

Authority: Government Management Committee Item 16.3,
as adopted by City of Toronto Council on July 15, 16 and 17, 2008
Enacted by Council: July 17, 2008

CITY OF TORONTO

BY-LAW No. 857-2008

To amend further By-law No. 181-81 of the former Municipality of Metropolitan Toronto.

WHEREAS By-law No. 181-81 of the former Municipality of Metropolitan Toronto, a by-law “To provide pensions and death benefits to members of the Metropolitan Police Force”, as heretofore amended, governs the pension plan known as the “Metropolitan Toronto Police Benefit Fund”; and

WHEREAS it is desired to modify the provisions thereof respecting the constitution of the Board of Trustees and the quorum at meetings thereof, to add provisions respecting conflicts of interest and abstention from voting at such meetings, and to abolish the Benefit Fund Committee;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. In this by-law,
 - (a) “By-law No. 181-81” means By-law No. 181-81 of the former Municipality as heretofore amended;
 - (b) “former Municipality” means The Municipality of Metropolitan Toronto.
2. (1) Subsection 1(1) of By-law No. 181-81 as heretofore amended is further amended by:
 - (a) striking out clause (h) thereof and substituting the following therefor:

“(h) ‘Benefit Fund Committee’ means the committee of that name formerly having the duties set forth in subsections 4(9) and (10);”
 - (b) relabelling clause (1.i) thereof as “(i.2)” and adding a new clause (1.i) thereto as follows:

“(i.1) ‘Board of Trustees’ means the Board of Trustees provided for in section 3;”.
- (2) Section 1 of By-law No. 181-81 is further amended by adding thereto the following new subsection:
 1. (1.2) Except in clauses 1(1)(h) and (q) and subsection 7(2), every reference to the Benefit Fund Committee in this by-law, whether in its body or in any heading or marginal note, shall be read as a reference to the Board of Trustees.”

“References to
‘Benefit Fund
Committee’

- (3) Section 3 of By-law No. 181-81 as heretofore amended is further amended by adding thereto the following new subsection:

“Former Benefit
Fund Committee
Responsibilities

3. (8.1) The Board of Trustees shall have the responsibilities of the former Benefit Fund Committee set out in

(a) subsection 4(9) without regard to the phrase ‘chief function’ therein; and

(b) subsection 4(10).”

- (4) Subsections 4(1) to (8) and (11), clauses 4(10)(c), (e) and (g) and subsection 5(3) are repealed.

- (5) Subsection 5(1) of By-law No. 181-81 as re-enacted by By-law No. 83-94 of the former Municipality and subsequently amended is further amended by striking out the text preceding clause (a) thereof and substituting therefor, “The election of the officer member of the Board of Trustees pursuant to clause 3(1)(e) shall be conducted as follows:”.

- (6) Section 6 of By-law No. 181-81 as heretofore amended is further amended by adding thereto the following new subsection:

“Commencement
of Benefits

6. (2.2) Notwithstanding the provisions of subsection (1), the City Treasurer is authorized to commence payment of pension benefits to or in respect of members and other pensioners if satisfied that entitlement thereto exists and shall each month forward to the Board of Trustees a list of all payments so commenced during the previous month for the Board’s concurrence.”

- 3.** (1) Subsection 3(1) of By-law No. 181-81 as heretofore amended is further amended by:

(a) inserting at the beginning of clause (c) thereof the text “subject to clause (1.1)(a),”;

(b) inserting at the beginning of clause (e) thereof the text “subject to clause (1.1)(b) and subsections (1.2) and (1.3),”; and

(c) inserting at the beginning of clause (ea) thereof the text “subject to clauses (1.1)(b) and (1.3)(b) and (c),”.

- (2) Section 3 of By-law No. 181-81 as amended by subsection 2(3) of this by-law is further amended by adding thereto the following new subsections:

“Changes on
December 1,
2009

3. (1.1) Effective the 1st day of December, 2009,

(a) clause (1)(c) shall cease to apply; and

- (b) the number of Trustees to be elected by the pensioners pursuant to clause (1)(ea) shall be
 - (i) as long as subsection (1.3) has not come into operation, two;
 - (ii) once subsection (1.3) comes into operation, three.
- (1.2) If clause 5(1)(c) comes into operation with respect to the election of a member of the Board of Trustees by the officers and no timely nominations are submitted thereunder, such Board position shall be filled by election among the pensioners pursuant to clause (2.1)(b).
- (1.3) From the time of the cessation of the existence of the class of officer members,
- (a) the following shall cease to apply:
 - (i) clauses (1)(e) and (6)(a) and subsections (6a) and 5(2.1); and
 - (ii) except insofar as required for the purposes of subsection 5(2), subsection 5(1);
 - (b) if such cessation coincides with the retirement of the person holding office as a Trustee pursuant to clause (1)(e), such person shall be deemed to have been elected by the pensioners pursuant to clauses (1)(ea) and (6)(a) and subsection 5(3) for the remainder of the person's original term.

