



**PUBLIC AGENDA
GOVERNANCE AND PRIORITIES
COMMITTEE**

**Monday, January 18, 2016, 1:00 p.m.
Council Chamber, City Hall**

Pages

- 1. CALL TO ORDER**
- 2. CONFIRMATION OF AGENDA**
- 3. DECLARATION OF CONFLICT OF INTEREST**
- 4. ADOPTION OF MINUTES**

Recommendation

That the minutes of the Public Meeting of Executive Committee held on December 8, 2015 be approved.

- 5. UNFINISHED BUSINESS**
- 6. COMMUNICATIONS (requiring the direction of the Committee)**

6.1 Delegated Authority Matters

- 6.1.1 Changes to Downtown BID Board of Management - Brent Penner, Executive Director, December 8, 2015 and January 13, 2016 [File No. CK. 175-48]**

5 - 6

Recommendation

That the information be received.

6.2 Matters Requiring Direction

- 6.2.1 Notice - Councillor Olauson Unpaid Leave of Absence - Provincial Election [File No. CK. 255-1]**

7 - 7

Recommendation

That the notice be forwarded to City Council for information.

6.3 Requests to Speak (new matters)

7. REPORTS FROM ADMINISTRATION

7.1 Delegated Authority Matters

7.1.1 Proposed Growth Plan Summit [File No. CK. 4110-2]

8 - 11

Recommendation

1. That the Governance and Priorities Committee hold a special Growth Plan Summit, as described in this report; and
2. That this meeting be held at the regularly scheduled March 14, 2016 meeting of the Committee.

7.2 Matters Requiring Direction

8. LEGISLATIVE REPORTS

8.1 Delegated Authority Matters

8.2 Matters Requiring Direction

8.2.1 Municipal Governance - Rising and Reporting Out of In Camera Items [File No. CK. 255-2]

12 - 48

Recommendation

1. That the Governance and Priorities Committee recommend to City Council the following process be followed with respect to *in camera* meetings:

a. that upon conclusion of an *in camera* meeting, City Council/Committee immediately reconvene publicly and rise and report out the items considered and motions adopted at the *in camera* session. At the time City Council/Committee rises and reports, it shall state the exemptions under which the matter remains *in camera*;

b. that the following motions be allowed at an *in camera* meeting of City Council/Committee:

i. to receive reports as information and to recommend amendments;

ii. to rise and report; and

iii. to make recommendations to City Council where matters are being dealt with under City Council's Code of Conduct or the Code of Conduct for Members of Civic Boards, Commissions, Authorities and Committees; and

c. that City Council/Committee may rise without reporting at an *in camera* session in the following circumstances:

i. long range or strategic planning sessions; or

ii. Council member orientation sessions.

2. That the Governance and Priorities Committee recommend to City Council that the City Solicitor be instructed to amend *The Procedures and Committees Bylaw, 2014* to implement the required changes.

9. URGENT BUSINESS

10. MOTIONS (Notice Previously Given)

11. GIVING NOTICE

12. IN CAMERA AGENDA ITEMS

Recommendation

That the Committee move *In Camera* to consider the following items:

12.1 Governance Matter [File No. CK. 255-18]

[In Camera - Personal Information]

12.2 Board Appointment [File No. CK. 175-46]

[In Camera - Personal Information]

12.3 Board Appointment [File No. CK. 175-28]

[In Camera - Personal Information]

12.4 Legal Report [File No. CK. 4720-2]

[In Camera - Solicitor/Client Privilege]

12.5 Verbal Updates

12.5.1 Council Members

12.5.1.1 His Worship the Mayor

12.5.1.2 FCM/SUMA

12.5.1.3 Boards and Commissions

12.5.2 Administration

12.5.2.1 City Manager

[Sections 13, 14(1), 15(1), 16(1), 17(1), 18(1), 19, 20, and 21 - LAFOIPP]

12.6 Personnel Matter [File No. CK. 4730-1]

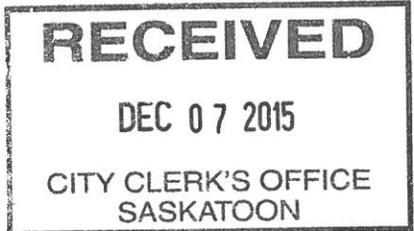
[In Camera - Personnel Matter]

13. ADJOURNMENT

175-48



THE PARTNERSHIP
Saskatoon Downtown Business Improvement District



December 8, 2015

Ms. Joanne Sproule, City Clerk
City Clerk's Office
2nd Floor, City Hall
222 3rd Avenue North
Saskatoon SK S7K 0J5

Dear Ms. Sproule:

Re: Changes to Downtown BID Board of Management

This is to advise that Mr. Derrek Fahl, Ms. Jacqueline Gallagher, and Ms. Tamara Bowman will all be leaving the Board of Management for the Downtown BID at the end of December, 2015. In the case of Ms. Bowman and Mr. Fahl, their respective businesses have moved outside the BID boundaries, and Ms. Gallagher has moved to another city. I would like to acknowledge and thank all of them for the contributions they have made to the Downtown BID Board of Management. Mr. Fahl served from January, 2012 and Ms. Gallagher and Ms. Bowman from November, 2013.

The Board is currently working to fill the vacated positions. The current composition of the Board of Management includes the following individuals:

- Mr. Chris Beavis, Chair, Hotel Senator
- Mr. Christopher Ryder, BHP Billiton
- Ms. Roxanne Woodley, Tonic
- Mr. Doug Fast, Fast Consulting
- Mr. Kevin Johnson, Colliers International
- Ms. Della Keen & Mr. Terry Napper (shared position), Midtown Plaza
- Councillor Troy Davies

Sincerely,

Brent Penner
Executive Director

cc: Mr. Chris Beavis, Chair



Saskatoon Downtown Business Improvement District

January 13, 2016

Ms. Joanne Sproule, City Clerk
City Clerk's Office
2nd Floor, City Hall
222 3rd Avenue North
Saskatoon SK S7K 0J5

Dear Ms. Sproule:

Re: Changes to Downtown BID Board of Management

This is to advise that Mr. Terry Napper, Midtown Plaza is no longer occupying a "shared position" on the Downtown BID Board with Ms. Della Keen. Midtown Plaza will continue to be represented on our Board by Ms. Keen. The Board of Management was advised of Mr. Napper's decision at its January meeting.

The Board is currently working to fill the vacated positions. The current composition of the Board of Management includes the following individuals:

Mr. Chris Beavis, Chair, Hotel Senator
Mr. Christopher Ryder, BHP Billiton
Ms. Roxanne Woodley, Tonic
Mr. Doug Fast, Fast Consulting
Mr. Kevin Johnson, Colliers International
Ms. Della Keen, Midtown Plaza
Councillor Troy Davies

Sincerely,

Brent Penner
Executive Director

cc: Mr. Chris Beavis, Chair

From: Jenkins, Sandy (Clerks)
Sent: Tuesday, January 12, 2016 2:59 PM
To: Web E-mail - City Clerks
Subject: Unpaid Leave of Absence Notice

From: Olauson, Eric (City Councillor)
Sent: Tuesday, January 12, 2016 2:18 PM
To: Sproule, Joanne (Clerks) <Joanne.Sproule@Saskatoon.ca>
Subject: Unpaid Leave of Absence Notice

Hello Madame City Clerk,
Please consider this my formal announcement that I will be taking an unpaid leave of absence during the writ period for the Provincial Election on April 4, 2016.

Thank you,

Eric Olauson

Councillor Ward 8

City of Saskatoon

222-Third Avenue North

Saskatoon, SK. S7K 0J5

Cellular: (306) 361-0229

Email: eric.olauson@saskatoon.ca

Website: www.saskatoon.ca

Proposed Growth Plan Summit

Recommendation

1. That the Governance and Priorities Committee hold a special Growth Plan Summit, as described in this report; and
2. That this meeting be held at the regularly scheduled March 14, 2016 meeting of the Committee.

Topic and Purpose

The purpose of this report is to outline a proposed public Growth Plan Summit. More specifically, Administration is proposing that the Summit be held at the March 14, 2016 meeting of the Governance and Priorities Committee so that committee members, stakeholders, and the public can obtain information and provide comments on the major initiatives of the Growth Plan to Half a Million.

Report Highlights

1. Development of the Growth Plan to Half a Million (Growth Plan) included four rounds of major public engagement which was used alongside technical evaluations to help inform and shape the final recommendations included in the Growth Plan.
2. Administration is requesting that the March 14, 2016 Governance and Priorities Committee meeting be allocated for a special Growth Plan Summit to allow for public discussion of the Growth Plan's major directions.
3. In April 2016, the final Growth Plan will be brought forward for consideration and approval in principle.

Strategic Goal(s)

The development of the Growth Plan supports a number of strategies and priorities for the City of Saskatoon's (City) Strategic Goals of Asset and Financial Sustainability, Sustainable Growth, Moving Around, and Environmental Leadership by enhancing the range of choices for Moving Around and providing a new model for growth that more effectively utilizes infrastructure.

Background

The Growth Plan was born out of the Saskatoon Speaks visioning process to meet the goals and objectives laid out in the City's Strategic Plan in the areas of Sustainable Growth and Moving Around.

