

REPORT

Legislative Services

To: Mayor Johnstone and Members of Council
Date: February 24, 2025

From: Hanieh Berg, Corporate Officer
File: 05.1040.10-2025

Item #: 2025-52

Subject: **Policy on Routine Release of Closed Council Resolutions**

RECOMMENDATION

THAT the policy on the Routine Release of Closed Council Resolutions, as included as Attachment 3 to the staff report titled "Policy on Routine Release of Closed Council Resolutions" dated February 24, 2025 from the Corporate Officer, be adopted.

PURPOSE

To seek Council's approval of a proposed policy on the routine release of Closed Council resolutions.

BACKGROUND

At the Regular Council meeting of May 6, 2024, Council adopted the following referral:

THAT Council commit to publicly releasing all in-camera resolutions on the City's website as soon as practicable and once a decision or discussion is no longer required to be secured as confidential.

This report responds to this referral and proposes that a policy be established.

ANALYSIS

In order for an item to be considered at a closed (or in-camera) Council meeting, the subject matter must meet at least one of the criteria specified in section 90 of the *Community Charter* (see Attachment 1 for a listing of the closed meeting criteria).

The criteria addresses subjects such as labour relations, personnel matters, land disposition, litigation, intergovernmental negotiations, etc.

The *Charter* further provides that before holding a closed meeting, a resolution must be publicly approved, which states that the meeting is to be closed and specifies, for each item, the reasons why the public is to be excluded from the meeting under section 90. While the *Charter* specifies a process under which matters are considered at closed meetings, there is no equivalent process specified for bringing matters out from a closed meeting in any kind of routine manner. Council may, of course, at its discretion, forward recommendations and/or reports to an open meeting. It is also possible to make a request for the release of closed meeting recommendations and/or reports under the *Freedom of Information and Protection of Privacy Act*, but this would not be considered to be a routine process. Often, the circumstances which necessitated the matter being considered in closed session simply either fade over time or expire after a specific condition has been met at some point in the future; however this can be challenging to determine in advance with any great certainty. The end result, in the absence of any process to review already adopted closed recommendations and reports, is that the items that were considered at closed meetings often remain closed, even though the reason the matter was originally closed may no longer apply.

It should be noted that the requirement for confidentiality with regard to any given decision or report varies greatly from item to item. In the case of some reports and decisions, the requirement for confidentiality may persist for years or in perpetuity, for example, matters where legal advice is sought and provided, and personnel matters.

Policy on Release of Closed Resolutions

The City currently does not have a practice of publicly releasing closed resolutions, with the exception of annual appointments to various external organizations and advisory bodies. In keeping with Council's desire for greater open government and to promote transparency, accountability, and accessibility, staff propose a policy to routinely release closed resolutions where the need for confidentiality has passed (Attachment 3).

In the spirit of the proposed policy and to help facilitate the routine release of closed resolutions, it is suggested that the closed staff report template be updated.

Closed Report Template

The closed report template will be updated to specify the relevant closed meeting criteria under the new header "Statutory Closed Meeting Criteria." Report writers, at the drafting stage, will be required to identify the closed meeting criteria that applies to their report. In keeping with current practice, the criteria for each item will also appear on the public portion of the closed agenda cover sheet, including which item on the agenda it applies to, as the criteria must be included as part of the resolution to close the meeting to the public in accordance with section 90 of the *Charter*. It is important to note that, by adopting the closure and compliance resolution in an open meeting, Council is adopting staff's recommendation

that the item(s) on the closed agenda comply with the closed meeting criteria as set out in the *Charter*.

Moreover, a new header “Recommendation on Disclosure” will also be added to the template, where staff will also be required to include a proposed course of action with regard to whether and how the report and any resulting resolution should be released publicly. An example of the report template changes is included as Attachment 2.

In terms of the release of closed resolutions, four general categories can be identified:

- Category 1 Recommendations that are referred to an open meeting for consideration;
- Category 2 Resolutions that are decided in a closed meeting and then referred to an open meeting for information;
- Category 3 Resolutions for which a specific release strategy cannot be determined at the time of consideration – these become subject to a semiannual review to determine whether the need for confidentiality has passed; and
- Category 4 Resolutions which are not anticipated to be released.

For clarity, matters that are referred to an open meeting for consideration (category 1) would be matters where a resolution is passed in a closed meeting to forward the matter to the open meeting that is scheduled later that same day. The matter itself is then debated and voted on at the open meeting. An example of such instance would be where Council may seek and receive legal advice in a closed session regarding a potential road closure bylaw but refer the matter to an open meeting for consideration as all bylaws must be read and adopted in a meeting that is open to the public.

For matters that are decided upon in a closed meeting and then referred to an open meeting for information (category 2), the suggested process will be slightly different in that such resolutions will be publicly released by way of public announcement by the Mayor or presiding member. An example of such instance are the release of names for appointments to Council’s advisory bodies.

Category 3 items – resolution for which a specific release strategy could not be determined at the time of consideration – will be routinely reviewed by staff on a semiannual basis to determine whether the requirement for confidentiality has indeed passed. If it has, the Corporate Officer will prepare a report for consideration in closed session that will list: (i) the date of the Closed Council meeting, (ii) the general subject of the matter to be released, and (iii) the resolution that is proposed to be publicly released, and recommend that they be released in accordance with Council’s policy. If approved for release, the complete aforementioned closed report from the Corporate Officer containing the resolutions for release would appear as an item on the Consent Agenda portion of the *next* Regular Council

meeting agenda, to allow for inclusion and full publication in the agenda package on the City's website.

Resolutions which are not anticipated to be publicly released (category 4) include consideration of personnel matters, law enforcement matters, legal advice, and other information protected under the *Freedom of Information and Protection of Privacy Act* to name a few.

NEXT STEPS

A number of legislative services changes have been implemented over the past year, including the practice of publicly releasing closed resolutions, when appropriate, at Regular Council meetings. This practice will continue and Legislative Services will begin to review closed resolutions starting with 2024 and working backwards as time and workloads permit. The review of past closed resolutions is labour intensive and requires considerable liaison with all departments to ensure the need for confidentiality has passed. It is anticipated that the process be led by the recently approved Manager, Records and Information.

FINANCIAL IMPLICATIONS

Following the retention of a new Manager, Records and Information, the proposed process to routinely review and recommend release of closed Council resolutions where the need for confidentiality has passed can be undertaken under existing staff resources. Moreover, Legislative Services is examining various records management solutions including a Council Decisions Database; a budget submission will be brought forward for Council-consideration when appropriate.

CONCLUSION

The approval of the proposed policy on the Routine Release of Closed Council Resolutions will result in a greater degree of openness and transparency as well as provide for a more rigorous method for managing the release of closed meeting resolutions.

ATTACHMENTS

Attachment 1 – *Community Charter*, s. 90, Meetings that may or must be closed to the public

Attachment 2 – Closed report template

Attachment 3 – Proposed Policy on the Routine Release of Closed Council Resolutions

APPROVALS

This report was prepared by:
Hanieh Berg, Corporate Officer

This report was reviewed by:
Senior Management Team

This report was approved by:
Lisa Spitale, Chief Administrative Officer