

**Legacy Fund Allocations Committee –
Governance Structure and Appointments
[Toronto 2015 Pan Am/Parapan Am Games]**

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| Date: | March 22, 2014 |
| To: | Council |
| From: | City Manager |
| Wards: | City-wide |
| Ref. Number: | |

SUMMARY

This report sets out the policy requirements for the board governance structure and the City’s appointment of a citizen member to the Legacy Fund Allocations Committee (“LFAC”) in relation to the Toronto 2015 Pan Am/Parapan Am Games. With the signing of the Pan Am Games Multi-Party Agreement (the “MPA”), the parties set in motion the establishment of the \$70 million Toronto 2015 Sport Legacy Fund (the “Legacy Fund”). The Toronto Pan Am Sport Centre (“TPASC”), owned by the City and the University of Toronto, is one of three Beneficiary Legacy Facilities that will benefit from financial contributions from the Legacy Fund.

The LFAC was established to provide oversight and accountability to the allocations process. The City of Toronto is to appoint one of the seven LFAC members. All parties, except for the City of Toronto, have already named their appointee to the LFAC.

The City’s appointment is of an urgent nature as the LFAC has commenced meeting as of March 2014 to develop the requisite oversight, policy and accountability framework. It is recommended that the General Manager, Parks, Forestry and Recreation be delegated authority to recruit and appoint the City’s initial appointee in 2014. The appointment process for 2014 will adhere to the appointment requirements as set out in this report and be undertaken in an expedited manner.

Subsequent to the initial appointment in 2014, it is recommended that in the Fall of 2016 the City Clerk initiate a process that would include the establishment of a Nominating Panel to recommend for consideration by City Council a citizen member for appointment to the LFAC to take effect in 2017.

This report also recommends that the City Manager be delegated authority to execute any agreements necessary to receive funds from the Legacy Fund.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council approve the policy requirements for the board governance structure and the City's appointment of a citizen member to the Legacy Fund Allocations Committee, relating to the Toronto 2015 Pan Am/Parapan Am Games, as set out in the Policy on Board Governance Structures for Appointments to External Bodies: Legacy Fund Allocations Committee in Appendix A to this Report.
2. City Council delegate authority to the General Manager, Parks, Forestry and Recreation to undertake a process, in accordance with the requirements set out in Appendix A to this Report, to recruit and appoint the citizen member to the Legacy Fund Allocations Committee starting in 2014 for an initial 3 year period.
3. City Council request the City Clerk to initiate in the Fall of 2016 the establishment of a Nominating Panel and a process for recruitment of a citizen member as the City's appointee to the Legacy Fund Allocations Committee to take effect in 2017 on a date to be specified.
4. City Council delegate authority to the City Manager to execute any agreements required with the Toronto Community Foundation or other designated body to receive funds from the Toronto 2015 Sport Legacy Fund on an annual or other basis over the life of the Legacy Fund, and to transfer such funds to the benefit of the Toronto Pan Am Sports Centre Inc., on such terms and conditions as may be satisfactory to the City Manager and City Solicitor.
5. City Council authorize and direct the appropriate City Officials to take the necessary actions to give effect thereto.

Financial Impact

The process to recruit the citizen member of the LFAC to be appointed by the City of Toronto involves costs for advertising and a search consultant, and these are costs to the City. Costs for the initial recruitment process in 2014 undertaken by the General Manager, Parks, Forestry and Recreation are estimated to be in the range of \$30,000 to \$35,000. Funds to cover these costs will be identified from within the 2014 approved Operating Budget for Parks, Forestry and Recreation. In the future, the costs of recruitment for the citizen member of the LFAC will be accommodated within the appointment process managed by the City Clerk.

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

Decision History

In December 2008, City Council endorsed the City's participation in a bid to host the 2015 Games. The bid itself was initiated, funded and led by the Government of Ontario.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2008.EX26.6>

In February 2009, City Council authorized the City Manager to negotiate, approve and execute on the City's behalf a multi-party agreement with the Federal and Provincial governments and other key 2015 Games partners.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX29.10>

In November 2012, City Council endorsed the establishment of a joint not-for-profit corporation with the Governing Council of the University of Toronto for the purpose of managing and operating the facility. City Council also directed the City Manager to develop appropriate governance structures and shareholder agreements.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX24.12>

ISSUE BACKGROUND

Toronto is the official host city of the 2015 Pan American and Parapan American Games (the “2015 Games”), and a signatory to the MPA. The MPA defines the rights and responsibilities with respect to the governance, financing and delivery of the Games of: the Toronto Organizing Committee for the 2015 Pan American and Parapan American Games (“TO2015”); the Canadian Olympic and Paralympic Committees; and the City and the provincial and federal governments (collectively referred to as the “MPA Parties”).

