

Regular Meeting

November 25, 2015

A regular meeting was convened at 4:32 p.m. on Wednesday, November 25, 2015, in the Boardroom, 5050 Yonge Street, Toronto, with Robin Pilkey, Chair of the Board, presiding.

The following members were present: Trustees Jennifer Arp, Alexander Brown, Jerry Chadwick, Michael Ford, Tiffany Ford, Gerri Gershon, Chris Glover, Pamela Gough, Parthi Kandavel, Howard Kaplan, Shelley Laskin, Ken Lister, Ausma Malik, Robin Pilkey, David Smith, Marit Stiles, Jennifer Story, Chris Tonks, Sheila Ward, Manna Wong and Student Trustees Sammy Al Rubaie and Hamima Fattah. Regrets were received from Trustee Sheila Cary-Meagher. Trustee Ward participated by electronic means.

The office of Trustee held by Shaun Chen was vacated on October 21, 2015, upon confirmation of his election to the House of Commons of Canada, pursuant to sections 219 (4) and 228 (1) of the *Education Act*.

1. Resolution Into Committee of the Whole (Private)

At 4:32 p.m., on motion of Trustee M. Ford, seconded by Trustee Laskin, the regular meeting resolved into Committee of the Whole (Private) to consider matters on the private agenda of the Committee of the Whole.

2. Reconvene

At 5:50 p.m., the regular meeting reconvened.

3. Committee of the Whole (Private), Report No. 106, November 25, 2015 (see page 10)

Trustee Laskin, seconded by Trustee Chadwick, moved: **That Report No. 106 of the Committee of the Whole (Private) be adopted.**

The motion was carried.

4. Recess and Reconvene

At 5:55 p.m., on motion of Trustee Story, seconded by Trustee Brown, the meeting recessed for dinner and reconvened at 7 p.m.

5. National Anthem and Acknowledgement of Traditional Lands

Following the playing of the national anthem, the Chair recited the acknowledgement of traditional lands.

6. Approval of the Agenda

Trustee Brown, seconded by Trustee Story, moved: **That the agenda be approved.**

The motion was carried.

7. Celebrating Board Activities

Prior to the dinner break, trustees acknowledged students from Thistletown Collegiate Institute, Justice Chea and Yohannes Asres and their teacher Keith Hoare, who will appear on the Food Network's Chopped Canada on November 28, 2015. Trustees were able to sample tasty treats prepared by the students.

The meeting extended congratulations to Trustee Tiffany Ford, recipient of the Metroland Media Toronto and North York Mirror Urban Heroes award for 2015.

The Chair accepted, on behalf of the Board, a token of appreciation from PLASP Child Care Services. A short video clip on PLASP's 2015 annual report was shown.

8. Memorials

The Chair expressed sympathy on behalf of the Board to the families of James Tekyi-Annan, Cindy Auwaerter and Fred Lewis, Board employees, who recently died.

A moment's silence was observed in memory of those who had passed away.

9. Chair's Announcements

The Chair welcomed the former chair of the Board, Shaun Chen, Member of Parliament for Scarborough North to the meeting. The Chair extended the Board's congratulations and best wishes on his election to the House of Commons and presented him with a token of appreciation.

The Chair provided a brief update on the search for an interim Director of Education, following the announcement on November 16, 2015, that Director Donna Quan had accepted the position of Senior Advisor to the Deputy Minister of Education, effective December 14, 2015.

10. Reports From Trustees Appointed to External Organizations and Student Trustees

Trustee Glover provided a written report presenting a summary of decisions made by the Board of Health at its meeting on October 30, 2015.

Trustee Laskin provided a written report presenting an update from the Ontario Public School Boards' Association and flyer information on the 2016 Public Education Symposium to be held from January 28 to 30, 2016

Trustee Story provided a written report presenting an update from the City School Boards Advisory Committee meeting held on September 25, 2015.

Student Trustees Fattah and Al Rubaie presented a report on the activities of the Student SuperCouncil and information on:

- Improved relationships among student trustees, trustees and students
- Proposals to extend the term for student trustees from one to two years

11. Director's Leadership Report

Associate Director Angelos Bacopoulos presented the Director's Leadership Report for November 2015 in the absence of the director.

The Associate Director introduced and extended congratulations to the 2015 recipients of the Director's Gay-Straight Alliance award, City View Alternative School, Cosmos Middle School and Earl Haig Secondary School.

12. Declarations of Possible Conflict of Interest

Trustees Brown and Cary-Meagher declared possible conflicts of interest with regard to Item 3, Negotiations Steering Committee, Report No. 22, November 19, 2015, in report No. 106 of the Committee of the Whole (Private). Trustee Brown is a member of the Ontario Secondary School Teachers' Federation and Trustee Cary-Meagher has a daughter who is a member of the Ontario Secondary School Teachers' Federation, District 12. The trustees were not present for the discussion or vote on the matter for which they declared a conflict.

13. Matters to be Decided Without Discussion

Trustee Kandavel, seconded by Trustee T. Ford, moved: **That the following matters presented as matters to be decided without discussion be approved or received, as appropriate:**

- (a) **Confirmation of Minutes of Meeting Held on October 28, 2015**
- (b) **Audit Committee, Report No. 31, September 21, 2015 (see page 12)**
 - 1 2015: SB19, Audit Committee Regulation 361/10 Amendments [2649]**
 - 2 Delegation of Authority Procedure: New [2642]**
 - 3 Regional Internal Audit Team Status Update, September 2015 [2643]**
 - 4 School Improvement and Student Achievement Audit [2645]**
 - 5 Audit Committee O. Reg. 361/10 Requirements – Work Tracker [2650]**
- (c) **Program and School Services Committee, Report No. 49, November 12, 2015 (see page 15)**
 - 1 Smoke-Free Environment [2607]**
 - 2 Volunteer Supervisors of Extra-Curricular Activities in Schools [2681]**
 - 3 Night School Credit Classes in Etobicoke [2686]**

- 4 Research Brief on the Characteristics of Students in French-as-a-Second-Language Programs [2657]**
 - 5 Review of Bill 212: An Act to amend the Education Act in respect of behavior, discipline and safety**
 - 6 Educational Financial Information System Data, October 13, 2015**
- (d) Finance and Accountability Committee, Report No. 07, November 18, 2015 (see page 19)**
- 1 Contract Awards, Operations [2683]**
 - 2 Contract Awards, Facilities [2687]**
 - 3 Collaborative Ventures, 2014-15 [2684]**
 - 5 Use of Disposable Plastic Bottles**
- (e) Planning and Priorities Committee, Report No. 51, November 18, 2015 (see page 29)**
- 1 Receipt of Section 37 Funds From the City of Toronto to Fund Improvements at Deer Park Junior and Senior Public School [2663]**
 - 2 City of Toronto Funded Improvements at East Education Office, 140 Borough Drive [2688]**
 - 3 Program Area Review for Leslieville Junior Public School [2678]**
 - 4 Program Area Review for the AY Jackson Secondary School Cluster of Schools: AY Jackson Secondary School, Arbor Glen Public School, Cliffwood Public School, Crethaven Public School, Cummer Valley Middle School, Finch Public School, Highland Junior High School, Hillmount Public School, Hollywood Public School, Lillian Public School, Pineway Public School, Steelesview Public School and Zion Heights Junior High School [2691]**
 - 6 Program Area Review for the Sir John A Macdonald Collegiate Institute Cluster of Schools: Brian Public School, Cherokee Public School, L'Amoreaux Collegiate Institute, Muirhead Public School, Pleasant View Junior High School and Sir John A Macdonald Collegiate Institute [2689]**
 - 7 Requests for School Capital Facilities: TDSB Championship Field Program, Municipal Tax Implications [2696]**
 - 9 City-School Boards Advisory Committee Update [2677]**
 - 10 TDSB Championship Field Program: Municipal Tax Implications**
 - 11 Safety in School Zones**
 - 12 2016-17 Proposed Dates for Budget Community Information Sessions and Ward Forums**
 - 13 Ministry of Education 2016-17 Education Funding Consultation Guide [2671]**

14 2016-17 Operating Budget Development Timeline and Tracking Sheet: Update [2672]

15 2016-17 Budget Process Communications Support and Tactics [2673]

16 Establishment of a French Middle Immersion Program at Bloordale Middle School

The motion was carried.

14. Finance and Accountability Committee, Report No. 07, November 18, 2015

Re Item 4, Environmental Legacy Fund [2656] (see page 20)

Trustee Gough, seconded by Trustee Glover, moved: **That the report be received.**

Trustee Gough, seconded by Trustee Kaplan, moved in amendment: **That the following be added, “that the Director revisit the Go Green: Climate Change Action Plan and present a report in the March/April cycle of meetings, that would outline a plan to revitalize it.”**

The amendment was carried.

The main motion, as amended, was carried.

15. Planning and Priorities Committee, Report No. 51, November 18, 2015

Re Item 5, Program Area Review for the Georges Vanier Secondary School Cluster of Schools: Brian Public School, Cliffwood Public School, Crestview Public School, Dallington Public School, Don Valley Junior High School, Forest Manor Public School, George S. Henry Academy, Georges Vanier Secondary School, Kingslake Public School, Lescon Public School, Seneca Hill Public School, Woodbine Junior High School [2690] (see page 32)

Trustee Laskin, seconded by Trustee Chadwick, moved:

- (a) That Georges Vanier Secondary School be converted from a Grade 10 to 12 school to a Grade 9 to 12 school effective 1 September 2016;**
- (b) That the existing Grade 10 to 12 secondary attendance area for Georges Vanier Secondary School become a Grade 9 to 12 secondary attendance area;**
- (c) That Don Valley Junior High School and Woodbine Junior High School be converted from Grade 7 to 9 schools to Grade 6 to 8 schools effective 1 September 2016;**
- (d) That the existing Grade 7 to 9 intermediate attendance area for Don Valley Junior High School and Woodbine Junior High School become a Grade 6 to 8 intermediate attendance area;**

- (e) That Don Valley Junior High School and Woodbine Junior High School be renamed as Don Valley Middle School and Woodbine Middle School to reflect their new grade configurations;**
- (f) That Crestview Public School, Dallington Public School, Forest Manor Public School, Kingslake Public School, Lescon Public School and Seneca Hill Public School be converted from JK to Grade 6 schools to JK to Grade 5 schools effective 1 September 2016;**
- (g) That the existing junior attendance areas for Crestview Public School, Dallington Public School, Forest Manor Public School, Kingslake Public School, Lescon Public School and Seneca Hill Public School be changed effective 1 September 2016;**
- (h) That the junior attendance area for Dallington Public School located west of Leslie Street become part of the Lescon Public School junior attendance area with the pathway to Don Valley Middle School and Georges Vanier Secondary School;**
- (i) That for Part (h), all students who currently reside in the affected attendance areas and attend Dallington Public School as of the end of the 2015-16 school year and their siblings be grandparented and be allowed to remain at the current school until they graduate.**

Trustee Lister, seconded by Trustee Gershon, moved in amendment:

- (a) That Part (c) be changed to “That Don Valley Junior High School and Woodbine Junior High School be converted from Grade 7 to 9 schools to Grade 7 to 8 schools effective 1 September 2016; and converted to Grade 6 to 8 effective 1 September 2017”;**
- (b) That “effective 1 September 2017” be added at the end of Part (d);**
- (c) That “2016” be changed to “2017” at Parts (f) and (g).**

Trustee Gershon, seconded by Trustee Smith, moved: **That consideration of the matter be postponed until the December 9, 2015 Board meeting, prior to which the PART may reconvene.**

The motion to postpone the matter was defeated.

The amendment was carried on a recorded vote (see Recorded Vote 67, page 9). Student Trustee Al Rubaie voted in favour.

The main motion, as amended, was carried.

