

# COMMITTEE AGENDA



TO **Corporate Administration, Finance and Enterprise Committee**

DATE July 7, 2014

LOCATION Council Chambers, Guelph City Hall, 1 Carden Street

TIME 5:30 p.m.

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## **DISCLOSURE OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF**

### **CLOSED MEETING**

THAT the Corporate Administration, Finance & Enterprise Committee now hold a meeting that is closed to the public with respect to:

**CAFE-C-2014.2 Proposed or pending acquisition or disposition of land**  
S. 239 (2) (c) proposed or pending acquisition or disposition of land

**CAFE-C-2014.3 Advice that is subject to solicitor-client privilege**  
S. 239 (2) (f) Advice that is subject to solicitor-client privilege

### **OPEN MEETING**

**CONFIRMATION OF MINUTES-** June 10, 2014 open meeting minutes

### **PRESENTATIONS** (Items with no accompanying report)

- a) Heather Millman presentation of the petition for the removal of anti-abortion ads from City buses.

### **CONSENT AGENDA**

*The following resolutions have been prepared to facilitate the Committee's consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with separately. The balance of the Corporate Administration, Finance & Enterprise Committee Consent Agenda will be approved in one resolution.*

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ITEM	CITY PRESENTATION	DELEGATIONS	TO BE EXTRACTED
CAFE-2014.31 Guelph Police Services Headquarters – Business Case			
CAFE-2014.32 Corporate Advertising Policy			
CAFE-2014.33 Legal Representation Audit – Update on Outstanding Recommendations			

Resolution to adopt the balance of the Corporate Administration, Finance & Enterprise Committee Consent Agenda.

### **ITEMS EXTRACTED FROM CONSENT AGENDA**

Once extracted items are identified, they will be dealt with in the following order:

- 1) delegations (may include presentations)
- 2) staff presentations only
- 3) all others.

### **STAFF UPDATES AND ANNOUNCEMENTS**

### **ADJOURN**

**NEXT MEETING** – August 12, 2014



**The Corporation of the City of Guelph  
Corporate Administration, Finance and Enterprise Committee  
Tuesday June 10, 2014 at 5:30 p.m.**

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Members:	Chair Hofland Mayor Farbridge	Councillor Kovach
Absent:	Councillor Burcher Councillor Laidlaw	
Councillors:	Councillor Furfaro Councillor Wettstein	
Staff:	Mr. A. Horsman, Executive Director, Finance & Enterprise/Chief Financial Officer Mr. M. Amorosi, Executive Director, Corporate & Human Resources Ms. D. Black, Council Committee Coordinator Ms. J. Sweeney, Council Committee Coordinator	

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**Call to Order (5:30 p.m.)**

Chair Hofland called the meeting to order.

**Disclosure of Pecuniary Interest and General Nature Thereof**

There were no disclosures.

**Confirmation of Minutes**

1. Moved by Mayor Farbridge  
Seconded by Councillor Kovach

That the open meeting minutes of the Corporate Administration, Finance and Enterprise Committee held on May 5, 2014 be confirmed as recorded.

*VOTING IN FAVOUR: Mayor Farbridge, Councillors Hofland and Kovach (3)*

*VOTING AGAINST: (0)*

CARRIED

**Consent Agenda**

The following items were extracted:

**CAFE-2014.25      Corporate Records Retention By-law Amendment**  
**CAFE-2014.30      Finance Department 2013 Report**

**Balance of Consent Items**

2. Moved by Councillor Kovach  
Seconded by Mayor Farbridge

That the balance of the Corporate Administration, Finance and Enterprise Committee June 10, 2014 Consent Agenda, as identified below, be adopted:

**CAFE-2014.26 Updated Procurement By-law**

1. That report FIN-14-23 "Updated Procurement By-law" dated June 10, 2014 be received by Committee for information.
2. That the new Procurement By-law be approved.

**CAFE-2014.27 2013 Final Year-End Operating Variance Report and Operating Surplus Allocation**

1. That the report FIN-14-26 dated June 10, 2014 entitled '2013 Year-End Variance Report and Operating Surplus Allocation' be received.
2. That the April 22, 2014 letter from Guelph Police Services requesting that the projected Police Operating Surplus of \$153,314 be utilized to fund work associated with the Headquarters project not be approved.
3. That the allocation of the 2013 Tax Supported year end operating surplus in the amount of \$693,100 be allocated to reserve 193 – OMB and Legal Reserve.
4. That the Water and Wastewater surpluses be allocated as follows:

**2013 Water & Wastewater Surplus Allocation**

Water Stabilization Reserve (181)	\$ 196,313
Water Capital Reserve Fund (152)	\$ 343,052
Wastewater Stabilization Reserve (182)	\$ 208,061
Wastewater Capital Reserve Fund (153)	\$1,707,874
<b>Total Allocation</b>	<b>\$2,455,300</b>

5. That the Court Services deficit of \$173,545 be funded from reserve 211 – POA Contingency Reserve.

**CAFE-2104.28 March 2014 Operating Variance Report**

1. That Report FIN-14-28 2014 dated June 10, 2014 entitled 'March 2014 Operating Variance Report' be received for information.

**CAFE-2104.29 2014 Q1 Capital Budget Monitoring Report**

1. That Report FIN-14-29 dated June 10, 2014 and entitled '2014 Q1 Capital Budget Monitoring Report' be received for information.

*VOTING IN FAVOUR: Mayor Farbridge, Councillors Hofland and Kovach (3)*

*VOTING AGAINST: (0)*

CARRIED

## **Presentation**

Mr. Scott Williams, General Manager of Guelph-Wellington Business Enterprise Centre provided an overview of their programs and services. He summarized their past year activities and highlighted the next year's outlook.

## **Extracted Items**

### **CAFE-2014.25 Corporate Records Retention By-law Amendment**

Mr. Mark Amorosi, Executive Director Corporate & Human Resources, introduced Jennifer Slater the Records and Information Specialist. He provided a brief overview of the records retention program.

Ms. Jennifer Slater, Records and Information Specialist, provided an overview of corporate records retention compliance, risks and the benefits of a centralized records program.

3. Moved by Mayor Farbridge  
Seconded by Councillor Kovach

1. That the records retention by-law, as set out in Appendix B, be approved and adopted by Council.

*VOTING IN FAVOUR: Mayor Farbridge, Councillors Hofland and Kovach (3)*

*VOTING AGAINST: (0)*

CARRIED

### **CAFE-2014.30 Finance Department 2013 Report**

4. Moved by Mayor Farbridge  
Seconded by Councillor Kovach

1. That Report FIN-14-33 dated June 10, 2014 and entitled 'Finance Department 2013 Report' be received for information.

*VOTING IN FAVOUR: Mayor Farbridge, Councillors Hofland and Kovach (3)*

*VOTING AGAINST: (0)*

CARRIED

## **Staff Updates and Announcements**

There were no staff updates or announcements.

## **Adjournment (6:00 p.m.)**

5. Moved by Councillor Kovach  
Seconded by Mayor Farbridge

That the meeting be adjourned.

CARRIED

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Dolores Black –Clerk Designate

This petition will be delivered to:

City of Guelph Transit  
Mayor of Guelph  
Karen Farbridge  
[See response](#)

## Remove anti-abortion ads from city buses

1. Petition by

Heather Millman

Guelph, Canada

In Canada women have the legal right to choose whether or not to abort a pregnancy. Women who exercise their right to choose should not be shamed by public bus ads promoting a subjective moral opposition to this right. It is shameful that the City of Guelph chooses the revenue from these ads over promoting women's legal rights, and in doing so that it displays obvious prejudice against many of its citizens. The City of Guelph should hence remove all anti-abortion ads from its public buses and abstain from running any such biased and offensive ads in the future.

To:  
City of Guelph Transit  
Karen Farbridge, Mayor of Guelph  
Remove anti-abortion ads from city buses

Sincerely,  
[Your name

**\*\* Please Note:**

*As of Tuesday, June 24, 2014, there were 3,081 supporters.*

*Not all supporters are residents within the City of Guelph.*

**CORPORATE ADMINISTRATION, FINANCE & ENTERPRISE COMMITTEE  
CONSENT AGENDA**

**July 7, 2014**

Members of the Corporate Administration, Finance & Enterprise Committee.

**SUMMARY OF REPORTS:**

The following resolutions have been prepared to facilitate the Committee's consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with immediately. The balance of the Corporate Administration, Finance & Enterprise Committee Consent Agenda will be approved in one resolution.

**A Reports from Administrative Staff**

<b>REPORT</b>	<b>DIRECTION</b>
<b>CAFE-2014.31 GUELPH POLICE SERVICES HEADQUARTERS – BUSINESS CASE</b>  1. Report will follow.	
<b>CAFE-2104.32 CORPORATE ADVERTISING POLICY</b>  1. That the Corporate Administration, Finance & Enterprise Committee staff report regarding advertising on city assets #OTES071431, dated July 7, 2014 be received.  2. That staff be directed to create a corporate policy regulating advertisements on city assets consistent with current applicable provincial and federal legislation, and in line with the <i>Canadian Code of Advertising Standards</i> as created and administered by Advertising Standards Canada.	Approve
<b>CAFE-2104.33 LEGAL REPRESENTATION AUDIT – UPDATE ON OUTSTANDING RECOMMENDATIONS</b>  1. That the Corporate Administration, Finance and Enterprise Committee receive Report CHR-2014-51 entitled 'Legal Representation Audit – Update on Outstanding Recommendations' dated July 7, 2014, for information.	Receive

attach.



# STAFF REPORT



TO Corporate Administration, Finance & Enterprise Committee

SERVICE AREA Operations, Transit & Emergency Services

DATE July 7, 2014

**SUBJECT Corporate advertising policy**

REPORT NUMBER OTES071431

## EXECUTIVE SUMMARY

### PURPOSE OF REPORT

This report is in response to public feedback and media attention surrounding the Guelph and Area Right to Life advertisements currently on four Guelph Transit vehicles. It details the current issues faced, and the current advertising activity of Guelph Transit and Community & Social Services. Through this report, staff are recommending that a corporate policy regulating advertisements on city assets be created.

### KEY FINDINGS

The City of Guelph does not have a corporate policy guiding advertisements on city assets.

Guelph Transit advertising revenue for 2013 was \$237,500.

Community & Social Services received \$155,000 in advertising revenue in 2013.

A community petition was created that requested that the Guelph and Area Right to Life advertisements currently displayed on Guelph Transit conventional transit vehicles be removed.

### FINANCIAL IMPLICATIONS

Guelph Transit advertising revenue for 2013 was \$237,500. The contracts for bus, bench and shelter advertising were recently tendered through the City's request for proposal process and are currently being assessed for award.

Community & Social Services received \$155,000 in advertising revenue 2013. The Guelph Storm is contracted to sell and manage the advertising in the Sleeman Centre.

# STAFF REPORT



## **ACTION REQUIRED**

Corporate Administration, Finance & Enterprise Committee receive for information and approve recommendations.

## **RECOMMENDATION**

THAT the Corporate Administration, Finance & Enterprise Committee staff report regarding advertising on city assets #OTES071431, dated July 7, 2014 be received; and

THAT staff be directed to create a corporate policy regulating advertisements on city assets consistent with current applicable provincial and federal legislation, and are in line with *Canadian Code of Advertising Standards* as created and administered by Advertising Standards Canada.

## **BACKGROUND**

In recent years, two particular advertising campaigns displayed on Guelph Transit vehicles have garnered significant community and media attention due to the controversial nature of the message.

The City of Guelph does not currently have a corporate advertising policy. Guelph Transit provides guidelines, as developed by legal services, to third-party advertisers who sell the advertising on transit amenities. Community & Social Services contracts the Guelph Storm to sell advertising at the Sleeman Centre, with contract language that obligates the City and the contractor to work together to resolve signage conflicts.

## **REPORT**

Guelph Transit buses, benches and shelters, and the Sleeman Centre facility provide additional operating revenue to the City through the sale of advertising. Advertising sales are contracted to third-party agencies who manage the day-to-day sales, marketing, production and installation of advertising on city advertising amenities.

## **Current issues**

In recent years, two particular campaigns by Guelph and Area Right to Life that are displayed on Guelph Transit vehicles have garnered significant community and media attention due to the controversial nature of the message. Guelph Transit maintains a database of concerns received by the public. Since the beginning of 2013, the only complaints regarding transit advertisements have pertained to the Guelph and Area Right to Life campaigns, with nine formal complaints received. In early 2014, an online petition was started that requested that the City remove the Guelph and Area Right to Life advertisements from transit vehicles. There are approximately 3,000 signatures on this petition.

# STAFF REPORT

It has been the position of the City that although the Guelph and Area Right to Life advertisement may be seen as controversial, refusing to post it could be seen as limiting freedom of expression under the Charter of Rights and Freedoms.

