

MINUTES of the Board of Directors of the Toronto Waterfront Revitalization Corporation held at 20 Bay Street, Suite 1310, Toronto, Ontario on Monday, October 26, 2015 at 8:00 a.m. local time.

PRESENT: Mark Wilson, Chair
Michael Copeland
Kevin Garland
David Johnson
Ross McGregor
Denzil Minnan-Wong
Gary Wright

ABSENT:

The following additional persons were in attendance throughout the meeting, unless otherwise indicated: John Campbell, President and Chief Executive Officer; Chad McCleave, Chief Financial Officer; Marisa Piattelli, Chief Administrative Officer; David Kusturin, Chief Operating Officer; Chris Glaisek, Vice President Planning & Design; Meg Davis, Vice President Development; and Ian Beverley, General Counsel.

Also in attendance was Chris Phibbs and Irene Bauer of the City of Toronto.

The Chair, Mark Wilson, took the chair and appointed Ann Landry to act as secretary of the meeting.

With notice of the meeting having been sent to all Directors in accordance with the Corporation's By-laws and a quorum of Directors being present, the Chair declared the meeting duly constituted for the transaction of business.

John Campbell declared a conflict with regard to Artscape. It was agreed that he would remove himself from the meeting prior to any material discussions regarding Artscape.

The Chair advised that Sue Dabarno and Jack Cockwell were no longer members of the Board as their tenures expired on October 16, 2015.

1. Consent Agenda

ON MOTION duly made, seconded and carried, it was **RESOLVED** that the Consent Agenda comprising the minutes of the September 9, 2015 meeting of the Board of Directors, be approved.

2. CEO Report

John Campbell referred to his report for the meeting posted publicly on the Corporation's website and highlighted the following matters:

- Public Art in the West Don Lands and East Bayfront;
- Urban Capital Development – Phase 3;
- Athletes' Village
- Dockside – Waterfront Innovation Centre;
- Quayside Lands;
- East Bayfront Transit;
- Nuit Blanche;
- Queens Quay Revitalization;
- Public Art on Queens Quay;
- Port Lands Planning;
- Sustainability;
- Public and Government Relations;
- Gardiner East EA; and
- Jack Layton Ferry Terminal and Harbour Square Park Master Plan.

3. Gardiner Capital Approval

Chris Glaisek presented the capital approval for the Gardiner Expressway and Lake Shore Boulevard Reconfiguration Environmental Assessment & Urban Design Study, including the following:

- The study area;
- Status update;
- Council approved hybrid alternative;
 - Concept 1 – Revised Hybrid with Realigned Ramps
 - Concept 2 – Realigned Hybrid with 60km/h Link;
 - Concept 3 – Hybrid with 60km/h Link and Rail Bridge Widening to the East;
- The project schedule;
- Financial history;
- Breakdown of capital request; and
- Funding sources;

Mr. Glaisek responded to questions from the Board and **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the Board approves a capital expenditure of an additional \$1,250,000 to complete the Gardiner Expressway and Lake Shore Boulevard Reconfiguration Environmental Assessment and Urban Design Study.

4. Committee Chair Reports

Governance Committee

Freedom of Information Policy

The Chair of the Governance Committee advised that in response to recommendations made in a City Staff Report, and approved by City Council, that “WT should strengthen its FOI policies and oversight to more closely reflect those of the *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA”), Management undertook a review of the Corporation’s FOI policy.

He advised that Management discussed the recommendations with the Waterfront Secretariat, and the primary concern of the City is the lack of an appeal mechanism for dealing with FOI requests. He provided context around the development of the current FOI policy and the results of the review process.

He advised that Management is recommending that the Corporation formally request the Province to make the Corporation subject to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) in order that a statutory right of appeal and an established appeal process are available to applicants who submit FOI requests. Under FIPPA (as well as MFIPPA), appeals of FOI decisions may be made to the Information & Privacy Commissioner of Ontario (the “IPC”). The IPC is appointed by and reports to the Legislative Assembly of Ontario, and has been responsible for mediating and adjudicating FOI disputes since FIPPA was enacted in 1988.

He advised that the implementation of this request would involve:

- An amendment to the Schedule to Ontario Regulation 460 to add the Corporation as one of the institutions listed in Column 1 of the Schedule and to add the CEO as the designated head of the institution for FIPPA purposes;
- An amendment to FIPPA which provides an additional disclosure exemption for records that reveal the substance of deliberations of closed meetings of the Board, where such meetings are permitted by Section 190 of the *City of Toronto Act, 2006* and Section 6(4) of the *Toronto Waterfront Revitalization Corporation Act, 2002*; and
- Revisions to the Corporation’s FOI Policy to ensure full consistency with FIPPA.