Development of the Growth Plan began in 2013 with award of the contract to Urban Systems Ltd. for the Transit Plan; Rapid Transit Business Case; Core Area Bridge Strategy; and the Nodes, Corridors, and Infill Plan. Supporting initiatives include the Employment Area Study, Water and Sewer servicing, Financing Growth, Transportation Network, as well as the Active Transportation Plan.

Proposed Growth Plan Summit

Throughout the development of the Growth Plan, Committee and Council have received a number of project updates outlining the development of key directions related to the major initiatives. The final round of public engagement for the Growth Plan's core initiatives of Corridor Growth, Transit, and Core Area Bridges concluded in November 2015 and the final report is being prepared.

Report

Major Public Engagement Events Have Concluded

Four rounds of major public engagement have occurred during the Growth Plan's development. The feedback received throughout the engagement process from members of the public and stakeholders has been used alongside technical evaluations to help shape the final recommendations contained in the Growth Plan.

Proposed Growth Plan Summit

In advance of requesting final consideration of the Growth Plan, the Administration is proposing that the key directions of the Growth Plan's major initiatives be presented publicly in a Growth Plan Summit event. Along with presentations from the Administration on the major initiatives, this event would also include a presentation by Mr. Jarrett Walker, author of the book *Human Transit*, regarding transit planning principles and the recommendations for Saskatoon Transit included in the Growth Plan. Following these topics, stakeholders and members of the public would be invited to provide comments to Committee on the Growth Plan.

The proposed date for the Growth Plan Summit is the regularly scheduled March 14, 2016 meeting of the Governance and Priorities Committee. Administration requests the Committee's time from 2:00 to 11:00 p.m., as necessary, be made available for the Summit. Coordination of the agenda and promotion of this special meeting will be done by the project team, in consultation with the City Clerk's Office. See Attachment 1 for draft agenda. The following details provide an overview of the proposal:

- Held in Council Chambers;
- March 14, 2016, 2:00 p.m. to 11:00 p.m., as necessary;
- The format and agenda would be subject to the same rules of a regular Governance and Priorities Committee meeting. As a result, the format would be based on separate administrative reports to Committee on major initiatives of the Growth Plan;
- The format would allow for written submissions, speakers scheduled in advance, and questions from Committee to the Administration; and
- Estimated Cost – Administration estimates that this event would have no significant costs other than staff time.

Final Growth Plan Package

Following the Summit, the Growth Plan will be brought forward to the Governance and Priorities Committee and City Council for consideration and approval in principle in April 2016.

Options to the Recommendation

The Committee could choose to not approve the proposed Growth Plan Summit. This is not recommended as it would result in Committee and Council receiving the final report for consideration and approval in principle in the absence of information on some of the related initiatives, as well as resulting in reduced timeframes for discussion of these topics. Given the strategic importance of the Growth Plan, Administration does not recommend this approach. Alternatively, a different date or format could be developed.

Public and/or Stakeholder Involvement

Public and stakeholder engagement has been continuous throughout the project, primarily at key project milestones. In addition to general public engagement, numerous stakeholder groups have been engaged throughout the project. A full report on the engagement process and results will be presented in April 2016.

Communication Plan

If approved, the Growth Plan Summit will be communicated to the public, stakeholders, and the media. The project website, growingfwd.ca, the Shaping Saskatoon website, and the City's website will all promote the event. Email invitations will be sent to project stakeholders. News Releases, Public Service Announcements and Media Advisories, social media posts, and an advertisement in the StarPhoenix City Pages will also be used.

Other Considerations/Implications

There are no policy, financial, environmental, Privacy, or CPTED implications or considerations.

Due Date for Follow-up and/or Project Completion

If approved, reports will be prepared for discussion at the March 14, 2016 meeting of the Governance and Priorities Committee.

Public Notice

Public Notice pursuant to Section 3 of Policy No. C01-021, Public Notice Policy, is not required.

Attachment

1. Proposed Growth Plan Summit Agenda

Report Approval

Written by: Lesley Anderson, Project Manager, Growing Forward! Shaping Saskatoon
Reviewed by: Alan Wallace, Planning and Development Director, Community Services Department
Lynne Lacroix, Acting General Manager, Community Services Department
Jeff Jorgenson, General Manager, Transportation and Utilities Department
Approved by: Murray Totland, City Manager

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Growth Plan Summit Agenda

Monday, March 14, 2016

Governance and Priorities Committee – Special Agenda

2:00 to 11:00 pm

Time	Phase 6 Growth Plan - Event Agenda	Representative
1:00 – 2:00	Regular Committee Agenda	
2:00 – 2:20	Overall Context for the Growth Plan (20 min) <ul style="list-style-type: none"> • What's at Stake? • Framework for Growth 	Alan Wallace John Steiner
2:20 – 3:00	Transportation Presentation (40 min) <ul style="list-style-type: none"> • Transportation Network Priorities • Future River Crossing Capacity Question and Answer	Angela Gardiner
3:00 -3:15	Break (15 minutes)	
3:15 – 3:55	Active Transportation Presentation (40 min) <ul style="list-style-type: none"> • Principles of the Active Transportation Plan • Draft Recommendations • Implementation Question and Answer	Alan Wallace
3:55 – 4:35	Corridor Growth Presentation (40 min) <ul style="list-style-type: none"> • Zoning and Transit Oriented Development Guidelines • Principles and Engagement Process Question and Answer	Lesley Anderson
4:35 – 5:55	Transit Presentation (1 hour, 20 min) <ul style="list-style-type: none"> • Introduction • Jarrett Walker Presentation and Questions (1 hour) • Long Term Transit Plan Question and Answer	Jim McDonald Jarrett Walker
5:55 – 6:30	Supper Break (35 minutes)	
6:30 – 6:40	Summary of Discussion (10 min)	Alan Wallace
6:40 – 11:00 (as necessary)	Stakeholder Presentations and Public Comment	

Municipal Governance – Rising and Reporting Out of In Camera Items

Recommendation

1. That the Governance and Priorities Committee recommend to City Council the following process be followed with respect to *in camera* meetings:
 - a. that upon conclusion of an *in camera* meeting, City Council/Committee immediately reconvene publicly and rise and report out the items considered and motions adopted at the *in camera* session. At the time City Council/Committee rises and reports, it shall state the exemptions under which the matter remains *in camera*;
 - b. that the following motions be allowed at an *in camera* meeting of City Council/Committee:
 - i. to receive reports as information and to recommend amendments;
 - ii. to rise and report; and
 - iii. to make recommendations to City Council where matters are being dealt with under City Council's Code of Conduct or the Code of Conduct for Members of Civic Boards, Commissions, Authorities and Committees; and
 - c. that City Council/Committee may rise without reporting at an *in camera* session in the following circumstances:
 - i. long range or strategic planning sessions; or
 - ii. Council member orientation sessions.
2. That the Governance and Priorities Committee recommend to City Council that the City Solicitor be instructed to amend *The Procedures and Committees Bylaw, 2014* to implement the required changes.

Topic and Purpose

The purpose of this report is to provide an analysis of and recommendations for publicly reporting out items considered at *in camera* meetings.

Report Highlights

This report provides a summary of the current practice for the reporting out of items considered at *in camera* meetings of City Council and Council Committees; best practices from other jurisdictions; and, various options that the Governance and Priorities Committee may consider to recommend to City Council for adoption.

Strategic Goals

This report supports the Strategic Goals of Quality of Life and Continuous Improvement as it promotes provision of good governance practices and recommends ways in which City Council may increase its public transparency.

Background

At its meeting of March 23, 2015, City Council requested that the Administration report back with respect to the reporting out of items which were considered *in camera* and about the potential of releasing *in camera* items after a defined period of time. This report provides a summary of the best practices and recommendations for *in camera* items to be reported out at a public meeting.

Also, the Province of Saskatchewan recently amended *The Cities Act*. One of the new provisions makes it mandatory for the City to pass a procedures bylaw which contains, among other things:

- rules regarding the confidentiality, transparency, openness and accessibility of documents and other matters to be discussed by or presented to members of City Council; and
- rules and procedures with respect to the closing of all or part of a meeting.

This report addresses these requirements.

Report

Generally, City Council and its Committees must conduct business in public. Indeed, no act or proceeding of City Council/Committee is effective unless authorized or adopted by bylaw or resolution at a duly constituted public meeting. For a limited list of exempted matters, City Council/Committee may meet *in camera* but no decisions may be made. All matters discussed *in camera* under one exemption or another which require a decision of City Council/Committee must be considered and decided at a public meeting.

At its meeting of March 23, 2015, City Council considered a report from the Leadership Team Governance Subcommittee that identified some ways City Council could improve its public accountability and transparency. At that time, City Council adopted a more transparent process to deal with *in camera* items. For ease of reference, a copy of this report is attached hereto as Attachment 3.

This report follows from the March 23, 2015 report and City Council's adoption of the new *in camera* process and from City Council's interest in appropriate ways to publicly report out *in camera* items. The following will summarize Saskatoon's current process and provide options and recommendations for the reporting out of *in camera* items at public meetings. The research which reveals best practices from other jurisdictions is contained in Attachment 1.

