

THE CORPORATION OF THE
CITY OF WHITE ROCK

15322 BUENA VISTA AVENUE, WHITE ROCK, B.C. V4B 1Y6

MEETING NOTICE

Pursuant to the *Community Charter* Special and Closed meetings of Council have been called for 3:45 p.m. on Monday, FEBRUARY 11, 2019.

DATE: FEBRUARY 11, 2019

MEETING TIME: 3:45 P.M.

LOCATION: WHITE ROCK CITY HALL COUNCIL CHAMBERS
15322 BUENA VISTA AVENUE, WHITE ROCK BC

PURPOSE: To consider the following motion for items to be considered in a closed for the purpose of:

- *Legal Advice – Property Matter, Litigation, Potential Litigation, , Information Release*
- *Administrative tribunal hearing affecting the municipality*
- *Committee Appointments*

The Special meeting has been called to discuss items that are in accordance with Sections 90 (1) (a), (e), (g), (h), (i), and (k) of the *Community Charter*:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
- (g) litigation or potential litigation affecting the municipality;
- (h) administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public.



Tracey Arthur, Director of Corporate Administration

WHITE ROCK
My City by the Sea!

www.whiterockcity.ca

THE CORPORATION OF THE
CITY OF WHITE ROCK
15322 BUENA VISTA AVENUE, WHITE ROCK, B.C. V4B 1Y6



February 6, 2019

A **CLOSED MEETING** of CITY COUNCIL will be held in the **CITY HALL BOARD ROOM** on **Monday, February 11, 2019**, following the Special to Close Meeting at **3:45 p.m.** for the transaction of business as listed below.

T. Arthur, Director of Corporate Administration

A G E N D A

1. AGENDA APPROVAL

RECOMMENDATION:

THAT the Corporation of the City of White Rock Council adopt the agenda for the February 11, 2019 closed meeting as circulated.

2. PREVIOUS MINUTES

- November 19, 2018 – Closed Meeting Minutes

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RECOMMENDATION:

THAT the Corporation of the City of White Rock Council adopt the minutes of the November 19, 2018 closed meeting as circulated.

3. Legal Privilege, Litigation

4. Legal Privilege, Litigation

RECOMMENDATION:

THAT Council:

1. Receive for information the February 11, 2019 closed corporate report from the Director of Financial Services, titled **Litigation** - Litigation Update”; and

Legal Privilege, Litigation

5. Legal Privilege, Litigation

5. **RELEASE OF LEGAL FEE TOTALS FOR FOI NO: 2019-03** - City’s Legal Counsel will be in attendance for this item
Community Charter Section 90(1) (g) and (i)

A Freedom of Information and Protection of Privacy request (FOI No: 2019-03) has been received for the following:

- 1) *the total dollar value cost of all professional costs, legal costs and legal fees paid to Lidstone and Company by the City of White Rock in connection with OIPC F17-72222, White Rock FOI File 2016-147, the FOI Request for Records Related to the Councillor Chesney 2016 Censure;*
- 2) *the total dollar value cost of all professional costs, legal costs and legal fees paid to Lidstone and Company by the City of White Rock in connection with OIPC File F17-73066, White Rock File 2017-77, the FOI Request for an Unredacted Copy of the August 28, 2015 EPCOR Asset Purchase Agreement;*
- 3) *the total dollar value cost of all professional costs, legal costs and legal fees paid to Lidstone and Company by the City of White Rock in connection with OIPC File F17-69983, White Rock File 2017-10, the FOI Request for Records Related to the EPCOR Water Utility Purchase Negotiations;*
- 4) *the total dollar value cost of all professional costs, legal costs and legal fees paid to Lidstone and Company by the City of White Rock in connection with Lidstone and Company acting as a resource and assisting Administration Director Tracey Arthur with her Report entitled "Freedom of Information and Protection of Privacy Update" which was presented to Council at its regular December 10, 2018 Council Meeting;*
and

- 5) *the total dollar value cost of all professional costs, legal costs and legal fees paid to Lidstone and Company by the City of White Rock in connection with Lidstone and Company putting on a FIPPA "workshop" or "seminar" for White Rock Council in December of 2018 which excluded Public observation and participation.*

Staff have been advised even though a record has not been requested, it is just the information to be given that prior to release of these totals that Council should hear from the City's Legal Counsel and then consider a motion to authorize staff to proceed.

