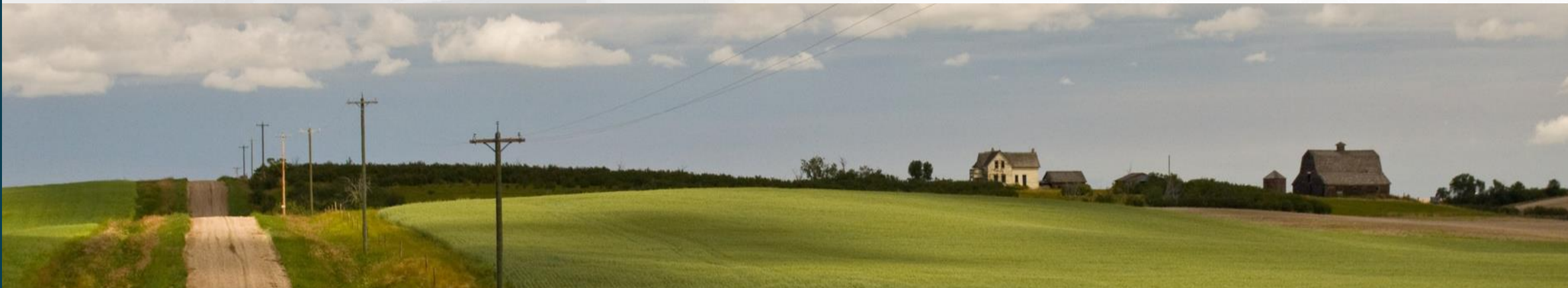




BROWNLEE LLP
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EMERGING TRENDS
IN MUNICIPAL LAW

Managing Municipal Lands: A Strategic Approach





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Common Questions

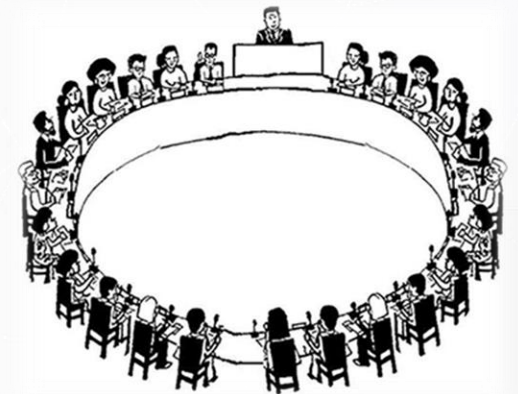
Who Approves Land Sale Agreements?

What is Market Value?

Does a Counteroffer Require Council Approval?

Who Can Authorize Road Licences?

What is the Process for Selling Reserve Land?



Strategic Solutions



Why Have a Land Strategy?

- Municipalities hold a significant portion of land in the Province
- Municipal lands include **roads, environmental reserves (ER), community facilities, natural spaces (MR), schools, and public utility lots**, etc.
- Land is essential to carrying out the municipal purposes under the MGA

Why Have a Land Strategy?

Municipalities have a duty to:

1. Make strategic decisions in the best interest of both current and future residents.
2. Act responsibly and transparently.
3. Balance competing views and priorities.

