

Provincial Local Services Realignment - Making It Work, and Towards a New Relationship with Ontario and Canada

(City Council on July 4, 5 and 6, 2000, amended this Clause by:

- (1) *deleting from Recommendation No. (1) embodied in the joint report dated June 6, 2000, from the Chief Administrative Officer and the Chief Financial Officer and Treasurer, as amended by the Policy and Finance Committee, the words “acceptable to the Province”, so that such recommendation shall now read as follows:*

“(1) the Chief Financial Officer and Treasurer be directed to proceed to contract an independent third party auditor, to verify the financial impacts on the City of the Province’s Local Services Realignment; and if the Province decides against participating, within two weeks, the City proceed on its own to contract the auditor;”; and

- (2) *adding thereto the following:*

“It is further recommended that:

- (a) *City Council encourage the Federation of Canadian Municipalities (FCM) to pursue its campaign to achieve constitutional status for municipal governments in Canada; and the Chief Administrative Officer, senior City staff, Team Toronto, and the FCM Board and Committee Members explore, with the FCM staff, ways in which the City of Toronto, the Big City Mayors’ Caucus, the Presidents of the Provincial/Territorial Municipal Associations and the FCM members can work together to achieve this objective;*
- (b) *the Federation of Canadian Municipalities be requested to appoint Councillor David Miller to its Standing Committee on the Future Role of Municipal Governments;*
- (c) *Members of Toronto City Council attending the Association of Municipalities (AMO) Conference be requested to put forward a motion requesting that AMO support the concept of a Charter City;*
- (d) *Team Toronto be requested to consider holding a Constitutional Assembly, with invitations to the City Councils of the major cities of Canada, as part of the strategy set out in the report;*
- (e) *the City of Toronto’s audit to verify the financial impacts on the City of the Province of Ontario’s Local Services Realignment include statistics on the following:*
- (i) *the shortfall in provincial cost-sharing programs related to:*
- (1) *childcare (as documented by the provincial KPMG audit);*

- (2) *family resource centres;*
 - (3) *special needs children's programs; and*
 - (4) *shelter and hostel services; and*
- (ii) *the cost of side-loading as a result of cuts in education funding related to:*
- (1) *child care centres being moved because of school closures;*
 - (2) *replacing playgrounds; and*
 - (3) *increased rental fees of schools for parks and recreation programs and community groups;*
- (f) *the Chief Administrative Officer and the City Solicitor be requested to submit a report to the next meeting of the Policy and Finance Committee scheduled to be held on July 20, 2000, on holding a public plebiscite as part of the 2000 municipal election to determine public support for the establishment of a City Charter for the City of Toronto, such report to address various ways of posing a question that is and is not consistent with provincial regulations;*
- (g) *the following motion be referred to the Chief Administrative Officer and the City Solicitor for joint report thereon to the Policy and Finance Committee:*

Moved by Councillor Walker:

'It is recommended that the Chief Administrative Officer develop an extensive communications package outlining the arguments for and against Charter City status for the City of Toronto and a plan to provoke full participation and debate on the part of citizens, prior to the plebiscite being put forth on the 2000 municipal election ballot.';

- (h) *the Chief Administrative Officer be requested to:*
- (i) *list in his forthcoming report to the Policy and Finance Committee, further examples of the unique nature of the City of Toronto, such as the fact that Toronto is the largest receptor of immigrants and refugees in Canada;*
 - (ii) *review whether appeals to the Ontario Municipal Board from decisions of City Council could be eliminated as part of the City Charter;*
 - (iii) *submit a report to Team Toronto on options available to City Council to ensure that any Charter cannot be unilaterally changed by the Province of Ontario; and*
 - (iv) *submit a report to City Council for its regular meeting scheduled to be held on October 3, 2000, through the Policy and Finance Committee, on the current relationship between the following municipalities and provinces, such report to be forwarded to the Premier of Ontario and the Prime Minister of Canada:*

- (1) Vancouver and British Columbia;
- (2) Winnipeg and Manitoba;
- (3) Montreal and Quebec; and
- (4) St. John's and Newfoundland; and

(i) *the following motions be referred to the Office of the Mayor for consideration:*

Moved by Councillor Bossons:

'That the Clause be amended by adding to Recommendation No. (3) embodied in the joint report dated June 6, 2000, from the Chief Administrative Officer and the Chief Financial Officer and Treasurer, the words "and representatives from the GTA's regional municipalities be invited to join Team Toronto", so that such recommendation shall now read as follows:

"(3) a Team Toronto, composed of a group of Councillors, be established that can provide advice to the Mayor and political guidance to staff on implementation of the strategy, and representatives from the GTA's regional municipalities be invited to join Team Toronto;".'

Moved by Councillor Cho:

'It is recommended that Councillor Howard Moscoe be appointed as a member of Team Toronto.'

Moved by Councillor Korwin-Kuczynski:

'It is recommended that a third Team Toronto, consisting of citizens of the City of Toronto who are interested in pursuing Charter City status, be established.'

Moved by Councillor Moscoe:

'It is recommended that Councillor Michael Walker be appointed as a member of Team Toronto.' ")

The Policy and Finance Committee recommends:

- (I) **the adoption of the joint report (June 6, 2000) from the Chief Administrative Officer and the Chief Financial Officer and Treasurer, entitled "Provincial Local Services Realignment – Making it Work", subject to amending Recommendation No. (1) to read as follows:**

“(1) the Chief Financial Officer and Treasurer be directed to proceed to contract an independent third party auditor acceptable to the Province, to verify the financial impacts on the City of the Province’s Local Services Realignment; and if the Province decides against participating, within two weeks, the City proceed on its own to contract the auditor;”,

so that the Recommendations embodied in the aforementioned report now read as follows:

“(1) the Chief Financial Officer and Treasurer be directed to proceed to contract an independent third party auditor acceptable to the Province, to verify the financial impacts on the City of the Province’s Local Services Realignment; and if the Province decides against participating, within two weeks, the City proceed on its own to contract the auditor;”;

(2) this initiative be funded from the Corporate Contingency Account at a cost not to exceed \$20,000; and

(3) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto;”;

(II) the adoption of the report June 6, 2000) from the Chief Administrative Officer, entitled “Towards a New Relationship with Ontario and Canada”, wherein it is recommended that:

(1) Council endorse, in principle, the changes that the City of Toronto should be seeking in its relationships with the Provincial and Federal governments, including its request to be established as a Charter City, as set out in this report;

(2) Council endorse the strategy set out in this report to achieve the desired changes in the City of Toronto’s relationships with the Provincial and Federal governments;

(3) a Team Toronto, composed of a group of Councillors, be established that can provide advice to the Mayor and political guidance to staff on implementation of the strategy;

(4) the terms of reference for Team Toronto, set out in Attachment No. 1, be adopted;

(5) a copy of this report be sent to the Prime Minister of Canada, the Premier of Ontario, the provincial Minister of Municipal Affairs and Housing, the Federal Minister for the Greater Toronto Area, the Presidents of FCM and AMO, the leaders of the Federal and Ontario official opposition parties and the heads of Council in the major cities in each Canadian province; and

- (6) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto; and
- (III) that the Chief Administrative Officer be requested to submit a report to the meeting of the Policy and Finance Committee scheduled to be held on July 20, 2000, on the implementation mechanism that will be utilized to achieve a new relationship with Ontario and Canada, including citizen engagement in the process, such report to indicate how citizen participation will be strengthened and financed to make it a key component of the strategy.

The Policy and Finance Committee submits the following joint report (June 6, 2000) from the Chief Administrative Officer and the Chief Financial Officer and Treasurer entitled, “Provincial Local Services Realignment – Making It Work”:

Purpose:

To provide background on the Province’s Local Services Realignment process, to highlight the difficulties this placed on Toronto and the reasons why the City is not able to absorb the net impact of this downloading, and to initiate a process to make the realignment work.

Financial Implications and Impact Statement :

Financial exchanges between the Province and the City as part of the Local Services Realignment process left the City short by an average of \$252 million annually - \$72 million in operating and \$180 million in capital.

The recommendation contained in this report to hire an external auditor to verify the City’s calculation of the Province’s actions are estimated at \$20,000.00, to be funded from the Corporate Contingency Account.

Recommendations :

It is recommended that:

- (1) the Chief Financial Officer and Treasurer be directed to contract an independent third party auditor acceptable to the Province, to verify the financial impacts on the City of the Province’s Local Services Realignment;
- (2) this initiative be funded from the Corporate Contingency Account at a cost not to exceed \$20,000.00; and
- (3) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

Since it was first announced in 1997, the Province's Local Services Realignment program has made a series of adjustments to the financial and service relationship between the Province and municipalities in the Province. Although the Province's goal was that the exchange in responsibilities was to be revenue neutral, this was not the end result for Toronto. As previously reported to Council, the net impact on the City is estimated at \$252 million annually - \$72 million for operating purposes and \$180 million for capital. The property tax base and the expenditure structure of the City means that this impact cannot be offset without massive service dislocation or substantial tax increases. The exchange also left a lack of clear authority of service responsibility versus funding responsibility.

