



City of Moose Jaw

COMMUNICATION # CC-2022-0117

TITLE: Board of Revision Appointment
TO: City Council
FROM: Department of Legislative & Enforcement Services
DATE: May 12, 2022
PUBLIC: PUBLIC DOCUMENT

RECOMMENDATION

THAT the City contract with Western Municipal Consulting for Board of Revision services as set out in the attached Service Agreement.

EXECUTIVE SUMMARY

The purpose of this report is to provide information respecting an option to contract out Board of Revision Services and the estimated financial impacts of contracting with Western Municipal Consulting Ltd. ("WMC") for Board of Revision (BOR) services in 2022. Attached to this communication is a proposed Service Agreement with Western Municipal Consulting (Attachment 1).

BACKGROUND

Council is considering options for appointing a Board of Revision in 2022.

DISCUSSION

An alternative to a citizen-based Board of Revision is to contract with a private company that specializes in Board of Revision services. The City has reviewed potential service providers and has found one firm that is capable of meeting the City's BOR needs in 2022. Most cities in Saskatchewan have moved to contracting out Board of Revision services. Prince Albert, Regina, and Saskatoon appoint their own Board of Revision, but they are the exception.

Western Municipal Consulting began by serving municipalities in the Meota area with the RM and Village. They have been growing to serve many of the rural municipalities in that area including Loon Lake and Spiritwood. WMC is increasing its service to additional cities due, in part, to another service provider leaving the field. WMC has five (5) board

members in the Regina area that could be utilized to serve the City and has experience with remote hearings and filing of evidence.

The City has experienced significant BOR losses over the last ten years:

2021 Assessment Appeals			
SUBCLASS	LOST ASSESSMENT DUE TO AGREEMENTS TO ADJUST	LOST ASSESSMENT DUE TO BOARD OF REVISION DECISIONS	MUNICIPAL TAX REVENUE LOSSES (\$)
COMMERCIAL AND INDUSTRIAL	(10,659,880)	(14,097,590)	(\$357,713)
COMMERCIAL AND INDUSTRIAL (GOLF)	-	-	-
ELEVATOR	(572,550)	-	(\$8,358)
MULTI-UNIT RESIDENTIAL (CONDO)	(41,200)	(17,200)	(\$469)
MULTI-UNIT RESIDENTIAL	1,102,640	-	\$8,852
NON-ARABLE (RANGE)LAND AND IMPROVEMENTS	-	-	-
OTHER AGRICULTURAL LAND AND IMPROVEMENTS	-	-	-
RESIDENTIAL	(81,920)	(44,720)	(\$1,017)
RAILWAY AND PIPELINE	-	-	-
RAILWAY AND PIPELINE(RESOURCE)	-	-	-
TOTAL	(10,252,910)	(14,159,510)	(\$358,704)

Most appeal losses came in the Commercial and Industrial property class (1st line in table above). The losses for 2021 total almost \$358,000 in lost tax revenue. A portion is due to assessment errors which are corrected by agreements to adjust (approximately \$154,000) with the remainder of \$204,000 the result of BOR decisions. The history indicates that a majority of the BOR decisions will be overturned in time as they proceed to the Saskatchewan Municipal Board for appeal. Unfortunately, this appeal process normally takes several years which leaves the City in a difficult cashflow situation in respect to budgeted revenues versus actual revenues.

Based upon the evidence, City Administration believes that the level of knowledge and ability to adjudicate appeals that a privately contracted service provides is superior as the privately contracted service does this on an almost full-time basis as their occupation. Citizen-appointed boards work on a very part-time and compressed time basis, during appeals.

Based upon history, if a privately contracted BOR can make the correct BOR decision at the initial appeal stage, it will reverse the current process where a significant number of appeals go against the City at the local level just to be overturned several years later at the Saskatchewan Municipal Board level. This reversal of the process would greatly reduce the need up to \$ 200,000 in one year for the City to make provisions for appeal losses, such as recommended this evening in communication on Tax Policy.

The difficulty of Council's decision is compounded by the fact that the appeal period is currently open and needs to be managed in real time. WMC's availability will start to be limited as it serves its other clients, and it may be challenging for them to take over last minute and organize for the City at this stage.

FINANCIAL IMPLICATIONS

At the May 9, 2022 Executive Committee meeting, the Director of Financial Services presented a report, re: Communication #EC-2022-0069, 2022 Tax Policy for Council's consideration. The report showed the impacts of an appeal process in its current state. For 2021, the City lost \$204,000 in commercial assessment appeals because of BOR decisions.

