

Municipal Government Act Review

What We Heard: A Summary of Consultation Input

Governance and Administration Technical Session

Held in Calgary on April 9, 2014

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Developed by KPMG for Alberta Municipal Affairs



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Introduction

Purpose

This document provides a summary of what was heard during a consultation session for the *Municipal Government Act* (MGA) review. The summary below includes the comments and opinions of the participants of the Governance and Administration Technical Session held in Calgary.

These contributions have not been reviewed or edited for accuracy. Comments recorded here reflect the opinions of individuals offered in person and recorded by session facilitators; they do not necessarily represent the opinion of the Government of Alberta.

The input summarized below will be considered by Alberta Municipal Affairs as part of the review of the legislation. Municipal Affairs would like to thank the participants of this session, as well as all Albertans participating in the review of the MGA. Any inquiries related to this summary or to the consultation process should be directed by email to the MGA Review Team at mga.review@gov.ab.ca.

The Municipal Government Act Review

The MGA is designed to help build strong, prosperous and sustainable communities throughout Alberta. Alberta Municipal Affairs is reviewing and refreshing the MGA to address evolving circumstances and priorities in Alberta's many communities, and to ensure the MGA continues to meet its objective. A successful MGA review process will continue to position Alberta as the leading Canadian jurisdiction in terms of municipal legislation, having incorporated sound thinking, input and research into a clear Act that meets the needs of the Province and municipalities. In order to achieve this vision, an inclusive and comprehensive engagement process was developed to ensure stakeholders across the province have opportunities to provide input to the review.

As part of the MGA review, regional consultations were held in eleven locations around the province to give Albertans an opportunity to provide input face-to-face. In each location, different types of sessions were held, including Technical Sessions, a Business and Industry Session, a Municipal Administrators Session, an Elected Officials Session, and a Public Open House.

These engagements were conducted in February 2014 to April 2014 in 11 locations throughout the province. Each location was held over 3 days in the following locations:

- Brooks
- Calgary
- Edmonton
- Edson
- Fort McMurray
- Grande Prairie
- Lethbridge
- Medicine Hat
- Peace River
- Red Deer
- Vermilion

Sessions were promoted via news releases, direct email invitations, social media, and by the Minister of Municipal Affairs at stakeholder conventions. Information on regional session locations, dates and registration were on the MGA Review website.

Input to the MGA Review has also been provided through other channels, including the MGA Review website (mgareview.alberta.ca), the MGA Review Consultation Workbook, and official submissions.

Session Overview

Session	Governance and Administration Technical Session
Location	Radisson Hotel & Conference Centre Calgary Airport, Calgary
Date	April 9, 2014
Number of Participants	51

- This session was open to anyone who wished to attend. Participants were asked to register in advance in order to receive background materials before the session.

Regional Consultation Methodology

How sessions were organized

Regional consultations were structured around one or more of the three themes of the MGA Review:

- Governance and Administration
- Assessment and Taxation
- Planning and Development

Participants were provided with agendas in advance, which identified a list of potential topics for discussion. These topics were taken directly from the MGA Review Consultation Workbook. Several of the topics for discussion appear under more than one of the three themes of the review because they are relevant to more than one theme (e.g. public participation). The agenda is attached as Appendix A.

At this session, participants provided input through facilitated table discussions. The goal of the facilitated conversations was to give the opportunity to all participants to discuss the issues that mattered most to them. Given the large size and scope of the MGA, participants at each table were asked to focus their discussion on those topics that they felt were most important to provide input on, using the list provided in advance. In addition, this session included time for “open discussion” during which participants could provide any additional input that they felt was important to the review. Table facilitators and note takers included staff from Municipal Affairs, KPMG and ADR Education.

Capturing input and reporting

Input from session participants was captured on flipcharts by facilitators during the discussion. It was explained to participants that:

- Comments were being recorded on flipcharts so that they could be captured and considered by Municipal Affairs as part of the review of the MGA.
- Comments would not be attributed to individuals or organizations.
- Other avenues were also available to provide written input to the review.

The summary below documents the input heard from participants and recorded on flipcharts. These comments have been transcribed and organized according to the list of topics for discussion; they have not been screened for accuracy and do not reflect consensus of participants. As a result, comments and opinions listed may be contradictory. Comments that apply to issues outside of the scope of the review (e.g., suggested changes to other legislation) have been removed.

It is important to emphasize that this summary reflects the input heard from participants, and does not necessarily reflect the position of the Government of Alberta.

