



**City of Hamilton**  
**GOVERNANCE REVIEW SUB-COMMITTEE**  
**AGENDA**

**Meeting #:** 20-002  
**Date:** October 13, 2020  
**Time:** 1:00 p.m.  
**Location:** Due to the COVID-19 and the Closure of City Hall

All electronic meetings can be viewed at:

City's Website:  
<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's YouTube Channel:  
<https://www.youtube.com/user/InsideCityofHamilton> or Cable 14

Angela McRae, Legislative Coordinator (905) 546-2424 ext. 5987

---

1. CEREMONIAL ACTIVITIES
2. APPROVAL OF AGENDA  
(Added Items, if applicable, will be noted with \*)
3. DECLARATIONS OF INTEREST
4. APPROVAL OF MINUTES OF PREVIOUS MEETING
  - 4.1. February 12, 2020
5. COMMUNICATIONS
6. DELEGATION REQUESTS
7. CONSENT ITEMS
8. PUBLIC HEARINGS / WRITTEN DELEGATIONS / VIRTUAL DELEGATIONS

**9. STAFF PRESENTATIONS**

**10. DISCUSSION ITEMS**

10.1. 2022 Council and Committee Calendar

10.2. Recording of Closed Session Meetings (FCS20090 / LS20027) (City Wide)  
(Outstanding Business List Item)

**11. MOTIONS**

**12. NOTICES OF MOTION**

**13. GENERAL INFORMATION / OTHER BUSINESS**

13.1. Amendments to the Outstanding Business List:

13.1.a. Item to be Removed:

Recording of In Camera Sessions (Referred from the January 22, 2020  
Meeting of Council)

Added: February 12, 2020 at Governance Review Sub-Committee - Item  
11.2

Completed: October 7, 2020 at Governance Review Sub-Committee - Item  
10.2

OBL Item: 20-C

**14. PRIVATE AND CONFIDENTIAL**

**15. ADJOURNMENT**



# Hamilton

## GOVERNANCE REVIEW SUB-COMMITTEE

### MINUTES 20-001

Wednesday, February 12, 2020

1:00 pm

Council Chambers

Hamilton City Hall

---

**Present:** Councillors M. Wilson (Vice-Chair), M. Pearson, B. Clark, and L. Ferguson

**Absent:** Councillor T. Whitehead (Chair) – Personal, A. VanderBeek – City Business

---

**THE FOLLOWING ITEMS WERE REFERRED TO THE AUDIT, FINANCE & ADMINISTRATION COMMITTEE FOR CONSIDERATION:**

**1. Civil Marriage Solemnization (CL19012(a)) (City Wide) (Item 10.1)**

**(Pearson/Ferguson)**

- (a) That the City of Hamilton provide Civil Marriage Solemnization services as of April 6, 2020, using current resources;
- (b) That the Proposed 2020 User Fees and Charges respecting Civil Marriage Ceremony services attached as Appendix 'C' to Report CL19012(a), be approved, and included in Schedule 'A' of the By-law to Establish Certain 2020 User Fees and Charges for Services, Activities or the Use of Property;
- (c) That a By-law to Authorize Civil Marriage Solemnization Services and To Delegate the Authority to Solemnize Marriages in the City of Hamilton attached as Appendix 'A' to Report CL19012(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council; and
- (d) That staff report back to the Governance Review Sub-Committee within a one year period to provide an update on Civil Marriage Solemnization services.

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson

YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**2. Appointment of the City of Hamilton Integrity Commissioner and Lobbyist Registrar (FCS20016) (City Wide) (Item 10.2)**

**(Clark/Pearson)**

- (a) That Principles Integrity be appointed as the Integrity Commissioner and Lobbyist Registrar for the City of Hamilton for the remainder of the current council term with an option to renew for an additional term of council and that the Mayor and City Clerk be authorized and directed to enter into an agreement to the satisfaction of the City Solicitor; and
- (b) That the City Clerk be directed to prepare the necessary by-laws for Council approval for the appointment of Principles Integrity as the City of Hamilton Integrity Commissioner and Lobbyist Registrar; and
- (c) That the costs associated with the Integrity Commissioner and Lobbyist Registrar be funded through IC-Lobbyist Registrar (Account Number 300400).

