

MINUTES of the Board of Directors of the Toronto Waterfront Revitalization Corporation held at 20 Bay Street, Suite 1310, Toronto, Ontario on Wednesday, June 24, 2015 at 8:00 a.m. local time.

PRESENT: Mark Wilson, Chair  
Jack Cockwell  
David Johnson  
Gary Wright  
Denzil Minnan-Wong  
Ross McGregor  
Sheldon Levy  
Kevin Garland  
Sue Dabarno

ABSENT: Michael Copeland

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 were The Honourable Coulter A. Osborne, Closed Meeting Investigator for Waterfront Toronto, David Stonehouse 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.

## **1. Consent Agenda**

**ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the Consent Agenda comprising the Minutes of the May 4, 2015 meeting of the Board of Directors be approved as presented.

## 2. CEO Report

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

- Gardiner East Environmental Assessment (“EA”) – On June 10, 2015, City Council opted to move forward with the “hybrid” model. There were a number of questions raised that will need to be addressed as we proceed with the next stage of the EA which is to work with City staff to refine the “hybrid” option before submission to the Ministry of the Environment (“MOE”) this fall. We will need to report back to Council in September/October with answers to the questions raised.
- Intelligent Communities – Waterfront Toronto supported the Intelligent Community Forum (“ICF”) Global Summit held in Toronto June 8-12, 2015. Toronto won the Intelligent Community of the Year award in 2014 and the ICF agreed to hold the summit in Toronto this year (it has been held in New York for the past 20 years). This was a very successful 5-day conference with over 500 registrants and many prestigious speakers including the Governor General of Canada. The last day, sponsored by IBM, was our “Big Ideas” day which is designed to encourage “app” developers to use the City of Toronto’s open data to develop apps to benefit our citizens. Winners will be announced in the fall.
- Canada Netherlands Summit – Over the last several years we have been talking with Dutch representatives regarding their expertise in dealing with flood protection issues. This year we arranged with the Dutch Consul General in Toronto to participate in a joint conference to discuss issues around flood protection with both Dutch and Canadian experts. This was arranged around a Dutch trade mission and gave us exposure to more organizations who could provide expertise and services. This also happened to coincide with a State visit by the Netherlands’ King and Queen who attended the conference with the King making a speech.
- Public Art – Four pieces are now complete as part of the West Don Lands (“WDL”) Art Program. We are working on submitting the East Bayfront (“EBF”) Art Program (approved by the Board in March, 2013) to Toronto City Council. This process has taken longer as it has required the participation of private landowners.
- Queens Quay Revitalization Project – On June 19, 2015, Waterfront Toronto officially opened the revitalized Queens Quay Boulevard with Minister Oliver, Minister Murray and Mayor Tory officiating. There was extensive positive media coverage of the event which was coordinated with the Redpath Waterfront Festival in order to maximize the number of people visiting and experiencing the waterfront.

- Port Lands Flood Protection – Waterfront Toronto has commenced the due diligence work to firm up both cost estimates and procurement strategies.
- Captain John’s – After more than five years of effort to relocate the vessel, it has now been removed from the Yonge Street Slip. The “land swap” with the developer of Pier 27 will occur in July and will result in Waterfront Toronto having a rectangular block running down to the Harbour from Queens Quay Boulevard. Waterfront Toronto’s plan, with Ports Toronto, is to reserve this mooring for “vessels of note” including visiting warships, cruise ships, tall ships, etc. and to plan a park to accommodate both usual park uses and receiving areas for arriving ships.
- Billy Bishop Toronto City Airport (“BBTCA”) – At the request of Ports Toronto, Waterfront Toronto has agreed to oversee a third-party peer review of the Billy Bishop Airport EA. A memorandum of understanding with Ports Toronto has been executed and a firm has been procured to conduct the peer review.
- Ontario Place Park and Trail – Waterfront Toronto has been working with the Ministry of Tourism, Culture and Sport on the project along with Infrastructure Ontario and has been instrumental in managing the park design and public engagements. The official unveiling of the Park and Trail was held on June 24, 2015 and it will be named after Bill Davis, former Premier of Ontario.

### **3. Port Lands Flood Protection and Enabling Infrastructure Accelerated Due Diligence and Project Planning Update**

David Kusturin provided the Board with an update on the due diligence and project planning for the Port Lands Flood Protection project including the following:

- Project background information;
- Scope of work and deliverables;
- Acceleration initiatives;
- Budget breakdown;
- Project accelerated schedule; and
- Project risks.

He responded to questions from the Board and advised that the presentation was for information purposes only.

#### **4. City of Toronto WT2.0 Review**

Marisa Piattelli advised that the City of Toronto released a Summary Report of their Strategic Review and provided the Board with an overview of the Summary Report including:

- The goals of the strategic review;
- The strategic review process including stakeholder engagement;
- Ernst & Yonge performance assessment of Waterfront Toronto and their key findings;
- The key findings of the overall review; and
- Recommendations.

She responded to questions from the Board and discussion ensued regarding the recommendations and next steps.

