



Legislation Text

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TAMRMS#: B06

Public Hearing - Utility Corporation

Presented by: Kate Polkovsky, Director, Sustainability Initiatives Department

RECOMMENDATION(S)

WHEREAS Council has received and considered a business plan prepared by the Grant Thornton financial consulting firm, dated October 28, 2019 (the "Business Plan") that addresses the matters set out in subsection 75.1(4) of the *Municipal Government Act* (the "Act") and in the *Municipally Controlled Corporations Regulation* (the "Regulation") for a proposed corporation to be controlled by the City of St. Albert;

AND WHEREAS the information required to be publicly disclosed in respect of the proposed controlled corporation has been disclosed in compliance with the Act and the Regulation;

AND WHEREAS a public hearing on the matter of the proposed controlled corporation has been advertised and held in compliance with the Act and the Regulation;

AND WHEREAS the Council is satisfied of the matters set out in clause 75.1(2)(b) of the Act;

NOW THEREFORE BE IT RESOLVED:

1. That the City of St. Albert is authorized to establish and control, or obtain control of, a corporation as described in the Business Plan;
2. That the Chief Administrative Officer is authorized to take or direct the taking of all administrative and legal steps to cause the City to establish and control, or obtain control of, the said corporation;
3. That the Chief Administrative Officer is instructed to make further recommendations to Council in respect of the Unanimous Shareholder Agreement ("USA") required under the Act for the corporation, not later than March 30, 2020;
4. That a budget of \$60,000 be approved to support activities related to establishing and controlling the corporation until the end of 2020, funded from the Stabilization Reserve.

PURPOSE OF REPORT

A major component of Administration's 2018 work plan was the examination of a Municipal Utility Corporation and possible waste-to-energy technologies that could be contemplated at a pilot scale to support complete waste minimization.

This corporate project provided a holistic examination of the long-term support and ability to support the financial stability of the City. These considerations of providing what could be described as the "utility of the future" may have the potential to provide a long-term revenue source, position the City as a leader in waste minimization/reduction, and provide additional opportunities for environmental stewardship for the region

ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN

Strategic Priority #2: Economic Development: Enhance business/commercial growth.

- Employ Smart City strategies as an enabler for commerce sustainment and growth in investment

Strategic Priority #6: Environmental Stewardship: Explore innovative environmental and conservation opportunities.

- Explore integrated green utilities to reduce carbon footprint, reducing servicing costs and generate revenue.

ALIGNMENT TO LEVELS OF SERVICE DELIVERY

N/A

ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION

The Act requires the submit matter of this report to go to Council.

Section 75.1 (2), (3), and (4) of the Act state:

(2) A Municipality . . . may establish and control, or obtain control of, a corporation only if the council of the municipality

- (a) passes a resolution authorizing the municipality to control the corporation . . . and*
- (b) is satisfied that*

- (i) the controlled corporation will carry on business solely for one or more of the purposes described in section 3,*

- (ii) the controlled corporation will provide a service or benefit to residents of the municipality . . . that controls it, and*

- (iii) the profits and dividends of the controlled corporation will provide a direct benefit to the resident of the municipality . . . that controls it.*

(3) Before a council passes a resolution under subsection 2(a), the council must

- (a) consider a business plan that addresses the matters referred to in subsection (4), and*

(b) hold a public hearing in accordance with the regulations.

- (4) The matters to be addressed in a business plan referred to in subsection (3)(a) include*
- (a) the costs related to establishing and controlling or obtaining control of the corporation, as the case may be,*
 - (b) the value of any assets of the municipality . . . that are to be transferred to the corporation,*
 - (c) a cash flow projection for the next 3 years of the corporation's operation,*
 - (d) the corporation's financial statements and operating and capital budgets for the most recent 5 years, or if the corporation has existed for less than 5 years, the financial statements and operating and capital budgets for each year it has existed, and*
 - (e) any other information prescribed by the regulations.*

BACKGROUND AND DISCUSSION

In 2018 Council directed Administration to examine the opportunities for the City to start a Municipal Utility Corporation ("MUC")

All levels of government in Canada have successfully created wholly owned business corporations and crown corporations, to deliver many kinds of services throughout the country. Municipally owned and controlled utility corporations operating in Alberta include EPCOR (Edmonton), Enmax (Calgary) and Aquatera (Grand Prairie region) . There are a substantial number of municipally owned corporations operating across Canada, and this is a relatively common business model in Ontario.

