



**TOWN OF MATTHEWS
BOARD OF COMMISSIONERS
INTERNAL INVESTIGATION REPORT**

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BACKGROUND

Matthews Board of Commissioners

The Town of Matthews (“the Town”) is governed by a Mayor and a Board of Commissioners (“the Board”) consisting of six at-large seats. The Mayor is a voting member of the Board. These elected positions are nonpartisan and include two-year terms. According to the Town’s website, the Board’s mission is to “represent the public interest, promote quick, courteous response to residents’ problems, provide leadership and direction to the Town’s future and ensure the present and future fiscal integrity of the municipal government.” Town of Matthews North Carolina. (2025, September 25). *Board of Commissioners*. <https://www.matthewsnc.gov/pview.aspx?id+20705&catid=0>

Legal Authority and Framework

While most of the Board’s meetings are public under the Open Meetings Laws of North Carolina, the Board is permitted to hold closed session meetings, which exclude the public, under specific circumstances as outlined in North Carolina General Statute §143-318.11 to include: (1) preventing the dissemination of privileged or confidential information, or information that is not within the public record; (2) preventing disclosure of information on an honorary degree, scholarship or prize; (3) preserving the attorney-client privilege and preserving discussions between the public body and their attorney; (4) discussing the location or expansion of businesses; (5) discussing information related to negotiating a contract or proposed contract for real property; (6) considering personnel matters relating to Matthews’ public employees; (7) conducting or hearing about investigations involving alleged criminal misconduct; (8) developing plans related to an emergency response to school violence; (9) discussing plans to protect the public from potential terrorist activity; and (10) reviewing recordings released based upon North Carolina General Statute §132-1.4A.

While North Carolina General Statute §143-318.11 also describes the procedural requirements for holding a closed session, this statute does not contain any enforcement mechanisms, penalties or remedies for a violation of its requirements. The municipal personnel confidentiality statute, North Carolina General Statute §160A-168, does note that “[a] public official... who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as permitted... is guilty of a Class 3 misdemeanor...”. Under the appropriate circumstances, this could include disclosure of closed session proceedings invoked under North Carolina General Statute §143-318.11(a)(6). However, the alleged closed session breach that is the subject of this investigation appears to have involved the disclosure of matters related to litigation, which is covered under G.S. §143-318.11(a)(3).

Beyond that, North Carolina General Statute §160A-86 requires municipal governing boards to “adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of the member’s official duties as a member of the governing board.” The statute requires the policy address, in relevant part, obeying all applicable laws regarding official actions as a board member, upholding the integrity and independence of the board member’s office, avoiding impropriety in the exercise of the member’s duties and faithfully performing duties.

In compliance with that statute, the Town of Matthews adopted such a code of ethics for its Board, which includes several relevant provisions including “[e]xhibiting trustworthiness,” “[r]ecognizing that [Board members] are part of a larger group and acting accordingly” and “[r]ecognizing that [Board members] are not generally allowed to act on behalf of the Board but may only do so if the Board specifically authorizes it, and that the Board must take official action as a body.” Moreover, the General Principles Underlying the Code of Ethics call for the “responsible exercise of the trust conferred by the people upon their elected officials” and “[g]overnmental decisions... must be made and implemented through proper channels and processes of the governmental structure.”

This includes each Board member’s fiduciary duty to act as a steward of the public trust. The Town’s code of ethics calls on Board members to “avoid impropriety in the exercise of their official duties. Their official actions should be above reproach... this board will consider impropriety in terms of whether a reasonable person who is aware of all of the facts and circumstances surrounding the board member’s action would conclude that the action was inappropriate.”

To that end, a board member’s failure to maintain the confidential nature of closed session meetings can expose local governments to liability. *See, e.g., Carlton v. Burke Cty. Bd. of Educ.*, 262 N.C.App. 176, 822 S.E.2d 146 (2018) (where the Court of Appeals affirmed that a local governing board can be liable in tort for breaching a duty of care in the mishandling of certain confidential information received in closed session). Thus, it is imperative for board members to understand that confidentiality is not imposed for the sake of confidentiality, and to understand that they may not draw their own conclusions about releasing information learned in a closed session. These restrictions are in place for the protection of the taxpayers of the Town.

