

Policy Title: Matters Considered In Closed Session**Policy Number: 02-01-03**

Section:	Municipal Government	Subsection:	Council and Committees
Effective Date:	July 8, 2020	Last Review Date:	September, 2020
Approved by: Council	Owner Division/Contact: Deputy Clerk, Legislative Services Corporate Services		

Policy Statement

Pursuant to Section 239 of the *Municipal Act, 2001*, as amended, a council or its committees may consider certain issues in meetings closed to the public.

Purpose

This policy identifies matters that can be considered in closed session and the appropriate procedures for circulation of related documents.

Scope

This policy applies to all meetings, as defined by the *Municipal Act, 2001*, namely any regular, special or other meeting of a council, of a local board or of a committee of either of them.

Legislative Authority

This policy complies with the *Municipal Act, 2001*, the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), and the City of Mississauga's Procedural By-Law, as amended. Should any of these be amended so that this policy no longer complies, the legislation or Procedural By-Law will take precedence.

Issues Considered In Closed Session

Under the *Municipal Act, 2001*, all meetings are to be open to the public, unless specifically provided for by Section 239. Under Section 239 of the *Municipal Act, 2001*, a meeting or part of a meeting may be closed to the public if:

- The subject matter being considered is:
 - The security of the property of the municipality or local board
 - Personal matters about an identifiable individual, including municipal or local board employees
 - A proposed or pending acquisition or disposition of land by the municipality or local board

- Labour relations or employee negotiations
- Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose, or
- A matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act
- Information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them
- A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization
- A trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value, or
- A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board

OR

- The following conditions are both satisfied:
 - The meeting is held for the purpose of educating or training the members, and
 - 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

Note: While legislation allows the matters listed above to be considered by Council in a closed session, there is no requirement to do so. Staff should make every effort to consider matters in public session whenever possible.

In accordance with Section 239(3) of the *Municipal Act, 2001*, a meeting shall be closed to the public if:

- A request under the *Municipal Freedom of Information and Protection of Privacy Act*, if the council, board, commission or other body is the head of an institution for the purposes of the Act

OR

- An ongoing investigation respecting the municipality, a local board or a municipally controlled corporation by the Ombudsman appointed under the *Ombudsman Act*

Notice of Closed Session Meeting

Before holding a meeting or part of a meeting that is to be closed to the public, council or a committee shall state by resolution:

- The fact of the holding of the closed meeting
- The general nature of the matter to be considered at the closed meeting, or
- In the case of a meeting held for the purpose of education or training:
 - The fact of the holding of the closed meeting
 - The general nature of the subject matter, and
 - That the meeting is closed for education or training pursuant to the *Municipal Act, 2001*

Voting

Where a meeting is closed to the public in accordance with the provisions of Section 239, the meeting shall not be closed to the public during a vote, except if the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee.

Minutes

In accordance with the *Municipal Act, 2001*, the Clerk or his/her designate shall record, without note or comment, all resolutions, decisions and other proceedings at a meeting of a council or a committee, whether it is closed to the public or not.

The minutes of City's Council meetings will include the record of both the public and closed session of the meeting.

Circulation of In Closed Session Documents

In special circumstances, the City Clerk or delegate may exercise discretion to distribute closed session documents electronically to Council or Committee members and applicable City staff. Otherwise, documents relating to matters to be considered in closed session are prepared and circulated as follows:

- All documents are reproduced on pink paper by Legislative Services
- All documents are forwarded to City of Mississauga Council or committee members and applicable City staff with the agenda but in a separate, sealed envelope or, when sent electronically, password protected
- Each document for closed session-consideration is watermarked with recipient's identification, including when sent electronically
- Each recipient is responsible for ensuring that the document remains confidential, until or unless that document is made public by Council and/or a committee.

- A list is maintained by Legislative Services of all matters considered in closed session, including all reports, presentations and any other materials distributed, and
- All paper documents should be returned to Legislative Services

Requests to Review/Receive Copies of Documents

- Members of Council may, upon request, examine any or all closed session documents in the City Clerk's office. Documents may not be removed. Copies will only be provided with a resolution by Council.
- Council may, by resolution, authorize the release of a closed session report, such as a report containing advice from the City Solicitor. Council may not authorize the release of a report publicly if information would be disclosed that is required to be kept confidential by legislation or other means.
- Requests by staff members to examine or obtain copies of a closed session document that has not been made public by Council must be accompanied by written approval from the signatory of the document or their successor.
- Requests by members of the public for copies of any closed session document that has not been made public by Council must be made by submitting a written request to Legislative Services. The City will provide a public version of the report within 15 business days. Should it be determined that a public version cannot be provided due to the subject matter of the report, a Freedom of Information request may be submitted to Legislative Services, pursuant to MFIPPA.
- Requests by the Information and Privacy Commissioner to review a report as part of an appeal, and where the subject report contains legal advice and is protected under s. 12 of MFIPPA, release is subject to the approval of the City Solicitor.

Revision History

Reference	Description
GC-376-95 - 1995 06 14	Amended per 2001 policy review – housekeeping
GC-0737-2016 – 2016 12 14	Scheduled review – revised to reflect current legislation and practices
September 17, 2018	Revised to reflect amended closed meeting exemptions under the <i>Municipal Act, 2001</i>

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	effective January 1, 2018
July 8, 2020	Scheduled review; revised to reflect electronic submission of reports and review of reports by Privacy Commissioner.