OPEN MEETINGS:

Best practice guide for local governments

SECOND EDITION

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Our office is located on the traditional lands of the Lək̓ʷəŋən (Lekwungen) People and ancestors and our work extends across the homelands of the First Nations Peoples within what we now call British Columbia. We honour the many territorial keepers of the lands and waters where we work.

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BC'S OPEN AND CLOSED MEETINGS FRAMEWORK

Introduction

In BC, meetings of local government boards, councils, committees and other bodies must be open to the public except in specific circumstances. This is important because open meetings support public confidence in local government. They enhance local governments' integrity and democratic legitimacy.[1] An open meeting is a pre-requisite to meaningful public participation, which is an essential part of local government decision-making.

Further, open meetings create an opportunity for input from a range of participants. This diversity allows for richer consideration of the issues to be addressed in any decision. As a recent report on public hearings described,

> *Public participation processes enable decision-makers to hear and consider the needs of people with diverse lived experiences, especially groups who have faced historic and ongoing under-representation in decision-making processes due to overt exclusion and/or systemic marginalization through physical, societal, financial or other barriers.*[2]

The legal requirement that local government board, council and committee meetings be open to the public has existed for more than 130 years. The first open meeting requirement in British Columbia was introduced in the *Municipalities Act* of 1881.[3]

Local government bodies exercise broad powers delegated to them by the province.[4] In this way, they are different from the federal and provincial governments whose structure, role and authority are constitutionally entrenched.[5] Federal and provincial governments pass laws following open debate in a legislature. The democratic legitimacy of local government bodies arises from "a decision-making process that is transparent, accessible to the public, and mandated by law."[6] Members of local government bodies must operate within the powers granted to them by the provincial legislature.[7]

Sometimes, local government bodies may need to meet in private. However, private (or "closed") meetings can be inconsistent with the democratic principles of openness, transparency and accountability. For this reason, the law strictly limits the circumstances where local government bodies can hold closed meetings and requires them to follow specific procedures before closing a meeting.

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[1] *London (City) v. RSJ Holdings Inc.*, 2007 SCC 29.
[2] Renovate the Public Hearing Initiative, *Final Report and Recommendations*, December 2024, 11.
[3] *Municipalities Act*, S.B.C. 1881, c. 16.
[4] Pursuant to *Constitution Act, 1867*, s.92(8).
[5] *Constitution Act, 1867*.
[6] *London (City)* v. *RSJ Holdings Inc.,* 2007 SCC 29 at para 38.
[7] *London (City)* v. *RSJ Holdings Inc.,* 2007 SCC 29 at para 37.

The current open meeting requirements are found in the *Community Charter* and, for the City of Vancouver, the *Vancouver Charter*. The electronic meeting requirements in both the *Community Charter* and *Vancouver Charter* were updated during the COVID-19 pandemic, when public health measures necessitated a sudden shift to virtual meetings.

In recent years, the Legislative Assembly has passed two significant pieces of legislation that affect how local governments apply the open meeting requirements: the *Declaration on the Rights of Indigenous Peoples Act* (*Declaration Act*) and the *Accessible British Columbia Act* (*Accessible BC Act*).

Adopted in 2019, the *Declaration Act* is BC's framework for reconciliation with Indigenous Peoples. All laws in BC must be interpreted as upholding the rights of Indigenous Peoples, as affirmed in s.35 of the *Constitution Act, 1982*, and as being consistent with the UN Declaration on the Rights of Indigenous Peoples.[8] This has implications for local governments in their consideration of the open meetings requirements, as we will discuss later in this guide.

The *Accessible BC Act* has applied to local governments since September 1, 2023.[9] It requires local governments to take steps to identify, remove and prevent barriers experienced by people living with disabilities interacting with them. In our view, this includes barriers people experience attending and participating in open meetings.

A note about terminology

Given the many different local government structures in BC, we have tried to ensure that the language used in this report is clear, consistent and accurate. In this guide we have primarily used the term "local government body" to mean a board, council, committee, advisory body or other decision- or recommendation-making group of any local government in BC – including municipalities, regional districts or Islands Trust committees. Unless otherwise stated, the term does not apply to an improvement district board or committee, as improvement districts are subject to different legislative requirements than other local government bodies.

Where necessary, for clarity and accuracy, we have referred specifically to councils, boards, and/or committees.

The general rule: meetings must be open

As a rule, all local government meetings in BC must be open to the public unless expressly authorized to be closed by the governing legislation. This rule applies to elected councils, advisory bodies, boards of variance and other administrative bodies. [10]

[8] *Interpretation Act*, R.S.B.C. 1996, c. 238, s.8.1.
[9] *Accessible British Columbia Regulation*, B.C. Reg. 105/2022, s. 3(b)(iv) and (vii).
[10] *Community Charter*, S.B.C. 2002, c.26, s.89 and 93; *Vancouver Charter,* S.B.C. 1953, c.55, s.165.1 and 165.7.

What makes a meeting open?

An open meeting is one where the public can watch, hear and, when required, participate in, local government deliberations and decision-making.[11]

Local governments can support openness and accessibility by holding meetings at a regular time and place, with dates, times and agendas posted in advance on its website and other public notice posting places established by bylaw.[12] Local governments should provide information on their website and elsewhere about how the public can request to participate in meetings – in person, in writing or by other means.

In person meetings should be held in an accessible location such as a council chamber or other room in a public building. Accessible means not only that the meeting space is open to the public but also that – in accordance with local governments' obligations under the *Accessible BC Act* – barriers to access are proactively identified and removed. This may include ensuring that everyone can enter, navigate, and use the meeting space and participate fully and equally.

Local government bodies can support openness by considering other factors related to the community they serve. Providing childminding services during meetings can help to support the attendance of caregivers of young children.[13] Or, translating materials into other languages can allow a local government body to receive input from a broader range of community members.[14] The usual format of public participation in local government decision-making – one person speaking, in public, for a limited amount of time – can be a barrier for some people, including those for whom English is not their first language, people with communication challenges, and those not comfortable with public speaking. Local governments should consider other ways of hearing from the public.[15] It is important for local governments to apply an equity lens in considering whether their meetings are truly accessible – in other words, to consider on an ongoing basis who in their community is, and is not, able to attend open meetings.

The ability for the public to attend meetings in person remains critical to the democratic process of local governments. In addition, local government meetings are often livestreamed, and recordings made available on the local governments' website. These practices foster accountability in local government decision-making.

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[11] For further discussion of procedural fairness and participation in public body decision-making, see Office of the Ombudsperson, "Fairness facts: the essentials of procedural fairness," 2025.
[12] The *Community Charter* requires a council to publish a regular meeting schedule on an annual basis (s.127); in addition, it must give notice of any special meetings (s.127(2)). Notice procedures for any committee meeting must be established by a procedure bylaw (s.124(2)(c)). The form of notice can be either publication in a newspaper or reasonable equivalent, or in accordance with the means set out in a bylaw (s.94). A council may also provide "any additional notice… that it considers appropriate, including by the internet or other electronic means" (s.94(3)).
[13] See, for example: City of Victoria, "Childminding at Council Meetings."
[14] Renovate the Public Hearing Initiative, *Final Report and Recommendations*, December 2024, 102.
[15] BC Law Institute, *Report on Renovating the Public Hearing*, BCLI Report No. 99, March 2025, 98.

