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**CC:** ["City Manager's Correspondence Group - DL"](#)  
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**Date:** 2/20/2021 9:38:15 PM  
**Subject:** Memo: Meetings with Other Governments  
**Attachments:** Memo to Mayor and Council on Meetings with Other Governments (01561026-3xD3527).pdf

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Mayor and Council,

We have recently received questions regarding the *Vancouver Charter* requirements for Council to conduct its business in public and, in particular, the application of such requirement in the context of meetings between members of Council and representatives of the provincial or federal governments.

For your reference, Francie Connell has provided the attached memo which sets out guidance for Council in conducting such meetings in accordance with the scope of the *Charter* requirements. This guidance would be similarly applicable to meetings with other third parties.

If you have any further questions regarding the matter, please do not hesitate to let me or Francie know.  
Best,  
Paul

**Paul Mochrie (he/him)**  
Acting City Manager  
City of Vancouver  
[paul.mochrie@vancouver.ca](mailto:paul.mochrie@vancouver.ca)



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the xʷməŋəm (Musqueam), lúwú 7mesh (Squamish), and səlilwətəł (Tsleil-Waututh) Nations.

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## MEMORANDUM

February 19, 2021

TO: Mayor and Council

cc: Paul Mochrie, Acting City Manager

FROM: Frances J. Connell, Q.C., City Solicitor

SUBJECT: **Meetings with Other Governments**

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Dear Mayor and Council,

### Background

This memorandum is intended to advise on the general ground rules for meetings of Council with third parties; for example, meetings with representatives of regional, indigenous, provincial, or federal governments.

This memorandum is expressed as general legal information and not as legal advice so that it may be shared with other parties with whom Council may wish to meet from time to time.

For more detailed advice, Legal Services will of course be available to provide more specific confidential legal advice.

### General Rules of Open/Transparent Local Government

The *Vancouver Charter* (like the *Community Charter* and most Canadian municipal statutes) requires the business of Council to be conducted as openly and publicly as possible:

- All meetings of Councillors must be held in public, except only in some limited circumstances, set out in the *Vancouver Charter*, where it is permissible that matters be considered in a closed or “in camera” meeting.

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- All meetings of elected officials must be properly constituted, with proper advance notice given to the public, and proper meeting requirements followed (such as minute-taking), in full compliance with the *Vancouver Charter* and with the by-law enacted pursuant to its meeting procedures clauses, the *Procedure By-law*.

In BC, the risk of failure to comply with statutory meeting requirements is reputational (the *Vancouver* or *Community Charter* has been breached), and procedural – the possibility that a court may hold that any decision made at an improperly constituted meeting is void (even if later ratified at a properly constituted meeting).

While not currently the case in BC, in some jurisdictions a failure to observe the requirements for properly constituted meetings and holding an improperly constituted meeting, can result in disqualification of the Councillors from holding office (similar to the rules in BC that currently apply to failing to declare a conflict).

We note that Court decisions have found that it can be fairly easy to breach the rules inadvertently. Even in situations where members of Council have gathered informally, there has been quorum, and the business of the City has been advanced to some degree, the courts have determined that an illegally constituted meeting has occurred.

### **The Main Options for Compliance**

In the context of meetings with other organizations such as other governmental authorities, in order to ensure compliance with meeting requirements, the main options are as follows:

- (1) Option 1 - Structure the “meeting or gathering” and conduct the “meeting or gathering” to ensure it is not illegal

This option is set out in more detail below. By following certain rules, the option of an informal meeting is legal and appropriate in many circumstances.

- (2) Option 2 - Hold a regular public meeting and invite the other government to speak to the matter

This is clearly the process by which the objectives of open and transparent government can be most easily and clearly met.

- (3) Option 3 - If subject matter permits, hold a closed meeting and invite other government to attend

For matters which are permitted to be held in camera this will be a suitable option since the meeting will then be confidential and the discussions will be legally protected from disclosure (subject to privacy and information legislation).

### **Properly Implementing Option 1 – Gathering without it being Illegal**

To properly implement Option 1, it is vital to ensure that when the Councillors meet informally, such as at a briefing, the following basic rules are followed:

- When gathering informally, where the requirements of a formal meeting have not been met, Councillors should always be aware of the basic "informal framework" of the gathering, and may even wish to request a "script" that staff could read reminding everyone attending of the following:
  - there is no "Chair" of the meeting; the other government representatives simply present the information to those present (usually verbally), and there is no one "conducting" the information presentation, other than the representatives of the other government;
  - there is no requirement for quorum, nor is a record kept of who attended;
  - there are no Minutes taken;
  - the presentation from the other government is simply a "one way flow" of information from the other government to the City Councillors, designed to give those present more information on the topic at hand;
  - there should be no intent to "advance" the business of the City, but simply only to better inform the Councillors on a particular topic, and give them a chance to ask questions of the other government; this is very important
  - Councillors should not request any action from the other government, should not vote on anything, nor pass any resolutions, of any nature, and should not direct the other government or City staff in attendance to do anything in respect of the subject matter of the meeting; this is very important
  - it is fine for the Councillors to ask questions about the subject matter, but Councillors should refrain from expressing their opinions or conclusions about the subject matter, and they should not debate amongst themselves, or with the other government, nor should they indicate how they might deal with aspects of the issue when they meet in properly constituted, formal meetings.

And finally and perhaps most importantly:

- there should be no conclusions of any sort expressed or made at the end of the meeting, and there is no need for any of the Councillors to make any statements of any kind; in fact, this should not happen. Councillors must restrict their involvement only to listening and asking questions.

It should also be noted that any gathering held under Option 1 should be conducted on the basis that the discussions may not be considered confidential since such a gathering is not a properly constituted closed or in camera meeting and so does not have the legal protection of confidentiality that a formally constituted closed meeting has under the *Vancouver Charter*.

## **Conclusion**

By utilizing Options 2 and 3 whenever possible, Councillors will have minimal exposure to any allegations of having met illegally in breach of the *Vancouver Charter*.

Similarly, as long as the above noted ground rules for Option 1 are followed, such a gathering should also be considered to be compliant with the open government meeting rules of the *Vancouver Charter*.

If you have any questions please feel free to contact Kelly Oehlschlager, Assistant Director, at [kelly.oehlschlager@vancouver.ca](mailto:kelly.oehlschlager@vancouver.ca).

Regards,

Frances J. Connell, Q.C.

City Solicitor

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