Minutes – Executive Policy Committee – December 6, 2017

REPORTS

Item No. 3 Legal Opinions – Informal Meetings of Council and Committees

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee recommended to Council:

1. That the Council Motion of November 15, 2017, be received as information.

Minutes – Executive Policy Committee – December 6, 2017

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the Council Motion of November 15, 2017, be received as information, and forwarded to Council.

Carried

COUNCIL DECISION:

On November 15, 2017, Council ruled automatic referral of the following motion to the Executive Policy Committee:

Moved by Councillor Wyatt,
Seconded by Councillor Lukes,

WHEREAS the City of Winnipeg Charter Act (the Charter) is very clear, in that it specifies that EPC shall only be made up of less than 50% of members of Council, namely:

> Size of executive policy committee
> Section 61(2) The mayor shall determine the number of members of the executive policy committee of council, but the number of members must be less than 50% of the total number of members of council.

AND WHEREAS the City of Winnipeg Charter Act appears to call for ALL meetings to be open, namely under said clause:

> Open meetings
> Section 75(1) Subject to section 76, all meetings of council and committees of council and their subcommittees must be open to the public, and no individual may be excluded except for disorderly or disruptive conduct.

AND WHEREAS under section 76, it specifies clear rules under which in camera meetings can be conducted, namely:

> By-law re in camera consideration
> Section 76(1) Council may by by-law specify categories of matters that may be considered at in camera meetings of council or a committee of council or a subcommittee thereof.

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

In camera consideration
Section 76(2) A matter to be considered at a meeting of council, or a committee of council or a subcommittee thereof may be considered in camera where, in the opinion of not less than 2/3 of the total number of members of council or the committee or subcommittee thereof, as the case may be,

(a) the matter comes within a category specified in a by-law passed under subsection (1); and

(b) the matter should be considered in camera.

Record of in camera decision in minutes
Section 76(3) Where a matter is considered in camera at a meeting of council or a committee of council or a subcommittee thereof, the reasons for considering the matter in camera must be recorded in the minutes of the meeting.

AND WHEREAS the Charter is silent on the use of informal meetings of EPC and any other meetings of Committees of Council or of Council itself;

AND WHEREAS the use of informal meetings has grown, specifically for EPC, for Council's annual Organizational meeting held in November, and in some cases for Council standing committees, where no minutes are taken and yet defacto, unofficial decisions are being made that are later ratified at the actual formal meeting of the said Committee or Council;

AND WHEREAS the intent of the Charter is clear, in that Council and Committee meetings are to be minuted, including any in camera meetings of Council and/or Committees, and therefore the decision to have informal meetings of Committees of Council or of Council, and the keeping of 'notes and 'note taking', could be interpreted as a violation of the Charter, namely:

Minutes
Section 70 Council and all committees of council must cause minutes of their meetings to be kept.

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

AND WHEREAS the decision over the last year to increase the membership of the informal meetings of EPC from its traditional EPC committee size, as outlined in the Charter, with an additional two members of Council, may be considered contrary to the Charter, as it appears, is not formalized in any way, shape or form, in the Charter;

AND WHEREAS the Charter specifically makes it impossible for the Presiding Officer (Speaker) or the Deputy Presiding Officer (Deputy Speaker) to be members of EPC, and yet the Deputy Presiding Officer appears to be participating in the new and large informal EPC meetings namely:

> Appointment of presiding officer
> 67(1) At the first meeting of council after a general election, and in November of each year in which there is no general election, council must appoint councillors who are not members of the executive policy committee to be the presiding officer and the deputy presiding officer.

AND WHEREAS the existing model of informal meetings is stifling the sharing of information and runs contrary to the vision of an open and transparent City Hall;

THEREFORE BE IT RESOLVED that Council and all its Committees, including EPC, immediately cease all informal meetings until such time as:

a) a legal opinion has been obtained by at least two independent, outside attorney's-at-law, with the above stated concerns being considered and on the legal status of any and all informal meetings and the role of members of EPC, including the two non-epc members, in said informal meetings, in terms of the City of Winnipeg Charter Act and that;

b) The said legal opinions shall be requested and funded via the Governance Committee of Council, and shall be reported to the Governance Committee and then to Winnipeg City Council within 60 days.