

MEMORANDUM

TO: The Leadership Team Governance Subcommittee

FROM: The Board of Directors of SaskPlace Association

DATE: October 31, 2019

RE: Response to Governance of Controlled Corporations Recommendations

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Below please find our response to the three questions that were asked of us in the October 4, 2019, letter from Ms. Joanne Sproule, Ms. Cindy Yelland and Mr. Mike Jordan. Please let us know if you have any questions or require further clarification.

**Do you agree with the proposed recommendations?** Some of them

**Are there proposed recommendations that cause you concern?** Yes

**Are there changes to some of the proposed recommendations that you would like LTGS to Consider?** Yes, please see narrative and chart below.

The Board of Directors of SaskPlace Association (SPA) has reviewed the twenty-one governance of controlled corporation’s recommendations that have been drafted by City Administration. Below, please find a chart that identifies the recommendations that SaskPlace Association wishes to modify or make comment on. Those recommendations that SPA agrees with have not been included in the chart below.

As a preface to our comments, The Board of Directors of SPA wishes to convey its firm belief that the assignment of responsibility to a group of people (in this case a Board) must also be accompanied by the authority to carry out the duties associated with those responsibilities. As Board members, we are legally accountable for overseeing the governance of SPA. This is a commitment that we take seriously. We invest a great many hours toward ensuring that this corporation is planning for the future while at the same time ensuring that the programming and services that are provided to the approximately 600,000 annual visitors are well thought out and produced in an efficient and effective manner. SaskPlace Association oversees one of Saskatoon’s primary windows to the world; as visitors from throughout Canada, the United States and the world have come to Saskatoon for the purpose of viewing entertainment, cultural and educational programming at SaskTel Centre. Additionally, the Centre enriches the quality of life within our community as many a citizen has fond memories of their experiences at the facility.

As directors of this board, as appointed or selected by the shareholder, the City of Saskatoon, our fiduciary duty is to the corporation we have been appointed directors of, Saskatchewan Place Association Inc. (SaskTel Centre). The board has been selected by the shareholder to oversee the management of the business and corporate affairs of the corporation.

The shareholder’s primary responsibility is to select the directors who they believe have the skills and the ability to take on this fiduciary responsibility in a manner that suits their primary purpose as stated in the Articles of Incorporation. They also have the power to remove directors should that be necessary.

The directors of the corporation have a responsibility to exercise their responsibilities with the care, diligence and skills that a reasonably prudent person would exercise in comparable situations.

- The primary role of the shareholder is to:
- 1. Ensure that they have identified in the Articles of Incorporation and the Corporate Bylaws the direction and the business they would like the corporation to operate in.
  - 2. Appoint directors for the corporation who have the skills and the qualifications and who they perceive will have the duty of care necessary to achieve the desired results of the corporation.

The liability for the actions of the corporations, for the most part stays with the directors and the corporation itself, unless the shareholder intervenes through unanimous shareholder/member agreement or some other action that ties the shareholder to the operations directly or indirectly.

As a board, we understand our responsibilities and look forward to working with the City and its directors to ensure proper governance and operations of this corporation.

Topic	LTGS Recommendation	Sask Place Association’s Comments
That two City Councillors be appointed to the Board of each Controlled Corporation (Option	That Council be represented on each Controlled Corporation by two Councillors. The Mayor	SaskTel Centre would like for the Mayor to stay on the Board of Directors especially given all

