



Administrative Report

To: Warden MacDonald and Members of Essex County Council

From: Katherine Hebert
County Clerk

Date: Wednesday, December 4, 2024

Subject: Accountability and Transparency Policy Review and New Closed Meeting Policy

Report #: 2024-1204-LCS-R39-KH

Purpose

The purpose of this Administrative Report is to present Council with proposed changes to the County's Accountability and Transparency Policy (the "**Policy**") that are intended to modernize the Policy and to align the Policy with current Council procedures and recommendations for best practices.

Additionally, changes are also being proposed to the Closed Meeting Policy (the "**Closed Meeting Policy**") to further provide support for the accountability and transparency principles of the County.

Background

The County adopted the initial version of the Policy in 2008 and since that time has updated the Policy to reflect legislative changes, the most recent of which was related to legislative updates in 2015 (the "**Current Policy**"). A copy of the Current Policy is appended to this Report as **Appendix A**.

Administration has provided recommended changes to the Current Policy (the "**Updated Policy**"). A copy of the Updated Policy is appended to this Report as **Appendix B**.

The proposed Updated Policy includes changes to some of the language to reflect the practices of the current Council as well as the realignment of some sections to improve the logical layout of the Policy. Although the general intent of the Policy remains, the language was modernized to provide more clarity. The proposed updates to this Policy ensure accountability and transparency which align with one of Council's roles under

section 224 of the *Municipal Act, 2001* and is a priority in maintaining public trust.

In 2014, the *Public Sector and MPP Accountability and Transparency Act*, S.O. 2014, c. 13 – Bill 8 (the "**Act**") was enacted and came into force in 2016 for municipalities. The Act amended a number of pieces of legislation with the goal of improving accountability and transparency for governments, including municipal governments, and the broader public sector.

For reference, appended to this Report as **Appendix C** is a copy of Administrative Report, 2015-R011-CS-1104-MB Public Sector and MPP Accountability and Transparency Act, 2014 (Bill 8), originally presented to County Council on November 4, 2015.

The Province has provided guidance for Municipal Councillors with regard to Accountability and Transparency in the [Ontario Municipal Councillor's Guide – Section 2, Accountability and Transparency, linked here for ease of reference.](#)

Discussion

Legislative Requirements – Accountability and Transparency

Ontario municipalities and Members of Council operate under a legislated accountability and transparency framework that includes rules for the municipality and rules for Members of Council and local boards.

Key legislative requirements for municipalities include:

- adopting policies related to accountability and transparency specified in [section 270](#) of the *Municipal Act, 2001*;
- establishing a code of conduct for Members of Council and certain local boards, ensuring access to an Integrity Commissioner; and
- certain [Municipal Conflict of Interest Act](#) and open meeting requirements.

New Closed Meeting Policy

In an effort to improve and support the County's Policy, the County's accountability and transparency program, and in alignment with the County's Strategic Plan adopted late last year, Administration has prepared a proposed new Closed Meeting Policy to add clarity to the procedures that guide the County's calling and administration of closed meetings.

The Ontario Ombudsman [provides guidance for municipalities in relation to Open Meetings](#), and their best-practices include as follows:

- 1) *Make a commitment to open government and to promoting transparency, accountability and accessibility.*
- 2) *Know and follow the Municipal Act, 2001 and your procedure by-law's open meeting requirements.*
- 3) *Make sure you have a procedure by-law that complies with the Municipal Act, 2001 – every municipality and local board is required to have one.*
- 4) *Give adequate advance public notice of all meetings, including the time and location of all meetings. For electronic meetings, provide access instructions (including a link), monitor broadcast quality throughout the meeting, and have a plan to stop the meeting if there are technical issues.*
- 5) *Keep meetings open to the public unless closure is specifically authorized under the Municipal Act, 2001 and there is a real need to exclude the public.*
- 6) *Pick the right s. 239 exception before closing a meeting.*
- 7) *Pass a resolution in public that includes meaningful information about the issue to be considered (not just the exception) before closing the doors.*
- 8) *Record the meeting, including all decisions, by taking minutes, and preferably also by recording audio or video.*
- 9) *Do not hold a vote in closed session unless it is for a procedural matter or to give directions to staff or officials.*
- 10) *To the extent possible, report back publicly in open session about what occurred in closed session.*

The County has endeavoured to ensure that these best practices and legal requirements are satisfied. However, with recent changes to leadership, in particular to the role of County Clerk, it is timely to review and assess practices and procedures to ensure that these align equally with legal requirements and Administration's and this Council's philosophy on accountability and transparency.