Comments:

(A) Previous Studies and Municipal Consultation Processes:

There has been a long history of consultation from various provincial governments and Ontario municipalities. The financial relationship between the two levels of government has been studied and reported and options identified for more than a quarter of a century. These have included such documents as "Puppets on a Shoestring", "Rethinking the Fundamentals: Provincial-Local Finances in the Greater Toronto Area" from the Greater Toronto Co-ordinating Committee, "The Crumbling Provincial Partnership" and numerous papers produced by the Association of Municipalities of Ontario.

The essential message of most of these documents is that there needs to be clarity of responsibility for the delivery and funding of services between the levels of government and there needs to be adequate funding for municipalities, recognizing the limitations of the property tax base.

(B) 1998 Local Services Realignment – Why it Did Not Work in Toronto:

Most recently, the Province's Who Does What Panel documented a series of principles, included in this report as Attachment A, following which the Province undertook the most ambitious realignment of provincial-municipal responsibilities in recent history.

Two notable principles established by that panel were:

- (a) "Whenever practical there should be one level of government fully responsible for a service"; and
- (b) "When a service responsibility is transferred to a level of municipal government, the authority to generate revenue required to maintain the service in the long term should be allocated to the level of municipal government involved".

Simply put, this did not happen in the most recent realignment exercise and Toronto in particular is left with service responsibilities for which it has neither control, nor appropriate financial tools to support. Instead of aligning funding responsibility with

service standards, policy setting and rate setting responsibilities, the Provincial exercise ended up becoming a financial balancing exercise, with education tax as a final balancing tool.

The exchange of property taxes in 1998 as part of LSR was as follows (in \$billion):

| | <u>Before LSR</u> | <u>After LSR</u> | <u>Change</u> |
|----------------------|-------------------|------------------|---------------|
| Municipal Taxes | 2.0 | 2.5 | 0.5 |
| Education Taxes | <u>2.6</u> | <u>2.1</u> | <u>(0.5)</u> |
| Total Property Taxes | <u>4.6</u> | <u>4.6</u> | <u>0.0</u> |

The financial imbalance in service delivery responsibilities is in large part because the Province followed only part of the advice of its own Who Does What Panel. In reference to downloaded provincial highways and the elimination of transit subsidies, a report from the Transportation and Utilities Sub-Panel on November 4, 1996 indicated that:

“Again, the sub-panel would like to reiterate that these recommendations can only be implemented successfully if municipalities gain some ability to finance additional costs with revenue that is freed up from the property tax base, or other sources such as the existing provincial gasoline tax”.

In Toronto’s case the service transfer was made without the recommended funding tools being provided to the City since the transfer of part of the education tax room was far from sufficient to properly fund transit and other services.

Further, the LSR process has left many services as entangled as ever. The Province has retained its authority to set standards and rates for a wide range of services that it then cost shares with the City, including: housing and shelter, social services, children’s services, public health, and ambulance. At the same time, the City has been left with the funding responsibility for services that have medium to high longer-term financial variability, either through demographic changes or through the impact of economic cycles for which the property tax system is ill equipped to handle. For example, Council has adopted a position that requests the Province to provide additional funding should welfare caseloads exceed a set proportion of the population, recognizing that the property tax base is simply not suited to funding the financial swings that occur in welfare payments during a recession. Other services will experience increasing cost pressures as a result of changing demographics of the City, such as ambulance, homes for the aged and housing, or Federal / Provincial legislative changes, such as servicing refugee claimants.

The LSR debate to this point has centred around the fact that the Province’s goal of revenue neutrality in the exchange of services left Toronto some \$252 million short each year, as outlined in Attachment B. In contrast, other municipalities in the province broke even and many came out ahead in the exercise.

The impact on the City from the exchange of services as reported in November, 1999 was as follows:

\$Million

| | |
|--|---------------------|
| Net operating cost of services transferred to the City | 644.9 |
| Capital impact – elimination of TTC subsidies* | <u>180.0</u> |
| Total Impact | 824.9 |
| Less: Education Tax “Room” provided to City** | <u>(573.2)</u> |
| Net Impact on Toronto Taxpayers: | <u><u>251.7</u></u> |

* Loss of 75 percent subsidy on typical year’s TTC capital expenditures, the Province had previously announced in 1996 a reduction in subsidy from 75 percent to 50 percent, then further announced complete elimination of the subsidy in 1998. Regardless of the timing of the announcements, the City has not been able to absorb the subsidy loss due to other financial pressures, a flat revenue base, and the fact that some of the impact was deferred by the capital subsidy agreement between the former Metro and the Province. That agreement temporarily maintained the 75 percent subsidy for much of the TTC capital program in the intervening years between 1996 and 1999.

** Province is using figure of \$565 million, which results in a Total Impact of \$817 million as reported in Attachment D.

On May 10, 2000, the Premier of Ontario wrote a letter to Mayor Lastman, appended as Attachment C. The City responded with a fact sheet (Attachment D) which clarified a number of the points made by the Premier.

Because of questions raised on the net impact on the City from LSR, it is recommended that the air be cleared through an independent audit of the \$252 million figure which was calculated by the City. While the City would fund this audit, it is suggested that the auditor chosen be acceptable to the Province.

(C) Financial Capacity of Toronto:

There is a larger debate, however, as to whether or not Toronto has sufficient financial capacity in the longer term to appropriately pay for its operating and capital needs. The City has been aggressively achieving efficiencies through amalgamation and restructuring, but lacks the fundamental financial tools to sustain the City’s services and infrastructure.

The Provincially commissioned KPMG study indicated that amalgamation was expected to save Toronto between \$82 and \$112 million annually. In actual fact, the City has exceeded those savings and has now permanently reduced its expenditures by \$136 million and further efficiency savings are being phased in. Through the amalgamation process, executive management positions were reduced by 60 percent, from 381 to 154 and management positions were reduced by 34 percent from 1,837 to 1,204. Further consolidations were made in garages, business systems, servers and mainframe computers, and leased office space. Unfortunately, the amalgamation savings, which should have benefited the taxpayers of Toronto, were largely absorbed by the Provincial downloading, effectively transferring the benefit out of the City.

Despite the pressures caused by the downloading impact, the City was still able to freeze

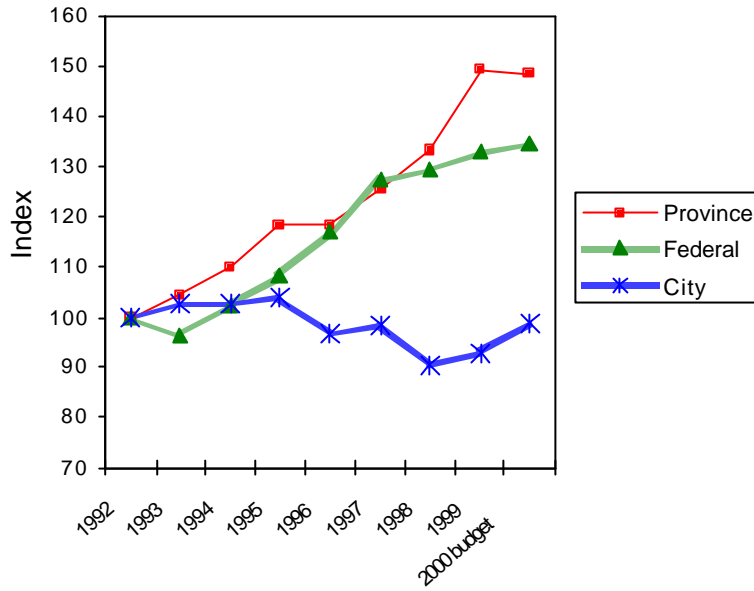
property taxes for the three years since amalgamation. In achieving this, the City did not abdicate its responsibility for sound financial management. One-time expenditure offsets or revenue sources, such as the bulk of the OMERS pension surplus, were appropriately applied to the capital program, rather than being used for tax deferral. Operating contributions to the capital budget were increased to avoid as much future debt as possible and to recognize that the majority of capital expenditures are for ongoing maintenance and repair requirements. Provincial loans were used to fund capital transitional projects, except for a small amount used in 1998 to smooth the transition to permanently lower operating expenditures, which were achieved the next year.

In a continuation of the substantial progress made, the City is implementing further efficiencies in an creative and progressive manner. Innovative financing methods are being explored, new business practices are being implemented and a corporate culture of operating in an ever more efficient manner is becoming firmly entrenched.

All indications are, however, that tax freezes will not be sustainable in the future due to salary pressures, the cost of finding replacement landfill capacity, the need to more properly fund the City's liabilities, increasing service demands which are a natural product of being Canada's largest metropolis, and, most significantly, mounting debt charges. The City's debt is projected to rise dramatically as a result of insufficient operating budget capacity to fund maintenance of the City's aging infrastructure, and because of downloading of services, for example, GO Transit and housing.

One of the financial problems faced by the City is the level of restriction placed on municipalities in Ontario on the types of revenues that can be raised. In contrast to senior levels of government which have a broad basket of revenue sources, the City is limited to property taxes and to cost recovery based user fees. As illustrated on the following graph, the economic growth that has provided the revenues that have allowed senior levels of government to eliminate their deficits while increasing spending since 1992 has not benefited the City in any way whatsoever.

Change in Government Revenues (1992 = 100)



While the Province has seen its revenues grow by 48 percent since 1992 and the Federal government by 35 percent, the City's total revenues (adjusted for consistency to eliminate the impact of downloading) have actually fallen by 1.2 percent. During that same time, Provincial spending is up 14 percent while Federal spending has been flat mainly due to reduced transfer payments. After deducting the additional expenditures transferred to the City from the LSR exercise over the past three years, the City's total expenditures have decreased by 1.2 percent.