Meetings cannot be considered closed merely because no members of the public attended an otherwise open meeting,[16] or because the time allotted for discussion of a particular issue was brief.[17]

When can a meeting be closed to the public?

When a local government body wants to close a meeting to the public, it can only do so if it passes a resolution, in an open meeting, which states:

- that a meeting or part of a meeting is to be closed; and
- the legislative basis for closing the meeting.[18]

The basis for closing the meeting must be one authorized by the legislation. Some of the reasons for closing a meeting are discretionary – that is, a local government body *may* close a meeting to the public. Some reasons are mandatory – a meeting *must* be closed to the public. There are 15 circumstances when a meeting *may* be closed (14 in the case of the City of Vancouver) and four circumstances when a meeting *must* be closed.[19] See Chapter 4 where we discuss some of the discretionary and mandatory exceptions to the open meetings rule.

Removing individuals from meetings

Local government bodies may sometimes be called on to manage situations where one or more individuals are disrupting an open meeting. The mayor, board chair or other person presiding at a local government body meeting, is authorized to order a person to be removed from a meeting if the person is "acting improperly."[20]

For the purposes of this guide, three points are important to note.

1. If the person presiding at the meeting orders a person or people to be removed from a meeting under this section it does not mean that the meeting itself is closed. So long as all other members of the public can see and hear the meeting, and unless the local government body takes the required steps to properly close the meeting, it remains open.
2. The need to manage disruptive or challenging behaviour at a meeting cannot be used as a rationale for closing a meeting to the public entirely. In other words, a local government body must continue to meet in a manner accessible to the public once the disturbance has been addressed. If necessary, the local government body may adjourn a meeting to a

[16] *Suman v Invermere (District)*, 2013 BCSC 2166.
[17] *Lepiarczyk v. West Vancouver (District)*, 2013 BCSC 1474.
[18] *Community Charter*, s. 92; *Vancouver Charter*, s.165.3.
[19] *Community Charter*, s. 90(1) and (2); *Vancouver Charter*, s.165.2(1) and (2).
[20] Community Charter, s.133; Vancouver Charter, s.165.5

different day or time but again, it must hold an open meeting at that time unless the meeting is properly authorized to be closed, and all applicable procedures are followed.[21]

3. Local government bodies must not unreasonably or arbitrarily restrict attendance at meetings.[22] It is not appropriate for a local government body to choose which members of the public can and cannot attend an open meeting, absent a specific concern about an individual who is "acting improperly." In cases where many people wish to attend a meeting, local governments should provide online broadcasts and means of participating virtually or consider holding the meeting in a larger venue.[23]

What can be discussed in a closed meeting?

Only the subject matter listed in the closed meeting provisions of the *Community Charter* (or *Vancouver Charter*) may be discussed in a closed meeting; all other topics are governed by the open meeting requirement.

While some topics may or must be discussed in a closed meeting, local governments may have to formalize any decisions resulting from that discussion by passing a resolution in an open meeting. For example, all bylaws must be read and voted on in open meetings.[24]

[21] If restricting an individual's access to a publicly available meeting, there are steps that the local government can take to ensure that the access is restricted in a way that is fair. For more information on this, watch for our upcoming Respectful Engagement Guide.

[22] *The Nation (Municipality) (Re),* 1016 ONOMBUD 6 (CanLII) at para 37.

[23] *The Nation (Municipality) (Re),* 1016 ONOMBUD 6 (CanLII) at para 44.

[24] *Community Charter,* s.89(2); *Vancouver Charter*, s. 165.1(2).

WHAT IS A MEETING?

To comply fully with the open meeting requirements, it is important to know when they apply. The open meeting requirements apply to both regular and special meetings of a local government body. However, local government bodies must be alert to the circumstances in which informal gatherings may constitute a meeting subject to the open meeting requirements. A meeting is defined as any gathering of members of a local government body where the members make decisions or move toward making decisions.[25]

Below, we discuss three factors that local government bodies must consider when determining whether a gathering qualifies as a meeting and is therefore subject to the open meeting requirements:

1. the nature of the group
2. the nature of the discussion
3. the nature of the gathering

1. The nature of the group

A gathering is more likely to constitute a meeting if it includes the full membership of, or a quorum[26] of members of, an elected council or board. If quorum is not met, the gathering is less likely to be a meeting, because without quorum, no municipal decision can be made.[27]

Groups that exercise decision-making authority are more likely to be considered meetings than groups that study issues or recommend action.

The open meetings rule applies to local government bodies where members belong to political parties. Party caucuses or other gatherings that include a quorum of members of the local government body cannot be used to materially advance decision-making on local government matters. Such gatherings would circumvent the open meeting requirements: as the Vancouver Integrity Commissioner has stated, "the mere fact that members of a municipal council might belong to the same elector organization does not, on its own, narrow the

[25] Province of British Columbia, "Local government meetings," updated February 28, 2024.
[26] A quorum is the minimum number of members of a local government body required to be present for that body to use its decision-making power or authority. It is defined in the *Community Charter* as "the majority of the number of members of the council" (s.129(1)). The size of council is determined based on the population of a municipality (s.118). Similarly, the *Local Government Act* confirms that "a majority of trustees" of an improvement district board constitutes a quorum (s.683(4)). The *Vancouver Charter* states that the quorum for Council is six of the eleven members (ten councillors plus the mayor) (s.137(1). Vancouver Council may, by bylaw, establish quorum for meetings of its committees (s.165).
[27] Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025, 55.

application or rationale of the open meeting requirement in British Columbia."[28] The open meeting requirements apply regardless of who calls the meeting, what the group is called (e.g., whether it is called a "caucus meeting" or not), or the topic of the meeting.[29] The requirements still apply even if not all of the members of the local government body are invited to a gathering.[30]

2. The nature of the discussion

A gathering where participants only discuss information informally[31] or receive a one-way briefing from staff or consultants to prepare them for public meetings[32] or about other matters relating to local government business[33] may not be a meeting.

However, any gathering that discusses matters within a local government body's jurisdiction[34] in a capacity that deprives the public of "the opportunity to observe a material part of the decision-making process"[35] is a meeting. A gathering in which a quorum of members of the local government body make progress in their decision-making on matter(s) within the local government's jurisdiction, or lay the groundwork for subsequent voting,[36] is very likely to be a

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[28] Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025, 52. See also Office of the Integrity Commissioner for the Vancouver Park Board, *Report to Vancouver Park Board, Complainant and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Decision*, February 21, 2025.

[29] Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025, 5.

[30] Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025, 57.

[31] *Vanderkloet et al. v. Leeds & Grenville County Board of Education*, 1985 CanLII 1976 (ON CA).

[32] *Queen Elizabeth Annex (QEA) Parents' Society v. Vancouver School District No. 39,* 2023 BCSC 2123 at paras 42-48; aff'd on appeal: *Queen Elizabeth Annex (QEA) Parents' Society v. Vancouver School District No. 39,* 2025 BCCA 160 at para 71. In this case, members of a school board attended a 'workshop' where they received a briefing about an upcoming public consultation process related to a potential school closure. The court found that these were not meetings. The proposed closure itself was not discussed at the workshops.

