



Office of the Auditor General

**Follow-up to the 2017 Investigation into the Giver
150 Playground at Mooney's Bay Park**

**Tabled at Audit Committee
September 30, 2020**

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Executive summary

The Follow-up to the 2017 Investigation into the Giver 150 Playground at Mooney's Bay Park was included in the Auditor General's 2019 Audit Work Plan.

The key findings of the original 2017 audit included:

- The City did not breach any relevant by-laws, policies, procedures or other applicable requirements
- The City had no clear intake and evaluation mechanism in place to engage in relationships like the one proposed by Sinking Ship Entertainment (SSE)
- There were some weaknesses and lessons learned based on the extent to which the City demonstrated the principles of transparency, accountability and due process. Specifically, related to:
 - documentation of due diligence and related decision-making
 - the process for identifying a potential need for public engagement/consultation.

Table 1: Summary of status of completion of recommendations

Recommendations	Total	Complete	Partially complete	Not started	No longer applicable
Number	3	3	0	0	0
Percentage	100%	100%	0%	0%	0%

Conclusion

As future projects, of similar or of a greater breadth, are not unlikely for the City; it was important that changes be implemented. Management has been proactive in addressing the recommendations of the investigation. All the recommendations have been completed.

Acknowledgement

We wish to express our appreciation for the cooperation and assistance afforded to the audit team by management.

Detailed report – Assessment of implementation status

The following information outlines management's assessment of the implementation status of each recommendation as of November 2019 and the Office of the Auditor General's (OAG) assessment as of February 2020.

Recommendation #1

Table 2: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City implement documentation protocols, such as documentation of meetings agendas/minutes/records of decisions, that must be activated in potentially high-profile (e.g. sensitive or higher risk) situations.

Original management response:

Management agrees with this recommendation.

Under both the City’s *Records Management Policy and Procedures* as well as the *Records Retention and Disposition By-law*, being By-law No. 2003-527, as amended, all staff have an obligation to know and apply the *Policy* and the *By-law*. In doing so, staff are required to identify, classify and capture Official Business Records in one of the City’s two record management systems.

The City’s existing *Records Management Policy* defines two types of records: Official Business Records (“OBRs”) and Temporary Records. Official Business Records document work-related decisions and actions. OBRs show:

- what happened,
- when,
- who was involved,
- what was decided or recommended and by whom.

OBRs provide evidence of City decisions and decision-making, policies, procedures, services, operations (including transactions, activities, etc.).

Increased awareness of the importance of maintaining records and, in particular, the responsibility of institutions to accurately document key decisions (‘Duty to Document’) has been prompted by recent changes to *the Municipal Freedom of Information and Protection of Privacy Act* along with calls for further policy changes from information officers such as the Information and Privacy Commissioner of Ontario. In response,

existing records management policies and practices have been reviewed and updated. Similarly, several communications have been circulated to senior management, management and to all City staff over the past two years reinforcing that records are essential for good government and serve as evidence of the decisions that have been made. In addition, the *Employee Code of Conduct* expressly emphasizes the importance of keeping “records of our important decisions” in the sections on Transparency and Respect.

The City Clerk and Solicitor will continue to monitor relevant legislation and the Duty to Document requirement with respect to any subsequent municipal best practices. Any necessary changes or new guidelines will be brought forward as part of Information Management’s annual report to Committee and Council.

Finally, and following on direction from the Senior Leadership Team, the Office of the City Clerk and Solicitor is conducting a corporate-wide communications plan in an effort to consistently reinforce the value of information and employee’s records management responsibilities, including the duty to document and record important decisions. The plan will coincide with the release of additional Municipal Duty to Document guidance by the Information and Privacy Commissioner of Ontario expected in early Q4 2017. Further, the City Clerk and Solicitor will look at incorporating training and guidance related to Duty to Document as part of ongoing training for all City employees.

Management update:

Implementation of this recommendation is complete.

The Office of the City Clerk continues to monitor relevant recordkeeping legislation and the ‘Duty to Document’ requirement with respect to municipal best practices.

