

## **Managing Through Agencies and Corporations**

<b>Date:</b>	March 9, 2011
<b>To:</b>	Executive Committee
<b>From:</b>	City Manager
<b>Wards:</b>	all
<b>Reference Number:</b>	

### **SUMMARY**

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The use of various models of arm's-length governance structures to deliver certain programs or services is a longstanding practice of most governments. It is also best practice to regularly review the number, structures and governance relationships of City agencies.

The City has 119 City and partnered agencies and corporations including 71 BIAs, 10 community centre boards, 8 arena boards and 30 other boards. More than 33% of the budget and 48% of the staff are managed by City agencies and corporations. Since amalgamation there has been an on-going workplan to document the governance relationship between the City and its agencies and corporations through Relationship Frameworks and Shareholder Directions. In addition, individual agencies have been the subject of governance reviews that resulted in changes to structures.

However, there has been no comprehensive rethink of why the City manages services through agencies and corporations, the most effective organization of these agencies, how agencies are aligned with City public policy and structures, and the strategies for ensuring City agencies are accountable to City Council. It is also appropriate to review the cost-effectiveness of agency models to deliver services and how well they achieve transparency and accountability objectives.

The use of the agency model carries with it additional governance costs arising from separate audit requirements, resource-intensive board recruitment, and staff resources to support board meetings, set up websites, establish separate policies, review separate budgets, and manage separate accounting and HR systems. A significant finding of the Fiscal Review Panel indicated that the City needed to "get a grip on" its agencies and take firmer control to reduce costs and strengthen accountability to Council.

Provincial legislation gives the City authority to make changes to governance structures for most of its local boards. As the City matures as an order of government, there is an opportunity to take a leadership approach to managing through agencies and corporations. This report proposes that the City continue to undertake reviews of agency governance structures informed by the following objectives: modernize governance to a form more appropriate to the size, complexity, and maturity of the City of Toronto; improve accountability and transparency; and gain efficiencies and reduce costs.

## **RECOMMENDATIONS**

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### **The City Manager recommends that:**

1. The City Manager continue to review agency governance structures focussing on key opportunities for improvement with the following goals:
  - (i) ensure that the services provided by agencies are appropriate municipal services;
  - (ii) ensure that the number of agencies and related governance costs add value to their purpose, capitalize on opportunities to combine similar businesses, eliminate overlaps with City programs and services, or, for revenue-generating boards, achieve the critical mass to be self-sustainable;
  - (iii) clarify City objectives for agencies, ensuring that the policy framework is appropriate to the business sector in which they operate; and
  - (iv) put mechanisms in place to ensure alignment and commitment to City objectives.
  
2. (a) Council endorse the following accountability mechanisms for managing through City agencies:
  - (i) for City agencies where Council makes appointments, Council appoint the Chair of each board except for the Police Services Board, the Board of Health, and the Toronto Public Library Board whose Chairs must be elected by board members in accordance with the legislation that governs these agencies;
  - (ii) Council approve the board by-laws of all agencies that regulate the internal conduct of the business and affairs of the agency, as is currently required for all City corporations;
  - (iii) Council establish City by-laws codifying the governance structures of City agencies and their Council-approved financial reporting obligations; and
  - (iv) agency reports be submitted to the City through the City Manager for transmittal to the appropriate standing committee in order to provide information on the impact on the City, similar to the process established for City corporations; and
  
- (b) The City Manager be authorized to establish the necessary protocols or take other actions to implement the above accountability mechanisms.
  
3. (a) The City Manager review board human resources policies and practices and recommend changes to ensure alignment with City objectives including: compensation, appointment and performance management of senior board staff and labour relations; and

- (b) Council direct every board to provide the City Manager with all information required to conduct the review.
4. The City Manager bring forward a City policy framework that ensures that City principles, policies and accountabilities are applied appropriately to each agency and that the appropriate degree of independence is respected.
  5. The Sinking Fund Committee and the Investment Advisory Committee be dissolved and their investment decisions be delegated to the Deputy City Manager and Chief Financial Officer.
  6. Chapter 103 Article 1 Sections 103-1, 103-2, and 103-3 of the Municipal Code, regarding the Museum Boards, be deleted to reflect the status of Museum Boards as key advisory bodies since Council approval of the 2002 Memorandum of Understanding between the City and the Museum Boards, and to enable a transition to an alternate engagement process as endorsed by the Museum Boards.
  7. The City Manager be authorized, where necessary, to set the effective date of the changes resulting from approval of the recommendations in this report and amend any and all relationship frameworks, shareholder directions, policies, websites, or other documents to implement the changes as approved by Council.
  8. The City Solicitor be authorized to bring forward any necessary amendments to City by-laws or the Municipal Code including bills giving effect to decisions to dissolve and change local boards under s. 145 of the *City of Toronto Act, 2006* to implement recommendations 2(a)(i), 5 and 6 or to take any other action she deems necessary to implement those recommendations.