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**3. Recording of In Camera Sessions (Referred from the January 22, 2020 Meeting of Council) (Item 11.2)**

**(Clark/Pearson)**

WHEREAS the Ontario Ombudsman recommends that all municipalities make audio recordings or video recordings of all meetings – both open and closed – to ensure a thorough record;

WHEREAS there are now 23 Ontario municipalities that have implemented either audio or audiovisual recordings of their closed meetings;

WHEREAS an audio or audiovisual recording of in-camera meetings provides a clear and accessible record for closed meeting investigators to review;

WHEREAS such recordings of closed meetings will assist the municipality in quickly demonstrating that Council and staff did not stray from the legislated requirements during closed meetings; and,

WHEREAS such recordings of closed meetings will provide a complete record to be used by the municipality and/or Councillors for future references as needed;

THEREFORE, BE IT RESOLVED:

That the City Manager be directed to report back to the Governance Review Sub-Committee within 90 days on the costs and policies to implement an audio recording system to be utilized for the recording of in-camera meetings; and the ways and means for the City Clerk to archive and protect such records.

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**FOR INFORMATION:**

**(a) CHANGES TO THE AGENDA (Item 2)**

The Committee Clerk advised that there were no changes to the agenda.

**(Ferguson/Pearson)**

That the February 12, 2020 Agenda of the Governance Review Sub-Committee be approved, as presented.

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(b) DECLARATIONS OF INTEREST (Item 3)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES (Item 4)**

**(i) November 26, 2019 (Item 4.1)**

**(Clark/Pearson)**

That the Minutes of the November 26, 2019 meeting of the Governance Review Sub-Committee be approved, as presented.

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(d) DELEGATION REQUESTS (Item 6)**

- (i) Tim Simmons, Heritage Weddings & Coordinators, respecting Report CL19012(a) - Civil Marriage Solemnization (For today's meeting) (Item 6.1)**

**(Ferguson/Pearson)**

That the delegation request from Tim Simmons, Heritage Weddings & Coordinators, respecting Report CL19012(a) - Civil Marriage Solemnization, be approved for today's meeting.

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

**(e) PUBLIC HEARINGS / DELEGATIONS (Item 8)**

- (i) Tim Simmons, Heritage Weddings & Coordinators, respecting Report CL19012(a) - Civil Marriage Solemnization (Added Item 8.1)**

Tim Simmons, Heritage Weddings & Coordinators, addressed the Committee respecting Report CL19012(a) - Civil Marriage Solemnization.

**(Ferguson/Pearson)**

That the delegation from Tim Simmons, respecting Report CL19012(a) - Civil Marriage Solemnization, be received.

**CARRIED**

**(f) MOTIONS (Item 11)**

- (i) Verbal Updates at Council and Committee Meetings (Referred from the November 27 & 28, 2019 Meeting of Council) (Item 11.1)**

Councillor Wilson relinquished the Chair to introduce the following motion:

**(Wilson/Clark)**

WHEREAS Council has no record of the content of a verbal update;

THEREFORE BE IT RESOLVED:

That staff be directed to discontinue the practice of providing verbal updates without an accompanying summary document which outlines the points covered.

**(Pearson/Clark)**

That Item 11.1, being a Motion respecting Verbal Updates at Council and Committee Meetings, be referred to the City Clerk for further review with Senior Leadership Team to provide a report back to the Governance Review Sub-Committee on the potential options on providing a summary for time sensitive In-Camera items prior to the meeting.

**Result: Motion CARRIED by a vote of 4 to 0, as follows:**

YES - Councillor Maureen Wilson  
NOT PRESENT - Chair Terry Whitehead  
NOT PRESENT - Councillor Arlene VanderBeek  
YES - Councillor Lloyd Ferguson  
YES - Councillor Maria Pearson  
YES - Councillor Brad Clark

Councillor Wilson assumed the Chair.

**(g) ADJOURNMENT (Item 15)**

**(Ferguson/Pearson)**

That, there being no further business, the Governance Review Sub-Committee meeting be adjourned at 3:35 p.m.