Of note, had Toronto experienced the same growth in its property taxes alone that the Province had in its total revenues since 1992, the City would have an extra \$1.2 billion in its annual base revenues by 2000. Instead, the City has been forced to make very difficult spending decisions and postpone necessary infrastructure maintenance and repair expenditures to make ends meet with virtually no revenue growth.

The City has not benefited from the strong economic growth in Ontario, despite the fact that Toronto businesses and residents have contributed greatly to that growth. Conversely, the City will share the downside in the next recession through higher costs for welfare and other services. As quoted in the letter to the Premier from the President of AMO dated May 17, 2000, included as Attachment E, the former Minister of Municipal Affairs stated publicly in 1998 that "The ultimate goal would be to get all income redistribution programs off the property tax. Well, that is too much to manage in one step, but as the Province's finances improve, that may be a legitimate goal."

Conclusions:

The Province's Local Services Realignment, though sound in theory, did not work in Toronto's case. The exchange of services did not achieve the Province's goal of disentangling the service and funding relationship between the City and the Province, nor was it revenue neutral. This is in large part because the Province followed only part of the advice of its own Who Does What Panel in that it did not provide the City with new revenue sources. As well, the transfer of part of the education property tax room was far from sufficient to properly fund transit and other downloaded services.

The City's revenue base is woefully inadequate to deal with not only the negative impacts of this downloading process, but with the financial pressures which will continue to face Toronto over the foreseeable future. Toronto needs to negotiate a new deal with the Province to maintain the City's position as the economic engine of the Province. As a first step, it is recommended the Chief Financial Officer and Treasurer be directed to contract an independent third party auditor acceptable to the Province, to verify the financial impacts on the City of the Province's Local Services Realignment. Further recommendations on a process for establishing a new relationship with the provincial and federal governments are addressed in a companion report entitled "Towards a New Relationship with Ontario and Canada".

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Attachment A
Principles Set By Provincial Who Does What Panel

In restructuring responsibilities for services to clarify roles and reduce costs to the taxpayer, every effort will be made to ensure that the overall distribution of funding and functional responsibilities is fair, balanced and commensurate with the fiscal capacities of municipalities and the provincial government. In order to achieve fairness and balance, consideration should be given to identifying appropriate fiscal offsets including such items as education, social assistance and sharing of, for example, income, sales and gasoline taxes, and other items as required.

- (1) Whenever practical there should be one level of government fully responsible for a service. This would be defined as the Province or either a local municipality or an upper tier municipality. The responsibility should not be left simply to the “municipal sector”.
- (2) Where there is a clear provincial interest, the provincial role should focus on establishing results-based standards and municipalities should be left to develop the methods and delivery systems adapted to their circumstances.
- (3) Any transfer of authority for a service should result in lower over-all costs to the taxpayer.
- (4) Whenever feasible responsibility for a service should be lodged at the level that can provide the service cost-efficiently and effectively.
- (5) In allocating responsibility, the focus should be on defining the level of government which is accountable for a function, not on the delivery model; the level of government with the responsibility for a function should decide on the delivery model. The concept of full cost recovery should be considered whenever feasible.

In order to achieve the most efficient and effective service delivery system, municipalities should consider the full range of alternatives available, including: private-public partnerships, public-public partnerships, contracting out, privatization, municipal delivery, etc.

- (6) When restructuring of a service responsibility requires transfer of assets, there should be no financial adjustments involved, the assets, liabilities, contracts and other obligations should go together.
- (7) When a service responsibility is transferred to a level of municipal government, the

authority to generate revenue required to maintain the service in the long term should be allocated to the level of municipal government involved.

- (8) In the case of capital-intensive services, the revenue required should be determined on the basis of life-cycle costs and should include operational costs and capital replacement costs.

Attachment B
Impact on City from Provincial Downloading
Local Services Realignment (LSR), November, 1999

| | \$Million |
|------------------------------------|-----------|
| Social Assistance | 152.3 |
| Child Care | 26.4 |
| Public Health | (9.6) |
| Social Housing | 250.8 |
| Children's Aid Society | (25.1) |
| GO Transit | 53.1 |
| Transit – Operating | 95.9 |
| Provincial Offences – Net Revenue | (13.0) |
| Property Assessment | 25.8 |
| Gross Receipts Tax | 13.2 |
| Ferries | 0.7 |
| Total | 570.5 |
| | |
| Residential Education Tax Room | (573.2) |
| Net Change in City Costs | (2.7) |
| | |
| Municipal Support Grant Eliminated | 74.4 |
| Net Additional Operating Costs | 71.7 |
| | |
| TTC Capital | 180.0 |
| | |
| Total including TTC Capital | 251.7 |

Source: Report from the Chief Financial Officer and Treasurer dated December 1, 1999, to the Policy and Finance Committee

Attachment C
Letter to Mayor Lastman from Premier of Ontario Dated May 10, 2000.

I am disappointed and, quite frankly, surprised by your continued comments about provincial support for public transit in Toronto.

We do not, as you have pointed out, fund the operating costs of public transit. However, as you well know, there is a very good reason for this decision — one that involves a municipal request to assume this responsibility.

In fairness to the people of Toronto, they deserve to hear the whole story.

The whole story includes the fact that we gave you two interest-free loans of \$100 million each, plus an additional 550-million grant. By assuming half of approved costs, we reduced your public health and ambulance costs by \$76 million. Our decision to share social housing and welfare costs across the GTA benefited you by \$190 million last year. Provincial changes to the OMERS pension saved Toronto \$55 million in 1998 and \$66 million in 1999. These figures do not reflect the impact of our welfare reforms, which have dramatically reduced social assistance costs across Ontario.

In addition, municipal amalgamation gave you access to hundreds of millions of dollars in potential efficiency savings. The fact that your council chose to forego many of those savings and to increase spending — rather than taking advantage of the opportunity to reduce costs - was not a provincial decision.

The most significant factual omission, however, has been your failure to acknowledge that it was the municipalities themselves who asked to assume 100 per cent responsibility for public transit.

As you well know, in 1997 we realigned services provided at the provincial and municipal levels.

For years municipalities had been asking for an end to duplication and overlap in areas such as transportation. They suggested that the province take responsibility for funding services best funded by the province, and that municipalities take responsibility for funding services best funded and delivered locally.

In particular municipalities asked to take on many hard services and to have the province assume more of the soft services.

As part of the realignment agreement, the Association of Municipalities of Ontario (AMO) specifically asked that municipalities assume 100 per cent responsibility for municipal roads and 100 per cent responsibility for public transit.

In exchange, the province assumed other responsibilities. The biggest part of the switch was increased provincial responsibility for education funding, which removed a huge burden from the property tax base. Acting on a recommendation by AMO, we cut residential education property taxes on average by 50 per cent while setting a provincial mill rate on the remaining 50 per cent. We started out by freezing this provincial portion of residential property taxes, then cut the rate

by 10 per cent in 1999; by 2003, we will reduce the rate by a further 10 per cent.

I have often heard you use the term “downloading,” a term that is neither accurate nor fair. That said, if any “loading” took place, the most significant and dramatic was the “uploading” to the province of additional responsibility for education funding.

By taking on this additional responsibility for education funding, the province removed a \$565-million annual burden from the Toronto property tax base.

The trades left Toronto and other municipalities with a lot of tax room to fund services such as local transportation — areas where municipalities are in the best position to identify and respond to local needs.

In your particular case, Toronto assumed additional responsibility for public transit, including GO Transit. Your increased share of annual transit operating costs is only \$120.6 million — less than one-quarter of the amount of education funding that the province removed from the property tax base.

In other words, you could pay your increased share of public transit operating costs more than four times over with the tax room we freed up.

Before completing this trade, we fulfilled our existing commitments to the Sheppard subway and to the TTC’s five-year capital plan, providing you with a lump sum payment of \$829 million. Through the GTSB we also gave \$53 million in one-time assistance, specifically for GO Transit purposes.

The next time you discuss this topic, therefore, I would hope that you tell the public the whole story: Who asked to take responsibility for hard services? The municipalities. Who asked to fund 100 per cent of municipal transit as part of the realignment deal? The municipalities.

We did what municipal governments proposed. We gave you the responsibility you asked for. With the greatest of respect, Your Worship, municipalities are hardly in a position to criticize us for taking your advice.

Despite AMO’s earlier request, perhaps you are no longer happy with 100 per cent responsibility for public transit. If so, we are open to suggestions to review your earlier request to take over transit funding. After all, from the very beginning, the province has negotiated with municipalities on these arrangements. If you want to upload part or all of the responsibility for the funding and management of public transit, and can suggest an equivalent financial responsibility that Toronto is prepared to assume, I would be happy to hear it.

This would be timely advice, as our government is in the middle of a review of the “Who Does What” trades of responsibility undertaken in 1997. I thought you would be interested to learn that preliminary estimates indicate a considerable benefit to municipalities, including Toronto.

