

HALIFAX

**Best Practices
for In Camera
Council
Sessions**

Public versus In Camera Meetings

- Obligation to hold Council meetings in public: MGA
 - **22 (1)** Except as otherwise provided in this Section, council meetings and meetings of committees appointed by council are open to the public.
- In Camera meetings may be different than you think
 - Training sessions, retreats, workshops
- Exception for In Camera meetings for certain subjects:
 - **22(2)** The council or any committee appointed by the council may meet in closed session to discuss matters relating to
 - (a) acquisition, sale, lease and security of municipal property;
 - (b) setting a minimum price to be accepted by the municipality at a tax sale;

Public versus In Camera Meetings

- (c) personnel matters;
 - (d) labour relations;
 - (e) contract negotiations;
 - (f) litigation or potential litigation;
 - (g) legal advice eligible for solicitor-client privilege;
 - (h) public security.
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- No definition so open to interpretation
 - Politically sensitive issues
- In Camera meeting is discretionary, not mandatory

In Camera Procedure

- Moving In Camera
- Determined at pre-council agenda meeting setting order of business
 - where to place on order of business?
 - generally move to end of agenda after public business
 - particularly where personnel, code of conduct, or disciplinary issues
 - group in camera items together
 - exception if a sensitive public interest issue with debate in camera followed by intended public ratification of decision
 - issue of how to describe an in camera item on the agenda while maintaining confidentiality (description of item and proposed motion)

In Camera Procedure

- Arising as Added Item at approval of the Order of Business
 - either new added item or existing item listed as public
 - issue of describing the item sufficient to have it added
 - notice of intent to move debate on item in camera
- Arising during the course of the public debate of a public item because of the nature of the debate
 - potential to move in camera for some portion of debate
 - approval to suspend debate and move item to end of agenda
- Requirement for a motion to move in camera either for particular item or group of items
 - issue of debate whether to move in camera
 - sometimes move in camera to debate whether to debate item publicly or in camera

In Camera Procedure

- Persons Present
 - exclusion of public and staff not required for each in camera item
 - requirement to have solicitor present
 - removal of Clerk and other legislative assistants for particularly sensitive issues
- Record of Proceedings
 - requirement to have limited record:
 - **22(4)** A record which is open to the public shall be made, noting the fact that council met in private, the type of matter that was discussed, as set out in subsection (2) and the date, but no other information.
 - no requirement for verbatim recording
 - solicitor can keep notes as record in absence of Clerk if appropriate

In Camera Procedure

- Decision-making:
 - **22(3)** No decision shall be made at a private council meeting except a decision concerning procedural matters or to give direction to staff of, or solicitors for, the municipality.
 - procedure as in public session with modification
 - any motion adopted must be ratified in open session
 - wording of motion for public ratification can be general so to maintain confidence of debate
 - direction to staff as an alternative to motion requiring ratification
- Maintaining Civility
 - procedure and debate more informal or relaxed
 - obligation to maintain measure of decorum and civility as required by Code of Conduct

In Camera Procedure

- Maintaining Confidentiality
 - in camera materials distributed separately from other materials in Council package, separately coloured, in sealed envelopes, and collected at end of meeting
 - option to withhold materials and distribute during meeting
 - challenge with social media and media interviews of Councillors or staff on matters of particular public interest
 - reminder or caution to Councillors and staff concerning confidentiality
- sanction for disclosure resulting in financial loss or gain:
 - **22(6)** Any councillor or employee of a municipality who discloses any report submitted to, or details of matters discussed at, a private meeting of the council or committee, as a result of which the municipality has lost financially or the councillor or employee of a municipality has gained financially, is liable in damages to the municipality for the amount of the loss or gain

In Camera Procedure

- Disclosure
 - option to release of in camera report following ratification of motion in public
 - option to release report after some event, period of time, or on motion at subsequent Council meeting
 - in camera proceedings or materials are not privileged per se and production can be compelled in legal proceedings
 - exception for matters covered by solicitor-client privilege such as advice, some public interest privilege, and some FOIPOP restrictions

In Camera without In Camera

- dealing with in camera items without going in camera
- presumption of open sessions and public criticism of excessive proceedings in camera
- does it really need to be in camera?
(discretionary/mandatory)
- adoption of in camera minutes by motion in public session
- approval of other in camera items on the basis of in camera report by motion in public session
- public approval and debate of agenda item based on split public and in camera reports

Agenda

- 4. IN CAMERA (In Private)
The Board of Police Commissioners may rise and go into a private In Camera (In Private) session, in accordance with Section 51 of the Nova Scotia Police Act for the purposes of dealing with the following;
- 4.1 Intergovernmental Relations – Review of Intergovernmental Report
A matter pertaining to any subject, the discussion of which could, violate the confidentiality of information obtained from another body of government, or a public body.
Motion:
That the Board of Police Commissioners convene In Camera (In Private) to discuss the matter.
- 4.2 Personnel Matter – HRP Chief of Police Recruitment
A matter pertaining to an identifiable individual or group.
Motion:
That the Board of Police Commissioners convene In Camera (In Private) to discuss the matter.