2: Appoint Only Two Councillors, Issue #2: Board Composition)	would not sit on the Board of any of the Controlled Corporations.	that is transpiring regarding the potentiality of a new downtown arena. We are fine with a total of only two members of council being assigned to SaskPlace Association
That the Corporate Bylaws be amended to codify that a Director who also serves as a member of Council has the ability to report to City Council and the Governance and Priorities Committee In Camera (Option 2: Appoint Only Two Councillors, Issue #2: Board Composition).	That those Councillors that sit on Board of the Controlled Corporations be allowed to report back to Council on an in-camera basis	The members of the Board have a duty of confidentiality to the Organization that they are directors of. This recommendation would allow them to breach that confidentiality and their fiduciary duty to the corporation. If Council or GPC would like further reporting that reporting should come from the CEO or chair of the Board. SaskPlace Association is amenable to providing a quarterly report to Council on the state of the corporation for the purpose of ensuring that Council has a firm understanding of the corporation's status.
That it maintain the status quo and limit meetings to occur within Saskatoon city limits (Option 1: Maintain the Status Quo and Limit Meetings to Occur Within Saskatoon City Limits, Meeting Outside City Limits, Issue #3: Board Meetings).	All Board meetings are to take place within the City Limits of Saskatoon	<i>SaskPlace Association agrees with having Board Meetings within the limits of the City of Saskatoon. SaskPlace Association wishes to reserve the right to have retreats (to be restricted to the borders of Saskatchewan) or "fact finding" trips; which may take the Board or select members of the Board outside the city, province or country on company business. Neither management nor the board of directors of SaskTel Centre engage in any expenditure that is not within the annual budget (which is approved by City Council prior to each year).</i>
That the City Clerk's Office conduct mandatory Board Orientation with each of the Controlled Corporations on an annual basis (Issue 114: Board Orientation).	That annual training, provided by the City Clerk's Office, be given to all members of each controlled corporation.	SaskTel Centre has made Board Orientation mandatory, and we have a strong board onboarding procedure in place already. If the City Clerk's office wants to review the Board Orientation process and make recommendations of which SaskPlace Association will incorporate into the training module, we would welcome that.
That the appointments of Directors continue to be made by City Council in its sole discretion and the Corporate Bylaws of the Controlled Corporations be amended to make this clear (Issue #1: Appointment of Directors).	Applicants to controlled corporation board positions will be screened by the Board of each entity. Recommendations will then be forwarded to Council for their final assessment and selection of new Board members	The Board of Directors of SaskPlace Association is in favor of this recommendation so long as the currently practiced Board Recruitment Process (which has been approved by City Council) continues to remain in place. We appreciate that the final appointment sits with the Shareholder
That the Corporate Bylaws and Policy No. C01-003, <i>Appointments to Civic Boards, Commissions, Authorities and Committees</i> be amended to allow each Controlled Corporation to have a	Each controlled corporation would be allowed to have a maximum of two non-City of Saskatoon Residents on the Board. These members would not be allowed to vote on the annual budget.	<i>SaskPlace Association is in favor of allowing each Controlled Corporation the option of having up to two non-resident members but wishes to allow these members all the rights and privileges of the</i>