The City of Guelph does not currently have a corporate advertising policy. Guelph Transit provides guidelines, as developed by legal services, to third-party agencies who sell the advertising on transit amenities. The most recent version of the guidelines have been included as an attachment to this report.

All transit advertisements are submitted to Guelph Transit for approval prior to posting. Advertisements that may be seen as being controversial in nature are reviewed and approved by Transit staff, Legal Services and the Executive Director, Operations, Transit and Emergency Service. Advertisements of this nature include a disclaimer that indicates that the advertisement is paid for by a third party and does not represent the views of the City of Guelph.

Community & Social Services contracts the Guelph Storm to sell and manage the advertising at the Sleeman Centre. The current contract between the City of Guelph and the Guelph Storm does not include language that would allow the City to terminate an advertising campaign, but it does obligate both parties to work together to resolve any signage conflicts.

## **Guelph Transit advertising activity**

The following table summarizes the advertising sales on benches, shelters and transit vehicles.

TYPE	Bench		Shelter		Bus	
Category	2012	2013	2012	2013	2012	2013
Advertisements	105	89	83	104	1138	602
Not-for-profit Advertisements	0	0	46	21	74	17
Paid Not-for-profit Advertisements	0	0	46	22	68	6
Free Non-profit Advertisements	0	0	0	0	6	11
Total	105	89	175	147	1286	636

For profit organizations make up the majority of advertisers who purchase space on the buses, benches and shelters. Not-for-profit organizations also use transit advertising to assist with their marketing efforts. Between 2012 and 2013, not-for-

# STAFF REPORT



profit advertising represented an average of eight per cent of all transit advertisements sold.

Guelph and Area Right to Life purchased advertisements on Guelph Transit buses from the third-party agency. There are two campaigns running concurrently, "This is a child not a choice" and "Simply Human", with a total of four exterior signs on the buses. The campaigns are included as an attachment to this report. Guelph and Area Right to Life is charged a total of \$13,000 per year for the transit advertisements. This is a discounted rate that was provided by the third-party agency.

The transit advertising contracts that were recently tendered require that all for-profit, not-for-profit, charitable, community groups or organizations or any other group, individual or organization pay fair market price for advertising on any Guelph Transit advertising amenity.

## **Community & Social Services advertising activity**

Through the Community & Social Services contract with the Guelph Storm, advertisers can purchase space in the Sleeman Centre on rink boards, on the ice, on the electronic video score clock and on the two Zambonis. In 2013, a total of 80 advertisers purchased space in the Sleeman Centre from the Guelph Storm. Of the 80 advertisements sold, approximately five per cent were sold to not-for-profit agencies. As a result of this contract, Community and Social Services received \$155,000 in advertising revenue in 2013.

It is the recommendation of staff that a corporate policy regulating advertisements on city assets be created, allowing for consistency across the corporation. The guidelines that currently provide advertising campaign direction to the third-party agencies can be replaced by any new advertising guidelines or policies introduced or updated by the City during the term of the contract.

## **CORPORATE STRATEGIC PLAN**

2.1 Build an adaptive environment for government innovation to ensure fiscal and service sustainability.

2.3 Ensure accountability, transparency and engagement.

3.1 Be economically viable, resilient, diverse and attractive for business.

## **DEPARTMENTAL CONSULTATION**

Community & Social Services

# STAFF REPORT



## FINANCIAL IMPLICATIONS

Guelph Transit advertising revenue for 2013 was \$237,500. The contracts for bus, bench and shelter advertising were recently tendered through the City's request for proposal process and are currently being assessed for award.

Community & Social Services received \$155,000 in advertising revenue 2013. The Guelph Storm is contracted to sell and manage the advertising in the Sleeman Centre.

## COMMUNICATIONS

N/A

## ATTACHMENTS

Transit advertising guidelines

Guelph and Area Right to Life Advertisement – This is a child, not a choice

Guelph and Area Right to Life Advertisement – Simply human

## Report Author

Heather Mathewson Jelsma, Coordinator, Sales and Market Development

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### Approved By

Phil Meagher

General Manager

519-822-1260 extension 3321

phil.meagher@guelph.ca

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### Recommended By

Derek McCaughan

Executive Director

519-822-1260 extension 2018

derek.mccaughan@guelph.ca

## **ADVERTISING GUIDELINES**

### **1. Prior approval**

- (1) The Contractor shall provide all proposed advertising to the City prior to its display.
- (2) The City may decide whether proposed advertising does not comply with the provisions of this agreement, is likely to cause a hazardous or dangerous situation or is otherwise objectionable.
- (3) The City may, in its sole discretion, refuse its approval of proposed advertising for any reason, including that it does not comply with the provisions of this agreement, is likely to cause a hazardous or dangerous situation or is otherwise objectionable.
- (4) If the City refuses its prior approval of proposed advertising, the Contractor shall not display it, and the City shall not be liable in any way (including for losses, damages or costs) for any consequences of its refusal.
- (5) If the Contractor displays advertising despite the City's refusal of prior approval, the City may remove it from display at the sole cost of the Contractor and the City shall not be liable in any way (including for losses, damages, or costs) for any consequences of its removal.

### **2. Reconsideration**

- (1) Notwithstanding that the City has not refused approval of advertising prior to display of the advertising, the City may subsequently, after display of the advertising has begun, require immediate (within 24 hours) removal of the advertising for any reason, including that it does not comply with the provisions of this agreement, is causing or is likely to cause a hazardous or dangerous situation or is otherwise objectionable.
- (2) If the Contractor fails to remove the advertising from display immediately (within 24 hours) after receiving the City's requirement to do so, the City itself may remove the advertising from display.
- (3) The removal of advertising from display on the ground of reconsideration by the City, shall be at the sole cost of the Contractor, and the City shall not be liable in any way (including for losses, damages or costs) for any consequences of its requirement for the Contractor to remove the advertising from display or of its own removal of the advertising from display.

### **3. Complaint**

- (1) If the City receives a complaint about advertising during its display period, and if the City decides that the advertising does not comply with the provisions of this agreement, is causing or is likely to cause a hazardous or dangerous situation or is otherwise objectionable, the City may notify the Contractor of the existence and nature of the complaint, and may give notice to the Contractor requiring the Contractor to remove the advertising from display immediately (within 24 hours).
- (2) If the Contractor fails to remove the advertising from display immediately (within 24 hours) after receiving the City's requirement to do so, the City itself may, remove the advertising from display.
- (3) The removal of advertising from display on the ground of complaint, shall be at the sole cost of the Contractor, and the City shall not be liable in any way (including for losses, damages or costs) for any consequences of its requirement for the Contractor to remove the advertising from display or of its own removal of the advertising from display.

### **4. Disclaimer**

- (1) The City may, at any time, require that the Contractor include, with advertising specified by the City, a statement, in form and content as determined by the City, indicating, for example, that the advertising is paid for by an outside party, does not represent the views of the City and that the City wishes to comply with applicable law, such as the freedom of expression provisions of the *Canadian Charter of Rights and Freedoms*.

5. Particulars of content

- (1) The Contractor shall ensure that advertising displayed pursuant to this agreement, including its material, language, representation and image:
  - a. Is aesthetically pleasing;
  - b. Fits into, and does not clash with, the environments in which it is placed;
  - c. Complies with the City's policies, including its advertising policies, all as amended or replaced from time to time;
  - d. Complies with applicable codes and guidelines (including the Canadian Code of Advertising Standards) promulgated by Advertising Standards Canada and as amended or replaced from time to time; and
  - e. Complies with all applicable law.
- (2) The Contractor shall ensure that advertising displayed pursuant to this agreement, including its material, language, representation and image, does not:
  - a. Contain or promote discrimination on any prohibited ground of discrimination as set out in the *Human Rights Code*;
  - b. Contain inaccurate or deceptive claims or statements;
  - c. Present products prohibited from sale to minors in such a way as to appeal particularly to minors;
  - d. Present demeaning or derogatory portrayals of individuals or groups;
  - e. Portray or exploit violence, sexuality or graphic or horrific images;
  - f. Promote or mention in any way alcoholic beverages or corporate or product names related to alcoholic beverages, except in sponsorship of appropriate events and where the message is one of sponsorship support and not product consumption;
  - g. Promote or mention in any way tobacco products or corporate or product names related to tobacco products;
  - h. Interfere with the operation of equipment; or
  - i. Interfere with the provision of City programs or services.



# **This is a Child. Not a ~~Choice~~.**

**Why Abortion when there are alternatives?**

**24 HOUR HELP LINE**

**SPONSORED BY GUELPH & AREA RIGHT TO LIFE [www.guelphforlife.com](http://www.guelphforlife.com)**

**1.800.665.0570**

THIS MESSAGE IS BEING PAID FOR BY A THIRD PARTY AND DOES NOT REFLECT THE VIEWS OR OPINIONS OF THE CORPORATION OF CITY OF GUELPH



# Simply Human.

"I'm not a potential person  
I'm a person with potential."

Guelph & Area Right to Life  
[www.guelphforlife.com](http://www.guelphforlife.com)  
519.836.6311

This message is funded by an independent third party and is not associated with the Corporation of the City of Guelph



Safeguard her potential. Protect her life!

# STAFF REPORT



TO Corporate Administration, Finance and Enterprise Committee

AREA Corporate and Human Resources

DATE July 7, 2014

**SUBJECT Legal Representation Audit - Update on Outstanding Recommendations**

REPORT NUMBER CHR-2014-51

## EXECUTIVE SUMMARY

### PURPOSE OF REPORT

To provide Committee an update on the outstanding recommendations from the 2012 Legal Representation Audit.

### KEY FINDINGS

In October 2012, the Legal Representation Audit was presented to Audit Committee and contained 10 recommendations.

At the March 2014 Audit Committee, the Legal and Realty Services follow up Audit was presented and showed 5 completed recommendations, 2 partially complete and 3 incomplete recommendations.

Since March 2014, 2 recommendations remain incomplete – related to administrative support and technology software for contract management with the 3<sup>rd</sup> recommendation (i.e. related to a customer service survey to develop an ongoing performance indicator) in progress.

### FINANCIAL IMPLICATIONS

Financial implications associated with contract management software per the Audit recommendation will be included in the 2015 budget with a notation linking to the Audit recommendation.

Contingent on the results of the timekeeping review, should no resource be available to Legal/Realty Services, then a submission will be made in the 2015 budget with a notation linking to the Audit recommendation.

### ACTION REQUIRED

Receive for information.

## RECOMMENDATION

That the Corporate Administration, Finance and Enterprise Committee receive Report CHR-2014-51 for information

# STAFF REPORT

## BACKGROUND

In 2012, the City's Internal Auditor conducted an audit with respect to Legal Representation at the City. Its primary goals were to:

1. Provide an informed recommendation on whether Legal and Realty Services should be provided internally by the City
2. To provide an understanding of the current services delivered, the organizational structure, costs, objectives, standards and outcomes.
3. To make informed recommendations for improvements to the current services, for the introduction of new services or service delivery models, and
4. Recommend performance indicators, goals and objectives, including service levels.

A total of ten recommendations were made as a result of the audit.

In 2014, "in accordance with professional internal audit standards, a Follow-up Audit was conducted to evaluate the status of audit recommendations from the original audit completed in October 2012.

The purpose of the follow up audits was to evaluate the impact of the original audit to determine if anticipated improvements have been realized and also to identify any new or emerging issues."

The Follow Up Audit concluded that of the ten recommendations, 5 were complete, 2 were partially complete and 3 were incomplete.

This report provides an update and status regarding the outstanding recommendations.

## REPORT

Attached as appendices are the 2012 Legal Representation Audit, the Management response and the 2014 Legal and Realty Services Follow up Audit for information.

The following information outlines the status of the 2 partially completed recommendations:

<b>FINDING</b>	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture of why.
<b>RECOMMENDATION</b>	External legal costs should be managed through the Legal and Realty Services department's accounts, to ensure a clear picture of the true legal costs and to allow for better analysis. This would require all legal budget items (across the corporation) to be expensed through Legal to ensure acute reporting providing accountability and transparency.
<b>STATUS</b>	<b>Partially Complete.</b> Financial reporting has not been revised to transfer all legal budgets to Legal Services however, changes to the Corporate and Human Resources/Legal and Realty Services Annual Report have been made such that total legal costs across the Corporation will now be reported. This provides greater transparency

# STAFF REPORT

	in reporting legal costs. The new policy also requires all service areas to submit invoices for external legal services to Legal Services for review and reporting purposes.
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Clarification at the March 14<sup>th</sup> Audit Committee confirmed that staff have met the intention of the recommendation through an alternative implementation method.