**CARRIED**

Respectfully submitted,

Councillor M. Wilson, Vice-Chair  
Governance Review Sub-Committee

Angela McRae  
Legislative Coordinator  
Office of the City Clerk





### January 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 <b>NEW YEAR'S DAY</b>
2	3 <b>CLOSED IN LIEU OF NEW YEARS DAY</b>	4	5	6	7	8
<b>NO MEETINGS – PLEASE DO NOT USE</b>						
9	10 BoH – 9:30 a.m. PW – 1:30 p.m.	11 Planning – 9:30 a.m.	12 GIC – 9:30 a.m.	13 AF&A – 9:30 a.m. E&CS – 1:30 p.m.	14	15
16	17	18	19 9:30 a.m. COUNCIL	20	21	22
23	24	25	26	27	28	29
30	31					

- GIC = General Issues Committee      AF&A = Audit, Finance & Administration
- PW = Public Works Committee      E&CS = Emergency & Community Services
- Planning = Planning Committee      BOH = Board of Health

**All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor**

## February 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 Planning – 9:30 a.m.	2 GIC – 9:30 a.m.	3 AF&A – 9:30 a.m.  E&CS – 1:30 p.m.	4	5
6	7	8	9 9:30 a.m. COUNCIL	10	11	12
13	14 BoH – 9:30 a.m.  PW – 1:30 p.m.	15 Planning – 9:30 a.m.	16 GIC – 9:30 a.m.	17 AF&A – 9:30 a.m. If required  E&CS – 1:30 p.m. If required	18	19
20	21 FAMILY DAY	22	23 9:30 a.m. COUNCIL	24	25	26
27	28					

GIC = General Issues Committee

AF&amp;A = Audit, Finance &amp; Administration

PW = Public Works Committee

E&amp;CS = Emergency &amp; Community Services

Planning = Planning Committee

BOH = Board of Health

**All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor**

March 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
<b>NO MEETINGS – PLEASE DO NOT USE</b>						
13	14	15	16	17	18	19
<b>MARCH BREAK MARCH BREAK MARCH BREAK</b>						
20	21	22	23	24	25	26
	PW – 1:30 p.m.	Planning – 9:30 a.m.	GIC – 9:30 a.m.	AF&A – 9:30 a.m. E&CS – 1:30 p.m.		
27	28	29	30	31		
			9:30 a.m. COUNCIL			

- GIC = General Issues Committee      AF&A = Audit, Finance & Administration
- PW = Public Works Committee      E&CS = Emergency & Community Services
- Planning = Planning Committee      BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor

### April 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4 BoH – 9:30 a.m.  PW – 1:30 p.m.	5 Planning – 9:30 a.m.	6 GIC – 9:30 a.m.	7 AF&A – 9:30 a.m.  E&CS – 1:30 p.m.	8	9
10	11	12	13 9:30 a.m. COUNCIL	14	15 GOOD FRIDAY	16
17	18 EASTER MONDAY	19 Planning – 9:30 a.m.	20 GIC – 9:30 a.m.	21 AF&A – 9:30 a.m. If required  E&CS – 1:30 p.m. If required	22 PW – 1:30 p.m.	23
24	25	26	27 9:30 a.m. COUNCIL	28	29	30

GIC = General Issues Committee      AF&A = Audit, Finance & Administration  
 PW = Public Works Committee      E&CS = Emergency & Community Services  
 Planning = Planning Committee      BOH = Board of Health

**All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor**

## May 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 BoH – 9:30 a.m. PW – 1:30 p.m.	3 Planning – 9:30 a.m.	4 GIC – 9:30 a.m.	5 AF&A – 9:30 a.m. If required  E&CS – 1:30 p.m. If required	6	7
8	9	10	11 9:30 a.m. COUNCIL	12	13	14
15	16 PW – 1:30 p.m.	17 Planning – 9:30 a.m.	18 GIC – 9:30 a.m.	19 AF&A – 9:30 a.m. If required  E&CS – 1:30 p.m. If required	20	21
22	23 VICTORIA DAY	24	25 9:30 a.m. COUNCIL	26	27	28
26	30 PW – 1:30 p.m.	31 Planning – 9:30 a.m.				

