

PA13.1 Appendix F

APPENDIX F: IN-CAMERA BOARD MEMORANDUM DATED NOVEMBER 15, 2013 - MINUTE 13-171 (AUTHORIZED FOR PUBLIC RELEASE BY THE ACTING PRESIDENT, TORONTO PARKING AUTHORITY, ON JANUARY 27, 2020)



BOARD MEMORANDUM IN-CAMERA

5.4

TO: Lorne Persiko FILE NO: 6190-00 6195-00
FROM: Ian Maher DATE: November 15, 2013
SUBJECT: **Bike Share Program Amendment to Municipal Code Chapter 179**

MEETING DATE: November 20, 2013

RECOMMENDATION:

It is recommended that the following report be received for information.

BACKGROUND:

At its November 13 and 14, 2013 meeting of City Council, item EX35.8 *Strategy for Continuing Toronto's Bike Share Program* recommends changes to the bike sharing arrangement as contained in the confidential attachment to the report (October 15, 2013) from the General Manager, Transportation Services, including an amendment to Chapter 179 of The City of Toronto Municipal Code. If adopted, the City of Toronto Municipal Code Chapter 179, Parking Authority will be amended accordingly, by the inclusion of new section 179-7.1. A copy of the amending Bill is attached.

Current City of Toronto Municipal Code Chapter 179

The specific amendment would seek to add to section 179-7, Powers and Duties, of the Toronto Municipal Code. Currently, the section applies to the TPA's powers and duties with regard to the municipal parking system only. The general delegation of powers is recited in the sections as follows:

"All the powers, rights, authorities and privileges now or hereafter conferred upon the City by any general or special Act with respect to the construction, maintenance, operation and management of parking facilities within the City of Toronto, including on-street parking meter and parking machine facilities, shall be exercised by the Parking Authority subject to the following limitation:"

MEETING	MINUTE
November 20/2013	13-171
Received.	

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The proposed section 179-7.1 seeks to amend the City of Toronto Municipal Code Chapter 179, Parking Authority, to delegate to the Toronto Parking Authority the responsibility and authority for the ownership, acquisition, management, maintenance and operation of the bike share program on behalf of the City of Toronto.

The general delegation of powers in section 179-7.1 reads:

“All the powers, rights, authorities and privileges with respect to the the ownership, acquisition, management, maintenance and operation of the bike share program assets within the City of Toronto, including entering into contracts and agreements, undertaking sponsorship, naming, rebranding, partnership, acceptance of donations, approval of sponsorship and third party advertising on the bike station panels, and all other related ownership, operational, management or revenue generating activities, shall be exercised only by the Parking Authority, subject to the following limitations:”

When comparing the two sections, additions to the delegation of the parking powers and duties found in the bike sharing program are ***bold and italicized***, while wording found in section 179-7 that are not recited in section 179-7.1 are indicated in [brackets]:

“All the powers, rights, authorities and privileges [now or hereafter conferred upon the City by any general or special Act] with respect to the the ownership, acquisition, [construction,] management, maintenance and operation of the bike share program assets within the City of Toronto, ***including entering into contracts and agreements, undertaking sponsorship, naming, rebranding, partnership, acceptance of donations, approval of sponsorship and third party advertising on the bike station panels, and all other related ownership, operational, management or revenue generating activities, shall be exercised only by the Parking Authority***, subject to the following limitations:”

COMMENTS:

While the two sections differ in some respect, they seem to confer, in both cases, sufficient delegated powers to allow the Toronto Parking Authority to undertake the duties specified under the sections.

IM/AC

Authority: Executive Committee Item 35.8,
as adopted by City of Toronto Council on November , 2013
Enacted by Council: November , 2013

CITY OF TORONTO

BY-LAW No.

To amend City of Toronto Municipal Code Chapter 179, Parking Authority, to delegate to the Toronto Parking Authority the responsibility and authority for the ownership, acquisition, management, maintenance and operation of the bike share program on behalf of the City of Toronto.

Whereas City Council has vested the City's bike share assets in the Toronto Parking Authority ("TPA") and delegated to the Toronto Parking Authority the responsibility and authority for the ownership, acquisition, management, maintenance and operation of the bike share program on behalf of the City of Toronto, including in its sole discretion, entering contracts and agreements, undertaking sponsorship, naming, rebranding, partnership, acceptance of donations and all other related ownership, operational, management or revenue generating activities, such responsibility and authority to be exercised only by the TPA once delegated; and

Whereas City Council has also confirmed that this delegation of authority to the TPA shall include the approval of sponsorship and third party advertising on the bike station panels; and

Whereas City Council has established a Bike Share Program Reserve for the purpose of providing a source of funding for the debt, transition costs, interim operating payments, capital expansion and replacement costs, and ongoing operating contributions to the TPA for any bike share system operating losses; and

Whereas City Council also authorized the Chief Corporate Officer ("CCO") to make available space identified and deemed appropriate by the CCO, in or on City properties, available to the TPA on a temporary basis solely for its use in supporting the bike share system and reducing the operating costs for the system, on a nominal net rent basis, subject to certain conditions as imposed by Council;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. City of Toronto Municipal Code Chapter 179, Parking Authority, is amended by adding the following section:

§ 179-7.1. Authority over bike share system.

All the powers, rights, authorities and privileges with respect to the the ownership, acquisition, management, maintenance and operation of the bike share program assets within the City of Toronto, including entering into contracts and agreements, undertaking sponsorship, naming, rebranding, partnership, acceptance of donations, approval of sponsorship and third party advertising on the bike station panels, and all other related ownership, operational, management or revenue generating activities, shall be exercised only by the Parking Authority, subject to the following limitations:

- A. Any operating surplus from the bike share program shall be deposited in the bike share program reserve for the purposes of the reserve, including replenishment of the bike share program capital assets and/or any future operating deficits.
- B. The Parking Authority shall be required to obtain the approval of the appropriate City officials with respect to the location or relocation of the bike share stations and equipment on City property which has not been designated for the Parking Authority's use by by-law of Council.
- C. Where space in or on City properties is made available to the Parking Authority on a temporary nominal net rent basis solely for its use in supporting the bike share system and reducing the operating costs for the system, such use shall be subject to the following:
 - (1) the requirement for an appropriate lease or license agreement with the Parking Authority or its operator on terms and conditions acceptable to the Chief Corporate Officer for the City to protect the interests of the City;
 - (2) the use would be subject to cancellation by the City, upon reasonable notice, where required for the City's future operational requirements or for any other reason;
 - (3) all capital and/or operating costs incurred by the City and/or the Parking Authority shall be the responsibility of the Parking Authority, including but not limited to any indirect or incidental costs and all such costs arising from the use of the space shall be included as operating costs of the bike share program;
 - (4) the Parking Authority shall not have the right to dispose of such property; and
 - (5) the use of the space shall not have a detrimental impact on City operations.
- D. Despite anything else in this section, where the annualized cash flow deficit for the bike share program exceeds \$750,000, the President of the Parking Authority shall report directly to Council for direction.

ENACTED AND PASSED this day of November, A.D. 2013.

Speaker

City Clerk

(Corporate Seal)