<b>FINDING</b>	The department does not budget for external legal services. These costs are covered by reserve transfers, for a net zero operating budget (for external legal costs). This does not allow for a clear picture of legal costs.
<b>RECOMMENDATION</b>	It is recommended that budgeting practices be changed to budget external legal costs based on historical expenditures, utilizing the reserve for complex or large external issues.
<b>STATUS</b>	<b>Partially Complete.</b> The budget for external legal costs, which are primarily OMB related, has been increased by \$200K however the historical costs indicate approximately \$400K is actually spent. Based on budget constraints, management has decided to phase in this recommendation as budgets permit over the next few years.

Council approved an increase to the external legal budget in 2014, and with the addition of a temporary Solicitor, which has offset external legal costs, staff will continue to monitor external legal costs and will make budget requests where required to meet projected expenditures.

The status of the 3 'not complete' recommendations are as follows:

<b>FINDING</b>	Limited performance measurements that identify whether the department is achieving their objectives and identify trends for value added decision making. The department compiled their first annual report which is an excellent starting point, but further improvements are required.
<b>RECOMMENDATION</b>	Implement simple performance measures such as; <ul style="list-style-type: none"> <li>Customer feedback; this would provide information regarding perception of service. <i>Can be measured through a per-service feedback loop, this would require a service request and provision policy, and/or a semi-annual/annual basis.</i></li> <li>Workload; this would highlight trends or areas of concern to allow workload leveling. <i>Could be measured by assigning complexity ratings to tasks when services are assigned.</i></li> <li>Cost Effectiveness; this will compare the costs of outsourcing legal activity to the cost of an additional lawyer and/or support staff.</li> </ul>
<b>STATUS</b>	<b>Not Complete.</b> Staff have not conducted a customer service survey since the audit. This is planned for April 2014. It is recommended that this be planned annually and established as a KPI for the business unit.

Staff in Legal/Realty Services have initiated the survey and are compiling responses. Workload measurement is a highly intensive manual process, for which

# STAFF REPORT

there is limited capacity currently. A technology solution, described below as contract management software, would include as a component, a 'prior matter management' component, which will assist in the measurement of workload going forward.

<b>FINDING</b>	Inconsistency in document control (logging, identification, etc) causes extended searches (up to 5-10 hours additional work to find documents).
<b>RECOMMENDATION</b>	Standardized system and policy for document control (EDMS).
<b>STATUS</b>	<b>Not Complete.</b> An Electronic Document Management System (EDMS) has not been implemented. Software has been reviewed and selected (Legal Suite) by a number of stakeholders who could share the costs of implementation. The proposed software could also service Corporate Building Services for property management matters and Economic Development could also utilize the Contract Management module. The request was removed from the 2014 budget submission due to funding constraints.

This recommendation remains incomplete. At the time of the audit, this issue was identified as an inconsistency. Over time, it has become evident of the more critical need for electronic document software not only for Legal/Realty Services, but more importantly the need for electronic document management systems for the Corporation.

Committee has been provided information regarding the records and information management work and records retention by-law, which is a critical foundation for the City to be able to provide a foundation from which to begin to implement electronic document management.

Notwithstanding the above, and given the time required to achieve a Corporate-wide electronic document management system, staff will include in the 2015 budget a request for Legal Suite as an interim measure. The recommendation will contain a notation indicating the link to the Audit recommendation.

<b>FINDING</b>	Lack of administrative support to the Solicitors.
<b>RECOMMENDATION</b>	Recommend that the time spent conducting these tasks be monitored, as part of the monitoring system, to identify areas of efficiency/effectiveness gain. Report back to Committee on these results with recommendations to inform the 2013/2014 budget process.
<b>STATUS</b>	<b>Not Complete.</b> The lack of adequate corporate administrative support was also identified in the Organizational Assessment. Requests for additional administrative support will be considered pending the outcome of the time-keeping review to determine if other efficiencies may be found to support this request.

The timekeeping review has been completed with the assistance of external consulting resources. The Human Resources Department is currently reviewing the findings and preparing a report to the Executive Team.

# STAFF REPORT



As was indicated through the Organizational Assessment, the need for administrative support resources extends to several departments across the City.

Resource allocation from efficiencies identified through the timekeeping review will be done on a corporate basis. Should no administrative support resources be identified for the Legal/Realty Services Department through the timekeeping review, again a budget request will be made with a notation linking it to the Audit recommendation.

## **CORPORATE STRATEGIC PLAN**

This report supports the following strategic directions:

Innovation in Local Government:

2.3 Ensure accountability, transparency and engagement

## **DEPARTMENTAL CONSULTATION**

N/A

## **FINANCIAL IMPLICATIONS**

Financial implications associated with contract management software per the Audit recommendation will be included in the 2015 budget with a notation linking to the Audit recommendation.

Contingent on the results of the timekeeping review, should no resource be available to Legal/Realty Services, then a submission will be made in the 2015 budget with a notation linking to the Audit recommendation.

## **COMMUNICATIONS**

Committee will receive regular updates regarding the outstanding recommendations from the Legal Representation Audit.

## **ATTACHMENTS**

Attachment 1: Legal Representation Audit

Attachment 2: Management Response

Attachment 3: Legal/Realty Services Audit Follow Up.

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### **Recommended and Approved By:**

**Mark Amorosi**

**Executive Director, Corporate and Human Resources**

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**X2281**

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## **Legal Representation Service Review**

### **Final Report**

**2012**

**Prepared by: Katherine Gray,** Service, Performance & Development Coordinator

# Table of Contents

<b>EXECUTIVE SUMMARY.....</b>	<b>3</b>
REVIEW OBJECTIVES.....	3
SCOPE.....	3
KEY FINDINGS AND RECOMMENDATIONS .....	3
<b>BACKGROUND INFORMATION.....</b>	<b>5</b>
<b>REVIEW TEAM .....</b>	<b>5</b>
<b>SCOPE AND DELIVERABLES .....</b>	<b>5</b>
<b>OPPORTUNITIES .....</b>	<b>5</b>
<b>METHODOLOGY .....</b>	<b>6</b>
<b>CURRENT ENVIRONMENT.....</b>	<b>6</b>
<b>ORGANIZATION CHART.....</b>	<b>6</b>
<b>ORGANIZATIONAL STRUCTURE ANALYSIS .....</b>	<b>7</b>
<b>STAFF INTERVIEWS – SUMMARY .....</b>	<b>8</b>
<b>STAKEHOLDER INTERVIEWS – SUMMARY .....</b>	<b>9</b>
<b>BENCHMARKING - MUNICIPAL COMPARATORS.....</b>	<b>11</b>
<b>KEY PERFORMANCE INDICATORS (KPIS).....</b>	<b>13</b>
<b>FINANCIAL ANALYSIS.....</b>	<b>16</b>
<b>SWOT ANALYSIS .....</b>	<b>18</b>
<b>PROCESS MAPPING.....</b>	<b>18</b>
<b>CONCLUSION .....</b>	<b>19</b>
<b>APPENDICES .....</b>	<b>19</b>
APPENDIX 1: VALUE FOR MONEY ANALYSIS.....	19



# Executive Summary

## Review Objectives

1. Provide an informed recommendation on whether Legal and Realty services should be provided internally by City
2. To provide an understanding of the current services delivered, the organizational structure, costs, objectives, standards and outcomes.
3. Identify the appropriate service levels and identify parameters for the use of external council or consultants to supplement the services provided in house.
4. Examine the positioning of legal services within the Corporation to ensure alignment with strategic initiatives.
5. To examine other municipal practices with respect to business systems.
6. To make informed recommendations for improvements to the current services, for the introduction of new services or service delivery models.
7. Recommend performance indicators, goals and objectives, including service levels.

## Scope

The legal representation service review will focus on the provision of legal services, including realty services, to the Corporation and the method in which it is performed.

## Key Findings and Recommendations

	FINDING	RECOMMENDATION
1	<b>Is Legal Representation Services a service that should be provided by the City?</b>	<b>Value for money analysis clearly shows that providing legal and realty services in-house provides an average savings of \$387 per hour, compared to outsourcing the same services.</b> <b>Continue to provide the services in-house.</b>
2a	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture why	Develop a policy and set of guidelines for utilizing external counsel with monitoring to evaluate trends in use. This policy should include an Approved Lawyer List (identifying approved lawyers by expertise and rating).
2b	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture why	External legal costs should be managed through the Legal and Realty Services department's accounts, to ensure a clear picture of the true legal costs and to allow for better analysis. This would require all legal budget items (across the corporation) to be expensed through Legal to ensure acute reporting providing accountability and transparency.
3	The department does not budget for external legal services. These costs are covered by reserve transfers, for a net zero (0) operating budget (for external legal costs). This does not allow for a clear picture of legal costs	It is recommended that budgeting practices be changed to budget external legal costs based on historical expenditures, utilizing the reserve for complex or large external issues.

	FINDING	RECOMMENDATION
4	The City of Guelph's legal staffing levels are lower than most of the municipalities that participated in the benchmarking activity.	Monitor cost of legal work outsourced (where the internal expertise is available in house) vs. the cost of an on staff lawyer, to ensure cost efficiency in service provision.
5	Limited performance measurements that identify whether the department is achieving their objectives and identify trends for value added decision making. The department compiled their first annual report which is an excellent starting point, but further improvements are required.	Implement simple performance measures such as; <ul style="list-style-type: none"> <li>• Customer Feedback; this would provide information regarding perception of service. <i>Can be measured through a per-service feedback loop, this would require a service request and provision policy, and/or a semi-annual/annual basis.</i></li> <li>◦ Workload; this would highlight trends or areas of concern to allow workload leveling. <i>Could be measured by assigning complexity ratings to tasks when services are assigned.</i></li> <li>• Cost Effectiveness; this will compare the costs of outsourcing legal activity to the cost of an additional lawyer and/or support staff.</li> </ul>
6	Lack of policy or structure to requesting and assigning work, as well as monitoring completion.	Define system and policy for requesting work, assigning work and monitoring it, to ensure potential risks, inconsistencies, unbalanced workloads, etc can be identified and corrected
7	Inconsistency in document control (logging, identification, etc) causes extended searches (up to 5-10 hours additional work to find documents)	Standardized system and policy for document control (EDMS)
8	Lack of administrative support to the Solicitors	Recommend that the time spent conducting these tasks be monitored, as part of the monitoring system, to identify areas of efficiency/effectiveness gain
9	Contract review is not always conducted through Legal Services	All contracts/agreements should be reviewed and approved by Legal Services, as there is legal liability in every agreement. If standardized templates are utilized the review would be minimal

## ***Background Information***

Service and Operational reviews are designed to provide Council and Management with the information necessary to understand a service or aspects thereof, how it compares to other municipalities, to explore alternative delivery options and best practices in terms of process or outcomes, and to identify what improvements can be made to realize valued change, efficiencies and/or effectiveness within approved service levels. Efficiencies and benefits can include cost savings, streamlined processes, improved service quality and increased levels of service satisfaction. On July 25th, 2011 Council approved an Executive Team recommendation to conduct six Service Reviews and four Operational Reviews. One of these approved service reviews was of Legal Representation.

The purpose of the Legal Representation review is to determine whether legal services should be provided internally by the City and if so, the most appropriate way to provide the service and at what service level.

## ***Review Team***

Katherine Gray

## ***Scope and Deliverables***

The Legal Representation Service Review will focus on the provision of legal services, including realty services, to the Corporation and the method in which it is performed. It is anticipated that the Service Review will identify the appropriate service level and set parameters for the use of external counsel or consultants to supplement the services provided in house. Examine the positioning of Legal Services within the Corporation to ensure alignment with strategic initiatives

Determine the services currently offered and interview primary users regarding services

Review other applicable practice information from comparator municipalities and options for delivery of this service. Review workloads, workflow and standards for turnaround time and other performance measures. Recommend performance indicators, goals and objectives, including service levels. Assess use of external resources to supplement internal resources to achieve desired level of service.

## ***Opportunities***

Several opportunities for improvement were identified during this review. These opportunities are in addition to the recommendations made in the above Key Findings and Recommendations section of this report.

Opportunities for improvement;

- Improved software programs for Realty Services
  - Property Inventory program and improved communication between the programs used in title searched, to increase efficiency
- Improved library for research material, the ability to update and increase the library was reduced in previous budget cycles.
- Investigation of a partnership with area Universities and local law firms to utilize Articling Students for additional resources.
- Reinstatement of Lunch and Learns which are hosted by the Legal and Realty Department, to provide information to the rest of City Staff.
- Implementation of service-based budgeting, which would track billable hours and result in internal chargeback for service.

