

GOVERNANCE OF MUNICIPAL LAND DEVELOPMENT

This report is shaped in direct response to the six questions outlined in the City Council motion as passed on February 25, 2014.

How the current City Council Policies direct the City's land development and sale activities?

The City of Edmonton has established a policy framework to guide decision-making with respect to residential/mixed-use and industrial development.

City Policy C511, Land Development Policy was approved by City Council in 2005. The policy commits the City to maintain “an inventory of residential and industrial development land sufficient to enable the City to maintain existing revenues from its development activities over a ten-year forecast period”. While it indicates that the City’s involvement in land development will be based “primarily upon financial return on investment”, it also identifies the importance of various “strategic advantages” in making land development decisions. The policy clearly limits the City’s involvement in the residential land development market in both market-share (10 percent maximum) and target market (10 percent or more below average lot prices).

City Policy C516B, Land Enterprise Dividend Policy was approved by City Council in 2008. The policy defines and differentiates *land development* for residential and industrial purposes versus *land management* for municipal purposes. Land Enterprise is obligated to pay an annual dividend to the City.

The City’s **Industrial Land Strategy** was approved by City Council in 2002. The policy focuses on the City’s roles and responsibilities in industrial land development. It states that “the City will invest in the development of land and infrastructure in industrial areas, accepting a manageable level of financial risk, consistent with expected increases in municipal revenues and other benefits of economic development”. The City is to ensure that Edmonton’s major industrial areas have a minimum three-year supply of serviced (e.g. water, sewer, sanitary) industrial land.

A summary of these policies is outlined in Attachment 3. These policies were developed and approved before City Council established its current strategic framework (*The Way Ahead*) and transformational agenda.

The City does not have an overarching policy framework to provide guidance with respect to redevelopment projects. Council decisions and direction regarding the governance, execution and financing of major redevelopment projects is undertaken on a case-by-case basis, based on approved statutory plans.

What activities related to land development do municipal, provincial and federal statutes prohibit the City from engaging in?

Federal and provincial legislation do not prohibit municipalities from developing or redeveloping land. In fact, both orders of government support municipal land development in a number of ways, including investment in public infrastructure. The federal government, through the Canada Lands Company, is actively involved in several land development projects in Alberta, including the Village at Griesbach in Edmonton and redevelopment of Currie Barracks in Calgary. The Government of Alberta encourages the use of community revitalization levies to finance redevelopment projects.

Currently, a number of Alberta municipalities are actively involved in residential and mixed-use land development projects including Edmonton, Lethbridge, and Red Deer. Each has established internal business units to manage various residential land development projects.

An even greater number of Alberta municipalities are actively involved in industrial land development. For over 50 years, the City of Calgary has planned, serviced and sold City-owned land assets to ensure the availability of industrial lots. The City of Edmonton and many other Alberta municipalities have employed similar approaches in past and current developments. Many of these municipalities have industrial land strategies and policies in place. Most of these municipalities manage industrial land development with internal resources.

Several Alberta municipalities are also directly involved in redevelopment projects. These projects are managed in a variety of ways. The City of Calgary established the Calgary Municipal Land Development Corporation to oversee the Rivers District Community Revitalization Plan. Other municipal city centre redevelopment projects are managed internally in Edmonton, Lethbridge, and Fort McMurray.

Attachment 4 provides an overview of legal considerations for the different governance models.

Provide examples of development models in other Canadian cities, such as Build Toronto, Build Surrey and the Calgary Municipal Land Corporation.

Several cities in Canada have established municipal land development corporations over the past decade.

Build Toronto, Surrey City Development Corporation, and Calgary Municipal Land Corporation are for-profit municipal land development corporations. Ottawa Community Lands Development Corporation, also included in this review, was established as a not-for-profit corporation. Municipal corporations are influenced by enabling legislation. It is noted, Toronto requested amendment to legislation to establish Build Toronto.

Toronto

Build Toronto was incorporated in 2009 as a wholly-owned subsidiary of the City. It is involved in residential and non-residential land development, primarily on redevelopment sites. The mandate is to “unlock the value” of underutilized City-owned land and is responsible for attracting industry, stimulating the development of industrial employment lands, and regenerating neighbourhoods. It is empowered to acquire and dispose of properties and to enter into joint ventures with private and public sector organizations. Its Board is comprised of public and private sector real estate experts. Build Toronto provides a dividend to the City.

Build Toronto works in partnership with the City’s Real Estate Services Division to identify opportunities to develop surplus or underutilized city land. It also works closely with Invest Toronto, the City’s arm’s-length economic development corporation.

