



Planning and Land Use Committee Report

For the Meeting of September 10, 2015

To: Planning and Land Use Committee **Date:** August 27, 2015

From: Jonathan Tinney, Director, Sustainable Planning and Community Development

Subject: Delegated Authority and Exemptions for Development Permits

RECOMMENDATIONS

That Committee forward this report to Council for consideration and that Council direct staff to:

1. Prepare an Official Community Plan (OCP) amendment bylaw:
 - a. to exempt buildings and structures with a floor area no greater than 9.2m² (100ft²) from requiring development permits in the following designated areas:
 - i. DPA 4: Town Centres
 - ii. DPA 5: Large Urban Villages
 - iii. DPA 6A: Small Urban Villages
 - iv. DPA 7A: Corridors
 - v. DPA 10A: Rock Bay
 - vi. DPA 13: Core Songhees
 - vii. DPA 14: Cathedral Hill Precinct
 - viii. DPA 15A Intensive Residential Small Lot
 - ix. DPA 15B: Intensive Residential Panhandle Lot
 - x. DPA 15D: Intensive Residential Duplex
 - xi. DPA 16: General Form and Character
 - b. to exempt changes to existing landscaping (where the landscaping does not form part of an approved plan) from requiring development permits in the following designated areas:
 - i. DPA 5: Large Urban Villages
 - ii. DPA 6A: Small Urban Villages
 - iii. DPA 7A: Corridors
 - iv. DPA 10A: Rock Bay
 - v. DPA 11: James Bay and Outer Harbour
 - vi. DPA 13: Core Songhees
 - vii. DPA 14: Cathedral Hill Precinct
 - viii. DPA 15A: Intensive Residential Small Lot
 - ix. DPA 15B: Intensive Residential Panhandle Lot
 - x. DPA 15D: Intensive Residential Duplex
 - xi. DPA 16: General Form and Character
 - c. to clarify language in Appendix A of the OCP so it is clear when a permit is not required (an exemption) versus when a permit is required, to improve its user-friendliness.

2. Undertake public consultation to receive feedback on the proposed Official Community Plan amendment bylaw and report back to Council with a summary of comments received prior to a Public Hearing.
3. Prepare a Land Use Procedures amendment bylaw to delegate approval authority to staff for the following types of development applications when consistent with relevant policy:
 - a. new buildings, building additions, structures and equipment in Development Permit Area (DPA) 16: General Form and Character, DPA 10A: Rock Bay, and DPA 10B (HC): Rock Bay Heritage;
 - b. new buildings, building additions, structures and equipment that do not exceed 100m² floor area in:
 - i. DPA 2 (HC): Core Business
 - ii. DPA 3 (HC): Core Mixed-Use Residential
 - iii. DPA 4: Town Centres
 - iv. DPA 5: Large Urban Villages
 - v. DPA 6A: Small Urban Villages
 - vi. DPA 6B (HC): Small Urban Villages Heritage
 - vii. DPA 7A: Corridors
 - viii. DPA 7B (HC): Corridors Heritage
 - ix. DPA 10A: Rock Bay
 - x. DPA 10B (HC): Rock Bay Heritage
 - xi. DPA 11: James Bay and Outer Harbour
 - xii. DPA 12 (HC): Legislative Precinct
 - xiii. DPA 13: Core Songhees
 - xiv. DPA 14: Cathedral Hill Precinct;
 - c. accessory buildings in:
 - i. DPA 15A: Intensive Residential Small Lot
 - ii. DPA 15B: Intensive Residential Panhandle Lot
 - iii. DPA 15D: Intensive Residential Duplex;
 - d. floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour located in the FWM Zone, Fisherman's Wharf Marine District;
 - e. floating buildings, floating building additions and floating structures that do not exceed 100m² in floor area in all DPAs;
 - f. renewals of up to two years for previously approved (unlapsed and unchanged) development permits where there have been no intervening policy changes;
 - g. renewals of up to two years for previously approved (unlapsed and unchanged) heritage alteration permits where there have been no intervening policy changes;
 - h. replacement of exterior materials on existing buildings;
 - i. temporary buildings and structures that do not exceed 100m² in floor area and where removal is secured by a legal agreement limiting permanence to five years;
 - j. temporary construction trailers on private property;
 - k. temporary residential unit sales trailers on private property;
 - l. changes to landscaping where applicable design guidelines exist or where identified within an approved plan.
4. Develop and implement a process to monitor and evaluate the effectiveness and benefits of the proposed delegation authority initiative and report to Council with an annual summary of findings and recommendations.

