

LEGAL SERVICES DIVISION REPORT

Legal Authority: City Solicitor Bylaw 48M2000:

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.

Law Department Responsibilities:

City staff carry out a number of activities governed or regulated by federal, provincial or municipal legislation. This results in a public law duty to comply with these enactments. In addition, City staff are responsible for many activities that impact individuals. This could result in a private law duty of care to not injure or harm anyone while carrying out these functions. The City must act in accordance with both its statutory obligations and decided case law.

The Legal Services Division is comprised of 54 lawyers and well trained professional and administrative staff supporting their work. The Department continues to take pride in serving as a full-service in-house municipal law office for the corporation. External legal services are used only when the Department has a conflict on a matter, is unable to deliver service within the timeframe clients require or expertise in a particular area of law in which City lawyers do not typically practice is required (e.g. income tax matters, public-private partnerships). Even in those cases, internal lawyers work very closely with external lawyers and cross-training and knowledge transfer are required.

Due to the hundreds of lines of service City staff provide, the Department is unable to monitor every business unit's activities to ensure legal compliance. Responsibility for ensuring legal compliance therefore resides with business unit leaders. However, given the new opportunities outlined below and that:

- members of the Department provide educational seminars to clients to advise City employees of their legal obligations;
- the City Solicitor or her representative attend all regular and combined meetings of City Council and the Administrative Leadership Team (ALT) meetings that immediately precede them; and

- members of the Department often attend Standing Policy and Special Committee meetings to address specific matters;

the Law Department has considerable opportunity to learn about significant initiatives underway in the corporation which then allows for input into the identification of potential issues that may arise as a result.

New Opportunities:

The 2014 April legal compliance report (AC2014-0231) outlined many risk identification and management initiatives in which members of the Department were engaged. Many of those initiatives have continued. This report focuses on risk identification and management opportunities that have arisen since 2014 April.

1. City Manager's Initiatives:

Given that the extent to which the Department can assist its clients is directly related to the timeliness of its involvement, members of the Legal Services Division continue to seek out opportunities to assist clients in capitalizing on opportunities while managing risk rather than waiting until clients seek their advice. 2014 was a very exciting year because the ability of the City Solicitor and members of the Department to assist clients was greatly enhanced as a result of the following initiatives of City Manager Fielding:

- In 2014 September the City Solicitor was included in all meetings of The City's ALT. This provided the City Solicitor with a weekly opportunity to meet with the City Manager and General Managers to be advised of and provide advice on new and emerging issues and risk;
- Staff expert in issues management and corporate strategy were transferred to the Law Department and knowledge they acquire from City staff about opportunities and potential risk is being shared with the Law Department; and
- As a result of the City Manager's focus on the importance of risk management, the Law Department was consulted in the preparation of the City Manager's annual risk report to Council and emerging risks identified by the Department were included in that report.

2. City Charter Negotiations and the New Municipal Government Act (MGA) Project:

Members of the Department have been extensively involved in working with clients throughout the corporation to prepare The City's submission to the Province of Alberta for a City Charter and a new MGA. These projects have provided an excellent opportunity to assist clients in locating and understanding the legislative authority for their current operations, to discuss compliance and to shape proposals for new legislation required to enhance operations or service delivery to citizens. To date, this review has focused on governance matters and on issues in the planning, development and assessment areas. Later phases of these projects will focus on other municipal operations.

This is an important opportunity because often, the Department is examining legal compliance after the fact and exploring remedial action. In the case of the City Charter and new MGA projects, the Department is involved in creating legislation that The City needs and can comply with.

3. Involvement in the Build Calgary Initiative:

Department members are also very involved in the important work of Build Calgary, a cross corporate initiative examining how to accommodate Calgary's growth. Advice is being provided to the Build Calgary team and to Council on projects examining:

- the Off-Site Levy Bylaw;
- the land supply process;
- a new relationship with the Province to achieve Build Calgary's objectives;
- regional coordination; and
- commercial/industrial/transit-oriented development.

4. Corporate Project Management Framework Development:

The Manager of the Department's contracts lawyers served as a member of the Steering Committee for the development of this framework. This allowed the Department to have input into the creation of the framework that will govern the execution of all future capital projects undertaken by City staff. Involvement in this project provided an important opportunity to identify statutory and other legal requirements around capital projects and to address legal issues that might be associated with them.

The City Solicitor continues to serve on Steering Committees and Department members continue to serve on project teams for unique and complex projects including public-private partnerships to construct the organics and transit maintenance facilities and The City's recreation centre construction projects.

5. Action Plan Client Engagement and Department Commitments:

The Manager of Corporate Security and the City Solicitor took steps to ensure that those involved in the delivery of capital projects understood the nature and extent of legal, security and risk management advice that members of the Law Department could provide to help identify and mitigate risk to aid in ensuring the on time, on budget delivery of these projects.

Numerous actions that the Department plans to take to assist in the achievement of Council priorities were outlined in the Action Plan and time expended on helping clients achieve Council priorities is being tracked. The following new performance measures were identified to assist in measuring the Department's effectiveness at reducing risk for the corporation:

- Annual percentage increase in closed circuit television locations and deployed cameras;
- Annual percentage increase in threat risk assessments performed on assets identified as critical infrastructure;
- Annual percentage increase in Crime Prevention Through Environmental Design reviews of City Parks and Recreation facilities;
- Annual percentage increases in total losses to The City's public assets due to criminal offences;
- Annual percentage increase in number of corporate issue de-briefing sessions intended to capture learnings and implement recommendations for improvement;
- Annual percentage increase in legal education seminars offered to clients to assist with earlier identification and mitigation of risk; and

- Annual percentage increase in training sessions provided to clients to enable them to enter documents and data into the Risk Management & Claims Division's new catastrophic claims management system.

The Legal Services Division will continue to participate in the Ontario Municipal Benchmarking Initiative and measure internal and external legal spend. Corporate Security will continue to benchmark its service delivery against industry standards.

6. Preparation for the Law Department's 2016 Zero Based Review and Audit:

The zero based review is not scheduled to start until 2016 Q3 and the City Auditor has not yet determined which aspects of the Department's service she plans to audit. However, all members of the Law Department have been briefed on the opportunity to identify measures to enhance efficiency and effectiveness in anticipation of the review and audit. The Department's management team is already engaged in a review of Department services and is consulting with staff to obtain their view of the nature and extent of services the Department should provide to help clients capitalize on opportunities and address risk. Because the Department provides services to all business units Department members have a global view of risk facing the corporation.

7. ALT and Council's adoption of a Workplace Violence Policy:

To assist employees and enhance The City's compliance with occupational health and safety legislation, Corporate Security, Human Resources and Environmental & Safety Management developed a workplace violence policy intended to proactively address both the potential for violence and violent incidents in the workplace. The policy outlines the expectations of both employees and The City in reporting and responding to such situations.

The policy, which applies to employees, contractors providing service for or to The City, suppliers delivering material to The City and volunteers, was adopted by ALT on 2014 June 24. In September, Council adopted the policy and accordingly, Councillors and their staff both benefit from and are subject to the same.

8. Corporate Security Division Services:

Corporate Security staff are responsible for providing security services to protect City employees, visitors, information and assets and to assist other business units in public safety initiatives. Through the provision of extensive threat risk assessment, physical and information security and investigative services, Corporate Security staff help identify and address issues with legal compliance and identify and mitigate risk for the corporation and to the public.