

## COMMITTEE OF THE WHOLE SEPTEMBER 19, 2005

### PROPOSED CITY OF TORONTO LEGISLATION

#### Recommendation

The Commissioner of Legal and Administrative Services and the Commissioner of Finance & Corporate Services recommends:

1. That the Council of the City of Vaughan pass a resolution to be forwarded to the Premier of Ontario, the Minister of Municipal Affairs and Housing, the Minister of Finance and all GTA municipalities, requesting that all GTA municipalities, particularly those sharing a border with the City of Toronto and other interested municipalities be provided with a copy of the final Report and Recommendations of the ***Joint Ontario-City of Toronto Task Force to Review the City of Toronto Act and Other Legislation*** and all such municipalities be given an opportunity to comment on the Recommendations prior to the introduction of a Bill in the Ontario Legislature to revise the *City of Toronto Act, 1997* (No. 1 and 2), relevant private legislation and other relevant statutes affecting the City of Toronto;
2. That City Legal and Finance staff continue to monitor the progress of the Joint Task Force and provide a report back to the Intergovernmental Relations Committee once the final Report and Recommendations of the Joint Task Force and draft legislation or Bill, if any, are released for the approval of the City of Toronto Council and the Cabinet of the Government of Ontario;

#### Economic Impact

There may be potential economic impacts on Vaughan and other municipalities within the 905 Regions due to changes that may be made to the City of Toronto Acts and private legislation, including changes to funding and revenue generation mechanisms. These impacts will only be known upon completion of the current review being undertaken by the *Joint Ontario-City of Toronto Task Force to Review the City of Toronto Act and Other Legislation*.

#### Purpose

To respond to the direction of council on September 12, 2005, approving the recommendation of the Intergovernmental Relations Committee, that legal and financial staff review proposed amendments to the *City of Toronto Act* for the purposes of identifying key issues in respect of the impact of any amendments on the City of Vaughan and its relationship with the Province of Ontario.

#### Background - Analysis and Options

The Province of Ontario and the City of Toronto established a Joint Ontario-City of Toronto Task Force in May 2004 to review the existing legislative framework for the City of Toronto, including the *City of Toronto Act, 1997* (No. 1 and 2), a vast array of special (private) legislation, the *Municipal Act, 2001* and other municipal legislation applying to the City of Toronto.

The intent of this review was to recommend changes to provide the City of Toronto with an "enabling legislative framework commensurate with its responsibilities, size and significance to the province". Although the Premier of Ontario, the Honourable Dalton McGuinty, indicated a modernized *City of Toronto Act* is to be introduced by the end of 2005, the Joint Task Force has not yet released a report containing its final Recommendations for approval by Toronto Council and the provincial Cabinet. In addition, draft legislation or a Bill has not been released. To date

the Joint Task Force has released only the May 2005 brief Staff Progress Report, which was appended to the Intergovernmental Relations Committee Agenda dated September 1, 2005.

Given that the final recommendations of the Task Force, draft legislation and/or a Bill have not yet been released or introduced, it is not possible for City legal and finance staff to review any proposed amendments and identify issues or amendments that may have an impact on the City of Vaughan. Pending the release of the Joint Task Force Recommendations, legal staff can provide only general comments on possible issues that may impact Vaughan based on the brief summary of matters and issues highlighted in the staff progress report.

### **Legislative**

The Staff Progress Report highlights only two broad concepts that have been agreed upon by the Joint Ontario-Toronto Task Force members to date. These concepts and the amendments that will flow out of them, however, cannot be fully understood without being able to review final recommendations and draft legislation. Further, as above noted, they still require the approval of both Toronto Council and the provincial Cabinet and such approvals will depend upon how far the Task Force actually proposes to depart from the existing legislative framework provided in the *Municipal Act, 2001* and other statutes to implement these concepts. For example, the Province may continue the practice of imposing a significant number of provincial requirements on the exercise of the City of Toronto's powers, even over traditionally local matters, and it may exclude significant policy areas and corresponding provincial legislation from the purview of the City of Toronto. The broad concepts are as follows:

