

Municipal Government Act Review

What We Heard: A Summary of Consultation Input

Governance and Administration Technical Session

Held in Edmonton on February 5, 2014

Released on June 12, 2014

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 Edmonton.

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	Delta Edmonton South Hotel and Conference Centre, Edmonton
Date	February 5, 2014
Number of Participants	42

- 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 needs a preamble to get to the spirit of the legislation. This would set the tone for the legislation.
 - The preamble should state what the MGA is trying to accomplish.
 - It should provide definitions of roles and responsibilities between the Province and local governments.
- There is a need to improve the simplicity and readability of the MGA so that readers don't need to reference several sections throughout the MGA for one item.
- The MGA should talk about what is required, not how it is to be done.
- The MGA should be kept simple and details should be located in the regulations.
- MGA could give more control of water bodies to municipalities. There needs to be coordination between the MGA and other legislation like the *Alberta Land Stewardship Act*.
 - "One size" does not fit all municipalities when it comes to legislation.
- It is important to clarify and streamline areas of overlap with other pieces of legislation.
 - In particular, overlap with the *Local Authorities Elections Act* and the *Freedom of Information and Protection of Privacy Act* should be resolved.
- There should be more of a focus on prediction, projection, and long term forecasting.
 - Municipal viability and sustainability should not be based on population.

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 recognize that different types of municipalities have different needs.
 - Municipalities need the ability to ask for a municipal charter if needed.
- Municipalities need more flexibility and authority with less provincial direction.
- Natural person powers were given but have been chipped away at through MGA and other provincial legislation.
 - These powers should be fully restored.
- Existing regulations are complex and there is an inconsistent interpretation of legislation.
- The bylaw review and appeal process should not supersede the builder's code. There is no clear definition or feedback loop for businesses and municipalities.

Municipal structures

Comments from participants included that:

- The MGA could better reflect the different opportunities for different municipalities.
- The new MGA needs to enable smaller municipalities to have their autonomy.
- The intent of population thresholds is good, but we may have to increase them. The MGA should be able to distinguish responsibilities based on size like other legislation can.
- The MGA should change the population levels that define municipal structures.
 - Villages should have a population of 1,000 – 5,000 people.
 - Towns should have a minimum population of 5,000 people.
- Specialized municipalities are an emerging issue, as fewer than 1,000 people require different governance methods.
- Broader definitions of municipal boundaries would address issues with linear property and services.
- A community isn't the same as a municipality. This distinction should be clear in the MGA. A municipality requires resources for administration.

Fundamental changes and municipal restructuring

Comments from participants included that:

- There needs to be a clear process for land annexation.
- The municipality initiating annexation should incur legal costs for the other party.
- Annexation disputes can be challenging to resolve.
 - More tools are needed in the MGA tool box for regional structures around annexation and regional services delivery.
- There need to be provisions in the MGA to address sustainability.
- The MGA should reference existing provincial sustainability legislation and provide incentives to achieving sustainability.

Municipal Governance and Administration

Municipal governance

Comments from participants included that:

- The timing of elections and election cycles is an issue.
- The MGA does not clearly address the outcome of tie votes in elections.
- Limits within the MGA like ministerial oversight duplicate accountability.
- The MGA needs to provide tools to address conflicts of interest between councillors and municipalities themselves.
- Clarification is needed in the MGA to give council power to make long-term decisions in the best interest of the community.
- The mayor role works well.
- Managing decisions through bylaws can be cumbersome.
- The MGA should have more consistency in language; it uses different terms for the same thing.
 - For example, the MGA states what a council may do and what a municipality may do without defining if they are the same or mean something different.
- Councillors should rotate through positions to bring new views and ideas.
- Portions of the MGA relevant to council should be consolidated to clarify roles and responsibilities and provide clear processes to follow.
 - There could be an annotated version of the MGA for councillors. For example, a highlight sheet to help councillors understand the parts of the MGA most relevant to them.
- Section 153 of the MGA (General duties of councillors) should be clearer.
- There should be provisions for conflicts of interest beyond pecuniary interests.
 - Conflicts of interest are more often personal than pecuniary.
 - There should not be limitations on participation; instead there should be the ability to abstain on areas where a conflict of interest exists.
- Municipalities should have more flexibility for delegation of authority.
 - For example, the mayor should be able to delegate to the chief administrative officer or project teams.

