



SUBJECT: Closed Session Protocol
TO: Corporate Services, Strategy, Risk & Accountability Cttee.
FROM: City Manager's Office

Report Number: CM-18-22

Wards Affected: Not applicable

File Numbers: 155-03-01

Date to Committee: June 6, 2022

Date to Council: June 21, 2022

Recommendation:

Approve the Closed Session Protocol attached as Appendix A to city manager's office report CM-18-22; and

Direct the City Clerk to bring forward all related Procedure By-law amendments to the July 2022 Corporate Services, Strategy, Risk and Accountability Committee meeting.

PURPOSE:

The purpose of this report is to approve a new Closed Session Protocol. The goal of the Protocol is to enhance and support the City's existing Closed Session procedures as prescribed by the *Municipal Act*, 2001 and the Procedure By-law.

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture
- Deliver customer centric services with a focus on efficiency and technology transformation

Background and Discussion:

Pursuant to section 239 of the *Municipal Act*, 2001, all meetings of Council, Committees, and local boards must be open to the public unless they fall within the fourteen prescribed exceptions set out in sections 239 (2) and 239 (3) (Appendix B). Section 27 of by-law 31-2021, as amended, commonly known as the City's Procedure

By-law (Appendix C), provides provisions for the conduct of Burlington Closed Session meetings. The Closed Session provisions of the *Municipal Act* and the City's Procedure By-law are intended to ensure accountability in the municipal decision-making process. On February 15, 2022, Council passed an amended motion directing staff to immediately engage the services of the City's Closed Session meeting investigator, Aird & Berlis LLP (Aird & Berlis), to review the City's Closed Session meeting policies and procedures and report back with any recommendations. The Closed Session Protocol attached as Appendix A is the result of this motion.

Strategy/process

The Closed Session Protocol is intended to serve as a resource to support the City's decision-making processes and to ensure compliance with statutory Closed Session requirements. It is intended that the Protocol, will work in concert with the Closed Session meeting provisions of the *Municipal Act*, 2001, and the Procedure By-law. Staff have reviewed the document produced by Aird & Berlis to ensure that the Protocol addresses all aspects of Closed Session.

John Mascarin and John Pappas from Aird & Berlis will be in attendance at CSSRA to provide presentation and answer questions about the proposed Protocol.

Next Steps

Subject to approval to the Protocol, Staff will bring forward amendments to the Procedure By-law to the July CSSRA meeting to align the By-law with the Protocol.

Additionally, pursuant to section 4b of the Protocol staff are moving forward with the implementation of the Closed Session e-agenda in eScribe, the City's e-agenda software provider, for the 2022-2026 term of Council. Staff are working with eScribe to ensure the privacy and confidentiality of the City's Closed Session materials. Information about the security of the Closed Session e-agenda will be provided upon implementation in the new term.

Financial Matters:

Total Financial Impact

The cost of the Closed Session Protocol as of writing this report is approximately \$10,000.

Source of Funding

The Closed Session Protocol costs are funded from the Contingency Reserve.

Other Resource Impacts

Not applicable

Climate Implications

Not applicable

Engagement Matters:

Not applicable

Conclusion:

The Closed Session Protocol has been developed to assist the City with its practices, and procedures, to ensure statutory compliance. Approval of the Protocol will provide guidance and direction to staff and Council when dealing with confidential matters ensuring consistency and statutory compliance.

Respectfully submitted,

Tim Commisso

City Manager

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City Clerk

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Appendices:

- A. Proposed Closed Session Protocol, Aird & Berlis
- B. Excerpt of section 239 of the *Municipal Act*, 2001
- C. Excerpt of section 27 from by-law 31-2021, as amended (City of Burlington Procedure By-law)

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.