

Report to Strategic Priorities and Policy Committee

To: Chair and Members
Strategic Priorities and Policy Committee
From: Lynne Livingstone, City Manager
Subject: London Hydro Inc. 2022 Annual General Meeting of the Shareholder Annual Resolutions
Date: June 20, 2023

Recommendation

That, on the recommendation of the City Manager, the following actions be taken with respect to London Hydro Inc.:

- a) the attached proposed by-law (Appendix “A”) entitled “A by-law to ratify and confirm the Annual Resolutions of the Shareholder of London Hydro Inc.” BE INTRODUCED at the Municipal Council meeting to be held June 27, 2023; and,
- b) the proposed “Recruitment Process for Director Appointments”, attached as Appendix ‘B’, BE APPROVED.

Analysis

1.0 Background Information

1.1 Previous Reports Related to this Matter

June 7, 2022 – Strategic Priorities and Policy Committee
June 23, 2021 – Strategic Priorities Policy Committee

1.2 April 25, 2023 – Municipal Council Resolution

At its meeting held on April 25, 2023, Municipal Council resolved:

“That the following actions be taken with respect to the 2022 Annual General Meeting of the Shareholder for London Hydro Inc.:

- a) the 2022 Annual General Meeting of the Shareholder for London Hydro Inc. BE HELD at a meeting of the Strategic Priorities and Policy Committee on June 20, 2023, for the purpose of receiving the report from the Board of Directors of London Hydro Inc. in accordance with the Shareholder Declaration and the *Business Corporations Act*, R.S.O. 1990, c. B.16; and,
- b) the City Clerk BE DIRECTED to provide notice of the 2022 Annual Meeting to the Board of Directors for London Hydro Inc. and to invite the Chair of the Board and the Chief Executive Officer of London Hydro Inc. to attend at the Annual Meeting and present the report of the Board in accordance with the Shareholder Declaration;

it being noted that the Strategic Priorities and Policy Committee received a communication dated April 3, 2023, from C. Graham, Chair, Board of Directors, London Hydro Inc., with respect to this matter.”

2.0 Discussion and Considerations

2.1 2022 Annual General Meeting

London Hydro Inc. is a corporation with share capital incorporated under the *Business Corporations Act*, R.S.O. 1990 c. B.16. London Hydro Inc. is managed by a Board of Directors appointed by The Corporation of the City of London as the sole shareholder.

The attached by-law (Appendix “A”) includes the Annual Resolutions of the Shareholder of London Hydro Inc. (Schedule “1”) which addresses the following matters that are required to be dealt with at an Annual Meeting pursuant to the Shareholder’s Declaration and the *Business Corporations Act*:

- a) receipt of the 2022 audited financial statements;
- b) appointment of the Auditor; and,
- c) election of the director.

2.2 Directors Requiring Election

The election of two (2) Second Class Directors is required, as the term for Connie Graham and Guy Holburn has ended.

London Hydro advised by a letter dated April 11, 2023 that Jack Smit and Gabe Valente have announced their retirement from the Board and is therefore not seeking reelection to the Board. This communication also proposed a new process for addressing Board vacancies. On April 25, 2023 Council resolved as follows:

“That the Civic Administration BE DIRECTED to take the following actions with respect to the communications dated April 11, 2023, from the Chair of the London Hydro Board, related to Board recruitment and appointment process, and the impending Board vacancies:

- a) the impending London Hydro Board vacancies, as outlined in the above-noted communication, BE ADVERTISED using the most recent approach of a broader recruitment process, as appropriate; it being noted that applications will be considered by the Municipal Council, as the Shareholder, at the Annual General Meeting;
- b) the Civic Administration BE DIRECTED to provide to the London Hydro Corporate Governance and Risk Management Committee the applications received in the recruitment process, noted above in part a), for review and consideration (which may include interviews conducted by London Hydro) with a recommendation to be submitted to the Shareholder for consideration of appointments at the Annual General Meeting; and,
- c) the Civic Administration BE DIRECTED to take the necessary steps in order to provide for a future amendment to the Shareholder Agreement to formalize the above-noted new process. (5.1/14/SPPC)”

London Hydro has indicated that they will bring forward 2 names for consideration to the August 16, 2023 Strategic Priorities and Policy Committee meeting.