## **Financial Impact**

Dissolving the Sinking Fund Committee and the Investment Advisory Committee will result in \$20,000 annual savings in honoraria for public members.

The agency model is administratively costly to maintain since it requires duplicate administrations and support systems, separate budget reviews, separate audits and financial reports, a time-consuming appointments process, remuneration and expenses for some board members, labour relations strategies that may impact the City, and agency staff compensation that sometimes exceed the City's policies and practices. It is therefore necessary to ensure that the governance model is justified and results in benefits commensurate with the added governance cost. The recommendations in this report are intended to implement strategies that will ensure added value is commensurate with the governance cost.

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

## **Equity Impact**

The review of Agencies' policies will ensure that they are consistent with City directions and policies related to Access, Equity and Human Rights.

## **DECISION HISTORY**

The current City agencies have generally been in place since before amalgamation in 1998 and there has never been a comprehensive review of the agency model. In 1999, City Council undertook a long-term process of developing Relationship Frameworks for City agencies in order to document the relationship between the City and each agency. To date, Council has approved Relationship Frameworks for 10 AOCCs, 8 arena boards, 71 BIAs in the form of a by-law, Licensing Tribunal, Toronto Atmospheric Fund, and Heritage Toronto, and has completed Shareholder Directions for all City corporations. The City Manager's Office is in the process of developing Relationship Frameworks for the Parking Authority and the 3 major theatres and will shortly begin the process for the Library Board and the TTC.

The City was also successful in encouraging the Province to amend the City of Toronto Act to ensure that the City has the needed authority to determine appropriate governance structures.

The Executive Committee has requested that the City Manager conduct a review of the governance of the Toronto Atmospheric Fund to explore options. In another complementary report before the Executive Committee, the City Manager is recommending a Core Services Review of all services delivered by City divisions and agencies, as well as selected Service Efficiency Studies. The governance objectives and directions outlined in this policy report should be considered in these reviews respecting City agencies. In addition, another related report on the same agenda pertains to amendments to the Public Appointments Policy that impact the composition of some of the boards.

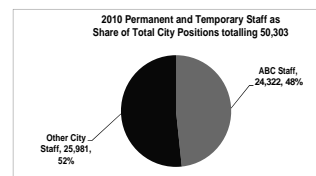
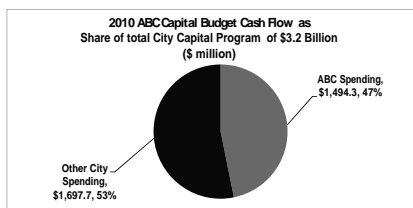
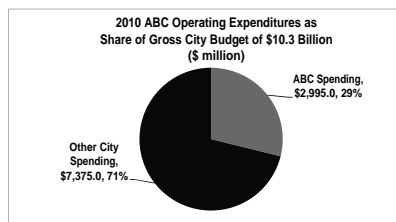
## **ISSUE BACKGROUND**

### **Why Agencies and Corporations Matter**

Agencies and corporations have a major impact on the City and its costs because they:

- spend tax money (33% of City's combined annual operating and capital cashflows);
- hold and operate a considerable asset base (public transit and housing assets alone have an estimated value of almost \$15 billion);
- employ a lot of staff (almost as many as the City itself - 48% of total);
- impact City policy and strategy by providing a wide variety of municipal services to a great number of people having a diverse range of needs

The charts below demonstrate the City impact of these structures.



## Overview

Many City services are delivered through City agencies or City corporations. They range in size and scope and degree of independence from the City.

- A. Corporations are owned by the City, but they own their own assets and operate independently from the City (e.g. Toronto Hydro and Build Toronto) in accordance with a Shareholder Direction that establishes objectives, operating rules, and reporting requirements.
- B. Agencies have decision-making authority, but the City generally owns the assets and Council approves their budgets, sets certain policies, and makes certain significant decisions. There are 3 types of agencies:
  - Service agencies employ their own staff, have their own administrative capacity, and deliver a specific service under the direction of a board with authority delegated by Council (e.g. TTC, Parking Authority, Exhibition Place)
  - Small community-based agencies rely extensively on community involvement and volunteers to deliver programs and the City provides the capital budget and a range of administrative supports (e.g., community centre boards of management and arena boards).
  - Quasi-judicial adjudicative bodies and administrative boards make final and binding decisions, but rely on City staff for all administrative support so their costs are included with divisional budgets (e.g. Committee of Adjustment, Licensing Tribunal).

