



CITY OF HAMILTON
CORPORATE SERVICES
Legal and Risk Management Services

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	December 12, 2018
SUBJECT/REPORT NO:	Appointment of Members of Council to the Board of Directors of City of Hamilton Owned Corporations (LS18057) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Debbie Edwards, Ext. 2628 David McKenna, Ext. 4025
SUBMITTED BY:	Nicole Auty City Solicitor, Legal Services Division, City Manager's Office
SIGNATURE:	

RECOMMENDATION

- (a) That the Mayor and City Clerk be authorized and directed to execute resolutions in writing on behalf of the City of Hamilton as the sole shareholder or sole voting member, appointing members of Council to the board of directors for the corporations listed below, substantially in the form attached as Appendices “A” through “F” of Report LS18057:
- (i) Hamilton Utilities Corporation;
 - (ii) The Hamilton Street Railway Company;
 - (iii) Hamilton Renewable Power Inc.;
 - (iv) Hamilton Enterprises Holding Corporation;
 - (v) CityHousing Hamilton Corporation; and
 - (vi) Hamilton Farmers’ Market Corporation.
- (b) The term of office of members of Council appointed as directors for the corporations listed in subsection (a) of Report LS18057 be one year and shall run from December 4, 2018 to November 30, 2019 or until their respective successors are elected or appointed. Subsequent appointments of members of Council as directors for the corporations listed in subsection (a) of Report

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LS18057 shall be addressed at the respective annual general meeting of shareholders for each corporation.

EXECUTIVE SUMMARY

The purpose of this report is to authorize and approve the appointment of members of Council to the board of directors for various City-owned corporations where the City of Hamilton is the sole shareholder or sole voting member of the corporation. As the sole shareholder or sole voting member, the City is required to appoint members to the board of directors for the corporations listed below. Generally speaking, the directors of a corporation are responsible for managing or supervising the management of the business and affairs of the corporation.

There are currently six City-owned corporations which require the following appointments:

- (i) **Hamilton Utilities Corporation (HUC)** - 9 total, composed of the Mayor (or Mayor's Designate), the President, and 7 individuals who are not members of Council;
- (ii) **The Hamilton Street Railway Company (HSR)** - 16 total, composed of all 16 members of Council. No other individual directors are appointed;
- (iii) **Hamilton Renewable Power Inc. (HRPI)** - 6 total, composed of the Mayor, 4 members of Council, and a non-voting City staff member;
- (iv) **Hamilton Enterprises Holding Corporation (HEHC)** - 6 total, composed of the Mayor (or Mayor's Designate) and 5 individuals who are not members of Council;
- (v) **CityHousing Hamilton Corporation (CHH)** - 9 total, composed of 5 members of Council, and 4 individuals who are not members of Council; and
- (vi) **Hamilton Farmers' Market Corporation (HFM)** - 13 total, composed of 2 members of Council, 4 stallholders, 5 individuals who are not members of Council, and 2 ex-officio City staff members.

Staff are recommending that appointments of members of Council to the board of directors for City-owned corporations be effected through individual resolutions for each

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corporation, substantially in the form attached as Appendix “A” through “F” of Report LS18057, which eliminates the need to hold separate shareholder meetings, and provides for increased clarity with respect to the operation and governance of these City-owned corporations. In addition to the above:

- A board of directors meeting for HSR will need to be held to appoint officers of HSR for the 2018-2022 term of Council, until such time as a final decision has been made relating to the dissolution of HSR.
- At a subsequent meeting of the General Issues Committee, citizen member appointments to the board of directors will be made for all of the above-noted corporations, with the exception of HSR.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS (for recommendation(s) only)

Financial: N/A

Staffing: N/A

Legal: Approval of the recommendations in Report LS18057 will authorize the Mayor and City Clerk to execute written resolutions of the City of Hamilton as the sole shareholder or sole voting member of the City’s wholly-owned corporations. Such written resolutions will result in the appointment of the required members of Council to the board of directors for each of the City-owned corporations. At the time of writing, the names of the members of Council to be appointed to the various boards are not known. Once known, the names will be added to the resolutions prior to the resolutions being executed. Additionally, in order to comply with the governing legislation, the written resolutions will ratify the fourth year of each outgoing director’s term for each of the City-owned corporations.

HISTORICAL BACKGROUND (Chronology of events)

As the sole shareholder or sole voting member, the City is required to appoint members to the board of directors for the City-owned Corporations. Generally speaking, the directors of a corporation are responsible for managing or supervising the management of the business and affairs of the corporation.