The attached proposed by-law, which includes the Annual Resolutions of the Shareholder, does not include names of individuals for election of First Class Directors at this time and will be amended to reflect the decision of the Shareholder with respect to that matter following the submission and consideration of the Shareholder at the August 16, 2023 meeting.

The Shareholders Declaration does not limit the number of terms that a Director may serve.

The proposed recruitment process for Director appointments, as submitted by London Hydro, is attached as Schedule ‘B’.

Conclusion

It is recommended that the attached proposed by-law (Appendix "A") entitled "A by-law to ratify and confirm the Annual Resolutions of the Shareholder of London Hydro Inc." BE INTRODUCED at the Municipal Council meeting to be held on June 27, 2023.

Prepared and Submitted by: Michael Schulthess, City Clerk
Recommended by: Lynne Livingstone, City Manager

APPENDIX "A"

Bill No.
2023

By-law No. A.-

A by-law to ratify and confirm the Annual Resolutions of the Shareholder of London Hydro Inc.

WHEREAS London Hydro Inc. is a corporation incorporated under the *Business Corporations Act* R.S.O. 1990, c.B.16;

AND WHEREAS subsection 104(1)(b) of the *Business Corporations Act* provides that a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders or their attorney authorized in writing entitled to vote at the meeting, satisfies all the requirements of this Act relating to that meeting of shareholders;

AND WHEREAS The Corporation of the City of London is the sole shareholder of London Hydro Inc.;

AND WHEREAS Subsection 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Annual Resolutions of the Shareholder of London Hydro Inc. for the fiscal year ended December 31, 2022, attached as Schedule "1" are ratified and confirmed.
2. The Mayor and the City Clerk are authorized to execute the Annual Resolutions of the Shareholder ratified and confirmed under section 1 of this by-law.
3. This by-law comes into force on the day it is passed.

PASSED in Open Council on the 27th day of June 2023.

Josh Morgan
Mayor

Michael Schulthess
City Clerk

First Reading – June 27, 2023
Second Reading – June 27, 2023
Third Reading – June 27, 2023

SCHEDULE "1"

LONDON HYDRO INC. (the "Corporation")

WHEREAS subsection 104(1)(b) of the *Business Corporations Act* (Ontario) (the "Act") provides that a resolution in writing dealing with all matters required by the Act to be dealt with at a meeting of shareholders, and signed by all the shareholders or their attorney authorized in writing entitled to vote at the meeting, satisfies all the requirements of the Act relating to that meeting of shareholders;

The following resolutions, signed by the sole shareholder of the Corporation entitled to vote thereon, are hereby passed pursuant to the provisions of the Act:

FINANCIAL STATEMENTS

It is hereby acknowledged that the balance sheet of the Corporation as at December 31, 2022, and the other audited financial statements, together with Auditors' Report, of the Corporation for the financial year ended on such date have been received by the undersigned shareholder of the Corporation.

ELECTION OF DIRECTORS

WHEREAS pursuant to an Amended and Restated Shareholder Declaration, as amended (the "Amended and Restated Shareholder Declaration"), the board of directors of the Corporation shall consist of seven directors, six of which shall be composed of various classes of directors, each serving for a three-year term, and the seventh member of the fourth class shall serve as the representative of the municipal council of The Corporation of the City of London;

AND WHEREAS the terms of the directors that are members of the first class expire at the annual meeting of shareholders held in 2023 pursuant to paragraph 4.4 of the Shareholder Declaration;

NOW THEREFORE BE IT RESOLVED THAT:

CONFIRMATION OF CONTINUING TERMS

1. Each of the following persons, being directors that are members of the second, third and fourth class, as provided for below, pursuant to paragraph 4.4 of the Shareholder Declaration, is hereby confirmed as having a term continuing until the expiry as set out below, provided that when a successor is not duly elected at the close of the annual meeting described below, such director shall hold office until his or her successor is elected:

