

Memorandum

Date: March 19, 2024
To: Members of Council
From: Kevin Klingenberg, Municipal Clerk, Corporate Services
Subject: Closed Session Workshop Legislative Framework

Council passed the following motion at the March 6, 2024 General Committee-workshop:

Moved by: Councillor L. Kiernan Seconded by: Mayor A. Groves

That the Clerk be directed to provide a memo at the March 19, 2024, Planning and Development Committee outlining the legislative framework permitting Council to enter into closed session for the purpose of an educational workshop; and

That the Clerk be directed to release the closed session agenda which has the consultant's consent for release and in accordance with section 9.4 of the procedure by-law; and

That the Clerk be directed to release the closed session minutes of this workshop upon approval at the March 26, 2024 Council meeting.

This memo serves to complete the first clause of the above passed motion. The legislative framework used for entering into closed is completed through the [Municipal Act section 239 \(3.1\)](#) which states:

Educational or training sessions

(3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.
2. 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, local board or committee.

This legislative framework is also replicated in the Town's Procedural By-Law subsection 5.5.1 j). Town staff authoring reports or agenda items identify to the Clerk or delegate which material is intended for closed and the reason for entering closed session. The Clerk reviews the submitted closed agenda material for eligibility and advises any further considerations to Council regarding legislative compliance for holding a closed session meeting.

The Clerk's review determined that the workshop was eligible to be held in closed session, provided that no Council decisions were made arising out of the closed session training and discussions did not advance Town business. Learning and development of the topic on its own does not materially advance Town business related to the topic, as it would defeat the purpose of the clause being included in the Municipal Act as an eligible reason to enter closed session.

In consideration of a closed session educational workshop, the Clerk advised Council to focus on clarifying questions in closed session and refraining from feedback opportunities that could be considered to advance Town business, as practiced in recent open session workshops.

Procedural By-Law section 5.5 describes the legislative and Council's own requirements for closed session portions of their meetings, including:

- Prior to moving into confidential session, Council or Committee shall state by resolution a) the fact that the Council or Committee is convening into confidential session; and b) the general nature and a brief description of the matter(s) to be considered.
- Members shall be prohibited from discussing any additional matters during a confidential session other than those identified by resolution.
- A meeting shall not be closed to the public during the taking of a vote, except where: a) the vote is for a procedural matter or for giving direction or instructions to officers, employees, and/or agents of the municipality and/or local board or persons retained by, or under contract to, the municipality.
- The number of times a member may speak in debate on a matter shall not be limited during confidential sessions of Council and/or Committee
- The Clerk shall advise the Presiding Officer, if in his/her opinion, the issue (or portion thereof) being discussed at a confidential session is not procedurally in accordance with the terms of the Municipal Act, 2001.

The above framework does not permit meetings to be held in closed in their entirety, only the agenda items that require to be discussed in the absence of public and in accordance with the Municipal Act, 2001. The public may attend any other portion of the meeting conducted in open session. The March 6, 2024 General Committee-workshop followed this legislative framework.

The remainder of the carried motion to release the March 6, 2024 closed session agenda and minutes will be completed after the March 26, 2024 Council meeting.

ATTACHMENTS

None.