

Municipal Government Act

progressive powers for municipalities

INFORMATION BULLETIN #7

OPEN MEETINGS

- Revised -

Summary: Council and committee meetings are open to the public except in specified cases.

Legislation: Specific - Section 22

Related - Sections 19, 23, 24(4), 203, 408, 473, 524

Discussion: Council meetings are open to the public unless closed to discuss one or more of the following:

- acquisition, sale, lease or security of municipal property
- minimum price to accept at a tax sale: ss141(3), 143(4)
- personnel matters
- labour relations
- contract negotiations
- litigation
- legal advice
- public security

Committee meetings may be closed for the same limited number of subjects.

Essentially all council and committee meetings are open to the public. The appropriate notice of these meetings is to be determined by the council by policy: S. 23(1)(a). Regular council meetings do not require notice, S.19(1), since they are always held at the same time and place. Other council meetings require at least two days notice to the members of the council: S.19(2).

Closing a Meeting

The decision to go into a closed meeting must be made by the council or committee in open (public) session, but the chair of council or a committee may call a special meeting that would be closed. However, there must still be public notice of the meeting: S. 19(5); S. 24(4).

Decisions

The only decisions that may be made at a closed council meeting are in regards to a procedural matter (such as an adjournment) or to give direction to staff or solicitor: S. 22(3). Council cannot make a decision at a closed meeting which would bind council. Binding decisions must be made in an open meeting.

Closed meetings are intended to provide a forum for council to discuss these specified items in private, prior to making a decision. An example of giving direction to staff could be in the form of requesting staff to investigate alternative courses of action, or suggesting maximum or minimum values concerning land sales or acquisitions or wage settlements. Staff can only be directed to carry out actions that they have the authority to do. For example, staff could not enter into or accept a contract on behalf of Council, except as authorized by legislation, for example S. 31 of the MGA. They could, however, negotiate within the parameters given at a closed meeting with council giving the final approval at an open meeting.

Since substantive decisions may not be made at closed meetings, council cannot simply ratify the action agreed in the closed meeting, that is, for example, council cannot "ratify the action recommended at the April 2 closed meeting." Council at an open meeting must put the specific motion on the "floor" to discuss and vote on, for example: "resolve to dismiss [name]" or "agree to purchase the Smith property for the price of \$97,000".

Every closed meeting must have a public record stating that a private meeting was held, the general subject matter using the appropriate clause from S. 22(2), and the date: S. 22(4).

The same rules apply to committee meetings: S. 22(5).

Meetings of planning advisory committees, joint planning advisory committees, area planning advisory committees and district planning commissions are open unless moved into private to discuss personnel, labour relations, contract negotiations, litigation or legal advice: S. 203(1). These meetings may also be closed to discuss potential applications for development permits, land-use by-law amendments and development agreements or amendments to them. This exception does not apply once the application has been made.

Community council meetings are subject to rules similar to those that apply to council meetings: open unless closed for a specific reason set out in Section 524. No decision may be made at a closed meeting.

Community committees are subject to the same rules as other committees. Accordingly their meetings would normally be open.

Freedom of Information

Section 473 permits the "responsible officer" under the freedom of information provisions of the MGA (Part XX) to refuse to disclose information that might disclose any minutes or the substance of the deliberations of a closed meeting authorized by law. Obviously, closed meetings that do not meet the standards of the MGA (apart from being illegal) are not eligible for confidentiality.

Information that is ten years old must, however, be released. Background information supplied to the closed meeting of the council or committee that is five years old, or where the decision made at the meeting has been made public or has been implemented must also be released. Note that if the information tends to disclose information about a particular individual, it probably cannot be released without that individual's consent. See the separate notes on Freedom of Information and Protection of Privacy.

The record that a closed meeting was held, and the general subject matter, as noted above, is public information.

Villages

The same provisions do not apply to villages. All village commission meetings are open to the public: S. 408(4). Villages are subject to Part XX, Freedom of Information and Protection of Privacy. They are included in the definition of "municipality" that applies to that Part: S. 461(e).

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Note: The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant legislation and to legal advisors.