



STAFF REPORT ACTION REQUIRED

Delegation of Authority During Extended Council Recess

Date:	July 21, 2010
To:	Executive Committee
From:	City Manager
Wards:	All Wards
Reference Number:	P:\2010\Internal Services\Treas\ec10001Treas (AFS 12452)

SUMMARY

To help ensure continuity of City operations and activities during the election period and other extended Council recesses when Standing Committees and Council do not have regularly scheduled meetings, this report seeks delegated authority for the:

- a) City Manager to receive and spend donations over \$50,000 and up to \$500,000;
- b) Chief Financial Officer to approve any reallocation of budget between capital projects in an amount of not more than \$1 million; and,
- c) Board of the Toronto Atmospheric Fund (TAF) to give prior approval, on behalf of Council, to enter commitments which extend beyond the current term, limited to a time frame prior to and immediately following municipal elections when Council is not in session. It further requests Council's approval of transactions listed in Schedule A.

RECOMMENDATIONS

The City Manager recommends that:

1. Chapter 71, Financial Control, of the Toronto Municipal Code S71-19 be amended to provide, during an election period and in other circumstances when Standing Committees and Council do not have any regularly scheduled meetings for a period of two months or longer, an extended authority to the City Manager to accept and spend donated funds in excess of \$50,000 and up to \$500,000 in respect of a program or capital project provided that:

- a. The donation has not been solicited by the City through a fundraising campaign or otherwise;
 - b. The donation is not conditional upon and does not involve a proposal to name or rename a City asset;
 - c. The donation complies with the City's Donation Policy;
 - d. The City Manager report any donations expended pursuant to this section to Council through Executive Committee at the next available opportunity.
2. Chapter 71, Financial Control, of the Toronto Municipal Code, S71-9 E. (3) be amended to provide an extended authority to the Chief Financial Officer to approve reallocations of budget between capital projects not exceeding \$1 million during an election period and in other circumstances when Standing Committees and Council do not have any regularly scheduled meetings for a period of at least two months.
 3. That Council delegate to the Board of Directors of the Toronto Atmospheric Fund the authority to approve, on behalf of Council, transactions described in subsections 11(8) and 11(9) of the Toronto Atmospheric Fund Act, 2005, provided that:
 - a. The proposed transaction is of a type, and for an amount, as set out in a line item in the TAF budget approved by Council; or
 - b. The proposed transaction constitutes an investment permitted to be made by TAF, as set out in TAF's Statement of Investment Objectives and Principles approved by Council;
 - c. The proposed transaction is specifically permitted by a provision of the Relationship Framework for TAF, 2006, as amended.
 - d. This delegation is limited to the period commencing on the day following the last Council meeting in 2010, up to the first regular meeting of Council in 2011;
 - e. TAF certify that any approval given by the TAF Board pursuant to this delegated authority will be disclosed in the audited financial statements which TAF is required to provide annually to Council and that the TAF Board ensure that any transactions carried out under this delegated authority are separately reported to Council no later than the second regular meeting of Council in the new term.
 4. Council approve the transactions set out in Schedule A to this report as requested in the TAF Board report dated June 23, 2010.

5. The City Manager report on a protocol to be used in future to meet the requirements of the TAF Act while efficiently meeting the business needs of TAF.
6. Authority be granted for the introduction of the necessary bills to give effect hereto.

Financial Impact

There are no financial impacts to current or future year budgets that arise from the recommendations in this report.

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

DECISION HISTORY

1. Donations to the City for Community Benefits

At its meeting of May 26 and 27, 2008 City Council, in considering Executive Committee Report EX20.3 "Delegation of Authority to Receive and Spend Donations to the City for Community Benefits", delegated authority to Division Heads to receive donations and make expenditures of donated funds in accordance with the following policy incorporated in Chapter 71, Financial Control, section 19 of the Toronto Municipal Code:

"A. A division head may accept and spend donated funds in respect of a program or capital project for which he or she is responsible, provided that:

- 1) The donation has not been solicited by the City through a fundraising campaign or otherwise;
- 2) The donation does not exceed \$50,000;
- 3) The sum of the donation and any other donations accepted by the City from the same donor for the same purpose within the fiscal year does not exceed \$50,000;
- 4) The donation is not conditional upon and does not involve a proposal to name or rename a City asset; and
- 5) The donation complies with the City's Donation Policy.

B. Division heads shall report any donations expended pursuant to Subsection A to Council through the variance reporting process at the next available opportunity."