Therefore, the Board decided:

- (a) That Georges Vanier Secondary School be converted from a Grade 10 to 12 school to a Grade 9 to 12 school effective 1 September 2016;**

- (b) That the existing Grade 10 to 12 secondary attendance area for Georges Vanier Secondary School become a Grade 9 to 12 secondary attendance area;
- (c) That Don Valley Junior High School and Woodbine Junior High School be converted from Grade 7 to 9 schools to Grade 7 to 8 schools effective 1 September 2016, and converted to Grade 6 to 8 schools effective 1 September 2017;
- (d) That the existing Grade 7 to 9 intermediate attendance area for Don Valley Junior High School and Woodbine Junior High School become a Grade 6 to 8 intermediate attendance area, effective 1 September 2017;
- (e) That Don Valley Junior High School and Woodbine Junior High School be renamed as Don Valley Middle School and Woodbine Middle School to reflect their new grade configurations;
- (f) That Crestview Public School, Dallington Public School, Forest Manor Public School, Kingslake Public School, Lescon Public School and Seneca Hill Public School be converted from JK to Grade 6 schools to JK to Grade 5 schools effective 1 September 2017;
- (g) That the existing junior attendance areas for Crestview Public School, Dallington Public School, Forest Manor Public School, Kingslake Public School, Lescon Public School and Seneca Hill Public School be changed effective 1 September 2017;
- (h) That the junior attendance area for Dallington Public School located west of Leslie Street become part of the Lescon Public School junior attendance area with the pathway to Don Valley Middle School and Georges Vanier Secondary School;
- (i) That for Part (h), all students who currently reside in the affected attendance areas and attend Dallington Public School as of the end of the 2015-16 school year and their siblings be grandparented and be allowed to remain at the current school until they graduate.

Re Item 8, Engagement of an Executive Search Firm [2695] (see page 34)

The meeting received additional information from staff concerning the timeline to complete a request for proposal process to secure a new executive search firm and two timelines for the development, issuing and evaluating an RFP for an executive search firm (see page 34).

Trustee Stiles, seconded by Trustee Gough, moved:

- (a) **That the Director be authorized to proceed with a request for proposal process to secure a new executive search firm, within the timelines, as presented in Option One;**
- (b) **That a Search Committee for an Executive Search Firm be established to provide input on the development of parameters and the evaluation of the RFP.**

The motion was carried on a recorded vote (see Recorded Vote 68, page 9). Student Trustee Al Rubaie voted in favour.

Trustees M. Ford, T. Ford, Gershon, Gough and Kandavel volunteered to serve on the Search Committee for an Executive Search Firm.

Trustee Laskin, seconded by Trustee Lister, moved: **That Trustees Michael Ford, Tiffany Ford, Gerri Gershon, Pamela Gough and Parthi Kandavel be appointed to serve on the Search Committee for an Executive Search Firm.**

The motion was carried.

16. Adjournment

At 9:37 p.m. on motion of Trustee Stiles, seconded by Trustee Story, the meeting adjourned.

Robin Pilkey
Chair

Summary of Recorded Votes

Trustee	Recorded Vote 67 (see p.6)	Recorded Vote 68 (see p.8)
Arp	Y	Y
Brown	N	A
Cary-Meagher	A	A
Chadwick	Y	Y
M. Ford	N	Y
T. Ford	Y	Y
Gershon	N	Y
Glover	Y	Y
Gough	Y	Y
Kandavel	Y	Y
Kaplan	N	Y
Laskin	N	Y
Lister	Y	N
Malik	Y	Y
Pilkey	N	Y
Smith	Y	Y
Stiles	Y	Y
Story	Y	Y
Tonks	Y	Y
Ward	Y	N
Wong	Y	Y
Total Y	14	17
Total N	6	2
Total A and C	1	2

Y Vote in favour **N** Vote against **A** Absent * No vote cast (the Chair). The Board's Bylaws, Section 28.5 states: "The chair may vote once on each motion under consideration."

N* No vote cast. The Board's Bylaws, Section 28.3 states: A member, except the chair, who is present and who fails to vote on a motion shall be deemed to have voted against the motion.

C Absent due to declaration of a possible conflict of interest

Committee of the Whole (Private), Report No. 106, November 25, 2015

Committee of the Whole (Private)

Report No. 106, November 25, 2015

A regular meeting of the Committee of the Whole (Private) was convened at 4:32 p.m. on Wednesday, November 25, 2015, in the Boardroom, 5050 Yonge Street, Toronto, with Sheila Cary-Meagher, presiding.

The following members were present: Trustees Jennifer Arp, Alexander Brown, Sheila Cary-Meagher, Jerry Chadwick, Michael Ford, Tiffany Ford, Gerri Gershon, Chris Glover, Pamela Gough, Parthi Kandavel, Howard Kaplan, Shelley Laskin, Ken Lister, Ausma Malik, Robin Pilkey, David Smith, Marit Stiles, Jennifer Story, Chris Tonks and Manna Wong. Regrets were received from Trustee Sheila Ward.

The office of Trustee held by Shaun Chen was vacated on October 21, 2015, upon confirmation of his election to the House of Commons of Canada, pursuant to sections 219 (4) and 228 (1) of the *Education Act*

1. Declarations of Possible Conflict of Interest

Trustees Brown and Cary-Meagher declared possible conflicts of interest with regard to Item 3, Negotiations Steering Committee, Report No. 22, November 19, 2015, as Trustee Brown is a member of the Ontario Secondary School Teachers' Federation and Trustee Cary-Meagher has a daughter who is a member of the Ontario Secondary School Teachers' Federation, District 12. The trustees were not present for the discussion or vote on the matter for which they declared a conflict.

2. Staff Changes

The Committee considered a report from staff (as shown in the private minutes of the Committee of the Whole) presenting staff changes.

The Committee of the Whole (Private) **RECOMMENDS** that the staff changes be approved.

3. Negotiations Steering Committee, Report No. 22 (Private), November 19, 2015

The Committee considered Report No. 22 (Private) of the Negotiations Steering Committee (as shown in the private minutes of the Committee of the Whole).

The Committee of the Whole (Private) **RECOMMENDS** that Report No. 22 (Private) of the Negotiations Steering Committee (as attached to the private minutes of the Committee of the Whole) be received.

4. Audit Committee, Report No. 31 (Private), September 21, 2015

The Committee considered Report No. 31 (Private) of the Audit Committee (as shown in the private minutes of the Committee of the Whole).

The Committee of the Whole (Private) **RECOMMENDS** that Report No. 31 (Private) of the Audit Committee (as attached to the private minutes of the Committee of the Whole) be adopted.

Committee of the Whole (Private), Report No. 106, November 25, 2015

5. Planning and Priorities Committee, Report No. 51 (Private), November 18, 2015

The Committee considered Report No. 51 (Private) of the Planning and Priorities Committee (as shown in the private minutes of the Committee of the Whole).

The Committee of the Whole (Private) **RECOMMENDS** that Report No. 51 (Private) of the Planning and Priorities Committee (as attached to the private minutes of the Committee of the Whole) be adopted.

6. Private Personnel Matter

The Committee heard an update concerning a private personnel matter.

The Committee of the Whole (Private) **RECOMMENDS** that the private personnel matter as contained in the private minutes of the Committee of the Whole (Private) be received.

Sheila Cary-Meagher
Chair of the Committee

Adopted November 25, 2015 (see page 10)

Audit Committee, Report No. 31, September 21, 2015

Audit Committee**Report No. 31, September 21, 2015**

TO Regular Meeting Date: November 25, 2015

MEETING A meeting of the Audit Committee was convened on Monday, September 21, 2015 from 4:30 p.m. to 6:53 p.m. in Committee Room A, Main Floor, 5050 Yonge Street, Toronto, Ontario, with Catherine Brennan presiding.

ATTENDANCE The following committee members were present: Trustees Gerri Gershon, Howard Kaplan, Robin Pilkey and Sheila Ward.

The following external members were present: Catherine Brennan (Chair), Denise Arsenault, and Jerry Mancini.

The Committee decided to report and recommend as follows:

Part A: Committee Recommendations

1. 2015: SB19 – Audit Committee Regulation 361/10 Amendments [2649]

The Committee considered a staff report (see AC:032A, page 1) presenting technical amendments made by the Ministry of Education to three sections of Ontario Regulation 361/10, effective July 10, 2015.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee Gershon, the Audit Committee **RECOMMENDS** that the report be received.

2. Delegation of Authority Procedure: New [2642]

The Committee considered a staff report (see AC:032A, page 9) presenting a procedure to establish guidelines and appropriate limits for the delegation of financial signing authority.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee Kaplan, the Audit Committee **RECOMMENDS** that the report be received.

Audit Committee, Report No. 31, September 21, 2015**3. Regional Internal Audit Team Status Update, September 2015 [2643]**

The Committee considered a staff report (see AC:032A, page 43) presenting the Toronto and Area Regional Internal Audit Team's work plan update, as of September 2015.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Denise Arsenault, the Audit Committee **RECOMMENDS** that the report be received.

4. School Improvement and Student Achievement Audit [2645]

The Committee considered a staff report (see AC:032A, page 47) presenting the results of a school improvement and student achievement audit conducted by the Toronto and Area Regional Internal Audit Team.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Concur | <input checked="" type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee Kaplan, the Audit Committee **RECOMMENDS** that the report be referred to the Program and School Services Committee for information.

5. Audit Committee O.Reg 361/10 Requirements – Work Tracker [2650]

The Committee considered a staff report (see AC:032A, page 71) presenting the Audit Committee work tracker.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee Pilkey, the Audit Committee **RECOMMENDS** that the report be received.

Part B: Information Only

6. Election of the Committee Chair

The Committee elected Catherine Brennan to the position of Chair of the Committee.

7. Chair's Update

The Committee heard an update from the chair on the following:

- Appreciation extended to members of the audit Committee for submitting the member self-assessment questionnaire.
- Resignation tendered by Trustee Pilkey as the chair of the committee in light of her recent election to the position of chair of the Toronto District School Board.
- Trustee Pilkey agreed to act as a liaison between the Board and the new chair of the Audit Committee.

8. Minutes of Meeting Dated June 15, 2015

On motion of Trustee Gershon, the minutes of the meeting dated June 15, 2015 were approved.

Part C: Ongoing Matters

No matters to report

SUBMITTED BY Catherine Brennan
Chair of the Committee

Program and School Services Committee, Report No. 49, November 12, 2015**Program and School Services Committee****Report No. 49, November 12, 2015**

TO Regular Meeting Date: November 25, 2015

MEETING A meeting of the Program and School Services Committee convened on Thursday November 12, 2015 from 5:04 to 6:35 p.m. in Committee Room A, 5050 Yonge Street, Toronto, Ontario, with Pamela Gough presiding.

ATTENDANCE The following members were present: Trustees Pamela Gough (Chair), Jennifer Arp, Alexander Brown, Howard Kaplan and Manna Wong. Regrets were received from Trustee Jennifer Story. Also present were Trustees Tiffany Ford, Gerri Gershon and Shelley Laskin. Trustees Gershon and Laskin participated by electronic means.

The Committee decided to report and recommend as follows:

<u>Part A: Committee Recommendations</u>

1. Smoke-Free Environment [2607]

The Committee considered a report from staff (see PSSC:050A, page 39) presenting on promoting smoke-free environments in schools and workplaces.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (refer without recommendation) |

On motion of Trustee Kaplan, the Program and School Services Committee **RECOMMENDS** that the report be received.

2. Volunteer Supervisors of Extra-Curricular Activities in Schools [2681]

The Committee considered a report from staff (see PSSC:050A, page 51) presenting revisions to operational procedure, PR558 SCS, Parent and Community Involvement to address the use of volunteer supervisors of extracurricular activities in schools.