## Methodology

The following research and analysis was undertaken for the review:

- Staff, agency and stakeholder interviews
- Data analysis
- Performance metrics
- Workflow analysis
- Municipal comparison

## Current Environment

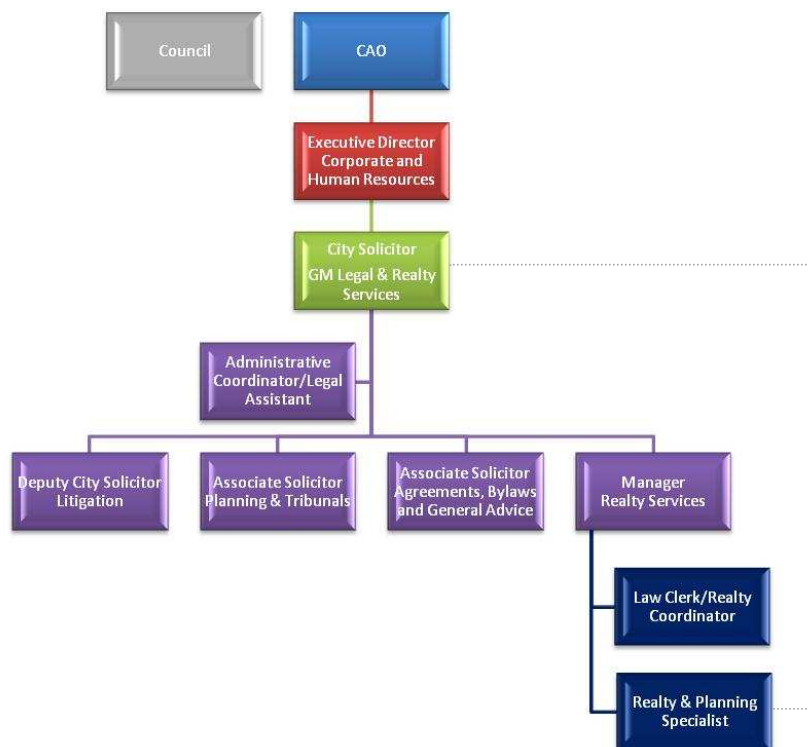
Legal and Realty Services provides legal advice to the Mayor, Council and City staff on all areas of operations and governance. Legal Services represents the City in negotiations of contracts and in litigation matters.

Realty Services represents the City with regard to land acquisitions and dispositions, leases, easements, encroachments and other real estate issues.

## Organization Chart

The Legal and Realty Service department consists of;

- Four (4) lawyers dealing with litigation, planning and tribunals, bylaw and agreement review as well as providing general legal advice.
- One manager of realty services with a law clerk/realty coordinator dealing with acquisitions and dispositions.



## Organizational Structure Analysis

Early 2010 organizational structure saw the City Solicitor reporting directly to the CAO and part of the executive team, refer to illustration #1: 2010 Pre-Org Change Legal Services Organizational Chart. The Associate Solicitors were involved in all aspects of legal services within the City of Guelph.

July 2010 there was an organizational change that dissolved Corporate Services and created the General Manager/City Solicitor role in the Legal and Realty Department reporting to the Executive Director of Corporate and Human Resources, refer to illustration #2: 2010 Post Org-Change Legal Services Organizational Chart.

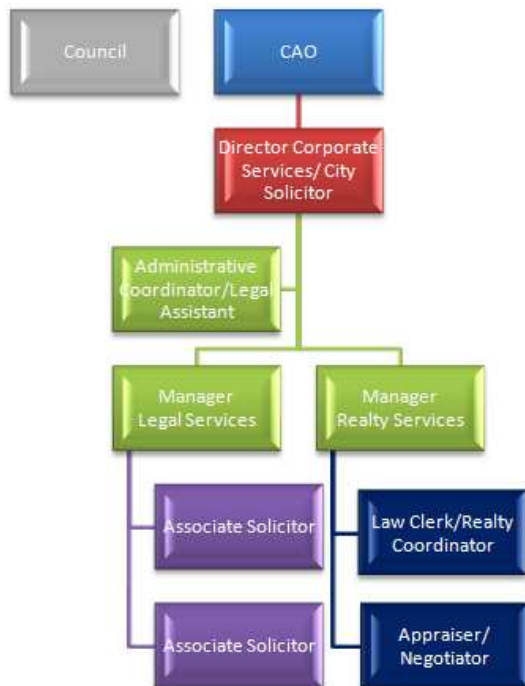


Illustration # 1: 2010 Pre-Org Change Legal Services Organizational Chart

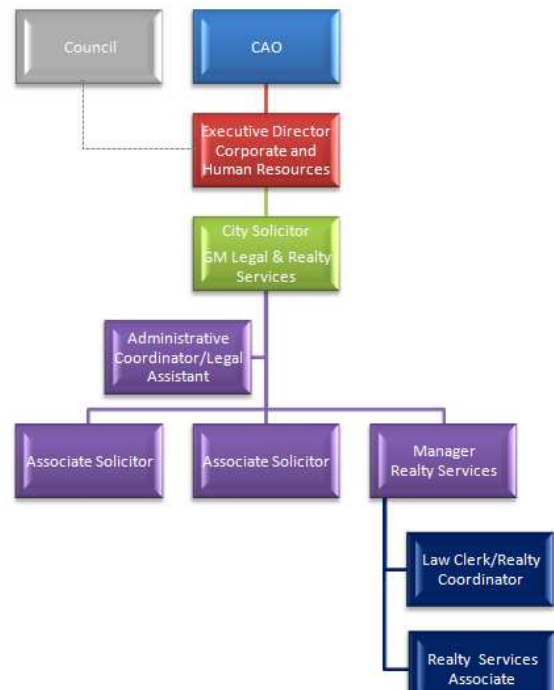


Illustration #2: 2010 Post-Org Change Legal Services Organizational Chart

2011 saw the hiring of a Deputy City Solicitor and a shifting of responsibilities to focus areas. Each lawyer (Associate Solicitor) being primarily responsible for a specific area of legal services. This was done to increase expertise and streamline, provide efficiencies in the services being provided. Refer to illustration #3: 2011 Legal and Realty Services Organizational Chart.



Illustration #3: 2011 Legal and Realty Services Organizational Chart

The City Solicitor's role to provide direct legal advice to Council and the CAO, has remained the same, regardless of the report structure changes.

Of notice in this review is the lack of administrative support to the Solicitors. This lack results in the Solicitors conducting administrative tasks such as general research, filing, copying and docket preparation.

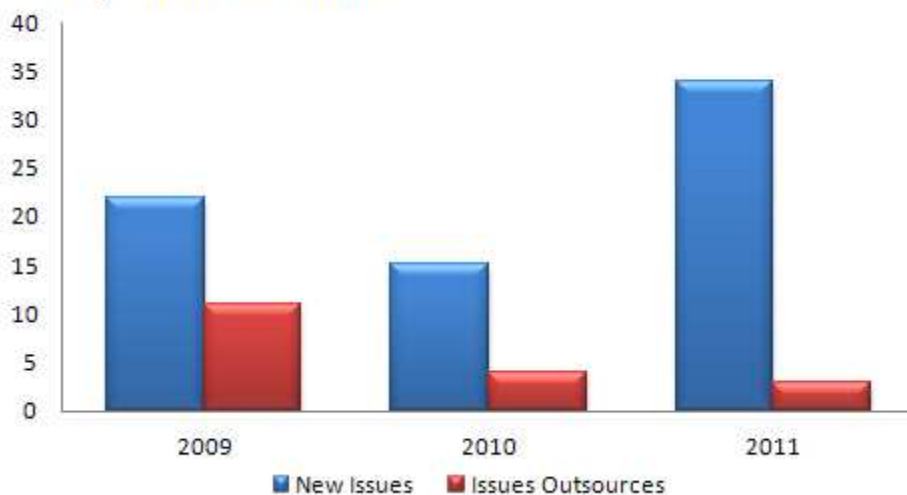
## ***Staff Interviews – Summary***

All staff members of the Legal and Realty Services department were interviewed. Areas of review with staff included;

- Role explanation
- Service provision and methods
- Identification of customers
- Scheduling and planning
- Performance measurements
- Reaction plans
- Challenges
- Improvements

This review identified that staff feel the new focused approach to providing legal and realty services is successful and value added (refer to illustration #4: New Legal Issues vs. Outsourced Issues), There has been reduction in the work that must be outsourced by Legal Staff, since the addition of the Deputy Solicitor and the implementation of the focused approach, but staff identified there is still room for further improvements.

**New Legal Issues vs Outsourced**



*Legal Issues vs. Outsourced Issues*

Staff identified challenges in areas of software, document control, communication and lack of policy.

Improvement opportunities identified by staff include;

- Formal policies for service requests and service provision. Such as service requests, use of external counsel and contract review
- Software improvements, document control, property inventory, improved connectivity in search programs
- Centralized management of external counsel utilized to ensure there are no conflicts and mitigate risk, including an approved list of external counsel

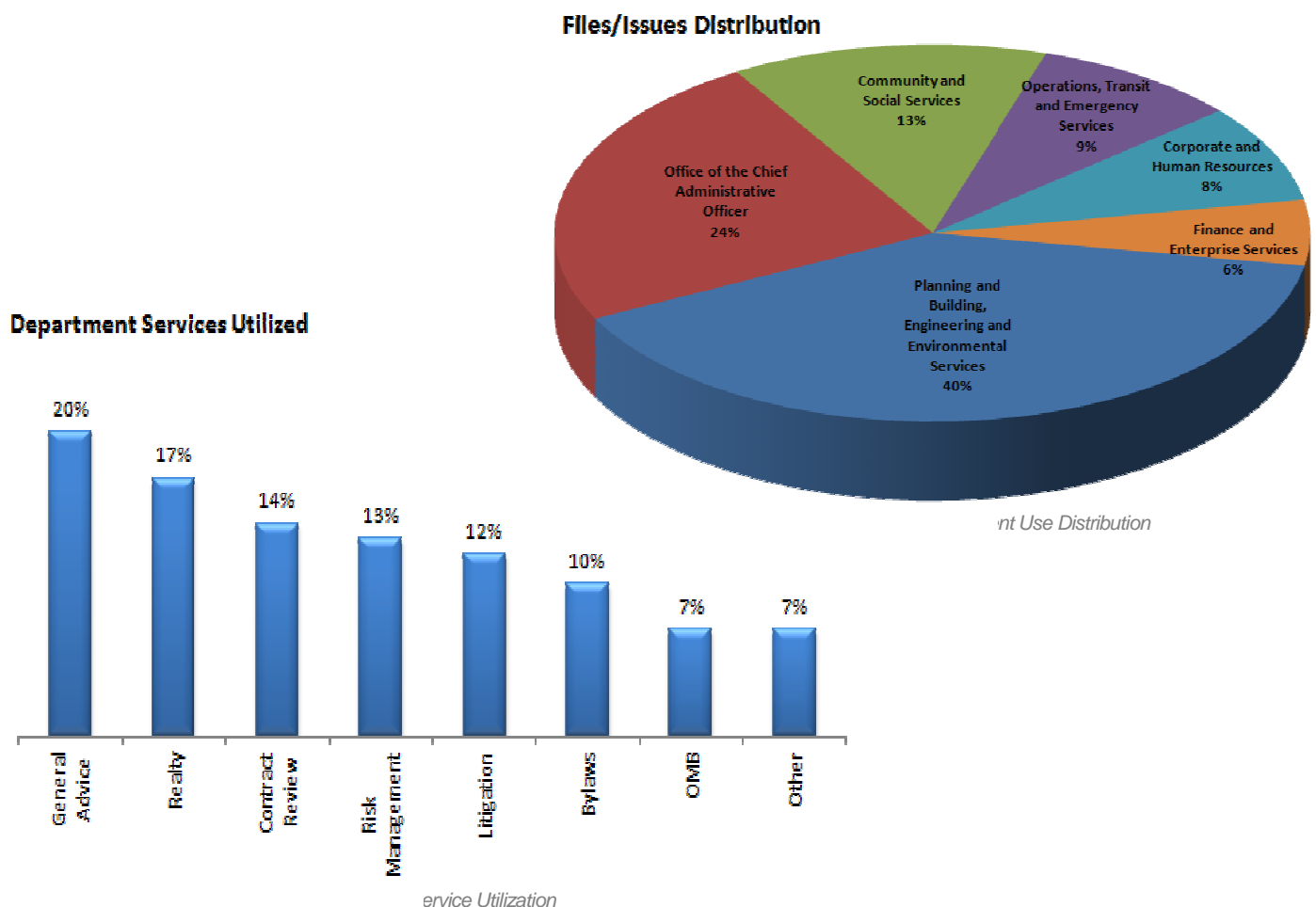
- Additional administrative/law clerk support to remove the administrative work from the solicitors
- Improved communication of the priorities and direction of Council and the Executive Team to assist with activity direction and prioritization

## Stakeholder Interviews – Summary

A customer survey was conducted to determine customer satisfaction and perception. Legal and Realty Services department provides support and service to internal departments of the City, therefore their customers are internal customers. 51 members of City Staff and Council were requested to participate in the survey. The survey was distributed via email and the intranet to the CAO, Mayor, Council, Executive Directors, General Managers and Managers within the organization. The purpose of the survey was to gauge knowledge of the Legal and Realty Services department and the utilization of the services provided across the Corporation.