The following is the link to the Council decision document and staff report:

<http://www.toronto.ca/legdocs/mmis/2008/ex/reports/2008-05-05-ex20-cr.pdf>

Sections 3.8 and 3.9 of the "Policy on Donations to the City for Community Benefits" approved by City Council at its meeting held on May 26 and 27, 2008 contains the following provisions with respect to the authority to accept and spend donations:

"Authority to Accept and Spend

3.8 Subject to Section 3.9, donations of cash designated for specific purposes will only be accepted by the City where Council has authorized the specific purpose or a fundraising campaign (*whether conducted by staff or third parties*), and where the necessary capital or revenue account has been established or a reserve created and the necessary by-law enacted.

Instructional information on how to make a donation that is provided by a Division in its website or in its printed general information brochures is not considered to be a fundraising campaign.

3.9 Despite section 3.8, a Division Head has delegated authority to accept and spend unsolicited donations where:

- a) the donation has a current value that does not exceed \$50,000 and cumulative donations from the same donor for the same purpose does not exceed \$50,000 in a fiscal year;
- b) the donation is not in the form of real property;
- c) the donation does not involve a proposal to name; and
- d) the donation is in compliance with this policy."

Following is the link to the City's "Policy on Donations to the City for Community Benefits":

http://insideto.toronto.ca/councillors/pdf/donations_policy.pdf

2 Reallocation of Budget Between Capital Projects

At its meeting held on September 30 and October 1, 2009, City Council adopted Government Management Committee Report GM24.5 "Purchasing By-law Review" which among other things, amended Chapter 71, Financial Control, of the Toronto Municipal Code, S71-9 E.(3) to provide, during the summer months when Standing Committees and Council do not have any regularly scheduled meetings, an extended

authority to the Chief Financial Officer to approve any reallocation of budget between capital projects in an amount of not more than \$1 million.

Following is the link to the staff report and Council decision document:

<http://www.toronto.ca/legdocs/mmis/2009/gm/reports/2009-09-17-gm24-cr.htm#GM24.5>

3. Delegated Authority for TAF Board to Approve Commitments Beyond Council Term

The TAF Act, 2005, requires that the TAF Board obtain prior approval of Council for commitments which extend beyond the term of Council. At its meeting of June 23, 2010, and following discussions with the City Manager's Office, the CFO's Office and City Solicitor's Office, the TAF Board passed a resolution to request that Council temporarily delegate prior approval of such transactions for the period prior to and following the municipal election when Council and Committees are in recess, pending a longer-term review of the process for approvals to be determined by the City Manager. The Board further committed to report back on all transactions approved by the TAF Board under this delegation in its audited financial statements, and in a separate report to the new Council.

COMMENTS

Delegated Authority to Receive and Spend Donations

Currently, in accordance with the provisions of:

- a) Toronto Municipal Code, Chapter 71, Financial Control, Section 71-19 "Donation Authorities"; and,
- b) Sections 3.8 and 3.9 of the "Policy on Donations to the City for Community Benefits",

Division Heads are authorized to accept donations up to \$50,000. Any donations over \$50,000 must be approved by Council.

To ensure that the City can continue to receive and spend donations over \$50,000 during an extended Council recess, it is recommended the City Manager be granted authority during an election period and in other circumstances when Standing Committees and Council do not have any regularly scheduled meetings, to accept and spend donated funds in excess of \$50,000 and up to \$500,000 in respect of a program or capital project provided that:

- a) The donation has not been solicited by the City through a fundraising campaign or otherwise;
- b) The donation is not conditional upon and does not involve a proposal to name or rename a City asset;

- c) The donation complies with the City's Donation Policy, and in particular with sections 3.8 and 3.9 of the Policy;
- d) The City Manager report any donations expended pursuant to this section to Council through Executive Committee.

Delegated Authority to Reallocate Budget Between Capital Projects

Under Chapter 71, Financial Control, of the Toronto Municipal Code, S71-9 E.(3), the Chief Financial Officer has the authority to approve reallocations of budget between capital projects not exceeding \$1 million during the summer recess when Standing Committees and Council do not have regularly scheduled meetings. This provision in Chapter 71 should be amended to provide the same authority to the Chief Financial Officer during the election period and in other circumstances, including labour disruption, where there are no regularly scheduled meetings of City Council for a period of at least two (2) months.

This delegation of authority is necessary to ensure that the City's approved capital activities can continue to move forward during periods of time where regularly scheduled meetings are not held. This amendment is consistent with provisions in the Chapter 195, Purchasing, that provides extended authority to the Bid Committee to make contract awards during the summer recess, the election period and in other circumstances, including labour disruption, where regularly scheduled meetings are cancelled.