EXECUTIVE SUMMARY

The purpose of this report is to seek direction from Council to advance two key initiatives that are in direct support of the *City of Victoria Strategic Plan 2015-2018*, annual Development

Summit feedback, and the *Official Community Plan* (OCP) monitoring and evaluation program. The first initiative is to prepare an Official Community Plan amendment bylaw to exempt certain forms of 'minor' development (small scale buildings/structures and changes to existing landscaping) from requiring development permits within specific Development Permit Areas and associated with these proposed amendments, to provide improved language in the OCP so it is clear when a permit is and is not required. The minor forms of development that are proposed to be exempted from development permits typically have minimal impacts on the form and character of the surrounding area including the public realm and could be adequately reviewed through the *Zoning Regulation Bylaw* in combination with the proposed conditions described in Attachment 1.

The second initiative is to prepare an amendment to the *Land Use Procedures Bylaw* to provide staff with delegated authority to review and approve a range of development permit (DP) and heritage alteration permit (HAP) applications when they are consistent with approved City policy. Both of these initiatives were identified through the Development Summits as a means to reduce the overall volume of development applications and a way to streamline the development application process.

The delegation approach would also help to streamline the review process for a number of relatively straight-forward development proposals, shortening timelines for applicants and reducing the number of applications that need to be processed through to a Council decision point. It is anticipated that processing times for delegated applications would be typically reduced from approximately three to four months down to two to four weeks. A number of informal review processes would also be regularized with the implementation of this approach, enhancing staff's ability to review and respond to development and business requirements related to needing temporary structures as well as building maintenance and upgrades. Staff also propose to monitor and evaluate the overall effectiveness and benefits of the delegated authority initiative and provide Council with an annual summary of outcomes and recommendations.

If Council endorses the proposed development permit exemptions, staff will report back to Council with an Official Community Plan amendment bylaw that will be subject to a Public Hearing process in accordance with the requirements of the *Local Government Act*. Similarly, if Council endorses the proposed delegation authority initiative, staff will report back to Council with a Land Use Procedures Bylaw amendment and a detailed outline of the administrative review process for the proposed delegated development permit and heritage alteration permit applications for Council's consideration.

PURPOSE

The purpose of this report is to provide Council with information, analysis and recommendations to support Council's consideration of exempting specific forms of minor development from requiring development permits and to establish a system of delegated authority to enable staff to review and approve a range of development permit (DP) and heritage alteration permit (HAP) applications when they are consistent with established City policy. These initiatives have been identified as key outcomes from the annual Development Summits and also provide a means to streamline development applications in support of the *City of Victoria Strategic Plan 2015-2018* and the OCP monitoring and evaluation program.

BACKGROUND

Previous Council Consideration of Delegated Authority

Over the past three years, a series of reports and Council workshops have been advanced for Council's consideration which explored the possibility of delegating authority to staff to approve a range of DPs and HAPs. Copies of these Council reports and minutes are included in Attachments 4, 5 and 6 for reference. Council initially directed staff to explore the possibility of developing a delegated authority option that included delegating some types of variance applications to staff, which was reflected in Council's selection of Option #5 from the range of delegation options (below) that were presented to Council in 2012:

- Option # 1 - No Delegation
- Option # 2 - Maintain Status Quo
- Option # 3 - Delegation (No variances and Exemptions)
- Option # 4 - Delegation (No Variances)
- Option # 5 - Delegation (With Variances and Exemptions)
- Option # 6 - Full Delegation.

Upon receiving information on this approach on December 12, 2013, Council requested a more limited form of delegation and posed a number of questions related to how to ensure adequate community input and whether there was a way to forward applications to Council for a decision, particularly in instances when consultation was part of the existing process. A follow-up workshop was held on September 18, 2014, where staff brought forward a report focused on a more limited version of delegation, but still with variances and some exemptions; however, a final conclusion was not reached and a number of concerns continued to be expressed by Council related to a number of topics.