54% of the survey respondents stated they were Very Familiar (interacts and works with the department) and 47% stated they were Familiar (knowledge of the department and the services they provide), while only 4% were Somewhat Unfamiliar (knows of the department but have had minimal contact).

Respondents were asked how many matters they worked on with the Legal and Realty and what the services were that they used. Refer to illustration #5: Department Use Distribution and #6: Department Service Utilization to view the breakdown of responses.



100% of all respondents stated they were satisfied with the services provided by the Legal and Realty department as well as the timeliness of the service provision, refer to illustration #7: Stakeholder Satisfaction.

#### Satisfaction with Services Provided

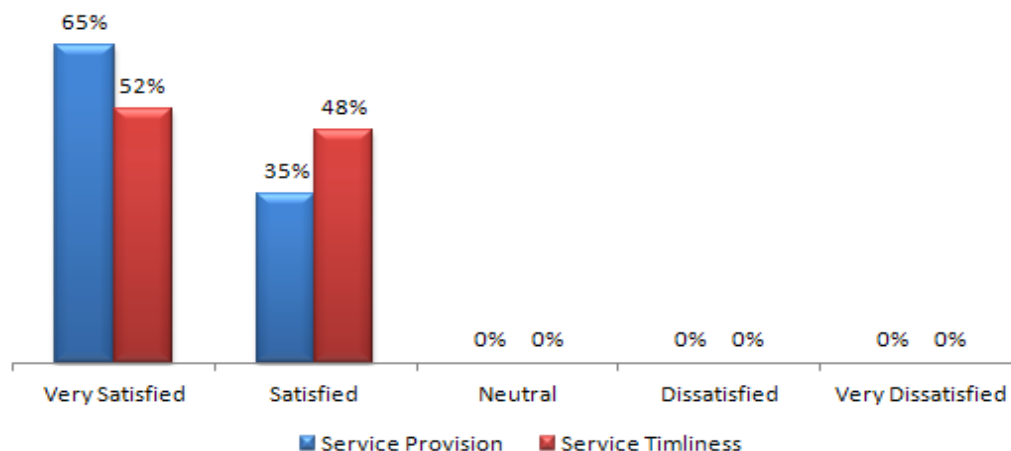


Illustration #7: Stakeholder Satisfaction

When asked if they utilized external counsel for legal or realty matters, 63% responded yes, with 53% of these not being managed through the City's Legal and Realty Department. 62% of respondents have utilized external legal services with 53% of those being managed by the individual departments, not the Legal and Realty department. Refer to illustration #8: External Legal Usage, for a breakdown of service area utilization of external counsel.

#### External Counsel Usage

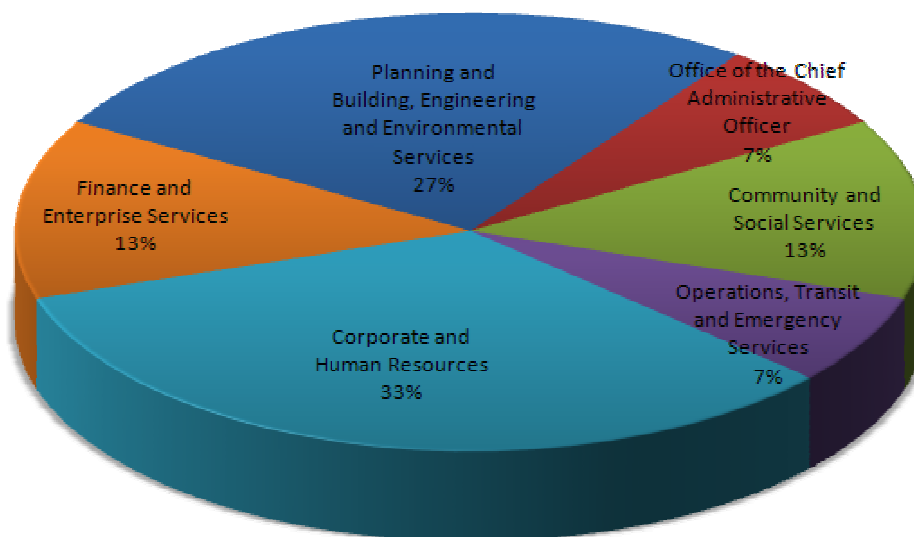


Illustration #8: External Legal Usage

External legal and realty counsel has been utilized for employment and labour law as well as other areas where the expertise is not available in house. When work load issues arise, external counsel may also be utilized.

Survey participants were asked to rate services, provided by the Legal and Realty Services department, on the importance of having the service provided in house. The results clearly state that the services provided are considered essential services to the service areas and departments of the City. Refer to illustration #9: Service Rating Chart.



Service	Essential Service	Non Essential Service (makes my work easier/more efficient)	Not Required (as in house service)
Litigation	36%	24%	20%
OMB	44%	20%	8%
Planning/Tribunals	40%	24%	8%
Risk Management	52%	28%	0%
Contract Review	48%	28%	8%
Bylaw Review	68%	12%	0%
Realty Services	44%	40%	0%
General Advice	84%	8%	0%

Stakeholder engagement identified overall satisfaction with the outcomes and timeliness of the services being provided, by the Legal and Realty Service department. This is indicative of the overall processes being effective in meeting the needs of the customers/stakeholder. However; the use of external counsel by other departments is increasing with an unclear picture why. It is recommended to develop a policy and set of guidelines for utilizing external counsel with monitoring to evaluate trends in use.

## ***Benchmarking - Municipal Comparators***

To better understand how the City of Guelph's legal and realty services compare with other municipalities, a benchmark study was conducted.

Each municipality's results are influenced to varying degrees by a number of factors, including:

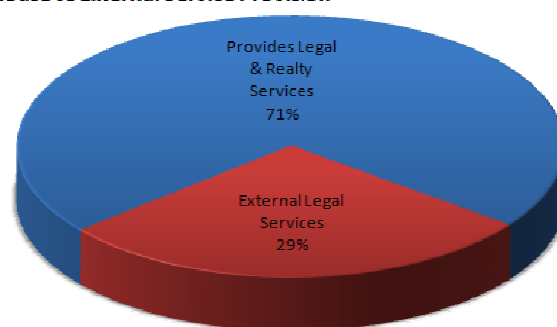
- Demand Drivers
  - Demand for specific types of legal services differs from municipality to municipality and/or from year to year.
  - Upper-tier and single-tier municipalities provide different services.
- Policy and Practices
  - Different services can demand varying levels of legal support
  - Reimbursement of Legal Fees Indemnification Bylaws is handled differently by municipalities.

All municipalities that participated in the benchmark study were from the approved comparator list.

Twenty seven (27) municipalities from the Council approved comparator list were requested to participate in benchmarking for legal and realty services. There was a 30% response rating from this request.

Of the municipalities that participated in the benchmarking, 71% of them provide in house legal and realty services (refer to illustration #10).

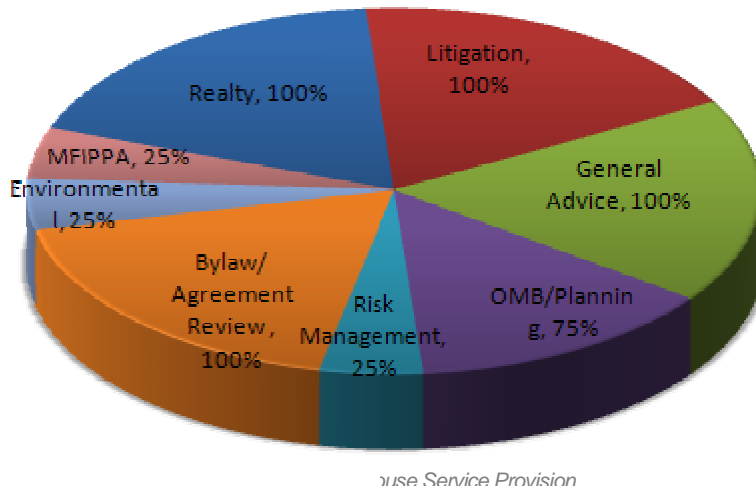
**In House vs External Service Provision**



*Provision Breakdown*

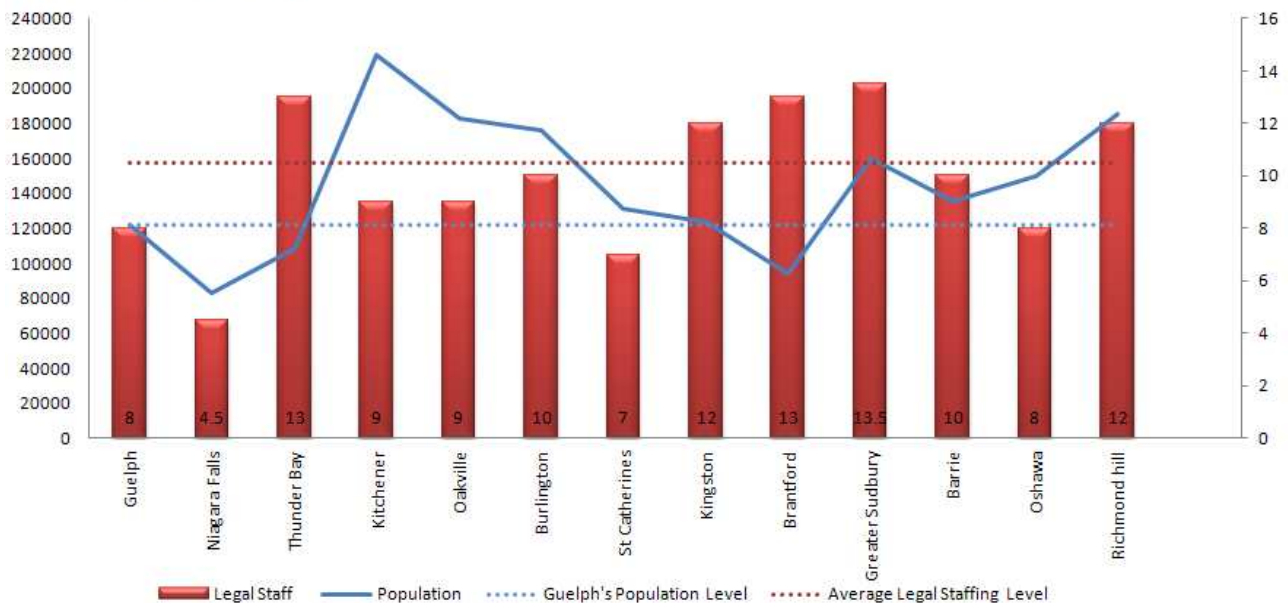
All (100%) of the participating municipalities stated they provide realty, litigation, bylaw and agreement review as well as general legal advice. 75% of the participating municipalities provide OMB/planning legal support and 25% provide service for risk management, environmental and the municipal freedom of information and protection of privacy act. Refer to illustration #11: In-House Service Provision.

### Services Provided by In House Legal Departments



When comparing the population of the municipalities to the staffing levels of the legal services departments, the average number of employees is eleven (11). In some instances this includes Court Services, which is not currently part of the department make-up at Guelph. Illustration #12: Legal Staff Breakdown demonstrates that the City of Guelph's Legal and Realty Services Department is below the average for staffing levels.

