



**SUBJECT:** Accountability framework for Agencies, Boards and Commissions (ABC) and Joint Venture (JV) organizations - background and project update

**TO:** Environment, Infrastructure & Community Services Cttee.

**FROM:** Recreation, Community and Culture

Report Number: RCC-25-23

Wards Affected: all

Date to Committee: December 7, 2023

Date to Council: December 12, 2023

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### **Recommendation:**

Receive and file recreation, community and culture department report RCC-25-23 Accountability Framework for Agencies, Boards, and Commissions (ABC) and Joint Venture (JV) organizations - background and project update.

### **PURPOSE:**

#### **Vision to Focus Alignment:**

- Increase economic prosperity and community responsive city growth
  - Building more citizen engagement, community health and culture
  - Deliver customer centric services with a focus on efficiency and technology transformation
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### **Background and Discussion:**

The City has a number of partnerships with community organizations that are generally grouped into two categories: Agencies, Boards and Commissions (ABCs) and Joint Venture organizations (JVs).

#### **Agencies, Boards and Commissions (ABCs):**

ABCs are special-purpose bodies, created under provincial or municipal powers, serving a single function or a limited range of functions and receiving at least part of

their revenue from municipal government, provincial government, and/or user charges. (based on the definition from Susan J. Dolbey, Local Special Purpose Bodies in the Province of Ontario, Toronto: Municipal Affairs, Municipal Research Branch, Regional Government Studies Section, 1970, p. 2.) How ABCs function, and the degree of control the City does or doesn't have over them, is in large part of function the legal authority under which they were created. This creation authority is a factor in determining what pieces of municipal legislation (e.g. Municipal Conflict of Interest Act, Municipal Freedom of Information and Protection of Privacy Act, Municipal Act, etc.) apply to the ABCs.

In Burlington, ABCs include Burlington Public Library, Art Gallery of Burlington, Burlington Performing Arts Centre, Museums of Burlington, Tourism Burlington, Burlington Economic Development, Burlington Downtown Business Improvement Area (BIA), and Aldershot BIA. The Burlington Public Library, established by municipal by-law 70-2003, is subject to provincial legislation through the Public Libraries Act, R.S.O. 1990, c. P.44. Burlington Downtown BIA, Aldershot BIA, and Museums of Burlington were created through municipal by-laws 30-2015 and 13-2004 and 94-1997 respectively as defined through the Municipal Act, 2001 S.O. 2001, Chapter 25. These ABCs receive a combined total of over \$16 million in annual funding with the library receiving over \$11 million of this funding.

### **Joint Venture Organizations (JVs):**

Joint Venture organizations "are business arrangements in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task". (<https://www.investopedia.com/terms/j/jointventure.asp>) The City of Burlington's Joint Venture policy describes joint ventures as "Any combination of resources by two or more persons, corporations, partnerships, or some combination thereof, whereby each agrees to contribute money, knowledge, skills, land/property in order to conduct an initiative together". The City's contribution to these joint ventures may take the form of land use and/or facility use and operational functions (i.e., grounds maintenance, maintenance and winter control of parking lots, fire plans). JVs do not receive operating or capital funding from the City.

JVs include but are not limited to:

Model Railway Club	Burlington Gymnastics Club	North Burlington Tennis Club
Burlington Sailing and Boating	Burlington Trampoline and Tumbling Club	Burlington Minor Football
LaSalle Park Marina Association	Burlington Lawn Bowling Club	Appleby Tennis Club

Aldershot Tennis Club	Burlington Tennis Club	Bubble Tennis
Radio Controlled Modelers Club	Drury Lane Theatre	Nelson Youth Centre
Rifle and Revolver Club (Range Burlington)	Theatre Burlington – Little Theatre	Centaurs Rugby Club
Tyandaga Tennis Club	Burlington Curling Club	Burlington Youth Soccer Club Domes

The business case for establishing an accountability framework is laid out in the 2023 budget. The City recognizes the positive contributions of ABCs and JVs to the City aspirational goals. This review includes an assessment of the City's partnerships and recommendations on how accountability should be defined for different entities.

### **Strategy/process/risk**

Following business case approval in the 2023 Budget process, Optimus SBR was selected as the successful vendor through the City's procurement process. The core project team is comprised of the following City staff:

- Executive Director of Strategy, Risk and Accountability
- Director of Recreation, Community and Culture
- Deputy Corporation Counsel
- Coordinator of Budgets and Policy
- Manager of Arts and Culture
- Manager of Community Development

At the time of this report, staff and vendor have completed phase 1 of the project which includes the evaluation of existing partnerships, legislative requirements, and best practices review. Accompanied to this report, which is meant to provide a quick update on project process and background information, is Appendix A: Executive Background Report providing a summary of findings acquired in Phase 1. Phase 2 and 3 of the project include, but are not limited to: developing the accountability framework as well as an implementation plan for transitioning to the approved Framework. A follow-up report will be coming forward in Q1 2024 to share the accountability framework for Council's approval.