Surrey

The City of Surrey incorporated Surrey City Development Corporation in 2007. The mandate is to “help advance the City’s financial, social, business, and community goals through the development of the City’s surplus land holdings and through strategic acquisition of properties ripe for redevelopment”. Surrey City Development Corporation pays an annual dividend to the City.

The Corporation provides real estate consulting advice to City Council and is empowered to partner with private sector partners on economic and land development projects. Surrey City Development Corporation is involved (on its own or in partnership with the private sector) in residential, mixed-use industrial development, and redevelopment projects.

Calgary

The Calgary Municipal Land Corporation was incorporated in 2007. The Corporation is specifically focused on revitalization of the Rivers District, with a mandate of business and community redevelopment with the job of place-making. The Board is comprised of the Mayor and industry leaders appointed by City Council. The funding mechanism is the Rivers District Community Revitalization Levy AR232/2006.

Other land development by the City of Calgary is governed through an in-house model. The City's Office of Land Servicing and Housing is active primarily in business and industrial land development.

Ottawa

The City of Ottawa incorporated the Ottawa Community Lands Development Corporation in 2009, as a vehicle to develop two projects. Subsequently, the Ottawa Community Lands Development Corporation mandate was amended to include a broader range of City property development initiatives with a mandate of "unlocking value" of the City's real estate portfolio.

Ottawa Community Lands Development Corporation works with the City Real Estate Partnerships and Development Office to identify opportunities within the City's real estate portfolio for development and added value (financial, social, environmental, and cultural sustainability). Land development and redevelopment are completed to achieve a range of objectives. City Administration also supports the land development corporation.

Observations

Through the review process, a number of observations can be made.

- **A municipal corporation may be established to govern a single or multiple development projects.**

The Calgary Municipal Land Corporation is an example of single project governance. There have been discussions around adding additional initiatives to its mandate. The municipal corporations of the other three cities have broader mandates.

- **A municipal corporation can be established to govern greenfield development and/or redevelopment projects.**

The four municipal corporations' activities include redevelopment projects. The City of Calgary and the City of Surrey are also involved in greenfield (undeveloped raw land) developments. Build Toronto is not involved in

greenfield development, likely reflecting the unavailability of City-owned raw land.

- **The establishment of a municipal corporation in most cases does not preclude the need to maintain an in-house model.**

Only the City of Surrey relies on its municipal corporation to develop land for municipal purposes. The other three cities have in-house business units devoted to acquiring and developing land for municipal purposes. The City of Calgary uses an in-house model to play an active role in business and industrial land development.

- **Municipal corporations are given a mandate to provide financial and non-financial “value”.**

Each of the four municipal corporations reviewed have mandates to deliver on financial, social, environmental and cultural objectives. Efforts are made in each city to align the objectives of municipal corporations with the objectives of the municipality.

- **A municipal corporation can work in partnership with an in-house model.**

Build Toronto has a working relationship with the City’s Real Estate Services Division. Build Toronto’s Board includes elected officials, City Administration, as well as public and private sector members. The City of Ottawa’s Real Estate Partnership and Development Office uses the Ottawa Community Lands Development Corporation as a vehicle for pursuing specific land development projects.

- **A municipal corporation can be used to stimulate joint ventures with the private sector.**

The municipal corporations in Toronto, Calgary, and Surrey each have a mandate to partner with the private sector.

- **The financing and land transfer arrangements for municipal corporations are varied.**

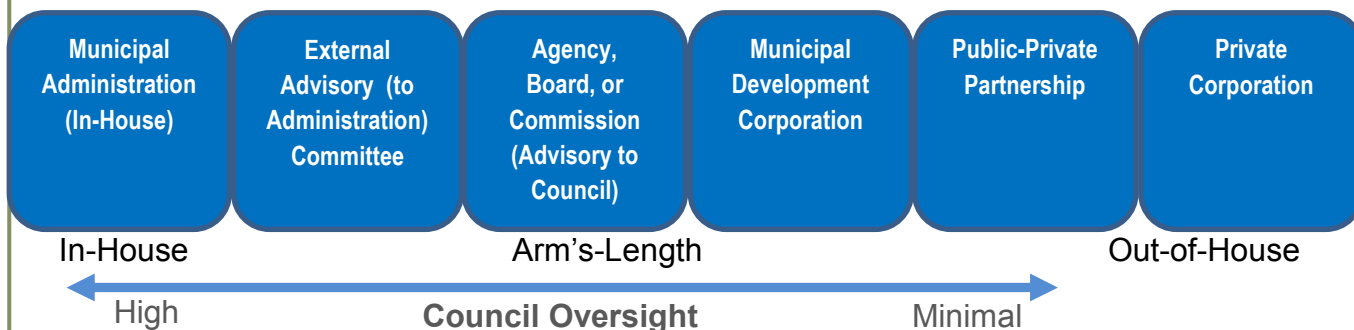
While a detailed financial review was not undertaken for this report, it is clear that each of the four municipal corporations have unique financial structures. For example, in Toronto, City lands are transferred to Build Toronto for a nominal sum, whereas in Surrey, the City holds shares with the expectation of returning the value of the contributed asset as well as a dividend.