Research and Comparison

Through the process of developing this new Closed Meeting Policy, Administration reviewed the practices of several Ontario municipalities.

Further, review of past complaints for several municipalities, to the Ombudsman and other Closed Meeting Investigators, and resolutions for those matters were analyzed and compared with past practices of the County. Specific examples where the resolution from the Closed Meeting Investigator resulted favourably for municipalities, were most common in instances where municipalities had implemented a protocol for closed meetings, such as the Closed Meeting Policy being proposed in this Report, and that the procedures within the policy in question were followed.

Administration is recommending that this new Closed Meeting Policy be adopted by County Council, and utilized in conjunction with the Procedure By-law as ongoing guidance, and to ensure accountability and transparency for all meetings, and decisions of Council.

Policy and Procedure Governance Framework

In 2021 Council adopted the County of Essex Policy and Procedure Framework, which outlined the method to be used for the administration of policies and procedures as well as the approval authority for these important guiding documents.

As part of the reconciliation of the County's existing policies against this new Policy and Procedure Governance Framework, the proposed Updated Policy as well as the new Closed Meeting Policy, will now be reviewed by Council on the prescribed cycle of every four years at minimum.

Financial Implications

There are no financial implications resulting from the review of the Policy and the consideration of the Closed Meeting Policy.

Consultations

During the review and drafting of the Updated Policy, and the preparation and drafting of the new Closed Meeting Policy, the following members of County Administration were consulted:

- Sandra Zwiers, Chief Administrative Officer
- David Sundin, Director, Legislative and Legal Services/County Solicitor
- Crystal Sylvestre, Coordinator, Legislative and Community Services

Further, consultations with several Ontario Municipal Clerks have also taken place.

Strategic Plan Alignment

Working as Team Essex County	Growing as Leaders in Public Service Excellence	Building a Regional Powerhouse
<ul style="list-style-type: none"> <input type="checkbox"/> Scaling Sustainable Services through Innovation <input type="checkbox"/> Focusing “Team Essex County” for Results <input type="checkbox"/> Advocating for Essex County’s Fair Share 	<ul style="list-style-type: none"> <input type="checkbox"/> Being an Employer with Impact <input checked="" type="checkbox"/> A Government Working for the People <input checked="" type="checkbox"/> Promoting Transparency and Awareness 	<ul style="list-style-type: none"> <input type="checkbox"/> Providing Reliable Infrastructure for Partners <input type="checkbox"/> Supporting Dynamic and Thriving Communities Across the County <input type="checkbox"/> Harmonizing Action for Growth <input type="checkbox"/> Advancing Truth and Reconciliation

Recommendation

That Essex County Council receive report number 2024-1204-LCS-R39-KH, Accountability and Transparency Policy Review and Update and New Closed Meeting Policy;

That amendments to the Accountability and Transparency Policy be adopted as presented; and

That the Closed Meeting Policy be approved and that the associated by-law be adopted.

Approvals

Respectfully Submitted,

Katherine Hebert

Katherine Hebert, County Clerk

Concurred With,

David Sundin

David Sundin, BA (Hons), LL.B., Director, Legislative and Legal Services/County Solicitor

Concurred With,

Sandra Zwiers

Sandra Zwiers, MAcc, CPA, CA, Chief Administrative Officer

Appendix	Title
A	Current Accountability and Transparency Policy
B	Updated Accountability and Transparency Policy
C	Administrative Report 2015-R011-CS-1104-MB Public Sector and MPP Accountability and Transparency Act, 2014 (Bill 8)
D	New Closed Meeting Policy (Draft for Approval)