

Policy Name: Closed Meeting Policy
Approved Date: June 14, 2022
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Review Responsibility: Governance Committee
Amendment Dates:

Closed Meeting Policy

A meeting of the Board of Directors or a Committee established by the Board is an Open Meeting, except that the Board and any Committee may meet in a Closed Meeting to discuss matters relating to:

Exemptions:

1. the security of property;
2. personal matters about an identifiable individual, including MROO contract staff;
3. a proposed or pending acquisition or disposition of land by MROO;
4. contract negotiations;
5. litigation or potential litigation, including matters before administrative tribunals affecting MROO;
6. advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
7. a matter in respect of which the Board, a committee or other body may hold a Closed Meeting pursuant to legislation;
8. information supplied in confidence to MROO by any level of government;
9. third-party information supplied in confidence to MROO (e.g., a trade secret or scientific, technical, commercial, financial or labour relations information);
10. information (e.g., a trade secret or scientific, technical, commercial, or financial information) that belongs to MROO and has monetary value; and
11. a position, plan, procedure, criteria, or instruction to be applied to negotiations.

A **Record of Closed Meeting** will be made or caused to be made by the designated official responsible for recording the meeting and that person will record without note or comment all resolutions, decisions and direction from the proceedings at a Closed Meeting.

A Record of Closed Meeting will be marked CONFIDENTIAL, kept in a secure location, be available to persons eligible to attend the meeting, and be presented for approval at a subsequent closed meeting.

Confidentiality prevents undue harm to the organization and its assets, including its people assets such as volunteers, board members and staff. In addition to what is contained in the Record of Closed Meeting, Board and committee discussions in a Closed Meeting are strictly confidential. In other words, “what is said in the meeting stays in the meeting.” (See the Board Code of Conduct Policy and MROO Representative Code of Conduct Policy) for additional information about the duty of confidentiality).

Although a Record of Closed Meeting is technically minutes of a Closed Meeting, the title of the document will be limited to **Record of Closed Meeting** and will be assigned a file name and referenced as a “record” and not “minutes”. This will help protect against accidental release of a record (e.g., with regular meeting minutes) and avoid disclosure of confidential information or similar breach of confidentiality.

Guidelines for Preparing a Record of Closed Meeting

Although MROO is governed by the *Not-for-Profit Corporations Act*, it seeks to align its policies with legislation and the policy framework applicable to the public sector and particularly municipalities, which may already be familiar to MROO members.

Subsection 239(7) of the *Municipal Act* requires that all resolutions, decisions and other proceedings that take place during a meeting be recorded without note or comment. This requirement applies whether the meeting is open or closed.

Although “notes or comments” are not included in the official record, the requirement to keep a meeting record should also have due regard for public sector principles of openness, transparency and accountability.

According to the Ontario Ombudsman, a record of a Closed Meeting should include:

- where the meeting took place;
- when the meeting started and adjourned;
- who chaired the meeting;
- who was in attendance, with specific reference to the designated official responsible for recording the meeting;
- whether any participants left or arrived while the meeting was in progress and if so, at what time this occurred;
- a description of the substantive and procedural matters discussed, including reference to any documents considered;

- any motions and subsidiary motions, including who introduced the motion and the seconder, if applicable; and
- all votes taken, and all directions given.

The Ombudsman also encourages a public statement in the Open Meeting about what transpired in the closed meeting, providing as much detail as the subject matter permits.

Closed Meeting Procedures

1. Objective

To provide information regarding the procedures for Board and committee meetings that are closed to members and the public.

2. Definitions

Closed Meeting – means a meeting, or part of a meeting, that is closed to members and the public as permitted by this policy and may also be called an "in-camera meeting" or "executive session" (Robert's Rules of Order).

Record – means information however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes documents, financial statements, minutes, notes, accounts correspondence, memoranda, plans, maps, drawing, photographs and films.

Staff or Contract Staff – means any person engaged to perform services (also called staff work) for MROO through an Independent Contractor Professional Services Agreement.

