



Oversight Committee

Council Chamber
9909 Franklin Avenue, Fort McMurray

Thursday, November 26, 2015
4:00 p.m.

Agenda

Call to Order

1. Adoption of the Agenda
2. Minutes of Oversight Committee Meeting - October 22, 2015

New and Unfinished Business

3. Proposed Meeting Schedule
4. Conklin Multiplex - Lessons Learned for Improved Governance Oversight of Capital Projects

Adjournment

*Please note that due to the size of the attachment related to the Conklin Multiplex item, that it has not been included as a pdf attachment on the website, but can be viewed by contacting Legislative Services as 780 743 7001 or at legislative.assistants@rmwb.ca

Minutes of a Meeting of the Oversight Committee held in the Council Chamber at the Municipal Offices in Fort McMurray, Alberta, on Thursday, October 22, 2015, commencing at 4:00 p.m.

Present: C. Tatum, Chair
S. Germain, Councillor
J. Stroud, Councillor

Administration: M. Ulliac, Chief Administrative Officer
D. Leflar, Chief Legislative Officer
B. Couture, Executive Director
A. Rogers, Senior Legislative Officer
S. Harper, Legislative Officer

Call to Order

Chair C. Tatum called the meeting to order at 4:01 p.m.

1. Adoption of the Agenda

Moved by Councillor J. Stroud that the agenda be adopted as presented.

CARRIED UNANIMOUSLY

2. Minutes from Oversight Committee meeting - September 17, 2015

Moved by Councillor J. Stroud that the Minutes of the Oversight Committee meeting held on September 17, 2015 be approved as presented.

CARRIED UNANIMOUSLY

New and Unfinished Business

3. Northside Twin Arenas Operations Projection

(4:03 p.m. – 4:17 p.m.)

Monica Lance, Manager of Community Strategies; and Chuck Loewen, Regional General Manager of Operations with the Regional Recreation Corporation, provided a brief presentation on the Operating Projection for the Northside Twin Arenas.

Moved by Councillor S. Germain that the Northside Twin Arenas Operations Projection report be referred back to administration for further review of the capital program and design, and reconciliation with the operating plan.

CARRIED UNANIMOUSLY

4. Conklin Multiplex Operating Projection

(4:18 p.m. – 4:46 p.m.)

Sally Warford, Manager of Rural Community Development; and Chuck Loewen, Regional General Manager of Operations with the Regional Recreation Corporation, provided a presentation on the Operating Projection for the Conklin Multiplex, which was completed by RC Strategies.

Moved by Councillor J. Stroud that the Conklin Multiplex Operating Projection report be referred back to administration for further review of the project to include a comparative analysis of lease space.

CARRIED UNANIMOUSLY

Motion to Move In Camera

Moved by Councillor S. Germain that the Oversight Committee meeting move in camera pursuant to Section 17 of the Freedom of Information and Protection of Privacy Act.

CARRIED UNANIMOUSLY

5. Personnel Matters

(4:47 p.m. – 5:14 p.m.)

Motion to Reconvene in Public

Moved by Councillor J. Stroud that the meeting reconvene in public.

CARRIED UNANIMOUSLY

Adjournment

As all scheduled business matters had been concluded, Chair C. Tatum declared the meeting adjourned at 5:15 p.m.

Chair

Chief Legislative Officer

Subject: Conklin Multiplex – Lessons Learned for Improved Governance Oversight of Capital Projects**APPROVALS:**

Kevin Scoble, Deputy Chief Administrative Officer
Marcel Ulliac, Chief Administrative Officer

Administrative Recommendation:

THAT the report on the Conklin Multiplex – Lessons Learned for Improved Governance Oversight of Capital Projects, be accepted as information.