A debrief of the Ernst and Yonge performance assessment was requested and David Stonehouse of the City Secretariat agreed to make the appropriate arrangements.

#### **5. Quarterly Project Reporting**

Chad McCleave tabled a Board Risk Variance Report and a Board Financial Variance Report advising that previous “Board Variance Reports” included details at a higher level than the work package level which made it difficult to track for reporting, control and approval purposes. He advised that the recommended Board Risk Variance Report and Board Financial Variance Report align the reporting and control at the work package level and accomplish the following:

1. Consistent reporting with budget amounts tied to approved budgets in the Long Term Funding Plan, Board-approved Annual Corporate Plan and the financial system.
2. A clear and consistent risk/status report and a financial variance report will be presented quarterly that tie to the quarterly financial statements.
3. Improved segregation of duties enables the Finance Department to oversee the report development and Program Controls to oversee forecasting and variance analysis.

Mr. McCleave summarized the recommended risk review, monitoring and reporting process that Waterfront Toronto has implemented including:

- Monthly meetings with project managers to identify, monitor, manage and report risks for all active work packages;
- Monthly meetings with senior management to discuss, monitor, manage, and report risks, with a focus on all active work packages with medium to high risks;

- Quarterly Finance, Audit, and Risk Management (“FARM”) Committee meetings focused on oversight of the active work packages with high risks and significant financial impact to project budget, schedule, and funding; and
- Reporting quarterly at Board meetings with a focus on oversight of the active work packages with high risks and financial impact to project budget, schedule, and funding.

Mr. McCleave responded to questions and advised that the FARM Committee has reviewed the process and is satisfied that the recommended process will fulfill the Board’s risk oversight responsibility for high risk work packages.

## 6. Committee Chair Reports

- *Governance Committee* – The Chair advised that the Governance Committee reviewed the Board Committee membership at its May 19, 2015 meeting and are recommending the following changes:
  - a) David Johnson will take over as Chair of the Finance, Audit and Risk Management (“FARM”) Committee;
  - b) Gary Wright will join the FARM Committee;
  - c) Gary Wright will also join the Public and Government Engagement Committee; and
  - d) Sue Dabarno will join the FARM Committee on an interim basis.

He further advised that there are still two vacant Board seats to be filled (Provincial and City).

**ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the proposed changes to Board Committee membership be and are hereby approved.

- *Finance, Audit & Risk Management Committee* – The Chair of the FARM Committee, David Johnson, tabled the audited Financial Statements for the year ended March 31, 2015 and **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the audited Financial Statements for the period ended March 31, 2015 be and are hereby approved.
- *2014/15 Management Report* - The Chair of the FARM Committee, David Johnson, tabled the 2014/15 Management Report and **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that the 2014/15 Management Report be and is hereby approved.

## 7. Independent Agenda Assessment

The Honourable Coulter A. Osborne tabled his Report to the Board titled *Waterfront Toronto Meetings Closed to the Public*. He advised that in October 2013 he was appointed as Investigator in relation to concerns regarding Waterfront Toronto meetings closed to the public and in this capacity was asked by the Board of Directors, at their meeting on March 25, 2015, to review the meeting procedures, open and closed, of the Corporation.

Justice Osborne reported on the materials he reviewed, including but not limited to: Board Meeting Agendas and Minutes; the Toronto Waterfront Revitalization Corporation Act, 2002; the City of Toronto Act (Sections 190 to 194); Waterfront Toronto By-Laws 1 and 2; and a letter from Allan Leibel of Goodmans LLP dated September 26, 2013 regarding “In-Camera” Board Meetings.

He advised that in addition to the above mentioned materials, he also reviewed parts of the Ontario Ombudsman’s Annual Report of 2010/2011 concerning the use of closed meetings by municipal corporations; Ministry of Education memorandum re closed meetings; Local Authority Services’ commentary about closed meetings; a City of Toronto Clerk’s Office Secretariat’s commentary on holding closed meetings; and categories of exemptions under Freedom of Information Legislation.

Justice Osborne provided an overview of Waterfront Toronto’s practice with regard to the preparation of public and closed meeting agendas and advised that he is satisfied that every effort is made to limit the extent to which particular agenda items are to be discussed in meetings closed to the public. He also advised that the nature of Waterfront Toronto’s commercial undertakings will require that certain items be discussed in a closed session in accordance with the open meeting exceptions listed in Section 190 of the City of Toronto Act.

Justice Osborne then reiterated his conclusions:

“The four meetings that I examined in particular reasonably illustrate the kind of agenda items with which Waterfront Toronto’s Board has to deal. I can see no basis upon which to recommend changing the process that is followed in identifying agenda items or issues that may be heard at a meeting closed to the public. Care has to be taken to avoid what I refer to as “slippage”. By that I mean including agenda items at meetings closed to the public at the end of a closed meeting as a matter of convenience, in circumstances where the added item does not come within any of the exceptions listed above. A useful example of that is my appointment by Board motion to undertake this review and report on it to the Board. This appears to have been addressed in the “Other Business” section of a meeting closed to the public held March 25, 2015. I see no reason why the circumstances relevant to this review should have been dealt with in a meeting closed to the public.

