

To: Budget Standing Committee

Cc:

From: Heather A. Salter, City Solicitor/Director of Legal and Clerks Services

Date: November 18, 2019

Subject: PAC: Differences Between a Service Board and Managing In-House

Below is a list of reports to Council from Legal Services Department pertaining to the PAC Governance Structure which provide a comprehensive background on the history of this direction:

1. At its meeting of February 22, 2016, Council considered Report [LCS-044-2016](#) and passed the following resolution:

That Council approve in principle the creation of a new municipal service board to undertake the operations of the FirstOntario Performing Arts Centre; and

That Council direct staff to proceed with the steps identified in the staff report.
FORTHWITH

As indicated in this Report, eventually transferring the operations of the PAC to a municipal service board was the governance model intended for this facility from the earliest stages of this project, which commenced in 2006. The feasibility study (Vinik Report) for the joint development of the Brock University school of performing arts and the City performing arts centre recommended that neither the City or Brock directly operate the PAC and that it be governed by a Board that included both entities as well as community business leaders and stakeholders. City Council subsequently confirmed this recommendation when it entered into a legal agreement with Brock in 2012 (Umbrella Agreement) that provided for the establishment of a board once the project entered its operational phase.

2. At its meeting of November 7, 2016, Council considered Report [LCS-292-2016](#) and passed the following resolution:

That Council appoint Councillors Garcia and Elliott to liaise with staff developing the municipal service board governance model for the FirstOntario Performing Arts Centre. FORTHWITH

A working group including staff and Councillors have proceeded with the steps required to implement the 2016 Council direction.

3. Excerpt from Minutes of In-Camera Meeting of July 10, 2017, Item No.2.2 is saved to the SugarSync folder for this BSC Meeting.

In summer 2017 implementation of the 2016 Council direction was paused for Council to consider an alternative.

4. Report (In-Camera) No. CAO-084-2018 (date of meeting: March 26, 2018) is saved to the SugarSync folder for this BSC Meeting.

In early 2018 Council once again confirmed its direction to operate the PAC using a municipal service board.

5. At its meeting of July 9, 2018, Council considered Report [LCS-161-2018](#) and passed the following resolution:

That Council approve the establishment of the FirstOntario Performing Arts Centre Board as outlined in Report Number LCS-161-2018 and Appendix 1; and

That Councillors Garcia, Phillips and Siscoe be appointed to the new Board, notwithstanding the composition in the by-law, for the current term of Council; and

That Council direct staff to take all necessary steps and actions required to transition the business of the FirstOntario Performing Arts Centre to the Board; and

Further, that the City Solicitor be authorized to prepare the necessary agreements, documents, policies, procedures, and by-laws. FORTHWITH

Bylaw 2018-177 established the municipal service board to operate the PAC and the bylaw came into force and effect on October 1, 2018.

6. At its meeting of September 24, 2018, Council considered Report [LCS-233-2018](#) and passed the following resolution:

That Council appoint Mario De Divitiis and Mary Jane Johnson to the FirstOntario Performing Arts Centre Board for a two-year term ending December 31, 2020; and

That Council appoint Peter Partridge and Debbie Slade to the FirstOntario Performing Arts Centre Board for a four-year term ending November 30, 2022; and

That the Office of the City Clerk be directed to provide the necessary notifications. FORTHWITH

The first appointments to the Board were made in Fall 2018. There have been changes since that time but they are not listed here. As of the initial appointment of Board members the PAC municipal service board has become a working entity to operate the PAC.

7. At its meeting of April 29, 2019, Council considered Report [LCS-082-2019](#) and passed the following resolution:

That Council approve a Relationship Agreement between the City and the FirstOntario Performing Arts Centre Board of Management as described in Report LCS-082-2019; and

That council authorize staff to finalize the Agreement in form and content acceptable to the City Solicitor and City Treasurer. FORTHWITH

The comprehensive Relationship Agreement with the Board sets out the roles and responsibilities of the Board and the City in more detail than the establishing bylaw, and lays out in Schedule C the services which the City may by agreement continue to provide to support the Board and PAC.

Final Steps

The final step required to fully implement the transition of the PAC to the municipal service board model is the transfer of the City employees working at the PAC to the Board as employer. The administrative steps required to implement this final step have been approved by the Board and are already in progress (registration of Board with OMERS and WSIB, purchase of benefits plan, notification to unions) and the employees have received notice that their employment will be transferred to the Board on January 1, 2020.

The establishment of a municipal service board to operate the PAC has been the direction of City Council since 2012 and subsequent staff Reports have focused on the implementation of that direction. An alternative governance model was considered in-camera in 2018 but did not result in any change in direction. No other evaluation of alternatives has been requested by Council.

Legally, Council can dissolve a municipal service board and once again assume the operations of the PAC in-house. However, it is beyond the scope of this Report to conduct any detailed financial analysis of the relative merits of doing so. Furthermore, the transfer of employees is imminent and further delays in completing that process could have human resources impacts that have not been considered.