

MEMORANDUM

TO: Mayor and City Council
FROM: Sam Severin and Robert Palmer, City Attorneys
RE: Inquiry of Mayor regarding executive session confidentiality
DATE: March 9, 2026

You asked for guidance to outline some options regarding a concern that the Mayor potentially discussing substantive information from an executive session.

Basic Executive Session Confidentiality Rule

The City adopted Robert's Rules of Order (RRO), DMC 2.09.090(A), which provides the basic executive session confidentiality rule: "The general rule is that anything that occurs in executive session may not be divulged to nonmembers (except any entitled to attend)." RRO 9.26 (12th Ed.). "A member of a society can be punished under disciplinary procedure if [he or she] violates the secrecy of an executive session." RRO 9.27 (12th Ed.). See *also* DMC 2.04.030(E) and DMC 2.04.020 (definition of "confidential or privileged information"). However, to comply with the Open Meetings Act, any Council action must occur in public, which means the executive session confidentiality rule is not absolute and that an executive session topic may only be confidential for a period of time. AS 44.62.310(b).

Basic Options for the Council

The Mayor and the Council have a number of options:

- 1) The Council can investigate the topic. DMC 2.04.040(C). An investigation could be relatively informal, consisting of a few phone calls to determine what was stated.
- 2) If a violation of the executive session confidentiality rule occurred, then DMC 2.04.040 provides a formal process if discipline is considered:
 - a) The Mayor could agree with the finding or challenge the finding.
 - b) The Council could vote to discipline (i.e. censure).
- 3) The Council could choose to use this topic as a training opportunity.
- 4) Council members could also just discuss this topic at a Council meeting.
- 5) The Council could do nothing.

A Council member and the Mayor brought the issue to our attention. Because the Mayor is the subject of the concern, the Council is in the best position to evaluate its time, costs, and need as it considers further action.