### **Options Considered**

N/A

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## **Financial Matters:**

Approved through the 2023 budget and further through RCC-04-23 and DA-50-23 is the project cost for the hiring of the consultant to complete the Accountability Framework at a cost of \$180,468.91 including 13% HST.

## **Other Resource Impacts**

This project requires the involvement of various stakeholders, both internal and external. Various City departments provide a service to ABC and as such, have required engagement throughout the process.

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## **Climate Implications:**

N/A

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## **Engagement Matters:**

As mentioned earlier in the report, stakeholders have been engaged throughout the first phase of the project thus far. This includes meetings with Executive Directors and chairs of ABC/JV boards/groups to gather insights, meetings with various City representatives (including members of Council), as well as meetings with comparable municipalities and agencies. In addition to these interviews, staff have sent out various communication updates to ABCs/JVs along the way and hosted a Town Hall for groups on November 22, 2023. In early 2024, additional engagement will take place to test the draft framework with these various groups prior to seeking Council endorsement. Lastly, in scope for this project and a specific project deliverable from Optimus SBR is a comprehensive implementation plan which will impact both internal and external stakeholders.

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## **Conclusion:**

In conclusion, this report is intended to serve as a background and project update for Council. In Q1 2024, staff will be bringing forward the Accountability Framework for Council's endorsement.

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Respectfully submitted,

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### **Appendices:**

A. Appendix A: Accountability Framework - Background Report

### **Report Approval:**

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.



# Accountability Framework

→ Executive Summary (Current State)

**Revised:** October 25, 2023



## Executive Summary

### Project Overview

In 2023, the City of Burlington (the City) embarked on a project to enhance its relationships with community organizations, notably Agencies, Boards, and Commissions (ABCs) and Joint Venture (JVs). The initiative aims to develop an Accountability Framework based on legislative guidelines, best practices, and stakeholder feedback, focusing on improved efficiency and alignment with the City's strategic objectives.

The purpose of this document is to present the summarized findings from Phase 1: Evaluation of Existing Partnerships and Best Practices. This document includes a summary of feedback gathered through consultation, an evaluation of the City's existing partnerships, and future state considerations.

### Current State Overview

The research framework developed for this engagement focuses on six (6) domains of accountability. After an analysis of key documents and discussions with key stakeholders, the following observations were identified:

*Table 1: Current State Overview Key Findings*

Domain	Key Findings
Entity Structure	<ul style="list-style-type: none"> <li>Some agencies described themselves as being in a "grey area," oscillating between being an external and internal part of the City.</li> <li>Roles and responsibilities between the City and its entities are generally well-documented in the various ABC agreements and JV policy.</li> <li>The extent to which organizations rely on shared services influences their autonomy and flexibility.</li> <li>City stakeholders are concerned about the Council's lack of clear mechanisms to address issues related to ABCs and JVs, including complaints about by-law compliance and financial sustainability issues.</li> <li>This absence of well-defined processes for complaints, disputes, and grievances has resulted in Council members handling numerous questions and concerns, not only from ABCs and JVs but also from the public.</li> </ul>
Accountability	<ul style="list-style-type: none"> <li>ABCs find it difficult to recruit volunteer board members with higher-level governance or operational experience.</li> <li>Council members are often uncertain about the risks associated with voting on particular topics, which can lead to conflicting stances at ABC board and Council meetings.</li> <li>Joint Ventures (JVs) have a unique relationship with the City, which includes managing operations in a City-owned building. This is one of their key responsibilities.</li> <li>Beyond this, JVs are not obligated to adhere to any specific governance requirements set by the City. However, JVs have indicated interest in receiving assistance for maintenance and capital projects.</li> </ul>

Domain	Key Findings
Performance	<ul style="list-style-type: none"> <li>ABCs have voiced a desire for increased involvement in the City's strategic planning, particularly with regard to culture and recreation.</li> <li>There are no explicit metrics for evaluating the main objective of these entities, which makes it difficult to assess their performance or justify their existence.</li> </ul>
Transparency	<ul style="list-style-type: none"> <li>Overall, stakeholders both internal and external to the City spoke positively about the working relationship between the City and its partners.</li> <li>The nature and level of relationships that the City and ABCs have differ in type and depth. Some are strategic, while others are tactical; some involve top leadership, while others are at the staff level. While many ABCs feel their current relationship level is adequate, others believe they need a stronger connection.</li> <li>There is no framework that guides the establishment, modification, or dissolution of ABCs and JVs.</li> </ul>
Asset Management	<ul style="list-style-type: none"> <li>JVs often struggle with building maintenance and major repairs, as it is not their expertise. This existing dependency suggests a potential gap between the capabilities of JVs and the expectations set by the City.</li> <li>Stakeholders also highlighted the opportunity for ABCs and JVs to benefit from the City's asset management expertise as these are not typically found within an entity's leadership or workforce.</li> </ul>
Documentation	<ul style="list-style-type: none"> <li>The City has agreements in place with all ABCs. However, different types of agreements are used to manage these relationships.</li> <li>The standard JV agreement includes items such as rent terms, responsibilities of the parties, representations and warranties, insurance, dispute resolution mechanisms, restrictive conditions, and termination clauses.</li> </ul>

