M-102 and MO-1248.

²⁵ Order M-184.

²⁶ Orders M-703 and MO-1344.

²⁷ Order MO-1344.

²⁸ Order M-102.

specific subject matter described in the statute authorizing the holding of a closed meeting.²⁹

[81] With respect to the third requirement set out above, the wording of the provision and previous decisions of this office make it clear that in order to qualify for exemption under section 6(1)(b), there must be more than merely the authority to hold a meeting in the absence of the public. Section 6(1)(b) of the *Act* specifically requires that disclosure of the record would reveal the actual substance of deliberations which took place at the institution's *in camera* meeting, not merely the subject of the deliberations.³⁰

[82] The municipality states that the record was presented to council in a closed session meeting pursuant to section 239(1) of the *Municipal Act, 2001*, which provides that a council may be closed to the public if the subject matter being considered is,

- (b) personal matters about an identifiable individual, including municipal or local board employees; ...
- (d) labour relations or employee negotiations;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

[83] The municipality states that prior to holding the council meeting, notice of that meeting was provided in accordance with the municipality's procedural by-law.

[84] The municipality states that section 12(c) of the agenda for the open meeting provides that a closed session meeting may be held to discuss the Chatham-Kent Fire and Emergency Services Service Review and that prior to holding the closed session meeting, council passed a motion to go into a closed session meeting, as follows:

That council adjourn to Closed Session to discuss personal matters about identifiable individuals, labour relations or employee negotiations, and advice that is subject to solicitor-client privilege, including communications necessary for that purpose with regard to the Fire and Emergency Services Service Review. Section 239(2)(b), (d) and (f), *Municipal Act, 2001*.

[85] The municipality states that the record relates to:

- a. labour relations and employee matters, as all models could have required negotiations with the unions and staff involved;

²⁹ *St. Catharines (City) v. IPCO*, 2011 ONSC 2346 (Div. Ct.).

³⁰ Orders MO-1344, MO-2389 and MO-2499-I.

- b. identifiable individuals, as the staff impacted by the changes were limited to certain Ambulance Attendants and Firefighters;
- c. Solicitor-client privileged advice, as the matters discussed included advice on the contracts involved, and the instructions on future legal negotiations.

[86] The municipality submits that the financial information in the record reflects the information upon which council deliberated about the future delivery of ambulance service and that as with many labour relations and legal matters, the costs of each option are integral components to the deliberations.

[87] The appellant disputes that the information at issue in the record is about personal matters about identifiable individuals, labour relations or employee negotiations, or solicitor-client privileged information.

Analysis/Findings

[88] As stated above, the first and second parts of the test for exemption under section 6(1)(b) require the institution to establish that a meeting was held by the institution and that it was properly held in camera.

[89] The municipality states that its council was authorized to go into closed session because the record is about labour relations and employee matters, identifiable individuals, or solicitor-client privileged advice. I disagree with the municipality that Models B and C of the record contains such information.

[90] Based on the size of the amounts for costs set out in the record, I find that it is unreasonable to assume that any individuals could be identified. The record contains overall or global cost amounts for ambulance or fire and ambulance services estimated per year for the municipality to deliver these services itself. It does not break down these amounts by the type of staff involved, nor can I see how these global figures would be used in negotiating with unions or with staff in a labour relations or employment matter.

[91] Finally, although the municipality claims the information in the record is privileged because disclosure could reveal advice on contracts involved and the instructions on future legal negotiations, I cannot ascertain from these global figures how any such privileged information could be revealed.

[92] Accordingly, I find that the municipality was not authorized under sections 239(1)(b), (d) or (f) of the *Municipal Act, 2001*, to go into closed session to discuss Models B and C of the record.

[93] Therefore, I find that part 2 of the test under section 6(1)(b) has not been met as a statute does not authorize the holding of the meeting in the absence of the public.

[94] Even if I had found that part 2 of the test under section 6(1)(b) had been met, I would not have found that part 3 of the test had been met. I do not accept that the record reveals the substance of the deliberations at the closed meeting. These deliberations, according to the municipality, were about personal matters about identifiable individuals, labour relations or employee negotiations, and advice that is subject to solicitor-client privilege. The municipality has not provided sufficient evidence in the representations as to how the specific global figures in the record reveal such information, nor can I ascertain that information from the record.

[95] As parts 2 and 3 of the test under section 6(1)(b) have not been met, Models B and C of the record are not exempt under section 6(1)(b).

[96] As no other discretionary exemptions have been claimed for the information at issue in the record and no mandatory exemptions apply, I will order Models B and C of the record disclosed.

ORDER:

I order the municipality to disclose all of the information in the record, except for the information under the Model A column, to the appellant by **July 5, 2018** but not before **June 28, 2018**.

Original Signed by: _____
Diane Smith
Adjudicator

_____ May 28, 2018