The Board’s Rules of Procedures

The Board’s Rules of Procedures establish the rules and procedures to be followed by Board members on meeting quorum, open meetings, the types of meetings, the agenda, role of the presiding officer, motions and voting, ordinances, public hearings and comment periods, appointments and appointed bodies, and miscellaneous. Rule 4 of the Board’s Rules of Procedures states that the discussions held during closed sessions must be treated confidentially in order to protect the purpose of the closed session.

BASIS OF INVESTIGATION

On June 18, 2025, at the announcement of Commissioner Ken McCool's candidacy for a seat in the North Carolina House of Representatives, a member of the public ("Person 1") approached the Town Mayor, John Higdon, at an event and inquired as to why, during a closed session "about the choking of the black prisoner" on April 17, 2024¹, Mayor Higdon told the Board that former Town Manager, Becky Hawke, did a great job in handling a use of force matter and got rid of all the "rats," which was a term believed to refer to police officers.

The Mayor questioned the quote that Person 1 attributed to the Mayor in closed session. Person 1 kept saying that the Mayor "said that," and the Mayor affirmatively indicated that he would not "discuss what is discussed in closed session" and inquired how Person 1 knew what was discussed in closed session and, instead of indicating how he learned it, challenged the Mayor to investigate the matter as to how he knew.²

During the same event, Person 1 also questioned Commissioner McCool on whether he was involved in the April 17, 2024³ closed session meeting where Mayor Higdon made remarks about getting rid of "rats." In response, Commissioner McCool told Person 1 he could not discuss closed session conversations. Person 1 responded, "I can, you know why..." before he terminated the posted audio.

The above-described conversations between Person 1 and Mayor Higdon and Person 1 and Commissioner McCool were posted on a YouTube page believed to be maintained by Person 1, with the account handle @justiceforall1929.⁴

On August 21, 2025, Person 1 provided sworn testimony at an administrative hearing involving a Town personnel matter. During cross examination by Daniel E. Peterson-- the Town Attorney-- Person 1 testified that while he does not have a recording of a closed session he has discussed a closed session with someone who was in the closed session. Person 1 refused to provide the identity of who from the closed session he had talked with about closed session information as Person 1 said he believed he has a right not to answer that question for the protection of that person. Likewise, when directly asked, Person 1 refused to answer whether the individual was a commissioner.

After learning that someone present during the closed session had potentially provided confidential information from a closed session to a member of the public and

¹ While Person 1 specifically says the closed session occurred on April 17, 2024, there were no closed sessions held by the Board on such date. Instead, it is believed that the closed session at issue occurred on April 15, 2024.

² Person 1 also frequently posts the same claims on various social media accounts connected to him.

³ The Board did not hold any closed session meeting on April 17, 2024. Instead, the closed session at issue occurred on April 15, 2024.

⁴ <https://www.youtube.com/shorts/mUtJI58tDU4> (September 30, 2025)

that the member of the public had testified as such under oath, the Town Board unanimously authorized the Town Attorney, or his designee, to investigate potential breaches in closed session confidentiality. The investigation was led by Dena J. King and Daniel E. Peterson.

SCOPE & METHODOLOGY

The investigation focused on voluntary interviews, the review of documents and electronically stored information received pursuant to a documents request⁵, publicly available postings on the internet, including social media websites, and pertinent closed session meeting minutes. The investigators reviewed documentation, including emails, videos, and text messages. The investigators conducted sworn interviews with Mayor Higdon and four of the other six members of the Board--Commissioners Garner, McCool, Threatt, and Urban. The Town Clerk and former Town Manager were also interviewed by Ms. King. Mayor Pro Tem Hoover and Commissioner Tofano declined to make themselves available for an interview over the two-week period for which interviews were offered. The summation of the interviews that did occur are included in this report.

SUMMARY OF EVIDENCE GATHERED AND REVIEWED

Witness Interviews

In order to gather information on the potential breach of confidentiality of a closed session, interviews were requested of the entire Board. Mayor John Higdon ("Mayor Higdon") was interviewed on September 8, 2025. Mayor Higdon has served as the Mayor of Matthews for six years and is currently serving his third term. Prior to being elected as Mayor, he served three terms as a Commissioner in Matthews. Commissioner Renee Garner ("Commissioner Garner") was interviewed on September 8, 2025 and was elected to her position in November 2019. Commissioner Ken McCool ("Commissioner McCool") was interviewed on September 8, 2025 and has been on the Board since February 2020. He is also running for the 2026 North Carolina House of Representatives, District 105. Commissioner John Urban ("Commissioner Urban") was interviewed on September 9, 2025. He has served on the Board for approximately 14 years making him the longest serving Commissioner. Commissioner Leon Threatt ("Commissioner Threatt") was interviewed on September 12, 2025 and has been serving on the Board for the past 21 months. Mayor Pro Tem Gina Hoover ("Mayor Pro Tem Hoover") declined to be interviewed in person, requesting instead written questions. Commissioner Mark Tofano ("Commissioner Tofano") indicated he was not available for the interview.