GIC = General Issues Committee

AF&amp;A = Audit, Finance &amp; Administration

PW = Public Works Committee

E&amp;CS = Emergency &amp; Community Services

Planning = Planning Committee

BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor

June 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 GIC – 9:30 a.m.	2 AF&A – 9:30 a.m. E&CS – 1:30 p.m.	3	4
5	6	7	8 9:30 a.m. COUNCIL	9	10	11
12	13 BoH – 9:30 a.m. PW – 1:30 p.m.	14 Planning – 9:30 a.m.	15 GIC – 9:30 a.m.	16 AF&A – 9:30 a.m. If required E&CS – 1:30 p.m. If required	17	18
19	20	21	22 9:30 a.m. COUNCIL	23	24	25
26	27	28	29	30		

GIC = General Issues Committee      AF&A = Audit, Finance & Administration  
 PW = Public Works Committee      E&CS = Emergency & Community Services  
 Planning = Planning Committee      BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor

### July 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 CANADA DAY	2
3	4 GIC – 9:30 a.m.	5 Planning – 9:30 a.m.	6 BoH – 9:30 a.m. PW – 1:30 p.m.	7 AF&A – 9:30 a.m. E&CS – 1:30 p.m.	8 9:30 a.m. COUNCIL	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

GIC = General Issues Committee      AF&A = Audit, Finance & Administration  
 PW = Public Works Committee      E&CS = Emergency & Community Services  
 Planning = Planning Committee      BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor

August 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 CIVIC HOLIDAY	2	3	4	5	6
7	8 GIC – 9:30 a.m.	9 Planning – 9:30 a.m.	10 BoH – 9:30 a.m. PW – 1:30 p.m.	11 AF&A – 9:30 a.m. E&CS – 1:30 p.m.	12 9:30 a.m. COUNCIL	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

GIC = General Issues Committee      AF&A = Audit, Finance & Administration  
 PW = Public Works Committee      E&CS = Emergency & Community Services  
 Planning = Planning Committee      BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor



## September 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5 LABOUR DAY	6 Planning – 9:30 a.m.	7 GIC – 9:30 a.m.	8 AF&A – 9:30 a.m.  E&CS – 1:30 p.m.	9 PW – 1:30 p.m.	10
11	12	13	14 9:30 a.m. COUNCIL	15	16	17
18	19 BoH – 9:30 a.m.  PW – 1:30 p.m.	20 Planning – 9:30 a.m.	21 GIC – 9:30 a.m.	22 AF&A – 9:30 a.m. If required  E&CS – 1:30 p.m. If Required	23	24
25	26	27	28 9:30 a.m. COUNCIL	29	30	

GIC = General Issues Committee

AF&amp;A = Audit, Finance &amp; Administration

PW = Public Works Committee


E&amp;CS = Emergency &amp; Community Services

Planning = Planning Committee

BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor unless otherwise noted.

October 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10 THANKSGIVING	11	12	13	14	15
16	17	18	19	20	21	22
23	24 MUNICIPAL ELECTION 	25	26	27	28	29
30	31					

GIC = General Issues Committee

AF&A = Audit, Finance & Administration

PW = Public Works Committee

E&CS = Emergency & Community Services

Planning = Planning Committee

BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor

November 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2 HOLD DATES FOR COUNCIL ORIENTATION	3	4	5
6	7	8	9	10	11	12
13	14 End of 2018-2022 Term of Office	15 ARRANGE OFFICES, E-MAILS, ETC. FOR COUNCILLORS	16 9:30 a.m. INAUGURAL COUNCIL	17	18	19
20	21	22	23	24	25	26
27	28 BoH – 9:30 a.m. PW – 1:30 p.m.	29 Planning – 9:30 a.m.	30 GIC – 9:30 a.m.			

- GIC = General Issues Committee      AF&A = Audit, Finance & Administration
- PW = Public Works Committee          E&CS = Emergency & Community Services
- Planning = Planning Committee        BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor unless otherwise noted.

December 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 AF&A – 9:30 a.m. E&CS – 1:30 p.m.	2	3
4	5	6	7 9:30 a.m. COUNCIL	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24 CHRISTMAS EVE
25 CHRISTMAS DAY	26 BOXING DAY	27 CLOSED IN LEIU OF CHRISTMAS DAY	28 SHUTDOWN	29 SHUTDOWN	30 SHUTDOWN	31 NEW YEARS EVE!

GIC = General Issues Committee      AF&A = Audit, Finance & Administration  
 PW = Public Works Committee      E&CS = Emergency & Community Services  
 Planning = Planning Committee      BOH = Board of Health

All meetings will be in the Council Chambers, Hamilton City Hall, 2<sup>nd</sup> Floor unless otherwise noted.