The legacy of the 2015 Games has been identified as a key priority by the federal and provincial governments and all Games partners. With the signing of the MPA in November 2009, the MPA Parties set in motion the establishment of the \$70 million Toronto 2015 Sport Legacy Fund with the Government of Canada and the Government of Ontario contributing \$65 million and \$5 million, respectively.

A key purpose of the Legacy Fund is to contribute to the operation and maintenance costs of designated Legacy Facilities. The 3 Beneficiary Legacy Facilities are:

- the TPASC, owned by the City and the University of Toronto;
- the Pan/Parapan Am Velodrome, owned by the Town of Milton; and
- the Pan/Parapan Am Athletics Stadium, owned by York University.

In January 2013, the TO2015 Board of Directors approved the Toronto Community Foundation (the “TCF”) to manage the Legacy Fund.

The provisional fund allocation level for each of the 3 eligible Beneficiary Legacy Facilities, based on a \$5 million total annual payout, can be found in Table 1 below.

| Table 1: Provisional Fund Allocations to Beneficiary Legacy Facilities | | |
|---|-----------------------------------|---------------------------------|
| Beneficiary Legacy Facility | Ratio of Committed Funding | Projected Annual Funding |
| Toronto Pan Am Sports Centre | +/- 79.9% | \$4.076 million |
| Pan/Parapan Am Velodrome | +/- 14.4% | \$0.736 million |
| Pan/Parapan Am Athletics Stadium | +/- 5.6% | \$0.288 million |

Section 33.1 of the MPA sets out specifically the obligations of TO2015 to create a Sport Legacy Fund Plan that would be approved by all of the MPA Parties, and would include, at minimum:

- (a) a proposed governance, accountability and management structure and process for the Toronto 2015 Sport Legacy Fund;
- (b) a list of legacy Facilities;
- (c) a business case for the proposed allocation of funds which takes into account the provisions of this Agreement related to Legacy including communication and access to programs and Facilities;
- (d) a process for the ongoing distribution of funds to recipients; and
- (e) conflict of interest guidelines for the LFAC Members/Directors.

The TO2015 Board of Directors approved the Legacy Fund Plan, dated September 20, 2013. All MPA parties, including the City of Toronto, approved the Legacy Fund Plan in November 2013.

COMMENTS

Legacy Fund Governance Structure

For external bodies, many of the governance and appointments policy elements are pre-determined by the external body while additional elements may be determined by City Council. With respect to the LFAC, the Legacy Fund Plan sets out the basic governance structure and requirements for organizations entitled to appoint members to the LFAC which must be satisfied in addition to any governance and appointment policy requirements specific to the organizations appointing members. The governance structure and appointment policy requirements for the LFAC are outlined below and are presented in a consolidated form in the Policy on Board Governance Structures for Appointments to External Bodies: Legacy Fund Allocations Committee in Appendix A.

Mandate and Structure

The LFAC was created by the Legacy Fund Plan to play a critical role in ensuring the ongoing business and accountability relationship between the TCF, which will manage the Legacy Fund, and the Beneficiary Legacy Facilities. In this regard, the LFAC will be responsible for reviewing and proposing annual allocations as well as three year funding

review results, reporting to the parties, and reviewing reports from the TCF about the performance and management of the Legacy Fund.

The Legacy Fund Plan sets out the composition of LFAC as follows:

- (a) Seven (7) individuals appointed as full members as follows:
 - i. two (2) appointed by Canada;
 - ii. two (2) appointed by Ontario;
 - iii. one (1) appointed by the Canadian Olympic Committee;
 - iv. one (1) appointed by the Canadian Paralympic Committee; and
 - v. one (1) appointed by the City of Toronto.
- (b) Observer(s) from the TCF.