Attachment D

Response to Premier Harris’ May 10, 2000 Letter

to Mayor of Toronto

| Premier's Statement | Fact |
|--|---|
| <p>(1) Amalgamation gave City access to hundreds of millions of dollars in potential savings</p> | <p>(1) Annual amalgamation savings achieved of \$136 million</p> <p>(2) The Province's KPMG study projected savings of \$82-112 million from amalgamation. The City has exceeded these savings and are working towards finding further regular efficiency savings</p> <p>(3) We have accumulated \$301 million in savings since 1998 and used all of these savings to freeze taxes</p> <p>(4) Property taxes throughout 3 years since amalgamation have been frozen</p> <p>(5) Since 1992, Provincial expenditures have increased by 14 percent while the City has held the line on expenditures. Provincial revenues are up by 48 percent, while the City's property taxes are flat</p> <p>(6) Municipalities across the Province have been cutting and finding efficiencies since 1992 when the Province starting withdrawing its funding of municipalities</p> |
| <p>(2) Province removed \$565 million annual burden from the Toronto property tax base</p> | <p>(1) These savings were more than offset by downloading of Provincial responsibilities of \$817 million for a net impact on Toronto taxpayers of \$252 million every year not including any costs of growth for TTC and GO Transit for a total additional cost of \$200 million per year</p> <p>(2) The Province did not recognize the capital impacts of transit and</p> |

| Premier's Statement | Fact |
|--|---|
| | <p>transportation</p> <p>(3) Many of the downloaded services such as GO Transit, Housing and TTC were previously underfunded and had no allowance for future growth. These costs will have significant implications for our residents</p> <p>(4) The Provincial education tax rates for Toronto's businesses vastly exceed the Provincial average which translates into a further \$250 million in higher taxes for commercial and industrial taxpayers in Toronto</p> <p>(5) While residential property tax rates as set the Province are now the same across Ontario, this is not the case for Toronto's businesses who are overpaying for education by at least \$400 million per year</p> |
| <p>(3) Increased share of annual operating costs is only \$120.6 million</p> | <p>(1) Downloaded operating costs for GO and TTC are \$150 million. Annual capital maintenance costs add an additional \$180 million excluding any future expansion costs</p> <p>(2) TTC is only major transit system in North America that receives no senior government financial support for either capital or operating purposes</p> |
| <p>(4) We fulfilled our existing commitments to the Sheppard subway and to the TTC's five-year capital plan, providing you with a lump sum payment \$829 million</p> | <p>(1) Transfer simply reflects commitments made by the Province in 1996</p> <p>(2) Support was one time and did not recognize ongoing funding problem for GO and TTC</p> |
| <p>(5) We gave you two interest-free loans of \$100 million each, plus an</p> | <p>(1) These were used by the City to fund transition costs associated with</p> |

| Premier's Statement | Fact |
|---|--|
| <p>additional \$50 million grant</p> | <p>amalgamation.</p> <p>(2) These loans have to be repaid</p> <p>(3) Other municipalities have received grants for transition, not loans</p> |
| <p>(6) Provincial changes to the OMERS pension saved Toronto \$55 million in 1998 and \$66 million in 1999</p> | <p>(1) These contributions were not funded by the Province, they were fully funded by the City</p> <p>(2) The Province did not create these changes – Federal Income Tax legislation allowed OMERS to implement a contribution “holiday”</p> <p>(3) Pension surpluses are temporary and have been largely used to offset capital downloading in the short term</p> |
| <p>(7) If you want to upload part or all of the responsibility for the funding and management of public transit, and can suggest an equivalent financial responsibility that Toronto is prepared to assume, I would be happy to hear it</p> | <p>(1) The City is encouraged by the offer to engage in further discussions on the realignment of responsibilities, that are in interest of the taxpayers in the City of Toronto</p> |

Insert Table/Map No. 1
comparison of transit funding

The Policy and Finance Committee also submits the following report (June 6, 2000) from the Chief Administrative Officer, entitled “Towards a New Relationship with Ontario and Canada”:

Purpose:

This report is intended to initiate a dialogue with the provincial and federal governments about a new relationship between the City of Toronto and the other orders of government. The report recommends a strategy in pursuit of that goal. The directions recommended in this report are achievable within the existing constitutional framework. The new relationships envisioned do not require secession or elevation of Toronto to provincial status. The report has been prepared with the participation of the Finance Department and the Legal Division. A set of background reports highlight challenges confronting Toronto, provide an overview of the legal framework for city government in Canada and Ontario and review the legal status and revenue sources available to other cities in Canada and internationally.

Financial Implications and Impact Statement:

There are no direct financial implications arising from the recommendations in this report. However, there are resource implications associated with components of the strategy, specifically communications requirements. These will be reported separately once a plan is developed.

Recommendations:

It is recommended that:

- (1) Council endorse, in principle, the changes that the City of Toronto should be seeking in its relationships with the provincial and federal governments, including its request to be established as a Charter City, as set out in this report;
- (2) Council endorse the strategy set out in this report to achieve the desired changes in the City of Toronto’s relationships with the provincial and federal governments;
- (3) a Team Toronto, composed of a group of councillors, be established that can provide advice to the Mayor and political guidance to staff on implementation of the strategy;
- (4) the terms of reference for Team Toronto, set out in Attachment No. 1, be adopted;
- (5) a copy of this report be sent to the Prime Minister of Canada, the Premier of Ontario, the provincial Minister of Municipal Affairs and Housing, the federal Minister for the Greater Toronto Area, the Presidents of FCM and AMO, the leaders of the federal and Ontario official opposition parties and the heads of Council in the major cities in each Canadian province; and
- (6) the appropriate City Officials be authorized and directed to take the necessary action to

give effect thereto.

Background:

On May 9 – 11, 2000, Council debated Notice of Motion F and various amendments dealing with the need to redefine the legal relationship between the City of Toronto and the Province of Ontario. Council referred the main motion and all the amendments to the CAO and requested him to develop a comprehensive strategy to deal with the issues raised, including the issue of charter cities and other alternatives deemed appropriate to mitigate the transfer of responsibilities from the Province. This report responds to Council's request.

The report outlines a set of initiatives to establish new relationships between the City of Toronto and the provincial and federal governments. The rationale for these new relationships and the legal framework within which they are achievable are discussed in Background Reports entitled "The Time is Right for New Relationships with Ontario and Canada" and "Powers of Canadian Cities- the Legal Framework" respectively.

Introduction:

In November 1999, City Council adopted Part 1 of Council's Strategic Plan. A key goal in the Strategic Plan is long-term organizational sustainability. This includes ensuring that the City has "appropriate legislative authority, financial tools and organizational structures and processes to undertake its responsibilities and achieve goals that support and enhance the city's quality of life within its financial capacity." Movement towards this goal requires the redefinition of the City's relationships with the provincial and federal governments. In order for these relationships to be redefined successfully, steps must be taken to stimulate a new spirit of understanding and cooperation between the Province and the City. This report and the directions within it have been prepared within that spirit.

What Do Torontonians Require From Ontario?

Toronto needs the Province to provide it with a legislative framework suited to the challenges faced by Canada's largest urban centre, whose future depends on being able to compete successfully with nearby North American cities. Toronto is a vital component of the Ontario and Canadian economies. In a March 1999 report ("Reinvesting in Toronto: What the Competition is Doing"), Joe Berridge of Urban Strategies Inc. noted that the Toronto area generates nearly a quarter of Canada's GNP. The report added that almost one third of GNP is generated within a one-hour drive of Toronto's Pearson International Airport.

If Toronto is to continue to be a wealth creator that benefits Ontario and Canada in the face of severe competition from neighbouring North American cities in the context of NAFTA, the City requires:

- (i) recognition as an independent, responsible and accountable order of government with power to act on local matters; and
- (ii) long-term financial sustainability.

Recognition as an Independent, Responsible and Accountable
Order of Government with Power to Act on Local Matters:

The City, as the major Canadian urban centre in a global economy warrants special recognition. This could best be achieved by the City obtaining its own Charter from the Province. Charter Cities have a long tradition in Canada, dating back to 1785 with Saint John, New Brunswick. For a fuller discussion, please see the Background Report entitled “Powers of Canadian Cities, the Legal Framework”.

The reasons and purposes behind enacting a Charter specifically for Toronto are as follows:

- (1) to allocate to Toronto the powers and responsibilities that the City requires, as the largest Canadian city and economic centre of Canada, which other smaller municipalities do not need;
- (2) to recognize the uniqueness of the City in that, due to its need to hold its own against neighbouring North American cities, it requires different tools from other municipalities in areas such as taxation, incentives to business, areas of responsibility, etc.;
- (3) to consolidate the huge volume of special legislation that the Province has given to the City over the years in recognition of its being different from other Ontario municipalities; and
- (4) to have a “stand alone” piece of legislation that governs Toronto, recognizing that provincial policies and programs that are designed for province-wide application often do not fit the needs or operations of the City.