All appeals from the BOR in 2019 (14) and 2020 (20) were overturned by the Assessment Appeals Committee. In 2018, 15 of the 29 appeals were overturned and in 2017, 21 of the 28 appeals were overturned.

When SAMA's contract was being negotiated in 2020, SAMA asked the City to pay \$35,900/year as a means of offsetting SAMA's estimated legal fees. At the end of the contracted term, any of this money which exceeded SAMA's legal fees would be credited back to the City in the first year of the next contract. If this money is not sufficient to cover SAMA's legal fees, then the City can expect to pay more when a new contract is negotiated. SAMA's current report is that more than \$80,000.00 was spent in 2021 alone. It is anticipated that a full-time contracted Board of Revision will reduce SAMA's legal fees associated with appeals, addressing these rising costs, and possibly leaving a surplus at the end of this term.

Council currently provides remuneration to the members of the BOR based on a daily rate of **\$150** for board members and **\$250** for the Chair. Board members can either claim for the whole day or half the day depending on how long they work on BOR matters on a given day. On average, a day of work for the BOR is 6 hours (or 3 hours for a half day).

WMC charges an hourly rate of \$75 for all board members regardless of who is Chair. For comparison, the daily rate per board member would amount to **\$450**, assuming a 6-hour day.

For the 2021 revaluation year, the City paid its BOR **\$41,475.00** based on the above-noted rates. This amounted to a reported 204 days by all BOR members. If the City had contracted with WMC in 2021 and WMC worked the exact number of days reported by the BOR in 2021, the City would have paid WMC **\$91,800.00**.

- 2021 there were 117 appeals
- 2020 there were 29 appeals
- 2019 there were 82 appeals
- 2018 there were 100 appeals
- 2017 there were 106 appeals

It is anticipated that WMC will reduce the number of hours spent on appeals and provide additional cost savings through training and certification of board members. WMC will be responsible for ensuring all board members are properly trained to satisfy the Province's requirements, beginning in 2023, and for any associated costs.

The BOR secretary is paid an hourly rate of **\$28.46** when performing work related to the BOR. WMC charges an hourly rate of **\$50** for support staff.

For the 2021 revaluation year, the City paid its BOR secretary **\$18,790.72**. She recorded 660.25 hours (appeal period was May 19 – July 19, 2021, hearings heard Sept. 22 through Dec. 16, 2021, and decisions finished March 11, 2022). If the City had contracted with WMC in 2021 and WMC support staff worked the exact number of hours reported by the BOR secretary in 2021, the City would have paid WMC **\$33,012.50**. However, some of these costs could be reduced by using the existing BOR secretary to provide the initial point of contact and customer service at City Hall, accept appeals and collect the associated fees before forwarding them on to WMC.

Additionally, the time that would become available to the legal assistant if she were no longer serving as the BOR secretary could reduce the need for additional staff to assist with the City as it takes steps towards enhancing bylaw enforcement.

WMC also charges a yearly retainer fee of \$250.00, mileage for appeal hearing travel, printing fees, and postage.

OPTIONS TO RECOMMENDATION

Council has the option to continue to use its appointed BOR but will need to invest in recruitment and critical training. The current BOR will have gained some experience from the past year and with oversight may be able to minimize past practices. However, it is an independent board and oversight can only be limited to procedural issues not how the appeal decisions are made. The experience of the current BOR secretary is also an asset.

STRATEGIC PLAN

This report supports the City's strategic objective #3 – Entrepreneurial Civic Administration by determining potential solutions and # 4 - Providing core amenities and services.

PRESENTATION

Mr. Jim Puffalt, City Manager, will introduce and provide a brief overview of this report.

ATTACHMENTS

The following attachments are referenced in the report:

1. WMC Service Agreement;

REPORT APPROVAL

Written by: Andrew Svenson,
Director of Legislative & Enforcement Services/City Solicitor
Reviewed by: Tracy Wittke, City Clerk
Approved by: Jim Puffalt, MBA, CMMA, RMA, City Manager
Approved by: Clive Tolley, Mayor

To be completed by the Clerk's Department only.

Presented to Regular Council or Executive Committee on _____.

Resolution No. _____

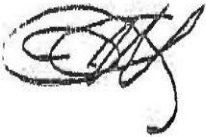
Report Approval Details

Document Title:	Board of Revision Appointment - CC-2022-0117.docx
Attachments:	
Final Approval Date:	May 18, 2022

This report and all of its attachments were approved and signed as outlined below:



Tracy Wittke



Jim Puffalt



Clive Tolley