

**CORPORATION OF THE TOWN OF
THE BLUE MOUNTAINS**

By-law No. 2009 -

Being a By-law to adopt a Corporate Policy

WHEREAS subsection 5(3) of the *Municipal Act 2001*, chapter 25, S.O. 2001, as amended, states that a municipal power, including a municipality's capacities, rights, powers and privileges under section 9, shall be exercised by by-law;

AND WHEREAS it is deemed expedient by Council in the interest of accountable and transparent governance to adopt a Policy describing and clarifying the circumstances in which a Council, Local Board or Committee meeting may be closed to the public;

NOW THEREFORE Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT Town Policy POL.COR.09.08, "Closed Session Meetings", is hereby adopted and directed for application as a Corporate Policy in all spheres and aspects of municipal business.

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this tenth day of August, 2009

.....
Ellen Anderson, Mayor

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Corrina Giles, Deputy Clerk

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Closed Session Meetings

Corporate Policy (Approved by Council)

Policy Ref. No.: POL.COR.09.08

Administrative Policy (Approved by CAO)

By-law No.: N/A

Department Policy: (Approved by Mgr.)

Name of Dept.:

Date Approved:

Staff Report:

Policy Statement

The Corporation of the Town of The Blue Mountains supports the principles of open and accountable governance. The purpose of this Policy is to provide clarity on when closed meetings are to be held and the processes to be followed.

Purpose

Section 239 of the *Municipal Act, 2001* (the Act) as amended, establishes the parameters under which a municipality, board or committee meeting may be closed to the Public. The Act also requires that minutes be recorded during Closed Session Meetings.

A meeting or part of a meeting may be closed to the public if the subject matter being considered is:

- 239(a). the security of the property of the municipality or local board;
- (b). personal matters about an identifiable individual, including Town or local board employees;
- (c). a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d). labour relations or employee negotiations;
- (e). litigation or potential litigation, including matters before administrative tribunals affecting the municipality or local board;
- (f). advice that is subject to solicitor/client privilege, including communications necessary for that purpose;

(g). a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;

239(3). the consideration of 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 that Act.

239(3.1). the educating or training of Council and at the meeting, members will not discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the Council, Committee or Local Board.

Application

This policy applies to Council, Local Boards and all Committees including *ad-hoc* committees and Staff so as to increase the accountability and transparency of the municipal decision making process.

Definitions

Agenda

Agendas shall include a section entitled “Closed Session” where deemed to be required for a particular meeting. This will enable Council, a Local Board or Committee the opportunity to go into Closed Session to discuss all Closed Session items that are before the Council, Local Board or Committee at that particular meeting. Notice of meetings and Agendas is to be given in accordance with the provisions of the Town Procedural By-law. This does not necessarily preclude a councillor or member from requesting the opportunity to go into Closed Session during the discussion of specific reports and recommendations, however, in the interest of accountability and transparency and meeting notice requirements, such requests should be kept to an absolute minimum.

Staff Reports

Staff who are considering labelling a report “Confidential”, and is therefore to be considered in Closed Session, should seek advice from the CAO or the Clerk to ensure that the subject matter meets the criteria for a closed meeting discussion.

Resolution to go into Closed Session

A resolution to go into Closed Session should voluntarily disclose as much information in the resolution as possible. The reason must meet the criteria as set out in the Act. If Council or a committee is going into Closed Session, the resolution must also include the general nature of its subject matter and the fact that the meeting is being closed under this specific subsection.

An example follows of the level of detail expected:

1. In the situation that a lawsuit has already been commenced the resolution would read:

THAT Council do now go into closed session to discuss an item which relates to advice subject to solicitor-client privilege with respect to the lawsuit between The Corporation of the Town of the Blue Mountains and John and Jane Doe.

In the event that the subject is a matter of a potential lawsuit the resolution would read:

THAT Council do now go into a closed session to discuss an item which relates to advice subject to solicitor-client privilege with respect to a potential lawsuit;

AND THAT the legal advice relating to the potential lawsuit is the issue to be discussed and the particulars of the exact litigation matter are not included in the resolution because to do so might undermine the confidential nature of the advice to be discussed.

2. An example related to personnel is as follows:

THAT Council do now go into a closed session to discuss personal matters about an identifiable individual, including municipal or local board employees and advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

AND THAT the specifics of the matter to be discussed are not being referred to because the release of information related to the individual's name and position would undermine the confidentiality that requires the matter to be dealt with Closed Session.

It is recommended that if staff is aware of an upcoming Closed Session item that they seek advice on the wording of the appropriate resolution from the Clerk or Deputy Clerk.

Discussion and Voting

Voting during Closed Session meetings is restricted to procedural matters or for giving directions or instructions to officers, employees or agents of the municipality or committee of either of them or persons retained by or under a contract with the municipality. Where authorization to proceed on a matter is sought by Staff, any Recommendation to be considered by Council during the closed session shall begin with the phrase "THAT Council directs" or "THAT Council instructs".

The Mayor / Chair shall prohibit discussion of any matter that was not disclosed in the resolution authorizing the closed meeting.

Minutes

Closed Session minutes are taken by the Clerk. In the event the Clerk is excused from the Closed Session portion of the meeting, the CAO will document the proceedings. The CAO has had the authority for the responsibility of minutes delegated to him by the Clerk.

The minutes of the open meeting and Closed Session meeting shall reflect the time the Closed Session commenced and the time the Closed Session was completed, as well as who was in attendance. Once back in the open meeting, the Chair shall confirm the topics discussed in Closed Session and this shall be recorded in the minutes.

Approval of Closed Session Minutes

Approval of Closed Session minutes shall be at the next Closed Session meeting of Council or the appropriate committee meeting and shall be voted on in closed session.

Access to Minutes and Background Reports

Closed Session minutes and background reports shall be circulated to the members during the appropriate meeting on orange coloured paper. The minutes and reports shall be collected prior to returning to open session.

All Closed Session minutes and background reports shall be held by the Clerk in a secure location. In the event that Councillors wish to view the contents of confidential background reports they may do so by requesting access from the Clerk.

Exclusions

This Policy would apply to all actions and decisions of the municipality without exclusion or exception, unless otherwise provided for by statute.

References and Related Policies

Municipal Act, 2001 as amended

POL.COR.07.01 – Accountability and Transparency of Town Actions to the Public
By-law 2007 – 29, Being a By-law for governing the calling, place and proceedings of meetings of the Municipal Council for the Town of The Blue Mountains

Consequences of Non-Compliance

Non-compliance with the *Municipal Act, 2001* is subject to the remedies prescribed therein.

Review Cycle

This policy will be reviewed annually by the C.A.O., Senior Management Team and Council in open session.