



MANAGEMENT REPORT

Date: September 9, 2024
To: Mayor and Council
From: Tatiana Dafoe, City Clerk
Report Number: COU24-107
Attachments: Appendix 1: Draft Closed Meeting Protocol

Title: Closed Meeting Investigation Report – Follow-up

Objective: To provide options for consideration by Council to address recommendations made by the City's Closed Meeting Investigator.

Background: In February 2024, the City received a report from the City's Closed Meeting Investigator. The report reviewed closed session meetings and the votes taken over a five year period. At the February 26, 2024 Regular Council meeting, the report was considered and Council adopted the following resolution:

THAT the Closed Meeting Investigation Reports dated February 20, 2024, be received;

AND THAT the recommendations contained in the Closed Meeting Investigation Reports be referred to staff and legal counsel for review and to prepare a report for consideration at a future Regular Council meeting.

The recommendations from the Closed Meeting Investigator included:

1. Council and staff obtain training to ensure that they are properly following the processes as required under the Municipal Act, 2001, S.O. 2001, c. 25 (hereinafter referred to as the "Act").
2. Council should work towards creating procedures for topics that arise often, like contracts, land sale or employment decisions.
3. Council should have a clear process for moving substantive decision making into the open.

4. Council should ensure that resolutions are clearly worded, and that, where possible, they clearly provide instructions to staff rather than making substantive decisions.
5. Council should have clear procedures for moving into open session, including in cases where members are concerned that a vote or discussion is no longer properly in closed.
6. Decisions should not be bundled together, particularly where they are unrelated.

Subsection 239.2(12) of the Act requires that Council pass a resolution stating how it intends to address the findings of the report. The purpose of this report is to provide Council with options for addressing the above noted recommendations.

Analysis:

Recommendation 1: Education and Training

Staff are working to obtain a facilitator to provide an education session in the Fall of 2024. This session will focus on open meeting requirements, best practices for closed meetings, and on the exemptions noted in section 239 of the Act and the reason for considering matters in closed session.

Recommendations 2-5:

Staff have drafted a Closed Meeting Protocol ("the Protocol") attached as "Appendix 1". The purpose of the Protocol is to assist the City with ensuring compliance with the statutory requirements for holding Closed Meetings as well as to enhance the transparency of the City decision-making process.

The Protocol outlines the:

- statutory requirements for closed meetings,
- roles and responsibilities,
- the process to be followed before a closed meeting is held, during a closed meeting and after, and
- provides an overview of each exemption, what discussions include and do not include.

It is recommended the Protocol be adopted and that the procedures contained will assist the City with meeting the statutory requirements of the Act and address the recommendations made by the Closed Meeting Investigator.

In addition to the Protocol, staff are recommending the following amendments:

- Amend section 4.2 of the Delegation of Authority By-law 137-2017 to provide authority to the Chief Administrative Officer and the Director of Human

Resources to hire and promote employees, including authority to issue employment letters, and to adjust salaries in accordance with all relevant policies and legislation, subject to the passage of a by-law by Council, where necessary.

- Amend section 4.3 of the Delegation of Authority By-law 137-2017 to provide authority to the Chief Administrative Officer to approve the termination of City employees below the CAO or deputy CAO (if applicable) level, including authority to execute termination agreements. The Delegation Restriction would be amended to "In the opinion of legal counsel where the costs associated with the termination are \$250,000 or below, not including any costs normally incurred as a result of a resignation or retirement." Current communication requirements would remain in effect.

The Chief Administrative Officer retains the responsibility under s 4.2.1 of the Delegation of Authority By-law for hiring at the Director level in accordance with relevant policies and legislation, subject to the passage of a by-law by Council, where necessary.

Recommendation 6: Decisions should not be bundled together

Amendments have been made to in-camera reports to contain separate and distinct motions as required.

Financial Implications:

Financial impact to current year operating budget:

Costs associated with obtaining legal advice were covered within the 2024 operating budget.

Financial impact on future year operating budget:

There are no financial implications on future year operating budgets because of this report.

Legal considerations:

Staff sought legal advice in preparing recommendations for Council's consideration.

Alignment with Strategic Priorities:

Not applicable: This report does not align with one of the Strategic Priorities. The Act requires that Council adopt a resolution stating how it intends to address recommendations made by the Closed Meeting Investigator. The purpose of this report is to outline options for consideration by Council.

Alignment with One Planet Principles:

Not applicable: This report does not align with one of the One Planet Principles. The Act requires that Council adopt a resolution stating how it intends to address

recommendations made by the Closed Meeting Investigator. The purpose of this report is to outline options for consideration by Council.

Staff Recommendation: THAT the Closed Meeting Protocol be adopted;

THAT section 4.2 of the Delegation of Authority By-law 137-2017 be amended to provide authority to the Chief Administrative Officer and the Director of Human Resources to hire and promote employees, including authority to issue employment letters, and to adjust salaries in accordance with all relevant policies and legislation and subject to the passage of a by-law by Council, where necessary;

AND THAT section 4.3 of the Delegation of Authority By-law 137-2017 be amended to provide authority to the Chief Administrative Officer to approve the termination of City employees below the CAO or deputy CAO (if applicable) level, including authority to execute termination agreements and to amend the Delegation Restriction to "In the opinion of legal counsel where the costs associated with the termination are \$250,000 or below, not including any costs normally incurred as a result of a resignation or retirement".

Prepared by: Tatiana Dafoe, City Clerk
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Joan Thomson, Chief Administrative Officer