TransAlta Tri Leisure Centre

Governance Review - Final Report

May 01, 2013

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Executive Summary

In January of 2013 Russell Farmer and Associates was engaged by the Owners of the TransAlta Tri Leisure Centre to complete a governance review. This review assessed the current ownership model, governance processes and practices, roles and responsibilities, and communications between stakeholders. Findings for this review were divided into the areas of:

- The Part 9 ownership model;
- Governance practices;
- Board composition;
- Source management;
- The role of the Owners; and
- Communication.

The findings contained in this report resulted in 35 recommendations to improve governance practices. Adoption of the recommendations contained in this report will result in substantial changes to the current governance practices of the TLC, its Board, and its Owners. Some of the key recommendations include:

- Removing responsibility for facility maintenance and capital asset management, repairs and replacement from the TLC, and placing it in the hands of either one of the Owner municipalities, or a third party;
- Eliminating, or dramatically reducing the TLC's restricted fund;
- Developing long-term capital and operating budgets that will create predictable revenue for the TLC and predictable expenditures for the Owners;
- Adopting improved governance practices in the areas of: strategic planning, General Manager performance reviews, recording of Board minutes, and Director orientation;
- Discontinuing the practice of municipal administrations briefing Councillors appointed to the TLC's Board prior to Board meetings;
- Changing the composition of the Board by reducing the number of elected officials and increasing the number of public members;
- Changing the appointment process for public members of the Board, and appointing a public member as Chair;

- Engaging in a facilitated process to create a coherent vision for the TLC amongst the owners and the TLC's Board;

- Clearly defining a process to create alignment between TLC programming and Owner priorities; and

- Establishing a clear communication process with defined roles for key stakeholder representatives.

Implementing the recommendations contained in this report will require a collaborative effort between the Owners, their Councils, and the TLC's Board. It is anticipated that process of implementing the recommendations contained in this report will serve as an opportunity to renew the working partnership between the owners, and to renew trust in the Board as a governing body.

Methodology

Our governance review methodology is based upon the concept that structure follows function. If the function of the organization is understood then the governance model that best supports the function is the right structure. In order to understand the functions within an organization our review focussed on three major areas within an organization: (1) Leadership; (2) Process; (3) Structure.

Our review made use of an interview-based approach to capture qualitative information about performance of the TransAlta Tri-Leisure Centre's (TLC) Board. For this project our consultants individually interviewed:

- Each current member of TLC's Board.

- Representatives from each owner's municipal Council including the three Mayors, and one additional Councillor from each Council as selected by the project steering committee. In a single case, one additional Councillor requested, and was granted, an interview.

- The General Manager of the TLC.

- Representatives from each owner's municipal administration including the three CAO's and the Directors of Community Services. In one case a past CAO was interviewed in lieu of the current CAO who is present in an acting role.

Our consultants conducted a comprehensive review of the Tri-Leisure Centre's documents including: strategic plans, Board minutes and agendas, Board packages, orientation materials, documented Board policies and procedures, reports to stakeholders, governance process-related documents, and financial records.

Finally, our consultants attended and observed two Board meetings to observe working relationships, Board processes, and decision making.

History and Underlying Principles

Located within the municipal boundaries of the City of Spruce Grove, the TransAlta Tri Leisure Centre (TLC or Centre) serves as an anchor for recreational services within the region. The TLC was opened in June 2002, and is operated as a not-for-profit Part Nine Corporation. There are three Partners – Parkland County, City of Spruce Grove, and the Town of Stony Plain. As the Centre is a defining element within the Tri-Municipal Region, each respective Owner takes pride in the facility and its operation and is committed to its ongoing success. The TLC is governed by a Part Nine board comprised of three Board members from each municipality.

The TLC was designed to meet the recreational, social and wellness needs of all residents within the Tri-Municipal Region. Not only does the Centre offer a wide spectrum of recreation activities, but it further meets the needs of the communities through its meeting rooms for birthday parties and corporate events.

The Memorandum of Agreement (MOA) signed by the Owners, and revised in 2009, describes the approved uses of the TLC as follows:

> *The Municipalities and the Corporation covenant and agree that the Facility will be constructed by the Municipalities and operated and managed by the Corporation to serve the recreational, cultural and social needs of the Service Area.*
>
> *Without restricting the generality of the foregoing, the Facility shall be operated and managed by the Corporation predominately for the following:*
>
> *a) recreational and sport uses;*
>
> *b) social events and gatherings;*
>
> *c) cultural and art exhibits and shows;*
>
> *d) trade shows and fairs;*
>
> *e) conventions;*
>
> *f) business events;*
>
> *g) fundraising events;*
>
> *h) community events and meetings;*
>
> *i) commercial uses ancillary or complementary to the uses described above.*

In completing this review, Russell Farmer and Associates has been guided by a number of basic principles that we believe should form the foundation of the TLC's governance, and the relationships between the owners.

Transparency – As a jointly owned entity, the TLC must be operated and governed in a manner that allows for appropriate and equal access to information for all of the owners.

Independence – The TLC is incorporated under the Business Corporations Act, and as such is an independent legal entity jointly and equally owned by the three partners. As an independent corporation, the TLC is intended to operate with an appropriate level of autonomy.

Equality – It was the intention from the outset that the three Owners of the TLC would each own one share of the Corporation, and would each be represented equally on the Board. Although the costs associated with the operation for the TLC are distributed based on population, it is clear that the TLC was intended to be governed as a cooperative venture between equal partners.

Alignment – Although the TLC is an independent body, its purpose is to deliver services that fall within the mandate of the municipal partners. As such, the programs and services delivered by the TLC should align with the vision and priorities of the owners in a manner that optimizes the use of resources within the region.

Part 9 Ownership Model

Municipal controlled corporations are for-profit corporations that are controlled by a municipality or group of municipalities. The primary purpose of these corporations is to provide a regional municipal service or municipal facility. Municipal controlled corporations are regulated by the Municipal Government Act (MGA) as well as the Business Corporations Act (BCA). Part 9 companies are formed to promote art, science, religion, charity, recreation or other similar endeavours. A Part 9 company must apply its profits towards the promotion of its purpose and no dividend should be paid to its members. Further, a Part 9 Company is a separate legal entity from its municipal shareholders. This means that they are able to hire staff, administer payrolls, own property and raise capital independent of the municipalities involved. Although independent, the TLC is limited in certain activities by the Memorandum of Agreement signed by its owners. For example, the MOA restricts the TLC from taking on debts or other obligations exceeding $500,000.

The joint ownership model of the TLC is unique within the Province. During our review we were unable to identify another comparably owned and operated multi-purpose recreational facility. As a result, there were limited opportunities during this review for the identification of benchmarks or leading practices.

During interviews there was a general consensus amongst interviewees that the Part 9 Corporation model, and associated ownership structure is seen as being effective and representing the interests of all parties. The shared ownership model enabled by incorporation allows for each of the partnering municipalities to have both ownership and a joint role in governance. Section 2.2 of the MOA states that:

The Municipalities each covenant and agree with each other that the Facility is owned by the Municipalities in the following percentages and that the cost of the construction and development of the Facility will be shared by the Municipalities in these percentages:

Spruce Grove - 42.0%

Parkland County - 33.5%

Stony Plain - 24.5%

The percentages used for cost sharing are now different than the percentages used for Facility construction and development as a result of changes to the populations of the partner municipalities. However, the original share agreement where each municipality holds a single share in the Facility has remained, as has the equal representation on the Board of Directors (the Board). This demonstrates a dichotomy that was intended when the TLC was first planned between the concepts of "user-pays" and equal ownership. Our assessment is that this equal ownership and governance model contributes to a stable partnership which could be adversely affected by moving to another model. We have not identified any specific governance issues which could be addressed through a change in the form of incorporation or the ownership structure.

It is recommended that:

1. The existing ownership and incorporation model for the TLC be retained.

Governance Practices

As a first step in assessing the governance of the TLC our firm looked at a number of key governance activities and assessed them against leading practices. Our findings are provided in the sections that follow.