<u>Class</u>	<u>Name of Director</u>	<u>Term</u>
Second	Connie Graham	the close of the annual meeting of shareholders to be held in 2023 for the financial year ending December 31, 2025
Second	Guy Holburn	The close of the annual meeting of the shareholders to be held in 2023 for the financial year ending December 31, 2025
Third	Andrew Hrymak	The close of the annual meeting of the shareholders to be held in 2024 for the financial year ending December 31, 2023

Third	Tania Goodine	The close of the annual meeting of the shareholders to be held in 2024 for the financial year ending December 31, 2023
Fourth	Corrine Rahman	the term ending November 14, 2026

APPOINTMENT OF AUDITORS

2. KPMG LLP are hereby appointed auditors of the Corporation to hold office until the close of the next annual meeting of the shareholders or until a successor is appointed by the shareholder at such remuneration as may be fixed by the directors and the directors are hereby authorized to fix such remuneration.

DATED this _____ day of _____, 2023.

The Corporation of the City of London

By: _____
 Name: Josh Morgan
 Title: Mayor

By: _____
 Name: Michael Schulthess
 Title: City Clerk

APPENDIX “B”
Recruitment Process for Director Appointments

The following appointment process be established for the London Hydro Inc. Board of Directors; it being noted that the recruitment and nomination process shall be informed by foundational principals such as anti-racism, anti-oppression, inclusion and participation, good governance, leadership and accountability:

1. Upon a vacancy among the Board of Directors arising (whether or not due to expiry of a Director's term or another reason), with the advice of the Corporate Governance & Risk Management (CG&RM) Committee Chair, the Board Chair shall prepare a letter to the Mayor advising them of the Board vacancy(ies) to be in effect at the Annual General Meeting of the Shareholder or at some other defined date.
2. In anticipation of Board vacancies, London Hydro Inc. AND the City of London Clerk's office shall advertise or otherwise canvass for applicants to apply with their Cover Letter of interest and CV electronically to the City of London Clerk's office. Candidate advertisements shall include the applicant skills, knowledge and experience required by the London Hydro Board of Directors as well as a cut-off date for receipt at the office of the City Clerk.
3. The City Clerk's office will log in all responses and forward them to the attention of the London Hydro Corporate Governance and Risk Management Committee via the office of the London Hydro Inc. CEO.
4. London Hydro's CG&RM Committee will receive, review and shortlist all applications submitted by the cut-off date.
5. London Hydro's CG&RM Committee shall interview the shortlisted candidates. Fulfillment of board skill gaps, general qualifications criteria set out in Article 4.3 of the Shareholder Declaration and any other noted requirements shall be considered in a consistent, fair and equitable process, with a standard set of questions presented to each interviewed candidate.
6. The CG&RM Committee Chair may invite all Board members to attend the interviews. However, it is mandatory that the Class 4 Board member (City of London Shareholder Representative Director) be present at all candidate interviews.
7. For each vacancy, the CG&RM Committee may recommend to the Board one, or maximum two, applicants.
8. For each director vacancy, the Board may approve one of the CG&RM Committee's recommendations or propose an alternate candidate (provided the candidate's application had been received and logged by the City Clerk prior to the stated cut-off date). If an alternate candidate is proposed by the Board that had not previously been interviewed by the CG&RM Committee, the interview process as detailed in step 5 must be repeated for (only) the newly-proposed candidate and the results of the interview reported to the Board of Directors.
9. The final Board-selected candidate shall be submitted to the Shareholder as part of the Shareholder Resolution at the AGM OR at a special meeting of the Shareholder and in compliance with applicable notice and timing requirements. In this regard, the Board shall prepare the Shareholder Resolution setting out London Hydro's recommended candidate for election.

10. At each AGM, the Shareholder Resolution shall list the full slate of London Hydro's Board of Directors (incumbents and new Directors) for affirmation, reelection, or noted vacancies; wherein the vacancies are to be filled by a separate Resolution, as stated above, with an understanding that incumbent Board members shall continue to hold office until a successor is elected.