

MEETING NOTICE

Pursuant to the *Community Charter* a Special and Closed meeting of Council have been called to begin at **5:00 P.M.** on **MONDAY, APRIL 6, 2020.**

DATE: APRIL 6, 2020

MEETING TIME: 5:00 P.M.

LOCATION: WHITE ROCK COUNCIL CHAMBERS
15322 BUENA VISTA AVE., WHITE ROCK BC V4B 1Y6

These meetings have been called to discuss items that are in accordance with Sections 90 (1) (a), (b), (c), (d), (e), (g), (h), (i), (j), (k), (m) and 90 (2) (b) of the *Community Charter*:

90(1)


- (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;
- (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
- (c) labour relations or other employee relations;
- (d) the security of the property of 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) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
- (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;
- (m) a matter that, under another enactment, is such that the public may be excluded from the meeting; and

90(2) (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party

PURPOSE:

- Land Litigation
- Land, Litigation, Legal Advice, Property Tax, License of Occupation
- Personal Information
- Review of Previous Censure(s)
- Labour Relations
- Legal Advice / Summary of Legal Fees
- On-going Negotiations Semiahmoo First Nation (SFN)
- Release of Closed Topics from July 2019 – January 31, 2020 (seven (7) Closed Meetings plus five (5) Closed Council-to-Council meetings with the Semiahmoo First Nation have been held during this time period)

Date: April 1, 2020

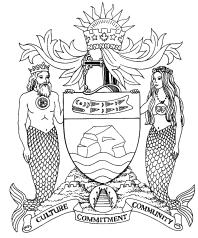


Tracey Arthur, Director of Corporate Administration

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



April 1, 2020

A **CLOSED MEETING** of CITY COUNCIL will be held in the **CITY HALL COUNCIL CHAMBERS** on **MONDAY, APRIL 6, 2020**, following the Special to Close Meeting at **5:00 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 April 6, 2020 closed meeting as circulated.

2. PREVIOUS MINUTES

- March 30, 2020

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RECOMMENDATION:

THAT the Corporation of the City of White Rock Council adopt the following minutes as circulated:

- March 30, 2020.

3. 1300-BLOCK / 1310 JOHNSTON ROAD – G.S.R. CAPITAL ROUP INC. (THE 1310 JOHNSTON ROAD PROPERTY OWNERS)

Community Charter Section 90(1) (e), (g), (h) and (i)

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The ruling from Judge Forth regarding G.S.R. Capital Group Inc. v. The City of White Rock is attached for Council's information. Mr. Bottrill, Chief Administrative Officer (following his discussion with the City's legal counsel) will introduce the item.

NOTE: The two (2) following items were deferred from the March 30, 2020 Closed meeting:

4. OPTIONAL DISCLOSURE OF CLOSED AND/OR PRIVILEGED RECORDS –ACCESS REQUEST 2020-10 **Page 62**

Community Charter Section 90(1) (e), (g), (i) and (k) and 90(2) (b)
Corporate report dated March 30, 2020 from the Director of Corporate Administration titled “Optional Disclosure of Closed and/or Privileged Records – Access Request 2020-10”.

RECOMMENDATION

THAT Council receive for information the closed corporate report dated March 30, 2020 from the Director of Corporate Administration titled “Optional Disclosure of Closed and/or Privileged Records – Access Request 2020-10”.

5. CONTENT OF COUNCIL CLOSED MEETINGS FROM JULY 2019 – JANUARY 31, 2020 AND CLOSED MOTION TRACKING **Page 133**

Community Charter Section 90(1) (a), (b), (c), (d), (e), (g), (h), (i), (j), (k), (m) and 90(2)(b)
Corporate report dated March 30, 2020 from the Director of Corporate Administration titled “Content of Council Closed Meetings from July 2019 – January 31, 2020 and Closed Motion Tracking”.