Board Meetings

We attended two Board meetings, and reviewed the minutes of the TLC's Board for the last two years. We also reviewed Board packages. We identified the following:

- In the past, the Board met monthly, but a decision was made that now has the Board meeting less frequently for regular meetings. The Board had eleven meetings in 2012, with a combination of regular and special meetings.

- Board minutes contain a substantial amount of commentary or narrative detail. An example is provided from the September 18, 2012 Board meeting.

Moved by S. Turton that the Board approve the cost reduction of the Marketing and Communications Coordinator position by $20,000.

Eliminating and/or reducing monies allocated to the Marketing and Communications position would impede the overall work of this position. Communication is an integral part and of key importance to the Centre. The position which is currently vacant has been advertised several times over the past months. The salary grid has shown to be the major hurdle in the recruiting, filling and the retaining of the incumbent of this position. Administration has decided to suspend further recruitment until the New Year.

Motion withdrawn by S. Turton to have the Board approve the cost reduction of the Marketing and Communications Coordinator position by $20,000.

The expected practice for Board or Council minutes is that the minutes contain only agenda items and motions, free from comment. The middle paragraph in this section is unnecessary and should be omitted, and the third paragraph could simply read "motion withdrawn".

- Minutes contain the terms "Carried", "Motion Defeated" and "Carried Unanimously". The anticipated governance practice is that Boards speak with a single voice. This is reflected in the use of the terms "Motion Carried" and "Motion Defeated". The use of "Carried Unanimously" signals that other motions had disagreement on the Board. There is no benefit to distinguishing between motions that are carried and motions that are carried unanimously. Unless there is a call for a recorded vote, it is only required that the minutes record if the motion passed.

- It appears that members of management in attendance are overly involved in deliberations and are actively engaged in Board debates. Staff may make presentations on specific topics, but during deliberations should only be responding to questions and providing clarification. Staff appears to be actively advocating for positions. It is the responsibility of the Chairman to ensure that the role of administration at Board meetings is appropriately managed.

- There is a perception that the number of TLC managers at Board meetings naturally leads the Board into operational matters. During a Board meeting we observed a discussion regarding the purchase of an air handling unit that became much more operational than would be expected at a governance level.

- Motions are generally clear, well-constructed, and stated in the proper affirmative tone. One issue identified is with motions that contain multiple parts. An example from the September 18, 2012 Board meeting reads:

  Moved by D. Hollands that the Board approve that Board expenses be reduced by $10,000 by reducing the number of meetings to nine per year (including Board

Annual Retreat) eliminate the Board Christmas dinner and meals held prior to Board meetings and have policy amended to have development opportunities (i.e. attending of ARPA Conference) for public representatives sitting on the Board be cost considered by their respective municipalities.

This motion should have been split into four separate motions allowing for an appropriate level of discussion and deliberation on each point.

- Meetings generally appear to be professional with Board members and administration treating each other with an appropriate level of respect.

A final consideration on Board meetings related to policy. B-CA: Board of Directors Meetings reads, in part:

Board of Directors meetings shall be held on a regular basis in accordance with provincial laws, rules established and approved by Board of Directors, and Robert's Rules of Order.

It was observed that the Board does not strictly adhere to Robert's Rules of Order. This is not uncommon, as Robert's Rules can be quite onerous for non-professional boards. However, if the Board does not intend to strictly follow Robert's Rules of Order, it would be appropriate to remove reference to it from Policy. The Board may wish to adopt a procedural policy that reflects a more flexible meeting format.

Access to Information

During this review our firm interviewed Board members regarding their satisfaction with agenda packages and the recommendations coming from administration. We also reviewed recent agenda packages.

Members of the Board generally feel that they receive good information from administration and that they have enough information to make informed decisions. Requests for Decisions (RFDs) make appropriate references to applicable policies in order to ensure policy compliance and provide appropriate alternatives.

A significant concern exists with the flow on information to Board members. The governance principle is that information should flow up from administration. The duty of a Board member is to receive information regarding the operation of the TLC from the Board's employee – the General Manager. This same duty applies in municipalities, where Section 153(d) of the Municipal Government Act (MGA) states that Councillors have a duty to:

Obtain information about the operation or administration of the municipality from the chief administrative officer or a person designated by the chief administrative officer

There is evidence that Councillors appointed as Board members are receiving information regarding the operation of the TLC from the administration of their respective municipalities.

Councillors serving as board members report using municipal administration to review financial reports and to provide interpretations regarding information provided by TLC's administration. This is an inappropriate governance practice that undermines the authority of the TLC's General Manager and administration. It also creates unequal access to information among Board members which can impair effective deliberations and decision making. When Board members have questions relating to the operation of the TLC, they have a duty to direct those questions to the General Manager.

A related concern exists with ensuring equal access to information between the Owners. During interviews it was recorded that at least one of the municipal partners receives agenda packages prior to Board meetings. There is not an issue with agendas and agenda packages being provided to owners prior to Board meetings, as this is not an uncommon practice with corporations. However, two practices must be followed. First, the municipality's administration must not provide direction or interpretation to Directors prior to the Board meetings. Second, all owners must receive materials at the same time to ensure equal and transparent access to information.

In the event that an Owner has a comment, concern, or request for further information relating to a matter contained in a Board package or any other administrative matter, it should be put in writing and provided to the General Manager. The GM can then elevate the matter to the Board if appropriate. The practice of the Owners acting through their Board representatives has the potential to move matters that are administrative in nature to a governance body. In addition, proceeding through the General Manager respects a parallel communication structure between organizations, whereby administration speaks with administration.

The current practice of municipal administrations reviewing Board packages, and briefing Councillors prior to Board meetings has a number of impacts on accepted governance practices. There impacts are summarized in the following table.

Governance Principal	Impact
Board members have a duty to obtain information regarding the operation of a corporation from the corporation's chief administrative officer or his/her designate.	Some Board members are failing in this duty by obtaining information regarding the TLC from municipal administration representatives.
Board members have equal access to information regarding the operation of the corporation and matters impacting Board decisions.	Board members that are briefed by their respective administrations have unequal access to information impacting Board decisions.
At a governance level, the chief administrative officer reports only to the Board.	The practice of briefing Board members prior to Board meeting places the General Manager of the TLC in the position of answering questions from, and providing information to, the administration of the owners.
Board members have a duty to approach deliberations and decision making without bias.	Some Board members are failing in this duty by approaching decision making with pre-established positions based on the position of his/her municipality or administration.
Board members represent the interests of the corporation and its stakeholders as a whole, and are not beholden to individual stakeholder groups.	Board members often reflect the interest of their respective municipalities, as provided by their administration, and do not reflect the interest of the corporation or its broader stakeholder group.
The Board speaks with one voice, with each director reflecting the position of the Board as established through a democratic governance process.	The Board is factionalized, with Directors representing the position of the owners both before, and after Board motions.
All Board members are equal members of the Board, with equal access to information to support governance deliberations. Their opinions are equally informed and respected.	Public members of the Board have unequal access to information, and participate unequally in Board deliberations and decisions.

During interviews some current Board members identified a desire for more information on specific topics as part of their Board packages or Board presentations. These included:

- Performance metrics that go beyond user statistics;
- Staff satisfaction survey information as a means to assess the performance of the GM;
- Information regarding insurance levels, OH&S planning, emergency planning, and risk management; and
- More frequent and detailed financial reporting.

In each case it is the responsibility of the Directors to articulate these information requirements, to identify the governance linkage for the information, and to make a formal motion directing administration to provide the information at a Board meeting.

Orientation

A fundamental process for all governance bodies is to provide an effective orientation to new or returning Directors. Some common orientation topics include:

- **Governance** – Roles and responsibilities, principles of effective governance, policy based governance, the role of committees and their function and policy based decision making.
- **Planning documents** – Budgets, capital plans, strategic plans, documentation related to significant projects that are underway.
- **Policies –** Key policy documents including: the MOA, code of conduct (if it exists), Board procedural policies, committee terms of reference documents, Board compensation and expenses policies, conflict of interest policies, and all service level or operational policies adopted by the Board.

