

2017 LAW DEPARTMENT ANNUAL REPORT

EXECUTIVE SUMMARY

Annual report regarding legal, claims, risk management and insurance, corporate security, issues management, and corporate strategy services provided by the Law Department.

ADMINISTRATION RECOMMENDATIONS

That Audit Committee recommend that Council:

1. Receive this report for information; and
2. Direct that Attachments 2, 3 and 4 and the in camera presentation and discussion remain confidential pursuant to Sections 23(1)(b), 24(1)(a), 25(1)(c) and 27(1)(a) of the Freedom of Information and Protection of Privacy Act.

RECOMMENDATION OF THE AUDIT COMMITTEE, DATED 2017 APRIL 20:

That Council:

1. Receive the report for information; and
2. Keep the distribution, Attachments 2, 3 and 4 and the in camera presentation and discussion confidential pursuant to Sections 23(1)(b), 24(1)(a), 25(1)(c) and 27(1)(a) of the *Freedom of Information and Protection of Privacy Act*.

PREVIOUS COUNCIL DIRECTION / POLICY

An annual legal compliance report was identified as a potential area of future focus in Attachment 2 to Report AC2005-06, Audit Committee Terms of Reference, considered by Council on 2005 March 7. The Law Department has provided annual reports to Council since that time. In 2014, information about claims, risk management and insurance matters historically provided to Council in a separate report was consolidated into one annual report from the Department.

BACKGROUND

Authorizing environment:

City Solicitor Bylaw 48M2000 establishes the position of City Solicitor as a designated officer, provides that the City Solicitor reports to the City Manager and outlines the following powers, duties and functions for the City Solicitor:

- to initiate, prosecute, maintain or defend any action, claim or other proceeding deemed in the best interest of The City;
- to settle any action, claim or other proceeding provided the amount does not exceed \$250,000;
- to retain outside counsel when the City Solicitor deems it to be in the best interest of The City; and
- to report to Council on any legal matter where in the City Solicitor's independent judgment a Council decision is necessary.

Services:

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The Department acts for the corporation of The City of Calgary and its services help protect The City's interests for the benefit of all Calgarians. The Department has traditionally described itself as delivering legal, claims, risk management and insurance, corporate security, issues management, and corporate strategy services to Council, the City Manager and General Managers and every business unit in the corporation. While its clients remain the same, the recent corporate Service Portfolio Project has resulted in a recast of how services are defined and the Department now describes its services as legal counsel and advocacy and corporate security and insurance and as contributing to:

- effective executive leadership, which connects Council's vision to strategies and actions for delivering services to customers while reducing risk to the corporation and therefore Calgarians: The Law Department's contributions include the City Solicitor's service as a member of the Administrative Leadership Team (ALT), the Department's responsibility for the delivery of the Corporate Issues Management Program and the Department's role in contributing to the development and implementation of corporate strategy; and
- effective corporate governance, which includes the Department's role in helping ensure that Council and clients comply with legislation and helping the corporation best manage its assets of people, infrastructure, information, and capital to ensure that Calgary is a well-run city.

Value proposition:

The Department enjoys high visibility in the corporation through:

- the City Solicitor's service as a member of the ALT, the City Solicitor and Chief Security Officer's service as member of The City's Senior Management Team, the City Solicitor's attendance at all regular and strategic Council meetings, various Council Committee meetings and service on the Human Resources Client Council, as a member of the Recreation business unit's zero-based review (ZBR) Steering Committee, as a champion for diversity and inclusion in the corporation, as a co-champion for the corporation's mental health strategy, and as a member of various Steering Committees and project teams;
- the City Solicitor's designate's attendance at all public hearings of Council;
- Department members' attendance at various Council Committee meetings and on various corporate and cross-departmental project teams;
- significant involvement in cross-corporate projects such as the Charter negotiations, Municipal Government Act review and Infrastructure Calgary;
- the Manager of the Corporate Issues Management Program's weekly briefings to the ALT on emerging and current issues; and
- the Department's service to every business unit within the corporation.

Members of the Department are solution-oriented and advice is based on a combination of education, experience and evidence. The Department's goal is to serve as a strategic partner to its clients to assist in the on time, on budget achievement of Council, corporate and client priorities and outcomes. The Department provides professional and timely advice and support intended to assist in ensuring informed decision making that intentionally takes into account the

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acceptance, management, mitigation, transfer, monitoring or avoidance of risk. Given the nature and extent of services provided, members of the Department have a broad and deep understanding of opportunities, issues and risks for the corporation.

The Law Department's efficiency and effectiveness is directly linked to:

- the extent to which it maintains the trust and confidence of its clients as it works with them to deliver on: Calgarians' aspirations as articulated in Council priorities in the Action Plan; the objectives in the Leadership Strategic Plan; Council's five imperatives; and the areas of focus identified in the strategic alignment that occurred effective March 1, 2016 (that is, the intentional management of infrastructure investment, growth management and development approvals, real estate, government relationships, and people and culture); and
- the timeliness of the Department's involvement in projects, initiatives and transactions.