⁵ A Request for Production of Documents and Electronically Stored Information was issued on August 29, 2025 to all Board members.

In addition to the Board, interviews were also conducted of other current and former Town employees. Town Clerk Lori Canapinno (“Clerk Canapinno”) was interviewed on September 19, 2025. Clerk Canapinno has been serving as the Town Clerk since January 2013 and previously served as the Deputy Clerk. Becky Hawke, Former Town Manager, (“Former Manager Hawke”) was interviewed on September 19, 2025. She served as the Town Manager from April 2022 until June 2025 and started as the Assistant Town Manager in February 2016.

A member of the public who is believed to have relevant information about the investigation was invited to voluntarily participate in a sworn interview. This belief was formed by his interactions with Person 1, particularly online via social media. This individual did not respond to the investigators’ request for an interview.

Given Person 1’s refusal to respond to lawfully propounded questions under oath in a hearing already, the investigators determined that (i) the testimony provided by Person 1 was likely the maximum information Person 1 would provide; and (ii) it would be futile to attempt to reinterview Person 1.

The participating witnesses provided consistency in their statements, which are summarized below.

Board Meetings

The Board meets regularly every second and fourth Monday of the month. These meetings are open to the public. Members of the public may also watch the meetings remotely as the meetings are livestreamed. Each regular meeting has a public comment period whereby members of the public can provide input and speak during the meetings. The Board also has closed session meetings, which are used to address topics such as the purchase of real property, litigation matters, attorney-client privileged discussions with the Town Attorney, or personnel matters.

Before transitioning into a closed session, there is a formal announcement accompanied by a vote to suspend open session and to enter a closed session.⁶ The Mayor then announces the individuals permitted in the closed session and the requisite legal statute for the closed session.

The witnesses described it as obvious when the Board transitions into a closed session. If there are members of the public that remain in the main assembly room

⁶ Though not dispositive, it is worth noting that all pertinent closed sessions that form the subject of this investigation were entered into unanimously and without objection by any board member. To be clear, dissent with the will of the majority of the Board to enter closed session would not alleviate the dissenter from their confidentiality obligations once therein. This observation is simply made to foreclose any argument that any individual board member did not consent to the closed session or believed entering closed session was improper.

after these announcements, the Town Clerk or someone will inform them that the Board is going into a closed session pursuant to the statute and those individuals are escorted out of the room. When a closed session transitions back to a regular session there is a process of opening up the doors and going back into the open session.

Confidentiality

The witnesses each described their understanding that closed session discussions are confidential and not to be shared with anyone that was not privy to the closed session. The Board has discussed the meaning of confidentiality collectively and individuals are informed of the confidentiality aspect when they are newly elected to the Board. The Town Attorney-- both Mr. Peterson and his predecessor, Charles Buckley-- have also periodically reemphasized that certain discussions should not be further discussed outside of closed sessions. These serve as reminders to the Board.

Based upon the rules of confidentiality, Mayor Higdon, Commissioner Garner, Commissioner McCool, Commissioner Urban, Commissioner Threatt, Clerk Canapinno, and Former Manager Hawke each said they have never shared with any unauthorized persons the discussions from a closed session meeting.

While not subject to questions during an interview, Mayor Pro Tem Hoover provided a statement as part of an email critical of the Town Attorney for conducting this investigation indicating she "did not leak any information" from the closed session at issue in this matter or any other closed session. This unsworn statement will be further discussed below in context of other information gathered and reviewed by the investigators.

The witnesses were not familiar with the specific date of the closed session described by Person 1, but all were familiar with this particular closed session as there was an extensive discussion during this closed session regarding the lawsuit, *Gray Media Group, dba WBTW v. Town of Matthews*. There were extensive discussions on this lawsuit during the closed session held on April 15, 2024. Additionally, witnesses recall Mayor Higdon making supportive statements regarding Former Manager Hawke and her handling of the alleged use of force incident during a closed session.