Program and School Services Committee, Report No. 49, November 12, 2015

Committee's recommendation or action regarding the staff recommendation:

- | | |
|---|---|
| <input type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input checked="" type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (refer without recommendation) |

On motion of Trustee Kaplan, on behalf of Trustee Gershon, the Program and School Services Committee **RECOMMENDS** that a review of operational procedure PR558, Parent and Community Involvement be undertaken in one year and a report presented to the Board.

Staff had recommended that the report be received.

Staff undertook to make the revisions to the procedure, as discussed at the meeting.

3. Night School Credit Classes in Etobicoke [2686]

The Committee considered a report from staff (see PSSC:050A, page 75) presenting information on night school and online credit courses in the west quadrant.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (refer without recommendation) |

On motion of Trustee Kaplan, the Program and School Services Committee **RECOMMENDS** that the report be received.

4. Research Brief on the Characteristics of Students in French-as-a-Second-Language Programs [2657]

The Committee considered a report from staff (see PSSC:050A, page 81) presenting information on the demographic and achievement characteristics of students in French immersion and extended French programs at the TDSB.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (refer without recommendation) |

On motion of Trustee Arp, the Program and School Services Committee **RECOMMENDS** that the report be received.

Program and School Services Committee, Report No. 49, November 12, 2015

5. Review of Bill 212: An Act to amend the Education Act in respect of behavior, discipline and safety

On motion of Trustee Kaplan, on behalf of Trustee Gershon the Program and School Services Committee **RECOMMENDS**:

Whereas, it has been seven years since Bill 212, An Act to amend the *Education Act* in respect of behaviour, discipline and safety, became operative in Ontario;

Whereas, school boards have experienced both positive consequences and negative constraints as a result of this legislation;

Therefore, be it resolved that the Chair write a letter to the Ontario Public School Boards' Association to petition OPSBA to convene a seminar of experts including trustees, lawyers, staff with safe school designations, parents, etc. to participate in a think tank, with the following mandate.

Mandate

- a) to review the impact of Bill 212 on students, schools and school communities;
- b) to make recommendations to the Provincial Government on possible amendments to improve and create a greater understanding of the legislation by:
 - (i) providing boards with greater flexibility in responding to matters of school discipline, including the opportunity to access alternatives to formal expulsion;
 - (ii) utilizing clear and easily understandable language in the legislation to support understanding among all education stakeholders.

6. Educational Financial Information System Data, October 13, 2015

On motion of Trustee Kaplan, the Program and School Services Committee **RECOMMENDS** that the 2014-15 Community Use of Schools Educational Financial Information System Data, Data Form E report, to be presented to the Ministry in November, 2015 and the Focus on Youth 2015 report, be made available to the Community Use of Schools Advisory Committee in the December 2015 CUSAC meeting.

Part B: Information Only**7. Early Years Advisory Committee, May 29, 2015**

On motion of Trustee Kaplan, the Committee received the Early Years Advisory Committee report dated May 29, 2015 (see PSSC:050A, page 1).

8. Special Education Advisory Committee, September 21, 2015 and October 5, 2015

On motion of Trustee Arp, the Committee received Special Education Advisory Committee reports dated September 21 and October 5, 2015 (see PSSC:050A, page 5).

9. Aboriginal Community Advisory Committee, September 15, 2015

On motion of Trustee Kaplan, the Committee received the Aboriginal Community Advisory Committee report dated September 15, 2015 (see PSSC:050A, page 25).

10. Community Use of Schools Advisory Committee, September 17, 2015

On motion of Trustee Arp, the Committee received the Community Use of Schools Advisory Committee report dated September 17, 2015 (see PSSC:050A, page 29).

11. French-as-a-Second-Language Advisory Committee Report, September 24, 2015

On motion of Trustee Arp, the Committee received the French-as-a-Second-Language Advisory Committee report dated September 24, 2015 (see PSSC:050A, page 33).

Part C: Ongoing Matters

No matters to report

SUBMITTED BY Pamela Gough
Chair of the Committee

Finance and Accountability Committee, Report No. 07, November 18, 2015**Finance and Accountability Committee****Report No. 07, November 18, 2015**

TO Regular Meeting Date: November 25, 2015

MEETING A meeting of the Finance and Accountability Committee was convened on Wednesday, November 18, 2015 from 5:04 to 6:26 p.m. in Committee Room A, Main Floor, 5050 Yonge Street, Toronto, Ontario, with Marit Stiles presiding.

ATTENDANCE The following members were present: Trustees Marit Stiles (Chair), Michael Ford, Ken Lister, Ausma Malik and Chris Tonks. Regrets were received from Trustees Tiffany Ford and David Smith. Also present were Trustees Jennifer Arp, Pamela Gough and Jennifer Story. Trustee Tonks participated by electronic means.

The Committee decided to report and recommend as follows:

<u>Part A: Committee Recommendations</u>

1. Contract Awards, Operations [2683]

The Committee considered a staff report (see FAC:055A, page 1) presenting contract awards.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee M. Ford, the Finance and Accountability Committee **RECOMMENDS** that the contracts in Appendix C, as presented in the report, be approved.

2. Contract Awards, Facilities [2687]

The Committee considered a staff report (see FAC:055A, page 9) presenting contract awards. The Committee received the contracts in Appendix A and approved the contract in Appendix B.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

Finance and Accountability Committee, Report No. 07, November 18, 2015

On motion of Trustee Lister, the Finance and Accountability Committee **RECOMMENDS** that the contracts in Appendix C, as presented in the report, be approved.

3. Collaborative Ventures, 2014-15 [2684]

The Committee considered a report from staff (see FAC:055A, page 17) presenting an update on collaborative ventures for 2014-15.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee M. Ford, the Finance and Accountability Committee **RECOMMENDS** that the report be received.

4. Environmental Legacy Fund [2682] (as amended by the Board, see page 5)

The Committee considered a staff report (see FAC:055A, page 23) presenting information on the environmental legacy fund.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other |

On motion of Trustee Lister, the Finance and Accountability Committee **RECOMMENDS** (as amended by the Board, see page 5) that the Director revisit the Go Green: Climate Change Action Plan and present a report in the March/April cycle of meetings, that would outline a plan to revitalize it."

Staff had recommended that the report be received.

5. Use of Disposable Plastic Bottles

On motion of Trustee Lister, the Finance and Accountability Committee **RECOMMENDS** that the following be referred to staff for a report back in the February-March 2016 cycle of meetings:

Whereas, the Toronto District School Board is committed to a culture of environmental stewardship and sustainability; and

Whereas, one of the Board's five strategic directions is to build environmentally sustainable schools that inspire teaching and learning; and

Whereas, plastic water bottles are expensive, can deplete water sources in local communities, take great quantities of energy to create and transport and last in landfills for over four hundred years; and

Finance and Accountability Committee, Report No. 07, November 18, 2015

Whereas, Toronto tap water is affordable, local, safe, low-waste and tasty; and

Whereas, the TDSB is a leader in the EcoSchools movement, in which schools are encouraged to undertake campaigns to curb plastic water bottle consumption; and

Whereas, the Education Centre at 5050 Yonge Street could be considered as a place where the mission of dedication to environmental sustainability should be as fully showcased in the building's facilities as it would be in any one of the Board's EcoSchools; and

Whereas, currently at 5050 Yonge Street, the level of consumption of plastic water bottles is high;

Therefore, be it resolved:

- (a) That water bottle refilling stations be installed at 5050 Yonge Street;
- (b) That a campaign be launched to educate employees at 5050 Yonge Street on the importance of using refillable water bottles and avoiding the use of disposable plastic water bottles.

Part B: Information Only

6. Planning and Growth Management Committee: Proposed Official Plan Amendment

The Committee heard an update from staff on the city's proposed official plan amendment.

Staff undertook to provide an update on the matter at the next meeting.

Part C: Ongoing Matters

No matters to report

SUBMITTED BY Marit Stiles
 Chair of the Committee

Finance and Accountability Committee, Report No. 07, November 18, 2015

Contract Awards [2683]

As presented to the Finance and Accountability Committee on November 18, 2015 (see page 19).

In accordance with the Board's policy P017, Purchasing, the attached charts present contracts for receipt or approval, as appropriate.

Contracts related to the Board's Facility Services function are presented separately to the Operations and Facilities Management Committee.

The recommended suppliers and the term of each contract are shown in the attached charts. Chart 1 outlines contracts requiring Board approval. The amounts shown are based on the estimated annual consumption unless indicated otherwise. Actual amounts depend on the volume of products/services actually used during the term of the contract.

Funding sources are identified for each award listed.

The Process

Purchasing and Distribution Services, where possible, invited bids from a minimum of three firms. Requirements expected to exceed \$100,000 were also posted on two electronic bulletin boards (Merx and BiddinGo) to facilitate broader public access.

The lowest cost bid is accepted where quality, functional, safety, environmental and other requirements are met. Every effort is made to include input from the users in the development of specifications and the evaluation process. Copies of all bids received and detailed information regarding all recommended awards are available in the Purchasing and Distribution Services Department.

Finance and Accountability Committee, Report No. 07, November 18, 2015

Chart 1: Contracts Requiring Board Approval (contracts over \$250,000 and Consulting Services over \$50,000)

	User/Budget Holder School/Department	Products/Services Details	Ward	Recommended Supplier	Low Bid	Objections	No. of Bids Rec'd	Estimated Annual Amount	Projected Start/End Date of Contract	Customer Involvement
1	All Schools and Administrative Departments	Spirit Wear - AS15-006T T-Shirts, Sweatshirts, Track Pants and Hoodies	N/A	Entripy Custom Big Kuhuna Marchant's IO Promotions	Yes	No	25	\$30,000 \$30,000 \$30,000 \$30,000	December 2015 / November 2020	Teachers, Students, and Purchasing Services staff
2	Employee Services	SAP SuccessFactors Implementation AS15-235P See Appendix D	N/A	N SPRO	No ¹	No	5	\$332,071	December 2015 / November 2017	Employee Services, IT Services, and Purchasing Services staff
3	Aboriginal Education	Aboriginal Curator and Advisor The highly specialized services of an Aboriginal Curator and Advisor are required to support the TDSB Fine Art, Artifact and Archival Collection and the Aboriginal Education Centre. See Appendix E Article I.	N/A	Dr. Duke Redbird	N/A	N/A	Sole Source	\$75,000	One (1) year upon approval, with a possible extension (pending funding) of two additional 1-year terms.	TDSB Fine Art, Artifact and Archival Collection and the Aboriginal Education Centre
4	School Improvement	Facilitation Services for Community Meetings: School Sites for Potential Disposition See Appendix F	N/A	Public Interest	Yes	No	5	\$116,500	January 2016/ July 2016	Senior Strategy & Planning staff

1 Highest Overall Score based on established evaluation criteria.

For the Board's decision see page 19.

Contract Awards, Facilities [2687]

As presented to the Finance and Accountability Committee on November 18, 2015 (see page 19).

In accordance with the Board's policy P017, Purchasing, the attached charts present contracts for receipt or approval, as appropriate.

The recommended suppliers and the term of each contract are shown in the attached charts. Chart 1 outlines contract awards provided for information; Chart 2 outlines contracts requiring Operations and Facilities Management Committee approval; and Chart 3 outlines contracts requiring Board approval. The amounts shown are based on the estimated annual consumption unless indicated otherwise. Actual amounts depend on the volume of products/services actually used during the term of the contract.

Chart 4 is a summary of contract awards for selected Facility Service projects for the period September 2012 to date.

Funding sources are identified for each award listed.

The Process

Contractors bidding on Board construction/maintenance projects must be pre-qualified. Consideration is given to bonding ability, financial stability, depth of experience, references, on-site safety record, and proof of union affiliation (applies to projects less than \$1.5 million or additions less than 500 square feet). Issuing a market call to pre-qualify is periodically advertised in Daily Commercial News and two electronic bulletin boards (Merx and BiddinGo) to facilitate broader public access.