A corporate-wide communications plan was put into place with the goal of consistently reinforcing the value of information and employee records management responsibilities, with an emphasis on ‘Duty to Document’ decisions and the associated decision-making process. Specifically, the communications plan shows 37 separate items since the release of the 2017 OAG Investigation Report into the Giver 150 Playground. The plan has a mix of target audiences and messaging objectives that include targeted emails to selected staff to address specific issues.

In addition to regular communication with staff, a robust Information Management (IM) training program is employed and active on an ongoing basis. There have been over 785 staff trained in recordkeeping since 2017, which included ‘Duty to Document’ and,

an online training course was produced for managers on IM, ATIP, City of Ottawa Archives and Open Data.

Further details can be found in the Appendix and in the 2017 and 2018 annual year-end MFIPPA reports and IM and Archives reports to Council.

OAG assessment:

The recommendation is complete.

The City took steps to remind and teach employees about their responsibility to document. These existing responsibilities include documentation of meetings in potentially high-profile situations.

A corporate-wide communication plan included 38 communications that occurred over the period 2017-2019. The objective of the campaign was to provide employees with details on Information Management (IM), Access to Information and Privacy (ATIP) and the City of Ottawa Archives and inform them of their responsibilities.

We also found that 745 employees from across the City took 989 training courses related to IM during the period 2017-2019.

Recommendation #2

Table 3: Status

Management update	OAG assessment
Partially complete	Complete

Audit recommendation:

That the City implement a protocol whereby formal consideration of accountability and transparency mechanisms is considered in potentially high-profile (e.g. sensitive or higher risk) situations.

Original management response:

Management agrees with this recommendation.

Council-approved accountability and transparency measures that are currently in place include the hiring of a Lobbyist Registrar to oversee the City’s Lobbyist Registry. The purpose of the Lobbyist Registry is to provide accountability and transparency around lobbying activities that serve to benefit an individual or group with a business or financial interest. The Registry does this by providing a public, searchable record of who is lobbying whom, on what subject matter and when the lobbying is occurring.

In response to the Lobbyist Registrar’s 2016 Inquiry Report on the Playground Partnership Project at Mooney’s Bay Park, an amendment was made to the Transparency section in the *Employee Code of Conduct* to expressly require staff to notify lobbyists of their obligation to record their activity in the Registry.

In keeping with the City’s *Accountability and Transparency Policy*, each delegation of authority to staff is accompanied by the obligation for the individual exercising the authority to report such exercise out, on a routine basis, usually to the appropriate Standing Committee or Council. Generally, use of delegated authority by departments is reported on an annual basis to the appropriate Standing Committee in the form of Information Previously Distributed (“IPD”). Furthermore, the *Delegation of Authority By-law*, includes a process for obtaining Ward Councillor concurrence and reporting on delegated authority that was established based on the Site Plan approval process. The Site Plan approval process provides steps from pre-application to final decision on a site

plan, including a step at which the Ward Councillor may lift delegated authority if unsatisfied with conditions of approval outlined in staff's Delegated Authority Report.

As part of the 2018-2022 Council Governance Review, staff of the Office of the City Clerk and Solicitor will lead a review of service area-specific processes for consultation and decision-making within delegated authority. The review will seek to identify gaps in existing processes with respect to consultation and reporting, as well as to identify potentially high-profile situations for which the development of such processes would be beneficial. This report will be tabled during the current Term of Council and considered by the 2018-2022 Term of Council. Management will develop training for all new managers and new employees on requirements, as set out broadly in the Delegation of Powers Policy and as documented in such service area-specific processes that will provide for enhanced accountability and transparency of decision-making. This training will be incorporated into existing modules following approval of the 2018-2022 Council Governance Review Report.

Management update:

Implementation of this recommendation is partially complete.

The Delegation of Authority By-law was reviewed as part of the 2018-2022 Council Governance Review approved by Council on December 5, 2018. The By-law was subsequently updated to implement the final organizational alignment and Council approved the updated Delegation of Authority By-law on September 11, 2019.