Mayor Higdon, Commissioner Garner, Commissioner McCool, Commissioner Urban, Commissioner Threatt, and Former Manager Hawke each said they never recorded the April 2024 closed session at issue in this matter or any closed session discussions. In her capacity as the town clerk, Clerk Canapinno records all meetings, including the closed sessions, in order to prepare the meeting minutes. After preparing the minutes, she deletes the audio recordings.

Documents Request

On August 29, 2025, a “Request for Production of Documents and Electronically Stored Information” was issued to the Mayor and All Board of Commissioners with a deadline of September 5, 2025. In response to the documents request, Mayor Higdon and Commissioner Garner provided responsive documents. Commissioner McCool, Commissioner Urban, and Commissioner Threatt each indicated they did not have any documents or electronically stored information responsive to the request.

Neither Mayor Pro Tem Hoover nor Commissioner Tofano responded to the documents request. Clerk Canapinno did not receive the formal documents request of the kind made to the Mayor and Board; however, she has provided documentation upon request from the investigators. Former Manager Hawke did not receive the documents request, as she is a former employee whose Town records are in the custody of the organization.

Person 1’s Recording of Conversation with Commissioner Tofano

As of the date of this writing, the aforementioned @justiceforall1929 YouTube page contains a recording containing Person 1’s voice and the voice of Commissioner Mark Tofano.⁷ The subject of the conversation is regarding Person 1’s opinions about an investigation performed on behalf of the Town. The recording appears to begin in the middle of an ongoing conversation and was likely recorded without Commissioner Tofano’s permission. It was posted on June 9, 2025 and is approximately 1 minute, 21 seconds long. It begins with Commissioner Tofano telling Person 1 to “keep going.” Commissioner Tofano indicates to Person 1 he “wants to hear all of this.”

Person 1 indicates that he was harassed in the police department when employed there and that he “recorded everything,” to which Commissioner Tofano responds “Wonderful.” Person 1 asks Commissioner Tofano if he knows about a terminated police officer. Commissioner Tofano indicates that he “wants to know all about this.” When Person 1 said the Mayor was a “liar,” Commissioner Tofano further engaged by saying in response, “I’m not going to disagree with you.”

Commissioner Tofano reiterated in the conversation that he “needs to know all of this” and “that this whole thing is absolutely fishy, and he was opposed to the entire thing.” Given the fragment of the conversation that the recording captured, it is unknown precisely what Commissioner Tofano opposed.

During the recording, it is clear that Commissioner Tofano is trying to end the conversation because of an impending commitment but invites further conversation repeatedly with Person 1.

⁷ <https://www.youtube.com/watch?v=f9ATwWQjwn8> (September 30, 2025)

This recording is included in this investigative report because it is direct evidence of a commissioner conversating with Person 1 in a non-adversarial communication. This recording is relevant because Person 1 testified under oath in response to questions from the Town Attorney that he received information about the closed session from someone inside the closed session. The conversation captured by the recording is not the entirety of said conversation, but the topic of conversation clearly relates to underlying issues that Person 1 alleges were made during the closed session that he purports to have received information about.

Before the start of this investigation, Commissioner Tofano generally denied disclosing this information, along with the Mayor and all commissioners. However, given that Commissioner Tofano did not make himself available for a sworn interview over a matter of weeks, despite voting to authorize the investigation, it is impossible to not now cast doubt on the credibility of that unsworn statement.

Commissioner Tofano's lack of participation also made it impossible to learn more about his interactions with Person 1, if any, before or after the conversation captured on the aforementioned recording.

Thus, based on the information available to the investigators-- including evidence of Commissioner Tofano's direct contact with Person 1-- and Commissioner Tofano's subsequent lack of participation in the investigation, we are unable to exclude Commissioner Tofano as Person 1's source in receiving information from a confidential closed session.

Breaches of Confidentiality

While none of the Board saw anyone record the April 15, 2024 closed session at issue or any closed session meetings, they described instances in which the Board has experienced breaches of confidentiality. Several of the witnesses recalled an incident during a closed session where Commissioner Garner reminded everyone to make sure their listening devices were turned off, including phones, to ensure no one was recording. Witnesses also recalled seeing Mayor Pro Tem Hoover fumble with her phone during a closed session and another commissioner asked whether she was recording the session.