How the Summary of Responses is Organized

Input from session participants is organized according to the three themes for the review:

- *Governance and Administration*
- *Assessment and Taxation*
- *Planning and Development*

Within these themes, comments are organized according to the applicable topics for discussion, using the list provided to participants in advance. In some sessions, not all themes may have been discussed.

Summary of Input

General Comments about the MGA

The following input was received and documented related to the MGA in general.

Comments from participants included that:

- The MGA should be renewed more often than every 20 years. Regulations should also be reviewed regularly to ensure they are being applied as intended.
- The language used in the MGA needs to be clearer.
 - The language in the MGA needs to be accessible to and readable by everyone without being too simplified.
- The MGA should focus on achieving transparency and efficiency.
- The MGA needs to find a balance providing guidance and requiring compliance. The MGA should balance individual wants and needs with the greater good.
- The MGA should enhance cooperative dialogue.
- More flexibility in the MGA is needed so that municipalities can meet the unique needs of their jurisdictions.
- More clarity is needed regarding how different pieces of provincial legislation work together.
- Any changes to the MGA and its outlined regulations should not create a disincentive to do business in a municipality.
- The way that First Nations communities fit into the current MGA is working well.
- The MGA should state that the Province should have to consult with stakeholders when policy decisions are being made, specifically with municipalities.
 - The MGA should support stakeholder rights by respecting the views of those directly affected by an issue, both adversely and positively.

Governance and Administration

The following input was received and documented related to governance and administration.

Municipal Powers, Structures, Annexations and Other Changes

Municipal powers

Comments from participants included that:

- The MGA needs to clearly define the purpose of municipalities.
- The MGA should allow city charters to be implemented.
- Giving municipalities the power to raise and lower taxes as they deem appropriate may be dangerous. Raising taxes makes them less competitive and may risk the loss of businesses.
- Section 7 (General jurisdiction to pass bylaws) of the MGA should be amended to include full cost recovery of services. Alternatively, the MGA should give municipalities the authority to determine their own needs.
- The MGA should enable municipalities to issue conditional grants, particularly as grants may create incentives for different types of development.
- More involvement by the Province is needed when small municipalities make decisions that may impact the business of other municipalities. The MGA should ensure there is sufficient oversight.

Municipal structures

Comments from participants included that:

- Urban and rural municipalities should not be treated differently in the MGA.
- Current municipal structures outlined in the MGA need to be reviewed, particularly specialized municipalities.
- There are factors outside of population and density that need to be considered in developing municipal structures, particularly for small municipalities.
- The definition of hamlets is different in the MGA from how it is defined in provincial grant programs. There should be a consistent definition used by the Province.

Fundamental changes and municipal restructuring

Comments from participants included that:

- Annexations need restrictions in the MGA regarding how much land can be annexed at one time. A standard should be established to limit annexation based on 30-year growth needs.
- The MGA should outline the Municipal Governance Board's annexation rules.
- The MGA's annexation regulations should recognize the difference between large and small annexations.

- The MGA should establish clear guidelines, recommendations and triggers for when a municipality is deemed unsustainable.
 - Triggers could include a minimum population size or a maximum debt ratio.
 - Triggers should result in either the Province recommending the municipality dissolve, or the provision of appropriate supports to improve sustainability.
- The dissolution process should remain voluntary within the MGA.
- The MGA should ensure municipalities that are absorbing dissolved municipalities are provided with appropriate levels of support to account for the greater infrastructure and service burdens.

Municipal Governance and Administration

Municipal governance

Comments from participants included that:

- The MGA should require councillors to undergo mandatory training before and after being elected.
- The MGA needs to include stronger language to clarify councillor's roles and responsibilities.
 - The public should be educated on the roles and responsibilities of councillors and administration to ensure accountability.
- The MGA needs to require more disclosure by council to the public to ensure transparency.
 - E.g. Councillors should be required to declare ownership of any of their land.
- The MGA should define what "good government" is in Section 3 (Municipal Purposes).
- The MGA should outline the consequences for municipalities when they do not follow policy or provide "good government."
- Absenteeism rules for councillors in the MGA should be strengthened.
 - Under Section 162 (Vacancy in position of councillor), the MGA should consider a weighted rating to enable more independence by only allowing for one vote per council.
- The MGA should specify term limits for councillors.
- The MGA should outline the core guideline to create a code of conduct, which would help mitigate conflict of interest. Municipalities should then tailor it to meet their individual needs.
 - Conflict of interest definitions in the MGA should be defined to cover not only financial (i.e., pecuniary) conflict of interest.
 - Conflict of interest should be dealt with at the municipal level.