As illustrated by the examples of other Canadian Charter Cities, such as Montreal, Saint John and Vancouver, a Charter for Toronto would be “custom built” to meet the City’s unique responsibilities and needs. A Charter for Toronto would need to include the following:

- (1) as in Newfoundland’s recently enacted “*Cities Act*”, recognition of Toronto as an “order of government” with the right to be consulted in advance on any provincial legislation, policy, program or other action that would impact the City. This would give the City the forum to have its unique considerations taken into account whenever provincial changes are being developed;
- (2) similar in concept to the U.S. Home Rule arrangement, the City would be granted similar powers to those afforded the Province in the Canadian Constitution, except that such powers could be exercised only with respect to local matters and only when they do not conflict with provincial or federal legislation. Alternatively, the Province would spell out clearly the City’s spheres of power and give the City natural person powers to act independently within these spheres. In either case, this type of provision would promote greater certainty as to the City’s capacities and would lead to greater efficiency for both the Province and the City: the City would not need the Province to enact special legislation to respond to changing realities, as now happens frequently;
- (3) confirmation that the Charter could be changed only by an amending statute, rather than regulation, which would promote the stability that is necessary to stimulate innovation

and creativity in municipal government;

- (4) the authority to conduct and attract business in innovative and more effective and efficient ways, such authority to include the following capabilities:
 - (i) incorporation of non-profit and business enterprises, which would facilitate public-private partnerships and involvement of the business sector in large infrastructure projects (as in the U.S. and U.K.);
 - (ii) easing of municipal “bonusing” restrictions to permit the City to grant special incentives in order to attract and retain commercial and industrial enterprises by, for example, tax incentives and credits, loan guarantees, etc. (as U.S. cities can do). Such incentives would be subject to rules ensuring transparency and open competition; and
 - (iii) ability to raise money on specific assets (like a mortgage) and to enter into modern financing agreements, such as sale and leaseback, which could free up capital for major infrastructure needs; and
- (5) the ability for the City to initiate discussions and communicate directly with the federal government on matters of mutual interest, such as urban infrastructure, housing construction incentives and immigrant settlement.

Long-Term Financial Sustainability:

A new legislative framework would have the effect of broadening the City’s revenue base to ensure that financial resources match the City’s responsibilities. This could include:

- (1) empowering the City to use a variety of revenue raising instruments, such as revenue bonds and asset backed securities;
- (2) being allocated a dedicated share of existing provincial revenues such as gasoline taxes, retail sales tax, and vehicle registration fees (e.g. as in B.C., Alberta, Quebec, Michigan, Florida and New York); and
- (3) advancing the discussion on what should be funded by the property tax (e.g. in all provinces except Ontario, welfare is not funded by the property tax).

What Do Torontonians Require From Canada?

In a new relationship, the federal government would formally recognize the importance of Toronto and other large urban centres in Canada through the development of a national urban agenda that spells out actions required to maintain the social, economic and environmental sustainability of Canada’s largest urban centres. Toronto should be able to deal directly with the federal government. This means:

- (i) the ability to initiate negotiations and enter into direct funding arrangements with the federal government on matters of mutual interest; and
- (ii) direct participation in areas where federal policies or actions will impact the City.

What Do Torontonians Require From Both Ontario and Canada?

Toronto requires:

- (i) tripartite funding agreements that focus on specific sites or urban renewal projects such as exist in Vancouver and Winnipeg (Toronto's central waterfront could provide the focus for such an agreement); and
- (ii) a seat at the table when the federal and provincial governments are discussing issues and policies directly impacting Toronto (e.g. health, economic and labour market issues, criminal justice, and cultural policy).

A Strategy to Achieve New Relationships with Ontario and Canada:

In summary, Toronto is looking for new relationships with the federal and provincial governments. These relationships would be enshrined in a legal framework that recognizes Toronto as a responsible and accountable order of government with rights and responsibilities. The new relationship envisioned would not require secession or elevation to provincial status, both of which would entail insurmountable constitutional hurdles, as described in the Background Report entitled "Powers of Canadian Cities – the Legal Framework".

The changes recommended in this report are premised on an assumption that new relationships between Toronto and the provincial and federal governments are achievable within the existing constitutional framework. The existing legal framework for the powers of Canadian cities is summarized in the Background Report entitled "Powers of Canadian Cities – the Legal Framework".

The strategy of activities to achieve these new relationships is critical. It should include the following elements:

- (a) Direct negotiations with the province:
 - (i) bilateral discussions between the Mayor and the Premier and key Cabinet Ministers;
 - (ii) meetings with the provincial PC Toronto/GTA caucus; and
 - (iii) establishment of an intergovernmental team of City and provincial staff to develop a common understanding of the ways and means to achieve the Charter City goal.

- (b) Direct negotiations with the federal government:
 - (i) bilateral discussions between the Mayor and the Prime Minister and key Cabinet Ministers;
 - (ii) meetings with the federal Liberal Toronto/GTA caucus; and
 - (iii) establishment of an intergovernmental team of City and federal staff to contribute to the development of a national agenda on urban issues.
- (c) Collaboration with municipal associations:
 - (i) seek AMO endorsement and assistance in lobbying the provincial government for changes in municipal legislation; and
 - (ii) seek FCM endorsement and assistance in lobbying the federal government for a national agenda on urban issues and changes in the relationship between the federal government and Canada's major cities.
- (d) Collaboration with other large cities in Ontario and across the country:
 - (i) initiate a dialogue with large cities in Ontario to share experiences and establish common ground for negotiations with the province; and
 - (ii) initiate a dialogue with major cities in all Canadian provinces to share experiences and establish common ground for negotiations with the federal government.
- (e) Stimulate public interest and civic engagement in the issues and proposed solutions:
 - (i) communicate the issues clearly and provide opportunities for public involvement (e.g. through an interactive website, printed materials, TV and radio phone-in shows); and
 - (ii) host a summit of experts and stakeholders, including academics, municipal leaders from major cities across Canada, constitutional experts, municipal and urban affairs writers, business leaders and others.

Implementing the Strategy – Establishment of Team Toronto:

The strategy to achieve new relationships with the other orders of government includes a variety of activities involving numerous participants. The Strategy requires focussed political attention in support of the Mayor, who would lead the direct dialogue with the federal and provincial governments on behalf of the City. The Policy and Finance Committee is responsible for the City's overall governance and intergovernmental issues. However, it would be difficult for the Committee to deal with the day-to-day implementation details of the strategy. Therefore, it is recommended that a Team Toronto, made up of a small group of councillors, be appointed to act as a sounding board and provide advice to the Mayor and political guidance to staff on key components of the strategy. It is further recommended that the terms of reference for Team

Toronto, set out in Attachment No. 1, be adopted.

Conclusions:

Toronto is seeking new relationships with the federal and provincial governments. These relationships would be enshrined in a legal framework that recognizes Toronto as a responsible and accountable order of government with rights and responsibilities. As illustrated in the Background Report entitled “Comparison of Powers and Revenue Sources of Selected Cities”, there are many precedents for the type of changes that Toronto is seeking.

The changes recommended in this report are achievable within the existing constitutional framework. The new relationships envisioned would not require secession or elevation to provincial status, both of which would entail insurmountable constitutional hurdles.

A redefinition of the City’s status is necessary to ensure that Toronto has the powers and sources of revenue necessary to meet the challenges facing the City in the twenty-first century. This report outlines a set of changes that the City should seek in its relationships with the other orders of government. A strategy for achieving these changes is also described.

It is recommended that Council endorse, in principle, the changes that the City of Toronto should be seeking in its relationships with the provincial and federal governments. It is further recommended that Council endorse the strategy to achieve these desired changes. It is also recommended that Council establish a Team Toronto, made up of a small group of councillors, to act as a sounding board and provide advice to the Mayor and political guidance to staff on key components of the strategy.

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Attachment No. 1

Implementing the Strategy to Achieve a New Relationship with
Ontario and Canada - Terms of Reference for Team Toronto

Purpose:

To act as a sounding board and provide advice to the Mayor and political guidance to staff on the strategy to achieve new relationships with the other orders of government.

Responsibilities:

The Mayor will lead the direct dialogue with the federal and provincial governments on behalf of the City. The role of Team Toronto will be to advise the Mayor and provide assistance and guidance on activities contained within the strategy. The development of formal City Council policies and positions on intergovernmental issues and the consideration of related reports and public deputations would continue to take place through the appropriate standing committees and Council.

Method of Operation:

Team Toronto can be called together on short notice. It will meet on an informal basis and will not be a formal committee receiving support from the City Clerk or preparing reports to Council.

Reporting and Sunset Date:

Team Toronto will continue until the end of the term of the current City Council. The need to continue Team Toronto will be reviewed at the beginning of the new term of Council.

Membership:

Team Toronto shall be composed of the Mayor or his designate and up to six members of Council recommended to Council by the Mayor. Members of Team Toronto will represent linkages to AMO and FCM, linkages to the provincial and federal governments, involvement in key intergovernmental issues and familiarity with legislative and legal processes. Team Toronto will also include representation from the Policy and Finance Committee and the Budget Advisory Committee.

Staff Support to Team Toronto:

The Strategic and Corporate Policy Division in the Chief Administrator's Office will provide staff support to Team Toronto with involvement from the Legal Division and Finance Department as required.

Attachment No. 2

Towards a New Relationship with Ontario and Canada

Background Reports - June 2000: Chief Administrator's Office, Strategic and Corporate Policy

Division, Healthy City Office.

List of Background Reports:

- (1) The Time is Right for New Relationships with Ontario and Canada
(Chief Administrator's Office, Strategic and Corporate Policy Division and Finance Department, Treasury and Financial Services Division)
- (2) Powers of Canadian Cities – The Legal Framework
(Corporate Services Department, Legal Division)
- (3) Comparison of Powers and Revenue Sources of Selected Cities
(Chief Administrator's Office, Strategic and Corporate Policy Division)

The Time is Right for New Relationships with Ontario and Canada - A Background Report prepared by the Chief Administrator's Office, Strategic and Corporate Policy Division and Finance Department, Treasury and Financial Services Division - June 2000.

