Amending the Municipal Government Act

Background

Alberta's *Municipal Government Act* (MGA), and its constituent regulations, serves as the legal framework for how every city, town, village, hamlet, summer village, county and municipal district operates in Alberta. It determines how municipalities function, how they can raise revenues, what services they provide, and much more. It is a large and complex piece of legislation, and has been under review for a number of years.

In December 2016, the Legislative Assembly of Alberta passed Bill 21: *Modernized Municipal Government Act*, which amended the MGA significantly. Following the passage of Bill 21, the Province released a document entitled *Continuing the Conversation*, which outlined further proposed changes to the act.

Off-Site Levies

When land is purchased for the creation of a new residential subdivision, commercial property, or industrial site, municipalities incur costs to provide roads, sewers and other utilities to service the site. Generally, developers will pay the relevant municipality for their share of this infrastructure through an off-site levy. As part of Bill 21, off-site levies can now be charged for libraries, rec centres, police stations and fire halls. At the time, many Chambers expressed concern on the cost increase this would mean for developers – and the resulting increase to housing costs. Since the passage of Bill 21, the province has applying off-site levies for provincial infrastructure, like highways and interchanges. At a time when all levels of government are focused on housing affordability, policies like this that increase costs would be counter-productive.

Taxation Ratios

Non-residential taxation rates, as they compare to residential rates, varies widely within the province. The Town of Morinville, for example, has a 1:1 non-residential to residential tax rate – the rate is the same[1]. In contrast, Ponoka County has a roughly 10.8:1.7 ratio.[2] As part of Bill 21, municipalities are limited to maximum a 5:1 ratio, although provisions were made to grandfather those which were above 5:1 prior to Bill 21's passage. A new proposal has been put forward to require these grandfathered municipalities to come into compliance with the maximum 5:1 ratio. This would provide greater consistency of taxation across the province, and should be pursued.

Inter-Municipal Collaboration Frameworks

As part of Bill 21, the Province is requiring bordering municipalities to enter into inter-municipal collaboration frameworks (ICFs). These ICFs will set out growth planning and establish how any relevant

[1] http://www.municipalaffairs.gov.ab.ca/cfml/MunicipalProfiles/index
[2] *Ibid*

service delivery is shared between municipalities. A further proposal has been made to include ICFs between municipalities and Indigenous communities. This requires further clarification and explanation. Would these ICFs be mandatory for municipalities adjacent to Indigenous communities? Furthermore, would ICFs be complicated by the federal jurisdiction of First Nations? Prior to enacting this proposal, we need to fully understand whether or not these ICFs are achievable within the mandated two-year timeframe.

Municipal Purpose

Currently, the municipal purposes listed in the MGA are:

a. to provide good government;
b. to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality; and
c. to develop and maintain safe and viable communities.

Proposals have been made to enshrine environmental stewardship as a municipal purpose. It is preferable to maintain environmental regulation at the provincial and federal levels, ensuring that the same standards apply to every community within Alberta. If environmental regulation is not consistent and coherent among communities, it creates issues between municipalities competing for business attraction and investment dollars. Furthermore, encouraging municipalities to develop their own environmental standards could cause conflicts between duplicate sets of environmental regulation. As such, we caution against including environmental stewardship as a municipal purpose.

Ecological Designations

One proposal contained within *Continuing the Conversation* is to amend s.664(1)(a) of the MGA, changing the reference from "swamp" to "wetland". While this may appear to be a technical amendment, it may have significant unintended implications. Under the Alberta Wetland Classification System, wetlands are broken down into a number of different categories, including swamps, with a number of subcategories for each.[3] Furthermore, not all categories of wetland are treated equally under overriding environmental protection and land-use legislation. By changing the language from "swamp" to "wetland" in the MGA, the Province is widening the scope of environmental reserve considerably, while describing the change as a "technical amendment" in *Continuing the Conversation.* Prior to pursuing this proposal, the Province must determine and explain the unintended effect of changing this language.

Electricity Generation

A positive development of *Continuing the Conversation* is cementing the *Electric Energy Exemption Regulation* as part of the larger MGA. When businesses invest in rooftop solar panels, geothermal or wind generators, combined-heat-and-power installations, or district energy projects, they generally see an increase to property taxes as the value of their property increases. This regulation gives the Minister authority to exempt these kinds of installations from the Provincial portion of property taxes, which removes a major barrier for many businesses. By enshrining this regulation into the MGA, the Province is sending a clear signal that these barriers should be addressed. This is a positive step forward, however, it only addresses one barrier.

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[3] http://open.alberta.ca/dataset/92fbfbf5-62e1-49c7-aa13-8970a099f97d/resource/1e4372ca-b99c-4990-b4f5-dbac23424e3a/download/2015-Alberta-Wetland-Classification-System-June-01-2015.pdf

Most major cities in the world enjoy the benefits of district energy systems (DES), also referred to as district energy heating and cooling systems (DEHCS). These systems, including distributed and integrated energy systems, promote increased efficiencies, resilience of the energy supply grid, reduced environmental footprints and reduced requirement for infrastructure in building design and energy supply. In Alberta, many communities are experiencing significant growth. A broader adoption of DECHS in both greenfield and, where viable, brownfield development, represents a significant opportunity for encouraging sustainable growth, communities and cities in the long term.

Section 30(2) of the MGA requires that any proposed agreement between a municipality and an electric power provider, that extends beyond five years, must be approved by the Alberta Utilities Commission (AUC). The extended approval process timelines of the Alberta Utilities Commission diminish the attractiveness of DEHCS to private investors. Because investors are unable to secure long-term service agreements with communities prior to project approval, the capacity of the project proponents to go to market to raise capital is impeded. This barrier was highlighted by the Alberta Energy Efficiency Advisory Panel in its 2017 report to government, saying that these projects have "limited access to financing mechanisms to spread the up-front costs over the life of the investment."[4] Without the security of confirmed supply contracts, the investment attractiveness of DEHCS projects decline, which discourages implementation.

DECHS, alongside other community energy systems, can help Alberta combat global climate change. The Province should review Section 30(2) to ensure it aligns with the Province's overall strategy on alternative and renewable electricity.

The Alberta Chambers of Commerce recommend the Government of Alberta:

1. Protect housing affordability by avoiding off-site levies for provincial infrastructure.
2. Create consistency in taxation by requiring all municipalities to come into compliance with the maximum 5:1 tax ratio in a timeline that ensures the economic stability of the community.
3. Clarify the possible unintended consequences of requiring inter-municipal collaboration frameworks with Indigenous communities, given the federal government's jurisdiction in matters relating to Aboriginal peoples.
4. Maintain the current municipal purposes as set out by Section 3 of the *Municipal Government Act*.
5. Maintain the current scope of environmental reserve under Section 664(1) of the *Municipal Government Act.*
6. Facilitate investments in community energy systems by amending Section 30(2) of the *Municipal Government Act,* allowing councils or municipal public utilities to make long-term agreements regarding the supply of electric power with rights of renewal without approval of the Alberta Utilities Commission.
7. Encourage the use of cost-recoverable community energy systems through a municipally focused awareness program.

[4] https://www.alberta.ca/documents/climate/EEAP-Report-Getting-It-Right-Complete.pdf