Delegated Authority for TAF Board to Approve Transactions Beyond Council Term

Subsections 11(8) and (9) of the Toronto Atmospheric Fund Act, 2005, S.O. Ontario, 2005 c. PR6 (the "TAF Act") provide:

Effect on City's debt limits

11(8) For the purpose of calculating its debt and financial obligation limits under section 401 of the Municipal Act, 2001, the City shall be deemed to have incurred as a long-term debt any financial commitment, liability or contractual obligation of the Fund in respect of which the Fund is required to make payments after the expiry of the term for which the City Council was elected.

Approval

(9) The Fund shall not undertake a financial commitment, liability or obligation described in subsection (8) without prior authorization of the City Council.

Certain of TAF's long-term commitments are deemed to be liabilities of the City. This provision would include any contractual obligation such as equipment leases, commitments to make grants, loans or investments, if any portion of the agreement requires funding after the date of expiry of the current Council term. TAF must include in every such commitment a clause to the effect that it is not binding on TAF unless and until approved by Council. Without Council's prior approval to do so, TAF would be restricted from carrying out its core function of administering funding for green initiatives.

As requested by TAF, the City Manager will also review this matter for a long-term solution, in recognition of the fact that this is an ongoing procedural issue for TAF's funding operations. This finding will be communicated to the TAF Board of Directors.

CONTACT

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SIGNATURE

Joseph P. Pennachetti
City Manager

ATTACHMENTS

Schedule A: Toronto Atmospheric Fund's Transactions Past Council Term – Grants, Current Loans and Future Obligations

Schedule A
Toronto Atmospheric Fund's Transactions Past Council Term
Grants

Organization	Grant	Amount Granted	Year	As of Nov 30, 2010
City of Toronto - City Manager's Office	Greening multi-unit residential building initiative	\$25,000	2009	\$2,500
City of Toronto - Facilities & Real Estate	Weather station & solar PV monitoring - 9 Hanna Avenue	\$20,000	2009	\$2,000
Electrical Workers Union Local 353	Solar photovoltaic training program	\$50,000	2009	\$5,000
Ontario Clean Air Alliance	Combined heat and power promotion phase II	\$25,000	2009	\$2,500
Ontario Sustainable Energy Association (OSEA)	Green Energy Act stakeholder engagement - Phase II	\$100,000	2009	\$55,000
Parkdale United Church Foundation	Green Phoenix commissioning and performance monitoring	\$25,000	2009	\$6,250
Toronto Renewable Energy Co-operative (TREC)	Our Power - Phase II	\$50,000	2009	\$5,000
Toronto Renewable Energy Co-operative (TREC)	SolarShare implementation	\$55,000	2009	\$5,500
University of Toronto Department of Civil Engineering	Freeway truck emissions simulation tool	\$50,000	2009	\$2,500
University of Toronto Institute for Optical Sciences	Solid state lighting network	\$41,000	2009	\$4,100
City of Toronto - Fleet Services	Green vehicle evaluation and selection tool for accelerating emission reductions	\$250,000	2008	\$99,000
South Riverdale Community Health Centre	Neighbourhoods Acting on Air Quality	\$107,992	2008	\$30,430
City of Toronto - Facilities & Real Estate	Advanced lighting control project	\$112,500	2007	\$11,250
City of Toronto – Toronto Environment Office	Solar Demonstration Project	\$50,000	2007	\$5,000
Canada-China Environmental Cooperation Council	Solar water heating on a non-profit seniors residence	\$46,000	2006	\$2,300

TOTAL: \$238,330

Current Loans

Client	Amount
Nuvo Green Condo Loan	\$ 415,138.00
Grand Triomphe Green Condo Loan	\$ 582,942.00
Exhibition Place	\$ 517,560.00
WindShare (TREC) (1)	\$ 150,000.00
Toronto Artscape	\$ 152,014.00
Enwise re Solar neighborhoods (2)	\$ 371,114.00
Total Current Loans	\$ 2,188,768.00

Future Obligations

Tridel (4)	\$ 325,000.00
Enwise	\$ 50,000.00
Senarra Green Energy Capital Inc.	\$ 615,000.00
TAS Design Build	\$ 635,000.00
Wind Share (5)	\$ 150,000.00
Pure Energies	\$ 645,000.00
Bata Shoe Museum	\$ 15,000.00
Just Ice (Cold Snap)	\$ 60,000.00
Total Future Obligations	\$ 2,495,000.00