[33]Office of the Integrity Commissioner for the City of Vancouver, *Bulletin 2025-01: Are staff briefings considered meetings?* In this bulletin, the Integrity Commissioner states, "we do not consider staff briefings to be 'meetings'… [because] Council members do not materially move City business forward in the overall spectrum of a Council decision… Council Members do not share opinions, discuss the topics, give directions to staff, or engage in the decision-making process. As a result, staff briefings do not deprive the public of the opportunity to observe a material part of Council's decision-making process." See also Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025, 46.

[34] *Southam Inc v. Hamilton-Wentworth (Regional Municipality) Economic Development Committee* (1988), 66 OR (2d) 213, 54 DLR (4th) 131 (CA) at para 135.

[35] *Southam Inc v. Hamilton-Wentworth (Regional Municipality) Economic Development Committee* (1988), 66 OR (2d) 213, 54 DLR (4th) 131 (CA) at para 12.

[36] Office of the Integrity Commissioner for the Vancouver Park Board, *Report to Vancouver Park Board, Complainant and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Decision*, February 21, 2025.

meeting. And a gathering may still be a meeting even if a desired result or decision is not achieved, if the purpose of the gathering is to make progress towards the decision or desired result. Similarly, an informal meeting of a majority of council members before a regularly scheduled meeting where they decide how they will vote on matters on the agenda, whether or not they have a party affiliation, is also a meeting.[37]

A break during a regular meeting so that the chair and vice chair can receive procedural advice from staff is not in itself a meeting.[38]

3. The nature of the gathering

Where a gathering happens, and how it is conducted, are less significant but still relevant factors in determining whether it is a meeting.

Generally, if a gathering has some features of a regular meeting, this may indicate that the gathering is in fact a meeting.[39] However, even gatherings that do not include such features may be meetings: training sessions, retreats, workshops or other informal sessions can meet the criteria to be considered a meeting. For example, as the Vancouver Park Board Integrity Commissioner has observed, an informal retreat where a quorum of councillors "discuss, in a structured way, matters that would ordinarily be the subject of council business, in part at least to make action-taking decisions, and materially move along a number of council matters" is a meeting subject to the open meeting requirements.[40] In that case, a private gathering deprived both non-attending councillors and the public the opportunity to observe and participate in the discussion.[41]

If the participants in a gathering take a vote of any sort, the gathering is likely a meeting.[42] The "heart of the matter" cannot be seen to have been decided at a gathering, shielded from the view of the public.[43] Instead, local governments should allow for public discussion and consideration of a matter before holding any final vote.[44] The open meeting requirement is not met if there is a later public vote on a matter that has been inappropriately discussed and

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[37] William A. Buholzer, *Local Government: A B.C. Handbook*, Tenth Edition, July 2024, s.7.4, p. 158.
[38] *3L Developments Inc. v. Comox Valley (Regional District),* 2019 BCSC 1342.
[39] See, for examples, *City of Yellowknife Property Owners Assn. v. Yellowknife (City)*, [1998] NWTJ No. 74 at para 12 (NWTSC); *Southam Inc v. Hamilton-Wentworth (Regional Municipality) Economic Development Committee* (1988), 66 OR (2d) 213, 54 DLR (4th) 131 (CA).
[40] Office of the Integrity Commissioner for the Vancouver Park Board, *Report to Vancouver Park Board, Complainant and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Decision*, February 21, 2025.
[41] Office of the Integrity Commissioner for the Vancouver Park Board, *Report to Vancouver Park Board, Complainant and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Decision*, February 21, 2025.
[42] *City of Yellowknife Property Owners Assn. v. Yellowknife (City)*, [1998] NWTJ No. 74 at para 12 (NWTSC) at paras 17 and 19.
[43] *3714683 Canada Inc. v. Parry Sound (Town),* [2004] OJ No. 5061 at para 66 (Ont SCJ).
[44] *London (City) v. RSJ Holdings Inc.*, 2007 S.C.C. 29, [2007] 2 SCR 588.

materially advanced in private. In such cases, the public is still "deprived of the opportunity to observe… decision-making work."[45]

Some local government bodies gather outside of scheduled meetings for training, planning, briefings or other purposes. Any gathering, whether called a workshop, a "shirt sleeve" session, training or something else, can be a meeting.

A gathering is **less likely** to be a meeting if any of the following criteria are met:

- there is no quorum of board, council or committee members
- it takes place in a location not under the control of the local government body
- it is not a regularly scheduled event
- it does not follow formal procedures
- the attendees do not vote on any matters
- the attendees are gathered strictly to receive information or to receive or provide training

A gathering is **more likely** to be a meeting if any of the following criteria are met:

- there is a quorum of council, board or committee members
- it takes place at the council or board's normal meeting place or in an area completely under the control of the council or board
- it is a regularly scheduled event
- it follows formal procedures
- the attendees vote on any matters
- the attendees are discussing matters that would normally be part of the local government body's business and are dealing with the matters in a way that moves them toward a possible decision, including discussing voting intentions

[45] Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025, 56.

ELECTRONIC MEETINGS

Before 2020, local government bodies could only conduct special meetings electronically, and members who were unable to attend in person could attend only special meetings virtually. In the early days of the COVID-19 pandemic, when in person meetings were restricted for public health reasons, the provincial government permitted local government bodies to hold all meetings virtually.[46] While local governments have now returned to primarily in person meetings, the pandemic resulted in a permanent expansion of the circumstances where local government bodies can meet electronically, or members can join an in person meeting virtually.[47]

Electronic communication can present challenges to the transparency and accountability of local government deliberations and decision-making, and to the open meeting requirements in the *Community Charter*. In this section, we discuss those challenges and relevant best practices.

Recognizing electronic meetings

The same factors that help determine whether an informal gathering is a meeting apply to electronic communications or virtual gatherings. Generally, if members of a local government body are, through electronic means, advancing decision-making on matters within their jurisdiction, the open meeting rules apply.

This means that the open meetings requirements may apply to:

- video or audio gatherings held on virtual communications platforms, such as Zoom or Microsoft Teams
- teleconferences
- asynchronous communications methods such as email chains, using public or private accounts, and whether or not all members who are part of the group contribute to the discussion[48]

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[46] *Local Government Meetings and Bylaw Process (COVID-19) Order*, M.O. 83/2020; *Local Government Meetings and Bylaw Process (COVID-19) Order No. 2*, M.O. 139/2020; *Local Government Meetings and Bylaw Process (COVID-19) Order No. 3*, M.O. 192/2020. The orders were given legal effect through the *COVID-19 Related Measures Act*, S.B.C. 2020, c. 8.

[47] Bill 10, *Municipal Affairs Statutes Amendment Act, 2021*, amended the *Community Charter* and *Vancouver Charter* to expand the circumstances under which meetings may be conducted electronically.