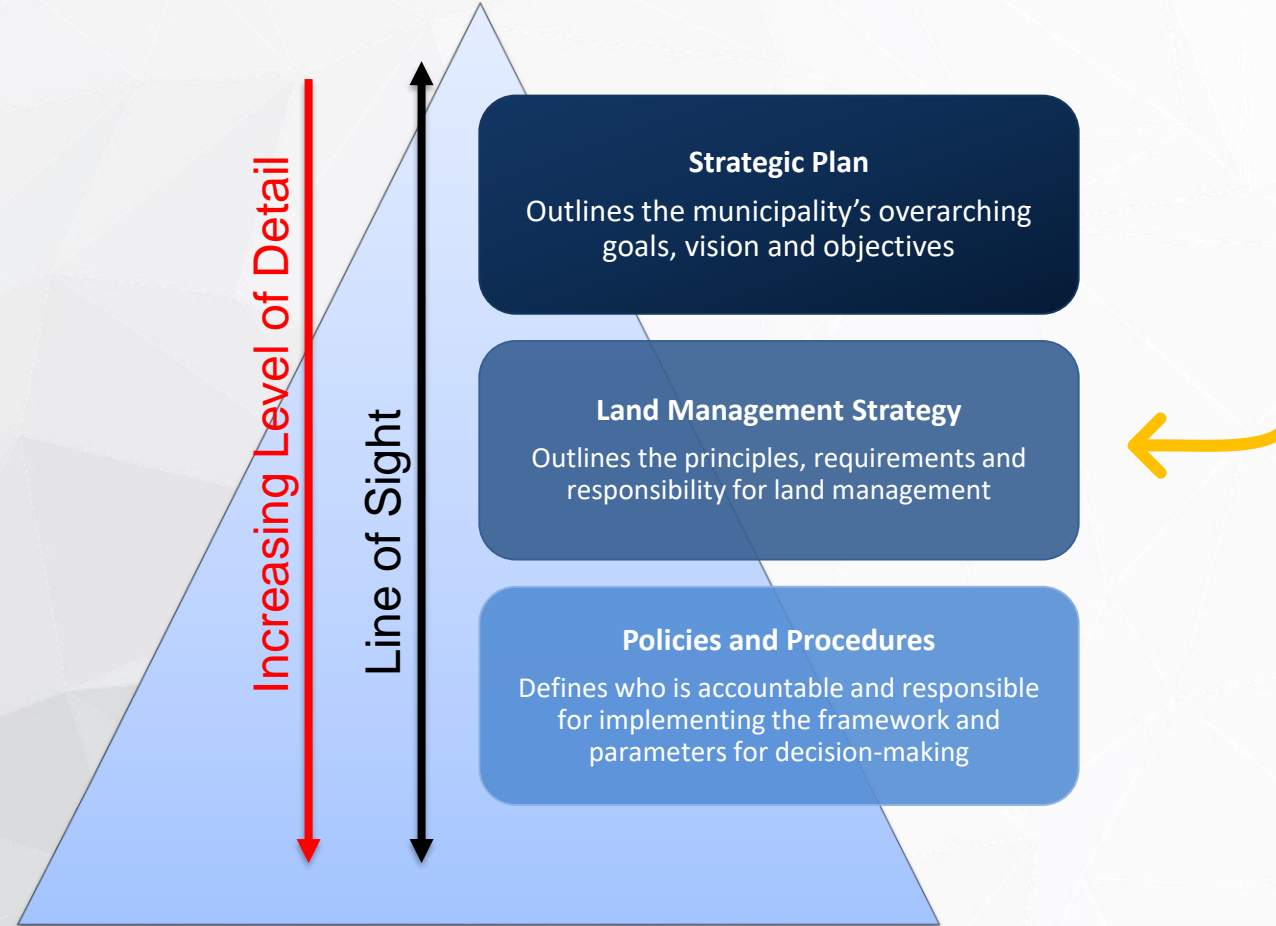
Creating The Framework

“Discrete functions in a municipality can often operate in their own silos, with little coordination with other functions.

Your municipality can address this problem by building a clear “line of sight”...This line of sight shows how the various functions and individuals across the municipality fit into the bigger picture, and ensures they are working toward the same goals.”

*How to develop an asset management policy, strategy and governance framework, **FCM Guidebook (2018)***