TLC's policy B-FA New Board Member Orientation reads:

> *Following the election of new members to the Board of Directors, the General Manager or his/her delegate shall, upon request by the Chair, provide an orientation program to assist each new Board of Director to develop an understanding of his or her duties and responsibilities, and to introduce him or her to the senior officials and other members of staff. In addition, the orientation program should include an examination of the organization and content of the policy manual of the Tri Leisure Centre.*

This policy is exceptionally vague and makes the orientation process discretionary, demonstrating that a well-developed process is not in place. Public members require a fully developed orientation process. Councillors will generally have received some governance orientation at the beginning of the Council term. However, Councillors that were interviewed stated that there would be a benefit to having the role of the TLC and the governance model for municipally held corporations integrated into the Council orientation process.

Strategic Planning

A key function of any governance body is to provide a strategic vision for the organization and to identify strategic priorities and goals in support of that vision. A strategic plan serves several key functions:

- It provides a sense of priorities for the Board;
- It supports the development of Board agendas, allowing the Board to act proactively, and not simply reactively as issues arise;
- It sets priorities for administration;
- It provides a framework to evaluate the success of both the Board and the GM in meeting the agreed-upon strategic priorities; and
- It provides a framework for operational planning and budgeting.

At the outset of this review the TLC did not have a strategic plan. During 2009 to 2011, the Board did have a strategic plan, which had a direct linkage to the GMs performance review. Strategic planning was, however, discontinued. It is commonly cited that strategic planning was discontinued because of uncertainty relating to expansion, and the focus on capital asset management and budgetary issues. For 2013, the Board identified only one Key Strategic Initiative:

> *KSI # 1 Sustainable Operational Strategy*
>
> *The TransAlta Tri Leisure Centre will develop a sustainable operational strategy that defines the balance between fiscal and social responsibility. The strategy will include identification of service levels, an operational plan including a financial model presented to the three municipal owners for approval, and will serve as the foundation for future decisions.*
>
> *Goal 1.1*
>
> *Develop a five year business plan that will be used to set service levels and funding strategies, ensuring a successful and sustainable operational and capital replacement strategy for the TransAlta Tri Leisure Centre.*
>
> *Goal 1.2*
>
> *Review and revise TLC Board policies and guidelines, ensuring policies that guide the operational strategy.*

While this is an important and necessary KSI, it does not constitute a strategic plan. Critically, it provides no direction on programming or service delivery. It therefore provides no direction relating to the core mandate of the TLC.

The Board conducted a strategic planning retreat in February of 2013 with the intention of reviewing the mission and vision, and developing a long term strategic plan. This retreat resulted in a new Mission, new Vision, and four new KSIs:

1. The Customer Experience
2. Community Engagement
3. Governance
4. Sustainable Funding

Each of these KSIs has supporting Goals, and will provide for a more complete strategic plan that addresses a broader governance view of TLC priorities.

Performance Reviews

At a governance level it is anticipated that the Board will engage in effective performance reviews of their employee, the GM, and the Board as a leadership body.

A strongly designed performance review for a senior leadership position facilitates the following primary functions, including:

- Setting measurable and achievable objectives – quarterly and annually – for the senior leader to achieve that directly supports the strategic direction of the organization;
- Monitoring and identifying the measurable ways in which the senior leader's performance contributes to the organization's goals;
- Monitoring and identifying the ways in which the senior leaders performance needs to improve to meet the organization's goals, including ways in which the Board can support the senior leader's efforts;
- Allowing the Board to review essential job functions with the senior leader, and update his/her job description accordingly; and
- Providing documentation of performance that supports salary increases, disciplinary actions, or termination.

Once the strategic direction of the organization is determined, it follows that the performance objectives of the senior leader will directly support and enhance the opportunities of successful implementation of that plan. In order to assist with this, a general guideline would be for reviewers to focus roughly 40 percent of the observations and comments on past work and 60 percent of the observations and comments on what needs to be done moving forward.

The Board engages in a regular assessment of the GM’s performance that is composed of the following elements:

- A self-assessment completed by the GM. The self-assessment does an adequate job in getting input from the General Manager, especially in areas that he/she may feel are the success areas and those areas that have caused additional challenges to be overcome or to provide context to the year’s accomplishments.

- Feedback forms completed by each individual Board member. These forms are collected and compiled by the Chair to form the Board’s performance review document.

- An in-camera meeting for the Board to discuss the performance review document created by the Chair.

- A meeting between the Chair and the GM to discuss the completed performance review.

This process is generally well developed, and the perceptions among most members of the Board are that the process is effective. Our review identified some key deficiencies:

- The feedback forms completed by the Board are generic, and the performance categories are generally subjective;

- There is no linkage in the Board’s feedback to any strategic goals or objectives for the TLC which have been approved by the Board;

- The performance review completed by the Board is almost entirely historical, as there is no consideration of performance goals, significant formative comments or training expectations; and

- The final performance review is not adopted by a motion of the Board.

In addition to assessing the performance of their employee, it is a governance leading practice for the Board to engage in a regular cycle of reflection and assessment of its own performance as a governing body. The Board does not currently engage in any form of self-assessment.

Board Focus

It is expected that the focus of the Board would be closely aligned to the mandate of the TLC. Specifically, the Board should be focussed on the key areas of:

- Financial oversight and budgeting;

- Policy development;

- Service-level setting;
- Recreational and community programs and services; and
- Performance management.

A review of minutes and agenda packages shows that the TLC Board is focussed almost entirely on issues relating to facility infrastructure and budgeting. Historically, the Board spent more time on programs and services. But, as one Director noted, there is currently very little consideration of what happens within the walls. At this time, programming and service delivery are not being addressed at the Board level.

Role of the MGA

During our review we were asked to comment on the impact of applicable legislation on the TLC. Specifically, we were asked if the TLC is required to operate under the requirements of the MGA. It is our understanding that a corporation, even when municipally owned, is not subject to the rules regarding: public meetings, notice for meetings, and mayors as ex officio members.

In a legal opinion provided in June, 2008, TLC's legal counsel provided the opinion that

> *"The appointment of the Board of Directors of a not-for-profit corporation is provided for under the Business Corporations Act (Alberta) and not the Municipal Government Act (Alberta). As the Board of Directors of the Corporation is not a body established under the Municipal Government Act, Section 154(2) of that Act would not apply to the Board of the Corporation."*
>
> *"It should also be mentioned that if the Board of the Corporation is not a "Council Committee", the Board need not have the meetings open to the public nor the press present."*

Although the Board is not required to adhere to the meeting requirements set out in the MGA, the TLC has created alignment through policy. Policy *B-CA Board of Directors Meetings* states:

> *All meetings of the Board of Directors of the Corporation shall be open to the public, unless a matter to be discussed by the Board is within one of the exceptions to disclosure in Division 2 of Part 1 of the Freedom of Information and Protection of Privacy Act (Alberta). Any person, including an elected official who is not a Board Member, who wishes to address or make presentation to the Board on any matter, may do so with the prior approval of the Board.*

It is worth noting that the policy makes reference to the Freedom of Information and Protection of Privacy Act (FOIPP). As a corporation, the TLC may not be subject to FOIPP. It may be a worthwhile investigation for legal counsel to determine if the TLC is required to be FOIPP compliant.

It is recommended that:

2. The format for the Board's minutes be reviewed and amended based on the findings contained in this report;
3. Administration in attendance at Board meetings be restricted from engaging in Board deliberations;
4. A procedural policy be developed, and that references Robert's Rules of Order be removed from all Board policies;
5. An orientation program for Board members be developed and made standard for all Board members;
6. The performance review process for the General Manager be reviewed and amended based on the findings contained in this report;
7. The TLC Board engages in an annual planning process that results in a rolling long-term strategic plan.
8. Municipalities discontinue the practice of briefing Councillors appointed to the TLC prior to Board meetings
9. The Board initiate an annual process of self-assessment as part of the performance review cycle
10. That the administration of owners direct enquiries, and comments directly to TLC administration, and discontinue the practice of escalating matters through Board representatives
11. The TLC confirm the privacy legislation under which it is required to operate

Board Composition

The composition of the Board of Directors is set out in the Memorandum of Agreement (MOA) signed by the Owners in 2009. The MOA states:

> *3.3 (a) There shall be nine (9) directors of the Corporation, three (3) representing each Municipality and of the three (3) representing each Municipality, at least one (1) and not more than two (2) shall be a member or members of Council; the Municipalities shall each vote accordingly.*

In the past six years there have been several recommendations by Board members, consultants, and Council members to change the composition of the Board. The most recent attempt was when the MOA was reviewed in 2009. At that time the Chair, along with the Mayors representing the owners lobbied for changes requested by the Board, but most changes were declined by the Owner's Councils.