Summary:

At the October 22, 2015 meeting of the Oversight Committee, Councillor Germain expressed a concern that there may have been what he characterized as “breach of governance” in the manner in which information about the Conklin Multiplex Project came to Council and impacted Council’s decision making process with respect to the scope of the project and approval for its capital budget. This Report is a response to that concern. At the factual level it provides a comprehensive documentary history and chronological summary of the Conklin Multiplex Project, so that all Councillors and the general public will have access to the same information. Administration has also drawn some conclusions from a review of this information, which are essentially “lessons learned” from the history of the Conklin Multiplex project that can be applied to improve the manner in which Council and Administration work together in the delivery of not just this project, but all future capital projects undertaken by the Regional Municipality. These conclusions are set out in the following section of this report.

General Discussion:

The term “breach of governance” is not a legal term of art found in, for example, the *Municipal Government Act*. Indeed, it is a term rarely encountered in the body of literature on municipal governance. Nevertheless it can be a useful term to encompass a number of acts or omissions that could be said to be contrary to best practices for approving, delivering, and subsequently operating, large capital projects. Understood in that way, the expression “breach of governance” would primarily include these kinds of deficiencies:

1. Administration providing inadequate, misleading or incorrect information to Council in support of a request to approve a capital budget for a project;
2. Administration providing information about a project to some Councillors that is not provided to all Councillors;

3. Councillors themselves obtaining information about a project or becoming involved in the details of delivery of a project, without keeping their Council colleagues fully informed of their activities or sharing with them the information obtained;
4. Individual Councillors providing input to Administration [including less senior levels of Administration] that may impact project scope or purpose, without the opportunity being afforded to Council as a whole to consider such input;
5. Council making decisions or providing feedback to Administration about a project that could result in significant modifications to the project, in an *in camera* meeting with no opportunity for the general public to present their views;
6. Administration not establishing a structure and process for delivering a project that ensures an adequate opportunity for both Council feedback and public input when major decisions about the project that have significant implications for purpose or scope are being considered;
7. Administration issuing official media releases about a project that may present relevant information in a manner that is susceptible of being misconstrued or misinterpreted.

It is apparent from a perusal of this list that what lies at the heart of good governance of a municipality is establishment and maintenance of a strong, positive relationship between Council and Administration, based on open and honest communication with each other and with the public. A “breach of governance” could arise from any kind of breakdown of that relationship.

It will also be apparent that disagreement between Councillors, even strong and passionate disagreement, about the merits of a project or the scope of a project, is not a breach of governance. On the contrary, it is the essence of democracy. The key governance point is that both Administration and Council must ensure that such disagreements and debates occur on a level playing field [i.e., with all Councillors in possession of all relevant information] and in an open and public forum with ample opportunity for the general public to have input.

Lessons Learned from the Conklin Multiplex Project:

Against the backdrop of the above general discussion of good municipal governance with respect to large capital projects and the kinds of “breach of governance” pitfalls that need to be avoided, here are some key observations about the Conklin Multiplex Project to date, and how Administration proposes to implement changes to improve the governance aspect of delivering such projects – in other words, the “lessons learned” and the go-forward actions from those learnings:

Information in Support of Capital Budget Requests

It is now apparent that more key information could and should have been provided to Council as background to the request to approve the capital budget for the Conklin Multiplex. The timing of the concerns raised by Councillor Germain over the Conklin Multiplex project could not be

better in this regard, because just over a month ago Council unanimously passed a resolution brought forward by Councillor McGrath that addressed precisely this aspect of governance:

Moved by Councillor K. McGrath that the Chief Administrative Officer is requested to develop policies or guidelines for Council's review and approval concerning the circumstances under which business cases will be prepared and presented to Council, and the content of such business cases (including pro forma projections of operating costs and revenues extending a reasonable number of years into the future) in support of Administration recommendations for approval of large capital projects involving:

- (a) construction of buildings intended to provide recreation or leisure amenities; or
- (b) significant expropriations or purchases of private property; or
- (c) a public/private partnership business model.

