



STAFF REPORT ACTION REQUIRED

Extension of the Indemnity Policy to Directors of Agencies, Boards and Commissions

Date:	January 16, 2009
To:	Executive Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

A Code of Conduct exists for City Council Members, staff and City board members. The City's Errors and Omissions insurance covers all three groups. Additional indemnification provided by the City currently only applies to City Councillors and staff and directors of City boards have not yet been included. This report recommends that directors of City boards already having Errors and Omissions coverage provided by the City be extended this additional coverage as well.

RECOMMENDATIONS

The City Manager recommends that Council:

1. extend the City's indemnification policy as amended by City Council in July 2008 to directors of those Agencies, Boards, Commissions, Corporations and special purpose bodies included in the City's Errors and Omissions insurance policy as outlined in Attachment A.
2. all future amendments to the indemnification policy, including any future indemnity for Municipal Conflict of Interest apply to those Agencies, Boards, Commissions, Corporations and special purpose bodies included in the City's Errors and Omissions insurance policy; and
3. the City Solicitor prepare a consolidated version of the City indemnification policy for distribution to the affected Agencies, Boards, Commissions and special purpose bodies.

Financial Impact

Claims are likely to be rare and both City Council, in conjunction with the City Solicitor have significant discretion on a case by case basis in deciding whether expenses should be reimbursed in respect of a particular circumstance. The additional financial risk cannot be quantified.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

Equity Statement

The recommendations in this report resolve the inequity for directors of local boards that currently exists.

DECISION HISTORY

The City's indemnification policy has developed incrementally, first applying to staff, then to City Councillors and City Boards.

A comprehensive Council-approved policy for indemnification of City Councillors, management and excluded staff has existed since November 2005. At its July 2008 meeting, City Council extended the policy by allowing, subject to the discretion of City Council and the City Solicitor, additional indemnification of up to \$25,000 per event.

City Council recently adopted a new Code of Conduct and Complaint Protocol for City Council Members and local boards. The Integrity Commissioner's report indicated that the City's indemnification policy should be extended to local boards and City Council adopted his recommendation that the City Manager report on extending the indemnification to directors of local boards.

ISSUE BACKGROUND

The City carries a wide variety of insurance to cover liability related to its activities including automobile insurance, property insurance, commercial general liability insurance, and Errors and Omissions insurance for public officials, including City Councillors, staff and members of local boards.

In November 2005 Council adopted a policy clarifying under what circumstances City Council Members, and staff are indemnified in the course of carrying out their duties. The policy allows for indemnification for criminal and civil actions but left discretion to City Council and the City Solicitor to determine whether, based on the circumstances, indemnification of legal costs to the Council or staff should be granted.

A further report adopted at the July 2008 City Council meeting amended the indemnification policy by extending and clarifying it in some key ways such as:

- permitting reimbursement of costs where no criminal charges have been laid,
- setting a limit of \$25,000 in cost reimbursement, but allowing additional cost reimbursement should the limit be exceeded upon consideration of the Executive Committee; and
- requiring an assessment by the City Solicitor of the reasonableness of the legal costs incurred in defence.

COMMENTS

City Council delegates decision-making to the boards of directors of City agencies, boards, commissions and special purpose bodies. As a matter of principle, they should be granted the same indemnification coverage as City Councillors and staff.

While the City does carry Errors and Omissions insurance for directors of City boards, the City's indemnification policy does not fully protect for the potential liability of their actions. Directors of City boards have pointed out that gaps exist in the indemnification policy. It can impact their willingness to make serve on City boards and make difficult decisions.

This report recommends that the Indemnification Policy for City Councillors, management and excluded staff be extended to those agencies, boards, commissions, corporations and special purpose bodies which are currently in the City's Errors and Omissions insurance as listed in Attachment A.

Also, it is recommended that should Council implement an indemnity policy for Municipal Conflict of Interest that it also be extended to those agencies, boards, commissions, corporations and special purpose bodies which are currently covered by the City's Errors and Omissions insurance. A report on that topic will be forthcoming from the City Manager and the City Solicitor in the Spring.

CONTACT

Lance Alexander, Senior Corporate Management Consultant
Strategic and Corporate Policy Division, City Manager's Office
Ph: 416-397-4625 Email: Lalexand@toronto.ca Fax: 416- 696-3645

SIGNATURE

Joseph P. Pennachetti
City Manager

Attachment A: Parties Covered and Excluded - City's Errors and Omissions Insurance

Item I Named Insured:

City of Toronto including all boards, commissions, and special purpose bodies established by and/or accountable to City of Toronto, and/or any existing or future entity established by, under the control of, answerable to, or the responsibility of City of Toronto and/or all entities or operations which the foregoing insureds are responsible for arranging insurance (any new entities for which the foregoing insureds are responsible for arranging insurance are to be reported to ACE INA INSURANCE within forty-five days of creation or acquisition) with the exception of the Excluded Entities noted below.

EXCLUDED ENTITIES.

The Toronto Transit Commission
Wheel Trans, Toronto Coach Terminal Inc
The Toronto Transit Consultants Limited
The City of Toronto Public School Board
The Metropolitan Toronto Roman Catholic Separate School Board
Toronto Hydro
The Toronto Harbour Commission
Parking Authority of Toronto
Toronto Humane Society
Firehall Theatre Board of Management
Sir William Campbell House Board of Management
The Sir William Campbell House Board of Directors
Howard Park Tennis Club
Second Mile Club of Toronto
Good Neighbour's Club
Toronto District Heating Corporation (Enwave)
Toronto Community Housing Corporation.

NOTE: Several of the above boards are not City entities, but are specifically excluded in the insurance policy.