### Legal Staff per Municipal Population

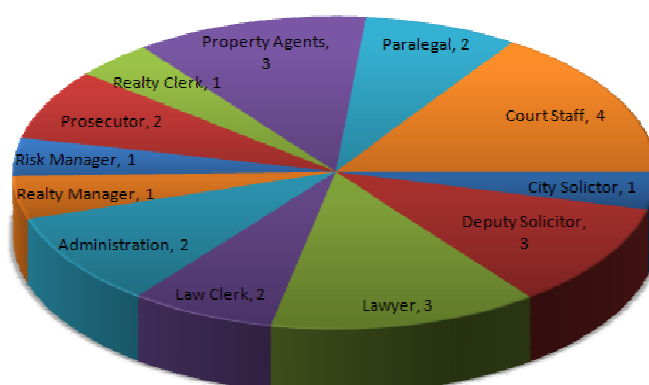


Fourteen municipalities were reviewed for department makeup. Refer to illustration #13: Average Department Makeup and illustration #14: Guelph Legal and Realty Department Makeup

Average makeup of the Legal Services departments includes;

- City Solicitor (average of 1)
- Deputy Solicitors (average of 2)
- Lawyers (average of 3)
- Law Clerks (average of 2)
- Administrative Support Staff (average 2)
- Realty Manager (average of 1)
- Realty Clerk (average of 1)
- Property Agents (average of 3)
- Risk Manager (average of 1)
- Prosecutors (average of 2)
- Paralegals (average of 2)
- Court Staff (average of 4)

**Average Makeup of the Legal Department**



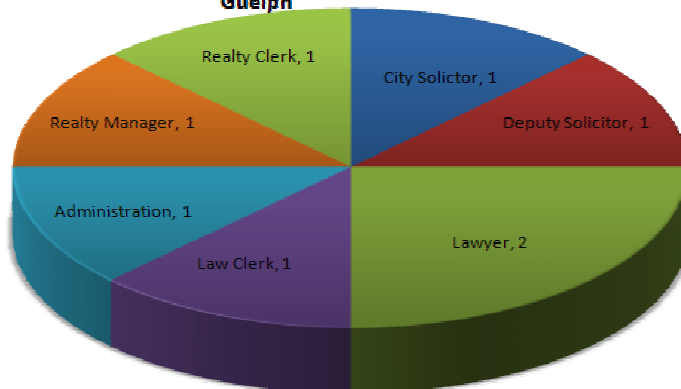
*Department Makeup*

The Legal and Realty Services Department of Guelph consists of;

- 1 City Solicitor
- 1 Deputy Solicitor
- 2 Lawyers
- 1 Administrative Support
- 1 Realty Manager
- 1 Realty/Law Clerk
- 1 Realty/Planning Coordinator

A total of eight (8) staff

**Makeup of Legal and Realty Services Department - City of Guelph**



*ality Department Makeup*

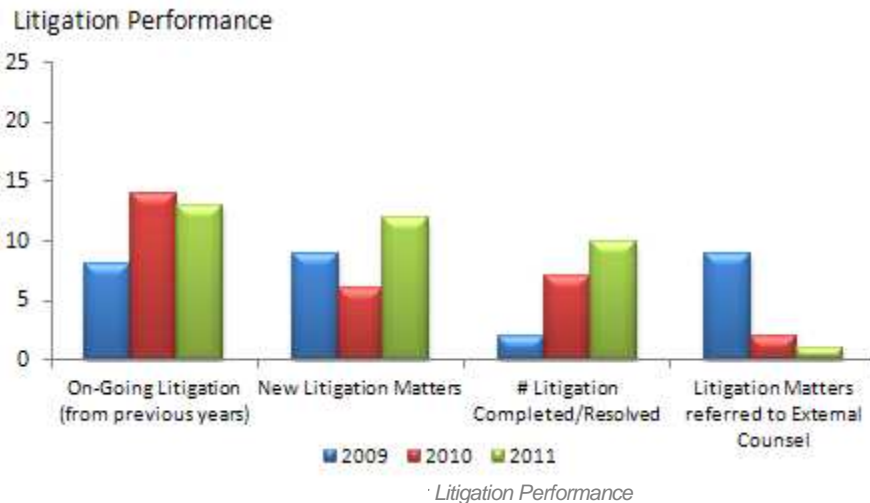
Conducting benchmarking by examining other municipal practices for legal and realty services was one of the objectives of this review. The benchmarking activity identified that the provision of in-house legal services is a best practice. Also the City of Guelph's legal staffing levels is lower than most of the participating municipalities. One recommendation is to monitor cost of legal work outsourced (where the internal expertise is available in house) vs. the cost of an on staff lawyer, to ensure cost efficiency in service provision.

## **Key Performance Indicators (KPIs)**

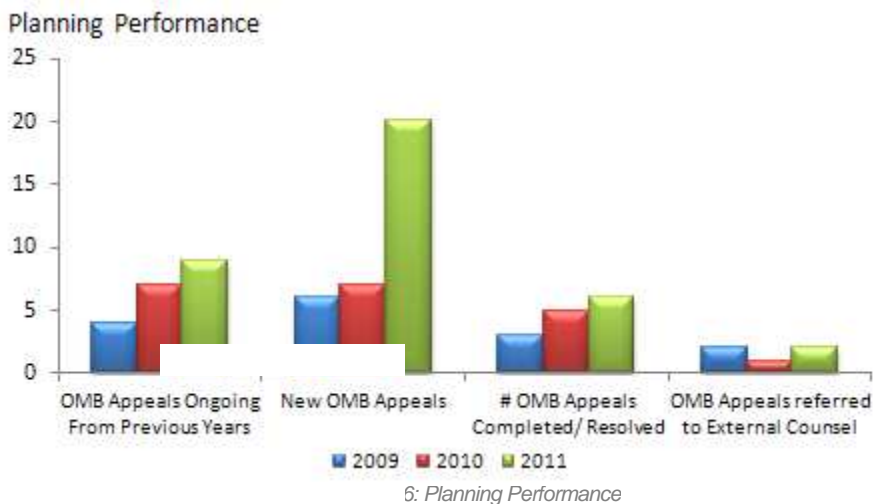
Analysis was conducted on the performance data of legal and realty for a three (3) year window (2009-2011).

Efficiency was assessed through the number of files ongoing from previous years, as well as how many files are closed each year. Currently there are minimal performance metrics or targets developed for legal and realty services. 2011 was the first year for annual reporting of department performance. With the complexity and variability of the type of issues and tasks that are undertaken in the department clear objectives and targets need to be defined in a manner to make the data collected usable or value-added to identify improvement opportunities and conduct trend analysis.

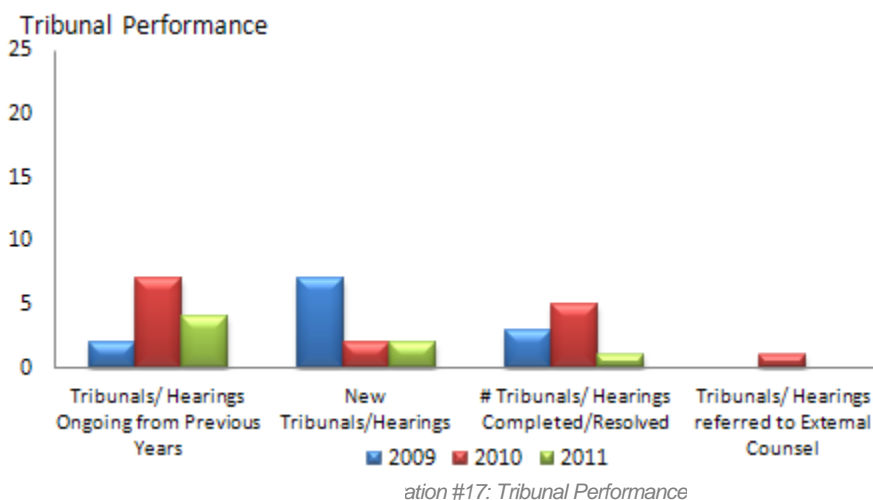
Litigation services is showing a 50% increase in new matters in 2011 over 2010, a decrease of 8% in matters carried over from 2010 to 2011 and a trending increase (70% increase 2009 to 2010 and a 50% increase 2011 over 2010) in the litigation files closed in the year. Litigation matters that are referred to external council has decreased year over year, Ongoing litigation carrying over from previous years is showing a slight decrease and will need to be monitored longer to identify any trending activity. Refer to illustration #15: Litigation Performance



OMB/Planning services is showing a 65% increase in new matters in 2011 over 2010, a 22% trending increase in matters being carried over year to year and an increase (17% 2011 over 2010) in the planning files closed in the year. Planning matters that are referred to external council has stayed static at one (1) or (2) cases per year. Refer to illustration #16: Planning Performance.



Tribunal services are showing a slight decrease. Refer to illustration #17: Tribunal Performance.



Realty Services (refer to illustration 18: Realty Performance), workload is staying fairly static in quantity; this chart does not indicate complexity of work. The exception to this is issuance of compliance letters and subdivision lots, as well as title searches, which have increased year over year.

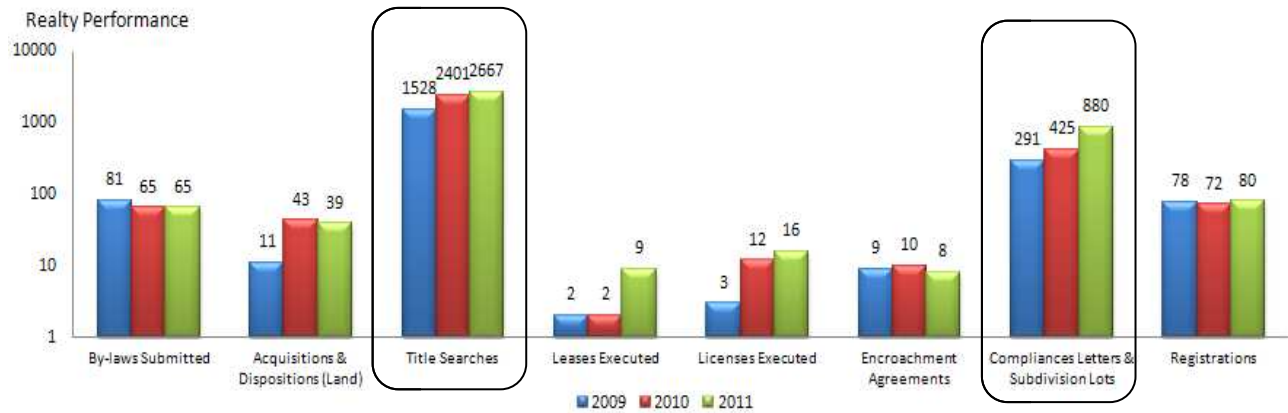


Illustration #18: Realty Performance

Requests for service come from all areas of the organization. The largest consumers of legal and realty services are Planning & Building, Engineering & Environment, with the remaining service areas almost equally utilizing the services, as illustrated below (refer to illustration #19: Requests by Service Area). Refer to illustration #20: PBEE Breakdown, which graphically displays that the largest overall consumer of legal services is Planning.

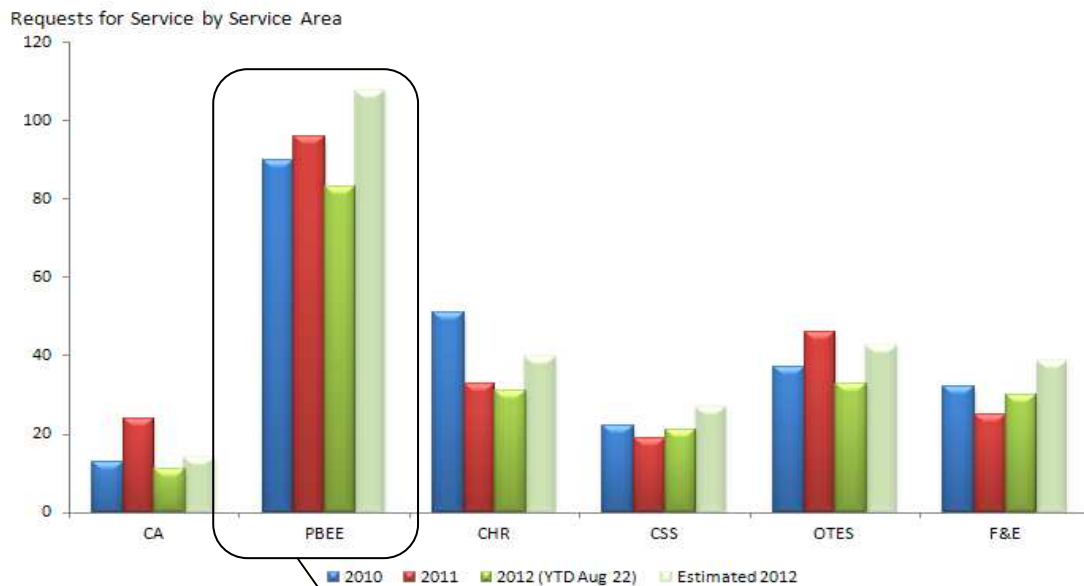
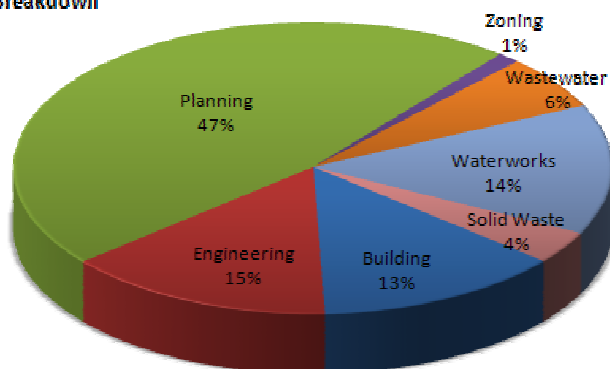


Illustration #19: Requests by Service Area

#### PBEE Breakdown



These key performance indicators (KPIs) were created for annual reporting, but they are not tracked regularly or felt to be useful for the purpose of decision making. Some staff suggested measures included meeting deadlines and successful completion of cases (# cases won, files resolved).