Staff from the Office of the City Clerk and the Innovative Client Services Department have worked jointly to ensure that orientation training for new managers refers to requirements set out in the Delegation of Powers Policy and the Delegation of Authority By-law. The revised orientation training program has been completed and is scheduled to be launched in Q1 2020. The training has also been updated to indicate that staff should formally consider and assess enhanced accountability and transparency mechanisms, including consultation and reporting over and above what may be required under the Delegation of Authority By-law, in potentially high-profile situations (such as the situations set out in Section 2 of the Donations to the City for Community Benefit Policy). It is further expected that any business decisions with respect to consultation and reporting the exercise of delegated authority will be documented in accordance with applicable information management policies and procedures.

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The above-noted protocols will be included as a proposed update to the Delegation of Powers Policy, where necessary, through the 2018-2022 Mid-term Governance Review report to Council in Q4 2020.

OAG assessment:

This recommendation is complete.

The orientation training for new managers, given by the City Clerk twice yearly, was revised and now includes a recommendation that staff formally consider and assess enhanced accountability and transparency mechanisms, including consultation and reporting over and above what may be required under the Delegation of Authority By-law, in potentially high-profile situations. This new course was delivered for the first time in January 2020.

Recommendation #3

Table 4: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City develop a tool and/or protocol that would serve to help identify situations where public engagement should be considered in potentially high-profile (e.g. sensitive or higher risk) situations.

Original management response:

Management agrees with this recommendation.

Residents expect to be engaged by the City on a wide variety of subjects, programs and services. City Council recognized the importance of improving public engagement outcomes by approving the Public Engagement Strategy in December 2013.

As approved by Council, the Public Engagement Strategy is required for use by all City staff as the overarching framework and approach for public engagement. The Strategy assists staff to determine when engagement is appropriate, how engagement should be designed and implemented, who should participate, and provides tools and training that should be used for different engagement activities.

The Public Engagement Strategy guidelines identify a number of reasons to engage the public. Contained within the Strategy is a checklist to assist staff in determining if public consultation is required. The criteria for public engagement is as follows:

1. A legislated requirement to consult the public.
2. Council direction to consult the public.
3. Public input required to help define or influence the final outcome.

The Public Engagement Strategy includes a toolkit to support public consultation. As each department is ultimately responsible for public consultation, the tools were designed to be flexible and responsive to staff and departmental needs, offering each department the ability to tailor the tools to their service area. Public Engagement training is also available through the Learning Centre for City staff.

Evaluation and continuous improvement is an important component of the Public Engagement Strategy. Components of the evaluation include monitoring the implementation of the Public Engagement Strategy and developing an evaluation of the effectiveness of the tools and guidelines.

Working with departments, management will communicate the importance of using the Public Engagement Strategy and encourage staff to participate in the training courses. This will be done through internal communications and by reaching out directly to each departmental Business Support Services branch. This initial communication to staff is planned for early June 2017. Following this, the internal communications group will develop a communications plan for the Public Engagement Strategy in late Q2/Q3 with implementation scheduled for Q3/Q4 2017

Management update:

Implementation of this recommendation is complete.

The Public Engagement Strategy guidelines identify a number of reasons to engage the public. Contained within the Strategy is a checklist to assist staff in determining if public consultation is required. The criteria for public engagement is as follows:

1. A legislated requirement to consult the public;
2. Council direction to consult the public;
3. Public input required to help define or influence the final outcome.

The Public Engagement Strategy includes a toolkit to support public consultation. As each department is ultimately responsible for public consultation, the tools were designed to be flexible and responsive to staff and departmental needs, offering each department the ability to tailor the tools to their service area.

In addition to continuing to provide support to departments for the public engagement strategy, Public Information and Media Relations (PIMR) has developed new and innovative corporate resources to increase and promote public participation. These include an online public engagement platform that includes tools such as surveys and online registration, a public engagement calendar and increased promotion of all City public engagement activities. Designated staff within departments are trained to use these tools.

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OAG assessment:

The recommendation is complete.

Public Engagement training is available and was taken by 44 employees in 2017 and 2018.

Table 5: Status legend

Status	Definition
Not started	No significant progress has been made. Generating informal plans is regarded as insignificant progress.
Partially complete	The City has begun implementation; however, it is not yet complete.
Complete	Action is complete, and/or structures and processes are operating as intended and implemented fully in all intended areas of the City.
No longer applicable	The recommendation is obsolete due to time lapses, new policies, etc.