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Governance Review Sub-Committee
<b>COMMITTEE DATE:</b>	October 13, 2020
<b>SUBJECT/REPORT NO:</b>	Recording of Closed Session Meetings (FCS20090/LS20027) (City Wide) ( <b>Outstanding Business List Item</b> )
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Janet Pilon, Manager, Legislative Services/Deputy Clerk (905) 546-2424 Ext. 4304  Stacey Applebee, Solicitor (905) 546-2424 Ext. 4660
<b>SUBMITTED BY:</b>	Andrea Holland City Clerk Office of the City Clerk
<b>SIGNATURE:</b>	
<b>SUBMITTED BY:</b>	Nicole Auty City Solicitor Legal Services
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

At it's meeting of February 26/27, 2020 Council approved the following:

### Recording of In Camera Sessions (Item 11.2)

WHEREAS the Ontario Ombudsman recommends that all municipalities make audio recordings or video recordings of all meetings – both open and closed – to ensure a thorough record;

WHEREAS there are now 23 Ontario municipalities that have implemented either audio or audiovisual recordings of their closed meetings;

WHEREAS an audio or audiovisual recording of in-camera meetings provides a clear and accessible record for closed meeting investigators to review;

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Recording of Closed Session Meetings (FCS20090/LS20027) (City Wide) - Page 2 of 6**

---

WHEREAS such recordings of closed meetings will assist the municipality in quickly demonstrating that Council and staff did not stray from the legislated requirements during closed meetings; and,

WHEREAS such recordings of closed meetings will provide a complete record to be used by the municipality and/or Councillors for future references as needed;

THEREFORE, BE IT RESOLVED:

- (a) That the City Manager be directed to report back to the Governance Review Sub-Committee within 90 days on the costs and policies to implement an audio recording system to be utilized for the recording of in-camera meetings; and the ways and means for the City Clerk to archive and protect such records.
- (b) That the City Solicitor report back to the Governance Review Sub-Committee on qualified privileges of Members of Parliament, Members of Provincial Parliament and Councillors, and the risk of court subpoenas to access records.

This Information Report responds to the above directions.

**INFORMATION**

The Ontario Ombudsman, in their Open Meetings Guide for Municipalities (Fourth Edition) notes:

The Ombudsman recommends that all municipalities also make audio or video recordings of all meetings – open and closed – to ensure the most thorough record possible. After meeting behind closed doors, they should report in the open session on what transpired in the closed session, providing as much detail as the subject matter permits.

The Ontario Ombudsman, in their Annual Report 2019-2020 notes:

As well, more municipalities than ever now make audio or video recordings of all meetings, open and closed, as the Ombudsman recommends. We now know of 25: The Regional Municipality of Niagara, the Townships of Adelaide Metcalfe, McMurrich/ Monteith, North Huron, and Brudenell, Lyndoch and Raglan; the Towns of Amherstburg, Collingwood, Fort Erie, Midland, Pelham, and Wasaga Beach; the Cities of Brampton, Elliot Lake, London, Niagara Falls, Oshawa, Port Colborne, Sarnia, Sault Ste. Marie, Thorold, and Welland; and the Municipalities of Brighton, Central Huron, Meaford, and Southwest Middlesex.

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Recording of Closed Session Meetings (FCS20090/LS20027) (City Wide) - Page 3 of 6**

---

The City Clerk surveyed the municipalities in Ontario who currently record their in-camera meetings, requesting their insight on the audio or video recording practices within their municipality for closed sessions.

The survey conducted requested information as to the length of time they have been recording their closed session meetings; whether the initiative to record closed session meetings, was the result of an Ombudsman's Report; whether it has had a negative or positive impact on the discussions in closed session; who has access to the closed session recordings; how are they stored; whether they have ever had to disclose the recordings as part of a closed session investigation; and whether the recordings of their closed session meetings have been tested through the Freedom of Information (FOI) process, the responses can be found in Appendix 'A' to this report.

Council may audio only or audio & video record in-camera meetings:

An audio & video recording would be more beneficial to the Ombudsman during a Closed Meeting Investigation; the Integrity Commissioner and to the City Solicitor when the recording is reviewed for a legal proceeding as they would be able to see who is speaking. Audio only recording is the cheaper option, but staff believe an audio recording may make it difficult to decipher who is speaking.