He advised that the Governance Committee reviewed this issue and is in agreement with Management’s recommendation. He responded to questions from the Board and **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the Board of Directors approve Management’s recommendation that the Corporation formally request the Province to make the Corporation subject to the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) in order that a statutory right of appeal and an established appeal process are available to applicants who submit FOI requests.

Disclosure of Wrongdoing

A revised version of Waterfront Toronto's Disclosure of Wrongdoing Guideline was tabled for discussion and approval by the Board. Mark Wilson advised that the guideline is essentially the same with the exception of the introduction of an ombudsman role in order to ensure that there be an independent person to receive complaints of wrongdoing and the introduction of a mechanism to report incidents of wrongdoing to governments. He advised that the two elements address the City's main observations as noted in the City's Waterfront Strategic Review of June 2015. He advised that Management has followed up with the City Secretariat on Waterfront Toronto's intended approach and they concur that the guideline as updated meets any concern they may have had.

He advised that Management is looking into possible candidates to fill the Ombudsman role and will report back to the Board.

He further advised that the Governance Committee approved Management's approach. He responded to questions from the Board and **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the revised Disclosure of Wrongdoing Guideline was approved.

Committee Mandates

Mark Wilson advised that the Governance Committee undertook a review of the Mandates for the following Board Committees:

- Finance, Audit and Risk Management Committee
- Human Resources and Compensation Committee
- Governance Committee
- Public and Government Engagement Committee
- Investment and Real Estate Committee

He advised that the Committee discussed and agreed upon the following changes to all of the Mandates:

- Board members may attend any committee meeting, however they are not able to vote; and
- Committee Agendas will be sent to all Board members.

He responded to questions from the Board and **ON MOTION**, duly made, seconded and carried, it was **RESOLVED** that the Committee Mandates were approved by the Board. It was further agreed that additional adjustments to the Public and Government Engagement Committee Mandate were needed and Management undertook the task.

Open Meeting Processes

The Chair tabled a report and advised that as per the September 9, 2015 Board meeting, the Governance Committee undertook a review the open meeting processes once again with a view to refining the Corporation's level of transparency. He reminded the Board that

under its governing statute, the Toronto Waterfront Revitalization Corporation Act, the Corporation is required to comply with the open meeting law requirements of the City of Toronto which are set out in Section 190 of the City of Toronto Act (“COTA”) and requires that:

- All meetings of the Board and its committees shall be open to the public, with certain limited exceptions;

He advised that there is, at present, no specific exemption that applies to confidential discussions with governments. He then provided an overview of the process to be followed with respect to matters to be discussed in the closed session as follows:

- For matters to be discussed in closed session, the meeting agenda which is posted on the Corporation’s website must provide a description of the general nature of each item to be discussed in the closed session and list the exemption relied upon.
- At the meeting, a motion must be passed to go into the closed session along with the list of items to be discussed in the closed session and the exemptions to be relied upon. On passage of the resolution, members of the public are to leave the meeting so that the meeting can proceed in the closed session.
- On an exception basis, where individual board members may, at the meeting, request additional items to be discussed in the closed session that are not listed on the meeting agenda, then the nature of the item and the exemption relied upon must be included in the motion to go into the closed session.
- No resolutions may be passed in the closed session of the meeting.
- If the Board wishes to go “deep in camera” and exclude members of Management from the closed session, it can request that Management leave the meeting.
- When the closed session discussions are completed, a resolution must be passed to go back into the open session and the public and members of Management, if applicable, are to be invited back in to the meeting.
- Once back in the open session, any resolutions relating to the business of the closed session must be presented and voted on.
- After the resolutions have been passed, the meeting may be adjourned.

He advised that the following processes were agreed upon at the Governance Committee meeting:

- The agenda will include the exemption for each closed session item. In the case of the CEO report, each item reported on will be listed along with the appropriate exemption.
- Before going into a closed session, a motion will be passed and projected that includes the items to be discussed in the closed session.
- Items to be discussed by the Board members only (excluding Management) must be listed on the agenda along with the applicable exemption. If an item arises at the last minute, it must be disclosed when the motion is passed to move into a closed session.

He further advised that Management is looking into engaging an Open Meeting Investigator, specifically the Local Authority Services (“LAS”) which is part of the Association of Municipalities of Ontario family and is a preferred provider of competitively-priced and sustainable business services for Ontario municipalities and the broader public sector. LAS contracts out to an organization called Amberley Gavel which was formed in 2007 by Fred Dean and Nigel Bellchamber to assist municipal governments in Ontario with closed meeting procedure investigations. In 2006 Amberley Gavel began working on a process to reflect knowledge of municipal operations that would provide impartial, independent, confidential and credible investigations at a reasonable cost with an educational emphasis. He further advised that Amberley Gavel has substantial expertise in this area and much of their work is in dealing with municipalities and hospitals.