[48] Office of the Integrity Commissioner for the City of Vancouver, *Report to City of Vancouver Council, Complainant, and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Recommendations*, August 22, 2025. The commissioner found that council members "regularly communicated in quorum about City business over email. City business was discussed, including motions and amendments on upcoming Council and committee meetings" (45). With respect to specific email chains, this was a breach of the open meeting requirement, even though not everyone on the email chain participated (see, for example, 62-63).

- group texts, including conversations hosted on instant messaging platforms such as iMessage, Signal or WhatsApp[49]

Local government bodies are responsible for recognizing when virtual gatherings of members are subject to the open meeting requirements, and when they are, ensuring that the requirements are followed. Because it is simply not possible to make some of the above communications methods (email, texts) open to the public in a broadly accessible way, they should be avoided as a way of discussing matters that should be addressed in an open meeting.

Holding electronic meetings

The *Community Charter* governs electronic meetings held by municipal councils and council committees.[50] Equivalent provisions in the *Vancouver Charter* govern electronic meetings of Vancouver's council, boards and advisory bodies.[51] Similar provisions govern electronic meetings of regional district boards and committees[52] and Islands Trust bodies.[53]

A local government body can hold regular or special electronic meetings. Further, a member of a local government body who is unable to attend an in-person meeting may participate electronically.

The authority to hold electronic meetings is subject to four limitations. Electronic meetings are only permitted if:

- holding the meeting electronically is authorized by a procedure bylaw
- the meeting is conducted in accordance with the applicable procedure bylaw
- the meeting's participants can hear, or watch and hear each other
- the public can hear, or watch and hear, the meeting and any members joining virtually

[49] An investigation by the Integrity Commissioner of a complaint about meetings of the Vancouver Park Board found that a chat on the platform Signal was used for discussion and coordination, and that membership in the chat met quorum: Office of the Integrity Commissioner for the Vancouver Park Board, *Report to Vancouver Park Board, Complainant and Respondents in this matter of An Integrity Commissioner Investigation: Allegations, Findings, and Decision*, February 21, 2025, 13.

[50] *Community Charter* sections 128-128.3 apply to meetings of local government councils and council committees.

[51] *Vancouver Charter*, s. 164.1, 165.9, and 165.91.

[52] *Local Government Act*, R.S.B.C. 2015, c. 1, s.221 authorizes the Lieutenant Governor in Council to make regulations permitting board or committee meetings to be held electronically, subject to any conditions, limits or requirements. For regional districts, these requirements are set out in the *Regional Districts Electronic Meetings Regulation*, B.C. Reg. 271/2005, amended by B.C. Reg. 236/2021.

[53] *Islands Trust Electronic Meetings Regulation*, B.C. Reg. 283/2009, amended by B.C. Reg. 236/2021.

- the public is provided advance notice of the meeting which includes a description of how the meeting will be conducted, and the place where the public may attend to hear the parts of the meeting that are open to the public[54]

Local governments may decide to hold an electronic meeting if meeting in person is impossible or impractical. For example, if a special meeting is scheduled with only 24 hours advance notice, electronic communication can quickly connect participants, especially in geographically larger jurisdictions where travel to a central meeting location might be difficult. Similarly, if a member is unable to be physically present with the group, electronic communication can allow them to participate in the meeting.

Given the flexibility of the electronic meeting rules, local governments should clearly outline in a policy or bylaw when and how electronic meetings will be conducted. It is particularly helpful to establish a technology policy to guide the local government in responding if the technology used during the meeting fails[55] – and which recognizes that if technology fails, the meeting may no longer comply with the open meeting requirements if the public cannot listen or watch deliberations.

Local government bodies must also ensure that any members attending a meeting electronically can be heard by both in person and remote attendees, including any members of the public.

Some local governments have developed a specific bylaw for electronic meetings,[56] while others have included briefer electronic meetings sections in their general procedure bylaw.[57] The Local Government Management Association of BC and the Ministry of Housing and Municipal Affairs have developed comprehensive guidance for local governments on holding electronic meetings, which includes suggestions to support the accessibility of electronic meetings.[58]

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[54] Under the *Vancouver Charter*, the council must establish bylaws that require advance public notice of the time, place and date of Council and committee meetings and establish procedures for giving that notice (s.164.1(1)(d)) but the electronic meetings section of the *Vancouver Charter* does not contain equivalent requirements specific to electronic meetings.

[55] Local Government Management Association of BC and Ministry of Municipal Affairs, *Procedure Bylaw Guide: For B.C.'s Local Governments*, October 2022, 18.

[56] See, for example, City of Fort St. John, Council Policy No. 96/03, Electronic Meetings and Participation by Members, January 1, 2004.

[57] See, for example, City of Pitt Meadows, Procedure Bylaw No. 2456, 2010, A Bylaw of the City of Pitt Meadows to set Council Procedure.

[58] Local Government Management Association of British Columbia and Ministry of Municipal Affairs, *Electronic Meetings and Public Hearings: Considerations for Local Governments in British Columbia*, July 2022.

COMPLYING WITH THE OPEN MEETING RULES – BEST PRACTICES

The best way for local governments to comply with the open meeting rules is to regularly hold open, accessible public meetings. However, there are situations where a closed meeting is necessary. In these situations, local governments must carefully consider whether a meeting needs to be closed, and if so, follow all procedural rules.

The Ontario Ombudsman summarizes the spirit of that province's open meeting laws as follows: when in doubt, open the meeting.[59] BC's local governments should be guided by the same approach.

Providing public notice of meetings

Clear, accessible and adequately detailed advance public notice of meetings is an important first step for local governments to ensure openness and transparency.[60]

Publishing a schedule of meetings and waiving notice

Municipalities and Islands Trust bodies are required to establish, and make available to the public, a schedule of the date, time and place of all regular meetings of the board or council and any committees.[61] In addition, boards or councils may schedule special meetings on an ad hoc basis if certain conditions are met, including posting a public notice that includes the date, time and place of the meeting and a general description of the purpose of the meeting.[62]

The *Vancouver Charter* and the *Community Charter* also allow municipal bodies to provide any additional notice appropriate, including "by the internet or other electronic means."[63] This section suggests that local government bodies can be creative in identifying ways to communicate about meeting times and topics, including by social media, community newsletters and other similar communications channels.

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[59] Ontario Ombudsman, *Open Meetings Guide for Municipalities: Information and Best Practices*, Fifth Edition, 2023, 2.
[60] Notice is an essential element of a procedurally fair decision-making process. See Office of the Ombudsperson, "Fairness facts: the essentials of procedural fairness," 2025.
[61] *Community Charter*, s.127; *Vancouver Charter,* s.164.1. Parts of s.127 apply to Islands Trust. It does not appear that s.127 of the *Community Charter* applies to regional district boards. However, section 225(1)(b) of the *Local Government Act* requires a regional district board to "provide for advance public notice respecting the date, time and place of board and board committee meetings and establish the procedures for giving that notice."
[62] *Community Charter*, s.127(2). The Vancouver Park Board must give 48 hours advance notice of a special meeting except by unanimous consent of all the board members: *Vancouver Charter*, s. 495. In respect of the City of Vancouver, procedures for special meetings are found in the City's *Procedure By-Law No. 12577*, s. 2.5, which was enacted pursuant to the *Vancouver Charter*, s.165. Section 11(2) of the *Islands Trust Regulation* requires a trust body to provide public notice of special meetings in accordance with *Community Charter* s.127(2) and (3), but does not provide authority to waive notice.
[63] *Community Charter*, s. 94(3); *Vancouver Charter*, s.3(3).