The approach being advanced for Council's consideration via this report strives to address these concerns by limiting the range of delegation to applications without variances. At the same time, this initiative along with the proposed DP exemptions described in this report, provide an opportunity to advance a number of key goals targeted at streamlining development application processing that are noted in the Strategic Plan and articulated at the 2014 and 2015 Development Summits, at which participants discussed the need to simplify and speed up the review process for routine applications while freeing up staff time to focus on more complex applications.

While this report presents a key opportunity to advance the current Development Summit outcomes it should be noted that staff will be consulting with the development industry and communities (CALUCs) for feedback on the proposed Development Summit Action Plan that is anticipated to be presented to Council in October 2015. Regardless, the proposed initiatives described in this report continue to be reinforced through the outcomes of the last Development Summit.

ISSUES AND ANALYSIS

1. Development Permit Exemptions

Volume of Development Permit Minor Applications

Staff have identified that over a 24 month period (July 31, 2013 - July 31, 2015) the City received a total of 125 development permit minor applications (DPM) of which six were for small scale buildings and structures and five were for changes to landscaping. While these types of

developments do not represent a significant portion of the applications received, they are appropriate candidates to exempt from requiring a DP to assist with reducing application volumes to improve City responsiveness to business, and allowing staff to redirect their energies to more complex applications.

Proposed Approach

The proposed development permit exemptions described in Attachment 1 are restricted to specific Development Permit Areas for certain types of development considered to be 'minor' in nature due to their limited size, scale, and impact. This includes the development of small scale buildings and structures that are less than 9.2m² (100ft²) as well as changes or replacement of existing landscaping when the landscaping is not associated with a previously-approved development permit. Currently, these types of minor developments are typically processed through a DPM which requires application fees and additional time from staff to review and process. However, based on past experience, staff have identified that these scenarios are primarily administrative processes that generally do not add value to the final result.

Affected Areas

Attachment 1 identifies the proposed development permit exemptions including the specific Development Permit Areas where they would apply. The proposed exemptions would not apply in Heritage Conservation Areas (HCA) or to properties identified on the *City of Victoria Heritage Register*.

Statutory Consultation

The *Local Government Act* requires a local government to provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected by an OCP amendment. This consultation requirement is in addition to the Public Hearing requirement. The impact of the proposed OCP amendment is deemed to be limited as the proposed DP exemptions are minor in scale and are not deemed to alter the function or general design of the principal development. As a result, it is recommended that the appropriate consultation measures would include a newspaper notice of the proposed OCP amendment bylaw and a notice posted on the City's website inviting feedback and questions from the public and the opportunity to provide written or verbal comments to Council for their consideration. In addition, if Council directs staff to prepare an OCP amendment bylaw, staff will ensure that the proposed bylaw is communicated directly with the Community Association Land Use Committees as well as with the development industry. Staff will then report back to Council with a summary of the feedback in conjunction with the proposed OCP amendment bylaw.

2. Delegation Authority

Development Data

Council's direction to explore the development of a system of delegated authority was initiated with the adoption of the new OCP, when it was anticipated that the establishment of a new City-wide Development Permit Area (DPA 16,) would trigger additional applications which would be subject to the DP application process. The table below illustrates the increase in the number of applications that have been received over the past five years.

Application Volumes Related to Delegation Authority

Application Type	Old OCP, 1995		New OCP, 2012			Average Increase since July 29, 2012
	July 30, 2010 to July 29, 2011	July 30, 2011 to July 29, 2012	July 30, 2012 to July 29, 2013	July 30, 2013 to July 29, 2014	July 30, 2014 to July 29, 2015	
DP	25	20	42	52	48	110%
HAP	16	13	20	16	14	15%
REZ	31	23	26	36	30	14%
Total	72	56	88	104	92	46%

Although it would appear that the increase in applications is related to the OCP, the increase cannot be wholly attributed to the introduction of DPA 16. After analyzing 24 months of recent development permit applications, only four applications are purely a result of the introduction of the new DPA 16. All the other development permit applications would have been triggered because of a variance requirement or because the property was located in a Development Permit Area that existed prior to the introduction of the new OCP.

Nonetheless, as illustrated in the table, there has been a sharp increase (110%) in the number of DP applications as well as a more modest increase in other application types which happens to coincide with the introduction of the new OCP. This may in part be due to renewed interest in developing in the City because of the new policies that were introduced with the OCP or because of the positive development cycle that the City has been experiencing over the past few years.

