

Topic: TLC Memorandum of Agreement Amendments

**Introduction:**

The TLC Governance Review Report was originally approved by all three councils in 2013 and it identified several recommendations. Throughout 2014 Administration worked on an implementation plan related to the recommendations for the amendments for the Memorandum of Agreement. A presentation was made to the Board of Directors on December 18, 2014 where the recommendations to the MOA were presented.

**Facts (Background Information):**

To date the amendments for the MOA have not been approved by all three Councils. This is a critical step in moving forward as the MOA can only be amended by unanimous consent of the three Councils. The three Councils recently heard a presentation from the Board of the TLC. As part of the presentation the TLC board indicated that there were some concerns with the Proposed MOA. Administration has received correspondence from the TLC Administration indicating both some legal edits and proposed amendments for the TLC Administration. Administration has responded to the letter from the TLC Administration. In the response administration has outlined the rationale for the changes to the MOA. This rationale is provided for council below.

**Analysis:**

In general, administration from all three municipalities have no concerns with the suggested amendments made by Allan Farmer as they are all minor and do not change in any way the application and intent of the original draft. As such, all of Mr. Farmer's suggestions have been reflected in a revised MOA.

Administration is recommending that 2 changes requested by the TLC Administration and Board not be adopted in the final amendments to the MOA.

The 2 areas in question are listed below with the administration Rationale:

1. 4.2 (h):

To better reflect the needs of all owners this been amended indicating that draft audited statements are required by February 28 and final audited statements are required by March 31. Administration

is recommending this in order to provide adequate time for the TLC financial statements to be consolidated into the municipalities audited financial statements.

2. 7.5:

Administration disagrees with the TLC's position that the allocation of surpluses is the responsibility of the Board. Section 4.2 (e) is a commitment by the Corporation to ensure that the facility is at all times operated in accordance with operational and capital budgets approved by the Municipalities.

Currently, the Agreement does not provide any specific direction in regards to surpluses. Therefore, a surplus would either be required to be paid back to the owners or a request should come forward for an amended budget asking for approval on how the Board wishes to allocate those surpluses.

This issue was clarified by legal opinion in 2013 in regards to the restricted funds and allocation thereof. It was detailed that the TLC did not have the authority to approve the allocation of restricted funds and "in order for them to allocate or spend restricted funds or other reserve funds, those expenditures must be contained in an approved budget." This process is consistent with standard municipal budgeting practices when it comes to allocating or spending funds outside of an approved budget.

This clause outlines how surpluses are to be allocated and standardizes how surpluses are to be dealt with. This Clause eliminates the requirement of the TLC to either give any surplus back to the owners or bring forward an amended budget, the proposed wording in 7.5 simply provides clarity as to where to put those funds. As is the current situation, should the TLC wish to allocate or spend any of those funds they still have the option of asking for approval from the owners immediately (amended budget) or in a subsequent budget.

**Alternatives:**

1. Approve the Amended MOA
2. Approve the MOA with Changes approved by Council
3. Table the MOA to a later Council date

**Conclusion/Summary:**

Administration is in support of the proposed amendments to the Memorandum of Agreement

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