Current Process

1. *In camera* items form part of the public City Council/Committee agenda and a motion is required to consider items *in camera* which includes the exemption under *The Local Authority Freedom of Information and Protection of Privacy Act* (“*LAFOIPPA*”) which allows for the matter to be considered *in camera*.
2. If City Council/Committee does not support a particular item being considered *in camera*, it is pulled from the *in camera* agenda and considered during the public portion of the same meeting.
3. The City of Saskatoon does not have a rise and report procedure or a mechanism to end an *in camera* session.
4. Matters requiring a decision of City Council/Committee are reported to City Council/Committee at the time of the item’s consideration.
5. Matters which are only comprised of legal briefings, land purchase and sale negotiations, personnel matters and collective bargaining mandates are not reported out and remain *in camera* under permissive and mandatory exemptions.

Summary of Best Practices

Please see Attachment 1 for a discussion of best practices followed in other jurisdictions respecting this issue.

Options

Based on Saskatchewan’s enabling legislation and the research conducted into the best practices of other jurisdictions on this issue, Saskatoon’s governance structure requires a mechanism to end an *in camera* session and to rise and report *in camera* items at a public session of City Council/Committee.

In that regard, two options are being identified:

1. Hold an *in camera* session of City Council/Committee towards the end of the City Council/Committee meeting and upon conclusion of the *in camera* session, adjourn the session and immediately rise and report at the public City Council/Committee meeting.

The procedure for this option would be similar to the procedure currently followed. The distinction would be that at the conclusion of an *in camera* session, the public session would be reconvened immediately and the items and motions adopted at the *in camera* session would be reported out publicly.

Should *LAFOIPPA* exemptions continue to apply at the time items and motions were reported publicly, that would be stated and form part of the motion. Examples of this would be legal advice, personnel matters, ongoing land and contract negotiations.

After consideration of *in camera* items and motions, the public session would be adjourned. Attachment 1 to this report identifies this as being the practice most commonly used by other Canadian cities.

2. Hold an *in camera* session of City Council/Committee towards the beginning of the City Council/Committee meeting. The process would be as follows:
 - open the City Council/Committee meeting;
 - confirm the agenda including the *in camera* items;
 - move to the *in camera* session and complete the *in camera* session prior to a specified time for the continuation of the public session;
 - continue the public session at the specified time. The first order of business would be reporting out of *in camera* items and motions. Again, should *LAFO/PPA* exemptions continue to apply, this would be stated in the motion; and
 - continue with the public session to adjournment.

According to the research outlined in Attachment 1, only the City of London follows this procedure for *in camera* meetings of City Council.

Sample motions upon rising and reporting are included in Attachment 2.

Recommendations

It is recommended that the Governance and Priorities Committee recommend to City Council implementation of a mechanism to end an *in camera* session and rise and report *in camera* matters which includes the following:

- that upon conclusion of an *in camera* meeting, City Council/Committee immediately reconvene publicly and rise and report out the items considered and motions adopted at the *in camera* session. At the time City Council/Committee rises and reports it shall state the exemption under which the matter remains *in camera*.

Further, it is recommended that only the following motions are permitted at an *in camera* session:

- to receive reports as information and to recommend amendments;
- to rise and report; and
- to make recommendations to City Council where matters are being dealt with under City Council's Code of Conduct, or the Code of Conduct for Members of Civic Boards, Commissions, Authorities and Committees.

Also, it is recommended that City Council/Committee may rise without reporting at an *in camera* session in the following circumstances:

- long-range or strategic planning sessions; or
- Council member orientation sessions.

Logistics Associated with Rise and Report

Until the technical system in the City Council Chamber is improved, the recommendation is that the *in camera* sessions of City Council/Committee continue to occur in Committee Room A.

The disadvantages of this include lack of space in Committee Room A; inconvenience in moving materials back and forth between City Council Chamber and Committee Room A; security for City Council Chamber.

Communication Plan

Various communication tools will be used to promote any changes to the municipal governance structure including news releases, website updates, advertising in the City Pages and sharing on social media. A more citizen friendly approach, such as producing a video on the municipal governance structure and how to get involved with City Council and its Standing Policy Committees, will also be explored.

Policy Implications

This report recommends changes to policy/process as outlined.

Public Notice

Public Notice of amendments to *The Procedures and Committees Bylaw, 2014* will be required.

Attachments

1. Research Review – *In Camera* Meeting of Council or Committees
2. Sample Motions Upon Rising and Reporting
3. Executive Committee’s Report of March 23, 2015 – Municipal Governance and Public Accountability

Report Approval

Written and Approved by: Patricia Warwick, City Solicitor
Joanne Sproule, City Clerk
Mike Jordan, Director of Governance Relations,
City Manager’s Office

Admin Report –Reporting Out In Camera Items.docx
102-0458-pjw-14.docx

Council and Committee Procedures and Practices Meeting *In Camera*

A Research Review

[1] Introduction

In July of 2014, Saskatoon City Council implemented comprehensive reforms to its governance framework. The objective of these reforms was to create a more modern, efficient, transparent, and accountable process that would enhance the policy and decision making process for City Council. Among these reforms, City Council:

- Implemented live streaming of public Council and Committee meetings;
- Adopted four new Standing Policy Committees;
- Delegated some decision making authority to Standing Policy Committees and the Executive Committee;
- Adopted a consent agenda to better manage the Council Agenda; and
- Amended the start time and frequency of Council meetings.

The reforms were based upon extensive best practice research in five western Canadian cities (Calgary, Edmonton, Saskatoon, Regina and Winnipeg). City Council also agreed that it would undertake a review of the new framework to evaluate areas for improvement approximately one year after its implementation.

In March of 2015, City Council considered a report and recommendations related to *in camera* meetings. At that time, City Council adopted a new process for dealing with *in camera* items. The new process was adopted by bylaw and has been followed by City Council/Committee. At that time, City Council asked for an additional report respecting the reporting out of *in camera* items.

In November, 2015, City Council adopted some additional reforms to its governance framework (which came into effect on January 1, 2016). Most notably, City Council abolished its Executive Committee and established the “Governance and Priorities Committee”, to provide a clearer mandate and sharper focus for the work of this Committee.

While City Council has made very significant changes to its governance framework over the past 18 months, one important issue remains outstanding: the procedure or practice for reporting out of an *in camera* meeting or sessions. This is to ensure that Saskatoon’s practice is transparent and accountable. Thus, the purpose of this document is to address the procedures and practices that are currently being utilized in selected cities across Canada as they relate to the reporting out of *in camera* meetings.

To put this issue in proper context, the document begins by providing an overview of key provisions that are contained in provincial enabling legislation. It will briefly review the ability for,

and limitations to, City Councils (and their committees) for conducting meetings or parts of meetings *in camera*.

Given this legislative framework, the document then proceeds to address the practices adopted in other cities across Canada; namely, Calgary, Edmonton, Winnipeg, Victoria and London. It will provide an overview of what Saskatoon's existing practices are as they relate to *in camera* sessions or meetings. This section will begin by summarizing the procedures that is utilized by the City of Saskatoon.

[2] The Provincial Legislative Framework

In Canada, municipal Councils are required to conduct their business in public. In fact this point was stressed by the Supreme Court of Canada in 2007:

*The democratic legitimacy of municipal decisions does not spring solely from periodic elections, but also from a decision-making process that is transparent, accessible to the public, and mandated by law. When a municipal government improperly acts with secrecy, this undermines the democratic legitimacy of its decision, and such decisions, even when intra vires, are less worthy of deference.*¹

Thus, enabling legislation across the country, enacted by provincial legislatures, stipulates that all Council decisions must be made in public. However, provincial enabling legislation also permits municipal Councils to hold meetings or a portion of a meeting "*in camera*"². *In camera* is a legal term meaning "in private" and whereby a Council meeting or a portion of a Council meeting is closed to the public. In doing so, provincial legislation places limitations on what types of issues may be discussed in an *in camera* session.

2.1 Saskatchewan

The Cities Act in Saskatchewan permits a City Council to close all or part of their meetings to the public to discuss sensitive items. This includes matters within Part III of *The Local Authority Freedom of Information and Protection of Privacy Act* or items concerning long-range or strategic planning.

The Cities Act is silent on whether a resolution may be passed *in camera* but specifically prohibits a bylaw from being passed *in camera*.

Although the legislation is silent on the procedures for conducting an *in camera* session, the Government of Saskatchewan has published a guide that describes the "best practice" procedure for opening and concluding an *in camera* session.³ According to the guide:

¹ *London (City) v. RSJ Holdings Inc.*, [2007] 2 S.C.R. 588, 2007 SCC 29; obtained from, <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2368/index.do>

² The terms private meetings and closed sessions are used in different jurisdictions, but follow the same definitions and procedural rules as *in camera* meetings or sessions.

³ Government of Saskatchewan, Ministry of Government Relations, "Municipal Council Meeting Guide," (Regina) October, 2013.

... to move into a closed session, members entertain a motion such as: “That this meeting be closed to the public for the discussion of _____ (state matter)” The motion is debatable but not amendable and requires a majority vote. The minutes should reflect the time at which the meeting went into a closed session and the time the closed session ends.⁴

The guide also addresses the best practice for concluding an *in camera* session:

*When members conclude the discussion of the topic in the closed session they adopt an informal motion to rise from the closed session. Legislation requires Councils and committees to act in a public forum and therefore the members must publicly deal with the recommendation from the closed session.*⁵

Essentially, this suggestion refers to the concept of rising and reporting. At the conclusion of an *in camera* session, the Council (or Committee) rises and reports on those matters that can be discussed in public. Following the debate in public, Council may then vote on any recommendations, or motion.