Within the Board, opinion is split regarding changes to the Board's composition. There are members of the Board who support its current structure and believe that it is operating effectively. There are also members who would like to see a change in the number of public members, and in the role of Chair. In this section of the report we will consider issues related to the current Board composition and potential changes.

Councillors on the Board

Section 170 of the Municipal Government Act identifies that a Councillor has a pecuniary interest if a decision of his or her Council monetarily affects a corporation for which the Councillor is a director. It is clear from this section of the act that an inherent conflict of interest can exist between the role of Councillor and the role of Director on a corporation in cases where the decisions of Council can monetarily impact the corporation. There is a potential comparable conflict that can exist when the decisions of a corporation's Board on which an individual is a director can monetarily impact a municipality for which the individual is a Councillor. However, Section 170(3) of the MGA states that a Councillor does not have a pecuniary interest in the following circumstance:

> *…by reason of being appointed by the council as a director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality*

Although the appointment of a Councillor to a corporation's board does not meet the legal requirement for pecuniary interest, it is difficult to ignore the conflict between the two intersecting roles.

The governance practice expected of a Councillor when appointed as a director to a corporation is to maintain strict role separation. Some basic principles to follow include:

- When acting in the role of Director the individual is to make decisions in the best interests of the corporation and its objects, regardless of the impact on the municipality or its Council; except to the extent that the municipality is considered along with other impacted stakeholders.

- When acting in the role of Director, the individual is not a spokesperson for his/her Council or municipality. If the Owners need to provide communication to the corporation, it should be done at an administrative level through formal communication channels, or through a presentation to the Board by an independent representative of the Owner.

- When acting in the role of Director, the individual should be getting all information regarding the operation of the corporation for the GM or other members of management. Directors should not be engaging with municipal administrative resources regarding the activities of the Corporation.

- When acting in the role of Councillor the individual is to make decisions in the best interests of the municipality and the community as a whole, regardless of the impact on the corporation or its Board; except to the extent that the corporation is considered along with other impacted stakeholders.

- When acting in the role of Councillor, the individual is not a spokesperson for the Board or the corporation. If the corporation needs to provide communication to the owners, it should be done at an administrative level through formal communication channels, or through a presentation to Council by an independent representative of the corporation.

During interviews Councillors were able to correctly describe the required role separation. However, in practice, there is evidence to suggest that this role separation is not being effectively maintained.

- During interviews there was a persistent theme that Councillors are representing their own Council or owners and not the TLC;

- A Board member stated at a Board meeting, “I’m not speaking as a Board member, I’m speaking as a Councillor”;

- Councillors are providing information to their respective administrative staff regarding the TLC for interpretation or investigation;

- Councillors are being asked questions at Board meetings regarding the decisions of their respective Councils; and

- Councillors are being asked questions at Council meetings regarding the activities of the TLC and its Board.

It is clear from interviews, from reviewing minutes, and from reviewing correspondence, that role separation remains a challenge for Councillors appointed as Board members to the TLC’s

Board. A consistent theme during the interviews was the presence of factions within the Board, representing divisions between municipalities.

It has previously been proposed that the number of Councillors on the Board be reduced from two (2) for each municipality down to one (1) as a means of increasing the independence of the Board. The common contention in opposition to reducing the percentage of the Board made up of Councillors is that public members do not share the same level of responsibility for municipal services and financial management to represent the taxpayers and communities. However, we propose that this reinforces the idea that role confusion is pervasive. If Councillors are considering their accountability to ratepayers and voters, then they are clearly not separating their role as Councillor from their role as Board member.

Public Members

Each municipality currently appoints one public member to the Board. Public members are selected from each municipality, and the method for selection varies between the Owners. At this time, there are no criteria for the selection of public members, other than place of residency. The Board does not have any input into the selection of its public members.

There is a perception that public members are beholden to the Council that appoints them. This has the potential to create block voting if the public members see their role as supporting the position of their Council members on the Board, or representing their municipality. During interviews most public members contended that they have not been contacted by their respective municipalities ahead of Board meetings. There is the potential that public members are not equal contributors on the Board because they do not represent a Council or have access to information coming from the Owners. While this has the potential to create informational inequality amongst Board members, it also allows public members to approach discussions without bias and without partisanship.

There are a number of potential options regarding public members that could be considered.

- On some corporate boards public members are selected based on specific defined skill sets (finance and accounting, recreation programming, facility management, governance, etc.). Boards have created profiles for desirable Directors representing specific industries, areas of experience, or stakeholder groups. However, Board members are not intended to have skill sets that shadow those of administration. The one skill set that could potentially bring value would be accounting and finance if the Board moves to add a Finance and Audit committee.

- Some Boards of municipally owned corporations select their own public members. A hybrid of this option could be considered whereby the Owners each put forward a slate of candidates and the Board is responsible for selecting a candidate from each Owners list of nominees. This model has two advantages. First, it allows the Board to seek either specific skill sets, or a variety of skill sets. Second, it creates the perception that the public members are selected by the Board, and are therefore appointed to act for the Board and not for the municipality from which they were appointed.

Rotating Chair Position

Section 3.3(c) of the MOA sets the requirements for the Board Chairman.

> *The role of Chairman of the Board shall rotate annually throughout the Municipalities. It shall be the responsibility of the Council of each Municipality to designate which of its elected representatives on the Board is to become Chairman or Vice-Chairman in rotation. It is anticipated that the Vice-Chairman would succeed the Chairman.*

In this model, the Executive Committee is composed of the current Chairman, the past Chairman, and the incoming Chairman. In this way, all three owners are represented on the Executive Committee.

Supporters of the existing Chairman model state that:

- The existing Executive Committee model provides good continuity;
- The current rotating Chair position allows for effective representation of all of the partners; and
- The Chairman should be a Councillor to ensure a governance skill set is present and that the Chairman shares the heightened accountability to ratepayers experienced by elected officials.

Opponents to the current rotating Chairman model state that:

- Having an elected official as the Chairman politicizes the position;
- The rotating Chair creates inconsistencies in governance activities such as performance reviews, a constant need to create new relationships, and an inconsistent view on the Board's priorities;
- Having the Owners appoint the Chairman removes a governance activity from the Board as, in many corporations, the Chair is elected by the Board; and
- It impedes the ability of the Chairman to act as the primary spokesperson for the Board, as the Chairman may have to publically communicate Board decisions which are in opposition to his/her Council. It also creates governance issues relating to having a Councillor for one of the Owners presenting to other Owner Councils in the role of Chair.

The 2007 Operational Management Review identified the benefits of a longer-term Chair appointment.

We recommend the Board Chairperson be appointed for a three year term, with rotation occurring every three years instead of every year. This will allow for consistency in implementing the vision, goals, objectives and strategies of a well-developed strategic plan.

When the MOA was signed in 2009 there was a recommendation to change the composition of the Board and to extend the term of the Chair up to three years. The Board and the owners turned down the recommendation. With the existing model of a Councillor as Chairman, extending the term of the Chair is unlikely to have political support. One of the Owners could go many years without having one of their appointed members as Chairman.

An option exists to have the Board's chair be a public member of the Board. This has some advantages:

- It de-politicizes the Chair position;

- It allows the Chair to act as a stronger spokesperson for the Board both to the public and back to the Owners; and

- It allows for a longer term for appointments in order to create continuity.

In the event that the Board moved to a public member as Chair, it would become feasible for the Board to elect its own Chair. This would be a standard governance practice for a Board. However, it is not unusual for the shareholders (the owners) to select the Corporation's Chair.