- The MGA does not recognize the complex internal structures of some municipalities.
- Municipal Affairs should provide MGA-related training for councillors.
 - The current available courses are not necessarily the right material for councillors.
 - The MGA should provide opportunities for additional non-administrative training of new councillors.
- The MGA should not limit people from running for council.
- There are concerns about councils signing long-term contracts and whether they fetter future programs.
 - Members of the council change, but the council as a unit is ongoing.
- Need clarification of roles and responsibilities of municipal council and Agricultural Service Board employees.
 - In cases where the municipal council doubles as Agricultural Service Board, it needs to be clear if the agriculture fieldman is accountable to council or the Agricultural Service Board.
 - There should be a mandated separation of Agricultural Service Board members and council members.
 - Agricultural Service Board should have the ability to have members at large as opposed to a composition of municipal councillors.

Municipal administration

Comments from participants included that:

- There is a need to clarify the difference between council governance and administration.
 - Council meetings should not be used to make operational decisions.
 - Clarification would help council understand their role.
 - The MGA should clarify what authority is for what, specifically related to duties and policy-making.
- The chief administrative officer's responsibilities are too narrow and specific.
 - They could be more specific in regulations where it is easier to amend.
 - Councillor roles are at a more appropriate level of guidance.
- The chief administrative officer should be able to delegate authority to a committee of individuals as deemed appropriate by council.
- It would be good if the administration, rather than council, established citizen committees.
 - Council should be able to delegate decision making power to the committee if they choose to.
- The current provisions for council to create committees are working well.

Municipal Finances

Financial administration

Comments from participants included that:

- The budgeting requirements in the MGA should allow for expedited processes for annual budgets within a multi-year budget.
- There should be viability assessments for municipalities at an earlier stage before the municipality is in financial difficulty.
- There is a concern that municipalities act as a collection agency for utilities, as they have limited power to collect owed monies.
 - Instead, property owners should be responsible for utilities collection.
 - The developer could collect owed funds and the municipality could connect it to tax.
- There should be more accountability for school tax by the Province.
- The MGA should develop economic models to maintain and sustain long-term infrastructure.
 - Most municipalities are not doing this, nor are they using innovative modeling tools because it is too complex.
- There needs to be transparency from the municipality to the citizen on borrowing limits and financial reporting, especially related to the long-term capital plan.
- There is a need to improve transparency.
 - Some municipalities may be applying the *Freedom of Information and Protection of Privacy Act* differently.
 - Financial information should be simple for citizens to access and review.
- Fiscal responsibility of municipalities is important.
- The new MGA should re-consider debt to service ratios, encourage municipal investments and subsidize taxes with investment income.

Regional funding approaches

Comments from participants included that:

- Process inefficiencies are a major cost to municipalities.
 - More joint provision of services between municipalities may be a solution.
 - Regional services may make more sense than each municipality providing services independently.
- More support is needed from the Province for regional funding approaches.
- The MGA needs to encourage cooperation and collaboration between municipalities to fund major infrastructure.
- The MGA should incentivize and consider requiring regional cooperation and collaboration in particular circumstances.
 - The MGA should define what circumstances should initiate a regional approach.
- The MGA should address conflict and promote cooperation to provide services region-wide.

Municipal revenue sources

Comments from participants included that:

- Municipalities should have more tools such as: community finance districts; an offsite levy or fee paid by residents of the community; public-private partnerships; municipal bonds; and / or toll roads and bridges
- It is important to fairly distribute costs of neighborhood improvements.
 - Distribution of costs or revenues for improvement could be implemented by a vote.
 - Money could be collected by the municipality and distributed to the community.
- The MGA needs to address disparity of financial accountability between large and small municipalities.
 - Rural areas have less capacity for financial reporting.
- Aspects of the MGA that currently work well include:
 - debt limits, borrowing, and investing rules;
 - fines and penalties; and
 - investment income.

Fees and levies

Comments from participants included that:

- There needs to be changes to levies on gravel aggregates.
 - Levies are collected by municipalities who also approve the applications for gravel pits.
 - Levies should be used to manage the impacts of the gravel industry.
- The Province regulates the value of levies, which is not good for municipalities' different taxes.
 - Municipalities should have the ability to lower the rate of local improvement levies. Currently municipalities can only raise it.
- Consistency across the province regarding fees and levies is important.
- Consistency across the province around how costs of new developments are apportioned is important.
- The MGA should clearly define the services covered by the fee or tax.
- An appeal mechanism is needed for when a developer and owner disagree over development fees and levies. The current mechanism is weighted towards the municipality determining the amount that will be paid, as other parties have no real leverage to negotiate.
- The MGA should allow for the collection of transit fees related to distance like the London underground.