Despite only four applications being triggered because of DPA 16, there were 20 applications with some form of variance located in DPA 16 that required additional processes because of this new DPA. These additional processes included reviewing applications for compliance with design guidelines, collecting and administering landscape deposits, monitoring building progress and conducting inspections to ensure compliance with approved development permit plans. There would have also been the need for some applicants to submit and for staff to review and administer minor change applications related to these files when design changes were requested. These processes were not required under the previous OCP and represent an increased regulatory burden for applicants and staff. So although there has not been a significant increase in the number of applications that can be attributed to DPA 16, there has been an overall increase in processes associated with its creation and delegating some degree of authority for certain types of applications will help to alleviate pressure on resources and improve approval times for applicants.

Recommended Approach

The recommended approach being advanced for Council's consideration would significantly reduce timelines for applicants and would streamline and simplify the process of moving applications through to a decision point for the application types that are suggested for delegation to staff. The recommended delegation items are for the most part, small scale in nature and for the few potential larger scale delegation types such as new buildings in DPA 16: General Form and Character, DPA 10A: Rock Bay, DPA 10B (HC): Rock Bay Heritage, DPA 11: James Bay and Outer Harbour (limited to Fisherman's Wharf) have the benefit of established design guidelines that they can be assessed against. In all instances, staff would prepare a weekly list that identifies all DP and HAP applications received as well as those that have been approved. This list would be provided to Council for information as well as posted on the City of

Victoria website. As part of the review process, staff would also be able to refer applications to the Advisory Design Panel and Heritage Advisory Panel.

Recommended for Immediate Implementation

The approach being recommended for Council's consideration for immediate implementation is detailed in Attachment 2 of this report and is summarized below. This approach would delegate authority to staff to approve DP and HAP applications that do not include variances and that are consistent with zoning and relevant guidelines, within the following categories:

- all new buildings and building additions in DPA 16: General Form and Character, DPA 10A: Rock Bay and DPA 10B (HC): Rock Bay Heritage
- new buildings and building additions that do not exceed 100 m² in floor area in:
 - DPA 2 (HC): Core Business
 - DPA 3 (HC): Core Mixed-Use Residential
 - DPA 4: Town Centres
 - DPA 5: Large Urban Villages
 - DPA 6A: Small Urban Villages
 - DPA 6B (HC): Small Urban Villages Heritage
 - DPA 7A: Corridors
 - DPA 7B (HC): Corridors Heritage
 - DPA 10A: Rock Bay
 - DPA 10B (HC): Rock Bay Heritage
 - DPA 11: James Bay and Outer Harbour
 - DPA 12 (HC): Legislative Precinct
 - DPA 13: Core Songhees
 - DPA 14: Cathedral Hill Precinct
- accessory buildings in:
 - DPA 15A: Intensive Residential Small Lot
 - DPA 15B: Intensive Residential Panhandle Lot
 - DPA 15D: Intensive Residential Duplex
- floating buildings, floating building additions and floating structures in DPA 11: James Bay and Outer Harbour in the FWM Zone, Fisherman's Wharf Marine District
- floating buildings, floating building additions and floating structures that do not exceed 100 m² in floor area
- renewals of up to two years for previously approved (unlapsed and unchanged) development permits where there have been no intervening policy changes
- renewals of up to two years for previously approved (unlapsed and unchanged) heritage alteration permits where there have been no intervening policy changes
- replacement of exterior materials on existing buildings
- temporary buildings that do not exceed 100m² in floor area where their removal is secured by a legal agreement
- temporary construction trailers
- temporary residential unit sales trailers - where they comply with the *Zoning Regulation Bylaw*.

This approach would result in a significant time-savings for applicants. Presently, based on existing targets, applications that fall into any of these categories typically take three to four months to process through to a point where a decision is rendered by Council. Under the proposed approach, where a DP or HAP application is supportable and no revisions or additional information is required it could be processed in two to four weeks. Below are few

Examples

Referrals to Council

Additionally, there may be instances where an application fits the criteria to be delegated to staff; however, in the opinion of staff, it may be preferable to refer the application to Council for a decision. The recommendation being put forward for Council's consideration is to amend the *Land Use Procedures Bylaw* to allow for this degree of discretion to be exercised by the Director of Sustainable Planning and Community Development.