Municipal administration

Comments from participants included that:

- There should be consequences in the MGA for when municipal administrators act outside of the scope of their role.

Municipal Finances

Financial administration

Comments from participants included that:

- The MGA should maintain debt, borrowing and investment limits at their current levels, but should allow for greater flexibility within its financial management framework.
- Longer-term debt payments by municipalities should be removed from debt calculations established in the MGA and its regulations when these debt payments are funded through operational budgets.
- The MGA should outline clear and visible budgeting guidelines for municipalities to follow.
- The MGA should require more transparency of municipal finances. The MGA should ensure the public gets greater access to financial records to provide greater transparency and accountability in managing financial resources.
- In setting budgets, municipalities should be required to consult citizens earlier in the process.
- The financial year for municipalities in the MGA should be aligned with the provincial budget year.
- There should be greater financial due diligence and analysis before infrastructure development projects begin to identify implications like future taxes and benefits.
- The MGA should not allow municipalities to transfer debt to regional service corporations or controlled corporations, because this removes transparency.
- There is a need for greater transparency in procurement practices. The MGA should ensure sole-sourcing of procurement is not happening.

Regional funding approaches

Comments from participants included that:

- The MGA should not force municipalities to develop funding agreements with other municipalities.
- The viability review process in the current MGA has impeded regional efforts to partner and to share costs and revenues.

Municipal revenue sources

Comments from participants included that:

- The MGA should ensure that changes to fees, levies and taxes do not make municipalities less competitive environments for businesses to operate. For this reason, business, industry and development sectors should be involved in determining appropriate rates to be charged.
- Enabling additional revenue options for municipalities may create uncertainties or inconsistencies for businesses, particularly those operating within multiple municipalities. Therefore, businesses would like to maintain the status quo in terms of municipal revenue tools.
- The MGA should outline a more consistent mechanism for the provision of provincial grants, so municipalities relying on grants do not face budgetary shocks.
- Despite the desire for more flexibility and revenue options, there is a need for provincial consistency for how revenue is collected by municipalities.
- Grant processes are too long, complicated and costly under the current MGA. Grant processes should be simplified.
- The MGA should outline a broader scope of available revenue options for use by municipalities.
 - Municipalities should have more flexibility and be able to operate like corporations.
 - Potential new tools may include sales tax, provincial revenue sharing, user fees and levies for soft services.
 - Tourism and hotel levies should be able to be applied at the municipal level.

Fees and levies

Comments from participants included that:

- The MGA should define “benefit” in the application of fees and levies, as well as how levies should be allocated.
- The MGA should require reports outlining how levies are used and collected.
- The MGA should give municipalities more power and flexibility to apply levies to meet their local needs.
- The MGA could allow for a project-based levy which would be used incrementally as new development applications come in.
- The community revitalization levy is working well, and should be used for areas where development is not happening.
- The MGA should ensure taxpayers aren’t made responsible for paying for natural repairs to old infrastructure through levies.
 - For example, if someone moves into a neighborhood with 50 year-old sidewalks, levies should not be used for their repair, as the residents have been paying taxes for this.
 - Levying for infrastructure cost in older neighbourhoods may motivate people to move to new and sprawling communities, where all amenities are new.

Municipal Accountability, Liability, and Risk Management

Compliance and accountability

Comments from participants included that:

- The wording in the MGA needs to be strengthened to ensure that when a policy is made, it must be adhered to.
- The MGA should provide more direction around the compliance and punishment of councillors who act outside of the Act.
 - The MGA should build upon and clarify current monitoring and compliance regulations by establishing guidelines pertaining to the consequences of non-compliance for council members. The MGA should also outline a strict enforcement mechanism without having to rely on the judicial system.
- There is a need for greater accountability for abuse of the *in camera* meeting privilege. The MGA needs better enforcement in this area.
- It is a favourable alternative to the court system for an ombudsman to attempt to resolve conflict between the public and a municipality.
- Currently, the system of accountability is based on the election process as the foremost tool for accountability, and this is not sufficient. Currently, there is no mechanism to remove a councillor. There should be due process.
 - The MGA should establish the ability to recall councillors if they are not performing.
- The MGA should ensure council decisions are audited to ensure public transparency and accountability.
 - The Province should ensure municipal budgets are done properly by strengthening audits.
 - The Province should keep a close eye on specialized municipalities and how they use their powers.