2.2 Alberta

Like Saskatchewan’s *Cities Act*, Alberta’s *Municipal Government Act* (MGA) permits a municipal Council to hold private meetings, or to go “*in camera*” to consider various matters. Section 197 of the MGA states that Councils and Council committees must conduct their meetings in public, unless a specific a matter is to be discussed that is permitted in legislation (in this case, the *Freedom of Information and Protection of Privacy Act*).

According to a guide published by Alberta Municipal Affairs, a Council or Committee motion, made in a public meeting, is required prior to considering matters at an *in camera* session.⁶ At the conclusion of an *in camera* session, the guide also recommends that a Council or Committee rise and report in an open meeting, on those matters that were discussed *in camera*, but requires a public resolution to proceed. This does not mean that all items discussed *in camera* are required to be reported on in a public meeting.⁷

The MGA prohibits the passing of any resolution or bylaw during an *in camera* session, except for the passing of a motion to revert back to a public meeting. The legislation gives a municipal Council the power to adopt additional rules regarding *in camera* sessions, such as where they are placed on a meeting agenda.⁸

⁴ See *ibid*, 6.

⁵ See *ibid*.

⁶ Alberta Municipal Affairs, “IN-CAMERA DISCUSSIONS OF COUNCIL”, (Edmonton),:May 2014.

Obtained from,

http://www.municipalaffairs.alberta.ca/documents/ms/IN_CAMERA_DISCUSSIONS_OF_COUNCIL.pdf

⁷ This is typically done at the same meeting.

⁸ See note 6, page 1.

2.3 British Columbia

The *British Columbia Community Charter*—which is that province’s municipal legislation—also stipulates that a meeting of Council must be open to the public, except under specific conditions.⁹ Section 90 of the *Community Charter* permits that “a part of a Council meeting may be closed to the public” provided that it meets certain conditions stipulated in the legislation or similar statutes such as the *Freedom of Information and Protection of Privacy Act*.¹⁰

British Columbia’s Office of the Ombudsperson has published a very in-depth document that describes the best practices with respect to open (public) and closed (*in camera*) meetings¹¹. Some important points from this document about the process for conducting *in camera* meetings are noted below:

- If part of a regular Council meeting is closed to the public, it is best practice to specify on the meeting agenda if a part of the meeting is expected to be closed to the public.
- If a closed meeting occurs in advance of an open meeting, this can be done only if the resolution to close the meeting is carried out in an open meeting. Now this does not need to be done immediately before the closed meeting, so long as it is done publicly in advance of the closed meeting, such as at a public Council meeting that precedes the closed meeting.

On the second point, the document adds the caveat that:

*... the spirit of the open meeting provisions will be satisfied most effectively if local governments avoid regularly scheduled closed meetings. Instead, it is preferable to close part of a regular Council meeting if the subject matter being considered is or relates to one of the specific exemptions.*¹²

Section 92 of the *Community Charter* requires that before holding a closed meeting, Councils and boards must pass a resolution to that effect in a public meeting. This resolution must include three things:

- That a meeting or part of a meeting is to be closed;
- The reason for the decision to close the meeting; and
- Reference to the specific legislative provisions that permit the item to be discussed *in camera*.

⁹ The Community Charter applies to all incorporated municipalities with the exception of the City of Vancouver, which is governed by the *Vancouver Charter*.

¹⁰ British Columbia uses the term “closed meeting” to refer to *in camera* meetings or sessions.

¹¹ Ombudsperson, “Open Meetings: Best Practices for Local Governments: Special Report No. 34” (Victoria, B.C.) September 2012.

¹² See *ibid*, 29.

According to the Ombudsperson's report:

*While the Community Charter does not stipulate that each reason for closing a meeting to the public must be included in the resolution, or even that the primary reason must be the one that is included, the courts have said it is "disingenuous" to pass a resolution to close a meeting for one stated purpose and then discuss unrelated matters in the same closed meeting.*¹³

2.4 Ontario

Like the other provinces, Ontario's *Municipal Act* stipulates that meetings of Councils, local boards and their committees to be open to the public. Section 239(1) of the Act prescribes, "Except as provided in this section, all meetings shall be open to the public."

Again, similar to other provinces, Ontario's legislation allows a municipal Council to meet *in camera*, or hold a "closed meeting" to deliberate on certain matters, but it limits the topics that can be discussed to matters such as personnel, labour negotiations, land negotiations, legal issues, education or training and those issues identified in Ontario's privacy legislation.

Section 239 also provides the legal requirements, or process for closing a meeting:

- Public notice of a Closed Meeting must be given before holding a meeting or part of a meeting that is to be closed to the public.
- Council must state, by resolution, the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting.
- The public resolution must be passed before the closed meeting. It may be passed immediately before the closed meeting or to authorize a closed meeting at a specified date and time in the future, typically for education and/or training.
- In the closed meeting, Council, the local board or committee is limited to the consideration of those items expressly referred to in the resolution.
-
- All resolutions, decisions and other proceedings at closed meetings are to be recorded without note or comment.
- Closed meeting proceedings shall be recorded by the Clerk or designate.

In terms of reporting out of closed meeting, according to a guide published by the Association of Municipalities of Ontario (OAS) Local Authority Services Division, the *Municipal Act* does not prescribe a requirement for reporting out of a closed meeting.¹⁴ However, the guide does recommend a rise and report process be adopted by municipalities:

¹³ See *ibid.*

¹⁴ Association of Ontario Municipalities, Local Authority Services, "What you need to know about: Closed Meetings, (Toronto, 2013) 17.

... there is no requirement in the *Municipal Act for Council, a local board or committee to report out in a public session after the completion of a closed meeting. It is however a recommended practice as it helps close the loop in terms of the transparency of the closed meeting process.*¹⁵

The *Municipal Act* generally leaves it up to municipalities to determine the appropriate procedure for reporting out of items considered in a closed meeting. However, the guide strongly suggests that municipalities adopt a rise and report procedure for those items that can be disclosed publicly.

[3] The Practices in Selected Canadian Cities

The preceding section provides the general legal basis for municipal (City) Councils when holding an *in camera*, closed or private meetings. With that basis established this section now turns to address the more practical applications for *in camera* meetings in selected Cities. The section begins by providing a very brief overview of the procedures and practices used by the City of Saskatoon. It then proceeds to address the practices in Edmonton, Calgary, Winnipeg, Victoria, Vancouver and London, Ontario. This section excludes the City of Regina as its practices are very similar to the City of Saskatoon's practices.

3.1 City of Saskatoon

Bylaw 9170 generally sets out the procedures that the City of Saskatoon uses for deliberating on private or *in camera* matters. The practices and procedures are summarized as follows:

- *In camera* items form part of the public City Council/Committee agenda and a motion is required to consider items *in camera* which includes the exemption, which allows for the matter to be considered *in camera*.
- If City Council/Committee does not support a particular item being considered *in camera*, it is pulled from the *in camera* agenda and considered during the public portion of the same meeting.
- The City of Saskatoon does not have a rise and report procedure or a mechanism to end an *in camera* session.
- Matters requiring a decision of City Council/Committee are reported to City Council/Committee at the time of the item's consideration.
- Matters which are comprised of legal briefings, land purchase and sale negotiations, personnel matters and collective bargaining mandates are not reported out and remain *in camera* under permissive and mandatory exemptions.

In general, the City of Saskatoon holds *in camera* sessions during committee meetings, but not a Regular City Council Meeting.

¹⁵ Ibid.

3.2 City of Edmonton:

According to Part XII of Edmonton's Procedures Bylaw:

- Council or a Committee may, by resolution, meet privately to discuss any matter if a statute authorizes the holding of that meeting in the absence of the public.
- The only resolution that can be passed in a private Council or Committee meeting is a resolution to revert to a public meeting.

In other words, to hold a private meeting, Council or a Committee must make and adopt a motion in public prior to meeting in private. Once the private meeting concludes, the Council and Committee must rise and report in public to close the private meeting.

When holding a meeting in private, Council or Committee moves into what is termed "Committee of the Whole". Essentially, Committee of the Whole is a process that generally suspends the procedural rules of Council or a Committee, such that:

- Councillors may speak more than once, provided that all Councillors who wish to speak to the matter have been permitted to speak;
- the proceedings will not be recorded except the report to Council;
- the only motions permitted are: (i) to adopt reports or recommendations and to recommend amendments; (ii) to amend its own reports or recommendations; (iii) to rise without reporting; and (iv) to rise and report.

As noted, the City of Edmonton allows Council and Committee to meet in private to discuss permitted matters. During a Regular Council meeting, or Committee meeting, a private, or *in camera*, session is placed near the end of the meeting and is listed on the public agenda.¹⁶

At the appropriate time during the meeting, Council will make a motion to consider private reports and move *in camera* to discuss them. At the conclusion of the private or *in camera* session, it will rise and report, in public, on those items that can be disclosed.

The report simply states, for example, that Council considered item 1 and that the matters remain private pursuant to sections X,Y, and/or Z of the *Freedom of Information and Protection of Privacy Act*.

¹⁶ The City of Edmonton does not have private reports on its Public Hearing Meeting Agenda.