Council may record the in-camera meetings of Council and/or Standing Committee.

When considering the recording of in-camera meetings the Clerk has the responsibility of ensuring that the security of the recordings while the in-camera meetings are being recorded and the security of the recordings after the in-camera meetings have been recorded is in place.

Staff are working with IT to ensure the highest security is in place to protect the recording of in-camera meetings by storing them on an encrypted stand-alone server separate from the City's existing servers with a location to be determined.

Access to the recordings would be restricted and controlled by the City Clerk and Deputy Clerk. Access to the recordings would be for any investigation by the Ombudsman or Integrity Commissioner only.

**Financial Implications:**

*Options for the recording of in-camera in-person meetings are as follows:*

**Recording of audio & video of in-camera meetings** would cost approximately \$65,000 (included as part of the existing system in the Council Chamber) and ensure the security of the recordings while being recorded and after.

**SUBJECT: Recording of Closed Session Meetings (FCS20090/LS20027) (City Wide) - Page 4 of 6**

---

**Recording of audio only of in-camera meetings** would cost approximately \$45,000 to \$50,000 (included as part of the existing system in the Council Chamber) and would also ensure the security of the recordings while being recorded and after.

*Options for the recording of in-camera meetings during COVID-19 while our meetings are being conducted in virtual mode:*

**Recording using Webex of in-camera meetings** would be a minimal cost, for the encrypted USBs used for retaining the recordings of the in-camera meetings.

**Retention of the In-Camera Meeting Recordings:**

Staff are recommending that the recordings of all in-camera meetings be retained for a one-year period from the date of the meeting, as an inquiry from the Ombudsman's Office is requested within a few days of the meeting date.

The written closed session minutes constitute the permanent official meeting record, in accordance with the *Municipal Act, 2001* and the City of Hamilton's Retention By-law. All closed session minutes are approved by Council.

**Policies to implement the audio & video or audio only recordings of in-camera meetings:**

Appendix 'B' attached to this report, has been drafted as the proposed policy for the recording of in-camera meetings.

**Qualified Privilege:**

Federally and Provincially elected officials respectively enjoy the defence of Absolute Privilege for remarks made during a proceeding in Parliament. Black's Law Dictionary defines Absolute Privilege as "a privilege that immunizes an actor from suit, no matter how wrongful the action might be, and even though it is done with an improper motive."

The defence of Qualified Privilege is available to Municipal Councillors for remarks made in the course of Council meetings. Qualified Privilege as defined by Black's Law Dictionary is "a Privilege that immunizes an actor from suit only when the privilege is properly exercised in the performance of a legal or moral duty". As such, statements made reasonably and in good faith are protected pursuant to Qualified Privilege, however statements made with malice or that extend beyond the limits of privilege are not protected.



**SUBJECT: Recording of Closed Session Meetings (FCS20090/LS20027) (City Wide) - Page 5 of 6**

---

In 2014 Ontario Courts confirmed that municipal councillors enjoy Qualified Privilege for comments made in the course of their council meetings but refused to extend the law to provide municipal councillors with the immunity of Absolute Privilege. The request to expand Absolute Privilege to municipal councillors was denied at least in part because of what the Court saw as a lack of rules and regulations governing Municipal proceedings and the behaviour of its members. This case arose at a time when the Municipal Act permitted but did not require Municipalities to establish Codes of Conduct for its members or to appoint an Integrity Commissioner to investigate alleged breaches thereof. Importantly the courts left the door open to expanding the defence of Absolute Privilege to Municipal Councillors in the future.

**Risk of Court Subpoenas to Access Records:**

The Rules of Civil Procedure (the “Rules”) provide for the discovery of documents. A document is defined to include a sound recording, videotape and film.

Pursuant to the Rules, relevant documents that are in possession, control or power of a party to the action must be disclosed whether or not privilege is claimed in respect of the document and must be produced for inspection if requested unless privilege is claimed. The Court may order the production of documents that are not privileged and where privilege is claimed, the court may inspect the document to determine the validity of the claim.