This item is of time sensitive nature given the FOI legislated timeline for the City to respond. In the meantime the applicant has been send an acknowledgement of the request.

RECOMMENDATION:

THAT Council direct, despite the usual exemptions from disclosure, to release the total amount of Lidstone & Company professional legal fees for each of the five (5) categories requested by the Freedom of Information applicant FOI File No. 2019-03.

6. WATER UTILITY PURCHASE – SUMMARY DOCUMENTATION FOR CONSIDERATION OF RELEASE

– City's Legal Counsel will be in attendance for this item

Community Charter Section 90(1) (g), (i), (k)

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Corporate report dated February 11, 2019 from the Director of Corporate Administration titled "Water Utility Purchase – Summary Documentation for Consideration of Release".

Note: The corresponding documents include a very large package of 19,742 pages. Staff have printed one (1) hardcopy. A full copy of the documents has been downloaded to a flashdrive for each of member of Council. They will also be placed in sections in Dropbox. There is an index for all the documents to refer to and during the meeting the information will be available on the large screen in the boardroom.

RECOMMENDATION:

THAT Council:

1. Receive for information the closed corporate report dated February 11, 2019 from the Director of Corporate Administration titled "Water Utility – Documentation for Consideration of Release"; and
- 2a. Waive privilege and confidentiality and direct staff, following Council consultation with the City's Legal Counsel, to release the documents pertaining to the City's purchase of the water utility from EPCOR, subject to any expressly noted exception(s); ***or***
- 2b. Waive privilege and confidentiality and direct staff, following Council consultation with the City's Legal Counsel, to release the documents pertaining to the City's purchase of the water utility from EPCOR; and
3. Authorize any documents released by Council at this meeting to be posted on the City's website and noted at the next regular open Council meeting.

7. 2019 COMMITTEE APPOINTMENTS

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Community Charter Section 90(1) (a)

Corporate report dated February 11, 2019 from the Director of Corporate Administration titled “2019 Committee Appointments”.

RECOMMENDATION:

THAT Council:

1. Receive for information the corporate report dated February 11, 2019 from the Director of Corporate Administration, titled “2019 Committee Appointments;”
2. Appoint the following additional members to the Advisory Design Panel, all with a term expiring December 31, 2020:
 - a) Up to two (2) architects as members, as submitted by the Architectural Institute of British Columbia;
 - b) Up to three (3) members to fill ‘resident/property owner’ positions; and,
 - c) A Chairperson and Vice Chairperson for 2019;
3. Appoint up to eight (8) members for the Parking Task Force, including the Council chair;
4. Appoint up to nine (9) community members and one (1) member from the community with expertise in planning and organizing cycling races to the Tour de White Rock Committee, with a term expiring December 31, 2020;
5. Appoint a minimum of nine (9) community members to the White Rock Sea Festival, with a term expiring December 31, 2020; and
6. Authorize the release of the committee appointments.

8. DISCUSSION / CONSIDERATION OF ITEMS TO BE RELEASED FROM THE CLOSED SESSION TO THE PUBLIC

9. CONCLUSION OF THE FEBRUARY 11, 2019 CLOSED COUNCIL MEETING

THE CORPORATION OF THE
CITY OF WHITE ROCK
CLOSED CORPORATE REPORT



DATE: February 11, 2019

TO: Mayor and Council

FROM: Tracey Arthur, Director of Corporate Administration

SUBJECT: Water Utility Purchase – Summary Documentation for Consideration of Release

RECOMMENDATIONS

THAT Council:

1. Receive for information the closed corporate report dated February 11, 2019, from the Director of Corporate Administration, titled “Water Utility Purchase – Summary Documentation for Consideration of Release;”
 - 2a. Waive privilege and confidentiality and direct staff, following Council consultation with the City’s Legal Counsel, to release the documents pertaining to the City’s purchase of the water utility from EPCOR, subject to any expressly noted exception(s);
or
 - 2b. Waive privilege and confidentiality and direct staff, following Council consultation with the City’s Legal Counsel, to release the documents pertaining to the City’s purchase of the water utility from EPCOR; and
 3. Authorize any documents released by Council at this meeting to be posted on the City’s website and noted at the next regular open Council meeting.
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INTRODUCTION

This corporate report will introduce documents produced and provided to the Manager of Freedom of Information for coordination in relation to the water utility purchase by the City of White Rock from EPCOR.

Council may by resolution, authorize release of all or some of the documents following receipt of advice from the City’s Legal Counsel, Lidstone and Company on the matter.