Liability and risk management

Comments from participants included that:

- There is a need for the MGA to ensure municipal risk management portfolios are accountable, managed appropriately, and vetted through experts.
- The MGA should review its brownfield liability regulations, particularly during the purchasing of a development permit, to ensure these regulations do not discourage development and densification.

Municipal Services and Delivery

Service provisions

Comments from participants included that:

- The MGA should not mandate the provision of any services and should continue to allow municipalities the flexibility to respond to their local needs as they see fit.

- There needs to be clear definitions in the MGA of provincial and municipal service roles and responsibilities. Currently, many lines are blurred between provincial and municipal service responsibilities, with police services being one example.
- If service responsibilities are downloaded from the Province to municipalities, the resources provided by the Province should match the new service requirements.
- The MGA should establish specific long-term goals for regional service delivery. The MGA should at least establish a mandatory mechanism for municipalities and regional groups to regularly set such goals.
- Municipal services should be decided based on science, facts and data, rather than “nice to haves.”
- The MGA should allow for the municipality to have discretion in supplying a utility service as outlined in Section 34 (1) (Duty to supply utility service).

Regional Services Commissions

Comments from participants included that:

- The MGA should maintain regionalization, regional collaboration and regional service commissions as being voluntary, “opt-in” processes, allowing municipalities the ability to participate in work that is important to them.
- The MGA should include more incentives to encourage regional water sharing through utility commissions.

Municipally Controlled Corporations

Comments from participants included that:

- The MGA should give municipalities the authority to create municipally controlled not-for-profit organizations, without the consent of the Province.
- The MGA should maintain municipally controlled corporations as a mechanism for municipalities to generate income.
- The MGA should place some constraints on how funds from municipally controlled corporations can be used.
- Municipalities can potentially abuse fees and levies by using municipally controlled corporations.
- The MGA should have automatic Alberta Utilities Commission exemptions for municipal applications.

Public Participation and Municipal Relations

Municipal relationships and dispute resolution

Comments from participants included that:

- The MGA should provide incentives to encourage regional collaboration.
- Voluntary cooperation is not working. Municipalities need more direction from the Province on regional collaboration.

Public participation

Comments from participants included that:

- The MGA should specify what “public participation” means.
- The MGA should require municipalities to follow due process to ensure citizens are heard, especially those directly affected by municipal decisions.
 - Municipalities should be mandated under the MGA to engage with the public early on in the change process.
 - The MGA should specify the situations where councils must engage the public and use their feedback.
- There should be more guidance and clarity in the MGA on public access to information.
- The required notification methods should be updated to include more methods that reflect current technology.
 - The MGA should authorize advertising on municipal websites, as it is not clear in the current MGA whether this can or can’t be done.
 - The MGA should provide greater flexibility to adapt to technology changes.
- The timeframes outlined in the MGA for public notification should be longer than 24 hours.
- The MGA should provide greater guidance and principles around public participation and delegation. Councils need to clearly understand their accountability for engaging with the public.
 - Council should not be allowed to defer public participation to the administration. There needs to be a balance between the division of labour, efficiency of action, and councils honoring their role as representatives of the people.

Municipal Government Board

Comments from participants included that:

- The MGA should ensure that members of the Municipal Government Board have knowledge of land cases.
- The composite assessment review board does not work. Industrial appeals should go to the Municipal Government Board, where there is appropriate experience and expertise to deal with complex appeals.
- Appeals should be managed at the provincial level for assessment and development.

Assessment and Taxation

During the discussions surrounding governance and administration some discussion occurred on assessment and taxation. The following input was received and documented related to assessment and taxation.

Taxation and Municipal Finances

Taxation

Comments from participants included that:

- There should be a legislated ratio between residential and non-residential property tax rates.
 - A ratio of 2:1 between non-residential and residential property tax rates would make sense.
 - The ratio may not be the same in every municipality, but a maximum cap across the Province would make sense.
 - Without a ratio between residential and non-residential property tax rates, non-voters are treated unfairly.
 - Too high of a ratio between residential and non-residential property tax rates makes the province as a whole is less competitive, meaning business may leave or may not be tempted to come.
- The ratio disparity between property classes is growing. This is impacting non-residential property, and the policy in the MGA should address this.
- If taxation is not aligned across the province, businesses will move to where they receive the most favorable rate. This will have settlement implications that the Province may not be ready for.