Three specific occurrences involving Mayor Pro Tem Hoover's interactions with legal adversaries of the Town concerned many of the witnesses who were interviewed by the investigative team. Each of these instances will be reviewed, along with available supporting documentation for each instance.

I. *Jackson v. Town of Matthews*

Most of the witnesses recalled a specific instance in which information discussed during a closed session was later disclosed to the public. This involved the civil lawsuit of *Jackson v. Town of Matthews*, which was a matter that occurred a few years prior involving a right of way of a Matthews' citizen. Since this matter involved litigation, the Board had discussions with the Town Attorney at that time regarding the Town's legal strategy and course of action for the litigation. Then-Commissioner Hoover provided the Town's legal strategy to the petitioner and his attorney through oral statements and even shared with them written communication received from the former Town Attorney. Several witnesses indicate that Mayor Pro Tem admitted⁸ to the Board that she shared this information with the petitioner and his attorney. After this incident, the Board discussed why disclosing information from a closed session should not have happened.

This common anecdotal testimony is largely supported by the closed session meeting minutes of August 28, 2023 and emails secured from the Town dated June 13, 2023 and June 23, 2023 from Mayor Pro Tem Hoover's Town-maintained email account.

According to the closed session meeting minutes, then-Commissioner Hoover acknowledged that she sent an email communication from the then-Town Attorney, Charles Buckley, to opposing counsel in the *Jackson* case. The minutes reflect that several Board members objected to Commissioner Hoover's actions, including former Commissioner Whitley who pointed out that she "put herself in the middle of a lawsuit between the Town and Mr. Jackson," and that "[s]he shouldn't speak for the Board-- she can only speak for herself." Others echoed these concerns "about the actions taken outside of the Board as a whole."

Review of the aforementioned emails confirm that, on June 13, 2023, Commissioner Hoover solicited an update on the then-active *Jackson* lawsuit. On June 23, 2023 at 3:46 PM, Town Attorney Buckley responded via email, attaching a memorandum containing said update and including legal analysis about the then-active claim. Later that evening, at 8:46 PM, Commissioner Hoover relayed the Town Attorney's memorandum to the plaintiff in the lawsuit and copied his attorney on the correspondence.

II. *Gray Media v. Town of Matthews*

In another instance, several witnesses described that while the WBTV lawsuit has been pending, the Board would frequently discuss the matter during closed sessions, especially the allegations of police brutality. Several witnesses believed Mayor Pro

⁸ Since Mayor Pro Tem Hoover declined to be interviewed in person, investigators were unable to obtain a statement from her regarding these allegations.

Tem Hoover shared information discussed during closed sessions with a WBTV reporter.

Indeed, on April 12, 2024, WBTV-- the Town's adversary in the lawsuit underlying the subject breach of this investigation-- published a quote from Mayor Pro Tem Hoover indicating she requested the closed session that would take place on April 15, 2024, to discuss, *inter alia*, the lawsuit and the timeliness of reporting the lawsuit to the Board.⁹ WBTV obtained this quote directly from Mayor Pro Tem Hoover, who emailed the reporter about the topic. Even if confidential information was not shared in this specific circumstance, several Commissioners expressed concerns of the repeated conduct of Mayor Pro Tem Hoover having unilateral discussions with an adversary of the Town in active litigation about said litigation.

On April 15, 2024, the Board met in said closed session. According to the minutes, Town Attorney Buckley explicitly reminded that "everything discussed in closed session must remain confidential." Commissioner Garner requested that Board members "confirm that this meeting would be held in confidence and that no one except the Town Clerk was recording the meeting." Commissioner Threatt asked what about the matter could be discussed outside of closed session, to which Town Attorney Buckley responded, "that the statute says everything discussed in closed session must remain confidential, until the Board approves the release of that meeting."

In response, Mayor Pro Tem Hoover openly disagreed with Town Attorney Buckley about closed session confidentiality, referencing the UNC School of Government. In response, Commissioner Garner "reiterated her request, saying she'd like to make sure no one in here is recording, except for Ms. Canapinno." Mayor Pro Tem Hoover stated she was not.

Commissioner Garner led a conversation about the importance of closed session confidentiality, with Town Attorney Buckley explicitly advising the Board that breaching closed session confidentiality with regard to personnel matters can rise to the level of a misdemeanor and, while disclosing litigation matters does not rise to the level of a misdemeanor, it can expose the Town in lawsuits.¹⁰

Later in the meeting, Mayor Pro Tem Hoover acknowledged taking unilateral action to contact WBTV, that "she felt very strongly about this issue, and was so discouraged, that she sent an email to the reporter."

