

7 November 2012



City Council Committee Report

To: Mayor and Council

Fr: Joanne L. McMillin, City Clerk

Re: Closed Meeting Complaint – Report of Investigator

Recommendation:

That further to a Closed Meeting Complaint submitted by Joyce Chevrier to the City's Closed Meeting Investigator on August 14, 2012 pertaining to a Closed Meeting of Council's Standing Committees held September 8, 2008, Council hereby receives the final report of Paul S. Heayn, Closed Meeting Investigator as forwarded to the City Clerk's Office on November 6, 2012; and

That while there are no recommendations made by the Investigator concerning Council's procedures for dealing with Closed Meetings, Council hereby accepts the recommendations contained in the Investigator's Report as they relate to reporting out on matters from closed meetings; and further

That these recommendations be reflected in the City's new Procedural By-law.

Background:

Paul Heayn, Closed Meeting Investigator received a closed meeting complaint on August 14, 2012 from Joyce Chevrier.

The complaint centered around the City's Closed Meeting following the Regular Standing Committee Meetings on September 8, 2008 as it related to the removal of the Norman Park Covenant placed on title in 1939 and passed onto the City when the City purchased the property in 1946. Mr. Heayn's report goes on to explain the history of the registered covenant, and is self-explanatory.

Mr. Heayn thoroughly reviewed the complaint as the case would be, for the most part, by the Ombudsman regarding these complaints and he therefore covered the matter from the time the covenant was released, what lead up to the release and whether the covenant could actually be re-registered.

While Mr. Heayn states the Norman Park covenant qualified for discussion by the Council-of-the-day in a closed session on September 8, 2008 meeting, he felt it may have been more appropriate to have it included as "Solicitor Client privilege" in accordance with subsection (2) under the Municipal Act's Section 239 for closed meetings.

With respect to the recommendations contained in Mr. Heayn's report, I would be remiss if I did not point out that with the complaint dating back to a meeting held some four years ago, I am confident the City's processes today have improved and been refined since 2008. Members of Council and staff are extremely cognizant of the procedures for moving in and out of open and closed meetings, giving direction and adopting only procedural motions as required in closed. As previously recommended by Fred Dean, I believe we should continue to use the Confirmatory By-law for actions of Council but in addition to our current practice which is not clearly written in the Procedural By-law, reference the process we follow in order to be as specific as possible and ultimately more transparent when reporting out of closed at the open meeting, and perhaps to include that Council's instructions regarding same be followed by the appropriate staff position under actions.

As required, Mr. Heayn's report will be made publicly available once adopted by Council resolution at the November 19 Council Meeting.

Budget:

N/A

Communication Plan/Notice By-law Requirements:

City Solicitor, J. Chevrier, Portal.