1. Any new legislation should function as the City of Toronto's "Charter" by replacing the *Municipal Act, 2001*, the *City of Toronto Act, 1997 (No. 1 and No. 2)* and the vast array of private legislation that applies to the City; and
2. Any new legislation should start with the premise that the City of Toronto can exercise broad permissive governmental powers within its jurisdiction, subject only to specific exceptions in the provincial interest. In addition, the City is to receive a number of specific powers (or "enhancements") which would give the City authority over matters not otherwise covered by the general powers, i.e., to enter agreements to provide services beyond its boundaries

Although this proposed approach is much broader than the powers currently given to all other municipalities throughout the Province and will give Toronto more flexibility in legislating, raising revenues and in organizing itself than other municipalities have been given under the current *Municipal Act, 2001*, the impact of the proposed broad, permissive governmental powers approach cannot be properly assessed without further detail regarding the specific exceptions, controls and exclusions that will apply.

The current legislative model or structure was only recently established for all municipalities in the province by the revisions to the *Municipal Act*, R.S.O. 1990, c. M.45 introduced with the enactment of the *Municipal Act, 2001*. S.O. 2001, c.23. Under the *Municipal Act, 2001*, the approach taken has been to allot general spheres of jurisdiction to municipalities. Although expressed in a general form, the general spheres continue to reflect the past focus of service delivery powers that were contained in the former *Municipal Act*. Under the current Act municipalities throughout the province still need to take into account all other sections of the Act before exercising this general authority, as well as links between the *Municipal Act, 2001* and some 80 other statutes administered by the Ministry of Municipal Affairs and Housing or other Ministry's.

In addition, currently the *Municipal Act, 2001* sets out certain explicit limits on the exercise of powers under the general spheres. These include, for example, where there is a conflict, statutes of senior levels of government prevail over municipal by-laws and where a by-law is authorized both by a sphere or natural person power and a specific power in any Act, by-laws passed under

the spheres and the natural person powers are subject to the specific limits and procedural requirements, including conditions, appeals and approvals, found in the specific authority. Further, under six general spheres of jurisdiction, municipalities are not entitled to regulate private sector operations of the type authorized by that sphere. Also, municipalities considering the use of their authority under the spheres of jurisdiction must take into account the specific powers contained in Part III of the existing Act. Sections 24 to Section 114 serve to supplement, restrict or impose limits and procedural requirements on the areas or matters within the general spheres. In the remaining parts of the existing Act, related to licensing, fees, organizing the municipality, finance and taxation, municipal powers continue to be subject to very detailed and specific limits, procedural and other requirements.

There is also very general mention made of ongoing discussions on policy options related to, for example, planning, good governance mechanisms and Ontario-Toronto "shared space". Under the planning heading, consideration is being given to granting new powers to the City of Toronto to establish minimum density limitations as well as the existing maximum density limitations, the ability to require a percentage of affordable housing units in approvals for new residential or mixed-use development over a certain size, etc. In terms of governance, consideration is being given to granting new powers to the City of Toronto to establish an integrity commissioner with appropriate powers, to establish a lobbyist registry. The "shared space" policy options under discussion may deal with common issues or overlapping issues such as the environment, economic development, etc. No details have been provided to date to consider these issues in any thorough manner.

City staff will also have to review future Joint Task Force reports or recommendations, and any draft legislation, with a view to determining whether there will be an impact on Vaughan as a result of powers that may be given to the City of Toronto respecting, for example, changes to its boundaries and what provisions will be included for resolution of disputes that may arise between Toronto and Vaughan or other local or regional municipalities sharing a boundary with Toronto.

## **Financial**

From a review of the staff progress report, the main objective of the changes to the City of Toronto Act is to make Toronto "more fiscally sustainable, autonomous and accountable". This is an admirable objective and changes to the legislation that assist in achieving this objective are worthy of further discussion and debate. As part of achieving that objective this is an appropriate time to address the issue of GTA Pooling. Vaughan Council has previously recognized that, with changes to the City of Toronto Act, now is an appropriate time to find an alternative to pooling. Council has previously passed a resolution to that effect, copy attached.

As has been stated previously, it is too early to assess the financial impacts to the City of Vaughan as a result of changes to the City of Toronto Act. However based on the staff progress report some of the topics that will be discussed can have a significant impact on Vaughan. For example reference is made to consultation between the Province and the City on changes to Toronto's boundaries. This suggests a change to the way in which changes to boundary issues are currently addressed. Any change to Toronto's northern boundary could have a drastic impact on the City of Vaughan and York Region as a whole.