Assessment Administration

Assessment administration

Comments from participants included that:

- Property tax assessment and collection on linear property should be done at the provincial level. This would promote stability and consistency. Municipalities don't have collection expertise and do not do it very efficiently.
- There is a need for more clarity and consistency of assessment guidelines established by the MGA. The current lack of clarity creates ambiguity, which leads to appeals and inconsistency in local decisions.

Public Participation and Assessment Appeals

Assessment complaints and appeals

Comments from participants included that:

- The MGA should ensure the Province appoints members of the composite assessment review boards so there is no conflict of interest between those assessing property and those reviewing appeals.
- The MGA needs to establish a process for appeals of municipal fees and charges.

Planning and Development

During the discussions surrounding governance and administration some discussion occurred on planning and development. The following input was received and documented related to planning and development.

Land Management and Planning Tools

Statutory plans and land use bylaws

Comments from participants included that:

- Section 617 (Purpose of this Part) of Part 17 of the MGA needs to provide more direction.

Subdivision and Development Authorities and Processes

Administrative decision-making processes

Comments from participants included that:

- The MGA should outline the proportion of new development services that will be covered by developers. This may create an incentive for brownfield development and densification by making greenfield development more costly for developers.

Land Dedication and Use of Reserves

Land dedication (reserves)

Comments from participants included that:

- Property owners should be able to choose if they want an environmental reserve or a conservation easement.
- The Province should revisit the initial 10 per cent allocation of land to school reserves. If there is a plan to use the land, 10 per cent is fine. If there is no plan, the reserve should be much less.

Regional Approaches

Managing growth and development

Comments from participants included that:

- There should be provincial incentives to encourage higher-density development.
- The MGA should enable municipalities to develop their own environmental standards that align with and exceed provincial standards.

- The MGA should increase municipalities' abilities to enforce compliance from developers and ensure environmental due diligence.
- Municipalities should be allowed to charge organizations and individuals penalties and fees that are in proportion to the offense or damage that they cause to the environment or infrastructure.
- The MGA should outline better protective measures for air, land and water, particularly when it comes to engineering. These measures should encourage greater provincial consistency. This should also involve clearer definitions of land, air, and water.
- There should be consistency in how regional partnerships are legislated. For example, the Calgary Regional Partnership and the Capital Region Board should be legislated in a similar way.
- The MGA should ensure that small, more isolated municipalities are not negatively impact by regional decisions as many small municipalities are unable to adjust to budgetary shocks.

Public Participation and Planning Appeals

Public participation

Comments from participants included that:

- More public participation in planning and development is needed and could be required under the MGA.

Planning and inter-municipal appeals

Comments from participants included that:

- The development appeal process in the MGA favours developers, which is not working well.

Appendix A: Session Agenda

MGA Review: Governance and Administration Technical Session

Agenda Item	Timing
1. Welcome and introductions	10:00-10:10
<p>2. Potential topics for discussion:</p> <p>The following topics will be available for table discussion:</p> <p><u>Subject 1: Municipal Powers, Structures, Annexations and Other Changes</u></p> <ul style="list-style-type: none"> ▪ Municipal powers ▪ Municipal structures ▪ Fundamental changes and municipal restructuring <p><u>Subject 2: Municipal Governance and Administration</u></p> <ul style="list-style-type: none"> ▪ Municipal governance ▪ Municipal administration <p><u>Subject 3: Municipal Finances</u></p> <ul style="list-style-type: none"> ▪ Financial administration ▪ Regional funding approaches ▪ Municipal revenue sources ▪ Fees and levies <p><u>Subject 4: Municipal Accountability, Liability, and Risk Management</u></p> <ul style="list-style-type: none"> ▪ Compliance and accountability ▪ Liability and risk management ▪ Provincial powers <p><u>Subject 5: Municipal Services and Delivery</u></p> <ul style="list-style-type: none"> ▪ Service provisions ▪ Regional services commissions ▪ Municipally controlled corporations <p><u>Subject 6: Public Participation and Municipal Relations</u></p> <ul style="list-style-type: none"> ▪ Municipal relationships and dispute resolution ▪ Public participation ▪ Municipal Government Board 	10:10-10:20
3. Change tables (if needed)	10:20-10:25

Agenda Item	Timing
4. Table facilitation <ul style="list-style-type: none">▪ Up to three topics will be prioritized for discussion (~20 minutes each)▪ Discussion will focus on what is working well, desired changes, and potential impacts of changes to the legislation	10:25-11:35
5. Open discussion <ul style="list-style-type: none">▪ Are there any other relevant topics participants want to address?	11:35-11:55
6. Wrap-up	11:55-12:00