RECOMMENDATIONS

THAT Council:

1. Receive for information the closed corporate report dated March 30, 2020, from the Director of Corporate Administration, titled “Content of Council Closed Meetings from July 2019 – January 31, 2020 and Closed Motion Tracking”;
2. Authorize the public release of Appendix A of this corporate report noting the Content of Closed Council Meetings from July 2019 – January 31, 2020 at a regular Council meeting; and
3. Authorize the public release of this closed report in accordance with *Freedom of Information and Protection of Privacy* legislation.

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

7. CONCLUSION OF THE APRIL 6, 2020 CLOSED COUNCIL MEETING

**THE CORPORATION OF THE
CITY OF WHITE ROCK
CLOSED CORPORATE REPORT**



DATE: March 30, 2020

TO: Mayor and Council

FROM: Tracey Arthur, Director of Corporate Administration

SUBJECT: Optional Disclosure of Closed and/or Privileged Records – Access Request 2020-10

RECOMMENDATIONS

THAT Council

1. Receive for information the closed corporate report dated March 30, 2020 from the Director of Corporate Administration titled “Optional Disclosure of Closed and/or Privileged Records – Access Request 2020-10”; and
 2. Provide direction to staff with respect to the release of the Closed Meeting Records, the Negotiation Records, and the Privileged Record.
-

INTRODUCTION

The City has received a request pursuant to the *Freedom of Information and Protection of Privacy Act* (“*FIPPA*”) for access to the following records:

- *Minutes of Closed Meeting March 10, 2016 of Intergovernmental Relations Committee.*
- *Minutes of Closed Council Meeting, May 30, 2016- item 3.3 only.*
- *Minutes of Closed Council Meeting, June 13, 2016 -item 4.3 only.*
- *Minutes of Closed Council Meeting, June 27, 2016 – item 5 only.*
- *Minutes of Closed Council Meeting July 25, 2016 – item 10 only.*

(the “Closed Meeting Records”)

AND:

- *Letter to City dated March 18, 2016 from Callison & Hanna/ Adam Munnings.*
- *Letter from Lidstone to Munnings June 7, 2016*
- *Letter from Lidstone to Munnings June 28, 2016.*
- *Letter from Lidstone to Munnings July 27, 2016.*
- *Letter from Munnings to Lidstone September 13, 2016.*
- *Letter from SFN to Council October 27, 2016.*

(the “Negotiation Records”)

AND:

- *City Media Release September 15, 2016 regarding SFN Water Supply.*
- *Email October 3, 2017 from Dan Bottrill to Chief Harley Chappell.*
- *Letter October 5, 2017 from Mayor to Chief Chappell.*
- *Letter from SFN to Council October 12, 2017.*
- *Letter from Mayor to Chief Chappell October 20, 2017.*
- *Email November 30, 2017 from Jim Gordon to Chief Chappell and Cllr Charles.*
- *Letter from Chief Chappell to Mayor December 20, 2017.*
- *Letter of September 14, 2012 from Hon Ida Chong to Hon John Duncan, Minister of Aboriginal Relations and Northern Development Canada.*

(the “Public Records”)

AND:

- *Email, May 24, 2016 from Greg St Louis to Don Lidstone.*

(the “Privileged Record”)

AND:

- *Email from UBCM Meeting Request Coordinator to City of September 14, 2012 re; Aboriginal Relations and Reconciliation – Provincial Cabinet Minister Appointment*

(the “Unlocated Record”).

The following records have been collated and are attached in the following Appendices to this corporate report:

- Appendix A: The Closed Meeting Records;
- Appendix B: The Negotiation Records;
- Appendix C: The Public Record; and
- Appendix D: The Privileged Record.

The Unlocated Record could not be located at the time that this Corporate Report was printed.

Staff would require Council’s authorization to release the Closed Meeting Records, the Negotiation Records and the Privileged Record to the public.

The Public Records have been included in this Corporate Report for information. The City must disclose these records (subject to minor mandatory redactions for personal information) because either i) they have previously been disclosed elsewhere, or ii) there are no applicable exceptions to the disclosure requirements in *FIPPA*.

The content of the Un-located Record is currently unknown, but efforts to locate it are ongoing. If it is located, the Un-located Record will be presented on table at the time of the meeting. In such an event, the Director of Corporate Administration may provide additional recommendations for its treatment.