Advisory bodies are not included in this categorization as they are not final decision-making bodies. The term ABCs has been used in the past to mean Agencies, Boards, and Commissions. There is no longer any discernable difference between these terms. It is less confusing to the public if these are all referred to as City agencies. The board of directors of an agency is referred to as the board.

Attachment 1 provides an overview of City agencies, corporations, and other bodies and their classification as described above.

## **Relationship to the City**

Different agencies and corporations may have different governance relationships with the City based on different legislative requirements and differences in status, mandate and structure. Where legislatively permissible, City Council has also delegated varying levels of authority to its agencies to deliver services on Council's behalf. With this assignment of responsibilities comes the obligation to conduct business in a manner consistent with City objectives. This occurs through a number of mechanisms:

- Council has the power provided by the *City of Toronto Act 2006* to change the mandates and governance structures of most of its agencies and City services corporations. Legislative limitations apply for Police, Library, and Board of Health.
- Council appoints members of Council, Toronto residents, and in some cases City staff on an ex officio basis to serve on the boards of directors of agencies and corporations.
- Council has approved a number of relationship frameworks that define the relationship between the City and the specific agency including Council's delegation of authority, expectations, policy requirements, and requirements for reporting to Council.
- In most cases, agencies have authority over human resources except that City staff of Public Health provide services that are overseen by the Board of Health, AOCC staff are considered City staff and although managed by the board are required to adhere to all City HR policies, and all quasi-judicial and financial administrative boards have no staff but are supported by City divisions.
- For City-owned corporations, Council as the shareholder approves Shareholder Directions to the boards of directors that outline the City objectives for the corporation, operating principles, decisions that need to come to Council, and reporting requirements.

## **COMMENTS**

### **Governance Principles**

Because agencies (not corporations) are, in most cases, agents of the City in accordance with legislation, the City is fully responsible for the financing and operation of the agency. It is therefore important for the City to ensure that City boards:

- have appropriate structures and qualified boards
- are managed well
- are accountable to the City
- are financially stable
- follow legislative rules and City direction
- support City objectives established for the Board.

### **Opportunity for Improved Governance**

- At amalgamation, some boards (Hydro, Parking Authority, Committee of Adjustment, Property Standards) were amalgamated through legislation, but most others continued as were established by the former municipalities. Few major changes have occurred since

amalgamation to ensure that the City's approach to agency governance is in line with the City size and complexity.

- The Province has given the City control over its board structures (with legislative constraints regarding Police, Health, and Library) and as the City matures as an order of government, there is an opportunity to take a stronger leadership approach to managing through agencies and corporations.
- The agency model has an added governance cost since it requires duplicate administrations and labour relations, separate audits, a time-consuming appointments process, some remuneration and expenses for board members, and agency staff compensation that sometimes may not be in line with City's policies. The agency model should be reviewed from time to time to ensure that these costs are justified by the added benefits of an arm's length approach.
- The agency approach was intended to engage residents in the decision-making process, permit a more commercial approach to service delivery, or focus additional expertise on a strategic service. Continual oversight is required to ensure that agencies do not gain an unintended independence or stray from Council's direction and that services do not overlap or conflict with City services.
- Blueprint for Fiscal Stability and Economic Prosperity observed that the City needed to "get a grip on" its agencies by taking firmer control and making them more accountable and recommended the City develop a "plan for much more alignment, cooperation, and increased oversight of City ABCCs" and "create more opportunities for savings and joint initiatives and look for opportunities to consolidate certain key functions and responsibilities."

Table 1 sets out the characteristics of good governance practices and provides information about how the City has implemented each and what additional actions are necessary. The actions required are addressed in the recommendations in this report.

