

# **Governance Orientation**

## **for the Board of Directors of TO Live**

**September 26, 2019**

# Agenda

- City of Toronto Agencies and Corporations
- TO Live's Relationship to City of Toronto
- Board Responsibilities and Best Practices
- Applicable Legislation, By-laws and City Policies
- City Liaisons and Board Resources
- Questions and Discussion

## Agencies

### Service Agencies

- CreateTO
- Exhibition Place Board of Governors
- Heritage Toronto
- **TO Live**
  - Toronto Atmospheric Fund
  - Toronto Board of Health and Toronto Public Health
  - Toronto Investment Board
  - Toronto Police Services Board and Toronto Police Service
  - Toronto Public Library Board
  - Toronto Transit Commission
  - Toronto Zoo Board of Management
  - Yonge-Dundas Square Board of Management

### Partnered Agency

- Toronto and Region Conservation Authority

### Community-Based Boards:

- 83 Business Improvement Area (BIA) Boards of Management
- Arena Boards of Management:
  - George Bell Arena
  - Larry Grossman Forest Hill Memorial Arena
  - Leaside Memorial Community Gardens Arena
  - McCormick Playground Arena
  - Moss Park Arena
  - North Toronto Memorial Arena
  - Ted Reeve Community Arena
  - William H. Bolton Arena
- Community Centre Boards of Management (AOCCs):
  - 519 Church Street Community Centre
  - Applegrove Community Complex
  - Cecil Community Centre
  - Central Eglinton Community Centre
  - Community Centre 55
  - Eastview Neighbourhood Community Centre
  - Ralph Thornton Community Centre
  - Scadding Court Community Centre
  - Swansea Town Hall Community Centre
  - Waterfront Neighbourhood Centre

## Corporations

### City Corporations

- Build Toronto Inc.
- Casa Loma Corporation
- Invest Toronto Inc. (Dissolution in progress)
- Lakeshore Arena Corporation
- Toronto Community Housing Corporation
- Toronto Hydro Corporation
- Toronto Port Lands Company (Toronto Economic Development Corporation)

### Partnered Corporations

- Toronto Pan Am Sports Centre Inc.
- Waterfront Toronto (Toronto Waterfront Revitalization Corporation)

## Adjudicative Bodies

### Quasi-Judicial & Adjudicative Boards

- Administrative Penalty Tribunal
- Committee of Adjustment
- Committee of Revision
- Compliance Audit Committee
- Dangerous Dog Review Tribunal
- Property Standards Committee
- Rooming House Licensing Commissioner <sup>1</sup>
- Sign Variance Committee
- Toronto Licensing Tribunal
- Toronto Local Appeal Body

### Notes:

1. Rooming House Licensing Commissioner and Deputy are Officers, rather than an agency of the City, but in all other respects function as a quasi-judicial and adjudicative board.

# About TO Live

- TO Live (formerly Civic Theatres Toronto) is a City Agency which manages and operates the City's three major Civic Theatres:
  - The St. Lawrence Centre for the Arts,
  - Toronto Centre for the Arts and
  - The Sony Centre for the Performing Arts (Sony Centre).
- The mandate of TO Live is to provide quality performance and event facilities and to promote its contribution to the artistic, cultural and social vitality of Toronto and its communities.

# TO Live's Relationship to the City

- TO Live is a City Agency/Local Board and an agent of the City established under [The City of Toronto Act, 2006](#)
- [Toronto Municipal Code, Chapter 23, Civic Theatres](#) sets out the mandate and governance structure of TO Live and includes the Board composition and responsibilities, applicable policies and by-laws, and the role of an advisory committee.
- A relationship framework between TO Live and the City of Toronto is under development. The framework will further define the relationship between these entities.
- As a City Agency, TO Live is subject to many City Council by-laws, directives, policies.
- As a City Agency, TO Live's budget is subject to approval by City Council.