3.3 City of Calgary

Section 40 of Calgary's procedure bylaw describes the process for *in camera* meetings. According to the Bylaw:

- No item shall be considered *in camera* unless one of the exceptions to disclosure in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act* applies.
- A Meeting held *in camera* subject to the *Municipal Government Act* and the *Freedom of Information and Protection of Privacy Act* may exclude the Administration, but not Members of Council or the City Clerk.
- No bylaw or resolution shall be passed at an *in camera* meeting, except a resolution to revert to meeting in public or to recess.

Section 120 of the Bylaw stipulates that a motion is required for Council or Committee to move *in camera*. According to this section of the bylaw:

- A Member may make a motion to move *in camera* which must:
 - (a) be in accordance with the *Freedom of Information and Protection of Privacy Act*;
 - (b) include the titles or subject of the item(s) to be discussed; and
 - (c) include the reason for the *in camera* meeting

When Council or Committee meets *in camera*, section 120(2) of the Bylaw stipulates that the Committee of the Whole processes/procedures apply to the meeting.

- Section 147 of the Bylaw describes the Committee of the Whole procedures.
- The proceedings of the Committee of the Whole, whether public or *In camera*, shall be reported by a rise and report to Council when it reconvenes.
- The minimum of the rise and report motion shall be to receive the report, oral or written, for information, the report name or title, and if the report is to remain *in camera*, the Section of the *Freedom of Information and Protection of Privacy Act* that applies and the date or event after which the report may be made public.
- A Council member may, at any time, move that the Committee of the Whole rise and report. This motion is not debatable or amendable.
- A Council member may, at any time, move that the Committee of the Whole rise without reporting. This motion is debatable and takes precedence over other motions.
- When the Committee of the Whole deems it necessary to suspend its meeting before the matter referred to it is decided, but desires to continue debate at a later time, the Committee may move that they rise and table the matter until such time as Council determines.
- Except in accordance with Section 41, no bylaw or resolution shall be passed at an *in camera* meeting of Committee of the Whole.

Like Edmonton, the City of Calgary places the *in camera* agenda near the end of its Council or Committee meetings, and is listed on public agenda.

3.4 City of Winnipeg:

The City of Winnipeg Charter provides that Council may by bylaw specify categories of matters that may be considered at *in camera* meetings of Council or a Committee of Council or a subcommittee.

The *City of Winnipeg Charter* further provides that a matter may be considered *in camera* where, in the opinion of not less than 2/3 of the total number of members of Council or the Committee or subcommittee of Council, such that: (a) the matter comes within a category mentioned in such a by-law; and, (b) the matter should be considered *in camera*.

The *City of Winnipeg Charter* further provides that, where a matter is considered *in camera*, the reasons for considering the matter *in camera* must be recorded in the minutes of the meeting.

According to Winnipeg's *In camera* By-law, Council and all Committees may meet *in camera*. Where a matter is considered *in camera* at a meeting of Council or a Committee of Council or a subcommittee thereof, the reasons for considering the matter *in camera* must be recorded in the minutes of the meeting.

While in an *in camera* meeting, the meeting convenes as "Committee of the Whole." Normally, the procedural rules of Council are suspended while in Committee of the Whole. However, in Winnipeg, only some of the rules are suspended such that: (a) no motion will require to be seconded; (b) no motion for any adjournment shall be allowed; and, (c) the number of times of speaking on any question shall not be limited.

At the conclusion of the *in camera* meeting, Council or Committee rises and reports on those matters that were considered at the *in camera* portion of the meeting.

3.5 City of Victoria

The City of Victoria holds an *in camera* session during its Council meeting, called a closed meeting. The closed meeting is placed at the end of the Council Agenda.

According to section 12 of the City of Victoria's Council Bylaw:

- The motion to close the meeting to the public must be considered in the open meeting. The motion should be read out in full citing the sections of the Council Bylaw and the reasons the matter(s) is being considered in a closed meeting.
- Specifically, section 12(6) of the Bylaw reveals that:
Before a meeting or part of a meeting is closed to the public, the Council must state, by resolution passed in a public meeting (a) the fact that the meeting or part of the meeting is to be closed; and, (b) the basis under subsection on which the meeting or part of the meeting is to be closed.
- A Council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

- At the conclusion of the closed session, the practice at the City of Victoria is to rise and report in public on those items that are to be disclosed.

3.6 City of Vancouver

Like other cities, Vancouver is permitted to hold an *in camera* meeting provided that the subject matter is provided for in the *Vancouver Charter* or other applicable legislation like the *Freedom of Information and Protection of Privacy Act* and the *Ombudsman Act*.

Section 165.3(1) of the *Vancouver Charter* prescribes that before holding a meeting or part of a meeting that is to be closed to the public, the Council must state, by resolution passed in a public meeting:

- (a) the fact that the meeting or part is to be closed, and
- (b) the basis under the applicable section of the legislation on which the meeting or part is to be closed.

The process is as follows: at the beginning of a Regular Council Meeting, the City of Vancouver will pass a motion stating:

THAT Council will go into meetings later this week which are closed to the public, pursuant to Section 165.2(1) of the Vancouver Charter.

It does not state when or at what time the meeting is to be held. However, according to the City's website: "*In camera* meetings are held most often after a Regular Council meeting."

The *Vancouver Charter* also prescribes that Council must not vote on the reading or adoption of a by-law when its meeting is closed to the public. However, *The City of Vancouver's Procedures Bylaw* is silent on any other procedures related to *in camera* meetings.

The City of Vancouver takes a unique approach in how it reports out *in camera* decisions. According to the City, *In camera* decisions and reports are released when they are no longer considered sensitive.¹⁷ There is no specified time limit as to when they need to be published. They items are simply released once they are no longer sensitive, whether it takes three months, six months, or longer.

¹⁷ These reports can be viewed at:
<https://covapp.vancouver.ca/councilMeetingPublic/InCameraInfoReleases.aspx>

3.7 City of London

Indeed, like the other cities in this document, the City of London allows Council and Committees to hold an *in camera* meeting, referred to a closed session. According to the City of London's *Council Procedure Bylaw (Bylaw A-45)* "a closed session shall mean a closed session of a standing committee, the Committee of the Whole or the Council not open to the public, held in accordance with section 239 of the *Municipal Act, 2001*."

Section 5 of the Bylaw places specific limitations on what can be addressed during a closed session and the process by which the City moves to a closed session and how it reports out. Similar to other Cities, London is permitted to hold a closed session on matters such as land negotiations, personnel matters and labour negotiations, legal briefings and litigation, and for the education and training of Council members.

However, when the closed session involves education and training, section 5.3(b) limits that, " at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the Council, Committee of the Whole or standing committee."

The Bylaw also instructs that before holding a closed session, the Council or Committee shall pass a resolution in public that indicates:

- (a) the holding of a closed meeting;
- (b) the general nature of the matter to be considered at the closed meeting; and
- (c) the general exceptions in legislation that permit the matter to be addressed in a closed session.

While in a closed session, the Bylaw stipulates that the Council or Committee may vote on a matter, provided that the vote is for a procedural matter or for giving direction or instruction to officers, employees or agents of the municipality.

If the closed session is held during a Council or Committee meeting, then at the conclusion of the closed session, Council or Committee rises and reports on those matters that can be disclosed publicly. This process ensures that the closed session has ended. However, if the closed session is for education and training held outside of a regular meeting, this practice does not apply, as there is no need to immediately rise and report on these matters.

The City of London typically holds its closed sessions during Regular City Council meetings. The closed session is held early in the agenda, following the disclosure of pecuniary interest and public recognitions. Council then proceeds to hold the closed session and then returns to an open, or public session, to conclude the remaining business of Council.

However, when there is a closed session at a Committee meeting, the closed session is placed at the end of the meeting. The Committee deals with bulk of its business in an open meeting and then proceeds to a closed session. At the conclusion of the closed session, the Committee reports publicly on any items that can be disclosed.

[4] Summary and Conclusion

The purpose of this document is to review the best practices as it relates to reporting out of *in camera* meetings and/or sessions that City Councils may hold from time to time. As section 2 describes, provincial enabling legislation permits cities across Canada to conduct some of its business in private, provided that there are legitimate reasons for doing so. These so-called legitimate reasons are stipulated in provincial legislation and generally limit private, or *in camera*, meetings to matters that have privacy implications, legal briefings, labour and land negotiations, dealings with other orders of government, and the ability to educate and train members of a City Council.

Provincial legislation also places minimum standards on the process and procedures that City Councils must follow when holding a private meeting or session. For example, provincial legislation stipulates that a Council or Council Committee must provide public notice prior to holding a private meeting. It also limits the types of votes that may be taken during a private meeting. For example, provincial legislation generally provides that a City Council may not pass bylaws or budgetary items during a private meeting. These actions must be conducted in an open or public meeting.

However, provincial legislation is generally silent when it comes to reporting out of an in-camera or private meeting. But as section 2 chronicles, many provinces have developed “best practice” companion guides to assist cities in adopting appropriate ways to report on activities conducted in a private meeting/ session. These documents consistently suggest that a rise a report procedure is the most transparent and accountable way to accomplish this.

In many cases, provincial legislation is augmented by the procedures/processes enacted by a city’s “Council Procedure Bylaw.” As section 3 illustrates, some cities have enacted very detailed procedures as it relates to conducting and concluding private meetings. For example, the City of Calgary has enacted extensive procedures relating to the way it reports out at the conclusion of a private meeting, while Saskatoon does not.