PAST PRACTICE / POLICY / LEGISLATION

Community Charter

Meetings that may or must be closed to the public

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

[...]

(d) the security of the property of 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;

[...]

(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

[...]

(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;

[...]

The Closed Meeting Records include content from prior Council meetings held in the absence of the public subject to s. 90 (1)(d)(e)(g)(i) and (k) of the *Community Charter*. Generally, section 12(3)(b) of *FIPPA* provides an exemption to the requirement to disclose this information when responding to an access request.

The Negotiation Records and the Privileged Record contain information that is subject to legal privilege, including solicitor-client privilege and settlement privilege. Section 14 of *FIPPA* and common law rules of privilege provide an exemption to the requirement to disclose this information when responding to an access request.

FIPPA

12 (3) The head of a local public body may refuse to disclose to an applicant information that would reveal

[...]

(b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its governing body, if an Act or a regulation under this Act authorizes the holding of that meeting in the absence of the public.

[...]

14 The head of a public body may refuse to disclose to an applicant information that is subject to solicitor client privilege.

Council has previously stated a desire for utmost transparency in all City dealings and have indicated a preference that the City avoid discretionary exemptions to the disclosure requirements of *FIPPA*. Staff have no authority to waive confidentiality of closed meeting records or waive legal privilege over records to which it applies. In order for these records to be released, Council must explicitly waive legal privilege and authorize the release of closed meeting records or privileged records.

The City has requested comment from the Semiahmoo First Nation regarding the potential disclosure of the Negotiation Records. Although it does not appear that any of the information should be subject to a *FIPPA* exemption that requires third-party consultation (e.g. harm to third-party business interests), staff have requested consultation as a courtesy. If the Semiahmoo First Nation expresses opposition to the release of any records, staff may still withhold them or bring the information back to Council for further direction.

ANALYSIS

Council has complete discretion as to whether they determine it is in the public interest to authorize the release of the Closed Meeting Records, the Negotiation Records and/or the Privileged Record and the timing of a release. The City has a good legal basis to withhold if Council is of the opinion that release would be detrimental to the interest of the City or its ongoing negotiations where trust building with the Semiahmoo First Nation is a large part of the process.

Comments received from the Semiahmoo First Nation will need to be considered before making a final decision on disclosure.

BUDGET IMPLICATIONS

There are no budget implications associated with this Corporate Report.

OPTIONS

1. Council takes no action and the Closed Meeting Records, the Negotiation Records, and the Privileged Record are withheld.
2. Council authorizes the release of the Closed Meeting Records, the Negotiation Records, and the Privileged Record by adopting a resolution such as the following:

That Council hereby waive confidentiality and legal privilege over the specific information in the following records and authorize their release to the public:

- *Minutes of Closed Meeting March 10, 2016 of Intergovernmental Relations Committee.*
- *Minutes of Closed Council Meeting, May 30, 2016- item 3.3 only.*
- *Minutes of Closed Council Meeting, June 13, 2016 -item 4.3 only.*
- *Minutes of Closed Council Meeting, June 27, 2016 – item 5 only.*
- *Minutes of Closed Council Meeting July 25, 2016 – item 10 only.*
- *Letter to City dated March 18, 2016 from Callison & Hanna/ Adam Munnings.*
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- *Letter from Lidstone to Munnings July 27, 2016.*
- *Letter from Munnings to Lidstone Sept 13, 2016.*
- *Letter from SFN to Council Oct 27, 2016.*
- *Email, May 24, 2016 from Greg St Louis to Don Lidstone.*

3. Council defers authorizing the release of the Closed Meeting Records, the Negotiation Records, and the Privileged Record until such a time that Semiahmoo First Nation has been consulted and the current ongoing negotiations with the Semiahmoo First Nation have concluded.

CONCLUSION

The City has received a *FIPPA* request for access to records that are confidential and/or privileged. Council has discretion to authorize the release of this confidential and/or privileged information.