* * * * *

- (2.2) If
- (a) there is a shortfall in the number of Trustees elected by pensioners pursuant to clauses (1)(ea) and (1.1)(b) and subsection 5(2) for the term commencing the 1st day of December, 2009; and
 - (b) on that date after taking into account any resignations
 - (i) the number of Trustees whose terms would, in the absence of clause (1.1)(b), have been extended as a result of the words 'until his successor has been elected or appointed' in subsection (2),

exceeds

(ii) the shortfall referred to in clause (a),

then the words of subsection (2) referred to in subclause (b)(i) shall apply only to as many of the Trustees referred to in that subclause as are equal in number to such shortfall and as are determined by lot by the person referred to in clause (1)(a).”

(3) Subsection 3(2) of By-law No. 181-81 is amended by inserting at the beginning thereof the text “Subject to clause (1.1)(a) and subclause (1.3)(a)(i),”;

(4) Subsection 3(4) of By-law No. 181-81 as heretofore amended is repealed and the following substituted therefor:

“Board
Majority
Decisions/
Quorum

3. (4) Subject to subsections (4.2) to (4.5), decisions of the Board of Trustees shall be by majority vote at a meeting of which all its members have been given reasonable advance notice and at which there is present a quorum consisting of

(a) five of its voting members, subject to subsection (4.1); and

(b) the City Treasurer or such Treasurer’s designate.

Attending
Trustee’s
Conflict of
Interest

(4.1) Effective the 1st day of December, 2009, the number of voting members referred to in clause (4)(a) shall be deemed to be four.

(4.2) If at any meeting of the Board of Trustees a Trustee is present whose interest with respect to any matter to be considered thereat conflicts with his or her duties and powers as a Trustee

(a) such Trustee shall

(i) prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;

(ii) refrain from taking part in the discussion of, or any vote concerning, the matter;

(iii) refrain from attempting in any way whether before, during or after the meeting to influence any such voting; and

- (iv) leave the meeting prior to, and not return during, consideration of such matter;
- (b) the person presiding at the meeting shall see that such Trustee is given a reasonable opportunity to comply with subclause (a)(iv) and to return to and fully participate in the meeting whenever that subclause is not in operation.
- Absent Trustee's Conflict of Interest (4.3) Where the interest of a Trustee has not been disclosed as required by subclause (4.2)(a)(i) by reason of his or her absence from the meeting referred to therein, the Trustee shall disclose same and otherwise comply with clause (4.2)(a) at the first subsequent meeting of the Board of Trustees which he or she attends.
- Effect of Conflict on Quorum (4.4) If at any duly constituted meeting of the Board of Trustees the operation of subsection (4.2) would prevent the requirements of clause (4)(a) or subsection (4.1), as applicable, from being met with respect to any matter under consideration, the Trustees present to whom that subsection does not apply shall, if at least three in number, be deemed to constitute a quorum in that respect.
- Abstentions (4.5) For the purposes of subsection (4), any Trustee who abstains from voting on any matter shall be treated as having cast a negative vote."
- (5) Subsection 3(5) of By-law No. 181-81 is amended by striking out the words "with any necessary modifications" in the first and second lines thereof.
- (6) Subsection 3(6) of By-law No. 181-81 as re-enacted by By-law No. 46-90 of the former Municipality and subsequently amended is further amended by
- (a) labelling the part of clause (a) immediately following the first appearance of the word "shall" as subclause (i) and adding at the beginning of such part the text "unless subclause (ii) is applicable,";
- (b) adding to clause (a) thereof as amended by foregoing clause (a) the following new subclause:
- "(ii) if it is the officers who must fill the vacancy and subsection 3(1.3) subsequently comes into operation at a time prior to the date for closing of the poll as specified in clause 5(1)(f),
- (A) clause (b) of that subsection shall be deemed to have come into operation as if it applied to the retirement which caused

the vacancy and such retirement had occurred at such closing date;

(B) such vacancy shall be deemed to have been filled accordingly; and

(C) subclause (i) shall cease to apply and all steps taken under it shall be deemed to be of no effect”.