Public notice must be posted at least 24 hours in advance of the meeting unless the council or board unanimously waives the requirement for notice.[64]

The vote to waive notice must happen before the meeting itself. A council might waive notice in emergencies where a meeting must be held without delay. However, we are also aware of cases where notice was waived for meetings used to discuss annual budgets and other topics. In these cases, the need to waive notice is not as clear.

Although the legislation does not limit the grounds for waiving notice, as a best practice, local government bodies should use this authority sparingly. If notice is waived, it is also best practice to document, and make public, the reasons for the waiver to demonstrate the local government body used this authority reasonably.

Notice of topics to be discussed

Providing information about the nature and purpose of meetings in public notices supports openness and accountability in local government decision-making, especially if the council or board intends to close the meeting.

Generally, local governments meet this requirement by posting information about upcoming meetings on their public notice posting places and websites, including agendas and any relevant documents. In some communities, residents can subscribe to receive email notifications of upcoming meetings and the anticipated topics of discussion.

Local government bodies will sometimes hold a closed meeting immediately in advance of a regular meeting. In those circumstances, the local government must still provide a separate meeting notice in the same way as any other special council meeting.[65] If part of a regular council meeting is closed to the public, or the closed portion of a council meeting occurs at the end of a meeting, a separate notice is not required. However, if part of a meeting is expected to be closed to the public, it is best practice to include on the agenda the statutory provision that authorizes the disclosure and information about the matters to be discussed.

The spirit of the open meeting provisions will be satisfied most effectively if local government bodies avoid regularly scheduled closed meetings. Instead, it is preferable to close part of a regular meeting if the subject matter being considered falls under one of the specific exemptions in the legislation.

Best practices: providing public notice

Best practices with respect to notice of meetings include:

- posting meeting notices with sufficient and specific information to enable an understanding of the purpose of the meeting and the matter(s) to be discussed

[64] *Community Charter*, s. 127(4).
[65] In accordance with the requirements of section 127(2) of the *Community Charter*.

- posting notices of meetings and agendas on websites in advance of meetings
- providing the option for members of the public to subscribe to an e-mail service and receive automatic notice of all meetings
- providing more than the minimum 24 hours advance notice of special meetings, where possible
- using the authority to waive notice only when the urgency of the matter or other circumstances clearly require that action, and documenting the reasons for the waiver

The process to close a meeting

The decision to close a meeting to the public should not be made without careful consideration of the principles and values that underlie the open meeting provisions in the *Community Charter.*

Discussing whether a closed meeting is appropriate

Sometimes members of a local government body may disagree about whether it is appropriate or necessary to close a meeting to the public. In those cases, the council or board may close a meeting to consider whether a meeting should be closed.[66] Using this provision to allow frank discussion and debate amongst council or board members can be an effective way of ensuring meetings are not improperly closed to the public. The use of this provision is limited to that discussion, and no details of any other subject matter should be debated.

If the local government body decides that the subject matter is appropriate for a closed meeting, it must pass a further resolution to that effect in an open meeting.

Before holding a closed meeting, councils and boards must pass a resolution to that effect in a public meeting.[67] The authorizing resolution does not need to be passed immediately before the closed meeting; however, it must be done in public in advance of the meeting.

Content of a resolution to close a meeting

A resolution must include two elements:

1. that a meeting or part of a meeting is to be closed
2. the basis on which the meeting will be closed

Reasons for the decision to close a meeting

In practice, resolutions to close meetings generally reference the relevant paragraph of the legislation as the basis for closing a meeting but do not further describe the rationale. As a best practice, it is helpful for local government bodies to provide additional information about the reasons for closing a meeting, such as a general description of the issue to be

[66] *Community Charter*, s. 90(1)(n); *Vancouver Charter*, s. 165.2(1)(m).
[67] *Community Charter,* s. 92; *Vancouver Charter*, s. 165.3.

discussed.[68] This can limit speculation, increase public trust, and enhance the credibility of the local government without undermining the reasons for closing the meeting.[69] Providing reasons for a decision to close a meeting are particularly helpful when a local government is relying on a broadly-worded section of the legislation to close the meeting.

Local governments can demonstrate their commitment to transparency by providing clear and appropriately detailed information about the matters to be discussed in a closed meeting, rather than simply including a reference to the authorizing legislation.

It is helpful when local government bodies read the resolution to close the meeting aloud and, if the meeting is being livestreamed, to post a copy of the resolution on the screen or make an electronic version otherwise available. This ensures that those in attendance at the open meeting – either in person or virtually – are informed of the basis and the authority for the resolution.

In addition, it is useful for local government bodies to inform those in attendance whether the body intends to reconvene in an open meeting after the closed meeting. If there are plans to reconvene, informing attendees of the expected duration of the closed session is a good idea. This allows the public to make informed choices about whether to stay for the subsequent open portion of the meeting.

Best practices: process to close a meeting

Best practices with respect to closing a meeting include:

- if there is reason to discuss whether it is necessary to close a meeting, having that discussion in a closed meeting first
- providing as much detail as possible about the basis for closing the meeting without undermining the reason for closing the meeting
- including a description of each distinct matter to be discussed and the authorizing provision in the resolution to close a meeting
- reading the resolution to close a meeting aloud
    - stating whether the body will reconvene in an open meeting at the end of the closed session

[68] Ontario Ombudsman, *Open Meetings Guide for Municipalities: Information and Best Practices*, Fifth Edition, 2023, 10.
[69] Providing meaningful and appropriately detailed reasons for how a decision is made is an integral aspect of administrative fairness. Individuals are often more likely to accept a decision when they can understand why it was made. For more on this fairness topic, see Office of the Ombudsperson, "Fairness facts: The reason for reasons," 2025.

Applying the discretionary exceptions to the open meetings presumption

The *Community Charter* lists 15 circumstances where a council may exercise its discretion to close a meeting, and the *Vancouver Charter* lists 14 such circumstances.[70]

Because those provisions are discretionary, determining that a matter is covered by one of the open meeting exceptions is only the start of the decision-making process. A local government body must also consider whether a meeting *should* be closed. The discretionary nature of these provisions gives local government bodies flexibility to keep meetings open, even if the discussion will cover one of these subjects.[71]

Generally, it will be appropriate to close a meeting where discussion of a subject in an open meeting raises a reasonable and identifiable possibility of harm to the interests of the local government, the public or a third party. It is not best practice to regularly or routinely close any local government meeting. Instead, local governments must consider whether, in the particular circumstances, a closed meeting is both authorized and appropriate.

This approach is consistent with the legislation and with the underlying principles of openness and transparency which require that wherever possible, meetings be open and accessible to the public: as the Ontario Ombudsman states, when in doubt, open the meeting.[72]

The following sections offer guidance on how local government bodies can apply some of the discretionary exceptions to the open meetings requirements.

