



MANAGEMENT REPORT

Date: July 8, 2024
To: Mayor and Council
From: Tatiana Dafoe, City Clerk
Report Number: COU24-071
Attachments: Appendix A: Closed Meeting Investigation Final Reports 36684-6 and 36684-7

Title: Closed Meeting Investigation Final Reports

Objective: To provide the findings of two closed meeting investigations conducted by Cunningham, Swan, Carty, Little & Bonham LLP.

Background: As of January 1, 2008 any person may request that an investigation be undertaken questioning whether a municipality or local board, or a committee of either, has complied with the closed meeting rules outlined in the Municipal Act, 2001 (the Act).

Pursuant to Section 239(2) of the Act, the City has appointed Local Authority Services Limited (LAS) to provide Closed Session meeting investigation services to the City. LAS is a subsidiary of the Association of Municipalities of Ontario (AMO). It is the role of the investigator to determine compliance with the Municipal Act or the City of Stratford's Procedure By-law with respect to closed meetings and provide a report on the results of such investigations.

LAS has retained and delegated authority to Cunningham, Swan, Carty, Little & Bonham LLP to act as the alternate closed meeting investigator to its participating municipalities. As the closed meeting investigator, they are authorized to conduct investigations on meetings or parts of meetings which are closed to the public.

Section 239 of the Act provides that all meetings of a municipality, including its Council, local boards, and committees, shall be open to the public. Section 239(2) includes a list of exceptions that may be considered in a session closed to the public.

Analysis: On January 31, 2024, the Clerk's Office received a request to investigate the January 22, 2024, Committee of the Whole In-camera Session. On June 3, 2024, the

Clerk's Office received a request to investigate the January 8, 2024, Committee of the Whole In-camera Session.

The scope of the requests was to investigate:

- whether the resolution to adjourn into the closed session on January 22, 2024, contained sufficient information to reveal the general nature of the matter under discussion;
- whether Council voted in closed session to settle a matter before the Ontario Land Tribunal.

The requests were provided to the Closed Meeting Investigator and the reports with the findings of their investigations are attached as Appendix A. The reports from the Investigator conclude that in all cases, the City of Stratford did not contravene the Act in respect to the issues identified in the requests.

The final Closed Meeting Investigation reports state:

"The Clerk should identify on the agenda for the next open session Council meeting that this report will be discussed. Staff should consider whether it is appropriate to place the full report on the agenda in advance of Council deciding how the report should otherwise be made public."

Past practice has been to list closed meeting investigation reports directly on the next available Council agenda with a covering report following receipt from the Investigator. The report is then listed on the City's website under the "Accountability and Transparency" page. Staff are seeking direction on whether this practice is to continue. An alternative is for staff to provide notice on the next available agenda under section 8, Notice of Intent, that a report has been received and is to be considered at a subsequent meeting. The final report would then be listed on the agenda of the subsequent meeting.

Financial Implications:

Financial impact to current year operating budget:

Closed meeting investigation services are funded by the City with \$50,000 having been included in the 2024 budget. Under the City's contractual arrangements with the Local Authority Services (LAS), a business services arm of AMO, a \$200 per year retainer is paid to serve as the City's closed meeting investigator. A further fee paid at an hourly rate, plus taxes and reasonable out of pocket expenses, is also payable upon receipt of an itemized invoice. The City has not received the invoices for work performed.

Financial impact on future year operating budget:

Approximately \$20,000 is placed in a reserve annually to cover costs for closed meeting investigation services. The City will continue to place funds in the annual budget for these services.

Alignment with Strategic Priorities:

Not applicable: This report does not align with one of the Strategic Priorities as the Municipal Act provides that any person or corporation may request an investigation into a closed meeting.

Alignment with One Planet Principles:

Not applicable: This report does not align with One Planet Principles as the Municipal Act provides that any person or corporation may request an investigation into a closed meeting.

Staff Recommendation: THAT the Closed Meeting Investigation Final Reports 36684-6 and 36684-7, be received for information;

AND THAT direction be given on the process to be followed for making closed meeting investigation reports public.

Prepared by: Tatiana Dafoe, City Clerk
Recommended by: Karmen Krueger, CPA, CA, Director of Corporate Services
Joan Thomson, Chief Administrative Officer