The Department continues to make every effort to become engaged with its clients at the stage at which they are contemplating the outcomes they seek to achieve. Early engagement helps avoid or reduce legal, business, financial, and/or reputational risk. Leaving engagement to the stage at which relationships are unduly strained, negotiations have broken down, lawsuits have been filed, or capital projects are too far advanced leaves the Department in a reactive position and limits risk management options available for The City.

Changing business environment and impact on risk:

Council and the Administration are trying to achieve Council and other priorities and meet Calgarians' changing needs in a significantly different economic environment than in past. Ensuring the on time, on budget delivery of Council and corporate outcomes requires serious consideration of which risks to accept and which to manage, mitigate, monitor, transfer or avoid.

The Law Department is experiencing a significant increase in the volume of work it is engaged in (particularly in the real estate, procurement, legislative, and information security areas), in the pace at which clients require service to be provided and in the complexity of the issues facing the corporation. While the Department has historically tried to satisfy each client's needs within the timeframe each client identifies, this is no longer sustainable. To ensure that Department members' attention can be focused on unique, multi-disciplinary and/or higher risk initiatives in which The City is engaged, the Department has embarked on a fundamental reconsideration of how its services are prioritized and delivered.

Service review:

Business process reviews have been undertaken in each Division and Section of the Law Department and the issues and opportunities identified through these reviews have been shared with Corporate Initiatives for consideration during both the Department's ZBR and that of other business units.

During the fall of 2016, the Department shared with Corporate Initiatives its view that to maximize the efficiency and effectiveness of Law Department services, it is essential not only that improvement initiatives within Law continue but also, that workflows and processes as

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between Law and client business units be examined. Benefits of this will include reducing the time it takes to negotiate and document transactions and administer resulting contracts while still ensuring that The City is dealing with risk in a manner acceptable to it. Law assisted Corporate Initiatives in identifying changes required to the process for enabling business units' ZBRs to maximize the value of those exercises. The new approach to enabling business units' ZBRs identified in Report PFC2016-0883 titled "ZBR Program Report" (the recommendations of which were adopted by the Priorities & Finance Committee on November 16, 2016), will see a focus not only on enhancing efficiency and effectiveness within a business unit but also, a focus on enhancing the efficiency and effectiveness of processes and interactions as between enabling and other business units.

The first meeting of the Law Department's ZBR Steering Committee will occur in early May. In the meantime, the Law Department continues to undertake a variety of initiatives intended to enhance its ability to meet its clients' increasing and changing needs. Attachment 1 provides examples of those initiatives. Attachment 2 is a results based accountability template in regard to the provision of legal services.

Attachment 3 outlines 2016 claims activity and The City's insurance coverage. Trends in litigation will be shared in camera.

Attachment 4 provides information about current and emerging risks identified by Corporate Security.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Stakeholder Engagement, Research and Communication

N/A

Strategic Alignment

Department activities and services are aligned with outcomes and actions identified in the Action Plan, Leadership Strategic Plan, Council's five imperatives, and the focus areas identified in the 2016 strategic alignment. In addition, the Department identifies emerging, and helps respond to existing, risks and issues.

Social, Environmental, Economic (External)

N/A

Financial Capacity

Current and Future Operating Budget:

N/A

Current and Future Capital Budget:

N/A

Risk Assessment

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As indicated in the Law Department's previous annual reports, as The City delivers dozens of lines of service, the Law Department will never be able to assure Council of legal compliance throughout the corporation. Rather, ensuring that business units are familiar with and operating within the Municipal Government Act and the regulatory regime governing their operations is the responsibility of the Administrative Leadership Team and Directors throughout the corporation with the assistance of the Law Department. It is clear that having a properly resourced Law Department whose members:

- continue to enhance their understanding of corporate and clients' business and objectives;
- are consulted by clients early in their initiatives;
- receive proper training to ensure expertise in current and emerging areas of law and strategies to help intentionally manage, transfer, monitor, mitigate or avoid risk; and
- provide enhanced training opportunities for clients;

reduces legal, and therefore also financial and reputational, risk and exposure for The City.

REASONS FOR RECOMMENDATIONS:

The Law Department's goals in this report are to: (a) assist Audit Committee in fulfilling its mandate to oversee The City's compliance with laws, regulations and internal policies; and (b) assist Audit Committee and Council in better understanding the Department's role and value in helping Council and clients capitalize on opportunities intended to fulfil Calgarians' hopes, dreams and aspirations, achieve Council and corporate priorities, and make informed decisions that take into account the intentional acceptance, management, monitoring, mitigation, transfer or avoidance of risk.

ATTACHMENTS

1. Legal Services Division Initiatives
2. Legal Services Division Results Based Accountability Template
3. Risk Management & Claims Division Report
4. Corporate Security Division Report