



Meeting Date: June 7, 2023

Submitted by: James Hutson, Municipal Clerk

Report No: CLK-06-2023

Subject: Closed Meeting Investigation Report 2022-01 Findings

Recommendation:

THAT Report CLK-06-2023, re: Closed Meeting Investigation, and the Report on Closed Meeting Investigation 2022-01 dated May 31, 2023 attached as Appendix A, be received;

AND THAT Council incorporate the technical recommendation related to format of resolutions to proceed into closed session as detailed in the report findings.

Purpose:

The purpose of this report is to provide an update and overview of a closed meeting investigation (2022-01) and to share the report findings.

Background:

Municipalities and local boards in Ontario are required to adopt bylaws setting out the procedure for holding meetings. All meetings must be open to the public unless they fall within limited exceptions.

Section 239 of the *Municipal Act, 2001* (The 'Act') lays out specific requirements which must be met to allow municipal council to meet in a closed/confidential setting. For example, if a municipal council is considering purchasing a piece of land or if council must deal with a labour relations issue then it is appropriate that it be able to do so at a closed meeting.

Under the Act, members of the public may request an investigation into whether the municipality has complied with the open meeting requirements.

Analysis:

The Municipality of Middlesex Centre has engaged the services of the Aird and Berlis LLP as the Municipal Closed Meeting Investigator and has authorized their office to conduct investigations upon receipt of a complaint in respect to meetings or parts of meetings that are closed to the public.

As detailed in the attached report findings, a closed meeting investigation request was filed of all meetings during a specified time period related to the proposed declaration of the Komoka Community Centre as surplus lands.

The report notes that “initially, the request field did not set out sufficient detail or reasonable particulars of an alleged contravention” and the Investigator took steps to clarify and scope the request. The scope of the request was narrowed to one meeting of Council, and the scope of the allegations was limited to two issues, being:

Item One – Permittance of Closed Meeting

The request alleged that Council was not entitled under the *Municipal Act, 2001* (The ‘Act’) to hold a closed session to consider the matter and that the resolution to proceed into closed did not comply with subsection 239(4) of the Act by stating the general nature of the items to be discussed in closed.

As detailed in the report findings, the investigation was conducted and the report confirms that the municipality was entitled to hold a meeting in closed session and was permitted to discuss the matters in a closed setting. The investigation found no contravention with respect to the entitlement to hold the meeting or the discussion which occurred therein.

Item Two – Notation on Open Agenda

The report confirms the appropriate actions of the Clerk that the agenda did note the general nature of the items to be discussed and further that the publicly-available council agenda published several days in advance of the meeting also listed the general nature of the items to be discussed. Based on the current formatting of the Council agendas through the automated agenda management system, it is noted on the following lines containing a list of items to be discussed in closed session.

Given the above, the municipality did publicly disclose the matters council considered in closed session. However, technically the resolution to proceed into closed session should state the general nature of the business to be discussed, in addition to the current practise of listing the general nature on the Agenda itself. This technicality will be resolved through our agenda management system (e-Scribe).

As noted in the conclusion of the report, the investigation found that Council did not contravene the Act at the meeting as Council was entitled to consider that item in closed session pursuant to clause 239 (2)(c). The technical recommendation respecting the resolution for closed session has been noted and the practice will be adopted by Council going forward.

Financial Implications:

The municipality incurred fees of \$11,589.94 for the investigation to date.

Attachments:

Appendix 'A' Report on Closed Meeting Investigation 2022-01