



THE CITY OF CALGARY SUPPORT FOR THE AUMA RESOLUTION ON RESOURCE EXTRACTION WITHIN MUNICIPAL BOUNDARIES

EXECUTIVE SUMMARY

The City of Lethbridge has requested endorsement from Council for a resolution on resource extraction within municipal boundaries, to be voted on at the 2014 Alberta Urban Municipalities Association (AUMA) annual convention on September 24-26.

ADMINISTRATION RECOMMENDATION(S):

That the Intergovernmental Affairs Committee recommends that Council:

- 1) Approve the proposed Alberta Urban Municipalities Association resolution with amendments, on Resource Extraction Within Municipal Boundaries (Attachment), and
- 2) Request that The City of Calgary elected officials who are attending the 2014 AUMA annual convention support the resolution with amendments.

PREVIOUS COUNCIL DIRECTION / POLICY

None

BACKGROUND

The City of Lethbridge will be introducing a resolution on the issue of resource extraction within municipal boundaries at the 2014 AUMA annual convention. They would like to advance this issue through the current review of the Municipal Government Act (MGA), with AUMA support. The City of Lethbridge is seeking Council's endorsement of its resolution, and requesting that The City consider seconding the resolution at the convention.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The City of Lethbridge is seeking to preserve the strategic goals of its local municipal development plans from the development impacts of resource extraction. Their recent experience with an urban drilling application provided them insight into the lack of input and authority municipalities have on this type of development. Concerns regarding the safety of their residents, appropriate emergency response and future planning efforts were not adequately addressed. Although the application was withdrawn, The City of Lethbridge decided action was still necessary to address the prevailing authority of current provincial legislation and regulatory body over any municipal development regulations or bylaws.

Since the MGA is under review, the City of Lethbridge would like to take advantage of the consultation opportunity through the AUMA. They hope the leverage gained from province-wide support will highlight the significance of this issue.

Administration recommends some amendments to the resolution only for the purpose of strengthening the current legislation. The resolution should mention the increased emergency preparedness required including an adequate emergency management plan. The need to evaluate the short and long term risks as part of the approval process should also be considered. Additionally, Administration would like the province to follow through on its intentions to establish a working group to review whether adequate policies are in place and to develop recommendations for improving the current legislation.

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These amendments are consistent with the recommendations provided in The City's submission to the provincial review of the MGA. Our submission highlighted the conflict between future development and resource extraction as Calgary continues to grow and develop into areas where there are significant resource deposits.

If the Committee and Council are agreeable to these amendments, Administration will contact the City of Lethbridge to apprise them of our proposed amendments.

Stakeholder Engagement, Research and Communication

Members of The City of Calgary's Gas and Oil Group (GOG), specifically Environmental & Safety Management, Law and Planning, provided input into the preparation of this report.

Strategic Alignment

Supporting this resolution aligns with The City's proposed amendments to the MGA review that called for municipalities to be acknowledged as partners in the planning and development of oil and gas facilities within their boundaries and be given opportunities for meaningful input into the regulatory process.

Social, Environmental, Economic (External)

Supporting this resolution would be consistent with The City's environmental planning concerns and emergency management needs.

Financial Capacity

Current and Future Operating Budget:

There are no operational impacts identified with this report.

Current and Future Capital Budget:

There are no capital impacts identified with this report.

Risk Assessment

No significant risks to The City have been identified.

REASON(S) FOR RECOMMENDATION(S):

Administration supports the City of Lethbridge's resolution with amendments as it aligns with The City's strategic position. Greater consideration, however, should be given towards the challenge urban municipalities face in preparing an appropriate emergency management response. The province should also follow through on its intentions to establish a working group to improve the current legislation.