He advised that Management will be meeting with an associate from Amberley Gavel as well as other potential investigators. He advised that once an Open Meeting Investigator has been appointed, his/her contact information will be posted on the web site.

Directors and Officers Liability

A report was tabled and the Chair advised that Waterfront Toronto has maintained Directors’ & Officers’ Liability insurance with the current insurer, AIG Insurance Company of Canada (formerly Chartis Insurance Company Canada), since April 16, 2002. He advised that by purchasing Directors’ & Officers’ insurance with the same insurer, the individual insured(s) and organization gained the benefit of having no gap in coverage, therefore resulting in continuous coverage of this policy from the inception date.

He then provided a brief overview of the insurance coverage and associated annual premium and responded to questions from the Board.

5. Borrowing

Chad McCleave tabled an “Undertaking” and advised that at the September 9, 2015 Board meeting, the Board approved the “Corporation’s negotiated borrowing and encumbering of assets with CIBC in accordance with the term sheet as tabled”

He advised that the motion, along with the term sheet was sent to CIBC after the Board meeting and CIBC advised that the motion was not sufficient for them. They required the motion to say that the Board gives Management the power to negotiate and execute all necessary documents. He advised that Management was not able to reach all of the Board members via email to pass a revised motion in time to meet our requirements for the first drawdown on the loan so CIBC agreed to process the loan with the understanding that a revised motion would be passed at the October 26, 2015 Board meeting.

He tabled a revised term sheet and advised that the Corporation is no longer securing the initial sublimit against the \$12M Letters of Credit from Great Gulf and therefore reference to this has been removed.

He responded to questions and **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the Board of Directors approve and ratify the loan arrangements with CIBC as per the borrowing terms tabled. It was further **RESOLVED** that the Board authorized Management to negotiate, finalize, execute and deliver all contracts and documentation required for the loan (including, but without limitation, the credit agreement, and all charges on the real and personal property described on the term sheet).

6. Environmental Issues

Ian Beverley advised that there were no new environmental issues to report.

7. Adjournment of the Public Session

There being no further business other than those matters to be discussed in a closed session, **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that in accordance with Section 190 of the City of Toronto Act, confidential matters were now to be considered. The Chair indicated to the members of the public present that it was now in order for them to depart from the meeting. Members of the public then left the meeting. The meeting was then adjourned at 9:30 a.m. to be reconvened in a closed session.

Closed Session

9:40 a.m.

8. CEO Report

John Campbell tabled reports and information on various confidential matters in accordance with Section 190 of the City of Toronto Act and By-Law No. 2, including the following:

Exemption By Law No. 2, 6.1.1(c) - "A proposed or pending acquisition or disposition of land"

West Don Lands ("WDL")

- Dundee Kilmer Future Development
- Urban Capital/River City

East Bayfront

- Bayside
- Waterfront Innovation Centre/Dockside Blocks 1 and 2
- Quayside
- George Brown College
- Private Lands – Ontario Municipal Board Appeals
- Catalytic Sites
- Port Lands Flood Protection – Unilever Site

Exemption By Law No. 2, 6.1.1(e) - “Litigation or potential litigation, including matters before administrative tribunals, affecting the Corporation”

- Unit Park
- Carl Hamburg

9. Gardiner Opportunity (By Law No. 2, 6.1.1(a) - “The security of the property of the Corporation”

Chris Glaisek and David Kusturin provided an indepth confidential presentation on this potential opportunity related to the Gardiner Expressway. They responded to questions from the Board and it was agreed that a Term Sheet will be tabled at the December 15, 2015 Board meeting for review and approval.

10. Port Lands Flood Protection and Enabling Infrastructure Accelerated Due Diligence By Law No. 2, 6.1.1(c) - “A proposed or pending acquisition or disposition of land”

David Kusturin provided an indepth confidential presentation on the work done to date on the Port Lands Flood Protection and Enabling Infrastructure Accelerated Due Diligence. A robust discussion took place and Mr. Kusturin responded to questions from the Board. Management was asked to bring a recommendation to the January 27, 2015 Board meeting.

11. Nominating Committee (By Law No. 2, 6.1.1(b) - “Personal matters about an identifiable individual, including employees of the Corporation”

The Chair of the Nominating Committee provided a confidential report regarding the search for the CEO.

12. Termination of the Meeting

There being no further business, **ON MOTION**, duly made, seconded and carried, it was **RESOLVED** that the meeting be terminated at 10:50 a.m. local time.

Chairman

Secretary of the Meeting