3. Should a meeting be closed?

In the interests of accountability and transparency, and when possible, the Board endeavours to conduct its decision making in an Open Meeting. The following questions may be helpful to inform when a matter should be considered in a Closed Meeting:

Question 1: Does the matter equate to one or more of the Exemptions identified in this policy which allow for a meeting to be closed?

Question 2: If so, just because the meeting can be closed, does that mean it should be closed? (After careful consideration of this policy, the Chair of the meeting has the primary responsibility to determine whether a matter should be dealt with in a Closed Meeting).

4. Requirements for Closed Meetings

- Notice of a Closed Meeting must normally be given, usually through the normal circulation of the Board or committee meeting agenda. The agenda must normally list the Exemption applicable to and the general nature of each matter to be considered, under the Closed Meeting heading.
- Before holding a meeting or part of a meeting that is to be closed, the Board or committee must state, by motion, the fact of the holding of the Closed Meeting

and the Exemption applicable to and the general nature of each matter to be considered at the Closed Meeting.

- All motions, decisions and other proceedings at a Closed Meeting are to be recorded without note or comment in a Record of Closed Meeting.
- All votes should be taken in the usual manner and recorded in the closed meeting minutes. Decisions should not be made by straw poll or general consensus.
- Closed Meeting proceedings must be recorded or caused to be recorded by the designated person responsible for recording the meeting.

5. Access Requests for Closed Meeting Records, Reports and Materials

Records, reports and materials prepared for consideration at a Closed Meeting are records that may be subject to *Freedom of Information and Protection of Privacy Act* access requests. While it is desirable to protect the confidentiality of records that are considered at a Closed Meeting, in the event of an appeal or other legal proceeding, MROO could be ordered to release such records.

6. Reporting from a Closed Meeting

Whenever possible, a written Closed Meeting report is preferred over a verbal report when the Board or committee rises from the Closed Meeting and will be considering the report/recommendations in the Open Meeting. A written report also ensures the Board or committee is prepared for any decisions they may need to consider following from a Closed Meeting discussion. It is also important to ensure that information that can be disclosed is done appropriately in the Open Meeting.

If the report includes recommendations requiring approval by the Board or committee, the recommendations must be introduced in the Open Meeting. In this case, the following procedural motion should be used to rise from the Closed Meeting: "That Board/committee rises from the closed meeting and reports."

Once the Board/committee has risen from the Closed Meeting, the recommendations may be introduced by using the following motion: "That the recommendations contained in Confidential Report (insert title) be adopted (list)."

If a matter has been fully considered and each related motion passed in the Closed Meeting the matter can be considered without redaction or alteration in the Open Meeting, the wording should be the same in the Open Meeting.

7. Disclosure of Closed Meeting Information

Board and committee members and staff shall not disclose or release information considered in a Closed Meeting. However, if the Board or committee deems it desirable and appropriate to release the final recommendations, that determination should be included as part of the motion to adopt the recommendations.

Although information contained in a Closed Meeting report shall not be disclosed, MROO's bylaws require that notice of meetings be provided. In order to be accountable, transparent and inform all present of the matters to be dealt with in a

Closed Meeting, the Board and its committees will begin each meeting as an Open Meeting and pass a motion to move into a Closed Meeting.

Once matters in the Closed Meeting have been dealt with, the Board or committee will reconvene the Open Meeting to disclose, in a general manner, how the agenda items were dealt with in the Closed Meeting. A sample *Chair's Script: Closed Meeting Disclosure* is available as a guide and to adapt for use by persons chairing meetings (see link under Forms in the Board Member Area of the MROO website).

8. Attendance at a Closed Meeting

Each Board member or Committee member is entitled to attend a Closed Meeting of the Board or that Committee, respectively, unless the meeting is about that member.

If a Board member or Committee member has declared an interest in a matter to be considered in a Closed Meeting, they must leave the room while that matter is under consideration.

The Executive Director may attend a Closed Meeting unless the matter being discussed is about the Executive Director. Other staff may attend a Closed Meeting, after a motion to do so has been adopted.

