

Greater Sudbury Development Corporation Board – Response to Auditor General recommendations and Governance Report

A copy of the Auditor General's report dated May 31st, 2018 is attached to these recommendations (Attachment #1 – Auditor General's Report dated May 31st, 2018). The results of the Audit confirmed that the GSDC oversight structures and processes in place generally appeared to be effectively designed but a number of opportunities for improvement were identified.

The following resolution was presented and carried at the Audit Committee meeting held on Tuesday, June 19th, 2018: That the City of Greater Sudbury approves the recommendations as outlined in the report entitled "Governance Audit of the City of Greater Sudbury Community Development Corporation" from the Auditor General presented at the Audit Committee meeting on June 19th, 2018.

In keeping with the recommendations of the Auditor General in his final report dated May 31st, 2018, the Greater Sudbury Development Corporation (GDSC) Board is proposing the following recommendations, both in response to the Governance Report prepared by John Dinner in November 2018, and as a result of extensive review by the Board members over the past year.

The Board has rejected the recommendation in the John Dinner report that it become more independent from council in favour of a governance model that would continue to include representation from council while enhancing and facilitating opportunities for synergy in achieving common economic development goals.

These recommendations are suggested as the next steps in positioning the current structure of the GSDC Board to realize these goals while maintaining responsive, fiscally prudent, open governance. This approach also seeks to enhance the Board's operations and communications in the spirit of transparency and collaboration, with the desire to more closely align with Council's strategic priorities for economic development.

With the support of Council, the GSDC Board would formalize the following points in a new updated Operating Agreement between the City of Greater Sudbury and the GSDC Board. The draft Operating Agreement could be brought forward for Council's review and approval in the fall of 2019.

1. Policies:

- a) In order to achieve its mandate of ongoing economic growth, the GSDC Board formally adopts the City's values as per Council's new *Strategic Plan 2019-2027* (page 2):
 - Innovation
 - Integrity
 - Respect
 - Foresight
 - Trust
 - Compassion
- b) The GDSC Board reviews and adapts the City's policies for closed session/in-camera rules.

- i) City Council has a duty to comply with Section 239 of [Municipal Act, 2001, S.O. 2001, c. 25](#) which is reproduced in its entirety and attached to these recommendations (Attachment #2 – Section 239 of *Municipal Act 2001*, S.O. 2001, c.25). This would be adapted for use by the GSDC Board for its own operations.
 - ii) The Board develops clear criteria for issues to be dealt with in closed/in camera sessions according to the legislative language of Section 239.
 - iii) The Board agrees that closed/in camera meetings should only be used when an issue or topic fits the legislative criteria.
 - iv) Items related to economic development that meet these criteria and are discussed during a closed/in camera meeting of the GSDC Board are brought to Council at the first available in-camera meeting of Council as an information item, through a staff report.
- c) The GSDC's existing Conflict of Interest policy is reproduced in its entirety and attached to these recommendations (Attachment #3 - GSDC Conflict of Interest Policy).

The City's existing Conflict of Interest policy as outlined in Council's Code of Ethics is as follows:

Neither Council members nor members of the administration will act in such a way as to constitute a conflict of interest. All residents will be treated equally. No special favour will be granted unless it is approved by a legal resolution of the Council. Decisions on matters of pecuniary interest (either direct or indirect), which impact family members in a way not consistent with the population as a whole, will be deferred pending the advice of the municipality's solicitor.

The GSDC incorporates the City's existing Conflict of Interest policy to the existing GSDC Conflict of Interest policy.

2. Nomination:

Council participates in the Board Nomination Process, as follows:

- i) A public call-out is used to solicit interest in board membership;
- ii) The GSDC Board's Nomination Committee identifies potential board member candidates and reviews based on skill set/strategic direction;
- iii) The findings of the Nomination Committee are brought to the GSDC Board for review and recommendation;
- iv) These candidates are then brought to Council for final endorsement.

3. Communications & Reporting:

- a) The GSDC Board formalizes its reporting structure and approach to providing updates to Council, and this approach is built into a new Operating Agreement between the GSDC and the City.
- b) Quarterly updates on GSDC Board activities are brought forward to Finance & Administration Committee of Council.

- c) The Board incorporates a process for consistent communication following each regular board meeting, including through a media release that provides highlights on the Board's activities and actions on strategic priorities. The Board provides input on key messaging from each meeting for these regular releases.
- d) Approved Board minutes are posted on the Economic Development GSDC section of the City of Greater Sudbury website.

