

## Municipal Scan of Closed Meetings

### Introduction

This document summarizes findings from an external scan of select Canadian municipalities of notable practices for increasing transparency of discussions and decisions of city councils. From this scan, one can identify two main ways to increase transparency of Council. The first is to reduce the number of items discussed in closed meetings. The second is to be more transparent about why the items need to be discussed in closed meetings. It should be noted that most of the municipalities included tend to have one or two leading practices.

### Closed Meetings in Other Municipalities

This section summarizes the notable practices from other jurisdictions in Canada.

#### 1. The City of Vancouver – Review-by Dates & Public Access to Reports

The City of Vancouver requires a “review decision release dates” and a “review report release date” for any confidential item. On a quarterly basis, when the report becomes eligible for release review, the items are compiled and sent to either the report author or the General Manager for their approval to either:

- a) release the items in full;
- b) partially release the items;
- c) bring forward for review at a different date (e.g., if the item is still under negotiations or not completed)

The City Clerk reviews the report to be released, and the City Manager provides final sign-off on releasing the items publicly. The released reports are then published on a specific website “Information from In-camera Meetings” (which is a separate website from meeting agendas and minutes). To date in 2018, twelve decisions from closed meetings have been released on the website. In 2017 41 decisions/reports were released.

#### 2. The City of Winnipeg – In-Camera Bylaw

The City of Winnipeg has an in-camera bylaw, which permits Council Meetings to only conduct closed meetings for one purpose: “Council may meet in camera to consider internal performance reviews of the City Auditor.” Aside from Council meetings, typically, only two committees meet in camera – the Executive Policy Committee and the Property Committee. These two committees meet in camera 2-5 times per year. As noted by a Manager in the City Clerk’s Department, the Property Committee’s significant drop in items discussed in-camera was based on the interpretation of the in-camera bylaw. At one point section 3(b) of the in-camera bylaw was interpreted as applying to all real estate matters (e.g., leases, sales, acquisitions). Subsequent interpretations were limited to only acquisitions of property. This manager indicated that the change was politically driven.

#### 3. Ontario – Meeting Investigations

Municipalities in Ontario are governed by the *Municipal Act, 2001*. The *Municipal Act* specifically provided for the creation of the meeting investigator role. Under Section 239.1 of the Act, any

person is able to “request that an investigation of whether a municipality or local board has complied with” either the statutory requirements for closed meetings or a procedure bylaw. Section 239.2 of the Act authorizes a municipality to appoint an independent investigator to consider complaints with respect to non-compliance with open meeting requirements. In the event that a municipality does not appoint their own investigator, the Ontario Provincial Ombudsman would be the authority who would undertake a closed meeting investigation. The Ombudsman publishes the results of all meeting investigations on the Ombudsman Ontario website.

### **3.1 The City of Ottawa – Agenda Review Meetings & Appointments to Agencies, Boards and Commissions**

The City Clerk in The City of Ottawa (Ottawa) holds scheduled Agenda Review meetings with a group of senior managers from various departments. A main function of these review meetings is to ensure only those that are “truly required to” proceed to in-camera meetings. The City Clerk has identified that this buy-in from administration has resulted in a decrease in the number of confidential reports. Ottawa also provides a robust description of the item to be discussed in camera, and a reporting out date. An example of one agenda item is as follows: Collective Bargaining – CUPE Local 503 Inside/Outside – Ratification of Tentative Agreement – In Camera – Reporting Out Date: The day following the execution of a collective agreement with CUPE 503.

Also, in Ottawa, reports on appointments to agencies, boards and commissions include the names of the recommended appointees and the recommended term of office. No other personal information is circulated in these reports to Committee and Council. In practice, applicants sign a waiver indicating their names can be put forward in public.

These reduction in items discussed in closed meetings, and practices around releasing information afterwards was identified by the Clerk as a result in a culture shift. Ottawa’s default is now “Everything’s Open” and closed items are the exception.

### **3.2 The City of London – Audio Recording**

In the City of London, all Municipal Council and Standing Committee in Closed Session meetings are audio recorded by the City Clerk, for the sole purpose of having an audio recording to assist with any closed meeting investigation. The City Clerk is authorized to release an audio recording of a closed meeting only to the Closed Meeting Investigator (where they are relevant to an investigation and do not breach solicitor-client, or other, privilege).

## **4. The City of Edmonton – Public Reports & Release or review-by dates**

In practice, The City of Edmonton (Edmonton) requests public reports for all items (i.e., a public component to each item). In these instances, anything that is confidential is included in attachments.

Also in Edmonton, the FOIP delegate reviews every report that Administration submits as private. It is reviewed to ensure: i) it meets the criteria for being discussed in a closed meeting, and ii) to help identify a review or release trigger strategy that can be proactively included in the report. They are encouraging report writers to think of FOIP as another business partner (e.g., like Finance or Communications) who should be consulted early in the report writing process.

## **SUMMARY**

These key learnings have informed the recommendations in this report:

- prior approval of items to be held in closed meetings by Administration;
- a specific in-camera bylaw that restricts Council's ability to hold closed meetings;
- all discussions and appointments to agencies, boards and commissions are done in public meeting (applicants sign a waiver agreeing to their name being put forward in public);
- requirement of a "release date" or a "review-by date" on every item discussed in closed meetings;
- released documents are published on a separate "Information from In-Camera Meetings" website;
- detailed description of confidential item (e.g., personnel matter = labour relations with CUPE local 38);
- requiring a public component of every confidential item;
- detailed record of discussion in closed meetings.