A comprehensive breakdown of the comparisons between municipally owned corporations is set out in the attachment to this report.

A Business Plan and Market Impact Analysis have been prepared for Council's Consideration, fulfilling the requirements of the Act. Administration has chosen to widen the scope of analysis in the Business Plan beyond the minimum required under the Act, by providing a ten-year financial projection rather than the three year projection required under subsection 75.1(4)(c) of the Act.

The Unanimous Shareholder Agreement ("USA") referenced in the recommendations, where there is only one shareholder as will be the case for the proposed MUC, is simply a written declaration of the shareholder that is filed in the corporation's register and becomes an official document of the corporation. In our case that would take the form of a resolution of Council exercising the powers of the City as sole shareholder of the MUC. The USA is a fundamental corporate document which prescribes:

- (a) the rules concerning the corporation's directors, including: number of directors, qualifications of directors, length of term of appointment, provisions for removal of a director or filling a vacancy, conflict of interest rules for directors, remuneration of directors, and any restrictions Council wishes to place on the directors' general authority to manage or supervise the affairs of the corporation;*
- (b) the level of detail Council wishes to see in the periodic reporting on the corporation's financial position and the results of its operations (which could be more detailed reporting requirements than the minimum prescribed by legislation);*

(c) the manner in which Council will give instructions to the directors arising out of submissions made by the public at any future public hearing concerning the corporation (an event that would be triggered by a proposed material change in the business or affairs of the corporation);

(d) the service delivery standards and decision-making structure of the corporation.

One of the things that a USA can do, is remove from the Directors the power to declare dividends, and vest that power in the shareholder -- i.e. Council. Council could then either declare dividends from time to time or establish a formula to calculate the amount of dividend payments, provided that any dividends directed by Council to be paid to the City meet the tests of corporate liquidity and solvency as set out in the *Business Corporations Act*.

The USA when adopted, in conjunction with Council's appointment of a slate of directors with strong related experience, proven business acumen, and an interest in the success of the corporation, will facilitate successful execution of the corporation's business plans. Throughout 2020 a number of additional work flows over and above completion of a USA for Council's consideration, will be required to be completed (for example service level agreements with the City) if Council wishes to further pursue the development of the MUC. Consulting dollars to facilitate those components are included in the above recommendations, since supporting that work is outside of the current capacity (workloads) and in some instances outside the expertise of existing staff.

The MUC should be considered a "start-up" business for a five to eight-year projection, with a solid foundation business practice (the existing utility delivery). As with any start-up, there will be a substantial amount of "sweat equity" and hard work to diversify the business, acquire new contracts, and provide support the business diversification and growth with solid and sound business cases. The growth of the business is subject to a number of fluctuating market conditions, and pre-existing relationships that could be leveraged. As such, there will be risks to the business that will require management and sound mitigation strategies to reduce and avoid.

With any change in business practice, a comprehensive change management plan, risk registry and necessary checks will be required to be in place to reduce and manage the effects of any change in practice. As such over 2020, necessary policies, operating practices, and RACI (responsible/accountable/consulted/informed) matrices will be developed.

STAKEHOLDER COMMUNICATIONS OR ENGAGEMENT

N/A

IMPLICATIONS OF RECOMMENDATION(S)

Financial:

Legal / Risk:

Program or Service:

Organizational:

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Report Date: December 2, 2019

Author(s): Kate Polkovsky

Committee/Department: Utilities and Environment

Deputy Chief Administrative Officer: Kerry Hilts

Chief Administrative Officer: Kevin Scoble