There are currently six City-owned corporations which require the following appointments:

- (i) **Hamilton Utilities Corporation (HUC)** - 9 total, composed of the Mayor (or Mayor's Designate), the President, and 7 individuals who are not members of Council;
- (ii) **The Hamilton Street Railway Company (HSR)** - 16 total, composed of all 16 members of Council. No other individual directors are appointed;
- (iii) **Hamilton Renewable Power Inc. (HRPI)** - 6 total, composed of the Mayor, 4 members of Council, and a non-voting City staff member;
- (iv) **Hamilton Enterprises Holding Corporation (HEHC)** - 6 total, composed of the Mayor (or Mayor's Designate) and 5 individuals who are not members of Council;
- (v) **CityHousing Hamilton Corporation (CHH)** - 9 total, composed of 5 members of Council, and 4 individuals who are not members of Council; and
- (vi) **Hamilton Farmers' Market Corporation (HFM)** - 13 total, composed of 2 members of Council, 4 stallholders, 5 individuals who are not members of Council, and 2 ex-officio City staff members.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Business Corporations Act* (Ontario) requires a corporation to have a board of directors which consists of at least one individual.

The *Corporations Act* (Ontario), which regulates Ontario's not-for-profit corporations, also requires a corporation to have a board of directors, which must consist of a fixed number of directors not less than three.

RELEVANT CONSULTATION

City Clerks was consulted in the preparation of Report LS18057.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The legislative framework for the various City-owned corporations requires that a board of directors be elected or appointed to supervise the management of the business and affairs of those corporations.

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For each board of a corporation wholly-owned by the City of Hamilton, City Council approves the appointment of directors, among other matters, as part of the corporation's governance structure, subject to any specific legislative requirements. The composition of these boards typically includes both Council members and citizen members.

There are currently six City-owned corporations which require the appointments set out below.

1. Hamilton Utilities Corporation (HUC)

HUC is a corporation incorporated under the *Business Corporations Act* (Ontario). The board of directors for HUC consists of nine members total, composed of the Mayor or Mayor's designate, the President of the corporation, and seven individuals who are not members of Council.

2. The Hamilton Street Railway Company (HSR)

HSR was incorporated by an Act of Parliament in 1873 as a private corporation. The board of directors of HSR consists of 16 members total, composed of all 16 members of Council. In order to meet legislative requirements, it is necessary to keep the board of directors and officers of the corporation up-to-date until a final decision regarding the dissolution of HSR has been made.

3. Hamilton Renewable Power Inc. (HRPI)

HRPI is a corporation incorporated under the *Business Corporations Act* (Ontario). The board of directors for HRPI consists of six members total, composed of the Mayor, four members of Council, and a City staff member who is a non-voting director.

4. Hamilton Enterprises Holding Corporation (HEHC)

HEHC is a corporation incorporated under the *Business Corporations Act* (Ontario). The board of directors for HEHC consists of six members total, composed of the Mayor or Mayor's designate and five individuals who are not members of Council.

5. CityHousing Hamilton Corporation (CHH)

CHH is a corporation incorporated under the *Business Corporations Act* (Ontario). The board of directors for CHH consists of nine members total, five of whom must be elected members of Council, and four individuals who are not members of Council.

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6. Hamilton Farmers' Market Corporation (HFM)

HFM is a corporation incorporated pursuant to the *Corporations Act* (Ontario). The board of directors for HFM must consist of a minimum of seven and a maximum of thirteen or such other number of directors as may be determined from time to time by the City, as the sole voting member of the corporation. Council has approved a board of directors consisting of four stallholders, two members of Council and five members of the general public, with ex officio members including the General Manager of the Hamilton Farmers' Market and a staff representative from Public Health Services.

All of the City-owned corporations identified above, with the exception of HSR, also include citizen members who are elected to the board of directors. These citizen appointments will be made at a subsequent General Issues Committee meeting.

ALTERNATIVES FOR CONSIDERATION

For each of the City-owned corporations identified in this report, separate shareholder meetings could be held to appoint members of Council to the board of directors. However, the shareholders' resolutions have the same effect as meetings for these purposes and eliminate the need to carry out repetitive meetings to achieve the same purpose.

ALIGNMENT TO THE 2016-2025 STRATEGIC PLAN

Strategic Priority #7

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Hamilton Utilities Corporation Shareholder Resolution

Appendix "B" – The Hamilton Street Railway Company Shareholder Resolution

Appendix "C" – Hamilton Renewable Power Inc. Shareholder Resolution

Appendix "D" – The Hamilton Enterprises Holding Corporation Shareholder Resolution

Appendix "E" – CityHousing Hamilton Corporation Shareholder Resolution

Appendix "F" – Hamilton Farmers' Market Corporation Member's Resolution

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