Disclosure could reasonably be expected to harm an investigation or the interests of the local government

A local government body may close a meeting if the subject matter concerns:

- law enforcement, and the local government body determines that discussion in an open meeting could reasonably be expected to harm the conduct of an investigation under an enactment, or the enforcement of an enactment[73]
- land acquisition, disposition or expropriation and the local government body determines that discussion in an open meeting could reasonably be expected to harm the interests of the local government[74]
- preliminary negotiations about the proposed provision of services, and discussion in an open meeting could reasonably be expected to harm the interests of the local government[75]

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[70] *Community Charter*, s. 90(1); *Vancouver Charter*, s. 165.2(1).
[71] Ontario Ombudsman, *Open Meetings Guide for Municipalities: Information and Best Practices*, Fifth Edition, 2023, 5.
[72] Ontario Ombudsman, *Open Meetings Guide for Municipalities: Information and Best Practices*, Fifth Edition, 2023, 5.
[73] *Community Charter*, s. 90(1)(f); *Vancouver Charter*, s. 165.2(1)(f).
[74] *Community Charter*, s. 90(1)(e); *Vancouver Charter*, s. 165.2(1)(e).
[75] *Community Charter*, s. 90(1)(k); *Vancouver Charter*, s. 165.2(1)(k).

Each of these provisions require the local government body to decide that discussion in an open meeting could cause harm to specific interests. To use one of these provisions to close a meeting, therefore, local government bodies should "first make an express determination (by resolution) that such discussion would be harmful, and then adopt a resolution to deal with the matter in the absence of the public."[76] When dealing with sensitive matters, it may be useful for the local government body to hold a closed meeting for the purpose of assessing and deciding whether open discussion would be harmful. In other circumstances, the local government body can demonstrate its commitment to transparency by having this initial discussion of harm in an open meeting.[77]

In this context, "harm" might be the foreseeable consequence of the local government body discussing sensitive topics where "the glare of publicity" may undermine or negatively impact the local government's negotiating position on unresolved matters.[78]

In this respect, the interests of the local government are defined not just by reference to the interests of its residents, but also in relation to the local government as a legal entity.[79] This can include the local government's reputational and financial interests, and, where relevant, the relationship between the local government and a First Nation. In one case, the court found that it was reasonable for the City of Vancouver to consider the "interests of the City" as including its relationship with the Squamish Nation, and the City appropriately invoked the closed meeting provisions to discuss a service agreement being negotiated with the Nation.[80] More broadly, the court said that where the subject matter of a meeting concerns a local government First Nations relationship, the local government body must adopt an interpretation of the closed meetings provisions that is consistent with the *Declaration on the Rights of Indigenous Peoples Act* and the *United Nations Declaration on the Rights of Indigenous Peoples*. [81]

Discussing subjects relating to litigation or potential litigation

A local government body can close a meeting to discuss matters that relate to litigation or potential litigation affecting the local government.[82]

Factors that might indicate appropriate use of this basis to close a meeting include:

- a specific threat of litigation

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[76] William A. Buholzer, *Local Government: A British Columbia Legal Handbook*, Tenth Edition, July 2024, s.7.4.
[77] Using section 90(1)(o) of the *Community Charter* (or section 165.2(1)(m) of the *Vancouver Charter*). See William A. Buholzer, *Local Government: A British Columbia Legal Handbook*, Tenth Edition, July 2024, s.7.4.
[78] *Community Association of New Yaletown v. Vancouver (City)*, 2015 BCCA 227 at para 73; *Kits Point Residents Association v. Vancouver (City)*, 2023 BCSC 1706 at paras 185-187.
[79] *Kits Point Residents Association v. Vancouver (City),* 2023 BCSC 1706 at para 182.
[80] *Kits Point Residents Association v. Vancouver (City)*, 2023 BCSC 1706 at paras 173-190.
[81] *Kits Point Residents Association v. Vancouver (City)*, 2023 BCSC 1706 at paras 169-172 and 182-184. In this case, relevant UNDRIP articles included Article 3, Article 4, Article 5 and Article 23 (para 171).
[82] *Community Charter,* s. 90(1)(g); *Vancouver Charter*, s. 165.2(1)(g).

- advice from legal counsel that there is a likelihood of litigation and the local government's interests may be prejudiced by public discussion

Conversely, where potential litigation appears to be remote or speculative, it is unlikely to be appropriate to close the meeting. Further, local government bodies should not interpret "relates to" and "potential litigation" so broadly that it precludes public discussion of any contentious issue that might conceivably result in litigation, as this would not advance the principles of openness and transparency. Similarly, a meeting should not be closed where litigation has ended.[83]

Protecting the business interests of a third party

A local government body can close a meeting if the discussion relates to:

- information that is prohibited from disclosure under s.21 of the *Freedom of Information and Protection of Privacy Act* (FIPPA)
- information that, if presented in a document, would be prohibited from disclosure under the same section of FIPPA[84]

Before closing a meeting for this reason, a council or board must consider whether the information it plans to discuss would be protected under s.21 of FIPPA. Section 21 prohibits the disclosure of information gathered for the purpose of determining tax liability or collecting a tax, as well as information that would or could reasonably be expected to harm the business or financial interest of a third party. Examples include information that would reveal trade secrets, harm the competitive position of a third party or result in undue financial loss to any person.

If the local government body determines that the information would be protected, it must then determine whether the affected third party has given consent to disclosure. Section 21 does not apply if the affected third party has consented to the disclosure. If the third party has consented to disclosure, then the local government body cannot use this provision to close a meeting.

Discussing municipal objectives, measures and progress reports for the purpose of preparing an annual report

A local government body may close a meeting to discuss matters related to "municipal objectives, measures and progress reports," but only if those discussions are for "the purposes of preparing an annual report under section 98."[85] The City of Vancouver's council, boards and committees may not close a meeting for this reason, as there is no equivalent provision in the *Vancouver Charter.*

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[83] Ontario Ombudsman, *Open Meetings Guide for Municipalities: Information and Best Practices*, Fifth Edition, 2023, 24.
[84] *Community Charter*, s. 90(1)(j); *Vancouver Charter*, s. 165.2(1)(j).
[85] *Community Charter,* s. 90(1)(l).

Because this ground for closure is limited to discussion for the purpose of preparing an annual report, it is implied that other council, board or committee meetings to discuss municipal objectives, measures and progress reports will be open to the public. If meetings about municipal objectives, measures and progress reports deal with substantive matters rather than the process of preparing an annual report, they may not fall under the open meetings exception.[86]

Public may be excluded under another enactment

A local government body can close a meeting to the public if the closure is authorized by another enactment. We are not aware of a current enactment that would justify the use of this provision.

Applying the mandatory exceptions to the open meetings presumption

There are four mandatory exceptions to the open meetings presumption:

1. consideration of a request under the *Freedom of Information and Protection of Privacy Act*, if the local government body is the head of the public body for the purposes of FIPPA
2. consideration of confidential information relating to negotiations with another order of government
3. a matter being investigated under the *Ombudsperson Act*, where the local government has been notified of the investigation
4. a matter that, under another enactment, is such that the public must be excluded from the meeting[87]

Most of the above provisions are clear and easily applied and for this reason, we do not discuss them in this guide. Below, we discuss the mandatory exception relating to negotiations with another order of government.