**Table 1: Characteristics of Good Governance**

Desired Characteristics	In Place	Action Required
Governance structures that support City mandate, that are appropriate for the size and complexity of the City, and provide the appropriate degree of self-sufficiency for the circumstance		Rec # 1 Continue governance reviews with new objectives
City By-laws that establish and regulate the agency Agency operating by-laws approved by Council.	Little in current Municipal Code; level of detail varies by boards that are included; Agency procedure by-laws not currently approved by Council as are by-laws for corporations.	Rec #2(a)(ii)&(iii) New Municipal Code chapters for agency governance; and Council to approve by-laws passed by each agency governing their procedures.
Board members that support objectives, collectively possess appropriate qualifications, have perspectives needed to make solid decisions, appreciate and comply with City requirements for the Board, publicly represent the City well, supervise the management of the agency to ensure all information needed to make good decisions is made available to the Board and that management is held appropriately accountable	Council-approved comprehensive Public Appointments Policy that outlines board composition, balance of Councillors and public members, qualifications, and recruitment methods.	Rec #2(a)(i) City appoint the Chair for each board (except Board of Health, Police, Library) as is done for corporations.  Public Appointments Policy changes contained in complementary report. Future consideration: <ul style="list-style-type: none"> <li>• Orientation program for new board members</li> <li>• Evaluation of board</li> </ul>
Documentation to guide the agency that outlines the objectives for the agency, mandate, delegated	<b>Completed relationship frameworks:</b> AOCCs, arenas, BIAs (through by-law),	Finish relationship frameworks as previously approved by Council.

<b>Desired Characteristics</b>	<b>In Place</b>	<b>Action Required</b>
authority and constraints, expectations, rules of engagement, supports provided by the City, City liaisons, City rules that apply, reporting requirements	Exhibition Place, Heritage Toronto, Licensing Tribunal, TAF <b>Shareholder Directions for:</b> Hydro, TCHC, Enwave, Build, Invest, TPLC	Rec # 7 Update existing Shareholder Directions and Relationship Frameworks to ensure they address the recommendations in this report.
Sufficient accountability mechanisms are in place	Annual reporting to Council Budget approval by Council Quarterly variance reports Performance measures City authority to appoint or remove board members	Rec #2 <ul style="list-style-type: none"> <li>• City to appoint the Chair.</li> <li>• Council to approve Operating by-laws</li> <li>• Municipal code for agency structures</li> <li>• Agency reports to Council to be reviewed by City staff to determine City impact.</li> </ul>
Agency management that is qualified and responsible, has an allegiance to City priorities and respects the City requirements and HR policies that are consistent with the City's.		Rec #3 City Manager to report on agency HR policies and practices and what City's future role should be.
Policy framework that ensures that City principles and policies are applied appropriately to each agency and that the appropriate degree of independence is respected		Rec #4 Policy applicability review

The above chart and the recommendations in this report outline a proposed workplan for improving the governance structure of City agencies and corporations and their relationships to the City. These initiatives will take some time to work with all of the City agencies and corporations to fully implement. As each initiative takes shape, recommended actions will come forward to the Executive Committee and Council for approval.

### **Sinking Fund Committee and Investment Advisory Committee**

The Sinking Fund Committee and Investment Advisory Committee both have mandates pertaining to investments:

- The Sinking Fund Committee establishes investment policies, authorizes all withdrawals from sinking fund accounts, determines the necessity for reductions in levies and authorizes reports to City Council, and approves dispositions of surplus funds in accordance with statutory requirements. The composition of the Sinking Fund Committee is 4 citizen members who receive remuneration, plus the Deputy City Manager and CFO as Chair.
- The Investment Advisory Committee advises the CFO on investment matters relating to the management of the City's money market and fixed-income investment portfolios and provides advice to the CFO on the management of sinking fund assets accumulated to redeem debenture debts issued by the City. The members of the Sinking Fund Committee also serve on the Investment Advisory Committee (the remuneration of citizen members covers appointment to both).

The City is required to establish and maintain a Sinking Fund and to have it audited, but is not required by legislation to have a Sinking Fund Committee or Investment Advisory Committee. Maintaining two committees each having an investment mandate is not an efficient structure, and there are other options for the CFO to obtain external advice without establishing boards (the CFO has discretion to consult with private sector experts as required). To streamline the



governance model, it is recommended that both the Sinking Fund and the Investment Advisory Committees be dissolved and all authority for investment decisions be delegated to the CFO.

Eliminating the Sinking Fund Committee and the Investment Committee will result in annual savings of \$20,000 for remuneration for the 4 citizen members. Other benefits include administrative streamlining and reductions in Councillor and staff time in both selecting members and providing support.

### **Museum Boards**

Community museums are operated by City staff and costs are included in the Culture Division budget. There is currently a network of community advisory committees (known as Museum Boards) that provide volunteer support and program input to City staff. This structure has been in place since 2002 with Council's approval of the Memorandum of Understanding between the City and Museum Boards. The Municipal Code is out of date and describes Museum Boards as local boards with authority over staff and budgets. It is therefore recommended that Chapter 103 Sections 1 to 3 of the Municipal Code, regarding the Museum Boards, be deleted in keeping with current practice.