- **Political and public attitudes towards municipal corporations are varied.**

Even a cursory review of the four municipal corporations revealed ongoing debates about the appropriateness of the municipal corporation model. In Toronto, Build Toronto is currently in a rebuilding process in terms of its operations. In Calgary, based on the strength of the work of the Calgary Municipal Land Corporation, an expanded role is being considered.

What current options does the City have for shifting its approach to land enterprise?

There are a number of options available to municipalities with respect to governing land development. To discuss governance models, it is useful to conceptualize the choice of models along a continuum. The following illustration presents six distinct options along such a continuum:



The first governance model involves either the use of an existing or the establishment of a new business unit within municipal Administration's organizational structure to manage land development. In the second and third models, Administration manages land development but an external committee, agency, board, or commission provides expert advice to Administration or Council respectively.

The City of Edmonton uses the in-house model for land development. The Real Estate, Housing, and Economic Sustainability Branch of Sustainable Development is responsible for managing ongoing residential and industrial land development projects and oversees redevelopment projects. While Blatchford is within Administration, it has been structured as a separate project office with staff and associated contractual services.

In-House advantages include:

- ease of coordination with other municipal initiatives;

- enhanced interdepartmental participation and cooperation regarding City Council directed priority projects;
- alignment with the strategic priorities of the municipality;
- leveraging internal expertise in areas such as legal services, human resources, accounting, engineering, and property appraisals;
- simplicity in establishment – these models are easy to set up as they don't involve the legal and financial implications associated with municipal corporations and public-private-partnerships;
- direct line-of-sight for municipal councils; and
- ability to leverage the City's considerable financial resources.

In-House disadvantages include:

- less flexibility relative to other private sector models – in-house models must adhere to City procurement, financial, and operational requirements which may not be as reactive or adaptable as in other governance models; and
- lack of separation from direct political oversight.

The municipal corporation model is often referred to as an arm's-length governance model. It typically involves the establishment of a corporation which is wholly-owned by the municipality. Municipal land development corporations have been established in a number of municipalities, including Calgary, Ottawa, Toronto, and Surrey.

Arm's-Length advantages include:

- greater flexibility with respect to financing;
- limitation of financial risk for the municipality;
- increased legal and operational flexibility relative to in-house models;
- potential to diverge from municipal policies, Bylaws or Provincial regulations that may bind Administration;
- access to specialized expertise that may not be available with in-house models; and
- separation from direct political oversight.

Arm's -Length disadvantages include:

- reduced opportunity for the municipality to directly influence project outcomes;
- more difficulty aligning development objectives with other municipal initiatives and priorities (a municipal corporation's land development objectives may actually compete with those of a municipality);

- requirement to pay back all outstanding City working capital contributions; and
- reduced flexibility for the municipality with respect to development revenues.

Attachment 2 summarizes the input provided by Professor James McKellar to the City of Ottawa in 2008, when Ottawa City Council considered the merits of establishing a municipal land development corporation.

The public-private partnership model provides the opportunity for a municipality to work directly with the private sector to govern land management. It is important to note that municipalities may develop joint ventures or partnerships with the private sector using either in-house or arm's-length models to represent their interests.

Public-private partnership advantages include:

- increased operational capacity;
- greater flexibility with respect to financing;
- reduced financial risk for the municipality if financial investment is shared between public and private partners;
- synergies created through blending of public and private sector skills, knowledge, and expertise;
- access to specialized expertise that may not be available with in-house or arm's-length models; and
- separation from direct political oversight.

Public-private partnership disadvantages include:

- reduced opportunity for the municipality to directly influence project outcomes;
- potential difficulty aligning development objectives with other municipal initiatives and priorities (a public-private partnership may actually compete with a municipality);
- increased legal and operational costs;
- any procurements undertaken by the joint venture in which the municipality does participate would be subject to trade agreement requirements (see Administrative Directive A1439C *Procurement of Goods, Services and Construction*);
- reduced public transparency and accountability; and
- reduced flexibility for the municipality with respect to development revenues.

What are potential new business model options for the City's involvement in land development, development partnerships and the sales and investment process, for industrial commercial and residential land, and how could the Edmonton Economic Development Corporation be leveraged in these business models?

The City of Edmonton could opt to use any of the governance options identified above (or a variety of hybrid models) to manage its involvement in land development. As emphasized in the introduction to this report, it is advisable to differentiate between different types of municipal land development in making governance decisions.

