

Motion - Councillor B. Dubois - Implementation of Non-Disclosure Agreements for Stakeholders

ISSUE

The City of Saskatoon (City) Administration establishes external stakeholder groups to share information and engage on the development of policies, programs, and projects that aim to benefit the community. Many of these groups, and their members, operate under agreed upon Terms of Reference (TOR) that explain the purpose and limitations of such groups. Are the TOR sufficient to ensure that the information sharing and engagement between the City and the stakeholders are efficient, respectful, and transparent to obtain the necessary feedback?

BACKGROUND

City Council, at its meeting held on October 28, 2019, resolved that the Administration provide a report on:

- “1. A review of the terms of reference for any formal stakeholder groups used by the City to ensure that they contain appropriate provisions for the protection of consultation documents; and
2. Where possible and necessary, implementation of non-disclosure provisions in the terms of reference for stakeholder groups, or establishment of a non-disclosure agreement with stakeholders who receive consultation documents from the City.”

City Council, at its meeting held on July 29, 2019, adopted a new, modern approach to public engagement, culminating with the approval of a new [Public Engagement Policy](#) (C02-046) effective September 1, 2019.

CURRENT STATUS

Administration regularly establishes formal stakeholder groups as a public engagement mechanism to seek input in three main areas:

1. Governance: providing information and engaging on municipal decision-making and governance and seeking input on how the organization makes decisions and sets priorities to demonstrate accountability and transparency.
2. Policy & Program Development: providing information on existing policies and programs, and engage on current and new policies to demonstrate accountability and responsiveness.
3. Service Responsiveness & Efficiency: providing information and engaging on service delivery approaches including specific program effectiveness and responsiveness to better meet the needs of the public.

The Administration currently has 13 formal stakeholder groups who provide advice on topics ranging from active transportation to city development (see Appendix 1 for a description). The interaction between the Administration and these groups are governed by a TOR. Generally, a TOR is established for more formal, standing, stakeholder groups and are typically not established for informal, ad-hoc stakeholder groups.

As illustrated in Appendix 1, nine of these stakeholder groups have an established TOR, while four of them do not. For the nine who do have a formal TOR, six of them include or are working on including a confidentiality/non-disclosure clause.

With that data in mind, the City recognizes that its policy, project, program, and service decisions are improved by engaging citizens and other stakeholder groups where appropriate. Where possible, the City commits to conducting transparent and inclusive public engagement activities and processes that help supports City Council and Administration in its decision-making processes in accordance with the principles established in Council Policy C02-046.

From a public engagement perspective, and in keeping with those guiding principles, there should rarely be situations that the City should require a confidentiality or non-disclosure agreement. In the majority of circumstances, any information that is shared with the stakeholder group is considered public information.

However, there may be technical advisory groups and/or project specific stakeholder committees established for longer term purposes. This could result in sharing information that is still considered draft and is not the final policy, program or service decision. In many of these circumstances, Administration has collaborated with the stakeholder group to prepare a TOR which includes both a Confidentiality and a Conflict of Interest section.

Confidentiality

Members are bound to maintain the confidentiality of information received by them as such in their capacity as members of the xxxx Group. Information which is confidential, proprietary to the xxxx Group, Civic Board, Commission, Authority, Committee, the City or non-public must not be divulged to anyone other than persons who are authorized to receive the information.

Conflict of Interest

Members must announce any conflict of interest, or the appearance of a conflict between their own personal interests or the interests of any closely connected person, and the interests of the xxxx Group or the City. Members must attempt to avoid not only actual conflict, but the appearance of a conflict.

DISCUSSION/ANALYSIS

On the surface, a non-disclosure agreement may seem to make sense when engaging stakeholder groups. However, it also may provide a layer of complexity related to

achieving various principles of public engagement such as early involvement, transparency and accountability, and relationship building.

The practice of engagement requires the need to gather feedback and to allow stakeholder representatives the opportunity to go back to their respective organizations or community groups to collect additional input. For the most part, the City wants to encourage stakeholder groups to share information and gather input.

The onus is primarily on the City when sharing confidential or draft information. In order to ensure the City maintains the principles of transparency and accountability and relationship building, Administration will properly label draft materials with a statement such as the following:

Draft Only: This document is intended for consultation purposes only and changes are expected. The document is not intended to be seen as the final plan or recommendation of City of Saskatoon Administration.

This will better ensure that the public and media understand that any draft information has not yet been through the formal governance process and approved by a Committee or City Council. This could provide some level of assurance that the media, public and other community stakeholders have accurate information while minimizing the potential to inadvertently misinform the public with premature information, but continuing to demonstrate the guiding principles of public engagement.

OTHER IMPLICATIONS

There are no financial, legal, social or environmental implications identified.

NEXT STEPS

The Communications & Public Engagement division will continue to work closely with divisions across the City to establish TOR with formal stakeholder groups. Additionally, information will be shared on the internal Engage! Page to properly label draft documents with the appropriate disclaimer.

APPENDIX

1. Formal City of Saskatoon Stakeholder Groups (as of July 30, 2020)

Report Approval

Written by: Carla Blumers, Director of Communications & Public Engagement
Reviewed by: Christine Bogad, Solicitor
Mike Jordan, Director of Public Policy & Government Relations
Celene Anger, Chief Strategy & Transformation Officer
Approved by: Jeff Jorgenson, City Manager