

Utility Governance Options

Recommendation:

1. That Administration prepare a report for the first Transportation and Public Works Committee meeting of 2010, outlining the anticipated timing of key utility items, including the recommendation of any additional dates that may be required.
2. That the City Auditor's Annual Work Plan schedule include a comprehensive review of the utilities every five years, starting in 2010.

Report Summary

This report outlines options for both process and structural change relative to the governance of the utilities, provides an analysis of those options, and makes a recommendation based on Administration's understanding of Council's needs.

Previous Council/Committee Action

At the July 7, 2009, Special City Council meeting on the Review of the Drainage and Waste Management Utilities, the following motion was passed:

That Administration return to the September 16, 2009, City Council meeting with further options for improving utility governance and rate setting.

Report

The July 7, 2009, Asset Management and Public Works Department report 2009PW9498, including an attachment from HDR Engineering Inc., was driven by a motion at the July 9, 2008, City

Council meeting when Administration was asked to outline "a process and strategy to help Council be better independently prepared as a regulator of the utilities, such as EPCOR and Drainage."

The due date for the report was revised from September 16, 2009, to October 14, 2009, in order to allow for the utility budgets to be presented to Council and include the context from that discussion. On September 25, 2009, Council received a presentation on the budgets for Waste Management and Drainage Services, asked questions, and determined that more information was needed before making a final decision. The budgets are to come back to Council for consideration on November 24, 2009.

GOVERNANCE

For the purposes of this report, governance is defined as both the structure and process for Council decision making. In line with Part 6, and specifically the section around Delegation by Council in the *Municipal Government Act*, Council may not delegate its power to adopt budgets or pass rate bylaws. It should therefore be noted that a structural change is limited to the group or entity that provides advice and recommendations to Council on such decisions as policy and the annual utility budgets and rates. The recommendations being made in this report are in fact an improved utilization of the existing Transportation and Public Works Committee structure, as well as the increased utilization of the existing audit mechanism within the City.

When looking at governance structure, the number of Council members

involved in the initial discussion is a key consideration. For example, a governance mechanism that involves all 13 members of Council would enable Council to be equally informed about, and responsible for, decisions. An example of this would be the use of a special council meeting, as opposed to a separate standing committee or other body tasked with making recommendations to Council.

Also to be considered relative to utility governance, is the inclusion of EPCOR. EPCOR has been operating the Gold Bar Wastewater Treatment Plant since April 1, 2009, when it was transferred from the City. Financially and under regulation, however, wastewater treatment remains as part of the City's Sanitary Utility. Administration expects that budgeting for collection and transmission (Drainage Services), and treatment (EPCOR) for 2011 will be done independently. Council could require EPCOR to present a wastewater treatment budget and a treatment rate for Council review and approval under a new governance mechanism.

OPTIONS FOR COMMITTEE/COUNCIL GOVERNANCE OF THE UTILITIES

1. Improved Utilization of the Transportation and Public Works Committee

The existing Transportation and Public Works Standing Committee of Council would continue to review all utility reports ahead of Council. However, in order to provide for sufficient time and focus on utility issues, full or half-day meetings at key points in the year would be dedicated to utility items only. Dedicated meetings would likely be necessary for the consideration of both policy issues and business planning and

budget, but not for more routine business such as contract or tender approvals.

This option provides for more dedicated time to be spent on utility issues, but recognizes the advantages of the current standing committee system.

2. Special City Council Meetings

All 13 members of Council would discuss, debate, and make all decisions relative to the utilities. In terms of structure, the utilities would likely be dealt with in this manner at a Special City Council meeting, dedicated only to the utilities. The major advantage of this structure is that Council would be spending an increased and dedicated amount of time to the utilities. All 13 members of Council would have equal access to information. Disadvantages of utilizing Special Council meetings are that it would add time to an already busy schedule for Council.

3. Utilities Standing Committee with External Members

A separate Standing Committee of Council would look at utility issues only and could include one or more external, expert participants who could be voting or non-voting members. A Utilities Standing Committee would include only a subset of Council (less than the 13) as voting members. All members of Council would be able to attend the meetings as with existing standing committees. The advantage of this option is increased time and focus and the presence of external expertise that would provide Committee Members with the opportunity to be more fully engaged in the in-depth review of utility issues prior to recommendation to Council. Disadvantages include the scheduling

an additional Committee of Council and the logistics and cost of recruiting external members.