One of the objectives of this review is to provide recommendations on performance indicators. Given the high volume of work and previous lack of KPIs, it is recommended that the KPIs be kept to a minimum. In their simplest form they should provide an indication of whether the department is achieving their objectives and identify trends for value added decision making.

- Customer Feedback; this would provide information regarding perception of service.
  - Can be measured through a per-service feedback loop, this would require a service request and provision policy, and/or a semi-annual/annual basis.
- Workload; this would highlight trends or areas of concern to allow workload leveling.
  - Could be measured by assigning complexity ratings to tasks when services are assigned.
- Cost Effectiveness; this will compare the costs of outsourcing legal activity to the cost of an additional lawyer and/or support staff.

## Financial Analysis

A comparison of internal and external hourly rates for legal services was conducted.

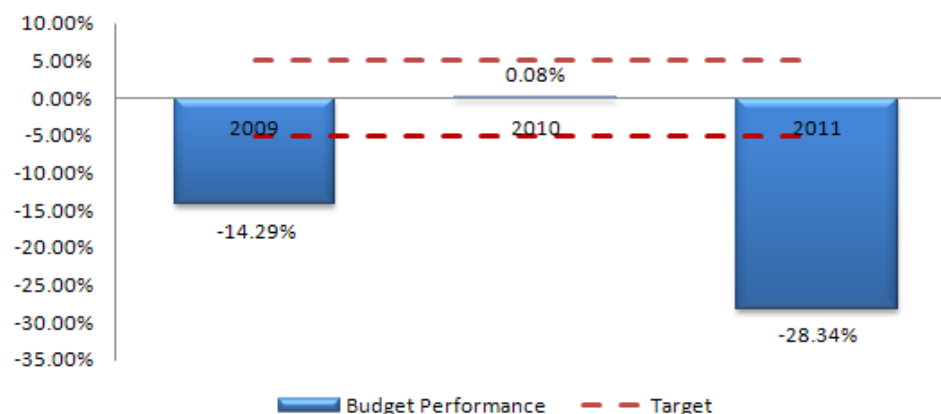
This comparison utilized work hours, overhead, productive hours and operating costs to calculate the average internal hourly costs and compared that to the average hourly costs of the external legal firms that have been utilized by the City of Guelph over the last three years.

This comparison clearly shows that providing legal and realty services in-house provides an average savings of \$387 per hour, compared to outsourcing the same services. Refer to Appendix 1: Value for Money Analysis for further information on the calculations used.

Hourly Rate Ranges				
	High	Medium	Low	Average
External Firms	\$ 750	\$ 325	\$ 100	500
Our City	\$ 170	\$ 113	\$ 57	113
Average Savings per hour				\$ 387

The Legal and Realty Services department is consistently under budget, refer to illustration #21: Budget Performance. However practice is that the department does not budget for external legal services, and these costs are covered by reserve transfers, for a net zero (0) operating budget (for external legal costs). This does not allow for a clear picture of legal costs. Better practice would be to budget based on historical averages, with the reserve to shore up any large or complex legal issues that arise.

### Budget Performance



ion #21: Budget Performance

The net zero operating budget (for external legal costs) only works when the full amount is transferred from the reserve. There have been instances (2010) where the full amount was not transferred out of the reserve.

External Costs incurred by other departments have increased. Not all these costs and services are managed through the internal legal and realty department, which prohibits a clear understanding of annual legal costs. Refer to illustration #22 & #23 for the cost of legal and realty services and the breakdown of other department legal spend across the organization.

#### Legal and Realty Cost

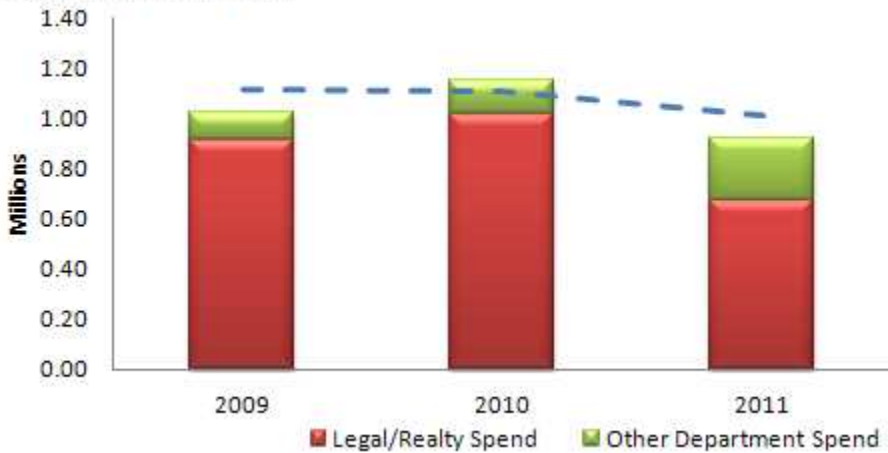


Illustration #22: Legal & Realty Costs

#### Other Department Legal Spend Breakdown

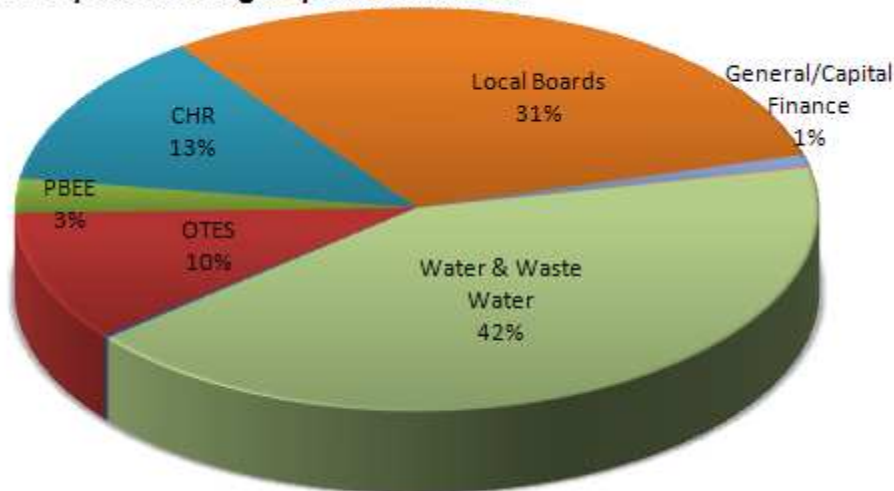


Illustration #23: Other Department Spend Breakdown

The value for money analysis proves that having an internal legal and realty department is far more cost effective than outsourcing.

It is recommended that budgeting practices be changed to budget external legal costs based on historical expenditures, utilizing the reserve for complex or large external issues. Also all external legal costs should be managed through the Legal and Realty Services department's accounts, to ensure a clear picture of the true legal costs and to allow for better analysis.



# SWOT Analysis

**STRENGTHS:** what is it that your business/organization does well?

Review Team Analysis	Staff Analysis
Focused expertise	Good work environment
Experienced staff	Experienced staff
Cost effective	Focused areas – increased expertise
Customer/Stakeholder support/satisfaction	

**WEAKNESSES:** what are the areas of your business/organization that cause you concern

Review Team Analysis	Staff Analysis
Heavy workloads in some areas	Document control system
Lack of performance measurement	Compatibility of software programs
No clear picture of true external costs	Research material
Lack of policy for service request and provision	Communication of direction and priorities of Council and Executive Team
Lack of policy for external counsel use	
Reactive Process vs. Proactive	

**OPPORTUNITIES:** What opportunities are available, which can be taken advantage of...both now and in the future?

Review Team Analysis	Staff Analysis
Approved Lawyer List	Partnership with University and local law firms to utilize Article Students for additional resources
Service Request and monitoring system to monitor workloads and outcomes	Reinstatement of lunch and learns
Improved budgeting/finance process	
Policy development and implementation	
Performance Measurement system	

**THREATS:** have there been any significant changes in the industry in which you operate

Review Team Analysis	Staff Analysis
Lack of expertise in some areas	Lack of policy and approved lawyer list
Lack of policy and approved lawyer list	

## Process Mapping

Current services provided by the Legal and Realty Service Department include;

- Litigation: providing lead counsel, advisor for external counsel, management of insurance litigation. Represent the City in all potential and actual legal actions for and against the City.
- Planning and Tribunals: providing legal advice on planning related issues and representing the City in proceedings before the Ontario Municipal Board and other tribunals.
- Agreement Review: providing review of agreements entered into by the City, creating standard form agreements to be used for routine matters. Assist or conduct negotiations between external parties and the City.



- Bylaw Review: providing review and risk assessment of bylaws being created and revised for the City.
- Realty Services: providing real estate and related services for;
  - Acquisition and disposition of property and related interests
  - Title searching and conveyance (property transfer)
  - Development and agreement compliance response
  - Real property and related interest inventory maintenance
- General Legal Advice

The process review identified that there is a lack of policy or structure to requesting and assigning work, as well as monitoring completion. Currently some work is logged with the department administrator; however personnel can contact the staff directly to request assistance. This does not allow for monitoring workloads and outcomes effectively. There is a need to have a defined method for requesting work, assigning work and monitoring it, to ensure potential risks, inconsistencies, unbalanced workloads, etc can be identified and corrected.

Also of note during the review is the lack of administrative support to the Solicitors. This results in the Solicitors, being compensated at a lawyer rate, conducting administrative tasks such as general research, filing, copying and docket preparation, that would be better suited to a law clerk or administrative clerk. It is recommend that the time spent conducting these tasks be monitored, as part of the monitoring system, to identify areas of efficiency/effectiveness gain.

## ***Conclusion***

Based on the value for money analysis and the internal use and satisfaction with the services provided by the Legal and Realty Service department, outsourcing this activity would not be efficient or cost effective for the City of Guelph.

This review has provided an understanding of the services provided, the organizational structure and the costs associated with the Legal and Realty Service department. Recommendations have been made for policy and system development, monitoring and measurement as well as budgeting process. These recommendations will better position the department to provide more proactive (less reactive) services to the organization efficiently and effectively.

A management response is required within 30 days of receipt of this audit report. Receipt was delivered on September 10, 2012 to the Executive Director of Corporate and Human Resources and the General Manager/City Solicitor of Legal and Realty Services.

Management response should include action plans, timelines and accountabilities for each recommendation noted in this audit report (refer to Key Findings and Recommendations section).

## ***Appendices***

Appendix 1: Value for Money Analysis

## Management Response – LRS Service Review

	FINDING	RECOMMENDATION	MANAGEMENT RESPONSE	TIMELINE
1	<b>Is Legal Representation Services a service that should be provided by the City?</b>	<b>Value for money analysis clearly shows that providing legal and realty services in-house provides an average savings of \$387 per hour, compared to outsourcing the same services.</b> <b>Continue to provide the services in-house.</b>	<b>Agree</b>	<b>N/A</b>
2a	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture why	Develop a policy and set of guidelines for utilizing external counsel with monitoring to evaluate trends in use. This policy should include an Approved Lawyer List (identifying approved lawyers by expertise and rating).	Policy/guidelines re use of external counsel Approved Lawyer List <ul style="list-style-type: none"> <li>- Partial</li> <li>- If RFEOI required for some areas</li> </ul>	Dec 2012  Dec 2012 Feb 2013
2b	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture why	External legal costs should be managed through the Legal and Realty Services department's accounts, to ensure a clear picture of the true legal costs and to allow for better analysis. This would require all legal budget items (across the corporation) to be expensed through Legal to ensure accurate reporting providing accountability and transparency.	Agree that external legal costs should be managed by LRS. The level of management will differ depending on the circumstances. If this is the case, LRS can track and report the expenses of other departments without having these expenses in the LRS budget. LRS can also work with departments to determine the most cost effective use of resources.	Dec 2012
3	The department does not budget for external legal services. These costs are covered by reserve transfers, for a net zero (0) operating budget (for external legal costs). This does not allow for a clear picture of legal costs	It is recommended that budgeting practices be changed to budget external legal costs based on historical expenditures, utilizing the reserve for complex or large external issues.	Agree – the historical non-extraordinary cost is \$400,000 per year. In 2012, due to a variety of factors, the annual amount for the OMB/Litigation external costs is estimated to be \$850,000.	2013 Budget