Eligibility Requirements

A number of appointment requirements have been pre-determined by the federal and provincial governments as funders of the Legacy Fund. Applicable appointment requirements contained in the Legacy Fund Plan are as follows:

- (a) Any Member of the of the LFAC:
 - i. cannot be an elected official;
 - ii. cannot have an employment relationship with the entity that appointed the individual (with the exception of Canada and Ontario);
 - iii. cannot have a direct financial or business relationship in any of the Beneficiary Legacy Facilities; and
 - iv. cannot have an employment relationship with any of the Beneficiary Legacy Facilities or its owner.
- (b) Members will be appointed for 3 years and may be reappointed once.

The Legacy Fund Plan also requires each organization to provide notice to the partner organizations of the name and business address of the individual appointed to the LFAC.

The City's appointment of a citizen member to the LFAC is also subject to the requirements of the City's *Public Appointments Policy*, including but not limited to residency and minimum age eligibility requirements. The appointment of a citizen member to the LFAC is at pleasure of City Council.

Given the oversight role of the LFAC, it is recommended that citizen members are ineligible if they are not of sound mind or if they have the status of a bankrupt.

It is important to ensure that the City's appointee is independent of other parties with an interest in the Legacy Facilities. It is recommended that Citizen members are ineligible for appointment if they or their immediate family members (as defined in the *Code of Conduct for Members of Council*) are, or in the 12 month period prior to an appointment taking effect were, employees, officers, directors or agents, as the case may be:

- (a) of the University of Toronto or members of its Governing Council;
- (b) of TPASC Inc. or any licensees, leaseholders or tenants of or at TPASC Inc.;
- (c) of the TCF or other participating allocations body;

- (d) of other Beneficiary Legacy Facilities eligible for funds from the Legacy Fund, or any of their licensees, leaseholders or tenants.

Qualifications

The role of LFAC includes development and implementation of an appropriate oversight, policy and accountability framework in an intergovernmental context. To effectively contribute to LFAC, the citizen member to be appointed by the City should possess significant expertise in one or more of the following qualifications:

- (a) financial management expertise;
- (b) large corporate board experience;
- (c) experience with oversight of fund management and investment;
- (d) senior level intergovernmental relations expertise.

City's Process for 2014 Appointment to LFAC

All parties, except for the City of Toronto, have already named their appointee to the LFAC. The LFAC already met in March 2014 to commence development of LFAC's oversight, policy and accountability framework. Since the City has not yet appointed a member to the LFAC, City staff monitored the meeting merely as an observer. Appointing an official representative is of an urgent nature.

Like all LFAC members, the City's first appointee would serve for 3 years. Since the Legacy Beneficiary Facility allotments have already been set for 2014-2017, the City's first appointee would represent the City in developing and applying the oversight, policy and accountability framework including the processes and relationships between the TCF and LFAC, and between the TCF and the Legacy Beneficiary Facilities, which are requirements in the initial 3 year period and in future years.

In light of the urgency of the appointment, it is recommended that authority for determining the City's initial appointment in 2014 be delegated to the General Manager, Parks, Forestry and Recreation. The appointment process for 2014 will adhere to the appointment requirements set out in this report. The process can be undertaken in an expedited manner that does not entail establishment of a nominating panel and planning and facilitation of related meetings.

City's Process for 2017 Appointment to LFAC

Subsequent to the initial appointment in 2014, it is recommended that in the Fall of 2016 the City Clerk initiate a process for appointment of a citizen member of the LFAC by the City to take effect in 2017.

This process, and all subsequent appointment processes, would include the establishment of a Nominating Panel that would recommend for consideration by City Council a citizen member for appointment to the LFAC.

LFAC Funding Agreements

It is anticipated that agreements will be required between the City and the TCF or other participating allocations body in the context of the Legacy Fund Plan in order to access funding. Therefore, it is recommended that authority be delegated to the City Manager to execute any agreements required to receive funds from the Legacy Fund on an annual or other basis over the life of the Legacy Fund, and to distribute these funds for the benefit of the Toronto Pan Am Sports Centre Inc., on such terms and conditions as may be satisfactory to the City Manager and City Solicitor.

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SIGNATURE

Joseph P. Pennachetti,
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ATTACHMENTS

Appendix A: Policy on Board Governance Structures for Appointments to External Bodies:
Legacy Fund Allocations Committee [Toronto 2015 Pan Am/Parapan Am Games]