The lowest cost bid is accepted where quality, functional, safety, environmental and other requirements are met. Every effort is made to include input from the users in the development of specifications and the evaluation process. Copies of all bids received and detailed information regarding all recommended awards are available in the Purchasing and Distribution Services department.

Finance and Accountability Committee, Report No. 07, November 18, 2015

Chart 1: Facilities Contract Awards Provided for Information (over \$50,000 and up to \$250,000)

	User/Budget Holder School/Department	Products/Services Details	Ward	Recommended Supplier	Low Bid	Objections	No. of Bids Rec'd	Total Contract Amount	Projected Start/End Date of Contract	Customer Involvement	Funding Source
1	Facility Services	SX16-005Q Supply of Ceiling Tiles at Various TDSB Sites and Distribution Centre. Supply only of ceiling tiles for trades and stock replenishment as and when required.	N/A	Select Acoustic Supply Inc.	Yes	No	2	\$ 116,759	November 2015 / November 2018	Facility Services	School Operations Grant
2	Facility Services	Deer Park P.S. Emergency Asbestos abatement to facilitate reinsulating the existing duct in the pool area.	11	Abbot Environmental Ltd.	Yes	No	3	\$54,900	August 27, 2015/ September 4, 2015	Facility Services	Renewal
3	Facility Services	John Fisher PS. CN16-009T Cluster Column Repair and Window Replacement. Windows are old & leaking.	13	Dole Contracting Inc.	Yes	No	9	\$235,500	November 2015/ March 31, 2016	Facility Services	Renewal
4	Facility Services	St. Margaret's PS. CN16-025T Air Handling Unit Replacement. Replace existing AHU which is at the end of its life cycle.	22	Gorbern Mechanical	Yes	No	6	\$316,608	November 2015/ August 17, 2016	Facility Services	Renewal
5	Facility Services	Total Capital Planning Solution (TCPS) License and Support Renewal as mandated by the Ministry of Education. TCPS software is used by the Board to report the condition of buildings.	N/A	VFA Canada Corporation	N/A	N/A	Sole Source ¹	\$204,139	September 1, 2015/ August 31, 2016	Facility Services	School Operations Grant
6	Facility Services	Inspection of Electrical Devices, Annual Inspection of Electrical Systems and Equipment in TDSB facilities.	N/A	Electrical Safety Authority	N.A	N/A	Sole Source ²	\$225,000	January 2016/ December 31, 2016	Facility Services	School Operations Grant

1 TCPS software use mandated by the Ministry of Education

2 Sole Source as mandated by the Electricity Act 1998 (Ontario Regulation 164-99)

Chart 2: Facilities Contracts Requiring Finance and Accountability Committee Approval (over \$500,000 and up to \$1,000,000)

	User/Budget Holder School/Dept.	Products/Services Details	Ward	Recommended Supplier	Low Bid	Objections	No. of Bids Rec'd	Total Contract Amount	Projected Start/End Date of Contract	Customer Involvement	Funding Source
1		Central Toronto Academy - STM16-021T. Window Replacement Cluster Columns. Reinforcement of cluster columns is required based on the structural engineer's recommendation. As a result, windows adjacent to the cluster columns are replaced.	10	Clifford Restoration Ltd.	Yes	No	7	\$656,500	November 2015/ June 6, 2016		Proceeds of Disposition

Chart 3: Facilities Contracts Requiring Board Approval (over \$1,000,000 and Consulting Services over \$50,000)

	User/Budget Holder School/Department	Products/Services Details	Ward	Recommended Supplier	Low Bid	Objections	No. of Bids Rec'd	Total Contract Amount	Projected Start/End Date of Contract	Customer Involvement	Funding Source
1	Facility Services	STM16-019P Theatre Safety Consulting Services To establish vendor of record for the Inspections of stages in TDSB Secondary Schools	n/a	Novita Techne Limited	No ¹	Yes	4	\$250,000	November 2015/ October 2017	Facility Services	Renewal

1 Highest Ranked Vendor based on Evaluation Criteria

Chart 4: Summary of Select Facilities Contracts: (September 1, 2015 to Present)

Project Classification	Total Expenditures For this Report	Total Number of Projects for this Report	Total Number of Projects 2015/16 to date	Total 2015/16 Contract Awards Reported to Date	Total Number of Projects 2014/15	Total 2014/15 Contract Awards Reported
Boilers	\$0	0	0	\$0	11	\$4,855,654
Roofing	\$0	0	0	\$0	0	\$0
Building Automation Systems (BAS)	\$0	0	0	\$0	1	\$182,100
Heating Ventilation Air Conditioning (HVAC)	\$0	0	0	\$0	10	\$2,979,488
Swimming Pools	\$0	0	0	\$0	1	\$149,700
FDK related Design & Construction	\$0	0	0	\$118,800	7	\$2,796,780
Vehicles for Facility Svcs Use	\$0	0	0	\$0	0	\$797,402
Early Learning – EL4	\$0	0	0	\$0	13	\$3,193,644
TOTAL	\$0	0	0	\$118,800	43	\$14,954,768
Roofing – November 2013 Bulk Tendering for Roofing Supplies (4 separate tenders) and Roof Installations (1 consolidated tender)	N/A	N/A	NA	N/A	N/A	\$20,234,861

For the Board's decision see page 19.

Planning and Priorities Committee**Report No. 51, November 18, 2015**

TO Regular Meeting Date: November 18, 2015

MEETING A meeting of the Planning and Priorities Committee convened on Wednesday, October 21, 2015 from 7:02 p.m. to 12:03 a.m., Thursday, November 19, 2015, in Committee Room A, Main Floor, 5050 Yonge Street, Toronto, Ontario, with Robin Pilkey presiding.

ATTENDANCE The following members were present: Trustees Robin Pilkey (Chair), Jennifer Arp, Jerry Chadwick, Michael Ford, Chris Glover, Pamela Gough, Howard Kaplan, Shelley Laskin, Ausma Malik and Marit Stiles. Regrets were received from Trustee Sheila Cary-Meagher. Also present were Trustees Alexander Brown, Gerri Gershon, Ken Lister and Jennifer Story. Trustees Gershon and Kaplan participated by electronic means. Trustees Chadwick, M. Ford, and Lister participated for part of the meeting in person and for part by electronic means.

The Committee decided to report and recommend as follows:

Part A: Committee Recommendations

1. Receipt of Section 37 Funds From the City of Toronto to Fund Improvements at Deer Park Junior and Senior Public School [2663]

The Committee considered a staff report (see PPC:059A, page 1) presenting information on the use of section 37 funds from the City of Toronto.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS:**

- (a) That \$350,000 received from the City of Toronto under Section 37 of the *Planning Act* be used to partially fund the costs related to community-initiated improvements to the outdoor play spaces at Deer Park Junior and Senior Public School;

Planning and Priorities Committee, Report No. 51, November 18, 2015

- (b) That the Director be authorized to enter into a Community Use Agreement with the City of Toronto for a period of ten years with regard to the improvements to the outdoor play spaces at Deer Park Junior & Senior Public School.

2. City of Toronto Funded Improvements at East Education Office, 140 Borough Drive [2688]

The Committee considered a staff report (see PPC:059A, page 11) presenting information on a community use agreement with the City of Toronto.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee M. Ford, the Planning and Priorities Committee **RECOMMENDS**:

- (a) That the City of Toronto be authorized to undertake and fully fund improvements to the front lawn at the East Education Office located at 140 Borough Drive;
- (b) That the Director be authorized to enter into a community use agreement with the City of Toronto for a period of 20 years with regard to the improvements to the front lawn at the East Education Office.

3. Program Area Review for Leslieville Junior Public School [2678]

The Committee considered a staff report (see PPC:059A, page 17) presenting information following a program area review for Leslieville Junior Public School.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee M. Ford, the Planning and Priorities Committee **RECOMMENDS** that Leslieville Junior Public School remain a Junior Kindergarten to Grade 6 school.

Planning and Priorities Committee, Report No. 51, November 18, 2015

4. Program Area Review for the AY Jackson Secondary School Cluster of Schools: AY Jackson Secondary School, Arbor Glen Public School, Cliffwood Public School, Crethaven Public School, Cummer Valley Middle School, Finch Public School, Highland Junior High School, Hillmount Public School, Hollywood Public School, Lillian Public School, Pineway Public School, Steelesview Public School and Zion Heights Junior High School [2691]

The Committee considered a staff report (see PPC:059A, page 27) presenting information following a program area review for the AY Jackson Secondary School cluster of schools.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee Arp, the Planning and Priorities Committee **RECOMMENDS:**

- (a) That AY Jackson Secondary School be converted from a Grade 10 to 12 school to a Grade 9 to 12 school effective 1 September 2016;
- (b) That the existing Grade 10 to 12 secondary attendance area for AY Jackson Secondary School become a Grade 9 to 12 secondary attendance area;
- (c) That Highland Junior High School and Zion Heights Junior High School be converted from Grade 7 to 9 schools to Grade 6 to 8 schools effective 1 September 2016;
- (d) That the existing Grade 7 to 9 intermediate attendance area for Highland Junior High School and Zion Heights Junior School become a Grade 6 to 8 intermediate attendance area;
- (e) That Highland Junior High School and Zion Heights Junior High School be renamed as Highland Middle School and Zion Heights Middle School to reflect their new grade configurations;
- (f) That Arbor Glen Public School, Cliffwood Public School, Crethaven Public School, Hillmount Public School, Pineway Public School, and Steelesview Public School be converted from JK to Grade 6 schools to JK to Grade 5 schools effective 1 September 2016;
- (g) That the existing junior attendance areas for Arbor Glen Public School, Cliffwood Public School, Crethaven Public School, Hillmount Public School, Pineway Public School, and Steelesview Public School be changed effective 1 September 2016;
- (h) That the shared attendance area for Finch Public School and Steelesview Public School become exclusively Steelesview Public School with a pathway to Zion Heights Middle School and AY Jackson Secondary School effective 1 September 2016;
- (i) That the shared attendance area for Zion Heights Middle School and Cummer Valley Middle School become exclusively Zion Heights Middle School with a pathway to AY Jackson Secondary School effective 1 September 2016;

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- (j) That for Parts (h) and (i) above, all students who currently reside in the attendance areas for these schools and attend these schools as of the end of the 2015-2016 school year and their siblings be grandparented and be allowed to remain at the current schools until they graduate.

5. Program Area Review for the Georges Vanier Secondary School Cluster of Schools: Brian Public School, Cliffwood Public School, Crestview Public School, Dallington Public School, Don Valley Junior High School, Forest Manor Public School, George S. Henry Academy, Georges Vanier Secondary School, Kingslake Public School, Lescon Public School, Seneca Hill Public School, Woodbine Junior High School [2690] (as amended by the Board, see page 6)

The Committee considered a staff report (see PPC:059A, page 57) presenting information following a program area review for the Georges Vanier Secondary School cluster of schools.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee Glover, the Planning and Priorities Committee **RECOMMENDS** (as amended by the Board, see page 6):

- (a) That Georges Vanier Secondary School be converted from a Grade 10 to 12 school to a Grade 9 to 12 school effective 1 September 2016;
- (b) That the existing Grade 10 to 12 secondary attendance area for Georges Vanier Secondary School become a Grade 9 to 12 secondary attendance area;
- (c) That Don Valley Junior High School and Woodbine Junior High School be converted from Grade 7 to 9 schools to Grade 7 to 8 schools effective 1 September 2016; and converted to Grade 6 to 8 effective 1 September 2017;
- (d) That the existing Grade 7 to 9 intermediate attendance area for Don Valley Junior High School and Woodbine Junior High School become a Grade 6 to 8 intermediate attendance area effective 1 September 2017;
- (e) That Don Valley Junior High School and Woodbine Junior High School be renamed as Don Valley Middle School and Woodbine Middle School to reflect their new grade configurations;
- (f) That Crestview Public School, Dallington Public School, Forest Manor Public School, Kingslake Public School, Lescon Public School and Seneca Hill Public School be converted from JK to Grade 6 schools to JK to Grade 5 schools effective 1 September 2017;
- (g) That the existing junior attendance areas for Crestview Public School, Dallington Public School, Forest Manor Public School, Kingslake Public School, Lescon Public School and Seneca Hill Public School be changed effective 1 September 2017;

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- (h) That the junior attendance area for Dallington Public School located west of Leslie Street become part of the Lescon Public School junior attendance area with the pathway to Don Valley Middle School and Georges Vanier Secondary School;
- (i) That for Part (h), all students who currently reside in the affected attendance areas and attend Dallington Public School as of the end of the 2015-16 school year and their siblings be grandparented and be allowed to remain at the current school until they graduate.

