

Becoming Compliant with New Rules Governing Masaryk Memorial Institute

A Special Information Meeting for MMI Members

November 3 , 2024

Presentation by Georgina Steinsky, MMI Co-Chair

Purpose of Our Meeting

- To advance MMI on becoming compliant with new legislation governing nonprofit organizations in Ontario
- Review and discuss three new documents governing MMI which will make us compliant:
 - Articles of Amendment
 - Restated Articles of Incorporation
 - General Operating By-Law No 4

Reminder: What is ONCA

- ONCA is a modern legal framework for nonprofit corporations in Ontario, setting out how not-for-profit corporations are created, governed and dissolved
- Enacted into law October 2021 applies to all nonprofits and charities incorporated in Ontario (supersedes the “Corporations Act”)
- Gives nonprofits three years until October 2024 to become compliant: organizations are encouraged to review their existing modes of operation

Features of the New Act

- Makes a new distinction between public benefit corporations and other not-for-profit corporations
- Introduces telephone and electronic means of meeting and voting
- Clarifies that not-for-profit corporations can engage in commercial activities if the activities support the corporation's not-for-profit purposes
- Provides clearer rules for governing the corporation and increasing accountability e.g. provides a statutory “duty of care” for directors, which requires them to act honestly and in good faith but also has protections for Directors and Officers
- Strengthens rights of members: enables steps to challenge directors if they believe directors are not acting in the best interests of the corporation and gives greater access to financial reporting

MMI Process

- STEPS TO DATE:
 - Created Board sub-committee to look at old by-laws and ONCA requirements
 - With Board approval engaged Theresa Man of Carters Law firm to draft the necessary documents and discuss how to apply to MMI
 - Board Sub-committee met with Theresa to review and customize documents to MMI circumstances
 - Sub-committee agreed on draft documents and presented to MMI Board
 - MMI Board approved September 18, 2024 and is recommending to Members
- NEXT STEPS
 - November 3 Special INFORMATION Meeting of Members to explain ONCA documents
 - November 17 Special Member Meeting for Members to vote:
 - Filings by Carters of relevant documents
 - Design and implement administrative processes to reflect ONCA related changes (e.g. through internal policies)
 - In 12 months evaluate how the organization performed under ONCA and inform members at AGM

Purpose of Each Set of Documents

1. Articles of Amendment: “The Basics”

- Articles of Amendment:
 - Basic info: name, address, person authorized to do filing
 - Size of Board – provides range for number of Board members: 7 – 15
 - New terms replacing old, now obsolete, letters patent:
 - MMI can pursue commercial activities that help to further our non profit goals
 - Directors cannot get remuneration from MMI
 - If organization dissolves Board of Directors decide what other non profit organization or charity benefits (very broad clause that leaves options open for the future)
 - MMI has one “class” of Members
 - By-law changes require Special Resolution of Members
- Note that an organization may be “public benefit” or regular non profit: depends on how much public money it is getting. This can fluctuate year by year.

Purpose of Each Set of Documents

2. Restated Articles of Incorporation

- Similar content to Articles of Amendment
- Only difference is Statement of Purposes of the Corporation:
 - a) To preserve, perpetuate, celebrate, commemorate and study the tradition, history, language, literature, culture and the arts of the Czech Republic and Slovakia;
 - (b) To operate and maintain a park, greenspace and related amenities and recreational facilities for the promotion of Czech and Slovak culture and heritage and to enable the general public to gain an appreciation thereof through use of the facilities; and
 - (c) To operate, directly or indirectly, housing accommodation, as well as related facilities, programs and support services.