Staff recommend for Council's consideration that further consultation on the recommended approach is not necessary. The rationale for this is that the approach does not include any applications that would have previously been referred to CALUCs nor required notice to neighbours or signage. Additionally, the range of considerations that come into play when reviewing these types of applications is limited to guidelines and policies referenced in the OCP

which were developed with the benefit of community consultation. Finally, as noted earlier in this report, participants at the Development Summit, which included a range of stakeholders, identified the potential for granting some form of delegated authority to staff as a key strategy that could be used to reduce timelines and streamline processes.

Alignment with Local Area Planning

The City is currently in the process of undertaking a local area planning process for the Burnside neighbourhood including the Rock Bay area which is currently subject to DPA 10A: Rock Bay and DPA 10B (HC): Rock Bay Heritage. During phase I of public engagement throughout April to June 2015, feedback was received from business representatives in Rock Bay and the employment lands north of Bay Street that regulatory barriers could be reduced to encourage business incubation in the area. Delegating approval authority to staff for buildings within DPA 10A and DPA 10B would assist with this. It is anticipated that the local area planning process may result in the establishment of new guidelines for the Rock Bay area that will be used to review and consider future development applications. Under the proposed Delegation Authority initiative, staff would review and consider any applicable development permit applications in these Development Permit Areas based on the current guidelines that are identified in the OCP until such time as they are updated to reflect the new local area plan. This approach helps to support an immediate streamlining and improvement with the development review process while also recognizing that revised or new guidelines may result through the current local area planning process. This same rationale and approach would also apply within other areas of Victoria where future local area planning is undertaken.

Alignment with Economic Development Initiatives

As described earlier in this report, the proposed DP exemption and delegated authority initiatives provide alignment with the *City of Victoria Strategic Plan 2015-2018*. This alignment also extends to Objective 5 which seeks to create prosperity through economic development. The ability to streamline development application processing and improvements to service delivery provides a key component to encouraging further investment and development within Victoria.

OPTIONS AND IMPACTS

1. Development Permit Exemptions

Option 1: Prepare OCP Amendment Bylaw (Recommended)

This option would implement a specific action identified in the Strategic Plan and the feedback received at the annual Development Summits. Council has the option to advance this initiative by directing staff to prepare an OCP amendment bylaw which will be subject to a Public Hearing in accordance with the requirements of the *Local Government Act*. This means that Council would still have the opportunity to consider the amendment bylaw in conjunction with any comments or concerns that are received from the public. Similarly, Council may also seek to refine or limit the proposed exemptions described in Attachment 1 prior to directing staff to prepare the OCP amendment bylaw. Staff have identified the proposed development permit exemptions as a way to facilitate a more streamlined and efficient process for developers and property owners to undertake minor developments. This initiative will also help to reduce the volume of development applications, resulting in the potential to allocate more staff time to review and process more significant or complex applications.

Option 2: Delegate Approval Authority to Staff for These Items

An exemption for buildings under 9.2m² (100ft²) in size and changes to existing landscaping means that there would be no design review of these items. Should Council feel that evaluation and guidance is necessary, these could be added to the list of delegation items to staff, which would still result in some streamlining, but to a lesser extent.

Option 3: Maintain Status Quo

If Council directs staff to not prepare the recommended OCP amendment bylaw, the limitations of the current OCP will persist and staff would need to seek further direction as to whether Council would like these types of applications to come to Council for a decision in the future. This status quo approach would make it more difficult to achieve the objectives of the *Development Summit Action Plan* and the *City of Victoria Strategic Plan 2015-2018* related to improving application process times.

2. Delegation Authority

Option 1: Implement the proposed approach to delegate authority including a system to monitor and evaluate the effectiveness and benefits of this approach. **(Recommended)**

After the initial work of staff drafting and Council considering the necessary bylaw amendments, a degree of Council and staff time associated with what are typically straight-forward applications would be freed up and could be allocated to focusing on other key priorities. Additionally, key actions identified in the City's Strategic Plan as well as through the Development Summit would be achieved and positive outcomes related to streamlining development applications as a way to advance economic development goals would be realized. This approach also provides a system to report to Council on an annual basis with a summary of the overall effectiveness and benefits of the delegated authority initiative including recommendations.