Lastly, so that the vocabulary of Board and Committee minutes will be consistent with relevant statutory provisions, the designation “closed to the public”, should be used in place of the older term of reference, “in-camera”.

Before concluding this report I should note that in my capacity as investigator in relation to meetings closed to the public I have received no complaints requiring any investigative action. This provides some evidence that suggests an absence of public concern about agenda items wrongly being dealt with at meetings closed to the public.”

A question was posed regarding the appropriateness of going into a closed session for discussions regarding government partners or confidential conversations with government partners. Justice Osborne responded that in his opinion a business cannot be run properly without respecting confidentiality. He also referred to Section 190 of the City of Toronto Act which applies to Waterfront Toronto with “necessary modifications”.

It was noted by a board member that the following items were not discussed in the report provided by Justice Osborne:

- 1) In the in-camera agenda, Section 190 of the City of Toronto Act and By-Law No. 2 are not followed as all items did not sufficiently describe the matters under consideration.
- 2) In the in-camera session there is an item referred to as “Any Other Business”, Section 190 and By-Law No. 2 are not followed as the subject line is too general and does not sufficiently describe the matters under consideration.
- 3) Meetings of the Board of Directors require minutes. There were no minutes provided for the meeting of February 8, 2014
- 4) It was reported that there were no complaints made to the Open Meeting Investigator. It was also noted that there was no way to contact the Open Meeting Investigator to lodge a complaint.

It was agreed that the following practices (if not already in place) would be carried out going forward:

- 1) Items and exemptions are presently listed on the “Closed Session Agenda”. However, where there is more than one issue to be discussed under one item, such as the CEO Report, each issue and the applicable exemption will now be listed on the agenda.  
Items discussed at closed sessions for Board Members only will now be listed on the agenda along with the applicable exemption for the “closed session” discussion. A number of board members spoke in favour of continuing such sessions as a good governance practice for boards.
- 2) All reports tabled in a closed session, including the CEO Report, will now include the applicable exemption for a closed session discussion on the report itself.
- 3) The Chair advised that the lack of minutes for the February 8, 2015 Board Planning Session was an administrative oversight and it was agreed that minutes would be prepared, included in the September Board materials and then posted on Waterfront Toronto’s web site.
- 4) The name and contact information for the Open Meeting Investigator will be posted on the website.

## 8. Environmental Issues

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

## 9. 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 adjourned for 5 minutes to be reconvened in a closed session.

### Closed Session

10:45 a.m.

## 10. 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:

- Vessels at the Parliament Street Slip

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

- Government Relations – Port Lands Flood Protection
- Government Relations – Operating Line of Credit

*Exemption* By Law No. 2, 6.1.1(a) - "The security of the property of the Corporation"

- West Don Lands – Corktown Common and WDL Land Transfers, Re kai Centre, Urban Capital/River City
- East Bayfront – Bayside, Waterfront Innovation Centre/Dockside Blocks 1 and 2, George Brown College, Quayside
- Private Lands – Ontario Municipal Board Appeals

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

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

Chad McCleave tabled a confidential report regarding potential litigation and provided an overview of the issue. Discussion ensued with a motion to be tabled when the Board moves back into a public session.

**12. 2014/2015 Compensation Recommendations** *(By Law No. 2, 6.1.1(b) - “Personal matters about an identifiable individual, including employees of the Corporation”*

The Board reviewed the 2014/15 Planning for Success (“PFS”) results along with the Human Resources and Compensation Committee’s recommendations. Discussion ensued with motions to be tabled when the Board moves back into a public session.

**13. Adjournment of the Closed Session**

There being no further business other than those matters to be discussed in a public session, **ON MOTION** duly made, seconded and carried, it was **RESOLVED** that in accordance with Section 190 of the City of Toronto Act, the Chair indicated that it was now in order for members of the public to rejoin the meeting. Members of the public then rejoined the meeting. The meeting was adjourned to be immediately reconvened in a public session.

**Public Session**

**11:50 a.m.**

**14. Resolutions Arising during the Closed Session**

During the closed session discussions, the following resolutions were proposed and voted on:

**ON MOTION** duly made, seconded and carried, it was **RESOLVED** that Management’s recommendation for Waterfront Toronto to proceed with legal action to defend its position and secure damages be and is hereby approved.

**ON MOTION**, duly made, seconded and carried, it was **RESOLVED** that the Board hereby unanimously approves the Human Resources and Compensation Committee’s recommendations regarding the 2014/2015 Planning for Success results with regard to the Executive, Director and Senior Management variable compensation.

Deputy Mayor Denzil Minnan-Wong left the meeting.

**ON MOTION**, duly made, seconded and carried, it was **RESOLVED** that the Board hereby approves the Human Resources and Compensation Committee’s recommendations regarding the 2014/2015 Planning for Success Merit Matrix as presented.

**15. 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 12:00 p.m. local time.

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Chairman

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Secretary of the Meeting