9. Closed Meeting Overview

In order to remind the members of the Board or Committee of their Closed Meeting obligations, the Chair will normally read a script at the beginning of the Closed Meeting providing an overview of the Closed Meeting topics and procedure. A sample *Chair's Script: Closed Meeting Overview* is available as a guide and to adapt for use by persons chairing meetings (see link under Forms in the Board Member Area of the MROO website).

10. Order of Business

The order of business at a Closed Meeting will normally follow the format of the *Record of Closed Meeting* template (see link under Forms in the Board Member Area of the MROO website) and the topics of discussion will normally follow the order they were listed on the Open Meeting agenda.

Supplementary Information

The following documents will be available as links under “Forms” in the Board Member Area of the MROO website and are provided here as supplementary information and ease of reference for the Board of Directors during review of the policy:

Sample Chair’s Script: Closed Meeting Overview (at beginning of Closed Meeting)

Sample Chair’s Script: Closed Meeting Disclosure (after rising from Closed Meeting)

Sample Chair's Script: Closed Meeting Overview

(at beginning of Closed Meeting)

Please be advised that the Board/Committee is now meeting in a Closed Meeting in accordance with MROO's Closed Meeting Policy to consider:

(Select all that apply)

- the security of property
- personal matters about an identifiable individual(s)
- a proposed or pending acquisition or disposition of land by MROO;
- contract negotiations
- litigation or potential litigation;
- advice that is subject to solicitor-client privilege
- a matter in respect of which the Board/Committee may hold a Closed Meeting
- information supplied in confidence to MROO by (government)
- third-party information supplied in confidence to MROO (e.g., a trade secret or scientific, technical, commercial, financial or labour relations information)
- information (e.g., a trade secret or scientific, technical, commercial, or financial information) that belongs to MROO and has monetary value
- a position, plan, procedure, criteria, or instruction to be applied to negotiations

I will be verbally reporting out in a general sense on all items considered in the Closed Meeting once we rise from the Closed Meeting and move back to the Open Meeting.

Any other matters that were not identified in the motion to move into the Closed Meeting cannot be discussed.

Board and Committee discussions in a Closed Meeting are strictly confidential. In other words, "what is said in the meeting stays in the meeting." Additional information about the duty of confidentiality is contained in the *Board Code of Conduct Policy and MROO Representative Code of Conduct Policy*.

Sample Chair's Script: Closed Meeting Disclosure (after rising from Closed Meeting)

The Board/Committee met in a Closed Meeting to consider matters it is permitted to do so under MROO's Closed Meeting Policy and as listed on today's Board/Committee agenda. The following matters were considered during the Closed Meeting:

(Select all that apply)

- the security of property
- personal matters about an identifiable individual(s)
- a proposed or pending acquisition or disposition of land by MROO;
- contract negotiations
- litigation or potential litigation;
- advice that is subject to solicitor-client privilege
- a matter in respect of which the Board/Committee may hold a Closed Meeting
- information supplied in confidence to MROO by (government)
- third-party information supplied in confidence to MROO (e.g., a trade secret or scientific, technical, commercial, financial, or labour relations information)
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- a position, plan, procedure, criteria, or instruction to be applied to negotiations

In the interest of transparency and openness, I am reporting the outcomes from today's Closed Meeting. As a result of our Closed Meeting today, I wish to report the following:

(Select all that apply)

- We approved the Record of Closed Meeting from a previous meeting on _____
- Personal matters about an identifiable individual were discussed (e.g., appointment)
- Direction was given to an agent about pending acquisition or disposition of land;
- Direction was given to the solicitor and/or staff regarding contract negotiations
- Direction was given to the solicitor and/or staff about litigation or potential litigation;
- Direction was given to staff about litigation that is a matter of solicitor-client privilege
- We discussed third-party information supplied in confidence to MROO
- Direction was given to staff about a position, plan, procedure, criteria, or instruction to be applied to negotiations