



COU-01-2020 Closed Session Policy

Implemented: June 17, 2020

Revision Date: January 2022

References and Related Documents:

- *Municipal Act, 2001*
- Procedure By-law 2019-125
- Council Code of Conduct – COU-01-2019

Policy Statement

The Township of Georgian Bluffs is committed to upholding the principles of open and accountable governance, while maintaining confidentiality when necessary. The Township of Georgian Bluffs acknowledges that all meetings of Council, Committees and Boards shall be open to the public except as related to the exceptions included in Section 239 (2) and (3) of the *Municipal Act, 2001*.

Purpose and Scope

The purpose of this policy is to ensure compliance with Section 239 (2) and (3) of the *Municipal Act, 2001* and further, to confirm confidentiality of closed session materials.

Definitions

Closed Meeting: Means a meeting of Council, Committee or Local Board that is closed to the public pursuant to Section 239 of the *Municipal Act, 2001*.

Open Meeting: Means a meeting of Council, Committee or Local Board that is open to the public.

Confidential Information: Means:

- a) Information in the possession of, or received in confidence by the Township, that is prohibited from disclosing or has decided to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act;

- b) A matter that has been debated or discussed at a meeting of Council closed to the public, unless the matter is subsequently discussed in Open Session, or it is authorized to be released by Council;
- c) Information concerning litigation, negotiation, or personnel matters; and
- d) Reports of consultants, draft documents and internal communication, which if disclosed may prejudice the reputation of the Township, its officers and Staff, or its effective operation.

Policy Requirements

Section 1 – Statutory Requirements of Closed Meetings

1.1 *Municipal Act, 2001* – Closed Topics

In the interest of accountability and transparency Council of the Township of Georgian Bluffs endeavours to conduct its decision making in public. It is recognized, however, that there are items which should be considered by Council in a Closed Meeting in accordance with Section 239 of the *Municipal Act, 2001*. See information chart, attached as Schedule A.

All closed meeting discussions shall meet the criteria of Section 239 of the *Municipal Act, 2001*. The determination of whether a matter should be dealt with in a Closed Meeting is the responsibility of the relevant Township CAO in consultation with the Mayor, Clerk, and legal counsel, when applicable.

1.2 Additional Requirements

1.2.1 Pursuant to Section 239 of the *Municipal Act, 2001*:

- Before holding a Closed Meeting, Council must state, by resolution, the fact of the holding of the Closed Meeting and the general nature of the matter to be considered at the Closed Meeting, and any persons authorized to attend the Closed Meeting.
- All resolutions, decisions, and other proceedings at Closed Meetings are to be recorded without note or comment by the Clerk or designate.
- Any person can request an investigation of whether the Township has complied with the *Municipal Act, 2001* regarding Closed Meetings.

- The Ontario Ombudsman has been appointed by the Township to investigate any such complaints.
 - All investigation reports are to be made available to the public.
- 1.2.2 Reports and materials prepared for consideration at Closed Meetings are records that may be subject to Freedom of Information requests under the *Municipal Freedom of Information and Protection of Privacy Act, 1990*, and therefore may be subject to the regulations as included in said Act.

Section 2 – Closed Meeting Procedures

2.1 Closed Meeting Agendas

- 2.1.1 Closed meeting agendas shall list items for discussion, including staff reports and recommendations, and shall take the same order of business as detailed in Township Procedure By-law 2019-125.
- 2.1.2 Further to section 16.3 of Township Procedure By-law 2019-125, urgent and, or time sensitive additions to closed meeting agendas shall be permitted with a two thirds majority vote.
- 2.1.3 Closed meeting agendas shall include, when possible, the minutes of the previously held closed meeting. The minutes shall be reviewed and approved strictly in closed meetings.
- 2.1.4 Closed meeting agendas, including staff reports and recommendations, background information, minutes of previous meetings, and any other applicable information, shall be circulated to members electronically using a secure portal.
- 2.1.5 Recipients are prohibited from copying, forwarding, printing, downloading, saving or sharing confidential information in any way, shape or form.

