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Town of Aurora  
**General Committee Report**  
No. CS20-022

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**Subject:** Audio Recordings of Closed Session

**Prepared by:** Michael de Rond, Town Clerk

**Department:** Corporate Services

**Date:** November 17, 2020

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## **Recommendation**

- 1. That Report No. CS20-022 be received; and**
- 2. That, beginning with the first closed session meeting of 2021, staff audio record all closed session meetings; and,**
- 3. That access to the recordings be restricted to the Town Clerk, Chief Administrative Officer, Town Solicitor and the Town's closed session meeting investigator; and,**
- 4. That a by-law be enacted at a future Council meeting to classify the recordings as permanent in the Town's Record Retention and Classification By-law**

## **Executive Summary**

This report provides logistical information regarding Council's decision to record future closed session meetings. The report includes the following;

- Staff are proposing to use a variety of methods to record each closed session meeting, beginning with the first meeting in January 2021
- The audio recordings will be stored in a secured place with restricted access
- Staff are proposing to keep the audio recordings in perpetuity

## **Background**

On September 29, 2020, Council adopted the following motion;

1. Now Therefore Be It Hereby Resolved That staff be directed to report back before the end of the year on the recommendation to have all future closed session meetings of Council audio-recorded; and
2. Be It Further Resolved That the report include recommended policies pertaining to security, limited access for investigation purposes only and what protocols should be put into place for the retention and destruction of these records.

## **Analysis**

### **Staff are proposing to use a variety of methods to record each closed session meeting, beginning with the first meeting in January 2021**

When operating normally, closed session meetings of Council occur in the Holland Room. The COVID-19 pandemic has forced Council into meeting differently, including closed session meetings in the Council Chambers to better incorporate mitigating health measures, or via the Zoom meetings platform which is completely virtual. Regardless of the location and format of the meeting, staff will be able to audio record the closed session meetings using any device or method as deemed appropriate by the Clerk, including use of a handheld recorder, built-in AV equipment or electronic meeting software, to produce an audio-only recording of a meeting.

Staff are further recommending that audio recordings commence with the first meeting in the 2021.

### **The audio recordings will be stored in a secured place with restricted access**

Staff will ensure the recordings are kept in a safe place where only the Town Clerk has access. The Town Solicitor and Chief Administrative Officer will be granted access when requested. Access to the audio recordings will not be provided to individual members of Council or through the Freedom of Information (FOI) process.

Should a closed session investigation request be received, the relevant audio recording(s) may be accessed by the closed meeting investigator if they determine they would be helpful to the investigation.

### **Staff are proposing to keep the audio recordings in perpetuity**

As Aurora is one of the few municipalities to record closed session meetings, there is not a road map when it comes to retention of the files. The industry standard for

retention of recordings of any type of Council meeting is permanent, and staff proposing this also be applied to closed session audio recordings. This does not pose either short-term or long-term storage capacity concerns for staff.

Further to this, there is no limitation period for closed session meeting investigations. While its reasonable to assume that the likelihood of a closed session investigation decreases over time, there are plausible scenarios where a request is submitted for a meeting at least 5-10 years ago.

### **Advisory Committee Review**

None

### **Legal Considerations**

Audio recordings of meetings are considered a corporate record for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). A person may request access to such records, and the Town Clerk would be required to release the records unless a specific exemption applies. The release of an audio recording of a closed session meeting would likely be refused, in accordance with subsection 6(1)(a) of MFIPPA, which is the exemption that generally applies to closed session records. Despite the Town's refusal to release the record, a person may appeal this decision to the Office of the Information and Privacy Commissioner (IPC). Through the appeal process, the IPC may order that the Town release an audio recording of a closed session meeting in whole or part. In addition, as is the case for any other record of the Town, a court may order the release of the audio recording in a legal proceeding.

### **Financial Implications**

There are no direct financial implication arising as a result of this report.

### **Communications Considerations**

None

## **Link to Strategic Plan**

Recording closed session meetings promote **progressive corporate excellence and continuous improvement** by implementing policy and processes that reflect sound and accountable governance.

## **Alternative(s) to the Recommendation**

1. Council provide direction

## **Conclusions**

Council has deemed it appropriate to record all future closed session meetings. This report provides logistical details regarding these recordings.

## **Attachments**

None

## **Previous Reports**

None

## **Pre-submission Review**

Agenda Management Team review on October 29, 2020

## **Approvals**

**Approved by Techa van Leeuwen, Director, Corporate Services**

**Approved by Doug Nadorozny, Chief Administrative Officer**