⁹ The Mayor and Board of Commissioners received notice of the lawsuit the same day it was received by the Town, four days after its filing by WBTV.

¹⁰ Likewise, the five board members who participated in the sworn interviews as part of this investigation generally agreed that there were potential financial consequences to the taxpayer when closed session confidentiality was breached.

The minutes are consistent with the reservations about Mayor Pro Tem Hoover's repeated violations of confidentiality by four of the five board members who were interviewed as part of this investigation. In the April 15 meeting, Mayor Higdon expressed concern that the Mayor Pro Tem had done damage to the Town by reaching out to a legal adversary, and that this was the third time she had done so. Commissioner Garner agreed and, according to the minutes, "pointed out that when someone is suing you, you shouldn't reach out to them for conversation. This is an ongoing theme with Ms. Hoover that she thought had been resolved."

III. Rezoning Application

In the final instance, several witnesses described what was not necessarily a breach of confidentiality, but what some described as a breach of trust. In this instance, the Town had approved a contentious rezoning matter and were advised by their former Town Attorney to limit the amount of times members of the public could speak during the zoning discussions, which had been the practice of the Town for decades. Some individuals believed that in instituting this practice, the Town was violating the First Amendment rights of the public, and lawsuits were threatened. Instead of addressing her concerns with the full Board to seek an internal resolution to this issue, Mayor Pro Tem Hoover consulted with an outside source for legal advice. While at least one witness believed Mayor Pro Tem Hoover shared confidential information obtained during a closed session with this outside source, several other witnesses admit that confidential information may not have been shared. However, these witnesses were bothered by Mayor Pro Tem Hoover's motivation to again discuss a legal issue involving the Town outside of conferring with the full Board and the Town Attorney.

Based upon these instances, several witnesses were not surprised to learn that a member of the public, Person 1, either had a recording or was made aware of information discussed during a closed session as they believed there were other instances involving breaches of confidentiality or breaches of the Board's trust.

Based on our review of the documentary evidence, the investigative team shares these concerns. The investigation revealed Mayor Pro Tem Hoover has a documented history of volunteering information and documents -- including confidential legal analysis from the then-Town Attorney-- to litigation adversaries of the Town. Mayor Pro Tem Hoover has specifically spoken to the adversary of the lawsuit that is the subject of this breach.

Proactively seeking to share information to selected litigation adversaries undermines public confidence in Town governance. Even if a commissioner disagrees with the underlying litigation position of the Town or the level of communication relating to the same, the appropriate action to take would be to refer the matter to the Board for joint discussion and decision, with the counsel of the Town Attorney, rather than taking the matter outside the Board or seeking legal analysis from attorneys who do not represent the Town.

April 15, 2024 Closed Session Meeting Minutes

As stated above, the April 15, 2024 closed session meeting minutes were reviewed as part of this investigation. As discussed above, when Person 1 confronted Mayor Higdon about the closed session on June 18, 2025, Person 1 incorrectly stated the date of the closed session as April 17, 2024, and referred to the topic of the closed session as being “when you had the closed session meeting about the choking of the black prisoner.” This is incorrect as well, but is telling for an important reason.

The closed session was primarily about the WBTV lawsuit concerning release of records concerning a use of force, but also personnel matters as it pertains to the underlying use of force incident. As stated in publicly-available records, the records at issue WBTV contends are public records pursuant to North Carolina General Statute § 132-1 and the Town contends are an employee’s personnel records and thus required to be kept in confidence pursuant to North Carolina General Statute § 160A-168.

However, two commissioners in the closed session focused on whether there was a “choking”-- Commissioner Tofano followed by Mayor Pro Tem Hoover. A review of the closed session minutes disclose that no other person present used the word “choking” except in response to Commissioner Tofano and Mayor Pro Tem Hoover’s questions on the subject.

According to the minutes, “Mr. Tofano believe[d] the heart of the matter is the word *choke*...”. (Emphasis in original.) Commissioner Tofano was of the impression that the lawsuit required-- and turned on-- the resolution of whether the terminated employee’s use of force was properly characterized as “choking” due to one of the allegations in the complaint filed by WBTV being that the terminated employee “choked a man in handcuffs.” This impression is mistaken because the lawsuit requires resolution of whether the records are public or personnel, not whether the use of force investigated was reasonable or how the lawsuit characterizes the use of force.