6. Program Area Review for the Sir John A Macdonald Collegiate Institute Cluster of Schools: Brian Public School, Cherokee Public School, L'Amoreaux Collegiate Institute, Muirhead Public School, Pleasant View Junior High School and Sir John A Macdonald Collegiate Institute [2689]

The Committee considered a staff report (see PPC:059A, page 77) presenting information following a program area review for the Sir John A Macdonald Collegiate Institute cluster of schools.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS:**

- (a) That the existing Grade 9 to 12 secondary attendance area for Sir John A. Macdonald Collegiate Institute be changed to include Pleasant View Junior High School effective 1 September 2017;
- (b) That Pleasant View Junior High School be converted from a Grade 7 to 9 school to a Grade 6 to 8 school effective 1 September 2017;
- (c) That the existing Grade 7 to 9 intermediate attendance area for Pleasant View Junior High School become a Grade 6 to 8 intermediate attendance area effective 1 September 2017;
- (d) That Pleasant View Junior High School be renamed as Pleasant View Middle School to reflect its new grade configurations;
- (e) That Brian Public School, Cherokee Public School, Ernest PS and Muirhead Public School be converted from JK to Grade 6 schools to JK to Grade 5 schools effective 1 September 2017;
- (f) That the existing junior attendance areas for Brian Public School, Cherokee Public School, Ernest Public School and Muirhead Public School be changed effective 1 September 2016;
- (g) That for Part (f), all students who currently reside in the attendance areas for these schools and their siblings be grandparented and allowed to remain at the current schools until they graduate provided they attend the schools as of the end of the 2015-2016 school year.

7. Requests for School Capital Facilities: TDSB Championship Field Program, Municipal Tax Implications [2696]

The Committee considered a staff report (see PPC:059D, attached) presenting information on a request for a school capital facility property tax exemption.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|---|--|
| <input type="checkbox"/> Concur | <input type="checkbox"/> Refer |
| <input checked="" type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee Gough, amended by Trustee Glover, the Planning and Priorities Committee **RECOMMENDS:**

- (a) That the question of school capital facilities pursuant the *City of Toronto Act* be referred to staff for further review and study, including consultations with the City of Toronto, the Municipal Property Assessment Corporation and other operators, to investigate the legislative requirements and appropriate policy guidelines for school capital facilities, in general and report back to the Planning and Priorities Committee through the City-School Boards Strategy Workgroup;
- (b) That the Director present a status update on the matter at the Board meeting on December 9, 2015.

At the Committee meeting, Part (b) was added on amendment of Trustee Glover.

Also at the Committee meeting, the following amendment moved by Trustee Gough, was defeated.

That the update include a plan that protects both the interests of the Board and that provides options that support the partnership to the greatest extent possible.

8. Engagement of an Executive Search Firm [2695]

The Committee considered a staff report (see PPC:059A, page 95) presenting information on the process of engaging an executive search firm.

Committee's recommendation or action regarding the staff recommendation:

- | | |
|------------------------------------|--|
| <input type="checkbox"/> Concur | <input checked="" type="checkbox"/> Refer |
| <input type="checkbox"/> Amend | <input type="checkbox"/> Postpone consideration (defer) |
| <input type="checkbox"/> Disregard | <input type="checkbox"/> Other (Referred Without Recommendation) |

On motion of Trustee Pilkey, the Planning and Priorities Committee **RECOMMENDS** that the Director present further information at the Board meeting on **November 25**, 2015.

Staff had recommended that the report be received.

Planning and Priorities Committee, Report No. 51, November 18, 2015

9. City-School Boards Advisory Committee Update [2677]

The Committee considered Report No. 04 of the City-School Boards Strategy Workgroup dated November 4, 2015 (see PPC:059A, page 97).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the report be received.

10. TDSB Championship Field Program: Municipal Tax Implications

The Committee considered Report No. 04 of the City-School Boards Strategy Workgroup dated November 4, 2015 (see PPC:059A, page 97).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the Director present a report at the next meeting of the Planning and Priorities Committee, on the implications of a school capital facility property tax exemption for the sports facilities at Monarch Park Collegiate Institute and Central Technical School.

11. Safety in School Zones

The Committee considered Report No. 04 of the City-School Boards Strategy Workgroup dated November 4, 2015 (see PPC:059A, page 97).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the matter of safety in school zones be referred to the City-School Boards Advisory Committee.

12. 2016-17 Proposed Dates for Budget Community Information Sessions and Ward Forums

The Committee considered Report No. 64 of the Budget Committee dated October 26, 2015 (see PPC:059A, page 123).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the report be received.

13. Ministry of Education 2016-17 Education Funding Consultation Guide [2671]

The Committee considered Report No. 64 of the Budget Committee dated October 26, 2015 (see PPC:059A, page 123).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the report be received.

Planning and Priorities Committee, Report No. 51, November 18, 2015

14. 2016-17 Operating Budget Development Timeline and Tracking Sheet: Update [2672]

The Committee considered Report No. 64 of the Budget Committee dated October 26, 2015 (see PPC:059A, page 123).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the updated 2016-17 operating budget development timeline and tracking sheet, as presented in the report, be approved.

15. 2016-17 Budget Process Communications Support and Tactics [2673]

The Committee considered Report No. 64 of the Budget Committee dated October 26, 2015 (see PPC:059A, page 123).

On motion of Trustee Laskin, the Planning and Priorities Committee **RECOMMENDS** that the report be received.

16. Establishment of a French Middle Immersion Program at Bloordale Middle School

On motion of Trustee Glover, and amended by Trustee Glover, the Planning and Priorities Committee **RECOMMENDS** that the following be referred to staff for a report back to the Planning and Priorities Committee in the January 2016 cycle of meetings.

Whereas, students from the Millwood Junior School French Immersion program are travelling for over an hour to attend Hilltop Middle school, a distance of twelve kilometers; and

Whereas, Millwood Junior School parents have been advocating for a middle school French immersion program at Bloordale Middle School, which is in walking distance for many Millwood Junior School students; and

Whereas, Millwood Junior School parents have begun to send their children to a middle school French immersion program in Mississauga, which is closer to their homes, resulting in the loss of fifteen students in the 2014-15 school year and a loss of \$150,000 in gross revenue for the Toronto District School Board;

Therefore, be it resolved:

That a French middle immersion program at Bloordale Middle School be established in September 2016.

On amendment of Trustee Glover “a Program Area Review Team be established to consider the feasibility of establishing” was deleted before “a French middle immersion program” and “be established” was added after “Bloordale Middle School”.

At the Committee meeting, a motion of Trustee Glover to refer the matter to the Board was defeated.

Part B: Information Only

17. Delegations

The following oral delegations were heard in accordance with the Board's procedure for hearing delegations:

re Item 8., Program Area Review for the AY Jackson Secondary School Cluster of Schools: AY Jackson Secondary School, Arbor Glen Public School, Cliffwood Public School, Cresthaven Public School, Cummer Valley Middle School, Finch Public School, Highland Junior High School, Hillmount Public School, Hollywood Public School, Lillian Public School, Pineway Public School, Steelesview Public School and Zion Heights Junior High School [2691]

- Marsha Duncan and Sevelina Kolarova, Pineway Childcare Learning Centre
- Wendy Huang, School Council, Highland Junior High School

re Item 9., Program Area Review for the Georges Vanier Secondary School Cluster of Schools: Brian Public School, Cliffwood Public School, Crestview Public School, Dallington Public School, Don Valley Junior High School, Forest Manor Public School, George S. Henry Academy, Georges Vanier Secondary School, Kingslake Public School, Lescon Public School, Seneca Hill Public School, Woodbine Junior High School [2690]

- Nicole Rahaman, Seneca Hill Public School, Parent Council on behalf of Co-Chair Riaz Rahaman
- Nellemarie Hyde and Aretha Phillips, Brian Public School Council
- Bogdan Satmarean,

re Item 10., Program Area Review for the Sir John A Macdonald Collegiate Institute Cluster of Schools: Brian Public School, Cherokee Public School, L'Amoreaux Collegiate Institute, Muirhead Public School, Pleasant View Junior High School and Sir John A Macdonald Collegiate Institute [2689]

- Dr. Sonja Jevric, Parent

re Item 12., Requests for School Capital Facilities: TDSB Championship Field Program, Municipal Tax Implications [2696]

- Matthew Raizenne, Razor Management Inc.
- Valentyn Lyevyentsov, President Central Technical School, Student Council
- Neil Stephenson, Friends and Neighbours of Central Technical School (FANCTS)

re Opposition to recommended closure of Sir Robert L. Borden Business and Technical Institute

Planning and Priorities Committee, Report No. 51, November 18, 2015

- Randy Reid, Parent

18. Report No. 04 of the City-School Boards Strategy Workgroup

On motion of Trustee Glover, the Committee received the Report No. 04 of the City-School Boards Strategy Workgroup (November 4, 2015) (see PPC:059A, page 97) including:

- Minutes From Meeting of the City School Boards Advisory Committee, September 25, 2015

19. Report No. 64 of the Budget Committee

On motion of Trustee Laskin, the Committee received the Report No. 64 of the Budget Committee (October 26, 2015) (see PPC:059A, page 123) including:

- Update on 14-15 Projection

<u>Part C: Ongoing Matters</u>

20. Postponed Matters

On motion of Trustee Arp, the Committee postponed consideration of the following to the next meeting:

- Proceeds of Disposition for School Renewal (Trustee Kaplan, on behalf of Trustee Lister)

SUBMITTED BY Robin Pilkey
 Chair of the Committee

TORONTO DISTRICT SCHOOL BOARD**REQUESTS FOR SCHOOL CAPITAL FACILITIES
TDSB CHAMPIONSHIP FIELD PROGRAM, MUNICIPAL TAX IMPLICATIONS****TO** Planning and Priorities Committee 18 November 2015

RECOMMENDATION **IT IS RECOMMENDED** that the question of “school capital facilities” pursuant the *City of Toronto Act* be referred to staff for further review and study, including consultations with the City of Toronto, MPAC, and other operators, to investigate the legislative requirements and appropriate policy guidelines for “school capital facilities” in general; and report back to the Planning and Priorities Committee through the City-School Boards Strategy Workgroup.

**STRATEGIC
DIRECTION**

- Form strong and effective relationships and partnerships.

BACKGROUND

By letters dated 4 November 2015, Razor Management Inc. /Raizenne Inc. (RMI) and Field Recreation Inc. (FRI) made formal requests for a special meeting of the TDSB Trustees (the “Board”) to be convened. The requests were “for purposes of considering and approving a School Capital Facility (SCF) property tax exemption for the sports facilities” at the TDSB school sites which are the subject of their respective agreements with TDSB. The letters are attached as Appendices A and B respectfully. In the case of RMI, the school sites are Monarch Park Collegiate and Central Technical School. In the case of FRI, the school site is Lakeshore Collegiate Institute. (All three sites are referenced collectively as the “school sites”).