Toronto's size and place as the capital of Ontario is recognized, however many of the issues and concerns that have been raised by Toronto are also issues and concerns of other Ontario municipalities. In addressing Toronto's issues it may be appropriate to provide those solutions to other Ontario municipalities. Toronto's solutions should not be at the expense of other municipalities.

## **Conclusion**

Although the available information from the Joint Ontario-City of Toronto Task Force remains general and not in final form at this point, it is important for Vaughan to request an opportunity to review any final recommendations of the Task Force that the Minister of Municipal Affairs and Housing proposes to submit for approval to the Cabinet and the City of Toronto Council, prior to the Minister moving forward with a Bill for introduction in the Ontario Legislature. Given the common boundary and the likelihood that the final proposals could impact Vaughan, arising from the possibility that Toronto will receive far greater legislative flexibility, broader revenue sources, and so forth, than its immediate neighbour(s) to the north, the ability for neighbouring municipalities to comment on the proposals is important prior to approval by the Provincial Cabinet as envisioned by the Joint Task Force.

In the next few months, City staff should continue to view the progress of the Joint Task Force and keep the Intergovernmental Relations Committee up-to-date on such progress.

**Attachments**

Resolution approved by Council – June 27, 2005

**Report prepared by**

Clayton D. Harris, Commissioner of Finance & Corporate Services

Carolyn P. Stobo, Solicitor, Special Services

Respectfully submitted,

Robert J. Swayze  
Commissioner of Legal & Administrative  
Services

Clayton D. Harris  
Commissioner of Finance & Corporate  
Services

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES JUNE 27, 2005

170. CITY OF TORONTO ACT  
(Addendum No. 1)

MOVED by Councillor Yeung Racco  
seconded by Councillor Meffe

That the recommendation contained in the following report of Mayor Di Biase, dated June 27, 2005, be approved:

CARRIED

Recommendation

Mayor Michael Di Biase recommends:

That the following resolution be approved.

Whereas the City of Toronto has requested the Province of Ontario amend the City of Toronto Act;

Whereas the City of Toronto is requesting that the Province provide the City with more authority and autonomy to address local issues;

Whereas the City of Toronto is requesting greater authority with respect to generating revenues;

Whereas GTA municipalities have previously requested that the requirement for GTA municipalities to send locally collected tax dollars to assist the City of Toronto ("GTA Pooling") be discontinued;

Whereas the province has indicated that they will be introducing new legislation to address Toronto's concerns this fall;

Now therefore be it resolved:

That GTA Pooling be discontinued and Toronto be provided the necessary authority to address their funding issues within the City of Toronto;

That this resolution be circulated to Dalton McGuinty, Premier of Ontario, the Hon. John Gerretsen, Minister of Municipal Affairs and Housing, the Hon. Greg Sorbara, Minister of Finance, MPP's within the GTA, municipalities within the GTA and the City of Toronto.

Economic Impact

Since the introduction of GTA pooling, up to and including 2005, York Region will have collected from local municipalities and forwarded \$654.4 million to the Province to fund Toronto Social Services. Of this amount \$194.7 million was collected within the City of Vaughan. In 2005 approximately \$82 million will be collected in York Region, \$25 million or 31.3% of this funding for GTA pooling is collected in the City of Vaughan.

Purpose

The purpose of the resolution is to bring forward the concerns regarding GTA Pooling and have those concerns addressed as part of the amendments to the City of Toronto Act.

Background - Analysis and Options

GTA Pooling has been a concern to municipalities in the GTA for a number of years and those concerns have been expressed to the Province. Toronto's issue is a lack of funding for issues being

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES JUNE 27, 2005

faced by the City.  
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Given the City of Toronto's request that the Province amend the City of Toronto Act with the objective of providing the City with more authority over local issues and a greater ability to generate revenue, it is appropriate that GTA Pooling cease and Toronto be given the ability to generate revenue within Toronto to provide the required funding.

Relationship to Vaughan Vision 2007

This resolution is consistent with the objective of "ensuring short and long term financial stability".

Conclusion

GTA Pooling has been a concern for many years and it is appropriate that those concerns be addressed through the amendments to the City of Toronto Act which is designed to give Toronto more authority and accountability.

Attachments

None

Report prepared by:

Clayton D. Harris, CA  
Commissioner of Finance & Corporate Services