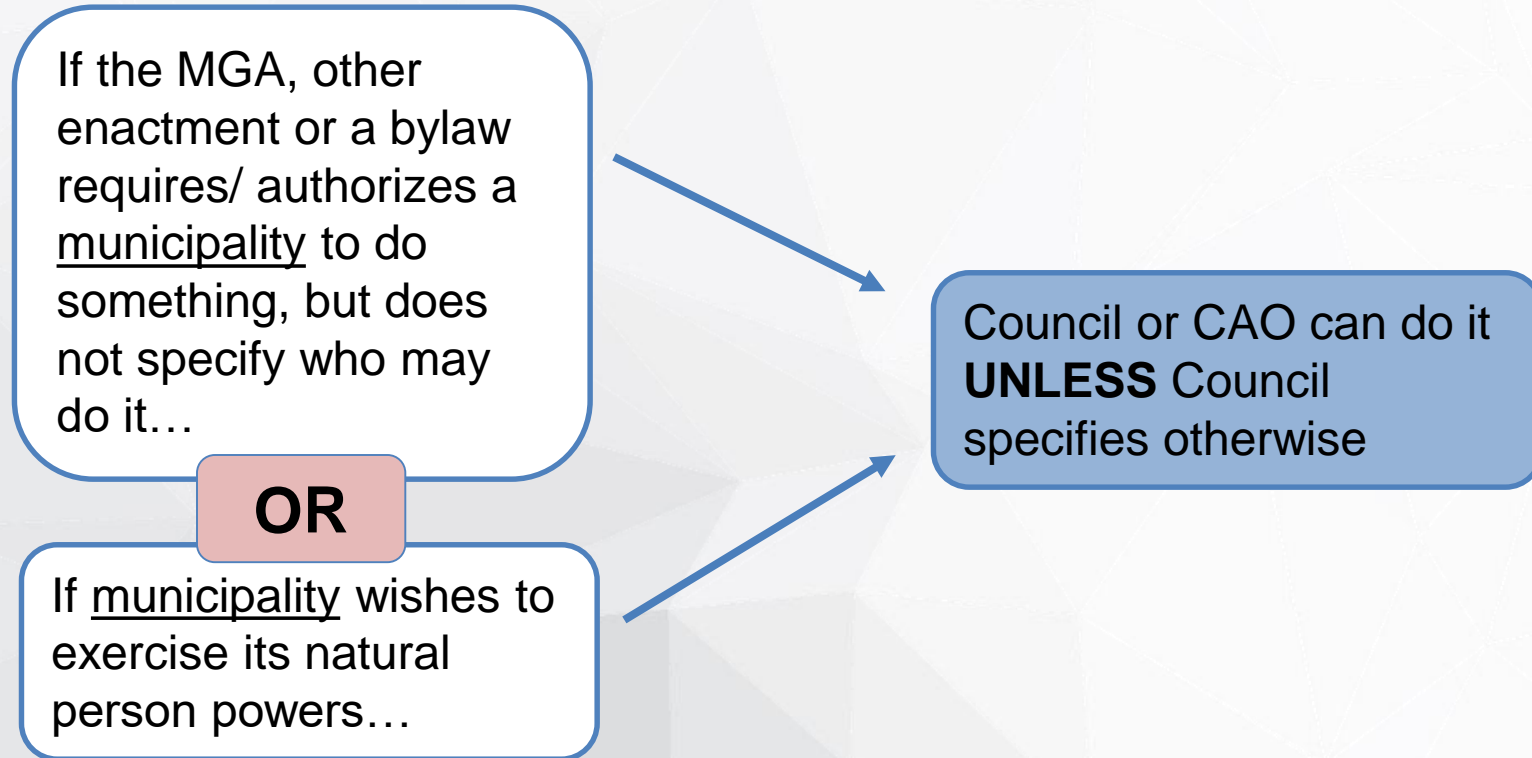
Creating The Framework



Municipal Authority Overview

- The *MGA* gives municipalities **broad authority** to own and manage land, subject to a few specific limitations.
- Municipalities have the power of a “**natural person**”, except as limited under the *MGA* or other legislation.
- Municipalities **are not** provided with a comprehensive, statutory framework for how to manage public lands.

Exercising Municipal Authority



MGA, s. 202

Exercising Municipal Authority

Methods in Which Council May Act:

A Council may act only by:

- Bylaws: Used when creating laws of general application; creating regulatory offences/penalties.
- Resolutions: Used for discrete issues, often to give direction to administration.

MGA, s. 180

Exercising Municipal Authority

Where a Council is required or authorized to do something by bylaw, it may **ONLY** be done by bylaw.

MGA, s. 180

Delegation

1. Council may delegate its powers to a Council committee or any person
2. Council may not delegate:
 - Power to pass bylaws
 - Power to deal with CAO
 - Power to adopt budgets
 - Power with respect to cancelling, reducing, refunding or deferring taxes

MGA, s. 203

Delegation

3. CAO may delegate any of their powers, duties or functions under the *MGA*, or under any other enactment or bylaw to a designated officer or an employee of the municipality.



MGA, s. 209

Why Delegate?



Increased Efficiency



Leverage Team Strengths

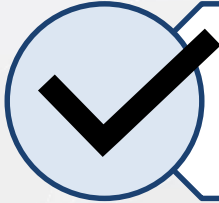
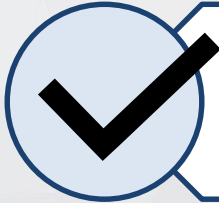
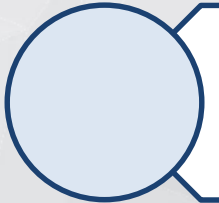


Free up Time for Strategic Planning



Diverse Decision Making

Final Step: Making the Decisions

-  Understand Benefits of Establishing Land Strategies
-  Understand how Authority is Exercised and Delegated
-  Ways to Provide Guidance for Decision Making and Define Roles

Creating The Framework



Signing Municipal Agreements

LEGISLATION (MGA):	<p>Section 213</p> <p>Signing or Authorization of municipal documents</p> <p>213(4) Agreements and cheques and other negotiable instruments must be signed or authorized:</p> <ul style="list-style-type: none">a) by the chief elected official or by another person authorized by council to sign them, andb) by a designated officer, <p>or by a designated officer acting alone if so authorized by council.</p>
WHO HAS AUTHORITY?	Mayor and CAO Unless Council States Otherwise

Signing Municipal Agreements

Issues to Address within Policy:

- 1) What documents may be signed by CAO acting alone?
- 2) Can signing authority be further delegated by the CAO?
- 3) Are there agreements that must be signed by the Mayor and CAO?
- 4) Who controls the Municipality's seal?
- 5) What are the reporting requirements?
- 6) Will Council authorize the use and acceptance of electronic signatures? If yes, what are the technical requirements?