## Best Practices and Evaluation

Based on a review of literature and a comparator scan of cities, several best practices were identified:

- **Documenting Roles and Responsibilities:** The roles and responsibilities between the city and its affiliated ABCs and JVs should be documented in such a way that expectations, oversight mechanisms and deliverables are clearly outlined. This should also define the process for modifying these roles and responsibilities.
- **Clear Mandates:** The city issues official documents outlining the mandate for each ABC and JV.
- **Shared Services with Established Service Levels:** The city collaborates with ABCs and JVs to set specific service level guidelines. These guidelines are used to formulate clear service level agreements for shared services, ranging from occasional collaboration to integration.
- **Orientation and Training:** The city organizes a comprehensive orientation program for all new board members and mandates ongoing training for existing members.
- **Conflict of Interest:** The city has a well-documented conflict-of-interest policy or requires an ABC to have its own conflict-of-interest policy aligned to city standards, which every board member of an ABC must acknowledge and adhere to.
- **Procedure for Establishing, Changing or Dissolving entities:** This process should detail the steps, criteria and considerations involved in creating, modifying, or dissolving entities.



- **Code of Conduct:** The city requires adoption of a universal or individualized code of conduct for ABCs and JVs. This code outlines ethical and behaviour expectations, aiming to uphold consistent ethical standards across all such entities.
- **Key Performance Indicators (KPIs):** The city should collaborate with the ABCs and JVs to establish a set of core KPIs that align with both the city's overall objectives and the agency's unique function. The KPIs should be tracked regularly.
- **External Audits:** ABCs and JVs should undergo regular external audits by certified third-party auditors.
- **Regular Review:** The city should conduct regular reviews of its partnerships to ensure alignment with city goals, financial oversight, and performance effectiveness, with findings reported to the City Council.
- **Annual Reporting:** ABCs and JVs should report to the city on matters related to mandate, performance, outcomes, and financials. For some entities, this may include publishing a document publicly.
- **Regular Communication:** There should be an established protocol for regular communication between the city and ABCs and JVs. This should be documented.
- **Guiding Agreement:** A document that sets out the mandate of the entity and the principles to govern the entity's activities. This document can take various forms, such as a memorandum of understanding (MOU) or a legally binding agreement, depending on the nature of the relationship.

Based on a review of best practices, a set of definitions was developed to measure the alignment of the City of Burlington with best practices. The following are the key measurement categories and their definitions:

- **Low Alignment:** Indicates that the City of Burlington's current practices and processes deviate significantly from recognized best practices. There are substantial gaps and inconsistencies in how the City operates compared to established benchmarks and standards.
- **Medium Alignment:** The City of Burlington has made some progress in aligning its practices with best practices, but there are still notable gaps and areas where improvements are necessary.
- **High Alignment:** The City of Burlington closely aligns with recognized best practices across various aspects of its operations. It consistently adheres to industry or sector standards, and there are minimal gaps in its current practices.

Overall, in terms of the City of Burlington's alignment to best practices, there are challenges in each domain, in particular:

- **Entity Structure (Medium alignment):** Roles and responsibilities are documented, but mandates need to be clarified and service levels better established.
- **Accountability (Low-Medium Alignment):** The process for establishing, changing or dissolving the relationship between ABCs, JVs, and the City lacks established procedure, conflict of interest parameters could be clarified, and orientation and training is needed.
- **Performance (Low Alignment):** While external audits are required, KPIs (financial, service or otherwise) are not standardized, and there are no mechanisms for regular reviews in place. This can exacerbate the potential for surprises about which the City has expressed concern.
- **Transparency (Medium-High Alignment):** There is regular communication and annual reporting, and relationships are generally positive. However, relationships may not be maintained at the right level for certain ABCs.
- **Documentation (Medium):** Agreements exist, but they vary in nature, both for ABCs and JVs.

## Future State Considerations

In considering the items above, a key goal for the Accountability Framework will be to provide the City with strategic visibility of its relationships and accountabilities with its ABCs and JVs. Fundamentally, the City should be able to articulate:

- The rationale for the relationship it has with an entity, which should heavily inform other aspects of its strategic and operational relationship.
- Whether it is an Agency, Board, Commission, or JV.
- Enabling/applicable legislation.
- The nature of its *strategic relationship*, including governance relationships (e.g., board appointments), whether and how strategic alignment is maintained, the degree of financial support provided/exposure incurred, and whether the ABC/JV occupies a City facility.
- The nature of its *operating relationship*, including shared services such as HR, Finance, IT, Facility Maintenance, use of City insurance and other facets.

Within the broad categories above, the notion of a spectrum of complexity is also useful to guide the accountability relationship between the City and its ABCs and JVs. The more complex the relationship, the accountability agreement will tend to need to be more rigorous. However, this rigour often comes at the cost of administrative burden or “red tape”, which should always be minimized wherever possible.