



IN CAMERA

ADMINISTRATIVE REPORT

Report Date: October 25, 2010
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Meeting Date: November 2, 2010

TO: Vancouver City Council

FROM: Director of Legal Services

SUBJECT: Reappointment of City Representatives to the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games ("VANOC")

IN CAMERA RATIONALE

This report is recommended for consideration by Council in the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*: (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the city or another position appointed by the city.

RECOMMENDATIONS

- A. THAT Council reappoint Dr. Penny Ballem and Jeff Mooney as the City of Vancouver's two members/directors of VANOC pursuant to VANOC By-law No. 1, (including participating in any committees of VANOC), for the term commencing November 17, 2010 until February 28, 2011.
- B. THAT Dr. Penny Ballem, City Manager, be designated by the City of Vancouver as the City's "Designated Appointee" for the purpose of certain votes by members or directors pursuant to VANOC's By-law No. 1.
- C. THAT Jeff Mooney be designated by the City of Vancouver as the City's "Alternate Designated Appointee" to act in the event of the Designated Appointee's absence or inability to act, for the purpose of certain votes by members or directors pursuant to VANOC By-law No. 1.

- D. THAT Dr. Penny Ballem's participation in VANOC, as one of the City of Vancouver's two members/directors of VANOC, be deemed to be included in the performance of her duties as City Manager for the purposes of the Liability Indemnification By-law (By-law No. 6579).
- E. THAT the terms of the Appointment Agreement dated for reference as of April 30, 2006 between the City of Vancouver and Jeff Mooney remain in full force and effect for as long as Jeff Mooney remains one of the City's two current members/directors of VANOC.

COUNCIL POLICY

There is no applicable Council Policy.

PURPOSE

This report requests authority to reappoint Dr. Penny Ballem and Jeff Mooney as the City's two current members (shareholders)/directors of VANOC until February 28, 2011 (the first anniversary of the close of the 2010 Olympic Winter Games). Dr. Penny Ballem's activities as a member/director of VANOC will continue to be considered to be in the performance of her duties as City Manager and will be covered by the indemnity provided by the City's Liability Indemnification By-law. Jeff Mooney's activities as a member/director of VANOC will continue in accordance with the Appointment Agreement between the City and Jeff Mooney dated for reference as of April 30, 2006.

VANOC By-laws require that the City designate a "Designated Appointee" and an "Alternate Designated Appointee" from its members/directors for the purpose of certain votes pursuant to the By-laws. This report seeks authority to designate:

- a) Dr. Penny Ballem, as the City's Designated Appointee; and
- b) Jeff Mooney, as the City's Alternate Designated Appointee.

BACKGROUND

By an agreement known as the Multi-Party Agreement dated November 14, 2002 between the Federal government, Provincial government, Resort Municipality of Whistler, COC, Canadian Paralympic Committee and the City, the member parties to the Olympic Bid agreed to the structure of the membership (shareholders) of VANOC.

The member structure is as follows:

- (a) two members will be appointed by the City of Vancouver;
- (b) two members will be appointed by the Resort Municipality of Whistler;

- (c) three members will be appointed by the Government of Canada;
- (d) three members will be appointed by the Government of British Columbia;
- (e) one member will be appointed by the Canadian Paralympic Committee;
- (f) seven members will be appointed by the COC;
- (g) one member will be appointed by the Band Council of the Lil'Wat First Nation and the Band Council of the Squamish First Nation, acting together; and
- (h) the members may, from time to time, appoint one additional member.

VANOC By-laws require that each of the funding nominating entities (including the City of Vancouver) designate one of the persons appointed by it as a member to be its "Designated Appointee" and a second person appointed by it as a member to be its "Alternate Designated Appointee" to act in the event of the Designated Appointee's absence or inability to act, for the purpose of certain votes by the members or directors. This requirement is to ensure that at least one member or director from each of the funding nominating entities votes in favour of certain critical resolutions to be passed by the members or the directors (for example, approval of VANOC's business plan).

VANOC By-laws provide that the directors of the VANOC Board of Directors will be those persons who are the members. A person ceases to be a director upon ceasing to be a member.

VANOC By-laws provide that directors shall serve without remuneration and no director shall directly or indirectly receive any profit from VANOC provided that a director may be reimbursed for all reasonable expenses incurred by him or her in the performance of their duties. Directors are not precluded from serving VANOC in another capacity, provided the director shall receive no compensation for such services other than other reimbursement of reasonable expenses. The exception is that a director of VANOC may also be the Chair or Chief Executive Officer of VANOC and may be compensated for serving in such officer capacity notwithstanding that they are also a director of VANOC.

In 2009, Dr. Penny Ballem was appointed as the City's "Designated Appointee". Jeff Mooney's appointment as the City's "Alternate Designated Appointee" commenced in 2006.

INDEMNIFICATION OF MEMBERS/DIRECTORS

Participation as a member or a director in a corporation raises issues of director's liability. To address issues of potential liability for participation in City related duties by councillors and employees, City Council enacted By-law No. 6579 the "Liability Indemnification By-law" pursuant to Section 180 of the Vancouver Charter. The Liability Indemnification By-law states, among other things, that the City shall indemnify an employee of the City of Vancouver against any claim for damages arising

in connection with the honest performance by her of her duties. Council deemed the participation in VANOC as a member/director by Dr. Penny Ballem, the City Manager, to be included in her duties as City Manager in order to provide her with the protection of the Liability Indemnification By-law.

FINANCIAL IMPLICATIONS

There are no financial implications unless the City is called upon to indemnify Dr. Penny Ballem pursuant to the Liability Indemnification By-law.

CONCLUSION

The City is permitted to appoint two members (shareholders) of VANOC. The two members will also be the City's directors on the Board of Directors of VANOC. Dr. Penny Ballem and Jeff Mooney will represent the City's interests in VANOC's members and directors meetings.

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