- The City may adopt different models to manage its approach to residential land development versus industrial land developments. This may be for any number of reasons, such as different financial risks, public acceptance, alignment with City objectives, and need for market intervention.
- Different models may be adopted for development versus redevelopment of land for the same reasons as above.
- The governance model the City might use to manage different types of redevelopment projects may also be different. Circumstances of the project may dictate using a different governance model.

The Edmonton Economic Development Corporation could, play a role in supporting models along the governance continuum. Invest Toronto (an organization with a mandate that is very similar to Edmonton Economic Development Corporation) works closely with Build Toronto and the City's Real Estate Services Division to identify development and redevelopment opportunities. Edmonton Economic Development Corporation and Administration are already working closely to implement the strategic objectives identified in *The Way We Prosper*.

Describe how new models could apply in cases such as the Blatchford and West Rosedale developments

Any of the models identified on the continuum could be applied to either of these redevelopment projects. Separate reports, Sustainable Development reports CR_683 and CR_1222, are provided to discuss the governance models for West Rosedale and Blatchford respectively.

As discussed previously, there are inherent advantages and disadvantages associated with each of the models. Consideration of which model to apply to a particular project should be based on a clear definition of City Council's desired project purpose and outcomes; in other words, form follows function. It is equally important to consider:

- Who should be making decisions about the project;
- Who should be consulted in making decisions; and
- How project outcomes are intended to be monitored.

The City is currently using separate in-house models to manage the Blatchford¹ and West Rosedale projects. The Blatchford Project Office operates as a separate business unit within Sustainable Development and provides reports directly to City Council. The planning phase of the West Rosedale project is managed by Sustainable Development's Urban Planning and Environment Branch. Administration is presenting a consultant's report describing governance options for West Rosedale in a separate report.

- **Option 1 – Status Quo.** Both of these projects could continue to be managed within Administration and/or could also be reshaped within the City's organizational structure. The Blatchford Project Office is currently a small business unit with staff from both the private and public sector. The Project Office contracts out the vast majority of land development work it undertakes and it currently depends on City support services for accounting, human resources, information technology, and legal services.

For the West Rosedale project to proceed within Administration, a resourcing strategy would be required.

- **Option 2 – Agency, Board or Commission Model.** The Blatchford project could be managed by Administration under the direction of an

¹ At its July 8, 2009 meeting, City Council voted to "position the City of Edmonton as developer of the airport lands, with Administration to immediately begin to set out long-term visioning plans for the airport lands".

advisory board. Blatchford would still be owned and developed by the City, but this expert board would provide oversight.

While the City has established many agencies, boards, and commissions, it has not done so for the sole purpose of developing land. The review of land development models in other jurisdictions did not identify examples of municipal agencies, boards, or commissions. This may be the result of the fact that the advantages gained through this approach are not significantly greater than other in-house models. This approach also does not immediately improve access to alternative sources of funding or operational advantages which may be available through the municipal corporation or Public-Private partnership models.

- **Option 3 – Municipal Corporation Model.** A municipal corporation model could be used to manage either or both of these projects. Choosing this type of model would likely see City Council establishing a wholly-owned subsidiary or subsidiaries, similar to the Calgary Municipal Lands Corporation which the City of Calgary uses to manage the Rivers District Community Revitalization Plan. City Council would need to ensure that the financial framework for the project was clearly defined and that the ability of the subsidiary to act independently is balanced with Council's need to ensure the project is delivering upon municipal objectives. City of Calgary: *Governance of The City of Calgary's Wholly-Owned Subsidiaries, January 2014* is a resource Calgary uses to analyze existing governance structures and as a reference for planning new subsidiaries.
- **Option 4 – Public-Private Partnership Model.** There are a wide range of Public-Private partnership models, not all of which are applicable to land redevelopment projects. The application of this model to redevelopment projects would first require the City to identify a private sector partner or partners. Doing so would likely involve the creation of incentives – including the sale of some portion of the developable lands within each area – so that the private sector partner has an opportunity to capture land value. Particular attention would need to be paid to establishing processes to balance the City's and the private sector's project interests, and to ensure public transparency. Considerable time and effort would likely be required to establish an appropriate Public-Private partnership model for these projects.
- **Option 5 – Private Sector Model.** If it so desired, City Council could choose to sell the developable land at Blatchford and leave the development of the site wholly to the private sector. This approach would

likely result in a lower risk in the land development sector; however, City Council would likely forfeit potential revenues from the development process. In this scenario, the now private development project at Blatchford would be in direct competition with other (public and private) development projects in Edmonton. Further, a mechanism of ensuring the sustainability outcomes of the desired plan would need to be carefully considered.