4	<p>The City of Guelph's legal staffing levels are lower than most of the municipalities that participated in the benchmarking activity.</p>	<p>Monitor cost of legal work outsourced (where the internal expertise is available in house) vs. the cost of an on staff lawyer, to ensure cost efficiency in service provision.</p> <p>The department should monitor and analyze this (for the last year) data and report to Committee by the end of 2012 with recommendations regarding continued use of external legal resources or additional in-house legal staff. Provide whichever recommendation is most fiscally responsible, to inform the 2013 and 2014 budget process.</p>	<p>As of November 5, 2012, due to an overwhelming amount of OMB work, a planning lawyer on a one year contract will be added to Legal Services to work exclusively on Planning matters. The cost of hiring external counsel to deal with planning matters is at a minimum 2.5 times the cost of having a contract lawyer. At the moment, most other matters handled by LRS using external counsel are either legacy files or ones for which we did not have internal expertise (e.g. OHSA charges). Once LRS has the details of the amounts being spent by other departments on external counsel, an assessment can be made regarding the possibility of hiring additional in house counsel or additional support staff to allow these external matters to be handled in house.</p>	<p>Ongoing</p> <p>Recommendation re additional resources by end of 2012</p>
5	<p>Limited performance measurements that identify whether the department is achieving their objectives and identify trends for value added decision making. The department compiled their first annual report which is an excellent starting point, but further improvements are required.</p>	<p>Implement simple performance measures such as;</p> <ul style="list-style-type: none"> <li>• Customer Feedback; this would provide information regarding perception of service. <i>Can be measured through a per-service feedback loop, this would require a service request and provision policy, and/or a semi-annual/annual basis.</i></li> <li>○ Workload; this would highlight trends or areas of concern to allow workload leveling. <i>Could be measured by assigning complexity ratings to tasks</i></li> </ul>	<p>Customer Service – LRS will work with internal resources to determine the most appropriate method for tracking customer service.</p> <p>Workload – Currently there are not sufficient administrative and technological tools to address this measurement.</p> <p>Cost Effectiveness – LRS will continue to undertake this analysis</p>	<p>Dec 2012 or when appropriate tools are available</p>

		<p><i>when services are assigned.</i></p> <ul style="list-style-type: none"> <li>• Cost Effectiveness; this will compare the costs of outsourcing legal activity to the cost of an additional lawyer and/or support staff.</li> </ul>	and will make recommendations where there is a clear business case to support this.	
6	Lack of policy or structure to requesting and assigning work, as well as monitoring completion.	Define system and policy for requesting work, assigning work and monitoring it, to ensure potential risks, inconsistencies, unbalanced workloads, etc can be identified and corrected	Agree – LRS needs an electronic case management system	Dec 2012 for policy Case Management System when funding available
7	Inconsistency in document control (logging, identification, etc) causes extended searches (up to 5-10 hours additional work to find documents)	Standardized system and policy for document control (EDMS)	The inconsistency in document control is a corporate issue and not specific to LRS. Within LRS, document control exists. Corporately, there is a need for EDMS & Knowledge Management to reduce or eliminate inefficiencies and time spent in retrieving and managing institutional knowledge. LRS could use a specific document (EDMS) and knowledge management system designed for inhouse legal departments.	When funding is available
8	Lack of administrative support to the Solicitors	Recommend that the time spent conducting these tasks be monitored, as part of the monitoring system, to identify areas of efficiency/effectiveness gain. Report back to Committee on these results with recommendations to inform the 2013/2014 budget process.	Agree – LRS will monitor the time lawyers are spending doing administrative functions.	November 2012
9	Contract review is not always conducted through Legal Services	All contracts/agreements should be reviewed and approved by Legal Services, as there is legal liability in every agreement. If standardized templates are utilized the review would be minimal	Agree – All contracts should be reviewed by LRS prior to execution. This will be in the policy set out in 2a. LRS is working on standardizing and reviewing contract templates throughout the City.	Dec 2012  Template Review – Dec 2013



## **Legal and Realty Services**

### **Follow up Audit**

### **Final Report**

**March 5, 2014**

**Prepared by Loretta Alonzo, Internal Auditor**

## **Table of Contents**

AUDIT OBJECTIVES ..... 3

SCOPE..... 3

METHODOLOGY ..... 3

KEY FINDINGS AND RECOMMENDATIONS ..... 3

STATUS OF RECOMMENDATIONS SUMMARY..... 6

CONCLUSION ..... 6

## ***Audit Objectives***

In accordance with professional internal audit standards, a Follow-up Audit has been conducted to evaluate the status of audit recommendations from the original audit completed in October 2012. The purpose of all follow up audits is to evaluate the impact of the original audit to determine if anticipated improvements have been realized and also to identify any new or emerging issues.

## ***Scope***

The scope of the follow-up audit is limited to a review of the key findings and recommendations contained in the original audit and the identification of any new or emerging issues within the business unit.

## ***Methodology***

- Staff interviews – City Solicitor, Assistant City Solicitor, Executive Director, Corporate and Human Resources
- Document review

## ***Key Findings and Recommendations***

<b>1</b>	<b>FINDING</b>	Is Legal Representation Services a service that should be provided by the City?
	<b>RECOMMENDATION</b>	Value for money analysis clearly shows that providing legal and realty services in-house provides an average savings of \$387 per hour, compared to outsourcing the same services. Continue to provide the services in-house.
	<b>STATUS</b>	<b>Complete.</b> The decision to continue providing legal and realty services in-house was fully accepted by management.
<b>2</b>	<b>FINDING</b>	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture of why.
	<b>RECOMMENDATION</b>	Develop a policy and set of guidelines for utilizing external counsel with monitoring to evaluate trends in use. This policy should include an Approved Lawyer List (identifying approved lawyers by expertise and rating).
	<b>STATUS</b>	<b>Complete.</b> A policy has been developed and approved by the Executive Team in January 2014. The policy defines the process for decision-making with regard to internal vs. external legal resources and also defines the process for selection of external resources. A list of approved legal firms will be circulated to service areas with the policy.
<b>3</b>	<b>FINDING</b>	Use of external counsel, by departments other than the Legal and Realty department, is increasing with an unclear picture of why.
	<b>RECOMMENDATION</b>	External legal costs should be managed through the Legal and Realty Services department's accounts, to ensure a clear picture of the true legal costs and to allow for better analysis. This would require all legal budget items (across the corporation) to be expensed through Legal to ensure accurate reporting providing accountability and transparency.

	<b>STATUS</b>	<b>Partially Complete.</b> Financial reporting has not been revised to transfer all legal budgets to Legal Services however, changes to the Corporate and Human Resources/Legal and Realty Services Annual Report have been made such that total legal costs across the Corporation will now be reported. This provides greater transparency in reporting legal costs. The new policy also requires all service areas to submit invoices for external legal services to Legal Services for review and reporting purposes.
<b>4</b>	<b>FINDING</b>	The department does not budget for external legal services. These costs are covered by reserve transfers, for a net zero operating budget (for external legal costs). This does not allow for a clear picture of legal costs.
	<b>RECOMMENDATION</b>	It is recommended that budgeting practices be changed to budget external legal costs based on historical expenditures, utilizing the reserve for complex or large external issues.
	<b>STATUS</b>	<b>Partially Complete.</b> The budget for external legal costs, which are primarily OMB related, has been increased by \$200K however the historical costs indicate approximately \$400K is actually spent. Based on budget constraints, management has decided to phase in this recommendation as budgets permit over the next few years.
<b>5</b>	<b>FINDING</b>	The City of Guelph's legal staffing levels are lower than most of the municipalities that participated in the benchmarking activity.
	<b>RECOMMENDATION</b>	Monitor cost of legal work outsourced (where the internal expertise is available in house) vs. the cost of an on staff lawyer, to ensure cost efficiency in service provision. The department should monitor and analyze this (for the last year) data and report to Committee by the end of 2012 with recommendations regarding continued use of external legal resources or additional in-house legal staff. Provide whichever recommendation is most fiscally responsible, to inform the 2013 and 2014 budget process.
	<b>STATUS</b>	<b>Complete.</b> The new Legal and Realty Services policy provides clear direction on the use of external legal resources and guidelines with respect to the decision-making process when determining whether to use internal or external legal counsel.
<b>6</b>	<b>FINDING</b>	Limited performance measurements that identify whether the department is achieving their objectives and identify trends for value added decision making. The department compiled their first annual report which is an excellent starting point, but further improvements are required.
	<b>RECOMMENDATION</b>	Implement simple performance measures such as; <ul style="list-style-type: none"> <li>• Customer feedback; this would provide information regarding perception of service. <i>Can be measured through a per-service feedback loop, this would require a service request and provision policy, and/or a semi-annual/annual basis.</i></li> <li>○ Workload; this would highlight trends or areas of concern to allow workload leveling. <i>Could be measured by assigning complexity ratings to tasks when services are assigned.</i></li> </ul> <p>Cost Effectiveness; this will compare the costs of outsourcing legal activity to the cost of an additional lawyer and/or support staff.</p>



	<b>STATUS</b>	<b>Not Complete.</b> Staff have not conducted a customer service survey since the audit. This is planned for April 2014. It is recommended that this be planned annually and established as a KPI for the business unit.
<b>7</b>	<b>FINDING</b>	Lack of policy or structure to requesting and assigning work, as well as monitoring completion.
	<b>RECOMMENDATION</b>	Define system and policy for requesting work, assigning work and monitoring it, to ensure potential risks, inconsistencies, unbalanced workloads, etc can be identified and corrected.
	<b>STATUS</b>	<b>Complete.</b> The new policy sets out the process for requesting support from Legal Services as well as a service level agreement. Staff now meet regularly to review these service requests and work is assigned based on capacity, expertise, previous knowledge of the file and other criteria.
<b>8</b>	<b>FINDING</b>	Inconsistency in document control (logging, identification, etc) causes extended searches (up to 5-10 hours additional work to find documents).
	<b>RECOMMENDATION</b>	Standardized system and policy for document control (EDMS).
	<b>STATUS</b>	<b>Not Complete.</b> An Electronic Document Management System (EDMS) has not been implemented. Software has been reviewed and selected (Legal Suite) by a number of stakeholders who could share the costs of implementation. The proposed software could also service Corporate Building Services for property management matters and Economic Development could also utilize the Contract Management module. The request was removed from the 2014 budget submission due to funding constraints.
<b>9</b>	<b>FINDING</b>	Lack of administrative support to the Solicitors.
	<b>RECOMMENDATION</b>	Recommend that the time spent conducting these tasks be monitored, as part of the monitoring system, to identify areas of efficiency/effectiveness gain. Report back to Committee on these results with recommendations to inform the 2013/2014 budget process.
	<b>STATUS</b>	<b>Not Complete.</b> The lack of adequate corporate administrative support was also identified in the Organizational Assessment. Requests for additional administrative support will be considered pending the outcome of the time-keeping review to determine if other efficiencies may be found to support this request.
<b>10</b>	<b>FINDING</b>	Contract review is not always conducted through Legal Services.
	<b>RECOMMENDATION</b>	All contracts/agreements should be reviewed and approved by Legal Services, as there is legal liability in every agreement. If standardized templates are utilized the review would be minimal.
	<b>STATUS</b>	<b>Complete.</b> The Corporation is generally compliant with this request and the new policy further defines the process for contract review to be completed by Legal Services.

## ***Status of Recommendations Summary***

**Total Audit Recommendations 10**

<b>Completed</b>	<b>5</b>
<b>Partially Completed</b>	<b>2</b>
<b>Not Completed</b>	<b>3</b>

### ***Conclusion***

In their interviews, staff report that work load issues have been significantly improved since the original audit was conducted. The addition of two new lawyers has enabled a more balanced assignment of work and in particular, the level of acquired expertise has had a positive impact.

The new process for reviewing service requests has been effective in balancing work loads and ensuring that files are assigned to the staff with the most relevant experience.

The development of a new Legal and Realty Services policy establishes a clear process for requesting service and makes commitments to customers with respect to deliverables and timelines. The policy addresses the use of external legal resources and defines how and when this is appropriate. It further defines the method by which external legal costs will be monitored and how these costs will be tracked by Legal Services.

The lack of an EDMS continues to hamper performance and create non-value added manual work for staff. A document management system is still recommended in order to maximize efficiency and improve performance.

The recommendation to implement key performance indicators (KPIs) has not been implemented and therefore we have no benchmark data to determine whether customers are more or less satisfied with the service they receive. This information is essential if Legal and Realty Services intends to keep its commitment to improving customer service and to monitor their performance annually.

Budget constraints have impeded the implementation of several recommendations. Until such time as budgets permit, there will continue to be a variance for the use of external legal resources, particularly with respect to OMB matters.

While the recommendation to move all legal budgets to Legal Services has not been implemented, the effort has been made to make total legal costs transparent in the Annual Report for CHS. This is a partial measure of success provided that these costs are tracked and reported accurately.

The shortage of administrative support continues to create non-value added work by the legal staff and it is anticipated that this will be addressed by the time-keeping review currently underway in Human Resources.

In summary, Legal and Realty Services has made some progress in implementing the audit recommendations and improvements are noted. It is strongly recommended that recommendations # 6 (KPIs and customer survey) and # 8 (EDMS) be implemented without further delay.