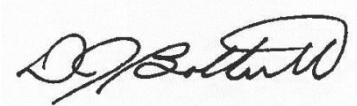
Respectfully submitted,



Tracey Arthur, Director of Corporate Administration

Comments from the Chief Administrative Officer:

This corporate report is provided for information and requests Council provide direction to staff with respect to the release of the Closed Meeting Records, the Negotiation Records, and the Privileged Record. Staff recognize that the City of White Rock and the Semiahmoo First Nation are currently at a critical negotiation stage.



Dan Bottrill
Chief Administrative Officer

- Appendix A: The Closed Meeting Records
- Appendix B: The Negotiation Records – Potential Settlement Privilege (exchanges between SFN and the City)
- Appendix C: The Public Records
- Appendix D: The Privileged Record

THE CORPORATION OF THE
CITY OF WHITE ROCK
CLOSED CORPORATE REPORT



DATE: March 30, 2020
TO: Mayor and Council
FROM: Tracey Arthur, Director of Corporate Administration
SUBJECT: Content of Council Closed Meetings from July 2019 – January 31, 2020 and Closed Motion Tracking

RECOMMENDATIONS

THAT Council:

1. Receive for information the closed corporate report dated March 30, 2020, from the Director of Corporate Administration, titled “Content of Council Closed Meetings from July 2019 – January 31, 2020 and Closed Motion Tracking”;
 2. Authorize the public release of Appendix A of this closed corporate report noting the Content of Closed Council Meetings from July 2019 – January 31, 2020 at a regular Council meeting; and
 3. Authorize the public release of this closed corporate report in accordance with *Freedom of Information and Protection of Privacy* legislation.
-

PURPOSE

As City practice, since 2015, Council considers a corporate report that outlines the topics of Council closed meetings for release to the public on a quarterly basis (Appendix A).

In response to Council’s request to have Closed Motion Tracking brought forward for information, that document is also included as part of the Closed Reporting (Appendix B).

ANALYSIS

Release of Closed Items

From July 2019 – January 31, 2020 there were seven (7) closed Council meetings held and in addition there were five (5) closed Intergovernmental Council-to-Council meetings held with the Semiahmoo First Nation (SFN). Appendix A, attached to and forming part of this closed corporate report, states topics from each of the closed meetings held during the noted period.

Closed Motion Tracking

Appendix B attached to and forming part of this closed corporate report is the Closed Motion Tracking document that gives a summary of all motions requiring action within the closed meetings held from July 2019 – January 31, 2020.

CONCLUSION

Council is requested to review Appendix A and Appendix B as presented and consider the recommendations noted in the closed corporate report.

Respectfully submitted,



Tracey Arthur,
Director of Corporate Administration

Comments from the Chief Administrative Officer:

I concur with the recommendations of this closed corporate report.



Dan Bottrill,
Chief Administrative Officer

Appendix A: Content of Council Closed Meetings from July 2019 – January 31, 2020
Appendix B: Closed Motion Tracking Document

Confidential

- PRESENT:** Mayor Walker
Councillor Chesney
Councillor Fathers
Councillor Johanson
Councillor Manning
Councillor Kristjanson
Councillor Trevelyan (via electronic means – Ministerial Order No. M083)
- STAFF:** D. Bottrill, Chief Administrative Officer
T. Arthur, Director of Corporate Administration
-

The meeting was called to order at 5:02 p.m.

1. AGENDA APPROVAL

2020-IC-048 **It was MOVED and SECONDED**
THAT the Corporation of the City of White Rock Council adopts the agenda for the April 6, 2020 closed meeting as circulated.

CARRIED

2. PREVIOUS MINUTES

- March 30, 2020

2020-IC-049 **It was MOVED and SECONDED**
THAT the Corporation of the City of White Rock Council adopts the following minutes as circulated:

- March 30, 2020.

CARRIED

3. 1300-BLOCK / 1310 JOHNSTON ROAD – G.S.R. CAPITAL GROUP INC. (THE 1310 JOHNSTON ROAD PROPERTY OWNERS)

Community Charter Section 90(1) (e), (g), (h) and (i)

Judgement was given in regard to G.S.R Capital Group Inc. v. The City of White Rock, 2020-03-31 (in the Supreme Court of British Columbia).