4. Civic Agency

Council could decide to utilize either an advisory board or a decision-making board that would include community/local and/or non-local expert members, and may also include one or two Members of Council. A civic agency would be specifically mandated to have the public's interest in mind. Full advantage of independent experts could be utilized here. On the other hand, this option could be the most limited in terms of Council involvement in initial review and discussion relative to utility decisions. In addition, an advisory board is often set up to include public "members at large" with balanced interests relative to what they're advising on. For the purposes of utility governance, recognized experts may be preferable to the non-expert public.

OPTIONS FOR INDEPENDENT ADVICE TO COUNCIL ON THE UTILITIES

External consultants could provide advice at Council or Committee meetings, and experts could in fact represent partial or even full membership on a formal body that provides advice and/or recommendations to Council. The skill sets of these experts (in no particular order), could be:

- Regulatory expert (e.g., member of a private utility board)
- Financial expert (e.g., utility financial professional)
- Utility management expert (e.g., former senior manager of private or public utility)
- Technical expert (e.g., senior level

technical/engineering practitioner in a utility environment)

In obtaining appropriate external expert advice, the availability of such expertise in a non-conflicting role would also need to be considered. For example, it would not be appropriate to engage an expert who has current ties to a private or public utility.

Overall, when examining various governance options, it must be considered whether the role of an expert would be to replace, augment, or advise Council in a decision making process, and also how an external expert role would be utilized relative to the advice and recommendations provided by Administration. The use of experts with respect to utility decisions should be evaluated with recognition that while the utilities are major multi-million dollar businesses within the City, the tax supported operations are also multi-million dollar businesses. Issues regarding City operations often require Councillors to make decisions outside of the scope of their own expertise.

Following are three options for Council consideration.

1. Introduction of a Comprehensive Utility Audit on a 5-year Cycle

Utilizing the Office of the City Auditor, this option would involve a comprehensive audit of the Waste Management and Drainage utilities on a 5-year cycle. As required, the City Auditor could engage an outside firm with utility expertise to assist in the comprehensive reviews. This option would result in a full independent account of the utilities' finances,

including the appropriateness of expenditures charged to the utilities versus the tax base, and the allocation of shared services and central management charges. The advantage of this option is that it makes use of an already established mechanism and a regular audit could serve the purpose of providing independent and/or external expert advice relative to the utilities. The disadvantage is that this is a methodical planned approach to review and would not facilitate ad hoc external consultation on behalf of Council or Committee.

2. Standing Order Consulting Services for Council to Access Industry Experts

A utility expert or experts could be placed under a standing order for consulting services that Council could access on an as-required basis. This would require a proposal process and a selection by Council of the experts to be retained. This option works with either a standing committee approach or a full Council approach to utility review. The advantage to this approach would be the ongoing availability of independent utility experts. The disadvantages would be the cost and the scheduling challenges to allow for the time required for the external experts to review the issues subject to Council or Committee discussion.

3. Engagement of a Utility Expert or Experts as Members of a Standing Committee of Council

As discussed under the governance option of creating a separate standing committee for the utilities, external experts could be engaged to serve as either voting or non-voting members of a new standing committee. It may be

possible to have external experts serve as part of the existing Transportation and Public Works Committee if the utility issues are separated from the balance of the work of the Committee, but that would require more investigation.

ADDITIONAL CONSIDERATIONS

It should be noted that the approval of the budget and the rates are generally the most significant decisions made by the governing body in a given year. However, the focus in early 2010 with any of the options presented will be a review of the fiscal policies that direct the utilities.

On October 14, 2009, the same date as this report is going forward to Council; Administration will be informing Council about the next steps for a governance review. It is possible, then, that any direction provided with respect to utility governance could in fact be considered interim and subject to change depending on the results of the broader governance review.

Focus Area

This report responds to Council's priority to Ensure Edmonton's Financial Stability and the Condition of Success of Effective Communication outlined in Council's Strategic Plan: The Way Ahead.

Budget/Financial Implications

Based on previous experience, the engagement of external consultants to review and comment on utility budgets, rates, or policy could cost in excess of \$100,000 per engagement.

Legal Implications

The options involving creation of a new standing committee or a civic agency

would require a new bylaw in order to be implemented.

Justification of Recommendation

1. Improved utilization of the Transportation and Public Works Committee to allow for dedicated review of utility issues would provide for an improved level of information sharing and Committee discussion without the need to add another standing committee of Council.
2. Setting a schedule for a regular cyclical review of the utilities by the Office of the City Auditor utilizes an existing mechanism to provide added value to Council discussion and decision-making.

Others Reviewing this Report

- D. H. Edey, General Manager, Corporate Services Department
- C. Warnock, Chief Financial Officer and Treasurer