REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Actions Taken to Date by the Toronto Parking Authority Arising from Council's Decision Respecting the Auditor General's Investigation into a Certain Land Transaction

Date: April 17, 2018
To: Interim City Manager
From: Interim Chair, Toronto Parking Authority Board
Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report deals with personal matters about identifiable persons, including municipal or local board employees.

SUMMARY

This report provides information on actions taken to date by the Toronto Parking Authority in response to Council's decisions arising from its consideration, at its meeting of July 2017, of the Auditor General's report on her observations of a land acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority.

RECOMMENDATIONS

The Interim Chair of the Toronto Parking Authority Board recommends that the Interim City Manager recommend that:

1. City Council direct that the information contained in Confidential Attachment 1 remain confidential in its entirety, as it relates to personal matters about identifiable individuals, including municipal or local board employees.

FINANCIAL IMPACT

There are no financial impacts arising from the adoption of the recommendations contained in this report.

DECISION HISTORY

At its special meeting of March 27, 2018, the Toronto Parking Authority Board considered Item PA9.1, Update Regarding the Investigation Regarding the Auditor General's Observations of a Land Acquisition at Finch Avenue West and Arrow Road.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PA9.1

At its meeting of August 17, 2017, the Toronto Parking Authority considered Item PA2.3, Provision of Legal Services to the Toronto Parking Authority.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PA2.3

At its special meeting of July 10, 2017, the Toronto Parking Authority Board considered Item PA1.1, Matters Arising from City Council's Decision respecting the Auditor General's Investigation into Certain Land Acquisition.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PA1.1

At its meeting of July 4, 5, 6 and 7, 2017 Council considered Item AU9.12, Auditor General's Observations of a Land Acquisition at Finch Avenue West and Arrow Road by the Toronto Parking Authority - Part 2.

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU9.12

COMMENTS

At its July 10, 2017 meeting, the Board considered the recommendations adopted by City Council pursuant to its consideration of the Auditor General's report. The Board took certain actions with respect to administrative and governance matters, real estate related matters, and certain employment matters, as described below.

Administrative and Governance matters:

Council directed that the TPA Board adopt City Hall as its usual meeting place; that it adopt the best practice of requiring written documentation for agenda items to ensure that the Board's decision-making is open and transparent to the public; and that the Board follow the procedures of Municipal Code Chapter 27, Council Procedures, as it applies to Committees of Council, with any necessary modifications. These directives have all been fully implemented. In addition, TPA staff, with the guidance of the City Clerk, have updated the format of staff reports to conform to City standards and have received training from the Clerk's staff.

At its meeting of August 17, 2017 (Item PA2.3), the Board directed that City of Toronto Legal Services would be the provider of legal services to TPA. This direction is fully implemented. TPA staff direct all ongoing and future files requiring legal advice, as well

as legal service requirements to the City Solicitor, and retain outside counsel if directed by City Legal. As well, staff from Legal Services attend all meetings of the Board.

Council also directed TPA and City officials in certain matters regarding Board members' training, duties, risks and responsibilities. To date TPA staff have initiated discussions with the City Clerk regarding governance education expertise, focusing on the following governance essentials:

i. Corporate governance principles and fiduciary duty of boards;
ii. The roles, duties, responsibilities and relationships of the Board, Chair, board committees, and management;
iii. The role of the Board in leadership and stewardship – enterprise risk and risk management; and
iv. The role of the Board in monitoring and reporting - performance oversight.

Prior to moving forward, the TPA will coordinate this matter with the City Clerk and City Legal to ensure consistency and incorporate any guidelines and training that may be available through these Divisions, specifically in relation to Council's direction under Recommendation 13 in AU9.12, that the City Manager "update as necessary guidelines and training for Agency Boards based on the findings of the Auditor General".

Council also requested the TPA to review and recommend appropriate amendments to its by-law. TPA and City staff have initiated discussions with the City Clerk and are working on recommended amendments, with the intent that such amendments will follow a template similar to more recent by-laws of other City agencies such as Exhibition Place. The implementation of these by-law amendments is contingent on the completion of the ongoing review of TPA governance.

Real Estate:

Within the same timeframe City Council and the Board gave direction to TPA staff in regard to the conduct of TPA real estate matters specifically arising from the Auditor General's investigation, Council also adopted the new City-wide real estate model which fundamentally alters how TPA, and other City entities, conduct real estate initiatives. This culminated, in December 2017, with Council's approval of various amendments to authorities for real estate matters in Municipal Code Chapter 179, Parking Authority.

From the outset of the appointment of the interim Board, the TPA has ensured that all recommendations related to real property matters are fully implemented. Real estate transactions now follow the City processes and procedures. All ongoing, pending and future real estate transactional initiatives directly involve and are vetted in detail with the appropriate City division, including the Deputy City Manager, Internal Corporate Services, the Real Estate Services (RES) Division, CreateTO and City Legal Services. More specifically, this means continual engagement with RES' Transactions, Appraisal and Environmental groups. Accordingly, pursuant to Council Recommendation 20 in AU9.12, "all TPA real estate property transactions are directed through the RES delegated approval authority process and due diligence procedures".

Employment matters:

At its July 10, 2017 meeting, the Board appointed Andy Koropeski as Interim President while directing that the President and Vice-President, Real Estate, be placed on paid leave until such time as an investigation into the conduct of Board Employees related to the transaction identified in the Auditor General's report had been concluded and the Board had considered the results of the investigation. Andy continues to act in that capacity.

On July 14, 2017, the City Solicitor sent an invitation on behalf of the City Manager to provide investigative and legal services to law firms with experience in complex workplace and forensic investigations, particularly in relation to complicated development and real estate transactions and financial management issues, as well as experience in working with municipalities and knowledge of municipal governance issues.

The investigators from Torys attended at the TPA Board meetings of November 21, 2017 and March 27, 2018 in order to provide progress updates on the investigation.

The confidential attachment to this report provides an update as to the employment actions taken by the TPA Board, so far, in relation to this matter and as a consequence of the updates provided by the investigators.

CONTACT

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SIGNATURE

Giuliana Carbone
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ATTACHMENTS

Confidential Attachment 1 - Confidential Report regarding Outside Investigation