Committees

Policy B-BB Committees of Board describes the role of standing and ad hoc committees for the TLC. At this time, the Board makes very limited use of committees. Currently, only two committees are in place:

- There is an Executive Committee composed of the Chair, Past Chair, and Incoming Chair. This is the only standing committee. The Executive Committee's primary role is to make decisions between Board meetings. It does not appear that the Executive Committee is active, as decisions between Board meetings are generally done with special meetings. Special meetings are preferable for this purpose, as they are the preferred governance practice. Governing authority should rest with the Board as a collective body and should not be delegated to committees.

- There is a Policy Committee which was formed in the summer of 2012, but that has never met. The Policy Committee is intended to be an ad hoc committee. Although it does not have terms of reference, the purpose of this committee is to review the current policy framework and make recommendations for new policies, or revisions to existing policies. This committee has never met, and appears to be waiting for the completion of the governance review before initiating its work.

Interview participants identified a number of potential committees that they believe should exist. Some suggestions include:

- a recreation, sport, and active living committee;
- a standing finance and audit committee;
- a policy committee (as currently proposed);
- a communications, public engagement and advocacy committee; and
- a governance committee responsible for Board self-assessments and GM performance reviews.

The use of committees would create additional governance capacity, and would allow the TLC's Board to explore specific governance matters or decisions in more detail. It is important to ensure that committees do not cross into areas of administration.

At this time, we believe that it is unreasonable to expect a Board made up largely of Councillors to have a significant committee commitment. The time commitment of being a Councillor means that governance activities requiring significant time commitments outside of Board meetings are unlikely to occur.

Rejected Governance Models

During the Course of interviews participants recommended a number of governance models. These models were considered, and rejected for a variety of reasons. Some of the considered models include:

Proposed Model	Pros	Cons
Eliminate the Board and turn operation of the TLC over to Administration	Consistent with the model used to operate other recreational facilities Allows the TLC to leverage municipal expertise and resources Provides a simplified management and governance model Creates alignment between the TLC and municipal priorities	Increases the potential for conflict between Owners Eliminates the independence of the TLC Demotes the GM to reporting to Owner administration Inconsistent with the Corporate model
Remove all public members from the Board	Places full control in the hands of elected officials representing the interest of the owners Elected officials have a higher level of responsibility to rate payers	Exacerbates governance problems associated with role confusion Fully politicizes the governance of the TLC
Remove all Councillors from the Board	Removes governance problems associated with role confusion Creates a fully independent Corporation	Removes a level of control or input from the owners Unlikely to be politically palatable

Proposed Model	Pros	Cons
Place Owner administration directly on to the Board	Increases knowledge and experience on the Board Leverages the resources of the Owners	Creates a governance issue by having elected officials and municipal administration serving on the same Board Undermines the authority of TLC's GM and administration Blurs governance and operations
Appoint a single municipality to run the TLC	Creates a simpler governance model Successfully in place with the Regional Water Commission	Inconsistent with the original intent of the TLC Partners are unable to agree on a unified vision for the role of the TLC and service delivery
Change the percentage composition of the Board to align with funding levels	Would place greater governance control in the hands of the Owner with the most financial stake in the TLC	Inconsistent with the original intent of the TLC's partnership model Creates a high risk of minority Owners exiting the partnership

It is recommended that:

12. The number of Councillors on the Board representing each municipality be reduced from two (2) to one (1)

13. The number of public members on the Board be increased from one (1) to two (2)

14. The Board appoint a public member as Chair

15. The Chair position be elected annually by the Board, with a maximum of three consecutive years as Chair

16. Public members be selected by the Board from a slate of candidates put forward by each municipality

17. The TLC Board review its use of governance committees, including the use of a policy committee and a finance and audit committee

18. The TLC Board build a profile for Board candidates that can be used by the Owners for candidate recruitment, and that can be used by the Board for candidate selection

Resource Management

During interviews and research for the governance review, the most commonly cited issues with the TLC involved resource management. By resource management we are referring to management of the building and financial management. In this section of the report we consider the major issues and opportunities related to resource management.

Facility Management

Although the Owners jointly own the building and parking lot, responsibility for maintenance, infrastructure repair, and infrastructure replacement are assigned to the Corporation. During the first years of operation, there were very few issues associated with facility management, as the TLC's infrastructure was new and at the beginning or its lifecycle.

One of the key activities that should have been undertaken at the time the TLC was built was the development of a long-term (10 to 20 year) capital repair and replacement plan or Capital

Lifecycle Plan. Plans of this type are standard in capital intensive areas of municipal operations. Capital plans allow for long-term budgeting, resource management, and reserve planning. The Owners should have made planning of this type a requirement for the TLC at the time that the MOA was signed. Unfortunately, no such plans exist.

One of the current ongoing projects is the development of a capital lifecycle plan. In 2012, the FAME Asset Management Report conducted an audit of the TLC's capital assets with lifecycle projections and estimated costs for repair or replacement. The report makes ten recommendations for further analysis. There is a perception that the infrastructure audit requires substantially more work with targeted investigation into key areas, but the FAME report provides some of the foundation for a long term capital repair and replacement plan.

The expertise of TLC administration is generally seen to be in program planning and program delivery. Infrastructure management is seen to be outside of the scope of expertise present in TLC's management and staff. The TLC does not have the resources to employ specific experts in individual trades, and as a result must rely heavily on external contractors. This is a point of contention among representatives of the Owners, as the municipalities have substantial access to resources and staff with expertise in facility management and maintenance. Unfortunately, the TLC is seen to be unwilling to make use of Owner resources, in the interest of maintaining operational independence.

A key example of this issue was seen at a Board meeting attended in March 2013. An agenda item related to replacement of an Air Handling Unit on the facility's roof. The air handling unit was turned off for seven years. There is a question of whether the Board was aware, or knowledgeable regarding the implications of this decision. Management made a presentation to the Board in March regarding a study conducted by an engineering firm on the size of unit the roof could sustain. Management indicated they did not have trust in the engineering report, and wanted direction from the Board on how to proceed. This discussion resulted in a number of observations:

- The TLC staff that were presenting were not engineers, and likely lacked the expertise to effectively assess the validity of an engineering report;

- The Board has no expertise in this area, which is inherently operational in nature, and should not have been placed a position to provide direction on this matter;

- The Owners have the required expertise on these matters in their administration and could have provided valuable resources to the discussion;

- The Owners are responsible for any impact the decision has on the value of their asset, are responsible for funding the capital project, and likely have liability if an issue arises as a result of the project being completed incorrectly; and

- The Owners are not being engaged at a level that would allow them to support the project in a cost effective and efficient manner.

A simple matter like maintenance of the TLC's parking lot has been a major issue. During interviews participants asked why the TLC is doing snow removal with a bobcat on a municipally owned asset when the partner municipalities have departments dedicated to this type of maintenance activity. It has been pointed out that recreational facilities in other municipalities have their balance sheets effectively subsidized by having maintenance activities such as snow removal completed by the municipality.

There is an apparent willingness on behalf of all parties, including TLC management, to consider a model where facility management is outsourced. This model would affect the management of the major capital assets including:

- The building's structure;
- The building's envelope and roof;
- The TLC's parking lot; and
- The electrical, plumbing, and HVAC.

Under this model, the major capital maintenance, repair and replacement would be removed from the responsibility of the TLC. These items would be transferred, under contract, to either one of the Owners, or to a third party. The contracted party would be responsible for maintaining the building up to a standard set within the contract and for completing major capital repairs and replacements in accordance with a long-term capital lifecycle plan agreed to by the Owners. The Owners would agree to fund the maintenance of the building, and to fund the activities contained in the capital lifecycle plan. This model has a number of benefits:

- It allows the TLC to focus on those areas in which it has expertise and which falls within its core mandate. Namely, recreational and community services programming.
- The TLC would continue to be responsible for custodial activities within the TLC, and for the maintenance of all leasehold improvements and equipment related to program delivery and recreational services.
- It would allow the Owners to engage in long-term budgeting for major TLC expenses.
- It would allow the Owners to maintain the restricted surplus allocated for major capital projects at the TLC in their own municipal reserves.
- It would place responsibility for capital asset maintenance, repair, and replacement with parties that have specific expertise and knowledge of facility management.

- It would allow the Owners to leverage municipal resources as a means to reduce the TLC's operating costs.