The Rules also provide that on Motion by a party to an action, the court may order production of a document that is not privileged and that is in the possession, control or power of that third party if the document is relevant to a material issue in the action and it would be unfair to require the moving party to proceed without discovery of the document. Where privilege is claimed in relation to the document the court may inspect the document to determine the issue.

While production of a document, including an audio or video recording of an in camera meeting, could be sought, an opportunity to claim privilege prior to production would be afforded and the court would be charged with determining the validity of any such claim.

The Rules also provide for the issuance of a Summons to Witness to compel the attendance of a person for examination and the Summons to Witness may require the person to bring to the examination and produce for inspection all documents relevant to any matter in issue that are in his or her possession and not privileged. Again, a determination by the Court regarding a claim of privilege in relation to a document would occur before production takes place.

While it was once understood that privilege only arose from traditional categories (ie: Solicitor-Client Privilege or Litigation Privilege), the courts have acknowledged that

**SUBJECT: Recording of Closed Session Meetings (FCS20090/LS20027) (City Wide) - Page 6 of 6**

---

common law also permits privilege in new situations. In determining whether documents sought to be produced are protected by privilege under the common law, the Supreme Court of Canada confirmed the four principles applicable to the determination:

1. The communications must originate in a confidence.
2. The confidence must be essential to the relationship in which the communication arises.
3. The relation must be one which should be "sedulously fostered" in the public good.
4. If all these requirements are met, the court must consider whether the interests served by protecting the communications from disclosure outweigh the interest in getting at the truth and disposing correctly of the litigation

There do not appear to be any reported cases which consider whether video or audio recordings taken of in camera Council meetings are privileged and thus protected from production under the Rules of Civil Procedure.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix A – Municipalities Surveyed on the Recording of In Camera Meetings

Appendix B – Audio & Video or Audio only Recording of Council and Standing Committee In-Camera Meetings Policy

	Oshawa	Town of Midland	City of London	City of Sarnia	Brighton	Appendix A Adelaide Metcalfe
<b>I am writing today to ask for your insight on the audio or video recording practice within your municipality for closed sessions?</b>	We only audio record closed session - no video.					
<b>How long has your municipality been electronically recording closed sessions?</b>	Since March 2010 when Council directed the following: "That closed City Council and Standing Committee meetings be audio recorded and only released at the direction of City Council."	We have been electronically recording our closed meeting sessions for a number of years.	Since 2017	The policy was passed in February 2018, but we started the actual recording of closed meetings in May 2018, due to hardware availability problems. IT assisted with the purchasing of the hardware/software, as it did take a couple of months to make sure everything was working properly. (Relied on closed meeting minutes in usual manner during this time and apprised Council if the timeline changed for the implementation of recording of the closed meeting). We tried table top microphones, but then switched to overhead (drop down) microphones.	Yes we currently audio record the Council/Committee Closed Meetings, it was suggested through the Ombudsman's office two terms ago.	Since July 2017

<p><b>Was it the result of an Ombudsman report?</b></p>	<p>we had an Ombudsman investigation the previous year and members of Council could not recall what had happened during the closed session and had difficulty answering the questions from the Ombudsman. Staff did not recommend audio recording closed sessions but Council decided to record them and only release at the direction of Council.</p>	<p>Yes, it was the result of an Ombudsman report on an investigation of a closed meeting.</p>	<p>Yes a recommendation contained in a Report.</p>	<p>No, Council passed a resolution, as brought forth by a Council Member.</p>	<p>Suggested by Ombudsman's office.</p>	<p>There was no direction, however it was recommended as a result of an Ombudsman Report.</p>
<p><b>Who has access to the recordings and how do you store them securely?</b></p>	<p>The audio recordings are stored in our Clerk's vault. Only our Council-Committee support staff have access to the recordings since they are in attendance at the meeting and are responsible to ensure the tapes are set up and removed from the recording device.</p>	<p>Only myself and the Deputy Clerk have access. They are stored under the Clerks electronic folder.</p>	<p>Only the Clerk and Deputy Clerk. It is locked in a safe in the Clerk's Office.</p>	<p>The Clerk's Dept. staff only (currently only 2 staff members). The 'cards' are kept in a locked file, then transferred to a secure external hard drive that requires a passcode.</p>	<p>The recordings are currently stored on the Clerk's secure network drive with only access granted to the Clerk and Deputy Clerk.</p>	<p>Clerk only...they are saved on an external hard drive and locked in the Clerk's desk and saved on the Township server.</p>
<p><b>Have you ever had to disclose the recordings as part of a closed session investigation?</b></p>	<p>Yes. Council always releases the recordings. However, it's important to note that we redact (silence) any Solicitor-Client advice. We have a software which allows us to snip out portions of the meeting. The Ombudsman is advised of this and it has not been an issue.</p>	<p>Not that I'm aware of.</p>	<p>No. No requests have been made.</p>	<p>Not as yet.</p>	<p>not yet</p>	<p>No</p>