Given the preceding research and analysis, it is clear that there is a strong argument in favour of City Councils having well-established procedures for reporting out of *in camera* meetings. Saskatoon City Council has taken significant and impressive steps to improve and modernize its decision making processes over the past 18 months. Therefore, the next logical step in the process is to ensure that it enacts an appropriate procedure for reporting out of *in camera* meetings. This not only ensures good governance, but it will further enrich, in the words of the Supreme Court of Canada, “a decision-making process that is transparent, accessible to the public, and mandated by law.”

Attachment 2

Council and Committee Procedures and Practices Meeting In-Camera (Governance & Priorities Committee Meeting – January 18, 2016)

Sample Motions Upon Rising and Reporting

The following is a sampling of motions upon rising and reporting. The minutes of City Council meetings of the Cities of Calgary and Edmonton were reviewed for sampling purposes.

1. Appointment to a Board or Committee

[Board or Committee Reference]

Moved by XXX, Seconded by XXX

1. That the recommended appointments, as documented by the City Clerk, be forwarded to City Council for approval.
2. That Attachments 1) and 2) (*applications & reference statements*) remain confidential and in camera pursuant to Sections XXX and XXX *The Local Authority Freedom of Information and Protection of Privacy Act*.

2. Personnel Matter (Verbal Report)

[General Reference to a Personnel Matter]

Moved by XXX, Seconded by XXX

1. That the verbal report dealing with the personnel matter be received as information; and
2. That the verbal report discussion dealing with the personnel matter remain confidential and in-camera pursuant to Sections XXX and XXX of *The Local Authority Freedom of Information and Protection of Privacy Act*.

3. City Manager Update– Verbal Report

[General report to Verbal Updates of City Manager]

Moved by XXX, Seconded by XXX

1. That the January 25, 2016, verbal report on the City Manager Updates be received as information; and
2. That the January 25, 2016, verbal report on the City Manager Updates remain confidential and in-camera pursuant to Section XX and XX of *The Local Authority Freedom of Information and Protection of Privacy Act*.

4. Project Update where a report will be released at a later time

[Project Reference]

Moved by XXX, Seconded by XXX

That with respect to the Report of the General Manager XXX, dated XXX:

1. That the report of the General Manager XXX, dated XXX be received as information; and
2. That the report of the General Manager XXX, dated XXX, remain confidential and in-camera pursuant to Section XXX of *The Local Authority Freedom of Information and Protection of Privacy Act* until such time as the Administration reports to City Council or Committee for a decision, at which times those parts of the report contained in the public report to Council shall be public and no longer confidential.

5. Project Update where report is not released

[Project Reference]

Moved by XXX, Seconded by XXX

1. That the report of the General Manager XXX, dated December 15, 2015, be received as information;
2. That the December 15, 2015 report of the General Manager XXX remain confidential and in camera pursuant to Section XX and XX of *The Local Authority Freedom of Information and Protection of Privacy Act*, until this matter is resolved.

6. Performance Review

[Performance Review Reference]

Moved by XXX, Seconded by XXX

That the [*City Manager, City Solicitor, City Clerk*] Performance Evaluation be approved and remain confidential and in camera pursuant to Section XX of *The Local Authority Freedom of Information and Protection of Privacy Act*.

7. Report from City Solicitor

[Legal Report Reference]

Moved by XXX, Seconded by XXX

1. That the Legal Report of the City Solicitor dated XXX be received as information; and
2. That the Legal Report of the City Solicitor and In Camera discussions remain confidential and in-camera pursuant to Section XX of *The Local Authority Freedom of Information and Protection of Privacy Act*.



EXECUTIVE COMMITTEE

Municipal Governance and Public Accountability

Recommendation of the Committee

1. That the information be received;
2. That the processes for in camera matters be amended as outlined in the report of the City Solicitor dated March 16, 2015;
3. That the City Solicitor provide any required bylaw amendments to Council for consideration;
4. That the explicit noting of items considered In Camera and when considered In Camera be reported out as part of the public agenda items;
5. That the Administration report back about the potential of releasing In Camera items after a defined period of time that were exempted under the permissive exemptions for release to the public; and
6. That a year over year comparison evaluation mechanism be developed.

History

At the March 16, 2015 meeting of Executive Committee, a report of the City Solicitor was considered regarding the above.

Attachment

Report of the City Solicitor dated March 16, 2015

Admin Report-Municipal Governance and Public Accountability.docx

Recommendation

That the information be received.

That the processes for *in camera* matters be amended as outlined in this report.

That the City Solicitor provide any required bylaw amendments to Council for consideration.

Topic and Purpose

This report discusses meetings of City Council, notice and *in camera* matters. It is also addresses the following inquiry made by Councillor Clark at the meeting of City Council held on December 15, 2014:

Would the Administration undertake a review of our current policies and practices, and current best practices for both determination of what items are discussed in camera vs. in public and how information pertaining to in camera discussion is released to the public.

Report Highlights

1. This report provides an explanation of the meaning of a "Meeting" of City Council.
2. This report discusses when notice of a meeting must be given and the process for providing notice.
3. This report discusses in what circumstances additional public notice requirements apply.
4. This report outlines when a meeting may or may not be held *in camera*, including the current process to determine whether a matter is to be considered *in camera* and recommends certain amendments to the process.
5. Finally, this report highlights the current process for reporting *in camera* meetings and items to members of the public and recommends amendments to this process.

Strategic Goal(s)

This report supports the Strategic Goal of Continuous Improvement because it recommends ways in which Council may increase its public transparency.

Report

Introduction

A fundamental principle of municipal government is that it conduct its business in public.

Municipalities are creatures of provincial statute. Municipalities have no independent constitutional standing.

Public accountability rules for cities in Saskatchewan are found within the provisions of *The Cities Act* (the "CA").

The CA says an act or proceeding of City Council or a Council Committee is not effective unless adopted at a duly constituted public meeting. Everyone has the right to be present at Council and Council Committee meetings.

The CA says Council and Council Committee meetings are required to be conducted in public. A Council or Committee meeting may only be closed to the public if a specific exemption applies (see Attachment No. 1).

Issue #1 – What is a "Meeting" of City Council?

The CA does not define the term "meeting".

The cases which have considered the issue tell us the following:

- a meeting is a gathering to which all members of Council or the Committee are invited;
OR
- a meeting is a gathering of the Mayor, Councillors and civic Administration;
AND
- a meeting takes place when Council/Committee discuss matters within Council's/Committee's jurisdiction;
- a meeting takes place when Council/Committee discuss, "in a structured way", matters which would ordinarily be the subject of Council/Committee business; or
- a meeting takes place when Council/Committee discuss matters, in such a way, as to:
 - make decisions;
 - to materially move a matter along in the overall spectrum of Council's/Committee's decision making; or,
 - to decide the "heart of the matter".

Therefore, a fair articulation of the definition of "meeting" is:

"A meeting takes place when Council/Committee is gathered together to discuss a matter within its jurisdiction and makes a decision or materially moves the decision-making along by giving direction or deciding 'the heart of the matter'."

Examples:

- regularly scheduled Council and Committee meetings;
- special Council and Committee meetings;
- City Council strategic or long-range planning sessions;
- City Council strategic or long-range planning sessions held with councils of other municipalities, other local authorities, or the like;
- Council or Committee briefing sessions held with civic Administration, boards of the City's controlled corporations, other civic boards or commissions, or other third party entities or boards.

Issue #2 – When Must Notice of a Meeting be Given?

The basic concept is that notice of regular and special meetings of Council and Committee must be given to all members of Council and to the public.

The CA says that Council and Committee may establish regular meetings on specified dates, times and places. Notice of regularly scheduled meetings need not be given. However, if the date, time or place of a regularly scheduled meeting changes, at least 24 hours' notice must be given to members of Council and to the public.

Members of Council and the public must be given at least 24 hours' notice of special meetings of City Council and Committees. The notice must include the purpose of the meeting and the date, time and place at which the meeting is to be held.

The exception is that for a special Council or Committee meeting, the 24 hours' notice may be dispensed with if all members of Council agree to do so, in writing, immediately before the beginning of the meeting. Written consent may be provided in an electronic format.

Process for Providing Notice

Notice for both scheduled public and *in camera* Council and Committee meetings is included on the City Page of the Star Phoenix (the Saturday edition prior to the meeting week and the Sunday edition).

Notice of any special meetings, either public or *in camera* is also included on the City Page of the Star Phoenix, if the special meeting has been determined well enough in advance to meet the newspaper submission deadlines.

Notices of ALL meetings are included on the City's website and posted on the public bulletin board in the main lobby of City Hall. While not required, every attempt is made to include those notices of meetings which are held with less than 24 hours' notice.

Notice of ALL meetings is emailed to members of Council and the Administration. Recently, the City Clerk's Office has also undertaken to send an email to all media

groups advising them of a special public meeting, if the meeting was not called in time to be advertised in the newspaper.

All public agendas are posted on the City's website in advance of the meeting.

Issue #3 – When do Additional Public Notice Requirements Apply?

There are additional public notice requirements for certain matters considered by City Council (see Attachment No. 2).

City Council has passed a Public Notice Policy, and for the matters listed in Attachment No. 2, additional public notice is provided in accordance with the City's Public Notice Policy.

Issue #4 – When May a Meeting be Held In Camera?