ATTACHMENT

AUMA Resolution: Resource Extraction with Municipal Boundaries

AUMA Resolution:

**Resource Extraction within Municipal Boundaries
Submitted by the City of Lethbridge City Council**

PREAMBLE:

WHEREAS Section 618 of the Municipal Government Act states, among other things, that municipal regulations or bylaws made under this Part do not apply when a development or subdivision is effected only for the purpose of a well or batter within the meaning of the Oil and Gas Conservation Act, or a pipeline or an installation or structure incidental to the operation of a pipeline;

AND WHEREAS Section 619 of the Municipal Government Act specifically states that authorizations granted by the Alberta Energy Regulator (AER) prevail over municipal development plans;

AND WHEREAS Section 620 of the Municipal Government Act states that a condition of a licence, permit, approval or other authorisation granted pursuant to an enactment by... a Provincial Agency... prevails over any condition of a municipal development permit that conflicts with it;

AND WHEREAS the Government of Alberta has committed to reviewing its policy regarding energy extraction within municipal boundaries;

AND WHEREAS municipalities develop long term plans for municipal development which provide for compatible land uses;

AND WHEREAS the population of the province of Alberta continues to grow with an increasing need for residential spaces within municipalities;

AND WHEREAS Albertans are expressing concern about energy extraction in close proximity to residential areas;

AND WHEREAS energy extraction setbacks effectively sterilize municipal development and disrupt municipal development plans

THEREFORE BE IT RESOLVED that the Alberta Urban Municipalities Association adopt the following positions on energy extraction in Alberta municipalities

1. That sections 618, 619 and 620 and other ancillary sections of the Municipal Government Act be amended to allow regulations and bylaws made by a municipality to apply to a well, battery, pipeline or pipeline structure, to delete provisions that provide licenses, permits, approvals or other authorisations of the Alberta Energy Regulator (AER) (or similar entity) prevail over statutory plans, land use bylaws, subdivision or development decisions of a municipality and delete provisions that provide that a condition of such a license, permit, approval or other authorisation prevails over any condition of a municipal development permit;
2. That legislation governing the Alberta Energy Regulator (AER) be amended to require a statement from the local municipality for each application pertaining to the suitability and compatibility of all new applications for resource extraction within the jurisdiction of said municipality;

3. That legislation governing the Alberta Energy Regulator (AER) be amended to ensure the municipality is granted standing in hearings for all new applications for resource extraction within the jurisdiction of said municipality, with the option to participate being at the discretion of the municipality;
4. That all applications for resource extraction to the Alberta Energy Regulator for energy extraction address issues of compatibility with local municipal development plans and existing development.

BACKGROUND:

- In August 2012, then Municipal Affairs Minister Ken Hughes stated that the government of Alberta would introduce a policy on resource extraction in urban areas.
- In September 2013, motion was passed in the legislature to “establish a working group to review whether adequate policies are in place for urban communities with regard to oil and gas development.
- Current Minister of Energy Diana McQueen has confirmed that the government of Alberta is still considering a policy on resource extraction.
- Consultation sessions were conducted by Alberta Energy around the province in June 2014
- Minister McQueen has stated giving municipalities a veto over oil and gas projects will not be considered.
- The Alberta Energy Regulator does take into account the concerns of residents and municipalities at its discretion. In 2012, the regulator denied 5,400 applications out of a total 36,000 submitted.
- Section 619 of the Municipal Government Act states authorizations granted by the NRCB, ERCB, AER, AEUB or AUC prevail over any statutory plan, land use bylaw, subdivision decision or development decision by a subdivision authority, development authority, subdivision and development appeal board, or the Municipal Government Board or any other authorization
- The Alberta Energy Regulator (AER), at its discretion, may grant a municipality intervener status in a matter affecting its municipal jurisdiction.
- Decisions of the Alberta Energy Regulator (AER) may adversely impact municipal planning and provide for incompatible land uses, contrary to local municipal planning.
- The Alberta Energy Regulator (AER) has exclusive jurisdiction over energy extraction applications and its decisions are not subject to appeal.

REFERENCES:

1. AUMA Resolution Guidelines #'s 10 to 17 governing Extraordinary Resolutions
2. AUMA Resolution Writing Guide
<http://www.auma.ca/live/AUMA/Document+Library/Resolutions/Resolutions-Writing+Guide>
3. Alberta Chamber of Commerce Policy “Resource Extraction in Urban Areas”
<http://www.abchamber.ca/wp-content/uploads/2014/06/Resource-Extraction-in-Urban-Municipalities.pdf>
4. Minutes of meeting with Energy Minister Diana McQueen
5. Provincial consultation sessions on Energy Extraction policy took place in June 2014