Minutes

4. IN CAMERA (In Private)

The Board of Police Commissioners may rise and go into a private In Camera (In Private) session, in accordance with Section 51 of the Nova Scotia Police Act for the purposes of dealing with the following;

The Board moved into an In Camera (In Private) session at 12:37 p.m., and reconvened in public session at 3:18 p.m.

4.1 Intergovernmental Relations – Review of Intergovernmental Report

A matter pertaining to any subject, the discussion of which could, violate the confidentiality of information obtained from another body of government, or a public body

The following matter was dealt with by the Board In Camera (In Private), and no further action was required.

4.2 Personnel Matter – HRP Chief of Police Recruitment

A matter pertaining to an identifiable individual or group.

The following matter was dealt with by the Board In Camera (In Private), and no further action was required

Administrative Order One

In Camera (in Private) Meeting of the Council or Committee

99. Where Council, Community Council, or a committee of the Council meets In Camera (in Private) to discuss any items designated in subsection 19 (2) of the *Halifax Regional Municipality Charter*, the Clerk shall list such items at the end of the agenda of regular meetings of Council.

Agenda for In Camera (in Private) Meeting of Council

100. In Camera (in Private) agenda items shall be identified by the type of matter to be discussed, with additional information, where possible, to further identify the item but not as to disclose the confidential information.

101. A brief description or summary of the subject matter of the items to be discussed In Camera shall be made available to the Council no later than the commencement of the Council meeting at which time such items are intended to be discussed In Camera (in Private). Such a summary shall identify the reason In Camera (in Private) discussion is warranted.

Agenda for In Camera (in Private) Meeting of Committee

102. At least forty-eight (48) hours notice of an In Camera (in Private) meeting of a committee of the Council shall be given to the Members of a committee, and, wherever possible, an agenda shall be provided to the Members in advance of the meeting.

Administrative Order One

Moving In Camera (in Private)

103. The Council may, at the request of one or more of its Members, and with the agreement of two-thirds (2/3rds) majority of the Members present and voting, agree to enter into In Camera (in Private) discussions without meeting the requirements set out in sections 101 and 102, provided that the request is supported by information which explains a legitimate reason for the necessity of In Camera (in private) discussions taking place.

In Camera (in Private) Meeting - Presence of Municipal Solicitor

104. No In Camera (in private) meeting may proceed in the absence of the Municipal Solicitor, or delegate.

In Camera (in Private) Procedures

105. The rules of procedures set forth in this Administrative Order for regular meetings of the Council shall apply to In Camera (in private) discussions except as otherwise specifically provided for in this *Administrative Order*.

Administrative Order One

Minutes of In Camera (in Private) Meeting

106. (1) Minutes of In Camera (in private) meetings shall be taken by the Clerk or a designate and kept in the Office of the Clerk.

(2) The Minutes of In Camera (in private) meetings shall be approved at the next In Camera (in private) meeting of the Council as the first item of business of the In Camera (in private) meeting.

(3) Subject to subsection 4 and section 109, such Minutes are not considered to be of public record.

(4) Recommendations resulting from discussions taking place in the In Camera (in private) meeting shall be brought forward as an added item for approval by the Council in open session immediately following dissolution of the In Camera (in private) session and the rules of procedure will apply to the adoption of such recommendations, provided that the motion to adopt a recommendation shall not be debated.

Administrative Order One

Staff Reports and Details of Matters Discussed at In Camera (in Private)

107. Staff reports submitted to In Camera (in private) Meetings of the Council and details of the Matters discussed at and the Minutes kept of such meetings, except background information, shall be maintained by the Clerk as confidential information unless the Council determines that the information or any part thereof be made available to the public pursuant to sections 109 and 111.

Release of Confidential Information

108. (1) If it is determined by the Council, following a recommendation of staff, that the release of information identified as confidential, has the potential to unduly damage or embarrass or in other ways be detrimental to an individual or individuals, the Council may decide to maintain the confidentiality of the information for a further specified or unspecified period of time.

(2) This section will not be used to protect an elected official from potential embarrassment or damage arising from a position taken, or remarks made, during In Camera (in private) meetings.

Administrative Order One

Public Access to an In Camera (in Private) Report

109. Reports and other information arising out of In Camera (in private) meetings, for which the Council determines no legitimate reason exists to maintain such records as confidential information, may be made available to the public upon request in writing to the Clerk.

110. (1) If any member of the public requests access to an In Camera (in private) report, which is classified as confidential, the Municipality, under the signature of the CAO, shall provide reasons in writing addressed to the inquirer why such information is so classified.

(2) For the purposes of subsection (1), merely identifying the requested information as being access restricted because it is considered to be of a confidential nature will not constitute a satisfactory response to a request for information.

111. Where a request for information from an In Camera (in private) meeting has been denied, or where such information is considered by the inquirer to have been withheld for an unreasonable period of time, the inquirer may in writing request the Council to rescind the decision to retain the information as confidential, in whole or in part, and the Council may, by a two-thirds (2/3 rds.) majority vote of the Members present and voting, direct the release of the information or some portion thereof.