# Delegated Board Responsibilities

Under Toronto Municipal Code Chapter 23:

- The Board shall supervise the management of the business and operations of the Civic Theatres.
- In particular, the Board shall:
  - A. Assume responsibility for the governance, business affairs, operation and management of the Civic Theatres.
  - B. Oversee the integration and consolidation of operational functions of the Civic Theatres through a phased-in process.
  - C. Undertake strategic planning and develop a five-year business plan to ensure the long-term viability and success of the Civic Theatres.
  - D. Submit an annual report and audited financial statements to Council.

# Role of Board Members

## **The role of a Board Member includes:**

- Abiding by applicable laws and policies (e.g. Code of Conduct; Conflict of Interest)
- Promoting Board transparency and accountability
- Exercising fiduciary duty (due diligence in decision making; stewardship of assets)
- Integrating the interests of the Board, City Council and community.

## **The role of Board Chair:**

- In addition to Board Member responsibilities, objective chairing of meetings and keeping the public informed of the status of the business
- Representing the Board to the general public, media, stakeholders and Council
- Appointed by, and responsible to, City Council
- Support Board capacity and participation of Board Members
- Specific roles set out in the Board's procedure by-law regarding conduct of meetings and role of Ethics Executive under the Toronto Public Service By-law.

## **The role of Vice Chair:**

- In addition to Board Member responsibilities, assumes the duties of the Chair when delegated, or when the Chair is unable to assume their duties.

# Governance Best Practices

- Every Board Member in exercising their powers and discharging their duties shall:
  - Act honestly and in good faith with a view to the best interests of the City of Toronto; and
  - Exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- Boards are advised to ensure critical policies and processes are in place to manage the affairs of the Board effectively, and to be transparent and accountable in decision-making.
- Appropriate internal controls are in place to protect Agency and City assets; for example, financial policies and processes.
- Boards adopt and adhere to their procedure by-law for conduct of Board business (e.g., open meetings, role of Board Members and officers, etc.).
- Board Members adhere to the Code of Conduct and applicable law.

# Key Legislation, By-laws and Policies

Under the *City of Toronto Act, 2006*, s. 212 (2), Agencies are required to have Board approved policies and by-law on the following matters:

- Its sale or other disposition of property as applicable
- Its hiring and promotion of employees
- Its procurement of goods and services
- A procedure By-law (including Open / Closed meeting requirements)

# Key Legislation, By-laws and Policies

Under Toronto Municipal Code, Chapter 23, Civic Theatres:

- A. The Board shall adopt policies respecting sponsorship, naming rights and honourific names which are consistent with the policies adopted by Council.
- B. The Board shall adopt policies pertaining to the procurement of goods and services and the hiring of employees, as required under the *Act* and consistent with applicable City policies.
- C. The Board shall develop a procedure by-law for approval by City Council consistent with City Council procedures set out in Chapter 27, Council Procedures as they apply to Committees of Council, and in compliance with requirements of the *Act*.
- D. The Board shall comply with the applicable provisions of Chapter 192, Public Service.

# Key Legislation, By-laws and Policies

Under Toronto Municipal Code, Chapter 23, Civic Theatres:

- The Board shall establish an advisory committee with representation from the major companies and tenants at the Civic Theatres, to be convened at least once a year to provide advice to the Board, based on terms of reference approved by the Board.

# Key Legislation, By-laws and Policies

- Important Acts that apply to the TO Live Board Members and staff:
  - o [Municipal Conflict of Interest Act, RSO 1990](#)
  - o [Municipal Freedom of Information and Protection of Privacy Act, RSO 1990](#)
  - o [Municipal Elections Act, SO 1996](#)
  - o [Ontario Human Rights Code](#)
- Requests from City Council issued from time to time for the Board to implement (e.g., Council's Executive Compensation Framework).
- Other applicable legislation, policy and City Council directives are located on [the City's Agencies and Corporations Web Site](#).