4. Strategic Alignment:

- a) The GSDC Board undertakes an annual planning and prioritization process, to identify opportunities for alignment with Council's strategic plan as well as current objectives and priorities. Results will be shared with Council.
- b) The Board's annual strategic planning process is held annually.

5. Evaluation Processes:

- a) The GSDC Board develops explicit principles and clarifies expectations for service provided to the Board by City staff. The Board provides feedback on these items annually.
- b) The GDSC Board outlines a process for annual review of the Director of Economic Development:
 - i) Expectations are established between the Board and the Director in terms of Director's performance in advancing strategic priorities; a standard review tool is used and the results are discussed between the Board and the Director.
 - ii) The Board provides feedback on the Director's performance directly to the CAO and this is incorporated into the annual review process.
 - iii) The GSDC Board receives information in the form of an orientation session on the City's Performance Planning and Development (PPD) process to ensure clear understanding by Board members of how the City sets goals and measures performance against these goals. The appropriate sections of the Director's finalized PPD results could be shared with the Board Chair or Executive.
- c) The GSDC Board establishes a regular process for client/proponent evaluation of funding programs and customer service:
 - i) All proponents of CED and other funding, successful or not, are asked to complete a standardized Exit Survey regarding their experience with staff, the process, using the funding application, and so on.
 - ii) Survey results are reviewed by Board and staff annually as part of the Board's commitment to continuous improvement and in the spirit of fostering effective economic development in the community.

- d) The GSDC prepares an annual business plan and budget with projected deliverables to monitor progress and measure achievement while maintaining flexibility to respond to new opportunities.

6. Review and Compliance:

- a) GSDC and the City work to review and update the operating framework to ensure there is clarity with respect to roles, responsibilities and authorities of the GSDC and the City for vetting projects with major economic impact on the City including:
 - i) Formal review and updating of the existing Operating Agreement.
 - ii) Formal review and updating of the GSDC's and the City's relevant By-laws and policies to clarify respective roles, responsibilities and authorities for economic development.
 - iii) Updating of GSDC's By-law 5 to clarify title and role of the Director of Economic Development.
 - iv) Update the GSDC By-laws to clarify and define the individual and separate roles of the members of the Executive of the Board as well as the mandate of the Executive Committee.
 - v) Update the information package provided to members of Council to clearly define the GSDC mandate, the role and obligations of Councillors participating on the GSDC Board to ensure Councillors have the information they require.
 - vi) Update the Board Orientation Program to further clarify the duties and obligations of Councillors as Board Members of the GSDC.
- b) The Board establishes a Policy Review Committee to conduct a review of the Board's By-laws information and orientation materials and policies annually, to ensure Board compliance with the obligations and procedures outlined in the Operating Agreement, to evaluate effectiveness and to identify opportunities for improvement.

Attachment #2

Section 239 of [Municipal Act, 2001, S.O. 2001, c. 25](#):

Meetings open to public

239 (1) Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).

Exceptions

(2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;*
- (b) personal matters about an identifiable individual, including municipal or local board employees;*
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;*
- (d) labour relations or employee negotiations;*
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;*
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;*
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;*
- (h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;*
- (i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;*
- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value;*

or

- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board. 2001, c. 25, s. 239 (2); 2017, c. 10, Sched. 1, s. 26.*

Other criteria

(3) A meeting or part of a meeting shall be closed to the public if the subject matter being considered is,

(a) a request under the Municipal Freedom of Information and Protection of Privacy Act, if the council, board, commission or other body is the head of an institution for the purposes of that Act; or

(b) an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed under the Ombudsman Act, an Ombudsman referred to in subsection 223.13 (1) of this Act, or the investigator referred to in subsection 239.2 (1). 2014, c. 13, Sched. 9, s. 22.

Educational or training sessions

(3.1) A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.

2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. A, s. 103 (1).

Resolution

(4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

(a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or

(b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2).

Open meeting

(5) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2001, c. 25, s. 239 (5).

Exception

(6) Despite section 244, a meeting may be closed to the public during a vote if,

(a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and

(b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board. 2001, c. 25, s. 239 (6).

Record of meeting

(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. A, s. 103 (3).

Same

(8) The record required by subsection (7) shall be made by,

(a) the clerk, in the case of a meeting of council; or

(b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. A, s. 103 (3).

Record may be disclosed

(9) Clause 6 (1) (b) of the Municipal Freedom of Information and Protection of Privacy Act does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. A, s. 103 (3).