- It would put budgeting for capital projects, along with management of the long-term capital lifecycle plan in the hands of the Owners.

Financial Management and Restricted Funds

It appears that there was a perception at the outset that the TLC would be highly cost recovery, and it does appear that almost 85% of its total revenue is generated through programs, services, and facility leasing. However, with full cost accounting and an aging building, the TLC is becoming an increasing financial obligation for the Owners**.** The governance review identified a number of areas of financial management of the TLC where Owners had concern.

1. Financial Management Practices

   Section 2.3 (c) of the MOA states that:

   The Corporation shall operate the Facility in a financially prudent manner and the user charges, rents and leases for the Facility shall be set by the Board at a level, which will ensure an optimal financial return for the Facility.

   However, Section 4.2 of the MOA states:

   The Municipalities each agree that any deficit shown in any capital and operating budgets approved by the Municipalities for the fiscal period of the Corporation commencing January 1, 2008 shall be shared by the Municipalities by way of a subsidy or grant to the Corporation

   Based on this system, what incentive is present for the TLC's Board and management to engage in revenue generation or to engage in cost management when there is a guaranteed financial backstop in the form of the partners?

   Questions have been raised by owners regarding some operational and programming decisions that have impacted TLC revenues. These include not actively pursuing hosting of events, and the elimination of the corporate membership program. It is contradictory for the TLC to assert operational independence, but to expect to owners to assume responsibility of operations deficits.

2. Operating Deficits and Unpredictable Costs

   For the Owners, the TLC generates substantial financial risk. The TLC does not have reliable long term financial planning that would allow the Owners to engage in effective budgeting. Part of the issue is with the absence of a long-term capital lifecycle plan. However, there is also the absence of a viable long-term operating budget. In the absence of long-term budgeting, there is an inability for the Owners to predict annual costs associated with the TLC. Even within the same year, TLC costs are unreliable. The TLC has come forward on three separate occasions in the 2012 fiscal year with requests for funding:

- Approval of annual budget;
- Capital repair and replacement funding of $200,000; and
- Year-end operational shortfall.

It is unreasonable to expect a municipality to respond to funding requests after the budget cycle has been completed.

Section 4.2 of the MOA states:

…the Corporation shall ensure that the Facility is at all times operated in accordance with operational and capital budgets approved by the Municipalities as provided for elsewhere in this Agreement;

It appears that, at the direction of the Board, the TLC knowingly made aggressive revenue assumptions that over-estimated revenue in 2012 in order to provide a more reasonable initial funding request to the owners. The TLC is not operating within the intent of Section 4.2 of the MOA if the Board and Management are operating in a manner that they are aware is likely to result in an operational shortfall.

3. Restricted Funds

The composition and management of the TLC's restricted fund has been a major issue raised during the governance review. The initial intent of the owners was to have a restricted Surplus of approximately $2 million to address capital repair and replacement, as well as to ensure financial stability. However, it appears that a combination of under-funding and using the restricted fund to offset operating shortfalls and for capital purchases has depleted the fund to under $500,000.

There is a question regarding the Board's control over restricted funds. The Board historically believed they had the authority to provide administration with direction on the use of restricted funds. Based on a recent legal opinion, it appears that this authority was not given to the board under the MOA. The restricted fund may only be used with the unanimous support of the Owner's Councils.

In December 2012, a motion by the TLC's Board to make use of the restricted fund for capital repair and replacement resulted in the disclosure that the majority of the restricted fund was non-liquid assets in the form of accumulated amortization of capital assets. The composition of the restricted fund has never been presented to the Board; it has always been presented as a total amount. Only $117,000 of restricted fund is in the form of liquid assets. It appears that the auditors were responsible for a decision to use the restricted surplus to offset operating deficits. This may have been the reason for accumulated capital asset depreciation appearing in the restricted fund.

Issues surrounding the restricted fund have raised a number of governance issues:

- The Board did not have the authority to expend the restricted fund. However, the only apparent recourse at this time is to change the practice going forward. There is not a reasonable mechanism for the recovery of those funds.

- Although the TLC should operate at arm's length from the owners with respect to the majority of its financial activities, this is not the case regarding the restricted fund. It is appropriate for the owners to request information relating to the composition and management of the restricted fund. The restricted fund is under the control of the Owners, and is intended to offset capital costs. More detailed accounting relating the composition of the fund should be provided to Owners.

- There is an expressed desire among some representatives of the Owners to retain the restricted funds within their own financial reserves until needed. We believe that the recommendation to move facility maintenance, repair and replacement outside the TLC addresses this.

Although the restricted fund has had significant issues which have served to undermine trust in TLC's Board and administration on the part of the Owners, it appears that there is now a clear understanding of process as described in the MOA. The recommendations contained in this report will address many of the concerns related to restricted funds by eliminating the majority of the larger capital investments from the TLC's budget.

Budgeting

The budgeting process for the TLC is set out in the MOA signed in 2009.

> *6.2 C.A.O. Committee Review – The General Manager shall forward a draft copy of the capital and operating budgets for the following fiscal period to the Chief Administrative Officers of the Municipalities and the General Manager of the Facility and the Chief Administrative Officers shall meet as a committee to review and comment upon the draft capital and operating budgets within twenty-one (21) days of the date that the draft capital and operating budgets are received by the Chief Administrative Officers.*
>
> *6.3 Committee Report to the Board – The Committee comprising the Chief Administrative Officers and the General Manager of the Facility shall report to the Board with the comments and suggestions of the committee, and the Board, before approving the capital and operating budgets for a fiscal period, shall consider such comments and suggestions.*

The Board approves a draft budget that goes to the CAOs of each Owner. The CAOs make comments and provide non-binding feedback. The budget then goes back to the Board for adoption before going to the Owner's Councils for approval. Questions relating to this process were raised during the governance review. Specifically:

- What is the purpose of the non-binding feedback?

  Our assessment is that the non-binding feedback is to allow the CAO to make inquiries needed for clarification, and to provide advice to the Board that will support getting the budget approved by the Owners' Councils.

- Why is the budget going to the CAOs?

  Some interview participants believed that some of the CAOs lacked the subject matter expertise relating to community services programming and facilities management to critically assess and provide input into the TLC's budget. There is a perception that input into budgeting should be occurring at the Director level, not at the CAO level. This is reinforced by the observation that the Directors of Community Services are often responsible for responding to Council enquiries regarding TLC activities and budgeting, but have no direct involvement in the process.

  It is our assessment that the CAOs are the only point of contact for the process. The CAOs should be engaging administrative staff to review and to assess the proposed budget. However, it would be reasonable to revise this section of the MOA to make the review committee "the Chief Administrative Officer and/or the Chief Administrative Officer's designate". In the event that the majority of the capital expenses relating to the facility are removed from the TLC, what remains in programming and capital budgeting may not warrant the time required by the CAOs to participate in this process.

The budget requests for the TLC have gone from $700,000 to $1.6/$1.7m in three years. Funding for other recreational facilities have increased as well over this time period, but not by the same percentage. We believe that there are two causes:

- The TLC has been expending the restricted fund, which has now been depleted. As a result, the TLC now requires a higher level of annual support.

- The TLC facility is aging, as therefore requires a higher level of maintenance.

It is our assessment that moving the major capital costs associated with infrastructure repair and replacement away from the TLC will serve to address the rapid escalation in funding requests by the TLC. Although these costs will continue to exist, they will be in the control on the Owners. It is also likely that this will result in the elimination of the restricted fund. Without the need for the TLC to budget for major capital repair and replacement related to the facility, a fund controlled by the owners to act as a reserve may not be required. Although the TLC will continue to engage in some capital repair and replacement related to leasehold improvements, facility equipment, and office equipment, it can be handled by standard reserves or a substantially reduced restricted fund.

An additional component that is missing for the budgeting process is a reliable multi-year operating budget. The combination of a four-year operating budget with a capital lifecycle plan would allow longer term budgeting. The ideal circumstance would be the TLC coming to the Owners with a request for a four (4) year funding envelope based on effective long term budgeting. The owners could then agree to the funding envelope. This would create:

- Long-term cost certainty for the Owners;
- Long-term revenue certainty for the TLC;
- An ongoing incentive for the TLC to increase revenues and decrease costs as a means of providing a higher standard or service within their funding envelope; and
- A simplified budgeting process.

