

To: Development Services Committee

From: Paul D. Ralph, Chief Administrative Officer,
Office of the C.A.O.

Report Number: DS-22-181

Date of Report: September 7, 2022

Date of Meeting: September 12, 2022

Subject: Appointment of Accountable Executive for the Oshawa
Executive Airport

Ward: Ward 2

File: 03-05

1.0 Purpose

The purpose of this Report is to recommend the appointment of Warren Munro, Commissioner of Development Services as the Accountable Executive (A.E.) for the Oshawa Executive Airport pursuant to the Canada Aviation Regulations [(S.O.R./96-433) (the "Regulations" or "C.A.R.s")].

2.0 Recommendation

That the Development Services Committee recommend to City Council:

1. That, pursuant to Report DS-22-181 dated September 7, 2022, Warren Munro, Commissioner of Development Services be appointed by by-law as the Accountable Executive for the Oshawa Executive Airport pursuant to Subpart 6, 106.02(1)(a) of the Canadian Aviation Regulations.
2. That, pursuant to Report DS-22-181 dated September 7, 2022, the Airport Manager be directed to notify the Federal Minister of Transport that Warren Munro, Commissioner of Development Services has been appointed by by-law as the Accountable Executive for the Oshawa Executive Airport pursuant to Subpart 6, 106.02(1)(b) of the Canadian Aviation Regulations.
3. That, pursuant to Report DS-22-181 dated September 7, 2022, Warren Munro, Commissioner of Development Services be directed to submit to the Federal Minister of Transport a signed statement that he accepts the responsibilities of the position within 30 days after his appointment as the Accountable Executive for the Oshawa Executive Airport pursuant to Subpart 6, 106.02(1)(c) of the Canadian Aviation Regulations.

4. That, pursuant to Report DS-22-181 dated September 7, 2022, that the by-law further specify that Warren Munro be fully indemnified by the City against any personal liability arising out of his good faith execution of his duties as the Accountable Executive.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following have been consulted in the preparation of this report:

- Commissioner, Development Services
- Commissioner, Finance Services
- Legal Services
- Airport Manager

5.0 Analysis

5.1 Roles and Responsibilities of Accountable Executive for an Airport

The City of Oshawa holds a certificate to operate an airport and as a result, is required by C.A.R.s to appoint an A.E.

Pursuant to the C.A.R.s, Subpart 6, 106.02(1)(a), the A.E. is “responsible for operations or activities authorized under the certificate and accountable on their behalf for meeting the requirements of these Regulations”.

The Regulations cover a wide range of regulatory requirements regarding safety.

C.A.R.s Subpart 6 requires that the A.E. have the financial and human resources control necessary for the activities and operations authorized under the certificate.

The A.E. also commits to implementing the Safety Management System (“S.M.S.”) and is responsible for establishing and maintaining it.

The combination of these requirements requires the A.E. to be someone with the authority to commit the necessary resources to implement, maintain and take responsibility for the S.M.S.

The A.E. should understand how the S.M.S. works, who the key personnel are and what the significant safety issues are at the airport. The extent to which the A.E. will be involved in the S.M.S. will depend on the individual and the size and complexity of the organization.

The A.E. is not intended to be a position title without accountability. The A.E. and all senior managers are accountable for safety. However, no personal liability was intended to be attached to the position of an A.E. as the individual appointee represents the certificate holder. Therefore, while the A.E. is “held responsible” for safety deficiencies, the ultimate responsibility appears to belong to the certificate holder.

5.2 Liability of the Accountable Executive

The certificate holder retains all liability for non-compliance with the regulations.

The requirement for the appointment of an A.E. is for the purpose of identifying the senior individual who will discharge the certificate holder's responsibilities and lead the necessary cultural change related to the implementation of the S.M.S.

Therefore, while the term "liable" is used in reference to the A.E. in the materials published by Transport Canada, often as a synonym for "accountable", the clear statements regarding the limitation of the A.E.'s personal liability, as set out below, appear to argue against the possibility of legal liability for the appointee.

However, there is no express statutory provision prescribing immunity for the A.E. position.

Transport Canada notes on their website that during the deliberations of the C.A.R.s Advisory Council on the creation and implementation of the A.E. position, Transport Canada Civil Aviation committed to industry stakeholders that the A.E. position would not involve a risk of personal liability.

Furthermore, while the wording of Subpart 6 indicates that the A.E. is "accountable" on behalf of the certificate holder for meeting the Regulations' requirements, the amendment was drafted to establish that it is the certificate holder who is ultimately responsible for ensuring compliance with the new requirements.

The Aeronautics Act does not assign any personal liability to the A.E. for the actions of others. However, certain sections of the Regulations do assign the A.E. specific management responsibilities. If an A.E. is not performing their duties satisfactorily, this may be grounds for suspension of the organization's certificates.

5.3 Appointment of Accountable Executive

The Canadian Aviation Regulations requires the appointment of an Accountable Executive for the Oshawa Executive Airport.

Currently Paul Ralph serves as the A.E. Prior to that, it was Jag Sharma, City Manager and previous to that it was Beverly Hendry, Interim City Manager, and previous to that was Tom Hodgins, Commissioner, Development Services. Paul Ralph has now advised he is retiring as the CAO.

It is recommended that Warren Munro, Commissioner of Development Services be appointed by by-law as the A.E. and that Mr. Munro be fully indemnified by the City against any personal liability arising out of his good faith execution of his duties as the A.E. Commissioner Munro has reviewed this recommendation and concurs with the recommended action.

Matters relating to the Oshawa Executive Airport are reported through the Development Services Department.

6.0 Financial Implications

There are no financial implications associated with the Recommendation.

7.0 Relationship to the Oshawa Strategic Plan

The Recommendation advances the Accountable Leadership goal of the Oshawa Strategic Plan.

Handwritten signature of Paul D. Ralph in black ink.

Paul D. Ralph, Chief Administrative Officer,
Office of the C.A.O.