# **1. Open/Closed Meeting Requirements**

# Open Meetings

- As a City Agency, the TO Live Board is governed by the open meeting rules of the *City of Toronto Act, 2006*.
- Under the *Act*, the public is entitled to attend meetings of the Board, except when the meeting is properly closed for a specific number of subjects.
- An investigation or court may find an informal gathering of Members constitutes a meeting (e.g. a quorum is present; the discussion advances the business of the Board).
- Board Members are entitled to notices, agendas and minutes for all meetings in accordance with the Board's procedures.

# Closed Meetings

Closed meetings are only permitted for specific subject matters, including:

- Security of the property of the City or Agency
- Receiving of advice that is subject to solicitor-client privilege
- Proposed or pending acquisition or disposal of land by the City or Agency
- Considering personal information about an identifiable individual
- Labour relations or employee negotiations
- Litigation or pending litigation, and matters before tribunals
- Education or training of the Members that does not advance decision making or business of the Board
- Information supplied in confidence to the City or Agency by the Provincial or Federal Government
- A City or Agency trade secret or scientific, technical, commercial, financial or labour relations information provided in confidence to the City or Agency that if disclosed can prejudice the competitive position of a person, group or organization, or information that has, or potentially has, monetary value for the City or Agency.
- Any other matter permitted or required by legislation to be closed, such as a request under the *Municipal Freedom of Information and Privacy Protection Act* or an ongoing investigation respecting the City or Agency.

## **2. Toronto Public Service By-Law**

# TPS By-law: Overview

The Toronto Public Service By-law (TPS By-law)/Toronto Municipal Code Chapter 192 which came into effect December 31, 2015, governs the conduct and expectations of City and Agency employees.

<http://www.toronto.ca/legdocs/municode/toronto-code-192.pdf>

# TPS By-law: Key Components



**Public Service Values**

**Roles, Responsibilities and Authorities of City Officials to Manage their Employees**

**Human Resource Policy Requirements**

**Provisions for Conflict of Interest, Political Activity and Disclosure of Wrongdoing and Reprisal Protection**

**Ethics Executives**

# TPS By-law: Public Service Values

- Act with integrity
- Apply judgement and discretion
- Serve Council and/or their Board well
- Serve the public well
- Serve the public service well
- Uphold Toronto's motto – Diversity Our Strength
- Maintain political neutrality
- Use City/Agency property, services and resources responsibly

# TPS By-law: Roles, Responsibilities and Authorities to Manage Employees

- For City Agencies, the By-law consolidates existing legislation, by-laws, frameworks, agreements and policies for managing human resources and:
  - o Affirms authority of City Agencies to appoint, promote, demote, suspend and dismiss Agency employees;
  - o Requires City Agencies to appoint an agency/administrative head to provide organizational leadership to staff; and
  - o Requires City Agencies to delegate management of human resources to the administrative head with limitations established by the Board.

# TPS By-law: Conflict of Interest Provisions

- Ensure that public servants' (including Agency staff) private interests are not in conflict with their public service duties and responsibilities.
- Members of the public service have a number of duties and obligations with respect to conflict of interest, including:
  - o Conducting themselves with personal integrity, ethics, honesty
  - o Avoiding placing themselves in situations where their private interests may be in conflict with, or be perceived to be in conflict with, the interests of the City or Agency.
  - o Seeking advice in relation to the application of the conflict of interest rules and reporting any conflict of interest or perceived conflict of interest to their immediate supervisor/manager or their Ethics Executive.

# TPS By-law: Political Activity Provisions

- Political Activity Provisions balance the need to preserve the impartiality and neutrality of the public service with an employee's constitutional right to engage in political activity.
- The By-law outlines special restrictions for senior City and Agency public servants recognizing that restrictions should be more significant at the highest levels of the public service.
- Although there are no formal restrictions for other staff, it may be advisable to not canvass or campaign in Wards where they are working.
- There may also be staff who work on highly visible policy projects who may wish to not canvass or campaign for any Toronto candidate in order to preserve the appearance of political neutrality.
- It is best to seek advice from supervisors/managers/Ethics Executives on how best to balance your rights to engage politically and your responsibilities as a public servant.