Attachment #3

GSDC Conflict of Interest Policy

EXISTING GREATER SUDBURY COMMUNITY DEVELOPMENT CORPORATION

CONFLICT OF INTEREST POLICY

The Greater Sudbury Development Corporation requires the highest ethical standards of the directors, by using the City of Greater Sudbury assets efficiently for the City's economic development objectives; and by taking measures to assure that decisions are not influenced by self-interest. This Policy is intended to provide guidance on how to deal appropriately with situations that involve, or may appear to involve, conflicts of interest.

While conflicts of interest and appearances of conflicts of interest are to be kept to a minimum, the Greater Sudbury Development Corporation has always included, and benefited from directors with associations to other community entities that are appropriate recipients of economic development project investments. It is predictable that people with interest and expertise in the non-profit sector often will have such associations. The Greater Sudbury Development Corporation will not discriminate against worthy grant recipients because its Board members serve those recipients in some role. This Policy describes, among other things, how decisions involving these and similar situations should be dealt with to ensure the integrity of the process. Its basic purpose is to avoid both the reality and the perception that directors have used their positions to derive inappropriate financial, personal or institutional benefits, and it should be interpreted and applied to achieve this purpose.

In order to assure impartial decision-making, it is the policy of the Greater Sudbury Development Corporation that any conflicts of interest, or apparent or potential conflicts of interest, be fully disclosed before a decision is made on the matter involved, and that no director participates in any decision in which he or she has a conflict of interest.

It is the continuing responsibility of all directors, advisors, and staff to review their outside business interests, philanthropic interests, personal interests, and family and other close relationships for actual, apparent, or potential conflicts of interest with respect to the funding decisions being made by the Greater Sudbury Development Corporation, and to promptly disclose the nature of the interest or relationship.

Conflict of Interest Defined

Generally, a conflict of interest with respect to a proposed Greater Sudbury Development Corporation transaction or grant exists if a director of the Greater Sudbury Development Corporation: (a) is in a position to make or influence the GSDC's decisions about whether and how to proceed with a proposed transaction or grant,

and (b) has an affiliation, as described below, with any other party to a business transaction or with the potential beneficiary of a grant. An apparent conflict of interest is one that a skeptical viewer might reasonably believe might cause the director's decision to be tainted by self-interest.

For purposes of this policy, an affiliation is the close involvement with a vendor, service provider, or grantee on the part of: a director of the GSDC, or spouse, domestic partner, parent, and/or close family member.

Affiliation includes, but is not limited to, serving as a Board member, employee, or consultant to a current or potential grantee, service provider, or vendor, or doing business with the grantee, service provider, or vendor. Directors of the GSDC shall communicate fully with the Board of Directors regarding such affiliations and any other relationship or commitment that could affect, or be seen to affect, the impartial fulfillment of their roles in the affairs of the Greater Sudbury Development Corporation. Doubts about whether a relationship warrants disclosure under this policy should be resolved in favor of disclosure.

Further, during the GSDC Board nomination process, all applicants will be requested to submit a declaration of affiliation(s) that includes relationships/commitments through board, committee, employer or otherwise that may affect or be seen to affect the impartial fulfillment of their proposed role in the affairs of the Greater Sudbury Development Corporation.

Due Diligence Process

CED Committee

The CED committee, a sub-committee of the GSDC Board meets regularly to review economic development funding requests to the City. Upon receipt of the applications and staff evaluation summaries, CED members will identify whether they have a conflict of interest, potential, apparent and/or otherwise. At the CED meeting, the member will declare a conflict on the agenda item to the CED Committee Chair and leave the room during the discussion of the item. The member will be asked to return to the meeting by the CED Chair once the discussion is complete. If the CED Chair is the member with a conflict of interest, the member will leave the room and request that another CED member take the Chair during the discussion.

The member's declaration will be recorded in the CED minutes as will their departure and return to the meeting.

GSDC Board

At the start of every GSDC Board meeting, there is a standing agenda item entitled declaration of conflict of interest. It is the responsibility of the GSDC and/or CED board member to declare a conflict of interest on the item(s) that they have a conflict of interest, apparent, potential or otherwise.

As part of the agenda of the GSDC Board meeting, the members receive recommendations on funding applications from the CED committee. The CED Chair provides a summary of the evaluation, the Board is invited to comment and pose questions and a motion is voted upon to either support and/or not support the funding application.

The Board member that declared a conflict must leave the room when the agenda item is discussed and may return when the discussion is complete. They will not participate in the discussion or in the vote of a motion as it relates to the agenda item.