Toronto's Challenge:

Research on Toronto's global competitiveness, in connection with the preparation of the City's Economic Development Strategy, points to the increasing metropolitan dominance of national economies. This dominance makes cities the building blocks of the global economy. The global economy is comprised more and more of competing city regions. Toronto is in competition with other city-regions in North America and around the world.

Toronto's ability to attract and retain businesses and investment, and the employment and income that they generate, is critical. The City's successes and failures in that endeavor hinge on whatever competitive advantages it can muster.

The state of the City's physical infrastructure is a fundamental determinant of attractiveness to investment and economic competitiveness. In addition, one of Toronto's key competitive advantages is quality of life. Particularly in the North American context, relative to cities of similar size and with similar overall business costs, Toronto is perceived to have a very good quality of life.

Toronto's challenge is to build and maintain necessary infrastructure and protect its quality of life by enhancing the City government's ability to:

- (i) manage its finances;
- (ii) set policy directions; and
- (iii) meet any new challenges that arise in a rapidly changing global environment.

There are many indications that the City's powers and revenue sources must be redefined to ensure that the City is equipped to deal with the challenge.

Financial Demands are Outpacing Toronto's Ability to Pay:

The City is in a financial squeeze that threatens its international position. It is caught between limited growth in its revenue base and high demands for unique services that are a consequence of its position as Canada's largest metropolis. This squeeze is worsened by the impact of ongoing transfer of responsibilities from the province.

The City's infrastructure is aging. It was largely built by the 1970's. Some of its basic components, including subway tunnels, the Gardiner Expressway and the major bridges are much older than that. Significant investments are necessary to keep the City's sewers, roads, bridges, subway system and other basic infrastructure in good repair. New infrastructure to keep the City competitive will also require huge investments.

As Canada's largest city, Toronto faces high demands for unique services. Unlike other municipalities in Ontario, Toronto operates and maintains a subway system and urban expressways. Toronto faces a disproportionately high demand for social services, which it must subsidize from the property tax – an inappropriate source of revenue for income redistribution programs.

The City's financial pressures are compounded by new spending responsibilities that have not been accompanied by corresponding funding or additional financial tools. Increased responsibilities include capital and operating subsidies for TTC, roads, GO Transit and social housing. Toronto is the only major city in North America where the total subsidy for transit falls solely on the property taxpayer.

When the federal and provincial governments funded housing or transit, they were able to draw on the broader base of income and consumption taxes. Toronto has three sources of revenue - property taxes, user fees and provincial grants. The decline in provincial grants in recent years has placed greater pressure on user fees and the property tax. However, the need to remain competitive with other cities constrains the City's ability to increase property taxes or user fees.

Because of the sensitivity of income and consumption taxes to economic cycles, federal and provincial revenues have risen by 35 percent and 48 percent respectively since 1992. In contrast, because the property tax is a relatively inelastic source of revenue in a mature, developed urban area the city's revenues (and expenditures) have remained relatively flat. The federal and provincial governments can cut taxes without necessarily cutting spending – in fact, they can cut taxes and increase spending at the same time. At the city level, tax cuts are difficult without service reductions.

The City's ability to gain access to alternative sources of revenue is curtailed by provincial legislation. Provincial legislation also does not permit City Council to develop policy responses to critical problems within the City's boundaries. There is a good example from the housing area. With the withdrawal of the federal and provincial governments from the housing area, City Council has tried to take a lead role in addressing homelessness and the shortage of affordable housing in Toronto. In this regard Council enacted a by-law to control the conversion of rental housing to condominiums. A developer challenged the policy at the Ontario Municipal Board, which ruled that provincial laws do not give the elected city government the power to protect the

city's rental housing stock. The City has obtained leave to appeal the OMB decision to the Divisional Court.

“Puppets on a Shoe String”:

There are serious concerns about Toronto's ability to meet policy and financial challenges so long as the City has to rely on powers and revenue sources that have not changed in generations. This problem is not new, but it shows signs of worsening.

Almost twenty-five years ago, in “Puppets on a Shoe String: The Effects on Municipal Government of Canada's System of Public Finance”, the Canadian Federation of Mayors and Municipalities warned that Canadian local governments were facing a growing financial crisis, which they could not survive without increases in property taxes, cutbacks in service or both.

Drawing on a comprehensive set of intergovernmental financial data contained in the “Report of the Tri-Level Task Force on Public Finance in Canada”, “Puppets on a Shoe String” cited a growing gap between local revenues and expenditures. The report concluded that the fiscal imbalance and deficits of local governments were not the result of careless spending at the local level. Rather, they were due to the improper distribution of revenues in the Canadian finance system. While the federal and provincial governments had access to a variety of revenue sources, local governments were limited to the non-growth property tax. “Puppets on a Shoe String” argued for stronger, more autonomous municipal government in Canada with less reliance on conditional provincial grants and greater access to a wide range of tax revenues.

“Puppets on a Shoe String” was published in 1976. The warning about the potential unsustainability of municipal government has been repeated several times since then. The need for municipal governments in general, and Toronto in particular, to achieve greater autonomy in law-making, fiscal and institutional areas was recognized in reports and studies throughout the 1980's and 1990's.

The Stakes are High:

What has changed since 1976? In Toronto's case, the financial demands have grown but the law-making and financial tools have remained the same.

For the past few decades, the senior levels of government have steadily been withdrawing from or reducing their commitment to a number of policy fields that have a profound impact on Toronto. For example:

- (1) the federal government's changes to the Employment Insurance program had an impact on applications for welfare, which in Ontario is cost shared with the municipal government. A cutback to a federal program can increase the cost to the municipality;
- (2) the City's recent Report Card on Homelessness showed that the combination of lack of investment in social housing by the senior levels of government and cuts in welfare rates correlate statistically with observable increases in homelessness. There is a direct impact

on the demand for municipal services from hostels and public health to policing;

- (3) the complete withdrawal of the federal and provincial governments from social housing provision has shifted responsibility to the municipal level; and
- (4) the complete withdrawal of the Ontario government from transit and urban transportation has shifted responsibility to the municipal level.

Whatever forces are at play in the world – social, economic or environmental – their outcomes are concentrated, intensified and highly visible in large cities like Toronto and become challenges for communities and for governments. The policies and actions of all levels of government have an influence on these outcomes and their impact on the City's quality of life and competitiveness.

Whether as a result of an intentional transfer of responsibilities, as with Ontario's Local Services Realignment, or as a result of more ad hoc processes, a major shift of responsibilities to the city level of government is taking place.

The Right Tools Will Make a Difference:

The City's assets and quality of life must be protected. The federal and provincial governments cannot afford to turn their backs on the challenges facing the City. However, the challenges are becoming more and more difficult to meet with the legislative and financial tools at the City's disposal.

In addition to the Canadian studies already referred to in this report, the importance of sustainable cities has been recognized internationally.

- (1) The International Union of Local Authorities (IULA) 1993 "Toronto Declaration" called for greater local and fiscal autonomy. Toronto City Council endorsed this declaration and several governments around the world have used the declaration as a guideline in the preparation of new local government legislation.
- (2) In June 1996, during the Habitat II Conference in Istanbul, Canada joined other countries from around the world in signing the United Nations Declaration on Human Settlements. The Declaration recognized the need to change the legislative and financial capacity of municipal governments to enable them to meet growing responsibilities for human settlement issues.

The Right Tools are Making a Difference Elsewhere:

Like other large cities around the world, Toronto must be equipped with:

- (i) the powers to find solutions to its problems; and
- (ii) access to sufficient, suitable and sustainable revenue sources to meet its responsibilities.

The powers and revenue sources of a number of cities in Canada, the United States and elsewhere were reviewed to understand how other jurisdictions have dealt with these needs. The findings are summarized in the Background Report entitled “Comparison of Powers and Revenue Sources of Selected Cities”. Several key trends are evident.

- (1) Increasingly, city government is recognized as an order of government with entrenched rights. In some cases, for example, in Brazil and many European countries, municipalities are formally recognized constitutionally. Several U.S. states provide municipalities with the option to adopt Home Rule status, which allows them to draft, adopt and amend constitutional charters and govern their own affairs independent of the state government. Many Canadian provinces have amended their Municipal Acts to give municipalities broader powers and greater flexibility. The government of British Columbia and the Union of B.C. Municipalities have signed a protocol of recognition for local government that explicitly recognizes local government as an “independent, responsible and accountable order of government”.
- (2) Because the powers of Canadian cities depend on the political will of the province concerned, municipal powers vary greatly across Canada. Like a parent, one province can allow municipalities little discretion while another allows extensive independence. In some cases, urban areas are recognized in various ways as being different from other municipalities. For example, Vancouver, Winnipeg, Montreal and Saint John are all Charter cities. Rather than being subject to a municipal act of general application to other municipalities in the province, each of these four cities is governed by its own “stand alone” legislation, its Charter. Each Charter codifies the laws applicable to the particular city and contains powers not given to other municipalities. This type of customized legal framework reflects the uniqueness of a city and is more easily amended to reflect changing urban realities than a municipal act of general application. Please see the Background Report entitled “Powers of Canadian Cities – the Legal Framework” for more details of Charter Cities.
- (3) Newfoundland has taken a similar approach to that of Charter Cities. In April 2000, Newfoundland enacted the *Cities Act*. This statute recognizes each Newfoundland city as an order of government which needs the autonomy, power and resources to provide good government and meet present and future community needs (including the powers and resources “to apply creative, innovative and entrepreneurial solutions”). The *Cities Act* gives each city natural person powers that are circumscribed only by conflicting provincial and federal statutes and the limits on provincial powers. In addition, the cities are given fifteen spheres of power.
- (4) Welfare and other income redistribution programs are not funded by the property tax. While responsibility for delivery varies, the programs are generally funded by state, provincial or national governments.

