

Deputy City Manager's Office Report to
Combined Meeting of Council
2019 January 14

ISC: UNRESTRICTED
C2019-0064

Delegation of Authority to Approve Land Transactions – Status Update

EXECUTIVE SUMMARY

At the 2018 December 04 meeting of the Priorities and Finance Committee, through PFC2018-1376, Transparency Practices – Reporting and Closed Meetings, Administration was directed to investigate establishing a process for delegating the authority to Committee to approve land transactions, up to a certain threshold value, through the Council Procedure Bylaw review, and report back at the 2019 January 14 Combined Meeting of Council.

Administration has completed its investigations through the review of relevant legislation and Council bylaws. As the result of inadvertent amendments made to the *Municipal Government Act, Alberta* (the “MGA”) by way of *The City of Calgary Charter, 2018 Regulation* (the “Charter”), it is not currently possible for Council to delegate final decision making authority to a council committee. As such, it is not possible at this time for Council to delegate authority to the Standing Policy Committee (SPC) on Utilities and Corporate Services (UCS) to approve land transactions. As this was not the intention of the changes brought about by the City Charter, Intergovernmental & Corporate Strategy has communicated this issue to counterparts in provincial administration, noting the potential need for change.

It is therefore recommended that Council direct Administration to advocate for the necessary change to the Charter to enable Council to delegate authority to a council committee. In addition, Administration is proposing to increase communications between Council members and Administration in an effort to reduce the number of land items that are discussed at Council.

ADMINISTRATION RECOMMENDATION:

That Council direct Administration to request the Province to amend The City of Calgary Charter, 2018 Regulation to restore Council's ability to delegate authority to a council committee and report back on the status of these efforts no later than Q2 2019.

PREVIOUS COUNCIL DIRECTION / POLICY

At the 2018 December 04 meeting of the Priorities and Finance Committee, through PFC2018-1376, Transparency Practices – Reporting and Closed Meetings, Administration was directed, amongst other things, to investigate establishing a process for delegating the authority to approve land transactions, up to a certain threshold value, through the Council Procedure Bylaw review to the 2019 January 14 Combined Meeting of Council (see Attachment 1 for the full PFC2018-1376 decision).

BACKGROUND

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Administration investigated the process to delegate authority to approve land transactions, up to a certain threshold value, through the Council Procedure Bylaw review. Due to the inadvertent amendments made to the MGA by way of the City Charter, it is not currently possible for Council to delegate authority to a council committee.

Under Section 203(1) of the MGA as modified by the Charter, the Council may by bylaw delegate any of its powers, duties or functions to any person or individual. Prior to the changes

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imposed by the Charter, under Section 203(1) of the MGA, Council could delegate any of its powers, duties or functions to a council committee, the chief administrative officer or a designated officer.

Recognizing that Council cannot currently delegate authority to a council committee, Administration is proposing to increase communications between Administration and Council members in an effort to reduce the number of land items that are discussed in the closed session at Council. Typically, land transactions requiring Council approval will fall on Council's consent agenda. Unless an item is removed from the consent agenda by a Council member to be discussed at the meeting, the item will not go into the closed session. Real Estate & Development Services staff are available to provide additional briefings to members of Council and to answer any questions about particular transactions prior to items going to a Council meeting. This approach should reduce the need for Council members to remove land items from the consent agenda.

In discussions with the City Clerk, it is anticipated that in future Council meetings, the closed session consent agenda will be dealt with immediately after the open session consent agenda, allowing for greater transparency and increased efficiency.

Administration would also like to make note that since Real Property Bylaw 52M2009 was amended in 2017 September, where additional delegations were granted by Council to the City Manager, it is expected that the number of land items going before UCS and Council has decreased. The below table demonstrates the number of reports that went to UCS and Council for approval, and the reports that were approved by delegated authority, in the years 2015 to 2018. The higher number of reports brought forward to UCS and Council for approval in 2016 and 2017 is the result of two major infrastructure projects: the 17 Avenue SE Bus Rapid Transit (BRT) project and the Green Line Light Rail Transit (LRT) project. Both of these projects required multiple expropriation approvals in order to meet strict project timelines. In 2016, 79 of the 136 reports that went to UCS and Council for approval were either for the 17th Avenue SE BRT project (46 reports) or for the Green Line LRT project (33 reports); in 2017, 43 of the 79 reports that went to UCS and Council for approval were either for the 17th Avenue SE BRT project (27 reports) or the Green Line LRT project (16 reports). Under the MGA, Council approval is required for all expropriations and authority is not delegated to Administration.

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	2015	2016	2017	2018
Reports to UCS and Council for approval:				
Acquisitions	10	90	47	8
Sales	10	5	5	2
Leases/licenses	1	0	2	4
Method of disposition	9	17	7	3
Land exchange	1	2	0	0
General	23	22	18	18
Total	54	136	79	35
Reports approved under delegated authority:				
Acquisitions	21	38	26	33
Sales	35	20	47	40
Leases/licenses	81	94	75	95
Land exchange	1	3	2	3
Demolition	2	0	0	1
General	12	12	12	13
Total	152	167	162	185

Stakeholder Engagement, Research and Communication

Administration consulted with The City of Calgary's Law Department on the amendments made to Section 203(1) of the MGA through the Charter. Based on these discussions, it is Administration's belief that the removal from the MGA of Council's authority to delegate to a council committee was inadvertent and that the likely intent behind the amendments to Section 203(1) of the MGA was to broaden Council's authority to delegate, not narrow it. If that is the case, Administration believes that it is worth approaching the Province to amend the Charter to restore Council's ability to delegate to a council committee in addition to any person or individual.

Administration researched the delegation of real estate authority practices of other municipalities including the City of Edmonton, the City of Ottawa, the City of Toronto, and the City of Regina. It was determined that, prior to the amendments to the MGA by way of the Charter, the City of Edmonton's Council delegated its authority to approve real estate transactions to its Executive Committee. The cities of Toronto, Ottawa and Regina do not have delegations from their Council to a council committee to approve real estate transactions, however the City of Toronto will be looking into this in 2019.

Strategic Alignment

Not applicable to this report.

Social, Environmental, Economic (External)

Social

None identified.

Environmental

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None identified.

Economic

None identified.

Financial Capacity

Current and Future Operating Budget:

Not applicable to this report.

Current and Future Capital Budget:

Not applicable to this report.

Risk Assessment

Not applicable to this report.

REASON(S) FOR RECOMMENDATION(S):

It is recommended that Administration request the Province to amend *The City of Calgary Charter, 2018 Regulation* to restore Council's ability to delegate authority to a council committee. After Council has the authority in place to delegate its authority to a council committee, such as to the SPC on UCS, it is expected that the number of land items that are discussed in the closed session at Council will be reduced.

ATTACHMENT(S)

1. Attachment 1 – PFC2018-1376 Decision