At its regularly scheduled meeting of 4 November 2015, the City-School Boards Strategy Workgroup (Workgroup) of the Toronto District School Board (TDSB) considered the Agenda item: TDSB Championship Field Program, Municipal Tax Implications.

On motion, the Workgroup recommended that staff present a report at the next meeting of the Planning and Priorities Committee.

FACTS

Since 2010, TDSB has entered into agreements with FRI and RMI for the installation, operation and maintenance of an artificial turf

field, a removable air-supported structure, and related facilities and structures, on TDSB school sites across the City of Toronto (the “City”).

The Lakeshore facilities have been in operation since 2012. The Monarch Park facilities have been in operation since 2013. The Central Tech facilities are currently under construction.

Relevant Provisions of the Agreements

(i) The RMI Agreements

There are substantial similarities between the two RMI agreements respecting the facilities at Monarch Park and Central Tech, respectively. In both cases, RMI essentially proposes to install an artificial turf field, a removable air-supported structure and a running track on TDSB Lands. In both cases the agreements contain an identical clause 14.9, which provides as follows:

- 14.9 Licensor and Licensee Relationship
- No provision of this Licence is intended to nor creates a joint venture or partnership or any other similar relationship between the Licensor and the Licensee, it being agreed that the only relationship created by this Licence is that of licensor and licensee.

In both cases the agreements contain an identical clause 3.4, which provides in part as follows:

- 3.4 Payment of Taxes
- (a) The Licensee [RMI] shall pay all Taxes to the applicable taxing authority as and when the same fall due and shall, upon request, forthwith provide evidence thereof to the Licensor.
- (c) The Licensee shall have the right and privilege of appealing assessments or applying for a reduction of any Taxes, provided that it shall first either pay the

Taxes under protest or, if such payment is not required by law or can be withheld without subjecting the Premises or the TDSB Lands to sale or forfeiture proceedings or without resulting in a default under or breach of any Security Agreement, provide the Licensor with evidence reasonably satisfactory to the Licensor of the Licensee's ability to pay the amount of the Taxes, together with any interest, penalties or other charges payable in connection therewith...

- (e) The Licensor shall give to the Licensee promptly copies of all tax bills, assessment notices and the like received by it and pertaining to the Premises.

In both cases, the term "Taxes" is expressly defined to mean "all taxes, levies, charges, school improvement rates and assessments whatsoever **(including municipal and other property taxes) assessed or charged against the Premises** or any part thereof **or against the Licensor on account of its ownership of the Premises, or against the Licensee relating to its use and occupancy of the Premises**, by any lawful taxing authority including any amounts assessed or charged in substitution for or in lieu of any such taxes..." [emphasis added].

In both cases, the agreements contain specific use provisions. The commonalities between the two agreements are that: (i) in both cases, the premises "shall be used and occupied by the Licensee only for the following purposes", namely, "to construct, install and operate the Premises for soccer, football and other field sports", with the addition of "running track sports" in the case of Central Tech; and (ii) in both cases, the Licensee is authorized "to carry on uses of the Premises which are ancillary to the uses" set out above, with the additional language "including merchandising, food and beverage, advertising and sponsorship" in the case of Central Tech. Both use clauses then include the following provisos:

"...in all cases in accordance with and subject to the terms of this Licence. The Premises shall not be used for any other purposes without the prior written consent of the Licensor, such consent not to

be unreasonably withheld. In determining whether to give its consent or not, the Licensor shall be entitled to take into account the nature of the Premises and the impact that the proposed use may have on the School and the surrounding neighbourhood.”

In both cases, the facilities to be provided and operated by RMI are required to be available for exclusive school use by TDSB at certain specified times; for use by RMI at other times; and for community use during the remaining periods. More specifically, in the case of Monarch Park, the facilities are to be available for exclusive school use without charge on all school days from 7am to 5pm when the dome is in place and from 7am to 6pm when it is not in place, plus an additional ten hours during the Licensee’s hours of exclusive use during the school year (i.e. on weekends and weekday evenings); for the Licensee’s use from 5pm to midnight on school days when the dome is in place, from 6pm to midnight on all other school days, and from 7am to midnight on all non-school days; and for community use without charge at other specified times, including at least 5% of the Licensee’s hours of use when the dome is not in place and at all times when the dome is not in place and no permits have been issued by the Licensee to third parties.

In the case of Central Tech, the periods in which the facilities are to be available for use by the TDSB, the Licensee and community uses, respectively, are governed by more detailed and specific provisions contained in the Minutes of Settlement, in addition to those contained in the licensing agreement itself. Collectively, these provisions allow for more frequent community use than those contained in the Monarch Park agreement, particularly on holidays and during the summer, and also provide for an annual program to be run by a neighbourhood agency such as St. Stephen’s Community House.

Neither agreement contains any express or implied references to section 252(12) of the *City of Toronto Act, 2001* (“COTA”), which is referred to below. More specifically, none of the agreements contemplate: (i) the designation of the facilities to be established by RMI as “school capital facilities” pursuant to that

section; or (ii) an exemption from taxes for municipal and school purposes in respect of all or part of the lands on which the facilities are to be established, nor whether the lands are or might be eligible for a property tax exemption.

At the same time, however, it should also be noted that the Central Tech facilities were the subject of protracted settlement discussions involving RMI, TDSB, the City and several residents' associations, in respect of the minor variance approval required for the establishment of the facilities at that location. Those negotiations culminated in Minutes of Settlement which were executed by the parties in or about March, 2015 (subsequently revised in August, 2015). That settlement was ultimately incorporated as part of the approval of the minor variance by the Ontario Municipal Board in a decision rendered on March 23, 2015 and an Order subsequently issued on September 22, 2015.

It appears that, concurrent with those settlement negotiations, City officials had been in contact with MPAC in regard to the issue of property tax liability for the facilities, at least with respect to Monarch Park. On or about February 17, 2015 MPAC apparently contacted MRI, advising that MPAC had been contacted by the City of Toronto Revenue Department to review the tax status of the new structures, and requesting an inspection of that facility. The precise nature and extent of any subsequent discussions is unclear, and to what extent they related to the other school sites, as is the nature and extent of any discussions between MPAC and RMI during the period prior to finalization of the Minutes of Settlement.

(ii) The FRI Agreements

The agreements with FRI differ from the RMI agreements in two significant respects. Unlike the RMI agreements, which are described as licence agreements, the agreements with FRI are described as leases. Section 14.10 of the lease agreements provide as follows:

- 14.10 Landlord and Tenant Relationship

- No provision of this Lease is intended to nor creates a joint venture or partnership or any other similar relationship between the Landlord and the Tenant, it being agreed that the only relationship created by this Lease is that of landlord and tenant.

The FRI agreements contain similar provisions respecting use as the RMI agreements but, in contrast to the RMI agreements, the FRI agreement impose additional restrictions on FRI's use of the premises. FRI covenants that the artificial turf field and related improvements will only be used for "Community Sports Purposes". "Community Sports Purposes" is defined in the related Field Use Licence Agreement as:

- - non-professional recreational multi-sport activities undertaken by any Person, which shall be deemed to include, but not be limited to, all use by the Ontario Soccer Association, Canadian Soccer Association, community sports/recreation associations or clubs, City of Toronto Parks & Recreation programs, and the Olympics or Pan-American Games, but shall not include School Purposes;

In this respect, it should be noted that the Field Use Licence Agreement contains a recital stating that the Federal Government and the Province of Ontario have required that the playing field be used for Community Sports Purposes for a minimum of 512 hours per year.

In addition, FRI acknowledges that the City is entitled to the use the artificial turf field without cost during July and August and that the TDSB is entitled to use the artificial turf field and football field without charge for school purposes during prescribed times on school days.

Like the agreements between TDSB and RMI, the agreements with FRI require FRI to pay all taxes. The term "taxes" is defined as:

- "all taxes, levies, charges, school improvement rates and assessments whatsoever (**including municipal and other property taxes**) assessed or charged **against the Demised Premises** or any part

thereof **or against the Landlord on account of its ownership of the Premises, or against the Tenant relating to its use and occupancy of the Demised Premises**, by any lawful taxing authority including any amounts assessed or charged in substitution for or in lieu of any such taxes...”.
[emphasis added]

Like the RMI agreements, the FRI agreements contain no explicit or implicit references to section 252(12) of COTA, nor any mention of the Lakeshore facilities being “school capital facilities”, nor any indication that the facilities should be exempt from taxation.

STATUTORY ENVIRONMENT

Legislative Framework

MPAC has recently confirmed with staff that the TDSB’s authority to grant the requested exemptions, if it exists, must be found in section 252 of COTA, which provides, in part, as follows:

- 252. (1) This section applies to an agreement entered into by the City for the provision of municipal capital facilities by any person, including another municipality, if the agreement provides for one or more of the following:
 - 1. Lease payments in foreign currencies as provided for in subsection (2).
 - 2. Assistance as provided for in subsection (3).
 - 3. Tax exemptions as provided for in subsection (6).
 - 4. Development charges exemptions as provided for in subsection (7).
 - ...
- (3) Despite section 82, the City may provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to

provide facilities under this section and such assistance may include,

- (a) giving or lending money and charging interest;
- (b) giving, lending, leasing or selling property;
- (c) guaranteeing borrowing; and
- (d) providing the services of employees of the City.
- ...

- *(12) Despite any Act, a school board that exercises jurisdiction in all or part of the City and that is authorized to enter into agreements for the provision of school capital facilities by any person may, by resolution, exempt from all or part of the taxes levied for municipal and school purposes land or a portion of the land on which the school capital facilities are or will be located in the City and that,*

- *(a) is the subject of the agreement;*
- *(b) is owned or leased by a person who has entered an agreement to provide school capital facilities; and*
- *(c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board.*

- ...

- *(16) A by-law passed under subsection (6) or (7) or a resolution passed under subsection (12) or (13) shall specify an effective date which shall be the date of passing of the by-law or resolution or a later date.*

- *(17) Section 323 applies with necessary modifications to allow for a cancellation, reduction or refund of taxes that are no longer payable as a result of a by-law or resolution passed under this section.*

- *(18) Until the assessment roll has been revised, the city treasurer shall strike taxes from the tax roll that are exempted by reason of a by-law or resolution passed under this section. [emphasis added]*

School Capital Facilities – General Considerations

TDSB is obligated to satisfy itself that it has the legal authority to designate the RMI and FRI facilities as “school capital facilities”

and to grant exemptions from property taxes on that basis, and it must then consider whether and to what extent it would be appropriate to exercise its discretion to do so. Like any discretionary authority, that decision is one which must be made having regard only to the relevant factual, legal and policy considerations.

In particular, the TDSB would benefit from understanding the policy guidelines that the City of Toronto would use to consider similar facilities as “municipal capital facilities” under the same section of the *City of Toronto Act*. At the time of writing this report, the City of Toronto has not responded to TDSB’s request for the City of Toronto position on the RMI/FRI requests for “school capital facility” designations.

Further, the Municipal Property Assessment Corporation (MPAC) has stated that it respectfully disagrees with RMI’s position that MPAC “explicitly advised that the Board [TDSB] should be approached to exercise its statutory authority and grant the SCF property tax exemption.”

School Capital Facilities – Legislative Requirements

Before considering the legitimate policy grounds that may exist for or against the requested “school capital facility” designations, the TDSB must first consider its statutory constraints under legislative requirements.

The starting point for considering the scope and applicability of section 252 of COTA is the fundamental principle that municipal corporations and school boards are entirely creatures of statute.¹ The scope of TDSB’s powers must be considered in light of its existence solely as a creature of statute, with powers either expressly conferred or arising by implication, and with careful consideration being given to the statutory conditions or requirements which must be met in order to exercise a given

¹ School board powers are limited to those which are expressly conferred on them by statute or which arise by necessary implication from an express power. Where an express power has been granted pursuant to a statute or regulation, careful consideration must also be given to the nature and extent of the limitations on the scope of that power, as well as the statutory conditions or requirements which must be met in order to exercise the power.

power.