It was concluded that the resolutions and bylaw are valid and declined to grant the orders sought by the petitioner. The petition was dismissed. The ruling noted as follows:

“The petitioner has sustained a severe financial hardship as a result of the loss of its ability to build the Project I accordance with DP 401. The City Council lawfully decided to deny the issuance of the building permit with the knowledge of the ‘terrible place’ that would place the petitioner in. In my view, although

the City was successful in defeating this petition, it should consider whether costs should be pursued. The parties have leave to file costs submissions to be served and received by the registry within 60 days of these reasons being released. If no written submission are submitted, no costs will be awarded."

Litigation

2020-IC-050

NOTE: The two (2) following items were deferred from the March 30, 2020 Closed meeting:

4. OPTIONAL DISCLOSURE OF CLOSED AND/OR PRIVILEGED RECORDS – ACCESS REQUEST 2020-10

Community Charter Section 90(1) (e), (g), (i) and (k) and 90(2) (b)
Corporate report dated March 30, 2020 from the Director of Corporate Administration titled "Optional Disclosure of Closed and/or Privileged Records – Access Request 2020-10".

The following discussion points were noted:

- Semiahmoo First Nation (SFN) have been informed of the request for information

- Concern with the ongoing negotiations the impact of releasing information from closed at this time, SFN have stated they believe what happens in closed meetings would not be released without approval from both Staff noted that the City is within its rights to release information from their closed meetings
- Transparency is important / completing negotiations is also important
- Do not see an issue releasing the information following the negotiation process
- Concern if the documents are given to SFN at this time, they are not bound by the same legislation as the City of White Rock. Council could ask the information be kept confidential but there is no guarantee
- Concern noted that the expectation should not be that SFN have control over the City records, consult if the City plans to release, SFN can bring forward concerns for the City to consider at that time

2020-IC-051

It was MOVED and SECONDED

THAT Council defers authorizing the release of the Closed Meeting Records, the Negotiation Records, and the Privileged Record as outlined in the April 6, 2020 closed corporate report titled "Optional Disclosure of Closed and/or Privileged Records – Access Request 2020-10" until such time that current ongoing negotiations with Semiahmoo First Nation (SFN) have concluded.

CARRIED

Councillors Johanson and Kristjanson voted in the negative

SUBSEQUENT MOTION

2020-IC-052

It was MOVED and SECONDED

THAT Council directs the response letter to Freedom of Information Request FOI 2020-10 include an explanation noting the following: Council believe in transparency and intend to release the information requested following conclusion of current negotiations taking place between the City of White Rock and the Semiahmoo First Nation (SFN).

CARRIED

5.

CONTENT OF COUNCIL CLOSED MEETINGS FROM JULY 2019 – JANUARY 31, 2020 AND CLOSED MOTION TRACKING

Community Charter Section 90(1) (a), (b), (c), (d), (e), (g), (h), (i), (j), (k), (m) and 90(2)(b)

Corporate report dated March 30, 2020 from the Director of Corporate Administration titled "Content of Council Closed Meetings from July 2019 – January 31, 2020 and Closed Motion Tracking".

2020-IC-053

It was MOVED and SECONDED

THAT Council:

1. Receives for information the closed corporate report dated March 30, 2020, from the Director of Corporate Administration, titled "Content of Council Closed Meetings from July 2019 – January 31, 2020 and Closed Motion Tracking";
2. Authorizes the public release of Appendix A of this corporate report noting the Content of Closed Council Meetings from July 2019 – January 31, 2020 at a regular Council meeting; and
3. Authorizes the public release of this closed report in accordance with *Freedom of Information and Protection of Privacy* legislation.

CARRIED

6.

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

Nothing further than what was noted in Items 4 (with the noted timeline) and Item 5 (next Regular Council meeting agenda) of this agenda.

7.

CONCLUSION OF THE APRIL 6, 2020 CLOSED COUNCIL MEETING

The Chairperson declared the meeting concluded at 6:02 p.m.



Mayor Walker



Tracey Arthur, Director of
Corporate Administration