Confidential information relating to negotiations with another order of government

Local government bodies must close a meeting if the subject matter relates to "the consideration of information received and held in confidence relating to negotiations" between the local government and the provincial and/or federal government, including negotiations that also involve a third party.

This provision cannot be used as a means of holding a private meeting with provincial or federal officials that is not related to a specific negotiation.

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[86] William A. Buholzer, *Local Government: A B.C. Legal Handbook*, Tenth Edition, July 2024, s.7.4, 158.
[87] *Community Charter*, s. 90(2); *Vancouver Charter*, s. 165.2(2).

Conducting a closed meeting

During a closed meeting, local government bodies should only discuss subjects authorized by the resolution to close the meeting. They must also comply with the prohibition against voting on the reading or adoption of bylaws. Finally, the local government body must ensure that it keeps detailed minutes of the discussion.

Inviting others to attend a closed meeting

When a local government body closes a meeting to the public, it may nonetheless invite any person to attend if the body considers it necessary.[88] This may include, for example, a lawyer who is providing legal advice to the local government body. While it is important for a local government body to receive information relevant to its discussions, it is equally important that a local government does not use this provision to selectively hear from third parties about a matter under discussion. There is a risk that local government bodies may be seen as biased or improperly influenced if, for example, one party in a matter is included in a closed meeting but others are excluded.

As a best practice, where there is a risk that a local government body may be perceived to be improperly influenced or biased, discussions with third parties should occur in an open meeting.

Discussing only authorized topics

During closed meetings, local government bodies should only discuss subjects listed in the resolution to close the meeting. Local government bodies can close a meeting for more than one reason provided all the reasons are set out in the legislation.

The default presumption is that all meetings are open to the public. If the conversation strays from the topic covered by the paragraph(s) referenced in the resolution, the closed meeting may no longer be authorized.

If a matter arises that is not covered by the resolution authorizing the closed meeting, the local government body should table the item and discuss it when the members return to an open meeting. If the subject is one requiring a confidential discussion, a new authorizing resolution must be passed in an open meeting.

The courts have suggested that it is “disingenuous” for a local government body to pass a resolution to close a meeting for one stated purpose and then discuss unrelated matters in the same closed meeting, even if those matters would also be appropriate for discussion in a closed meeting.[89]

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[88] *Community Charter*, s. 91(2)(b); *Vancouver Charter*, s.165.21(2)(b).
[89] *Barnett v. Cariboo (Regional District)*, 2009 BCSC 471 at para 31.

No voting on bylaws

A local government body "must not vote on the reading or adoption of a bylaw when its meeting is closed to the public."[90] Local government bodies may, however, vote on resolutions in closed meetings.[91] Sometimes the confidentiality of closed meetings is needed for a local government body to pass resolutions that allow the local government to move matters forward. Some matters must be discussed entirely in confidence.

However, the power to pass resolutions in closed meetings can never be used to conceal the decision-making process from the legitimate gaze of the public. Resolutions passed in a closed meeting should be made public during an open meeting whenever possible. It is not always necessary, when making such decisions public, to share the factors, considerations or reasons behind them. However, local government bodies should always try to provide as much information as possible about any resolutions passed during closed meetings. This includes, if appropriate, the considerations on which the resolutions were based.

A local government body should determine on a case-by-case basis how much information to disclose, keeping in mind the importance of transparency. For example, the decision-making process for some resolutions may require withholding only a few specific details while the general factors, considerations and reasons can still be disclosed. On the other hand, some resolutions may require the decision-making process to be completely withheld from the public.

Recording minutes

Local government bodies must record minutes for closed meetings.

Minutes of a meeting or part of a meeting closed to the public must record the names of all persons in attendance.[92] In addition, the minutes should include a detailed description of the discussion, any specific documents considered, any motions, resolutions or votes, and any directions issued.

Minutes provide a reference for attendees and, when the minutes are eventually released (see below), will demonstrate that the matter was properly discussed in a closed meeting and that procedural requirements were satisfied. Even if a local government needs to redact certain information in minutes when releasing them publicly, it is better to take detailed minutes and redact confidential information as authorized, than to take vague or non-specific minutes because the matters discussed in a closed meeting are sensitive.

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[90] *Community Charter*, s.89(2); *Vancouver Charter*, s. 165.1(2).

[91] A resolution is "a formal expression of opinion or a decision made by council on a specific matter." A bylaw is "a document that formalizes a regulation made by council." See Union of BC Municipalities, *Fact Sheet #4: Meetings*, updated September 2022, 1.

[92] *Community Charter*, s. 91(3); *Vancouver Charter*, s. 165.3(2).

Deciding what information can be released publicly

A local government body can support the subsequent release of information about a closed meeting by considering this question during the closed meeting itself. As set out in the *Procedure Bylaw Guide: For B.C.'s Local Governments*:

> *It is best practice to determine if any of the decisions made during the meeting could be made public by agreeing to "rise and report" at the next regular (open) council or board meeting. Providing a regular report about decisions made in closed meetings provides council an opportunity to regularly consider whether a decision can be made public, subject to the legislation or privacy rules.*[93]

Integrating this practice into every closed meeting supports openness in the local government decision-making process by ensuring members properly consider whether and when they can report publicly on closed meeting decisions. It will also help to support the release of minutes and other records from the public meeting, discussed further below.

Best practices: conducting a closed meeting

Best practices with respect to conducting a closed meeting include:

- restricting discussion to subjects authorized by the resolution to close the meeting
- only passing resolutions directly related to the subject matter
- keeping a detailed record of closed meetings, including who attended, what was discussed and what decisions were made
- considering whether to "rise and report" on the closed meeting at the next open meeting of the local government body

[93] Local Government Management Association of British Columbia and Ministry of Municipal Affairs, *Procedure Bylaw Guide: For B.C.'s Local Governments*, 2022.

Releasing information after a closed meeting

After any closed meeting, a local government body should consider releasing minutes and other records prepared for or created during the closed meeting. Local government bodies should release as much information as possible to support openness, transparency, and accountability without compromising the interests of the local government, the public or a third party.

Releasing minutes and other records

Many subjects only require the confidentiality of a closed meeting for a limited amount of time. Local government bodies should regularly review the information prepared for, and produced at, closed meetings and identify information that can be released because it does not undermine the rationale for the closed meeting.

Some local governments have proactively begun releasing records from closed meetings.[94] They have assigned staff the responsibility for reviewing and releasing minutes of closed meetings and related information that no longer requires confidentiality. Other local government bodies have adopted policies and practices to support the regular release of resolutions, agendas, minutes, and reports from closed meetings.[95]

Even if it is not appropriate to release all information related to a closed meeting, it is often better to release incomplete information rather than to wait for a time when all information can be released. Local government bodies should strive to release as much information from closed meetings as possible as often as possible. By doing this, local governments will demonstrate their commitment to the principles of transparency and accountability, and receive the benefit of an informed, engaged and trusting public.

Withholding information that would reveal the substance of deliberations

The *Freedom of Information and Protection of Privacy Act* allows a local government to refuse to disclose information that would reveal the substance of deliberations of a closed meeting.[96] However, if the information in question has been discussed at an open meeting or is at least 15 years old, the information is not protected from disclosure under FIPPA.