Municipal Accountability, Liability, and Risk Management

Compliance and accountability

Comments from participants included that:

- There are currently no consequences or penalties for not meeting required provisions in the MGA.
 - Enforcement of the MGA is dependent on the courts, which is time consuming, expensive, and cumbersome.
- There is a need for an easier process for the disqualification of councillors. The minister should have the authority to disqualify.
- An oversight body or ethics commissioner could be put in place.
 - The process should not be dependent on voluntary councillor resignation.
 - The process has to have the power of enforcement.
- There is currently no code of conduct because there is no way to enforce it.
 - If councillor misconduct can't be addressed, it limits everyone else's ability to be effective.
- There are conflicts with councillors sitting on provincial bodies.
- Councillors should not sit on quasi-judicial boards.
 - This is not an issue in larger centres, as there is more anonymity for councillors.
 - In smaller communities there is not enough separation for members of the community to participate on quasi-judicial boards.
 - There is not a one-size-fits-all answer. There may need to be other considerations in urban centres.
- The MGA needs to include more specific recognition of different types of bodies with different mandates and authority. The definition of council committees and delegation to those committees needs to be clarified.
 - The MGA should clarify the difference between official and *ad hoc* task forces.
 - There are lots of purposes for these committees. For example, council committees might have dedicated decision making authority.
- The non-voting tax base needs a voice. They have limited opportunities to pursue accountability.
- All accountability comes down to the public who elect the councillors.
 - Media is the key route to transparency, which can be a problem due to a lack of media independence in some areas.
- There is a need for more enforcement on municipal and corporate inspections as recommendations often get ignored.
 - In rural areas elected councillors dominate commissions and boards. There are no checks and balances when the same people control everything.
 - Ombudsmen should be the connection between citizens and authority.
 - They should be independent and have power.
 - Currently court is the only route and it is not feasible for most citizens.
 - Credibility of municipal reviewers is questionable, because they are usually a political appointment.

Liability and risk management

Comments from participants included that:

- There should be a definition of “good faith”.
- Municipalities should be liable for environmental damages caused by infrastructure, like when paving floodplains result in flooding in downstream municipalities.
- Municipalities should be liable when permits are given for at-risk areas.

Provincial powers

Comments from participants included that:

- The MGA is not prescriptive enough regarding municipal and provincial relationships.
- The MGA does not need to be a playbook or provide education for municipalities.
- The MGA has no “teeth.” There needs to be mechanisms to enforce provisions in the legislation.
 - For example, there needs to be way to address media acting unfairly.
- The Province could assume assessment for industry to promote consistency, equity and sustainability. The Province should consider creating a centralized body to conduct industrial assessments.

Municipal Services and Delivery

Service provisions

Comments from participants included that:

- Delegation of responsibility to municipalities without providing needed financial supports is a continuing issue.
- Education should be treated as a municipal service and should therefore be enshrined within the MGA.
 - MGA legislation should mandate school planning.
 - There should be mandated coordination between the Province and municipalities with respect to school planning.
- There is a need for more fairness between large and small municipalities in terms of how roads are funded.
 - There is no municipal funding available for the maintenance of bridges or culverts.
 - Funding for bridges and culverts is an area for clarification of roles and responsibilities between the Province and municipalities.
 - The roles of Alberta Transportation and Alberta Infrastructure should be clarified in the MGA. Municipalities should be funded for maintenance of infrastructure constructed with provincial funding.
- Service amalgamation would make sense as some smaller communities are not viable.

Regional Services Commissions

Comments from participants included that:

- The MGA should outline the roles and responsibilities of regional service commission board members.

Public Participation and Municipal Relations

Municipal relationships and dispute resolution

Comments from participants included that:

- More guidance is required around what shared interests are.
- Legislative language should enable communication and collaboration.
- Some direction in the MGA regarding inter-municipal relationships would be helpful.
- There needs to be consultation from the ground up to define options for regional cooperation; then Albertans should be engaged. This should happen before the legislation is presented and should include the regulation.
- There needs to be more tools in the regional cooperation toolbox to help municipalities come together in a meaningful way.
- Voluntary cooperation is working well in areas with guiding principles like unified vision, and mutual trust.
- Regional collaboration may impact smaller municipalities in negative ways through a potential loss of local services like hospitals and schools.
- Differences in regional goals can have an impact on cooperation.
- Sharing of linear assessment and how revenue is divided is a huge issue.
 - Artificial boundaries exist and undermine the cooperation of municipalities.
- The Capital Region Board was mandated and there are examples of similar voluntary organizations that could be mandated as well.