A Council/Committee may close all or part of the meeting if:

- the matter to be discussed is within an exemption listed in Part III of *The Local Authority Freedom of Information and Protection of Privacy Act* ("LAFOIPPA") (see Attachment No. 1);
- the Committee is a body established by Council for the sole purpose of hearing quasi-judicial appeals; or
- Council is meeting for the purpose of long-range or strategic planning – no business may be transacted.

When a meeting is closed to the public, no bylaws may be passed.

Current Process to Determine Whether a Matter is to be Considered *In Camera*

Currently, a set of guidelines for submitting reports to *in camera* meetings exists. The list has been formulated based on the exemptions in Part III of LAFOIPPA. It contains a summarized list of exemptions along with a description of each. The Administration chooses the applicable exemption from the list and identifies the exemption on the first page of its report intended for an *in camera* meeting.

At the beginning of each *in camera* Committee meeting, the Committee considers a motion to confirm that the matters included on the *in camera* agenda be dealt with *in camera*. If the Committee decides that it is not satisfied that the agenda item merits consideration *in camera*, the matter will be placed on the next public agenda of the Committee (or Council).

Recommended Amendments to Process

The application of exemptions by the "Head" when considering access requests under LAFOIPPA require an analysis of clear and identifiable harm versus the public's right to the information. This is a balancing test. In keeping with this general principle,

it is being recommended that the City Clerk's Office apply this balancing test and that the default will be that reports are submitted to a public meeting unless there is a clear and identifiable harm to the City when balanced with the public's right to the information and the City's duty to conduct its business in public. The anticipated harm must be genuine and conceivable; cause damage or detriment, not just be a hindrance or interference; and cannot be imaginary or contrived harm.

The following process is being proposed:

1. When Administration submits a report to the City Clerk for inclusion on an *in camera* agenda, it is reviewed by the City Clerk and if it is a matter that falls within one of the following exemptions, it will be considered *in camera*:
 - Solicitor/Client Privilege, Legal Advice (both oral and written) (Section 21 LAFOIPPA)
 - Labour/Personnel Matters (Section 16(1)(c) and (d) LAFOIPPA)
 - Negotiations (Section 16(1)(c) LAFOIPPA)
 - Land Sales (Section 17(1)(d) and (e) LAFOIPPA)
 - Personal Information (Section 16(1)(d) and 28 of LAFOIPPA)
 - Information from Other Governments Provided on a Confidential Basis (Section 13 LAFOIPPA)
 - Third Party Information (Section 18 LAFOIPPA)
2. The application of the above exemptions does not preclude the use of any other exemptions identified under LAFOIPPA. Other exemptions could still be applied; however, the general principle of a clear and identifiable harm to the City would still need to apply. For those matters not within an exemption outlined in paragraph 1 above, the City Clerk will perform the balancing test.
3. If the balancing test fails, the City Clerk will communicate with Administration to obtain any further clarification or justification as to why the matter was designated as *in camera*.
4. If, after consultation with the Administration, the City Clerk is of the opinion that the report passes the balancing test, it will be placed on the appropriate *in camera* agenda.
5. If the report does not pass the balancing test, it is returned to the Administration. The Administration may choose to resubmit the report to a public meeting.

Issue #5 – What are the Requirements for Reporting In Camera Meetings/Items to the Public?

Again, the rule is that no act or proceeding of Council/Committee is effective unless it is authorized or adopted by bylaw or resolution at a duly constituted public meeting.

So, while matters as described may be discussed *in camera*, no decision may be made or is effective unless considered and decided at a public meeting. Therefore, all matters discussed *in camera* under one exemption or another, which require a decision of Council or Committee, must be reported out, considered and decided upon at a public Council/Committee meeting.

There are a few matters which do not require a decision of Council and so are not ever made public. Examples include particulars of land purchase negotiations, collective bargaining mandates which instruct negotiations (the ultimate agreement reached is brought to Council for approval), performance reviews of the City Manager, City Clerk and City Solicitor, particulars of applications for municipal boards and commissions, legal advice, confidential information received from other levels of government and other "personal information" as defined by LAFOIPPA.

Current Process for Reporting Out of *In Camera* Meetings/Matters

Topics to be discussed at *in camera* meetings of Executive Committee and the Standing Policy Committee meetings are posted on the City's website. In cases where the subject itself is confidential, the subject line is changed to be more generic. (For example, a subject regarding the possible purchase of an identified piece of property would be changed to "Possible Property Purchase"). Matters requiring a decision of Council or Committee are reported out at a public meeting of Council or Committee.

The processes for dealing with *in camera* matters in other cities is outlined in Attachment No. 3.

Recommended Amendments to Process

Matters discussed at an *in camera* meeting under one of the exemptions which require a decision of Council/Committee must still be reported out to a public meeting of Council/Committee.

It is recommended that a listing of those matters considered *in camera* and currently posted on the City's website, form part of the public committee agenda (at the end of the agenda) and the required motion to consider the matters *in camera* be made during the public meeting of the Committee. If the Committee does not support any item being considered *in camera*, the item could be "pulled" from the *in camera* agenda and considered while still in a public forum. Both the Cities of Calgary and Edmonton undertake a similar process; however, the reporting out of any matters is done at the same meeting. In other words, during the public portion of the meeting, the Committee convenes in private for consideration of the private matters and then reconvenes publicly to consider and determine the matter(s) publicly.

Consideration of matters during an *in camera* session would have one of the following three outcomes:

1. the matter remains *in camera* and no further action is taken;
2. the matter is reported out to a subsequent public meeting of the Committee; or
3. that matter is reported out at the same meeting. The Committee would rise and report publicly during the same session.

Policy Implications

This report recommends changes to policy/process as outlined.

Public Notice

Public Notice pursuant to Section 3 of Policy No. C01-021, Public Notice Policy, is not required.

Attachment(s)

1. Attachment No. 1 – Mandatory and Permissive Exemptions under LAFOIPPA
2. Attachment No. 2 – Matters Which Require Additional Public Notice
3. Attachment No. 3 – Information From Other Cities, Consideration of In Camera Matters/Private Sessions
4. Attachment No. 4 – Council and Committee Reports Procedures, In Camera Headings and Descriptions

Report Approval

Written by: Patricia Warwick, City Solicitor
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City Manager's Office

Approved by: Patricia Warwick, City Solicitor
Joanne Sproule, City Clerk

Mandatory and Permissive Exemptions under LAFOIPPA

Mandatory Exemptions:

- information contained in a record obtained in confidence from the Government of Canada or a province or territory or foreign government (s. 13(1));
- trade secrets of a third party (s. 18(1)(a));
- financial, commercial, scientific, technical or labour relations information that is supplied in confidence by a third party (s. 18(1)(b));
- information which could reasonably be expected to result in financial loss or gain to a third party (s. 18(1)(c)(i));
- information which could reasonably be expected to prejudice the competitive position of a third party (s. 18(1)(c)(ii));
- information which could reasonably be expected to interfere with the contractual or other negotiations of a third party (s. 18(1)(c)(iii));
- a statement of a financial account relating to a third party (s. 18(1)(d)); and
- personal information (s. 28) (not contained in Part III of LAFOIPPA, but City prohibited from disclosing).

Permissive Exemptions:

- information contained in a record obtained in confidence from another local authority or similar body in another province or territory (s. 13(2));
- a record which contains information which could prejudice the investigation or prosecution of an offence or terrorist activity; which could be injurious to the enforcement of a law (including a bylaw); which could be injurious to the local authority in the conduct of legal proceedings; which could reveal investigative techniques; which could reveal the identity of a confidential source, etc. (s. 14(1));

- a record which contains a draft resolution or bylaw or which discloses the agendas or deliberations of *in camera* meetings (s. 15(1)) unless the record has been in existence for 25 years or more;
- a record which contains advice or proposals developed for or by the local authority; which contains consultations or deliberations involving employees of the local authority; which contains positions, plans, procedures, etc. developed for the purpose of contractual or other negotiations; which contains plans that relate to the management of personnel or administration which have not been made public; and, which could be reasonably expected to result in disclosure of a pending policy or budgetary decision (s. 16(1));
- a record which could reasonably be expected to disclose trade secrets; financial, commercial, scientific, technical or other information in which the local authority has a proprietary interest or a right to use and has monetary value; information gained through research by an employee which may deprive the employee of priority of publication; which could reasonably be expected to interfere with contractual or other negotiations of the local authority; positions developed for the purpose of negotiations; prejudice the economic interest of the local authority; result in an undue benefit or loss to a person (s. 17(1));
- a record that contains information relating to testing or audit procedures or specific tests or audits if the disclosure could be expected to prejudice the use or results of the tests or audits (s. 19);
- a record if the disclosure could threaten the safety or the physical or mental health of an individual (s. 20); and
- a solicitor-client record or record which contains legal advice (s. 21).