Under the four-year funding envelope model, the TLC would only come back to the owners for additional funding if something substantially (and unpredictably) changed within their cost or revenue structure. It is important to note that the Councils would still have to approve the funding contained within the envelope with each budget cycle. However, having a funding envelope agreement in place would make it less likely that the funding would not be approved.

It is recommended that:

19. Responsibility for facility maintenance and capital asset management, repairs and replacement be contracted to a third party
20. In the event that the restricted fund continue to exist, the owners receive ongoing detailed financial reporting regarding the restricted fund
21. A long-term capital lifecycle plan be developed for the TLC
22. A long term operating budget be developed for the TLC
23. Councils adopt a five year funding envelope for TLC operating budgets to support each Council's annual budgeting process

Role of Owners

This section of the report considers the role of the Owners with respect to the TLC. There appears to be a high level of tension between the owners which is affecting their ability to work together on matters relating to the TLC. Commonly identified sources of tension include:

- There is a perception shared by many stakeholders that the City of Spruce Grove's approach to the TLC has changed in the past two years. It is believed that the City wishes to gain a higher level of control.
- There is a perception that the trust in the Board as the governance body has been lost. As a result, a perception exists that CAOs are engaging in a higher level of involvement and oversight.
- There is a perception that the municipal administrations are actively trying to meddle in the operation of the TLC.
- There appears to be unequal access to information between the owners.
- There is a perception that the vision of the Owners is not unified. Interviewees indicated that Spruce Groves focus for the TLC is sport tourism and economic development, while the other partners are primary focussed on community groups and accessible programming.

Providing Operational Expertise

As has been discussed elsewhere in this report, there is a disconnection between the requirements of the TLC for expertise in specific operational areas and the ability or willingness to access it from the Owners. Owners have identified that they would like to be more involved in advising the TLC in areas including:

- Budgeting;
- Accounting and financial management;
- Facility management; and
- Community services programming.

Suggestions received during this review included:

- Topic-specific advisory committees;
- Administrative representatives from the Owners attending Board meetings; and
- Board packages being provided to the Owners for comment before going to the Board.

All of these recommendations would serve to undermine the role of the TLCs administration and blur the line between governance and operations. It must be remembered that corporations are independent legal entities, regardless of their ownership. However, there are opportunities to leverage municipal capacity. These include:

- Transferring responsibility for the Facility's major infrastructure to a third party, potentially one of the owners; and
- Making resources available to the TLC on a non-binding basis to provide additional capacity and expertise when requested.

The second of these options is primarily impacted by the trust and culture that exists between the Owners, and between the Owners and the TLC. Currently, that trust is absent.

Programming Priorities

The TLC exists to provide services that, in most municipalities, would fall within the mandate of the Community Services Departments. It is reasonable that there should be a level of coordination between the Owners and the TLC to ensure:

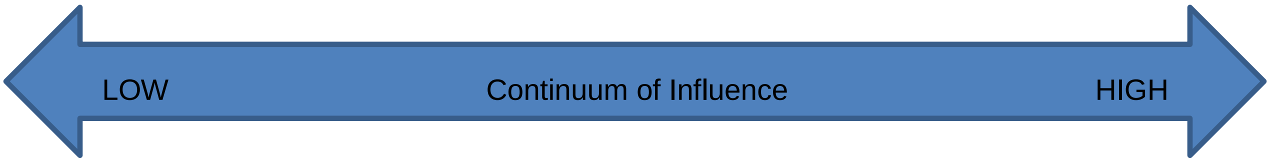
- Limited duplication of services;
- Identification of opportunities for partnerships; and
- That the service priorities of the municipal Owners are being met.

The 2007 Operational Management Review said the following:

> *We recommend the Board develop plans, strategies and tactics to effectively achieve the intent of section 4.3 of the Memorandum of Agreement "to integrate and coordinate the delivery of services by other member municipal facilities.*

At appears, at this time that a desirable level of programming and service coordination is not occurring. Part of the issue lies with two conflicting principles. 1) The intent of the TLC is to provide services defined within the mandate of a municipality. 2) A Part Nine is set up specifically to act as an independent entity. At what level should the owners be engaged in providing direction to the programs and services provided at the TLC?

There is a continuum of possibilities that can be considered.



TLC Acts Independently **Partners Direct Programming**

At one extreme, the TLC would design its programming and services without any form of input from the Owners based on its own assessment of community needs. The TLC would then provide good information to the Owners that would allow them to conduct a gap analysis and determine what programs or services are still needed to meet their service level goals and outcomes.

At another extreme, the Owners would direct TLCs programs and services entirely by identifying program priorities and service expectations which TLC would be obligated to meet. This extreme would eliminate the programming autonomy of the TLC.

In the middle, is a model based on "duty to consult". It acknowledges that the TLC is an independent entity, but that it was created with a specific mandate and purpose. In this model, TLC would follow a formalized process of identifying the programming needs and service level objectives of the Owners. This consultation process would result in a formal document that identified commonalities and differences between the three owners for discussion with Owner representatives. The TLC would then provide a formal response identifying areas where the corporation is able to meet the needs of the Owners, and may include specific funding requests in areas where resources are required to meet Owner needs. The key feature here is that the consultation is clear, transparent, formalized, but non-binding.

At this time, none of these models is occurring. There is a strong perception that linkages between the Owners and the TLC are not occurring in an effective manner that supports coordinated programming and that engages interested stakeholders like recreation departments, FCSS and community groups. Most partners agree that duty to consult would be the preferred model.

An important component of any model that is adopted is defining the level of the discussion. There is a significant difference between "we would like more recreational programming for children aged 9-12" and "we would like a beginners pilates class at 2:00pm on Tuesdays".

Defining the Vision

It is the governance role of the Board of a corporation to define a vision. However, the Owners should support and buy into that vision. Currently, there is not any clear agreement on the Owners' vision for the TLC. Some key areas for discussion include:

- What is the optimal balance between accessibility and cost recovery?
- What is the role of the TLC in economic development and tourism?
- Is there a long-term desire to grow the TLC in Spruce Grove, or potentially to develop satellite facilities?
- What is the desired balance between recreation and culture programming?

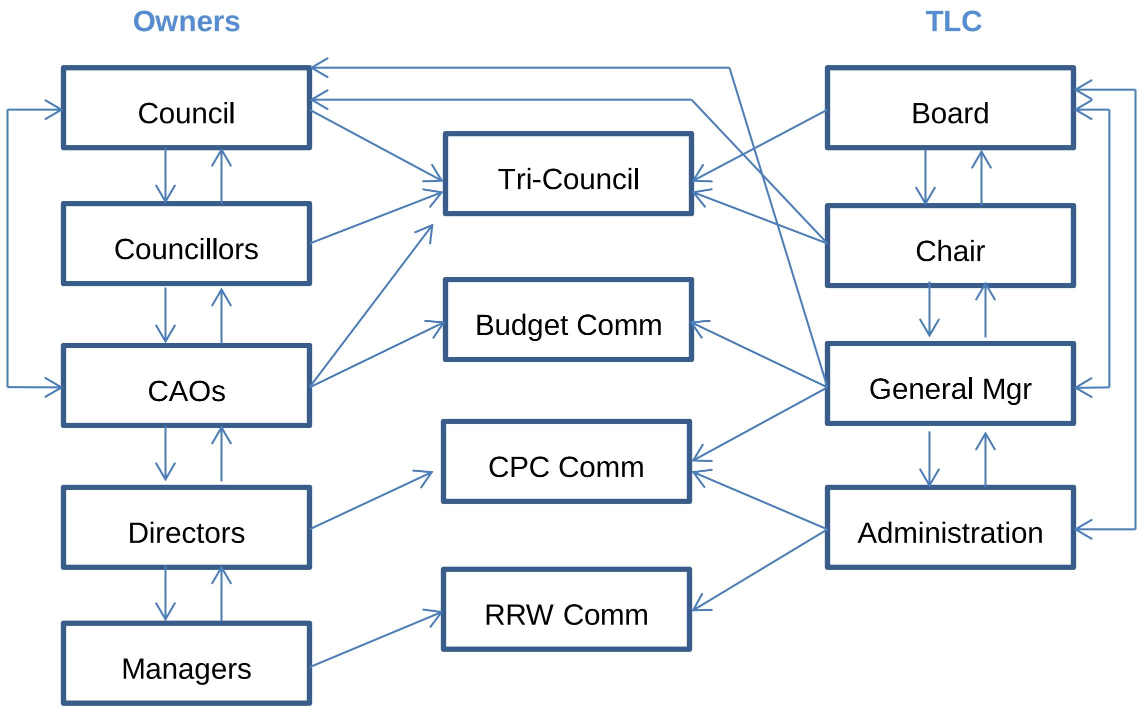
If the three owners could provide a mutual vision that could be supported by the Board, it could provide the foundation of a sustainable funding model.

