

Public Hearing Process

(B. Henderson/S. McKeen)

Recommendation:

That the September 15, 2015, Sustainable Development report CR_1851, be received for information.

Report Summary

This report provides information on the current practice for reporting review comments on land development applications to Council at a Public Hearing, as well as legislative expectations, restrictions and responsibilities for such reporting, and possible improvements to the current practice.

Previous Council/Committee Action

At the February 2, 2016, Executive Committee meeting, the September 15, 2015, Sustainable Development report CR_1851 was postponed to the February 23, 2016, Executive Committee meeting.

At the December 7, 2015, Special Executive Committee meeting, the September 15, 2015, Sustainable Development report CR_1851 was postponed to the February 2, 2016, Executive Committee meeting.

At the October 5/6/7, 2015, Executive Committee meeting, the September 15, 2015, Sustainable Development report CR_1851 was postponed to the December 7, 2015, Special Executive Committee meeting.

At the September 15/18, 2015, Executive Committee meeting, the following motion was passed:

That the September 15, 2015, Sustainable Development report CR_1851, be postponed to the October 5/6, 2015, Executive Committee meeting.

At the November 5, 2014, City Council meeting, Councillors B. Henderson and S. McKeen made the following inquiry:

Recently there has been media coverage around a *Freedom of Information and Protection of Privacy Act* for the departmental input into the reporting process at the public hearing on the Molson site. In particular, it has raised questions about how dissenting administrative opinion is reflected in reports.

Given that a departmental report at a public hearing has to balance the need for a departmental recommendation against the need to fully inform Council of all perspectives so that they can make the most informed decision:

1. What is the current practice for ensuring that the full scope of advice and opinion from different departments, branches and sections is reflected in the public hearing reports and presentations made to Council?
2. What are the legislated expectations, restrictions, and responsibilities for such reporting?
3. What changes could be considered to improve our current practice?

Report

1. What is the current practice for ensuring that the full scope of advice and opinion from different departments, branches and sections is reflected in the public hearing reports and presentations made to Council?

Land development applications are circulated to all affected City departments and external utility agencies for review and comment. Depending on the complexity and degree of revisions to a submission, an application may require that it be circulated multiple times. The Current Planning Branch acts as the project manager in the review process, which involves coordinating the analysis of the application and determining Administration's position, as reflected in the City Council report. Through this process, the project manager identifies gaps, overlaps, and conflicts in comments and works with the reviewing groups to reconcile differences and address concerns. A recommendation is developed through a balanced approach that considers the broad application of implications and the best approach to advance the City of Edmonton vision, goals, and outcomes.

Under the current process, the project manager determines whether any concerns or issues raised by various branches of Administration can be meaningfully addressed through development and/or subdivision conditions, servicing agreements, legal instruments, or some other mechanism. If concerns or issues can be addressed through those mechanisms, they are considered resolved and the application is forwarded to a Public Hearing for City Council's consideration.

When mechanisms for resolving outstanding issues are identified, Administration does not report the issues as being unresolved to City Council. When issues remain unresolved following the circulation and analysis process, they are identified as unresolved in the report to City Council.

2. What are the legislated expectations, restrictions and responsibilities for such reporting?

The Court of Queen's Bench recently conducted a judicial review of the City's Public Hearing process relative to a rezoning application of the Molson site on the issue of whether City Council was appropriately informed through the process by City

Administration. It concluded that there was no breach of procedural fairness nor prejudice in the process.

The *Municipal Government Act* requires that Council hold a Public Hearing when considering an amendment to a Land Use Bylaw. The *Act* allows City Council to establish a procedures bylaw and requires City Council hear from the public prior to making a decision. Law Branch reviews and comments on, but does not approve Public Hearing reports in advance of all Public Hearings.

3. What changes could be considered to improve our current practice?

Administration is constantly seeking ways to improve business processes including practices around Public Hearings. Sustainable Development has faced significant challenges due to rapid growth and the significant increase in development and construction activity. The ensuing growth in staffing has presented numerous challenges both in recruiting experienced staff and in dealing with the high volume of activity. In response, specific initiatives have been launched around staff training, the development of tools to support effective service delivery, and a strong staff engagement program to enhance staff retention.

Council Public Hearing reports now indicate whether all comments from affected City departments and utility agencies have been addressed. The current practice is to resolve any applicable concerns from reviewing departments and agencies before advancing to Public Hearing. Additional improvements to the Public Hearing process that are currently underway include:

- holding ongoing education and information sharing sessions between staff from all affected City departments and utility agencies so that those involved better understand each other's work
- formalizing communication with all affected City departments and utility agencies regarding application status and the outcomes of comments provided
- starting engagement with affected City departments and utility agencies earlier in the process to facilitate a collaborative approach to land development application review.

These initiatives are intended to increase the understanding of technical requirements and the role of each reviewing group, as well as to improve communication between reviewing groups. While some of these initiatives are in the early stages, they are expected to lead to improved outcomes as Administration works together to provide the recommendation that best advances City goals.

Conclusion

In the current approach to decision making on applications, Current Planning acts as the project manager and consensus is sought during early application review. The project manager ultimately makes a recommendation by considering the full application

implications and the best approach for advancing the City of Edmonton vision.

In making a final recommendation, all circulation comments may not be fully incorporated given that a wide range of aspects (up to 30 circulations) are considered, such as site servicing, costs, transportation implications, housing policy, heritage policy and community concerns.

This decision-making process can involve senior levels of Administration determining an approach that appropriately balances corporate outcomes, including: Edmonton is attractive, compact, environmentally sustainable, and safe; Edmontonians are connected to the city in which they live, work, and play; and Edmonton has a globally competitive business environment, resilient financial position, and is a catalyst for industry growth.

By establishing deliberate feedback loops within application review and policy formulation, Administration is working towards improving the understanding and alignment of perspectives among reviewing groups, and thereby improving the Public Hearing process.