Acquiring and Selling Land

LEGISLATION (MGA):	<p>Natural Person Power (s. 6, <i>MGA</i>)</p> <p>Otherwise, not expressly regulated under the MGA</p>
WHO HAS AUTHORITY?	<p>Mayor and CAO sign, unless otherwise authorized by Council (s. 213, <i>MGA</i>)</p> <p>Approval process not expressly legislated Often delegated to CAO</p>
EXCEPTIONS	<p>Reserve Land Roads Expropriation</p>

Acquiring and Selling Municipal Land

Issues to Address within Policy:

- 1) Who has the authority to approve transactions? Any limits?
- 2) How will purchase price be determined/negotiated?
- 3) Are deposits mandatory?
- 4) Any specific objectives that must be satisfied?
- 5) How will lands be deemed “surplus”?
- 6) Who determines where funds are allocated after sale?
- 7) What are the reporting requirements?

Selling Lands for “Market Value”

LEGISLATION (MGA):	<p>Section 70</p> <p>Disposal of Land 70(1) If a municipality proposes to transfer or grant an estate or interest in...land or less than its <u>market value</u>...the proposal must be advertised.</p> <p>Definitions 1(n) “market value” means the amount that a property...might be expected to realize if it is sold on the open market by a willing seller to a willing buyer</p>
WHO HAS AUTHORITY?	Council or the CAO Unless Council States Otherwise

MGA, s. 202

Selling Lands for “Market Value”

Issues to Address within Policy:

- 1) How will market value be determined?
- 2) Who makes the final decision?
- 3) Any specific factors to take into account?
- 4) What are the reporting requirements?

Granting Rights Over Municipal Property

LEGISLATION (MGA):	<p>Section 61</p> <p>Granting rights over property 61(1) A municipality may grant rights, exclusive or otherwise, with respect to its property, including property under the direction, control and management of the municipality.</p> <p>(2) A municipality may charge fees, tolls and charges for the use of its property, including property under the direction, control and management of the municipality.</p>
WHO HAS AUTHORITY?	Council or the CAO Unless Council States Otherwise
EXCEPTION	Authorizing Road Licences (s. 13, <i>Traffic Safety Act</i>)

MGA, s. 202

Granting Rights Over Municipal Property

Issues to Address within Policies:

- 1) Who has authority to grant encroachments, easements, licences, etc.?
- 2) Does Council want to establish guidelines or restrictions on use?
- 3) Any limits on authority?
- 4) Should there be Standardized Templates?
- 5) Who is responsible for setting fees and rent?
- 6) What are the reporting requirements?

Granting Rights Over Reserve Lands

LEGISLATION (MGA):	<p>Section 677</p> <p>Road, etc., over reserve land 677 Despite [the restriction regarding the use of reserve land under section 671], a municipality ...may authorize:</p> <ul style="list-style-type: none">a) the construction, installation and maintenance...of a <u>roadway</u>, <u>public utility</u>, pipeline as defined in the Oil and Gas Conservation Act or transmission line as defined in the Hydro and Electric Energy Act on, in, over or under reserve land, orb) the maintenance and protection of reserve land, <p>if the interests of the public will not be adversely affected.</p>
WHO HAS AUTHORITY?	Council or CAO Unless Council States Otherwise

MGA, s. 202

Granting Rights Over Reserve Lands

Issues to Address within Policies:

- 1) Who has authority to authorize?
- 2) Any limits on authority?
- 3) Should there be Standardized Templates?
- 4) What are the reporting requirements?

Authority that Only Council May Exercise

The following may only be authorized by Council:

- Road closures (s. 22, *MGA*)
- Temporary roads and rights of way (s. 26, *MGA*)
- Designation/re-designation of municipal land (s. 665, 672, *MGA*)
- Changes to environmental reserve use or boundaries (s. 676, *MGA*)
- Authorizing Municipality to issue licences or permits for the temporary occupation of road allowances when not required for public use (s. 13(1)(o), *Traffic Safety Act*)
- Initiating Expropriation (s. 14, *MGA*)

MGA, ss. 202/203

Summary

As the volume and complexity of land transactions grow, decisions must be well thought out and strategic.

Council has broad authority to determine what matters must be determined by Council, and what can be delegated to the CAO or other senior management.

Benefits of Creating (or Updating) Your Land Management Framework:

- Provide clear guidance to administration
- Clarify roles and responsibilities
- Support autonomous systems
- Create efficiency
- Support better decision-making
- Make Council priorities and objectives clear

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QUESTIONS?

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