It is recommended that:

24. A facilitator is engaged to support the owners in coming to consensus on their vision for the TLC, including resolution on a number of core issues.
25. A formalized model for consultation is developed to engaged Owners and key stakeholders in identifying programming and service priorities
26. The adoption of the recommendations contained in this report act as a “fresh start” for the TLC renewing working relationships and re-establishing trust among owners in the Board.

Communication

Many of the issues relating to the operation of the TLC have to do with the absence of a clear communication model. There are multiple communication channels and this creates the very likely scenario of conflicting messaging and unequal access to information.



Defining a clearer and simpler communication model will address many of the current communication issues.

Communication Role of Councillors on Board

Currently Councillors sitting on the Board are being used for communication between the Board and the Owners' Councils, and between the Board and senior municipal administration. Our position is that the governance best practice is for Directors on the Board to serve no communication role between the governance bodies.

There is a feeling the Councils are not being effectively informed on key issues. Some interviewees reported that, as a Councillor, they were generally unaware of the activities of the TLC. The TLC has only become of significant interest to the Councils as a result of financial and budgeting issues.

Information from the Owners should be flowing from the owners to the GM and then up to the Board. Information from the TLC to the Owners should be flowing from the GM or the Chair to the administration or Council.

Communication Role of Chief Administrative Officers

A common concern expressed during the review is that CAOs are overly engaged in the operation and governance of the TLC. Currently, the time commitment of the CAOs to the TLC is disproportionate to its importance or financial impact. In the absence of significant financial concerns, the CAOs should have virtually no role.

The CAOs should be engaging primarily on budgetary matters as defined within the MOA.

Role of Directors of Community Services and CPC Committee

There is a level of frustration that the flagship for recreation in the community is outside of the control of the Community Services Departments and their staff; and a feeling that the Community Services Departments do not have appropriate input into one of the most significant components of the programming that falls within their mandate.

There has historically been a committee composed of the Community Services Directors of the Owners as well as the General Manager of the TLC. This committee meets up to six times each year and is entitled the Community Partnering Committee (CPC). There has never been a terms of reference document for this committee, although one has been proposed. It appears that the intent of the committee was to coordinate and communicate at the level of service delivery

Recently, it appears that the CPC wanted to get involved in areas of budgeting and facility management, which were outside of its traditional mandate. As of January, 2013, the GM has provided notice to the Owners that she will no longer be attending meetings of the CPC committee. Our interpretation of the MOA is that the GM does not have the authority to remove herself from this committee:

> *4.3 A General Manager, appointed by the Board, shall manage and operate the Facility. The General Manager of the Facility will meet regularly with designated representatives from the three municipalities to insure integration and co-ordination of delivery of services with other facilities owned by each of the Municipalities in the Service Area.*

It appears that the GM is obligated to meet with the designated representatives from the municipalities. If the Owners designate the Directors of Community Services, she must meet with them. However, she is only required to meet with them *"to insure integration and co-ordination of delivery of services with other facilities".* She is under no obligation to engage in the scope-creep pursued by some Directors.

There is a perception at the TLC that the GM should be operating at the level of the CAOs and that the TLCs management (Manager of Programs, Marketing and Events) should be operating at the level of the Directors. This is unreasonable, and inconsistent with the intent of the MOA. The GM is managing a single facility, which is beneath the scope of the CAO for a large municipality.

A key issue appears to be the level at which discussion are occurring. Coordination of facility programming is not within the position description of the Directors of Community Services. Recreation and culture focussed managers would be more appropriate for this discussion. Similarly, the General Manager should not be engaging at this level. It is a role more appropriately given to the Manager of Programs, Marketing and Events. There is currently a Regional Recreation and Wellness Committee which contains programming staff from the three Owners and the TLC. The terms of reference signed by the three Community Services Directors provides a mandate for this committee to discuss programming, duplication of services, and opportunities for partnerships. This would be the appropriate level for the discussions currently assigned to the CPC, and for consultation under the "Duty to Consult" model discussed previously.

The CPC Committee is left without a mandate, and should be disbanded. In the event that the Owners adopt the recommendation for contract management of the Facility's infrastructure to a third party, the Directors of Community Service and the GM may serve as an appropriate level for a committee to oversee and advise on that contract.

Role of Chair

It should be a primary role of the Chair to act as a spokesperson for the TLC. This should include making presentations to Councils as a means to reduce the inherent conflict of having Councillors present as Board members to their own Councils and to create a mechanism for consistent messaging. Having the Chair act as spokesperson has historically been challenging because of the dual role of Chair and Councillor. It would be challenging for a Councillor appointed as Chair to make presentations to other municipal Councils.

In the event that the Owners adopt the recommendation to have a public member as Chairman, communications between the Board and the Councils should occur at the level of the Chairman.

Role of Tri-Council Meetings

There is a feeling that the Tri-Council meeting three times each year would serve as a good vehicle for communication regarding the TLC. Tri-Council meetings would serve as a good forum for annual reporting, and for discussion of the Owners' vision for the TLC. Tri-Council meetings may also be used for discussion of issues that arise, and issues resolution.

It is recommended that:

27. The Owners discontinue the practice of using Councillors sitting on the Board as communication conduits to the TLC, relying instead on parallel communication between administrations

28. A consultation process relating to programming and service priorities be formalized between the TLC and the Owners

29. That the CPC be disbanded

30. That the Regional Recreation and Wellness Committee assume primary responsibility for programming, service duplication, and partnership discussions

31. A public member appointed as Chair assume the primary reporting role to Councils and to Tri-Council meetings

Conclusion

Throughout this report we have highlighted issues related to the governance of the TLC. We would like to emphasize that the TLC partnership, although challenging, is a success story which is unique in Alberta. During interviews a common theme was that all parties to the partnership wanted the TLC to serve as a positive example of inter-municipal cooperation and a model of sustainable service delivery.

The recommendations contained in this report should be considered as an integrated set. By reconsidering the operational model of the TLC facility, it becomes possible to reconsider the composition of the Board and the relationship between the Owners and the TLC. Although each recommendation must be discussed individually and adopted or rejected based on its merits, we recommend that discussions begin with a discussion and adoption of the broader operating model that we are proposing. This model includes:

- A reconsideration of the role of the TLC in facility infrastructure repair and replacement as a means to address access to expertise, funding issues, and the long term value of the asset;

- A reconsideration of the Board's composition in light of a renewed focus on service delivery within the TLCs core mandate;

- A fundamental change in long-term financial planning by the TLC and funding for the TLC; and

- A change in communication and cooperation brought about by an improved understanding of roles and responsibilities.

The process that you take in debating, adopting, and implementing the recommendations contained in this report should serve as an opportunity to renew the working partnership between the owners, and to renew trust in the Board as a governing body.

It is recommended that:

32. The Owners review the recommendations contained in this report and individually debate and either adopt or reject those recommendations that are directed at the Owners or the operational model of the TLC

33. That the Board review the recommendations contained in this report and individually debate and either adopt or reject those recommendations related directly to Board policy, process, and practice

34. That an implementation plan be jointly developed to address the recommendation contained within this report that are adopted by the Owners and/or the Board

35. That the MOA be reviewed and amended to reflect the recommendations adopted from this governance review