Purpose of Each Set of Documents

3. General By-Law No. 4

- What is the by-law?
 - A set of rules, customized to some extent to our requirements, to regulate various aspects of our operations, as allowed by ONCA
 - Governs important categories of our activities and structure:
 - Financial Matters
 - Membership and Friends and their rights
 - Meetings of Members
 - Directors and Officers, their Meetings and their Protection
 - Notices and Amendments

Financial Matters

- No changes from our current practices
 - Fiscal year ends November 30
 - We have an auditor appointed by members
 - NEW does allow flexibility about whether to have audit under certain circumstances, but requires Member approval for “review engagement”
 - Requires sharing of annual financial statements with members and specifies timelines for doing so
 - Enables Board to borrow in various ways and to authorize someone to do so on Board’s behalf

Membership and Friends

- Keep in place our current practices
 - One class of members and Board decides who are members
 - Annual renewal and pay membership dues
 - Members keep right to receive notices, attend meetings, etc
- THINGS TO NOTE
 - Sets out how members can be terminated or disciplined
 - Member must “demonstrate interest in Czech and Slovak culture, history, and community activities”
 - Option for Board to create “Friends” who have no rights of members but can participate on limited basis in committees and activities
 - Board decides criteria for Friends and Members

Meetings of Members

- Similar to our current practice
 - Sets out types of meetings: annual, special and requires only members be present
 - Confirms use of proxies and conditions or their use
 - Confirms Quorum for vote is 15% of those present
- THINGS TO NOTE
 - Allows telephone and electronic meetings
 - Introduces Co-Chair concept to permit Co-Presidency, but understood only one person chairs any meeting
 - Chair of a meeting has an extra vote to break a tie
 - Voting: show of hands, ballots, or electronic versions of such practices
 - Rules are “Roberts Rules of Order”

Directors

- Responsibility: “the Board shall manage or supervise the management of the activities and affairs of the Corporation”
- Eligibility and Election:
 - Number of Board members: 7 – 15 set out in Articles
 - Member in good standing at least one year, not an employee; not paid
 - 3 year term: optimally members in rotation so whole board doesn’t leave at once
 - Can serve 3 terms and then be absent for year before running again
 - Board can appoint Board members in term until next AGM: appointees may not exceed more than 1/3 of the Board
- THINGS TO NOTE
 - Elected by Members but Members must give 7 days notice if intend to nominate from floor at AGM
 - Board can set criteria for Board membership
 - Board can delegate significant responsibilities to an Executive Committee
 - Board can create committee or advisory committees for specific activities
 - Nomenclature is “Chair” instead of “President”

Meetings of Directors

- Require at least 48 hour notice of meeting; can be set as regular meetings
- Quorum is majority with Chair having extra vote in case of tie
- Requirement for confidentiality and disclosure of interest
- Sets out process who Chairs if co-Chairs not available
- Assume absent Directors agree with decisions taken in their absence, unless they specifically write dissent and get it put in the meeting minutes

THINGS TO NOTE

- Resolutions agreed to by majority can be written and signed outside of meeting
- Allow for telephone and electronic meetings

Officers

- Board designates and appoints Officers annually and defines their duties

THINGS TO NOTE:

- Officers who are Directors are: Chair (or Co-Chairs), Vice Chair, Secretary, Treasurer
- One person can hold 2 positions: exceptions are Chair or Co-Chairs and Vice Chair
- Permits Co-Chairs with division of duties
- Persons who are NOT DIRECTORS cannot be an officer

Clause about Officers Being Directors

- Section 9.01

The Board may designate the offices of the Corporation, appoint Officers on an annual or more frequent basis, specify their duties and, subject to the Act, delegate to such Officers the power to manage the affairs of the Corporation. A Director may be appointed to any office of the Corporation. **An Officer must be a Director.** Two or more offices may be held by the same person, save and except for the Chair of the Board and vice-Chair of the Board positions

Protections for Directors, Officers, and Others

- Every Director and Officer”shall act honestly and in good faith with a view to the best interests of the Corporation and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances”
- Additional provisions of protection:
 - Individual’s liability is limited unless Director acts from willful neglect or breaks the law
 - Individual Directors, officers and others acting at Direction of MMI indemnified if acted in good faith and believed that action was lawful
- Mandates MMI to buy Directors and Officers Liability Insurance

Remaining Technical Clauses

- In spirit of transparency, clauses outline how members and directors and officers must be provided notifications
- Affirms that Articles of Amendment require Member Approval
- Notes Board can change by-laws, but they will be only effective when approved by Special Resolution of Members
- Concluding clauses deal with coming into effect of these by-laws:
 - Affirms members remain the same
 - Directors and Officers stay in their positions
 - Previous by-laws are repealed

DISCUSSION AND QUESTIONS