Public participation

Comments from participants included that:

- Section 606 of the MGA (Requirements for Advertising) allows for only direct mail-outs. This section should allow online advertising on the city website. Municipalities need more flexibility in this area.
- The timing of petitions may be too prescriptive – population of interest is defined in too much detail.
- An education process for petitions is needed. People spend a lot of time preparing a petition and are not aware of legislated requirements.
- Municipalities need more power to hold petitioners accountable.
- The MGA should leave it up to the municipalities to decide petition requirements.
- Citizens can complain to the Province, but court is still the best route to address concerns, which is not financially feasible.
- The public hearing process works well.
 - It allows any member of the public to speak.

- It provides the opportunity to delegate hearings to a committee.
- The process is currently customizable and should stay that way.
- There is room for improvement to the public hearing process.
 - Councils should be able to keep track of committees.
 - The MGA wades into too much procedural detail in some cases.
 - The MGA should indicate timelines for council meetings and note releases.
- There is a need for parameters for electronic participation, with the ability to change over time.
- There is a large emphasis on public input, but there is low participation from public, even in urban areas.
 - Voter turnout is an issue. Some communities are as low as 15 per cent.
- Businesses sometimes feel as though they have less of a voice if they live outside the community in which the business is located.
 - Businesses can't vote, but do have other public input opportunities.
 - Owners of a business could be entitled to two votes.
 - A chamber of commerce is a mechanism to make their voices heard.
 - If governments don't want to hear the voice of businesses they don't have to.
 - It is difficult for council to represent all interests.

Municipal Government Board

Comments from participants included that:

- The Municipal Government Board is not effective as a one-size-fits-all process.
- The Province should create an alternative to the Municipal Government Board process.
- Making appointments to the Municipal Government Board is an area that needs to be looked at. The Municipal Government Board may not need provincial representation.

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:

- The MGA should consider tying non-residential rates to residential rates like the Ontario model.
 - This would provide more accountability from council to voting and non-voting tax payers.
- More fiscal predictability and certainty for budgeting is needed.
 - There are major fluctuations in tax rates without accountability.
 - Municipalities should have 10 year plans.
 - Industry migration can be stimulated if a tax hit is too big without consistency and predictability.
 - Provincial tax rate for linear property similar to the education tax rate could help with consistency and predictability.
- Current tax rates for non-residential property mean that all sizes of companies pay the same tax rate.
- Department programs to offset property tax for seniors and those with lower incomes would be a high cost to the administrator.
- Infrastructure users should pay for infrastructure. Costs should be shared proportionally among all tax payers for public facilities. Municipalities should not count on the non-residential sector to pay for public facilities.
- Property taxes are a necessary evil, but they should be fair and reasonable.
- Municipalities should allow for public input into tax property rates.

Equalized assessment

Comments from participants included that:

- The Province shouldn't collect education taxes at the local level.

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.

Managing growth and development

Comments from participants included that:

- Long-range growth plans are required.

Appendix A: Session Agenda

MGA Review: Governance and Administration Technical Session

Agenda Item	Timing
1. Welcome and introductions	10:00-10:10
2. Potential topics for discussion: <ul style="list-style-type: none"> <u>Subject 1: Municipal Powers, Structures, Annexations and Other Changes</u> <ul style="list-style-type: none"> • Municipal powers • Municipal structures • Fundamental changes and municipal restructuring <u>Subject 2: Municipal Governance and Administration</u> <ul style="list-style-type: none"> • Municipal governance • Municipal administration <u>Subject 3: Municipal Finances</u> <ul style="list-style-type: none"> • Financial administration • Regional funding approaches • Municipal revenue sources • Fees and levies <u>Subject 4: Municipal Accountability, Liability, and Risk Management</u> <ul style="list-style-type: none"> • Compliance and accountability • Liability and risk management • Provincial powers <u>Subject 5: Municipal Services and Delivery</u> <ul style="list-style-type: none"> • Service provisions • Regional services commissions • Municipally controlled corporations <u>Subject 6: Public Participation and Municipal Relations</u> <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
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