ANALYSIS

The City of White Rock on June 10, 2013, authorized staff, in accordance with the Agreement dated September 29, 1922 between the Corporation of the District of Surrey and White Rock Water Works Company Limited, and their successor organizations, to:

- a) *Provide notice to EPCOR White Rock Water Inc. of the City's intention to exercise its option to assume ownership of EPCOR's water utility works and all associated licenses*

and real and personal property in respect of the water utility service which provides water to the City of White Rock, which ownership would enable the City to provide water service to the residents of White Rock;

- b) Commence negotiations with EPCOR to acquire this property; and*
- c) Report to and obtain approval from City of White Rock Council before completing the purchase.*

The City of White Rock acquired the water utility from EPCOR on October 30, 2015, with an advanced payment of \$14M.

After 24 months of owning and operating the water utility, in October 2017, the City and EPCOR agreed on a final purchase price of \$13.4M.

The documents provided, under separate cover, as Appendix A, include the responsive records of the City and Lidstone and Company in relation to the water utility purchase.

Lidstone and Company performed the City's negotiation with the Legal Counsel working on behalf of EPCOR.

Please note the following notice in regard to the documents provided as Appendix A to this corporate report, under separate cover, are confidential:

IMPORTANT NOTICE:

The information in this binder is CLOSED City of White Rock information.

The information is for Council members of the City of White Rock only.

The information cannot be released or copied by any individual, and/or viewed by any person not on City of White Rock Council, until Council considers a resolution to waive privilege and confidentiality.

Only following consultation with the City's Legal Counsel and an approved motion of the City of White Rock Council can the City release the closed information.

Several documents within this binder are also subject to a special Settlement Privilege pursuant to a contract with EPCOR (the "SP Records"), such that following a Council motion to release EPCOR documents including the SP Records, the City must obtain EPCOR consent prior to the City of White Rock making the SP Records public. If the SP records being held under Settlement Privilege are released without legal authorization, EPCOR could take legal action against the City. If anyone has been found to release any SP Records contrary to the settlement agreement, the municipality may recover damages from the person for the loss or damage.

The unauthorized disclosure of personal information is also an offence under the Act. The City, as a corporate entity, could be liable for a fine of up to \$500,000. Individuals who are found liable for offences under the Act, which could include employees or Council members, could be fined up to \$2,000. The unauthorized disclosure of personal information under the Act could also open the City up to civil claims brought under the provincial Privacy Act.

The Community Charter provides as follows:

Duty to respect confidentiality

- 117 (1) A council member or former council member must, unless specifically authorized otherwise by council,*
- (a) keep in confidence any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required, and*
 - (b) keep in confidence information considered in any part of a council meeting or council committee meeting that was lawfully closed to the public, until the council or committee discusses the information at a meeting that is open to the public or releases the information to the public.*
- (2) If the municipality suffers loss or damage because a person contravenes subsection (1) and the contravention was not inadvertent, the municipality may recover damages from the person for the loss or damage.*

In relation to the water utility purchase, Appendix B attached to this corporate report, is a list of available negotiation documents currently on the City's website. This has been included for information purposes. Any additional documents released will be made public by being added to this section on the City's website.

CONCLUSION

This corporate report introduces to Council responsive documentation in relation to the purchase of the water utility from EPCOR. The City's Legal Counsel will be in attendance to review the negotiation process with Council, discuss documents held thus far at the direction of EPCOR in regard to the negotiation and, through official motion of Council, release any closed minutes and documentation. The City's Legal Counsel will also outline consideration(s) and required processes for Council to consider as they determine the documents for release.

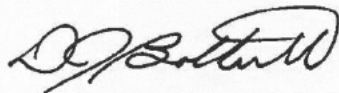
Respectfully submitted,



Tracey Arthur
Director of Corporate Administration

Comments from the Chief Administrative Officer:

I concur with the recommendations of this corporate report.



Dan Bottrill
Chief Administrative Officer

- Appendix A: Responsive Records Regarding the City's Purchase of the Water Utility from EPCOR (due to volume of materials are attached under separate cover)
- Appendix B: Listing from the City's Website of Water Utility Negotiation Documents

APPENDIX A

**Responsive Records Regarding the City's Purchase of the Water Utility from EPCOR
(due to volume of materials are attached under separate cover)**

Confidential

APPENDIX B

Listing from the City's Website of Water Utility Negotiation Documents

Confidential