<p><b>How long do you store these under your retention schedule?</b></p>	<p>All records related to Council and its Standing Committees are permanent in our Retention By-law.</p>	<p>We save them under C04 Council Minutes. The retention is 6 years.</p>	<p>One year from the date of the meeting.</p>	<p>One year, as suggested by City Solicitor.</p>	<p>Archived for 4 years. (as per policy attached).</p>	<p>Permanent – treated the same as minutes</p>
<p><b>Have the recordings of your closed sessions been tested through the FOI process?</b></p>	<p>Yes, we have had members of the public and Council request audio recordings of closed sessions which have been denied. We've also had members of Council request the audio recording at a Council meeting by making a motion and those motions have failed.</p>	<p>Not that I'm aware of.</p>	<p>No requests have been made.</p>	<p>Not as yet.</p>	<p>As of yet we haven't received any FOI requests for the recordings and haven't had any investigations.</p>	<p>No</p>



**Audio & Video or Audio Only – To be determined  
DRAFT / EXAMPLE POLICY**



**Audio & Video or Audio Only Recording of Council and  
Standing Committee In-Camera Meetings Policy**

**Policy Name:** Audio & Video or Audio Only Recording of Council and Standing Committee In-Camera Meetings Policy

**Legislative History:** Adopted TBD

**Last Review Date:** TBD

**Service Area Lead:** City Clerk

**1. Policy Statement**

1.1 This policy sets out the requirements for the audio & video or audio only recording of Council and Standing Committee In-Camera meetings

**2. Definitions**

2.1 Not applicable.

**3. Applicability**

3.1 This policy shall apply to all in-camera meetings of Council and its Standing Committees.

**4. The Policy**

4.1 General

All Council and Standing Committee In-Camera meetings shall be audio & video or audio only recorded by the City Clerk, or assigned City Clerk's Office staff, in accordance with the following procedures, for the purpose of having an audio & video or audio only recording to assist with any closed meeting investigation:

4.2 Procedure

- a) The City Clerk, or assigned City Clerk's Office staff, shall commence the audio & video or audio only recording of all Council or Standing Committee In-Camera meetings, with details regarding the date, time, location and type of meeting.
- b) At the conclusion of each Council or Standing Committee In-Camera meeting, the City Clerk, or assigned City Clerk's Office staff, shall end the audio & video or audio only recording of all Council or Standing Committee In-Camera meetings with details regarding the time of the passing of a motion to resume in public session and shall immediately thereafter stop the recording device.
- c) In those circumstances where Council or a Standing Committee convenes in closed session multiple times, throughout one meeting, a separate recording will be made each time the Council or a Standing Committee resumes in closed session, following steps 1 and 2, above.
- d) All audio & video or audio only recordings will stored on encrypted USBs (during COVID-19, while using Webex during virtual meetings) and stored in secure location or on a stand-alone encrypted server (during in-person meetings) in a secure location, to the satisfaction of the City Clerk.

## Appendix 'B'

**Audio & Video or Audio Only – To be determined  
DRAFT / EXAMPLE POLICY**

- e) All **audio & video or audio only** recordings of closed meetings will be retained for a period of one year from the date of the meetings. The written Closed Council Minutes and Closed Standing Committee Minutes shall constitute the permanent official meeting record, in accordance with the *Municipal Act, 2001* and the City of Hamilton's Retention By-law. If there is a discrepancy in the minutes, the recording will be used to only verify its accuracy by the meeting Clerk.
- f) The City Clerk shall be authorized to release an **audio & video or audio only** recording of a closed meeting only to:
  - i) the Closed Meeting Investigator, only in those instances where they are relevant to a closed meeting investigation; and
  - ii) the City Solicitor, or designate, for the purposes of litigation.