In the specific context of section 252 of COTA, the statutory conditions or requirements which must be met in order for TDSB to enter into a “school capital facilities” agreement, and to confer a full or partial exemption from property taxes pursuant to such an agreement, are prescribed by section 252(12), and in particular in each case:

- is the facility **owned or leased** by a person who has entered an agreement to provide “school capital facilities”?
- is the facility entirely occupied and used or intended for use for a service or function that may be provided by a school board?

Among other things, Staff need to reconcile the findings that were made by the three-judge panel of the Ontario Divisional Court in *Toronto District School Board v. Toronto (City) (2014)* respecting the very facilities which are the subject of the agreement between TDSB and RMI for the Central Tech site (and with reference to Monarch Park). A copy of the court decision is attached as Appendix C. The Court held that a commercial recreational use of the type proposed is not a natural or normal use of school property. Nor was the use considered incidental, given the commercial recreational use would occupy much of the time the facility is in operation.

NEXT STEPS

The requests raise a number of significant concerns given the statutory environment.

Staff recommend that the question of “school capital facilities” pursuant the *City of Toronto Act* be referred to staff for further review and study, including consultations with the City of Toronto, and MPAC, and other operators, to investigate the legislative requirements and appropriate policy guidelines for “school capital facilities” in general; and report back to the Planning and Priorities Committee through the City-School Board Strategy Workgroup.

RESOURCES

Staff time to review and study of this matter, including

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consultations with the City of Toronto, and MPAC, operators, and legal resources where required.

- APPENDICES**
- Appendix A: Letter of Request from Walker WestLongo, dated 4 November 2015
 - Appendix B: Letter of Request from Field Recreation Inc., dated 4 November 2015
 - Appendix C: *Toronto District School Board v. Toronto (City)*, (Ontario Divisional Court) (2014)

FROM Carla Kisko, Associate Director, Finance and Operations at carla.kisko@tdsb.on.ca or at 416-397-3188.

Jeff Latto, Senior Manager, Major Capital Projects and Building Partnerships, at jeff.latto@tdsb.on.ca or at 416-395-4665.



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November 4, 2015

Via Email

Mr. Colin Grant
Special Counsel
Toronto District School Board

Dear Sir:

**Re: Request for School Capital Facilities Property Tax Exemption
Monarch Park Stadium
Central Technical School**

As you know, we represent Razor Management Inc. (RMI), with respect to the above-identified properties. Further to our telephone discussion of yesterday, please consider this letter as the formal request of RMI for a special meeting of the TDSB Trustees (Board) to be convened for purposes of considering and approving a School Capital Facility (SCF) property tax exemption for the sports facilities at the above-identified schools.

As we have discussed, the TDSB has clear statutory authority to enact a property tax exemption. This authority is set out in section 252(12) of the *City of Toronto Act* (COTA). Section 252(12) states that the Board may exempt from taxation, by resolution, from property taxes land or a portion of land on which a SCF is located that is:

- a) subject to an agreement;
- b) owned or leased by a person who has entered into an agreement to provide SCF; and
- c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board.

The arrangements with RMI are for services or functions that may be provided by a school board and are the subject of an agreement wherein RMI has agreed to provide facilities. Therefore, the requirements are met.

As I have mentioned, the Monarch Park Stadium Facility will be the subject of an omit assessment to be issued by the Municipal Property Assessment Corporation (MPAC) imminently. The omit assessment is retroactive to January 1, 2013 and will result in significant taxes (approximately \$600,000) being payable by RMI within 60 days and \$200,000+ for each facility moving forward on an annual basis. MPAC and the City have advised that an omit assessment will also be issued in respect of Central Tech, at the appropriate time, and also for

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- 2 -

any other sports facility arrangements the TDSB has with third parties, including Nustadia Recreation at Lakeshore Collegiate. MPAC and the City have also advised that they will not consider a payment plan for any omit assessment.

These omit assessments are extremely punitive and create a situation wherein either the third party operators may be forced to terminate their arrangements with the TDSB because of prohibitive operating costs (taxes) or, alternatively, significantly increase user costs for the local community in which these facilities are located. It is suggested that this was not the intended result when the Licence Agreements were entered into.

As discussed, both MPAC and the City of Toronto have explicitly advised that the Board should be approached to exercise its statutory authority and grant the SCF property tax exemption. The City of Toronto has passed similar exemptions at recreation facilities where there is deemed to be community benefit. Both Lamport Stadium and the new Raptors training facility were granted Municipal Capital Facility exemptions for the City's private operator Maple Leaf Sports and Entertainment. In addition, we have identified various other similar facilities within the City of Toronto that have not been assessed by MPAC or received an exemption from the City itself. Both MPAC and City of Toronto have refused to comment on these facilities. We are asking the Board to create a level playing field across the City of Toronto, where City facilities and TDSB facilities are treated equally.

While we appreciate this request is made on short notice, time is of the essence given the imminent issuance of the omit assessment for Monarch Park Stadium and the pending omit assessments for Central Tech and Nustadia Recreation at Lakeshore Collegiate and we are asking the Board to pass the necessary resolution by Friday, November 13, 2015.

We would be pleased to provide whatever support or assistance the Board requires in terms of bringing this request forward to a special meeting of the Board and thank Board staff for its time and consideration.

Yours very truly,

Walker West Longo LLP



Stephen Longo
SLL/na

cc. Carla Kisko
Jeff Latto
Donna Quan
Matthew Raizenne

Field Recreation Inc.

Via Email

Mr. Colin Grant
Special Counsel
Toronto District School Board

Dear Sir:

**Re: Request for School Capital Facilities Property Tax Exemption
Field Recreation Inc. – Lakeshore Collegiate Institute**

Please consider this letter as the formal request of Field Recreation Inc. (FRI) for a special meeting of the TDSB Trustees (Board) to be convened for purposes of considering and approving a School Capital Facility (SCF) property tax exemption for the sports facility at the above-identified school.

TDSB has clear statutory authority to enact a property tax exemption. This authority is set out in section 252(12) of the *City of Toronto Act* (COTA). Section 252(12) states that the Board may exempt from taxation, by resolution, from property taxes land or a portion of land on which a SCF is located that is:

- a) subject to an agreement;
- b) owned or leased by a person who has entered into an agreement to provide SCF; and
- c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board.

The arrangements with FRI are for services or functions that may be provided by a school board and are the subject of an agreement wherein FRI has agreed to provide facilities and has been acting in compliance since the fall of 2012. Therefore, the requirements are met.

Any Municipal Land Tax assessment would destroy the business case for the community partnership, and create a situation wherein either the operator may be forced to terminate our arrangements with the TDSB because of prohibitive operating costs (taxes) or, alternatively, significantly increase user costs for the local community in which these facilities are located. It is suggested that this was not the intended result when the Lease Agreement was entered into.

We are asking the Board to create a level playing field across the City of Toronto, where City facilities and TDSB facilities are treated equally. In consideration for the situation at Monarch Park, we are asking the Board to pass the necessary resolution by Friday, November 13, 2015.

We would be pleased to provide whatever support or assistance the Board requires in terms of bringing this request forward to a special meeting of the Board and thank Board staff for its time and consideration.

Yours very truly,

Ben Sproule, Field Recreation Inc.

APPENDIX "C"

CITATION: Toronto District School Board v. City of Toronto, 2014 ONSC 5494
 DIVISIONAL COURT FILE NO.: 299/14
 DATE: 20140930

ONTARIO
 SUPERIOR COURT OF JUSTICE
 DIVISIONAL COURT

THEN, ASTON AND SWINTON JJ.

B E T W E E N:

TORONTO DISTRICT SCHOOL BOARD

Applicant (Appellant)

- and -

THE CITY OF TORONTO

Respondent
 (Respondent on Appeal)

-and-

HARBORD VILLAGE RESIDENTS
 ASSOCIATION

Intervenor

*Gordon Petch and Zaid Sayeed, for the
 Applicant (Appellant)*

*Kristen Franz and Nicholas Rolfe, for the
 Respondent (Respondent on Appeal)*

*Tim Gleason and Sean Dewart, for the
 Intervenor*

HEARD at TORONTO: August 22,
 2014

Swinton J.:

[1] The Toronto District School Board ("the Board") appeals from the decision of Corbett J. ("the application judge") dated June 13, 2014, in which he dismissed the Board's appeal from a

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decision of the City of Toronto's Chief Building Official ("CBO"). The CBO had determined that an exemption found in s. 11(1)2 of *City of Toronto By-law 438-86* ("the By-law") did not permit a proposed use of one of the Board's secondary schools whereby a private company would refurbish and operate a sports recreational facility on the school property and share the facility with the school. The application judge held that the decision of the CBO was reasonable.

[2] At issue in this appeal is the proper interpretation of the exemption in the By-law and its application to the facts in evidence. Although I do not agree with the interpretation of the By-law given by the application judge, I would nevertheless dismiss the appeal, as the decision that the exemption does not apply to the Board's proposal is amply supported by the evidence.

Factual Background

[3] In September 2013, the Board submitted an application to the CBO for Preliminary Project Review ("PPR") of a proposed sports facility to be located on the property of Central Technical School ("the School"). The application was submitted on behalf of the Board by the principal of Razor Management Inc. ("RMI"), a private company.

[4] The Board intends to enter into a 20 year agreement with RMI whereby RMI will remediate the sports field of the School through decontamination of polluted ground, installation of artificial turf on the playing field, resurfacing of the track, installation of an inflatable dome (to be inflated from November to April), and construction of a clubhouse containing change rooms, washrooms and office space. RMI will maintain and manage the facility without cost to the Board.

[5] The School will have exclusive use of the facilities from 7 AM to 5 or 6 PM on school days during the school year. RMI will have the use of the facilities from 5 or 6 PM to midnight on school days and all day on school holidays, weekends and during the summer months. RMI plans to charge a fee to individuals and groups who wish to use the sports field for activities such as adult and children's soccer, football and frisbee. According to the evidence, the School will have use of the facilities approximately 30% of the time and RMI 70% of the time.

[6] The area in which the School is located is zoned R4. Along with residential uses, public schools are a permitted use. Section 11(1)2 of the By-law contains a "permissive exception" applying to school board lands that allows the Toronto District School Board and the Toronto Catholic District School Board to further develop land owned by them under certain conditions without the need to comply with other requirements of the By-law relating to matters such as height, massing, setbacks and parking. The exemption states:

Notwithstanding anything hereinbefore contained, none of the provisions of this by-law or of any restrictive by-law applies: (1997-0422)

2. to any land, building or structure that, on June 16, 1986, was owned by the Board of Education for the City of Toronto or the Metropolitan Separate School Board as long as the land, building or structure is used only for teaching or instructional purposes, including purposes accessory thereto, provided the

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land, building or structure, and any addition thereto, is or was originally constructed for these purposes (425-93) [emphasis added] ...

[7] The By-law also defines "accessory" as

Where used to describe a use, building or structure, means that the use, building or structure, is:

(i) naturally and normally incidental, subordinate in purpose or floor area, or both, and exclusively devoted to a principal use, building or structure; and (1995-0190)

.....

[8] In a decision dated September 13, 2013, a Zoning Examiner determined that the Proposal did not satisfy the requirement that the proposed use be "only for teaching or instructional purposes", nor was it accessory to those purposes, given that the proposed use was a private recreational facility. The decision stated,

The proposed air supported structure over the existing playing field and new permanent building, intended for private use after school hours, will not be solely dedicated to educational purposes.