Culture staff have been working with the existing advisory committees and others in the heritage community on an alternative model. The new model would be a single reference group that will be responsible for advising and advocating for the work of the City of Toronto museums. It will provide support and experience in areas such as tourism, sponsorship, marketing, arts, education, programming as well as international and national museums' standards and ethics. The work of the reference group will be augmented by friends groups for each of the museums (such as the Friends of Fort York) and an online Friends of Toronto Museums to promote the events and programs at the City museums and to create a culture of museum going. There is no need for a City by-law to establish such groups.

### **CONTACT**

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### **SIGNATURE**

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Joseph P. Pennachetti  
City Manager

## **ATTACHMENTS**

Attachment 1: Chart of City of Toronto Agencies and Corporations

# Attachment 1 - City of Toronto Agencies and Corporations <sup>1</sup>

Agencies <sup>2</sup>		Corporations <sup>3</sup>	Other Bodies	
<p><b>Service Agencies</b></p> <ul style="list-style-type: none"> <li>➤ Board of Health</li> <li>➤ Exhibition Place</li> <li>➤ Heritage Toronto</li> <li>➤ Police Services</li> <li>➤ Public Library</li> <li>➤ Sony Centre for the Performing Arts</li> <li>➤ St. Lawrence Centre for the Arts</li> <li>➤ Toronto Centre for the Arts</li> <li>➤ Toronto Parking Authority</li> <li>➤ Toronto Transit Commission</li> <li>➤ Toronto Atmospheric Fund</li> <li>➤ Toronto Zoo</li> <li>➤ Yonge-Dundas Square</li> </ul>	<p><b>Quasi-Judicial &amp; Adjudicative Boards <sup>4</sup></b></p> <ul style="list-style-type: none"> <li>➤ Committee of Adjustment</li> <li>➤ Committee of Revision</li> <li>➤ Property Standards Committee / Fence Viewers</li> <li>➤ Rooming House Licensing Commissioner</li> <li>➤ Sign Variance Committee</li> <li>➤ Toronto Licensing Tribunal</li> </ul>	<p><b>City Corporations</b></p> <ul style="list-style-type: none"> <li>➤ Build Toronto Corporation</li> <li>➤ Invest Toronto Corporation</li> <li>➤ Toronto Community Housing Corporation</li> <li>➤ Toronto Hydro Corporation</li> <li>➤ TEDCO operating as Toronto Port Lands Company (TPLC)</li> </ul>	<p><b>Advisory Bodies</b></p> <ul style="list-style-type: none"> <li>➤ <del>Museum Boards <sup>6</sup></del> (to be replaced by reference group and Friends groups for each museum)</li> <li>➤ Toronto Preservation Board</li> <li>➤ Public advisory bodies appointed by Council from time-to-time</li> <li>➤ Program advisory bodies established by agencies and divisions from time-to-time</li> </ul>	<p><b>Pension Bodies <sup>5</sup></b></p> <ul style="list-style-type: none"> <li>➤ Metro Toronto Pension Plan Board of Trustees</li> <li>➤ Metro Toronto Police Benefit Fund Board of Trustees</li> <li>➤ Toronto Civic Employees' Pension &amp; Benefit Fund Committee</li> <li>➤ Toronto Fire Department Superannuation &amp; Benefit Fund Committee</li> <li>➤ York Employees' Pension &amp; Benefit Fund Committee</li> </ul>
	<p><b>Administrative Boards</b></p> <ul style="list-style-type: none"> <li>➤ Compliance Audit Committee</li> <li>➤ Sinking Fund Committee<sup>6</sup></li> </ul>	<p><b>Partnered Corporations</b></p> <ul style="list-style-type: none"> <li>➤ Enwave Energy Corporation</li> <li>➤ Waterfront Toronto</li> </ul>		
<p><b>Community-Based Agencies</b></p> <ul style="list-style-type: none"> <li>➤ Arena Boards (8)</li> <li>➤ Association of Community Centre Boards (AOCCs) (10)</li> <li>➤ Business Improvement Areas (BIAs) (70+)</li> </ul>				
<p><b>Partnered Agency</b></p> <ul style="list-style-type: none"> <li>➤ Toronto and Region Conservation Authority</li> </ul>				

**Notes:**

1. Chart includes agencies, corporations and other bodies. The City also makes nominations for board appointments to a number of external bodies (not on this chart).
2. Previously referred to as **agencies, boards and commissions**.
3. City Corporations are Ontario Business Corporations Act (OBCA) corporations.
4. Includes quasi-judicial positions.
5. Pension Bodies are Trust Fund Administrators.
6. To be removed if Council approves recommendations in this report.

**Updated: March 2011**