Mayor Pro Tem Hoover asked a question to inquire, if no “choking” occurred, why the employee was terminated, followed by her understanding of the situation.

Again, Person 1 testified under oath in an administrative hearing that he had received information about a closed session from a person inside the closed session. When he confronted the Mayor, he used the word “choke” to describe the topic of the closed session meeting. When he confronted Commissioner McCool, Person 1 declared that he was able to talk about the closed session meeting, “you know why...” before the audio curtailed.

Commissioner Tofano is the only person from inside that closed session meeting known to have direct non-adversarial contact with Person 1 and the conversation was at least related in part to the terminated employee from the use of force incident. Person 1 posted the audio from his conversation with Commissioner Tofano onto YouTube on June 9, 2025. He posted the audio of his confrontations with Mayor Higdon and Commissioner McCool on June 18, 2025.

Importance of Trust

Unfortunately, the aforementioned instances have led to a general lack of trust amongst some members of the Board. Witnesses describe the lack of trust issues beginning within the past few years and state that these issues impact the Board negatively.

CREDIBILITY DETERMINATION

The investigative team conducted interviews with several key witnesses, Mayor Higdon, Commissioner Garner, Commissioner McCool, Commissioner Urban, Commissioner Threatt, Clerk Canapinno and Former Manager Hawke. It appeared that each of the witnesses recognized the need for the investigation and took the interview process seriously. Each of these witnesses appeared forthcoming, honest, and helpful in the information they provided. There were a lot of consistencies in their statements regarding regular and closed meetings, their understanding of the confidentiality of closed meetings, and possible breaches of confidentiality. These consistencies added credibility to their testimonies. The witnesses answered every question posed to them and were given the opportunity to provide final and/or supplemental statements relevant to the investigation.

Conversely, Mayor Pro Tem Hoover and Commissioner Tofano are the only two commissioners who did not make themselves available to be interviewed under oath in this investigation. While both have made statements denying being the source of the breach in this instance, these statements were not sworn.

FINDINGS

Based upon the investigation, the investigative team makes the following findings:

- The Board holds regularly scheduled board meetings, which are open to the public, as well as closed session meetings, which are not open to the public.
- Closed session meetings are announced verbally with the statutory reference for the closed session meeting provided and voted upon.
- The Board's Rules of Procedures establishes the need for closed session discussions to be confidential.

- It is the understanding of participants in the closed session meeting that information discussed within those meetings should not be shared with anyone that was not present during or allowed to be present during that closed session meeting.
- The interviewed witnesses found it concerning whether someone either recorded a closed session meeting or relayed to the public confidential information that was discussed during a closed session.
- No one has admitted to recording any closed session meetings.
- No one has observed another person recording a closed session, although several witnesses believed it would be easy for someone to record such meeting.
- On June 18, 2025, Person 1 informed Mayor Higdon and Commissioner McCool that Person 1 was aware of statements made by Mayor Higdon during an April 2024 closed session meeting. While Person 1 stated this closed session occurred on April 17, 2024, the Board did not hold a closed session on that date. Instead, the Board's closed session was held on April 15, 2024.
- There is no evidence-- direct or circumstantial-- that Mayor Higdon used the word "rats" in reference to members of the Matthews Police Department ("MPD") as alleged by Person 1. Thus, any suggestion that he made this statement by Person 1 or anyone else is baseless.
- The full audio captured and published by Person 1 himself reveals that Mayor Higdon refuted the quote attributed to him by Person 1: "Was it? Was it?" Mayor's Higdon initial agreement with Person 1 that "it was in a closed session" was because Person 1 framed his question with that fact-- *i.e.*, that "on the April 17, 2024, (sic) when you had the closed session meeting about the choking of the black prisoner...". Based on the totality of the evidence, in the opinion of the investigators, Mayor Higdon's agreement that the meeting was "in closed session" was merely that.
- Troublingly, however, there is no known method to the investigators as to how Person 1 knew to characterize the closed session as one "about the choking of the black prisoner." The topic of the April 15, 2024 closed session had not been made public prior to June 18, 2025. While the closed session was not about that, but rather about an active lawsuit filed by WBTV related to the same use of force incident, the "choking" characterization overlaps with the opinions of two commissioners who were present in the April 15, 2024 board meeting-- Mayor Pro Tem Hoover and Commissioner Tofano.
- In the April 15, 2024, closed session meeting, Commissioner Tofano extensively questioned counsel about whether the merits of the lawsuit turned on whether the terminated MPD officer had "choked" the detainee or not.