# TPS By-law: Disclosure of Wrongdoing and Reprisal Protection Provisions

- Consolidated past *Fraud Prevention* and *Whistle Blower Protection* policies into an overarching wrongdoing framework.
- Strengthened requirement for City employees to report wrongdoing provides multiple channels for reporting including through the Fraud and Waste Hotline, and provides reprisal protection.
- Formalized the Auditor General's authority to review, resolve and report out on allegations of wrongdoing.
- Strengthened reprisal protections for public servants.
- City Agencies required to adopt and implement disclosure of wrongdoing and reprisal protection policies.

# TPS By-law: Ethics Executives

- The TPS By-law designates all Division Heads (and above), Agency Heads and Board Chairs as Ethics Executives.
- Ethics Executives are responsible for:
  - o Promoting ethical conduct and decision-making;
  - o Ensuring staff are familiar with the ethical provisions included in the TPS By-law and provide guidance on their application;
  - o Providing advice and guidance to staff on situations involving conflict of interest, political activity and other ethical matters; and
  - o Providing an additional channel for employees beyond their supervisor/manager on ethical matters.

# TPS By-law: Designated Ethics Executives

| Position                    | Ethics Executive                                                 |
|-----------------------------|------------------------------------------------------------------|
| City Employee               | Division Heads                                                   |
| Division Heads              | Relevant Reporting Authority (City Manager, DCM)                 |
| Deputy City Manager & CFO   | City Manager                                                     |
| City Solicitor & City Clerk | City Solicitor and/or Integrity Commissioner                     |
| City Manager                | City Solicitor and/or Integrity Commissioner                     |
| Agency Employees            | Agency Head and other Senior Positions Designated by Agency Head |
| Agency Head                 | City Manager, Integrity Commissioner and/or Board Chair          |

# 3. Executive Compensation Framework

- In 2014, City Council requested Boards to adopt an executive compensation policy by 2015 within the framework adopted by Council in EX44.8, Executive Compensation at Agencies and Corporations, following an independent external study.
- The City Manager will report on trends to Council: a report on the 2014-17 period is targeted for Council in 2019.
- Agencies and corporations are requested to collect and submit executive compensation data annually to the City Manager.
- Agencies and Corporations were requested by Council to put a provision into future senior executive contracts for annual disclosure of individual compensation data as permitted by law.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX21.19>  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX44.8>

# City Liaisons and Board Resources

## City Manager's Office

- Karen Jones (Governance Liaison), Senior Corporate Management and Policy Consultant, City Manager's Office, [Karen.Jones@toronto.ca](mailto:Karen.Jones@toronto.ca) 416.397.4429

## Financial Planning Division

- Anthony Ng, Manager Financial Planning, [Anthony.Ng@toronto.ca](mailto:Anthony.Ng@toronto.ca), 416.395.6767

## Economic Development and Culture Division

- Mike Williams, General Manager, [Mike.Williams@toronto.ca](mailto:Mike.Williams@toronto.ca), 416.397.1970
- Sally Han, A/Director, [Sally.Han@toronto.ca](mailto:Sally.Han@toronto.ca), 416.392.4012

## City Clerk's Office

- Aretha Phillip, Public Appointments, [Aretha.Phillip@toronto.ca](mailto:Aretha.Phillip@toronto.ca), 416.392.8152

## Legal Services

- Alison Fowles, Solicitor, [Alison.Fowles@toronto.ca](mailto:Alison.Fowles@toronto.ca), 416.392.8434

## Additional Resources

- City's Public Website for Agencies and Corporations, <https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/city-managers-office/agencies-corporations/>

# Questions & Discussion