2.2 Discussion and Voting

- 2.2.1 Voting during closed meetings is restricted to procedural matters or for giving directions or instructions to officers, employees or agents of the Township or persons retained by or under a contract with the Township.
- 2.2.2 The Chair will prohibit discussion of any matter that was not disclosed in the resolution authorizing the closed meeting.

2.3 Responsibility of Confidentiality

Members shall continuously ensure and maintain, in highest respect and regard, the confidentiality of all secure documents and closed meeting materials at all times, with respect to section 2.3.1 to 2.3.4 of this policy inclusive.

2.3.1 Further to section 11.8 of Township Procedure By-law 2019-125:

No member or other person attending a Closed Session shall release a confidential report considered at a Closed Session, or discuss the content of such a report with persons other than Members of Council, or municipal staff members and/or agents of Council concerned with the report, without the authorization of Council.

2.3.2 Further to section 5.3.5 of the Council Code of Conduct:

All information, documentation or deliberations received, reviewed or taken in closed session meetings are confidential except as otherwise directed by Council.

Members will not disclose or release by any means to any member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required by law to do so.

2.3.3 Members are prohibited from copying, forwarding, printing, downloading, saving or sharing confidential information in any way, shape or form.

2.3.4 Members shall sign a confidentiality pledge at the commencement of each term of Council acknowledging their responsibility to ensure confidentiality of closed meeting documents.

Monitoring and Review

The Clerk's Department is responsible for the administration and maintenance of this policy, including a detailed review at the commencement of each Council term.

Schedule A – Information Chart re Section 239, *Municipal Act, 2001*

Schedule B – Confidentiality Pledge

Schedule A

<i>Municipal Act, 2001</i> Exception (Section 239)	Discussion Topics	Voting Permissions
a) the security of the property of the municipality or local board.	<ul style="list-style-type: none"> • Township property • Township facilities • Township assets • Other issues as identified 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
b) personal matters about an identifiable individual, including municipal or local board employees.	<ul style="list-style-type: none"> • municipal employees • members on various boards and committees 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
c) a proposed or pending acquisition or disposition of land by the municipality or local board.	<ul style="list-style-type: none"> • land purchases • land sales • land leases • expropriation of land 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
d) labour relations or employee negotiations.	<ul style="list-style-type: none"> • union or employee negotiations 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board.	<ul style="list-style-type: none"> • current or pending litigation 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.	<ul style="list-style-type: none"> • legal opinions, advice and or status reports/briefings 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.	<ul style="list-style-type: none"> • Matters under any legislation. 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff
h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them.	<ul style="list-style-type: none"> • information explicitly provided in confidence and in writing by the Government of Canada, a province or Crown Agency 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff

i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization.	<ul style="list-style-type: none"> information explicitly provided in confidence that, upon review by staff or Township legal counsel, is a trade secret or scientific, technical, commercial, financial or labour relations information that could interfere with negotiations. 	<ul style="list-style-type: none"> procedural matters giving directions or instructions to staff
j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value.	<ul style="list-style-type: none"> information explicitly provided in confidence that, upon review by staff or Township legal counsel, is a trade secret or scientific, technical, commercial or financial information that has monetary value or could be sold or exchanged for cash or something of value 	<ul style="list-style-type: none"> procedural matters giving directions or instructions to staff
k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.	<ul style="list-style-type: none"> a position, plan, procedure, criteria or instruction directly related to negotiations carried out by the municipality 	<ul style="list-style-type: none"> procedural matters giving directions or instructions to staff
3) b) an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed	<ul style="list-style-type: none"> Investigations of the Ontario Ombudsman. 	<ul style="list-style-type: none"> procedural matters giving directions or instructions to staff

under the <i>Ombudsman Act</i> , an Ombudsman referred to in subsection 223.13 (1) of this Act, or the investigator referred to in subsection 239.2.		
3.1) educating or training the members.	<ul style="list-style-type: none"> • Council orientation • team building exercises • professional development 	<ul style="list-style-type: none"> • procedural matters • giving directions or instructions to staff