Administration has been very much focused on the 2016 budget process since this Motion was passed, but it is very high on Administration's priority list to create for Council's review and approval the kinds of guidelines contemplated by the Motion. In the case of the Conklin Multiplex, a well-constructed business case as contemplated by the Motion would have ensured proper identification of the intent of the project at its inception. It would also most probably have nipped in the bud any misunderstandings or miscommunications concerning the design of the facility, the primary and secondary purposes of the facility, the prospects for generating revenue through leasing out space in the new facility, and the probable yearly operating deficit. When the direction to Administration in the Motion is fully implemented, Council will be in a position to make better capital budget decisions on a go-forward basis.

Equal Access to Information

In this case Councillor Stroud sought out and obtained from Administration a level of detailed information about the Conklin project, beyond what had been generally provided to Council. There is nothing improper about that whatsoever: however, when such information was provided to Councillor Stroud, it should also have been made available to all other Councillors. This could have been done by a confirming e-mail to her, with copy to all Council members. It would also potentially be possible to compile all such information [especially if it involves providing a large number of documents] into a database to which all Council members would have full and free access 24/7 together with training on how to search that database.

It should be noted that the new amendments to the *Municipal Government Act*, when the Government of Alberta decides to proclaim them in force, will make it mandatory for Administration to ensure that information provided to one Councillor is provided to all Councillors. Administration will not wait passively for this Provincial legislation to come into force, but will begin working now on a system and process to implement this practice.

There is another aspect to this key pillar of good governance, and that is the responsibility of individual Councillors to ensure that relevant information about a capital project that comes to their attention in *any* manner [including but not limited to from Administration] is shared with all of their Council colleagues. Administration can facilitate that technically, but ultimately each Councillor must accept and comply with this way of doing business. If Council so directs,

Administration can craft a Policy for Council's consideration to make such information sharing between Councillors mandatory. In this context please note that yet another new [and so far unproclaimed] amendment to the *Municipal Government Act* will require Council to adopt for itself a Code of Conduct. A policy about mandatory information sharing between Councillors could live very comfortably within a broader Code of Conduct that Council will eventually have to adopt in any event.

Council Opportunities for Input during Project Construction

For much of this past year Administration has been working to develop more efficient business processes for delivering major capital projects, and the focus of that initiative to date has been on ensuring that spending is controlled better than it has been historically, so that project costs are kept as low as possible. Cost control will remain an important focus for development of these new business processes, but a key learning from the Conklin Multiplex experience is that this is not enough – communication and collaboration with Council must also be built into the business process structure. Council needs to have an opportunity for input when key decisions are being made during the course of construction that will foreseeably have a material impact on the quality or level of service ultimately provided to the public. Although this aspect has not been central to development of the new business processes thus far, that will change. Administration will continue its work in the spirit of Councillor McGrath's motion discussed above, with the objective that Council is kept informed and engaged at key points, not just when a project is up for budget approval, but until it is completed.

This will require careful thought, because of course it would not be appropriate for Council to become directly involved in operational or administrative matters, such as for example reviewing and/or approving every Change Order. When Administration has finalized a process that takes Council input into account at a truly governance level, this will be shared with Council. It is proposed that the construction phase of the Conklin Multiplex Project itself [which will begin as soon as the weather breaks next Spring] will serve as a pilot to determine how well the process works in practice, and whether further refinement will be needed.

Conclusions

Review of the attached documentary record appears to indicate that the most serious potential "breach of governance" did not in fact occur – there was never any deliberate action by Administration to mislead the Council as a whole or any individual Councillor. There were, however, instances where best practices for good municipal governance were not adequately observed, for the most part by Administration, but also by a Councillor with respect to sharing relevant information with other Councillors. This report has set out the manner in which Administration intends to work with Council to ensure that such deficiencies are corrected on a go-forward basis, so that future capital projects can be delivered in a more cost-effective manner that also gives Council both the information and the opportunities it requires to exercise its governance function properly.

Strategic Plan Linkages:

Pillar 1 – Building Responsible Government

Attachment:

1. Compilation of Documentation relating to the history of the Conklin Multiplex Project [in two three-ring binders, along with an external hard drive of video content]