To rely on FIPPA to withhold information, a local government body must show that a meeting was held, it was authorized to be closed, and the disclosure would "reveal the substance of deliberations at that meeting,"[97] either directly or by enabling accurate inferences to be drawn about those deliberations.

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[94] For example, the City of Vancouver has a page on its website dedicated to *in camera* meeting information releases.
[95] For example, City of Nanaimo, "Routine Release of 'In Camera' Agendas," *Council Policy Manual*, Policy No. 1.0560.01. See also District of Fort St. James, *Council Procedures Bylaw No. 1015, 2019*, s.16 which contains procedures for reviewing in-camera meeting minutes and decisions for public release.
[96] *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c.165, s. 12.
[97] *City of Coquitlam, Re,* 2002 CanLII 42444 (BC IPC).

Normally the dates, times, locations, and names of attendees will not be protected by FIPPA, nor will the general subjects addressed in a closed meeting. Only information that, whether by itself or when combined with other publicly available information, reveals "the substance of deliberations" will be protected.[98] Finally, it is important to note that this is a discretionary power: a local government body can still choose to release information publicly, despite being authorized to withhold it under FIPPA.

Duty to respect confidentiality

Members of a local government body must maintain the confidentiality of information considered in a closed meeting.[99] Specifically, a current or former member must, unless specifically authorized by the local government body, keep in confidence information that was considered in a lawfully closed meeting until that information has been discussed at an open meeting or otherwise released to the public. However, a member of a local government body may disclose confidential information from a closed meeting to a lawyer to obtain legal advice on matters that affect them personally.[100]

Members must respect this obligation regardless of their opinion on whether a matter should have been discussed in a closed meeting, or their opinion on any resulting decisions.

This is an individual obligation, distinct from the best practices discussed elsewhere in this guide that encourage the release of information generated or discussed in a closed meeting. Those best practices apply to local government bodies as a whole – not to individual members.

Best practices: after a closed meeting

Best practices for actions after a closed meeting include:

- establishing a process for reviewing and releasing minutes of closed meetings and related information no longer requiring confidentiality
- releasing as much information as possible once confidentiality is no longer required
- releasing information as often as possible

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[98] *Vancouver Police Board in Camera Meeting Minutes, Re,* 2000 CanLII 10836 (BC IPC). The Information and Privacy Commissioner has authority over matters under FIPPA.
[99] *Community Charter,* s. 117. Section 117 of the *Community Charter* applies to Regional Districts pursuant to section 787.1 of the *Local Government Act*. *Local Government Act*. There is no equivalent provision in the *Vancouver Charter*.
[100] *Anderson* v. *Strathcona (Regional District)*, 2024 BCCA 23, leave to appeal to Supreme Court of Canada dismissed: *Strathcona Regional District* v. *Noba Anderson*, 2024 CanLII 80686 (SCC).

OPEN MEETING REQUIREMENTS FOR IMPROVEMENT DISTRICTS

Improvement districts are not subject to the open meeting provisions contained in the *Community Charter.*[101] However, this does not mean that improvement district boards and committees are not required to meet openly.

Each annual general meeting of an improvement district board must be open to the public. Improvement district boards have no discretion to close all or part of the annual general meeting to the public.[102]

In addition, an improvement district board must establish, by bylaw, procedures for calling and conducting meetings, including meetings of any committees of the board. Those bylaws must include procedures for providing advance public notice of the date, time and place of meetings.[103] Improvement district boards may meet electronically, in emergency circumstances, if their meeting procedure bylaw authorizes it and the bylaw is registered with the inspector of municipalities.[104] Improvement district boards must keep minutes of all meetings and make minutes of open meetings available to the public on request.

The Ministry of Housing and Municipal Affairs' improvement district manual states:

> *Board of trustee and committee meetings must generally be open to the public to promote transparency and public participation. Persons other than members and officers may be excluded from a special meeting if, in the opinion of the board, the public interest requires it. These meetings are known as in camera or closed meetings and are only used when discussing legal matters, property acquisition or personnel matters.* [105]

Although the open meeting provisions in the *Community Charter* do not apply to improvement districts, they provide a useful guide for improvement districts to consider when developing meeting procedure bylaws. Establishing appropriate meeting procedures demonstrates an improvement district's commitment to openness, transparency, and accountability.

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[101] The *Local Government Act* empowers Cabinet to, by regulation, make the *Community Charter*'s open meetings provisions apply to improvement district boards, committees and any other body established by an improvement district board; however, that authority has not been used to date. *Local Government Act*, R.S.B.C. 2015, c. 1, s. 687(a).
[102] *Local Government Act*, s. 690(2).
[103] *Local Government Act*, s. 686.
[104] Province of British Columbia, "Improvement District Meetings," updated October 5, 2023.
[105] Province of British Columbia, "Improvement District Meetings," updated October 5, 2023. See also British Columbia Ministry of Community Services, *Improvement District Manual*, March 2006, which contains sample bylaws and guidance on governance and standards.

CONCLUSION

The open meeting provisions in the *Community Charter* and *Vancouver Charter* support open government by guaranteeing, with specified exceptions, that the public can attend meetings of local government boards, councils, and committees. Open meetings advance the democratic process by providing the public with an understanding of the considerations underlying local government actions and by allowing members of the public to observe the performance of their elected officials. They facilitate public participation in policy development and decision-making processes and build public trust and confidence in local government.

CHECKLIST

The purpose of this checklist is to assist local government bodies in complying with the closed meeting requirements and best practices. If a local government body answers "yes" to each of the questions in this list, it can be confident that it has complied with the requirements.

Before closing a meeting

- Has notice of this meeting been posted in advance on your website and other public locations?
- Was the meeting agenda posted in advance with sufficient detail to enable members of the public to determine the matters to be discussed?
- If this is a special meeting, did the notice include general information about matters to be discussed?
- Is this meeting authorized to be closed under the legislation?
- Is it necessary to close this meeting?
    - If members do not agree whether it is necessary to close the meeting, have they considered using *Community Charter* s. 90(1)(n)[106] to discuss?
- Does the resolution to close the meeting include:
    - A statement that the meeting will be closed?
    - The specific sections of the legislation that authorize or require the meeting to be closed?
    - Any additional details or description of the matters to be discussed in the closed meeting?
- Did a member of the local government body read the resolution aloud?

During a closed meeting

- Is discussion limited to the matters listed in the authorizing resolution?
- Did the members ensure no votes were held on reading or adopting bylaws during the closed meeting?
- Did the local government body record and retain minutes of the meeting, including any resolutions passed during the meeting?

[106] Or, as applicable, *Vancouver Charter* s. 165.2(1)(m).

- Did the local government body consider whether it could "rise and report" on any matters discussed during the closed meeting?

After a closed meeting

- Does the local government have a process for reviewing and releasing publicly minutes and other records from the closed meeting?

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General Inquiries: 250 387-5855 (Victoria) or 1 800 567-3247 (Rest of BC) | Fax: 250 387-0198
www.bcombudsperson.ca