- Likewise, Mayor Pro Tem Hoover indicated that it was her understanding from prior conversations that the MPD officer had “choked” the detainee and questioned why the officer “was fired if no choking occurred.”
- Again, while whether the officer “choked” the detainee is not at issue in the WBTV lawsuit, that Person 1 characterized the topic as such is evidence that Person 1 received the confidential information he testified under oath to have received.
- No other participant in the closed session used the word “choke” except in response to statements and questions made by Commissioner Tofano and Mayor Pro Tem Hoover.
- On August 21, 2025, Person 1 testified under oath in a North Carolina Administrative hearing that he did not have a closed session recording, but has discussed a closed session meeting with someone whom he refused to name to protect that person’s identity. When asked whether that individual was a member of the Board of Commissioners, instead of denying the fact, Person 1 refused to answer the question.
- Based upon the sworn statement used by Person 1 that he has received confidential information from someone privy to a closed session and his previous statements to Mayor Higdon and Commissioner McCool characterizing what was said during a closed session in a manner consistent with two participants in the April 15, 2024 closed session, it is highly likely that someone privy to a closed session meeting inappropriately shared information from that closed session meeting with Person 1.
- Based on the totality of the evidence collected and considered during this investigation, those who volunteered to be interviewed in this investigation demonstrated high levels of credibility regarding the breach of confidentiality. All interviewed demonstrated competence about the requirements and importance of confidentiality in closed sessions.
- Therefore, the investigators find it appropriate to *exclude* Mayor Higdon and Commissioners Garner, McCool, Threatt, and Urban, as well as the Town Clerk and former Town Manager as possible sources of the breach to Person 1.
- Mayor Pro Tem Hoover and Commissioner Tofano, however, did not participate in a sworn interview. They each have made unsworn statements denying being the source to Person 1. However, the described evidence in this report, makes it impossible to exclude these two commissioners as the source to Person 1.
- Accordingly, based on the totality of the evidence gathered in this investigation, it is significantly more likely than not that (i) there was a breach

in closed session confidentiality; (ii) that the breach occurred concerning at least the April 15, 2024 closed session; and (iii) that either Mayor Pro Tem Hoover or Commissioner Tofano were the source of the breach from the April 15, 2024 closed session that Person 1 claimed, under oath, to be protecting.

- The investigative team cannot conclusively and directly determine the individualized source of the breach at least in part as a result of each of their respective refusals to schedule an interview with the investigators nor respond to the document requests made to the entire Board, as well Person 1's refusal to answer a properly propounded question under oath.

CONCLUSION

The investigation substantiated concerns about a breach of confidentiality in closed session discussions, resulting in a lack of trust within the Board of Commissioners' ability to hold lawful closed sessions.

The actions of the source who breached the confidence of the Board's April 15, 2024 closed session undermined public confidence in the Board's ability to conduct valid closed session business as well as violating their fiduciary duty to the taxpayers of the Town. While we cannot conclusively determine the source, as discussed above, we find it highly likely that the source is one of the two individuals identified above based on the totality of the evidence gathered.

As part of this report, the investigative team includes recommendations to address its findings.

RECOMMENDATIONS

Based upon the investigation and in order to address the issues identified during the investigation, the investigative team makes the following recommendations to the Town of Matthews Board of Commissioners:

- Recommend that the Board begins each closed session with a reminder of the Rules of Procedure, specifically those rules pertaining to confidentiality of closed sessions.
- Recommend that the Board conclude each closed session with a discussion on what, if any, information discussed during that closed session may be talked about outside of the closed session, particularly with members of the public.
- Recommend that the Board adopt a Closed Session Confidentiality Policy, to be drafted by the Town Attorney, in a manner that is consistent with state law.

- Recommend that the Board's Code of Ethics be amended to explicitly forbid breaches in closed session confidentiality.
- Recommend that the Board take such action so as to limit the possibility of future breaches of closed session confidentiality by those reasonably believed to have engaged in breaches.
- Recommend that the Board adopt this investigative report and authorize the release of this investigative report and the underlying evidence-- to include the sworn interviews provided by participating board members, pertinent closed session meeting minutes (as presented in redacted form to protect personnel matters and active litigation), and pertinent email correspondence.