Attachment No. 2

Matters Which Require Additional Public Notice

In accordance with *The Cities Act*, *The Planning and Development Act, 2007*, and The City of Saskatoon's Public Notice Policy, additional notice is required when Council is considering the following matters:

- prohibiting or limiting the number of businesses of a particular type in an area of the City or specifying separation distances between businesses of a particular type;
- permanently closing or blocking off a street, lane or walkway;
- permanently modifying an intersection with the use of physical barriers;
- permanently closing or creating a median opening;
- borrowing money;
- lending money to a non-profit organization or to one of the City's controlled corporations or to a business improvement district established by the City, regardless whether the source or sources of money to be loaned is internal or external;
- guaranteeing the repayment of a loan between a lender and a non-profit organization or one of the City's controlled corporations or a business improvement district established by the City;
- moving capital moneys to an operating budget or reserve;
- imposing a special tax or determining the use to which excess revenue from a special tax is to be put;
- establishing an investment policy;
- selling or leasing land for less than fair market value and without a public offering;
- selling or leasing park lands and dedicated lands except where the land is covered by public notice provisions in *The Planning and Development Act, 2007*;
- establishing a purchasing policy;

- establishing a business improvement district;
- setting remuneration for Council or Committee members;
- increasing or decreasing the number of councillors on Council;
- appointing a wards commission and dividing the City into wards;
- amending or repealing a bylaw for which public notice was a requirement at the time the bylaw was passed;
- any matter where holding a public hearing is required under *The Cities Act* or any other Act except where the Act contains its own public notice provisions;
- discussing a matter at a public meeting held as a result of a petition signed by the required number of electors; and
- the amendment or repeal of a bylaw or resolution when the resolution or bylaw was passed as a result of a vote of the electors.
- the adoption, amendment or repeal of a bylaw for a development plan or zoning bylaw;
- an application for discretionary use approval or the amendment of a discretionary use approval;
- the adoption, amendment or repeal of a bylaw authorizing the sale of a buffer strip or municipal reserve;
- the voiding of a rezoning agreement;
- the adoption, amendment or repeal of an interim development control bylaw; and
- the passing of a resolution to adopt or amend a concept plan.

Information From Other Cities
Consideration of In Camera Matters/Private Sessions

City of Regina

1. Private Sessions are private meetings with the Administration present:
 - an agenda is prepared and minutes are kept;
 - the agenda/minutes are not made available to the public;
 - the agenda/minutes may be requested via LAFOIPPA; and
 - if a recommendation is made in a private session, an edited version of the report, with any confidential information excluded, is presented at a Council meeting for decision.

2. *In Camera*:
 - during a Council meeting, a councillor may request the meeting go *in camera*;
 - the meeting minutes will indicate that there was a request to move *in camera*, that the councillors left the room, what time they returned and what time the public meeting was reconvened; and
 - the report that was the subject of discussion when the request to go *in camera* was made is really the only information available - no explanation of the request to move *in camera* is required and the discussions during the *in camera* portion of the meeting are not recorded.

City of Calgary

1. "Drop In" sessions:
 - briefing sessions in which the City Manager and Leadership Team are available (usually prior to a Council meeting) to answer councillors' questions; and
 - drop-in sessions are not viewed as meetings of Council because the Administration is driving the meeting. It does not appear that the sessions are recorded or that any of the discussions are reported upon.

2. *In Camera*:
 - during a Council meeting, Council may move into the Committee of the Whole, *in camera*;
 - the minutes of the Council meeting will note the motion to move into the Committee of the Whole, *in camera*, and the motion that the Committee of the Whole rise and report to Council; and
 - *in camera* portions of the meeting are not recorded.

City of Edmonton

General Procedure:

- during a Council meeting, a councillor may move that certain matters be discussed in private;
- the minutes of the meeting will indicate the meeting went in private. In private portions of the meeting are not recorded;
- any reports presented in private will remain private unless the motion to go in private specifies that the report will be made public at a specified time or after the matter is no longer of a sensitive nature;
- as much information as possible is included in the minutes of the meeting. For example, if a report contains confidential information in a schedule, the report is typically included with the minutes, but the schedule that includes the sensitive information is not; and
- there is no formal reporting of matters discussed in private.

City of Winnipeg

General Procedure:

- the City of Winnipeg has enacted the *In Camera Bylaw*. Under the bylaw, only the Executive Policy Committee, Standing Policy Committees, and other specified committees may consider matters *in camera*;
- the matters that may be considered *in camera* are as specified in the *In Camera Bylaw*, and include reports concerning personnel matters, contractual negotiations, solicitor-client privilege, and other information, the disclosure of which would violate *The Freedom of Information and Protection of Privacy Act*;
- provincial legislation mandates that the reason for considering a matter *in camera* must be recorded in the meeting minutes;
- generally, *in camera* discussions are not made public; and
- some *in camera* matters may become public if they exceed the delegated authority of a Standing Policy Committee or involve funds that are not already set aside for a given purpose (ie. expropriation of land having a value in excess of what the Standing Policy Committee is authorized to approve or where monies are not currently set aside will go to the Executive Policy Committee and Council as public matters).

City of Vancouver

General Procedure:

- holds *in camera* Council meetings;
- reports presented at *in camera* Council meetings include the rationale as to why the matter is to be heard *in camera* (ie. the report deals with personnel matters);
- decisions and supporting reports from *in camera* meetings are made public throughout the year when the information is determined no longer to be sensitive or confidential; and
- some reports may be redacted in accordance with legislation.



**COUNCIL AND COMMITTEE REPORTS PROCEDURES
IN CAMERA HEADINGS AND DESCRIPTIONS**
March 2015

Council/Committee may close all or part of its meeting to the public if the matter to be discussed is within one of the exemptions in Part III of *The Local Authority Freedom of Information and Protection of Privacy Act* (LAFOIPP). The default is that reports are submitted to a public meeting unless there is a clear and identifiable harm to the City. The anticipated harm must be genuine and conceivable; cause damage or detriment, not just be a hindrance or interference; and cannot be imaginary or contrived harm.

Council/Committee may hold meetings closed to the public for the purpose of long-range or strategic planning, but no business may be transacted at those meetings.

The following are instances where a report may be considered In Camera:

HEADINGS	DESCRIPTION
Solicitor/Client Privilege Legal Advice or Legal Services (Section 21 LAFOIPP)	May use for written and verbal reports and updates from the City Solicitor's Office
Economic/Financial –Land (Section 17(1)(d) and (e) LAFOIPP)	May use this if the report deals with purchase of lands or property matters.
Labour/Personnel Matters (Sections 16(1)(c) and (d) LAFOIPP)	Must use this if report deals with labour-relations matters, including negotiations. May use if report deals with plans relating to the management of personnel or the administration.
Negotiations (Section 16(1)(c) LAFOIPP)	May use this if report deals with contractual or other negotiations on behalf of the City.
Information From Other Governments (Section 13 of LAFOIPP)	Must use this if the report contains information that was obtained in confidence, implicitly or explicitly, from the Provincial or Federal Governments, or its agencies, Crown corporations or other institutions, unless the government or institution consents to the disclosure or makes the information public. May use this if the report contains information that was obtained in confidence, implicitly or explicitly, from another local authority or a similar body in another province or territory in Canada.
Personal Information (Section 28 and Section 16(1)(b) and (d) of LAFOIPP)	Must use this if the report contains personal information of identifiable individuals who are not employees of the City, and who have not given their consent for the release of the information. May be used for discussion and consideration of matters such as appointments to Boards and Committees

Third Party Information (Section 18 LAFOIPP)	Must use this if the report contains trade secrets of a third party; financial, commercial, scientific, technical or labour relations information that is supplied in implicit or explicit confidence from the third party; statement of a financial account relating to a third party with respect to the provision of routine services from the City; or information which, if disclosed could result in financial loss or gain, prejudice the competitive position of, or interfere with the contractual or other negotiations of a third party.
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The following exemptions set out in Part III of *The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPP)* are to be used **ONLY** when the consideration of the information publicly would result in clear and identifiable harm to the City

Audits and Tests (Section 19 LAFOIPP)	May use this for testing or auditing procedures or techniques, or details of specific tests or audits to be conducted, where disclosure could prejudice their use or results.
Danger to Health or Safety (Section 20 LAFOIPP)	May use this if the disclosure could threaten the safety or the physical or mental health of an individual.
Economic/Financial and Other Interests (Section 17 LAFOIPP)	May use this if the report contains information which, if disclosed could prejudice the economic interest of the City, or result in an undue benefit or loss to a person. It also includes reports relating to contractual or other negotiations on behalf of the City. Other uses: <ul style="list-style-type: none"> • Financial, commercial, scientific, technical or other information in which the City has a proprietary interest or a right of use, and that has monetary value or is likely to have monetary value; • Scientific or technical information obtained through research by a City employee, which if disclosed could deprive the employee or priority of publication.
Policy Options/Advice (Section 16(1)(a) LAFOIPP)	May use this if the report deals with advice, proposals, recommendations, analyses or policy options.
Budget Matters (Section 16(1)(e) LAFOIPP)	May use this if the report provides information regarding an upcoming budgetary decision. May not be used to debate budget decisions in private.
Draft Bylaw or Resolution (Section 15(1)(a) of LAFOIPP)	May use this if the report contains a draft of a resolution or bylaw. Would normally apply to a draft bylaw which Council is receiving legal advice about.
Consultations/Deliberations (Section 16(1)(b) of LAFOIPP)	May be used for review and determination of awards, grants, etc., such as for the Public Art Advisory Committee or for consultations with a Committee.
Law Enforcement or Investigation (Section 14 of LAFOIPP)	May use this if the report contains information, the release of which could prejudice, interfere with or adversely affect an investigation or prosecution of an offence; be injurious to the

	enforcement of a resolution or bylaw; be injurious in the conduct of existing or anticipated legal proceedings; or reveal investigative techniques or procedures or a security risk.

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