- (5) In most countries, there is recognition of the importance of vibrant cities to the national economy. National government funds are dedicated to the maintenance and expansion of urban infrastructure. The “Big Cities Policy” in the Netherlands channels funds from the central government to the Cities of Amsterdam, Rotterdam, Utrecht and The Hague for the construction of major infrastructure, house building, public transportation, improving quality of life in urban areas, economic development and job creation.

In recent years, the United States government has been investing heavily in infrastructure renewal in American Cities, using tools such as the \$217 billion Transportation Equity Act for the 21st Century (TEA – 21). A study conducted by Urban Strategies Inc. showed that an American urban region comparable to the size of the City of Toronto would qualify for approximately \$127 million annually under TEA – 21 and other U.S. federal government urban investment programs.

- (6) In Europe, the United States and some parts of Canada, a fixed share of senior government revenues is earmarked for municipalities. In Germany, local governments receive fifteen percent of national income and wage tax revenues. Manitoba allocates revenues from two percentage points of the personal income tax and one percentage point of the corporate income tax to municipalities in the form of a per capita grant. The Agence Metropolitaine de Transport (AMT) in Montreal and the Vancouver Regional Transit System (Translink) are partially funded by a dedicated share of revenues from the provincial gasoline tax in Quebec and British Columbia respectively.

How Does Toronto Compare?

Examples of these trends are found across Canada. Several Canadian provinces are redefining the role of their city governments and empowering them to suit the demands of the twenty-first century. This change is occurring from British Columbia to Newfoundland but, so far, not in Ontario. This means that Toronto, while the largest Canadian city, has less autonomy than many of its competitor cities and other Canadian municipalities.

- (1) Toronto has limited legislative powers. Toronto has twice the population of Manitoba. It has more people than all the Atlantic provinces combined. Yet, unlike Montreal, its Council does not even have the power to raise money by mortgaging an asset.
- (2) Toronto has fewer revenue options.
- (3) Toronto experiences little federal government involvement, primarily because of the inability to work through the federal-provincial relationship.
- (4) Toronto lacks a formal voice on critical issues. The City government is often not consulted on the development of federal and provincial policies and actions that have a profound impact on the City.

The time is right to commence a dialogue with the provincial and federal governments about the need for a new relationship between Toronto and the other orders of government.

Powers of Canadian Cities – The Legal Framework - A Background Report prepared by the Corporate Services Department, Legal Division - June 2000.

(1) Constitutional Status of Canadian Cities:

- (a) The Canadian Constitution gives the provinces exclusive control over cities and other municipalities, subject to the limited exceptions summarized below.ⁱ
- (b) Therefore, the powers a city possesses depend almost entirely on the powers the province wishes to grant. Similarly, a province can, at will, take away or change any municipal power previously granted.
- (c) A province cannot, however, grant a municipality a power the province itself does not possess under the Constitution.ⁱⁱ
- (d) As a creature of a province, a city has no inherent powers – only the powers given by the province, generally in a statute.
- (e) Given the provinces' exclusive control over “municipal institutions,” the power of the federal government to deal directly with municipalities is limited, unless the province gives permission, which is rare.ⁱⁱⁱ
- (f) Federal government action and legislation can, however, legally impact municipalities if the federal government is exercising one of its exclusive powers under the Constitution. The power giving most potential for direct federal-municipal interaction is the spending power,^{iv} together with the powers of Peace, Order, and good Government, The Regulation of Trade and Commerce, Navigation and Shipping and Banking, Incorporation of Banks, and the Issue of Paper Money.^v

(2) Variation in Treatment of Municipalities Across Canada:

- (a) Because the powers of cities depend on the political will of the province concerned, municipal powers vary greatly across Canada. Like a parent, one province can allow municipalities little discretion while another allows extensive independence.
- (b) For example, municipalities in some provinces (including Ontario) operate under “laundry list” legislation: their governing legislation spells out every power. If the power is not listed or necessarily implied, the municipalities do not have the power. The “laundry list” legislation is the most restrictive way a province can grant powers to a municipality: it often prevents a municipality from easily and efficiently adapting to changing conditions: each change requires the municipality to apply to the province for amending legislation.

- (c) In contrast, in 1995, Alberta introduced “natural person” power legislation, which gives municipalities the powers of a natural person, unless specifically excluded by the legislation.
 - (d) British Columbia has taken yet a different approach by creating what amounts to a “bill of rights” for municipalities. It passed legislation in 1998 recognizing that “local government is an independent, responsible and accountable order of government” and committing to provide a new legislative foundation for local government.^{vi} British Columbia subsequently passed legislation broadening municipal powers by, for example, facilitating public-private partnerships and giving more flexible revenue-raising authority.^{vii}
 - (e) In other cases, urban areas are recognized in various ways as being different from other municipalities. For example, Vancouver, Winnipeg, Montreal and Saint John are all Charter cities: the subject of Charter Cities is addressed in the following section of this report.
 - (f) Another trend is for the special importance of urban areas to be recognized in contracts. For example, Vancouver and Winnipeg have tri-partite agreements between the federal, provincial and urban governments, where all three levels of government agree to work together to solve urban challenges.
- (3) Charter Cities and *the Newfoundland Cities Act*:
- (a) Charter Cities:
 - (i) Vancouver, Winnipeg, Montreal and Saint John are all Charter Cities.
 - (ii) Rather than being subject to a municipal act of general application to other municipalities in the province, each of these four cities is governed by its own “stand alone” legislation, its Charter.^{viii}
 - (iii) Each Charter codifies the laws applicable to the particular city and contains powers and responsibilities not given to other municipalities in the province concerned, as the following examples illustrate.
 - (iv) Saint John is the oldest Charter City, having been established by Royal Charter in 1785. Unlike other NB municipalities, Saint John has natural person powers and possesses, subject to general provincial and federal laws, a very broad authority: for example, it could establish an airport.
 - (v) Montreal has all the powers of other Quebec municipalities, together with the power to deal with any assets (including the power to pledge and mortgage an asset), the power to raise money by any kind of security and “the right to exercise all other powers necessary for the performance of its obligations and functions”.

- (vi) By virtue of its Charter, Winnipeg has powers that other municipalities do not: remedial health and sanitary measures, greater autonomy to raise money and an independent property assessment system and planning administration.
 - (vii) The primary characteristic of and purpose for having a Charter is to recognize the uniqueness of a city and to customize the legislation to an individual city's responsibilities and needs: provincial policies and programmes that are designed for province-wide operations often do not fit the needs or operations of a major urban area.
- (b) *Newfoundland's Cities Act*
- (i) In April 2000, Newfoundland recognized the special needs of its cities by enacting its new *Cities Act*. This statute recognizes each Newfoundland city as an order of government and grants it autonomy. It gives each city broad natural person powers to act as required to meet present and future local needs. Please see the Background Report entitled "Comparison of Powers and Revenue Sources of Selected Cities" for further details.
 - (ii) In effect, Newfoundland's *Cities Act* is the equivalent of a Charter for its two major cities.
- (c) Some Reasons for Establishing Toronto as a Charter City:
- (i) The characteristics of the City, being the largest City in the country and the economic centre of Canada;
 - (ii) The huge volume of special legislation that the Province has given to the City of Toronto over the years, in recognition of it being different from other municipalities: a Charter would allow this to be consolidated;
 - (iii) Provincial policies and programs that are designed for application province-wide do not always fit the needs or operations of the City;
 - (iv) Likewise, the City's needs and responsibilities are often not shared by other municipalities;
 - (v) The City is unique in that, due to its need to compete with nearby North American cities, it needs tools that are different from other municipalities, in areas such as taxation, incentives to business, areas of responsibility, etc.

(4) The Legal Status of Ontario Cities

- (a) Ontario cities are governed primarily by the *Municipal Act*, which applies to all Ontario municipalities of every size.
- (b) Toronto is also governed by the *City of Toronto Act, 1997* and the *City of Toronto Act, 1997 (no. 2)*, but neither statute grants the City greater powers than other municipalities over policy-making or finances.
- (c) The current Ontario *Municipal Act* is of the “laundry list” variety and, therefore slow to adapt to new realities – because any change requires the municipality to ask the Provincial legislature to pass amending legislation.
- (d) The *Proposed New Municipal Act (1998)* speaks about giving municipalities “natural person powers.” However, these “natural person powers” would be far more circumscribed than those given to Alberta municipalities or Newfoundland cities.^{ix} Furthermore, the Ontario government would have an unprecedented level of regulatory power^x over municipalities.
- (e) Unlike the Charter Cities and the Newfoundland cities, there is no specific recognition of any Ontario city either in legislation or by contract.
- (f) There are no tri-partite agreements involving the Federal and Provincial governments with respect to the governance and/finances of an Ontario city.

