

Committee of the Whole (2) Report

DATE: Tuesday, September 20, 2022

WARD(S): ALL

TITLE: CLOSED MEETING INVESTIGATION REPORT REGARDING THE
COUNCIL (CLOSED SESSION) MEETING ON MARCH 22, 2022

FROM:

Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor

ACTION: FOR INFORMATION

Purpose

This report provides Committee with the outcome of a closed meeting investigation conducted by the City's appointed investigator pursuant to sections 239.1 and 239.2 of the *Municipal Act*.

Report Highlights

- A closed meeting complaint was received with respect to a Council (Closed Session) on March 22, 2022.
- The complaint was referred to the City's Closed Meeting Investigator.
- The Closed Meeting Investigator concluded that the meeting "was properly held within the closed session".

Recommendations

1. That the closed meeting investigation report of Cunningham, Swan, Carty, Little & Bonham LLP, dated June 28, 2022, and set out in Attachment 1 to this report, be received.

Background

Open Meeting Requirements of the Municipal Act

The *Municipal Act, 2001* (the “Act”) includes requirements in Section 239 that all meetings of a Council be open to the public. The Act does include exceptions to this requirement. In particular, a Council meeting may be closed to the public if the meeting is held for the purpose of “advice that is subject to solicitor-client privilege”.

Closed Meeting Complaints

The Act allows for any person to request that an investigation be undertaken respecting whether a municipality, local board, or a committee of either, has complied with the closed meeting rules contained within section 239 of the Act. A complaint was received by the City Clerk and referred to Local Authority Services for investigation, as the City’s contracted closed meeting investigator.

Previous Reports/Authority

[Council Meeting Minutes, March 22, 2022](#)

Analysis and Options

Closed Meeting Complaint

A closed meeting complaint was received by the City Clerk with respect to a Council (Closed Session) on March 22, 2022.

Findings of the Closed Meeting Investigator

In order for a meeting of Council to be properly closed to the public, the following criteria must be met:

1. The meeting must begin in open session, and a resolution must be passed to move into closed session;
2. The resolution to move into closed session must cite the section of the Act relied upon and must give a general description of the matters to be discussed; and
3. The content of the meeting must actually fall within the cited exception.

On the matter of the passing of a resolution to move into a closed session, the investigator found that the “resolution provides a brief description of the topic to be discussed, and the reason it will be discussed in closed session.” The resolution was passed in open session.

On the matter of the content of the meeting fitting into the cited exception, the investigator found that the “City Solicitor did provide some advice at the meeting. Accordingly, the cited exception applied.”

In conclusion, the investigator found that “all requirements under the Act and the Procedure By-Law were met, it is our finding that the discussion of the Sports Village in closed session on March 22, 2022, was properly held within the closed session.”

Obligation to Make Investigation Public

Section 239.2(11) of the *Municipal Act* requires that the municipality make the report of the closed meeting investigator public. The report has been included as Attachment #1.

Financial Impact

The cost of the investigation, which includes this investigation and the investigation of the two [Special Council \(Closed Session\) Education and Training Sessions on May 5, 2021 and March 22, 2022](#), has now been invoiced to the City. The total cost of the investigations, including tax, is \$2,938.00.

A filing fee of \$130 was paid by the complainant to the City at the time the complaint was filed.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

A closed meeting complaint was received by the City Clerk with respect to a Council (Closed Session) on March 22, 2022. The Closed Meeting Investigator found that the meeting “was properly held within the closed session.”

For more information, please contact: Todd Coles, City Clerk, x8281.

Attachment

1. Closed Meeting Investigation report of Cunningham, Swan, Carty, Little & Bonham LLP, June 28, 2022.

Prepared by

Todd Coles, City Clerk, x8281

Approved by



Wendy Law
Deputy City Manager
Legal and Administrative Services
& City Solicitor

Reviewed by



Nick Spensieri, City Manager