maximum of two non-resident members but that the non-resident members not be allowed to vote on the annual budget ( <i>Option 2: Allow Appointment of Two Non-Resident Board Members, Issue #2: Residency of Board Members</i> ).		<i>resident board members. It must be remembered that the non-resident board members would have the same level of responsibility and liability as resident board members. With this in mind, they should have the same authority.</i>
That the status quo of two-year appointments to a maximum of six consecutive years remain in place ( <i>Issue #3: Length of Appointment</i> ).	Board members would be appointed for two year terms to a maximum of six years of service.	<i>SaskPlace Association wishes to allow Board Members to serve two year terms up to a maximum of ten total years. This would aid in the transfer of knowledge and continuity of oversight and allow board members to apply their knowledge for a longer period of time after having gone through the initial acclimation process.</i>
That the Board Recruitment Process remain status quo ( <i>Issue #4: Board Recruitment</i> ).	Administration recommends that the current practice of Board Member Recruitment for the controlled corporations remain in place.	<i>SaskPlace Association agrees with this recommendation with the modification that the Boards and Council ensure that: identified core-competencies, the current composition of the Board and diversity are all factored into the decision making process.</i>
That an Audit Committee be required to be established and that the Corporate Bylaws of the Controlled Corporations be amended to clarify that committees shall be advisory in nature only and that all decisions must be made by the Boards ( <i>Option 1: Maintain Status Quo, Issue #1: Types of Committees</i> ).	That all controlled corporation Board committees be advisory only in nature.	<i>SaskPlace Association desires to have the Terms of References clearly state what needs to be approved at the Board level and what doesn't. We currently have three standing committees of the board -- HR, Governance and Audit. They have decision making responsibilities, but no decision that will bind the corporation – for example audit committee would approve the budget for recommendation to the board, they would approve the financial statements for recommendation to the board.</i>
That the Governance Subcommittee develop a list of other policies to be drafted and adopted by the Controlled Corporation Boards ( <i>Issue #1: Uniform Policies</i> ).	City Administration will develop a list of policies to be adopted by the controlled corporations.	<i>SaskPlace Association desires that this list be a recommendation only and that the Board be allowed to have the final determination of what policies the Corporation will abide by. City Council through administration should have the right to review these policies once in place and provide some input. However these are policies of the board.</i>
That services be provided to the Controlled Corporations only upon request and that Service Agreements be entered into for the provision of those services. ( <i>Issue #2: Sharing City Services</i> ).	Controlled corporations that are in need of services from City of Saskatoon Departments enter into service agreements with the City	<i>SaskPlace Association is in agreement with this recommendation.</i>
A uniform CEO Recruitment Policy be drafted by the Governance Subcommittee and provided to the Controlled Corporations for adoption ( <i>Option 1: Establishment of a CEO Recruitment/Performance Committee for Each Controlled Corporation, Issue #3: City</i>	City of Saskatoon will provide to the controlled corporations a CEO recruitment policy to be used in the event of this position becoming vacant.	<i>SaskPlace Association would prefer to provide the Governance Subcommittee with its recruitment policy, for their approval, and would work with Subcommittee if changes need to be made. The controlled corporation would prefer receiving a set of guiding</i>

Council Oversight of CEO Appointment).		principles to use in developing this policy. Representatives of Council would be welcome to be members of the recruitment/performance committee, however these representatives would need to be selected from the two Council appointees to the board they would be performing their duties as Board Members and not the city of Saskatoon, which should limit any liability to the city on selection of the CEO.
The Corporate Bylaws of the Controlled Corporations be amended to require the establishment of a CEO Recruitment/Performance Committee for each Controlled Corporation (Option 1: Requiring Establishment of a CEO Recruitment/Performance Committee for Each Controlled Corporation, Issue #3: City Council Oversight of CEO Appointments).	That Corporate Bylaws of controlled corporates be amended to require the establishment of a CEO Recruitment/Performance of each controlled corporation.	SaskPlace Association should retain ownership of any future CEO recruitment/performance processes. If such a process is put in place, the Board would desire to manage the process and would allow Councillors sitting as board members to sit on the Committee. Communication with the Shareholder is key and would be considered a necessity in this process.
That the City Solicitor negotiate a Memorandum of Understanding with each Controlled Corporation and bring each back to City Council for approval ( <i>Memorandum of Understanding, Issue #4: Establishing Roles and Responsibilities Between the City and the Controlled Corporations</i> ).	A memorandum of understanding be negotiated with each controlled corporation to define roles and responsibilities between the City and the controlled corporation. The agreement to be brought to City Council for approval.	SaskPlace Association is in agreement with this recommendation. We would recommend independent legal advice be sought on this action to ensure this MOU does not put any unnecessary legal liability to the City.
That the City Solicitor negotiate an Operating Agreement with each Controlled Corporation and bring each back to City Council for approval ( <i>Operating Agreement, Issue #4: Establishing Roles and Responsibilities Between the City and the Controlled Corporations</i> ).	An operating agreement between the City of Saskatoon and each controlled corporation will be negotiated with the agreement being brought to City Council for approval.	SaskPlace Association is in agreement with this recommendation. See comments above with respect to legal liability assumed by the city.