(7) Subsection 3(6a) of By-law No. 181-81 as enacted by By-law No. 57-85 of the former Municipality is amended by

(a) relabelling clauses (i) and (ii) as “(a)” and “(b)” respectively; and

(b) inserting immediately following the word “and” in the third-last line of clause (b) thereof the text “, subject to clause 3(1.3)(c),”.

(8) Subsections 3(8) to (10) are amended by striking out the word “Trustees” wherever same appears therein and substituting therefor in each case the words “Board of Trustees”.

4. (1) Subsection 5(1) of By-law No. 181-81 as amended by subsection 2(5) of this by-law is further amended by

(a) inserting at the beginning thereof the text “Subject to subsection 3(1.2), ”;

(b) repealing clause (b) thereof and substituting the following therefor:

“(b) in the last year of each term of the Council, the clerk of the City shall, at least one month prior to the third Friday in the month of September in that year,

(i) cause to be circulated to each officer member

(A) a notice calling for nominations for such position; and

(B) a nomination form with instructions for completion, taking into appropriate account the content of clauses (c) and, if and to the extent applicable, clause (b.1) or clause (b.2);

(C) an explanation of the effect of subsections 3(1.2) and subsection (2.1) below;

(ii) unless the class of officer members has ceased to exist, cause to be circulated to each pensioner the material called for by subsection (2.1);

- (b.1) if there are fewer than three officer members, no seconder shall be required for a nomination;
 - (b.2) if there is only a single officer member, the member may nominate himself, in which case the member shall be acclaimed as the successful candidate and clauses (d) to (f) shall be disregarded”;
 - (c) inserting in subclause (c)(i) thereof immediately following the word “and” the text “, subject to clause (b.1),”;
 - (d) inserting in subclause (c)(ii) thereof immediately following the first word “signed” the text “, subject to clause (b.2),”;
 - (e) adding a new subclause to clause (d) thereof as follows:
 - “(i.1) if no properly completed nomination forms have been received, proceed;”.
- (2) Subsection 5(2) of By-law No. 181-81 as heretofore amended is repealed and the following substituted therefor;

“Election by Pensioners

- 5.** (2) The election of the members of the Board of Trustees who are the representatives of the pensioners pursuant to clause 3(1)(ea) shall be conducted in accordance with clauses (1)(b) to (g) with appropriate modifications, which shall include, without restriction,
- (a) disregard of the opening reference therein to subsection 3(1.1), and of item (a)(i)(C) and subclause (c)(i.1) thereof;
 - (b) treatment of each instance of the word “employee” or its plural wherever it occurs in that section other than in subclause (c)(i) thereof as if such word read “pensioner” or its plural (as applicable); and
 - (c) treatment of the word “employees” at the end of subclause (c)(i) thereof as if it read “members”.
- (3) Section 5 of By-law No. 181-81 as heretofore amended is further amended by adding thereto the following new subsections:

Subclause 5. (2.1) If subclause (1)(b)(ii) comes into operation, the clerk of the City shall, simultaneously with the circulation of the material to employee members called for by clause (1)(b) circulate to each pensioner

(1)(b)(ii)

(a) a notice calling for nominations for the same Trustee position to which such material relates, on the basis that such nominations will be acted on only if subsection (2.2) comes into operation; and

(b) a nomination form with instructions for completion, taking into appropriate account the content of clause (1)(c), other than the references to 'clause (b.1)' and 'clause (b.2)' in subclauses (i) and (ii) thereof respectively.

(2.2) If subsection 3(1.2) becomes applicable as a result of the operation of subclause (1)(d)(i.1), the clerk of the City shall proceed under subsection (1) as follows:

Subsection
3(1.2)

(a) the election by officer members whose process gave rise to such operation will instead be made by the pensioners in accordance with that subclause on the basis of all valid nomination forms received in response to the material circulated to them pursuant to subsection (2.1); and

(b) each instance of the word 'officer' and its plural in subclauses (1)(d)(i) and (ii) shall be treated as if it read 'pensioner' or the plural thereof (as applicable)."

5. (1) Except as provided for in subsection (2), this by-law shall come into force on the date of its enactment and passing.

(2) Clauses 2(1)(b) and 3(7)(a) and subsection 3(8) shall be deemed to have come into force on the 1st day of January, 1998.

ENACTED AND PASSED by an affirmative vote of at least two-thirds of the Members of Council present and voting this 17th day of July, A.D. 2008.

SANDRA BUSSIN,
Speaker

ULLI S. WATKISS
City Clerk

(Corporate Seal)