Option 2: Direct staff to discontinue work on this topic by deciding to not implement a system of delegated authority

Considerable staff and Council time has already been expended exploring topics related to delegated authority. Stopping exploration and consideration of this topic would also free up a small amount of staff and Council time, but would not advance actions identified in the Strategic Plan or at the Development Summits, nor would it advance goals of economic development associated with streamlining development application processes.

2015 - 2018 Strategic Plan

The proposed development permit exemptions and delegation authority initiatives both help to directly support the following 2016 Outcomes of the Strategic Plan:

- reduced processing time for all types of applications from building permits to rezoning
- streamlined land use policies.

In addition, the recommended approach is also consistent with the Strategic Plan objective to "Strive for Excellence in Planning and Land Use," as it advances an opportunity for Council to

“make a decision with regard to whether we are going to delegate more decision-making authority to staff.”

Impacts to 2015 - 2018 Financial Plan

There are no additional financial resources required to prepare the proposed OCP amendment bylaw. However, the proposed development permit exemptions may result in a minimal reduction of development permit fees as the DP exemption is only proposed for two types of minor development. The base fee for a development permit minor application is \$200 and during the 24-month period described earlier, the City received a total of 125 applications of which only 11 (8%) were for the types of minor development that are proposed for exemption. Therefore, it is estimated that the proposed exemption would have a minimal impact on the overall development permit fees that are collected each year.

Delegating approval authority of permits to staff would have no direct impact on the City's Financial Plan. However, the proposed delegated authority would result in fewer reports needing to be written by staff and processed through the Council review process each year. This would yield time and resource savings for applicants, Council and City staff including the ability to improve service levels by directing more staff time to review and process more complex development applications.

Official Community Plan (OCP), 2012 - Consistency Statement

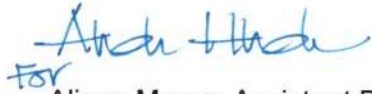
The proposed development permit exemptions are consistent with the Adaptive Management chapter, which contemplates periodic updates and refinements to ensure the OCP is able to deliver and support its various broad objectives and actions.

The proposed approach to delegated authority is consistent with the OCP and amendments to the OCP are not required. In particular, the recommended changes would support objectives identified in the Plan Administration section of the OCP which states, “That development is subject to additional oversight through tools available in legislation in designated areas of the city where more direction is required to address special conditions and plan goals and objectives.” Additionally, it responds to a goal contained in the Adaptive Management section which is to “Incorporate knowledge accumulated through the adaptive management cycle into relevant plans, policies, management and operations in a coordinated and timely manner.” The proposed approach to delegated authority still offers oversight in designated areas to ensure development proposals meet design guidelines where special conditions exist, while offering an adapted method that responds to the knowledge gained from monitoring and evaluating applications that have been received since the OCP was approved in 2012.

CONCLUSIONS

The proposed development permit exemptions and delegation authority are positive initiatives that will significantly streamline and expedite processes for applicants, Council and staff. The combined proposed changes would also result in fewer reports per year which would allow more staff time to be allocated to further improve service levels and processing times for more complex development applications. The proposed changes would also have the benefit of regularizing some informal practices that have been utilized to facilitate minor changes in development within Development Permit Areas as well as supporting economic development within the City of Victoria and advancing a number of goals that are articulated in the City's Strategic Plan and the recommendations flowing from the annual Development Summits.

Respectfully submitted,


for

Alison Meyer, Assistant Director
Development Services Division



Robert Batallas, Senior Planner
Community Planning Division



Jonathan Tinney, Director
Sustainable Planning and Community
Development Department

Report accepted and recommended by the City Manager:



Jason Johnson

Date:

Sept. 4/15

List of Attachments

- Attachment 1: Proposed Development Permit Exemptions
- Attachment 2: Development Permit Application Types Recommended for Delegated Authority
- Attachment 3: Sample Photos and Plans of Potential Development Permit Applications for Delegated Authority
- Attachment 4: Governance and Priorities Committee Report dated June 7, 2012 and Approved Council Minutes
- Attachment 5: Governance and Priorities Committee Report dated November 8, 2013 and Approved Council Minutes
- Attachment 6: Planning and Land Use Committee Report dated September 4, 2014 and Approved Council Minutes.