[9] The Board then sought approval for a minor variance from the Committee of Adjustment, which was refused in April 2014. That decision is under appeal to the Ontario Municipal Board.

[10] In the meantime, the Board commenced proceedings in the Superior Court of Justice in February 2014, seeking a declaration that the exemption in the By-law applied to the Proposal. In materials filed for the court proceeding, Mario Angelucci, Director and Deputy Chief Building Officer for the City of Toronto, Toronto and East York District, filed an affidavit dated April 28, 2014 stating that he had reviewed the Proposal, and he confirmed the decision of the Zoning Examiner.

The Decision of the Application Judge

[11] Although the court proceeding commenced as an application for a declaration, the application judge characterized the proceeding as an appeal from the CBO under s. 25 of the *Building Code Act, 1992*, S.O. 1992, c. 23. After granting an extension of time to appeal, he heard and dismissed the appeal.

[12] The application judge interpreted the exemption as applying only where the land, building and structure owned by the Board is used for teaching or instructional purposes delivered by the Board and its employees or by those working on behalf of the Board (Reasons, para. 26).

[13] While the application judge did not expressly state that RMI's proposed use was not a "purpose accessory thereto", it is evident from his reasons that he concluded that the proposed use was not accessory to teaching and instructional purposes. For example, in paras. 35 and 36,

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he discussed "non-school use of school facilities", and concluded that it was reasonable to interpret the exemption as not prohibiting incidental use of school facilities that would not change the overall nature of the premises as a school. Earlier in his reasons, when he discussed the summary and disposition of the application, he had stated that "[c]ommercial exploitation of TDSB facilities is not a 'school use' of TDSB premises". While incidental commercial use might be permitted, RMI's proposed commercial use was not an "incidental use" of the Board's facilities. Accordingly, the application judge concluded that the CBO's decision that the exemption did not apply was reasonable.

The Issues on Appeal

[14] An appeal lies to the Divisional Court pursuant to s. 26 of the *Building Code Act*.

[15] On this appeal, the appellant argues that the application judge erred in interpreting the exemption to apply only where teaching and instructional activities are carried out by or for the Board. In doing so, he is said to have improperly interpreted the zoning by-law to regulate the "user", rather than the "use" of the property. As he had concluded in paragraph 23 of his Reasons that the activities to be carried out by RMI were of the same "nature", "quality" and "virtue" and for the "same essential purposes" as the Board's activities in the facilities, it follows that the exemption should apply. As well, the appellant argues that the application judge erred in failing to provide any reasons why the RMI use was not an accessory use, as permitted by the By-law.

[16] The City of Toronto also takes issue with the interpretation of the exemption as applying only where teaching and instructional activities are carried out by or for the Board. However, the City argues that the decision is, nevertheless, correct, because the activities proposed by RMI are not "only teaching or instructional" in nature and purpose. Rather, RMI proposes to operate a private recreational facility. Moreover, the City argues that the application judge did deal with the "accessory use" argument, as he held that the commercial activity of RMI was not an incidental use of the School property, as required by the definition of accessory use in the By-law.

[17] The intervenor, Harbord Village Residents Association, argues that the legal interpretation of the exemption adopted by the application judge was correct, in that the proposed use must be for school purposes delivered by the named school boards in order for the exemption to apply. In the alternative, the intervenor argues that the application judge improperly overruled the CBO's finding of fact that a large percentage of the activity contemplated would not be "only" for teaching and instructional purposes. Hence, the exemption does not apply.

The Standard of Review

[18] The application judge correctly held that the standard of correctness applies with respect to questions of law determined by the CBO. However, with respect to questions of fact and mixed fact and law, the decision is to be reviewed on a standard of reasonableness (*Berjawi v. Ottawa (City)*, [2011] O.J. No. 379 (S.C.J.) at para. 12).

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[19] On an appeal from the decision of the application judge, a standard of correctness applies with respect to questions of law. With respect to questions of fact, the standard is that of palpable and overriding error. With respect to questions of mixed fact and law, the standard is palpable and overriding error unless there is an extricable legal principle (*Ottawa (City) v. Ottawa (City) Chief Building Official*, [2003] O.J. No. 4530 (Div. Ct.) at paras. 92).

Did the application judge err in his interpretation of the exemption?

[20] The exemption in the By-law applies to lands, building or structures of the Board that were owned by it on June 16, 1986 if the land, building or structure is "used only for teaching or instructional purposes". While the Zoning Examiner spoke of "educational purposes" in his decision and the application judge spoke of "school use", the words used in the By-law are "only for teaching or instructional purposes."

[21] The application judge held that the teaching or instructional activities must be delivered by teachers or other employees of the Board or those acting on behalf of the Board. However, there are no words in the By-law indicating that the teaching or instruction must be delivered by employees or agents for the Board in order for the exemption to apply.

[22] Indeed, the interpretation adopted by the application judge is inconsistent with previous court rulings that a municipality does not have jurisdiction to adopt a zoning by-law restricting the "user" of the lands, rather than the use, unless the legislation clearly permits such a restriction of a specific user (see, for example, *Greater Victoria School District No. 61 v. Oak Bay (District)*, 2006 BCCA 28 at para. 25). There are no provisions of the *Planning Act*, R.S.O. 1990, c. P.13 and, in particular, s. 34(1) of that Act (the power to adopt zoning by-laws), permitting such discrimination among users.

[23] In my view, the application judge erred in law in focussing on whether the proposed activity was carried out by Board employees or on behalf of the Board. Rather, the question to be determined, in the application of the By-law, was whether the proposed use was "only for teaching or instructional purposes."

[24] In interpreting a by-law, as with other statutes, one looks first to the ordinary meaning. While the words "teaching or instructional purposes" are not defined by the By-law, the *Oxford English Dictionary*, 4th ed., defines "teaching" as "the imparting of information or knowledge; the occupation, profession or function of a teacher." "Instruction" is defined as "act of instructing; teaching, education; the knowledge etc. taught; an instructive rule, a precept; information given to a person about a particular fact; a direction, an order."

[25] The words of the By-law are clear: the use of the school site must be only for teaching or instructional purposes. There is no requirement that the teaching or instruction must be delivered by or for the Board.

[26] The appellant also argues that the exemption in the By-law should be interpreted in a manner consistent with the Toronto Official Plan, which provides in section 3.2.2.4 that shared use of school facilities will be encouraged. It states,

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The addition of other uses on school sites, including other community service facilities, residential unit or office space, is permitted provided all uses can be adequately accommodated.

[27] It is true that Official Plans can assist in the interpretation of zoning by-laws, given that zoning by-laws are the means to implement official plans (*St. Mary's Cement Inc. v. Clarington (Municipality)*, 2012 ONCA 884 at para. 21). However, the zoning by-law is the applicable law to be applied (*Aon Inc. v. Peterborough (City)* (1999), 1 M.P.L.R. (3d) 225 (Ont. Ct. (Gen. Div.)) at para. 18; *Doublerink Arenas Ltd. v. North York (City) Chief Building Official* (1996), 33 M.P.L.R. (2d) 158 (Ont. Ct. (Gen. Div.)) at para. 6).

[28] Here, the By-law is clear: the use must be only for teaching or instructional purposes or accessory to those purposes.

Does the exemption for teaching or instructional purposes apply?

[29] The appellant argues that the application judge made a finding of fact that the activities to be carried out by RMI had the same essential purposes as those carried out by the Board (see paragraph 23 of his Reasons). Accordingly, the appellant argues, the exemption should apply.

[30] In my view, the application judge did not make a finding of fact that RMI's use was only for teaching or instructional purposes. At most, the comment in paragraph 23 was *obiter dicta*, and not a finding of fact, for he stated in paragraph 24 that RMI's use was not a "school use". He then stated that this finding was beside the point, as "the issue is not whether the Proposal would be a 'school use' of the property, or some other kind of 'use' " but rather whether the exemption applied.

[31] In any event, if the application judge did make a finding that the activities of RMI were "only teaching or instructional" in purpose, he made a palpable and overriding error of fact. When one looks at the application filed by RMI and the information provided respecting the similar operation of an inflatable dome at Monarch Park Collegiate, it is evident that the proposed activities are not "only" for teaching or instructional purposes. It is true that there may be an instructional component to children's sports such as soccer. However, one cannot characterize the adult soccer and frisbee leagues as having an instructional purpose. Nor does individual payment for use of the track suggest there is any instructional component. Rather, much of RMI's proposed use is for private recreational activities.

[32] The CBO's finding that the bulk of the RMI use would not include an instructional component was a reasonable finding of fact, based on the information provided to the City. Given this finding of fact, it follows that the proposed use did not fall within the exemption, because it was not "only" for teaching or instructional purposes.

[33] The remaining question to be addressed is whether the proposed use has a purpose accessory to teaching or instructional purposes.

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Did the application judge err in holding that the proposed use was not accessory?

[34] To qualify as an accessory purpose, the proponent must satisfy three criteria: the use is naturally and normally incidental; it is subordinate in purpose or floor area, or both; and it is exclusively devoted to a principal use, building or structure. The CBO held that the private use of the facilities for recreational purposes approximately 70% of the time was not a natural use of school property nor normally incidental to school use. Therefore, it was not a permissible accessory use.

[35] The application judge held that RMI's proposed commercial use was not "incidental" to school use, and therefore, the CBO's conclusion was reasonable. While the application judge made no explicit reference to the definition of accessory use in the By-law, it is evident that he was applying the proper test.

[36] Given the evidence, RMI's use cannot be said to be "naturally and normally incidental" to the School's use of the facilities. A commercial recreational use of the type proposed is not a natural or normal use of school property. Nor is the use incidental, given the commercial recreational use would occupy 70% of the time the facility is in operation. Indeed, the evidence shows that the Monarch Park facility, which is somewhat smaller than the facility proposed here, has 10,000 users a week. The School has 1,800 students.

[37] The appellant relies on *Doublerink Arenas Ltd.*, cited above, to support its argument that the proposed use is incidental. That case involved the use of property owned by York University for the construction and operation of a commercial ice rink facility that would be shared by a private company and the university. The application judge in that case held that the commercial use was permitted by the applicable by-law, a by-law that is differently worded from the By-law in the present case. Notably, among uses explicitly permitted on York's lands was "accessory commercial use to a university use". "Accessory use" was defined as a "use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises."

[38] Unlike the York by-law, there is no reference to a permitted commercial use of Board lands in the present By-law. The CBO reasonably concluded that the private recreational use proposed was not naturally and normally incidental to the teaching and instructional activities carried out by the School on the site, nor was it naturally and normally incidental to school use. Accordingly, the application judge properly upheld the CBO's decision.

Conclusion

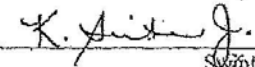
[39] For these reasons, the appeal is dismissed.

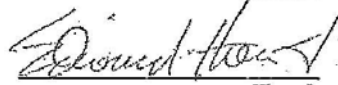
[40] The intervenor does not seek costs and none are awarded to it.


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[41] If the appellant and the City cannot agree on costs, counsel may make brief written submissions on costs through the Divisional Court office within 21 days of the release of this decision.


Symington J.


Then J.


Aston J.

Released: SEP 30 2014

CITATION: Toronto District School Board v. City of Toronto, 2014 ONSC 5494
DIVISIONAL COURT FILE NO.: 299/14
DATE: 20140930

**ONTARIO
SUPERIOR COURT OF JUSTICE**

DIVISIONAL COURT

THEN, ASTON AND SWINTON JJ.

B E T W E E N:

TORONTO DISTRICT SCHOOL BOARD

Applicant (Appellant)

- and -

THE CITY OF TORONTO

Respondent
(Respondent on Appeal)

-and-

**HARBORD VILLAGE RESIDENTS
ASSOCIATION**

Intervenor

REASONS FOR JUDGMENT

Swinton J.

Released: September 30, 2014