(5) Municipal Sources of Revenue Across Canada:

- (a) Provinces can raise money only by direct taxation. Therefore, legally the Provinces can only authorize municipalities to levy direct taxes.
- (b) The essential difference between direct and indirect taxation is as follows:
 - (i) Direct Taxation: the person/entity taxed is the one that ultimately pays the tax i.e. the taxpayer cannot easily pass on the tax to someone else (e.g. income tax)
 - (ii) Indirect Taxation: the person/entity taxed is expected to pass on the tax (e.g. GST and customs and excise taxes).^{xi}
- (c) Generally, provinces have allowed municipalities limited powers to levy even direct taxes. Municipal taxing powers have generally been restricted to property taxes.
- (d) In addition, provinces have given municipalities the authority to raise money by user fees: i.e. charges for services.
- (e) Some cities, however, have access to other types of revenue. For example,

Calgary and Edmonton are receiving a road infrastructure grant based on fuel consumption in their cities. In addition, the Vancouver and Winnipeg tri-partite agreements give those cities some access to additional funding for specific problems from the two levels of government.

(6) Sources of Revenue Available to Ontario Municipalities:

- (a) Ontario cities and other municipalities are limited to property taxes, user fees and licence charges.
- (b) Courts have recently struck down some user fees as being taxes, rather than fees. The main difference between a fee and a tax is that a fee is for a service or use of an asset and there must be a nexus between the cost of the service or value of the use of the asset and the amount of the fee.^{xiii} Therefore, fees cannot be used to add to general revenues. The Ontario government could resolve this problem, as Newfoundland has done for certain fees in its *Cities Act*, by delegating to municipalities the right to raise types of direct taxes other than property taxes - but have not yet done so.

(7) Other Financial and Commercial Constraints in Ontario:

- (a) The lack of “natural person” powers has a number of ramifications for Ontario municipalities. A significant result is that Ontario municipalities cannot form business corporations, non-share or not-for-profit corporations. This can impede outsourcing and partnerships with the private sector. In contrast, Alberta municipalities can form corporations with the approval of the appropriate Minister.
- (b) Another impediment to outsourcing and public-private partnerships is the restriction upon disposing of assets. Ontario municipalities cannot generally dispose of assets while they are still required for municipal purposes. This effectively prevents the City from taking advantage of features often found in public-private partnerships, such as the sale and leaseback of assets.
- (c) Ontario municipalities are also generally prohibited from attracting (or keeping) business and industry through financial incentives. (The exception is where the private sector is to provide a capital facility that is used for municipal purposes.) This prohibition can restrict economic development initiatives. Alberta municipalities, for example, face no similar restriction.

(8) Limits on Financing by Ontario Municipalities:

- (a) Ontario municipalities can raise money only by way of debentures or short-term debt. No debt can be secured.
- (b) Since Ontario municipalities cannot give security (e.g. a mortgage), they are not permitted to raise money for capital building projects using specific assets. This prevents the underlying value of existing assets being used to finance new

infrastructure.

- (c) Except for debt raised by debentures, municipalities are required by law to break even every year.
 - (d) The terms of municipal debentures are very restricted (e.g. as to interest rates and repayment schedules).
 - (e) Financing rules are the same for small villages and large urban areas.
- (9) Secession from the Province of Ontario:
- (a) Subsection 42(1)(f) of the *Constitution Act* provides that amendments to the Constitution of Canada to establish a new province are to be made in accordance with the general amending procedure set out in section 38. This procedure requires resolutions of the Senate, the House of Commons and at least two thirds of the provinces having at least 50 percent of the population of all the provinces.
 - (b) Subsection 38(2) provides that where a constitutional amendment is made under 38(1) that derogates from the legislative powers, the proprietary rights or any other rights or privileges of the legislature or government of a province, the resolutions referred to in the previous bullet must be supported by a majority of the members of each of the Senate, the House of Commons and the Legislative Assemblies required under subsection (1). In other words, a majority of all members of these bodies must support the amendment, not just the majority of those present and voting.
 - (c) Subsection 38(3) provides that when the majority of the members of a Legislative Assembly rejects a resolution for a constitutional amendment that would derogate from the powers, rights or privileges of that Assembly, the government of that province can opt out.
 - (d) Consequently, an amendment to the *Constitution Act* to create Toronto as a new province would require support from the Province of Ontario.
- (10) Secession from Canada:
- (a) There is no precedent for a municipality applying to secede from Canada. However, the Supreme Court of Canada ruled on the Province of Quebec seceding from Canada in Reference re: secession of Quebec, [1998] 2 S.C.R. 217. The Court stated that a province could not unilaterally secede.
 - (b) The Court also found that secession from Canada would require an amendment to the Constitution, which would involve similar considerations to those discussed in No. 9 above.

- (c) The Supreme Court also ruled that a substantial number of people would have to support secession, with a “clear majority” and that the question in a referendum, if used, needed to be free from ambiguity.
- (d) The Court found that there was no legal obligation on the rest of Canada to accede to secession but would have to negotiate in good faith.
- (e) Since the Quebec reference dealt with the secession of a province, the findings of the Court may not apply to the secession of a municipality.

Notes:

ⁱHowever, there is no question, as with secession from Ontario, that Ontario’s approval would be paramount. Other provinces would be likely to step in line with Ontario’s wishes, if only because they would not want to help set a precedent which might result in their losing their own cities and, with them, significant tax revenues. ⁱUnder the Canadian Constitution, municipalities are not recognized as a separate order of government. Instead, paragraph 8 of section 92 of the *Constitution Act, 1867* (formerly known as the *British North America Act*,) gives the provinces exclusive control over “Municipal Institutions in the Province.” In addition, provinces are given exclusive power over the “Property and Civil Rights in the Province (paragraph 13 of section 92) and “Generally all matters of a merely local or private nature in the Province” (paragraph 16 of section 92)

ⁱⁱFor example, a province cannot grant a municipality the power to levy taxes – see Section 4 below.

ⁱⁱⁱThe Trudeau government tried to create direct links between the federal government and municipalities through creating a Minister of State for Urban Affairs in 1971 but the initiative was eventually shelved primarily because of lack of provincial co-operation. (See William R. Young, *Municipalities, the Constitution, and the Canadian Federal System*, Library of Parliament, October 1991)

^{iv}See Peter Hogg, *Constitutional Law of Canada*, Chapter 6

^v*Constitutional Act, 1867*, Section 91 and paragraphs 22, 10 and 15 of Section 91.

^{vi}Protocol of Recognition Sub-agreement on a New Legislative Foundation for Local Government between the Government of British Columbia and the Union of British Columbia Municipalities.

^{vii}*Local Government Statutes Amendment Act, 1998* (Bill 31) and *Local Government Statutes Amendment Act, 1999* (Bill 88)

^{viii}The City of Montreal is established under the Charter of the City of Montreal, 1960 (being an Act to revise and consolidate the Charter of the City of Montreal); the City of Winnipeg is

continued under the *City of Winnipeg Act* and the City of Vancouver is established under the *Vancouver Enabling Act, 1949*.

^{ix}For example, the natural person powers could only be used in areas in which the Ontario municipality already had the authority to act. Therefore, the powers would be implementation powers, rather than substantive ones.

^xThe proposed Act would give the Provincial Cabinet or the Minister of Municipal Affairs and Housing the discretion to “claw back,” retroactively if desired, any power given the municipalities not only by the proposed Act but by other statute.

^{xi}A recent Ontario case arose out of a municipality charging campground operators for each site on their campgrounds. The Court found that the charge was an indirect tax because it would likely be passed on to the campground users. *Carson’s Camp Limited v. Township of Amabel*, [1998] O.J. 1760 (General Division).

^{xii}See, for example, *Ontario Private Camp Grounds Association v. The Corporation of the Township of Harvey* (1997), 33. O.R. (3d) 578

Comparison of Powers and Revenue Sources of Selected Cities - A Background Report prepared by the Chief Administrator’s Office, Strategic and Corporate Policy Division - June 2000.

Constitutional Status/City Powers:

The status of a city government and its legislative powers are important determinants of a city’s ability to meet needs within its boundaries. A city’s legislative toolkit helps or hinders the city’s flexibility, creativity and nimbleness in solving problems in a rapidly changing environment.

Constitutional Standing:

While Canadian municipalities remain “creatures of the province” under the *Constitution Act, 1867*, many cities in other countries are formally recognized within national constitutions.

- (1) The Constitution of the Federative Republic of Brazil, 1988 recognizes municipalities as a specific order of government, gives municipalities special taxing powers and defines how other taxes are to be shared.
- (2) Almost all European local governments are formally recognized constitutionally:
 - (a) Germany’s constitution specifically recognizes municipalities and their responsibilities for local affairs. Municipalities are involved in decision-making at the national table.
 - (b) Municipalities in the Netherlands are recognized in the constitution and a ministry of urban affairs exists. In addition, there is a growing awareness that rules and conditions prevent municipalities from operating efficiently.

- (c) Municipalities in Sweden have constitutional standing.

United States – Home Rule Status:

- (1) Several U.S. states provide municipalities with the option to adopt Home Rule status or remain under general law. Home Rule status is a legal right that grants greater discretionary authority to local governments by allowing them to draft, adopt and amend constitutional Charters and govern their own affairs without legislative interference by the state government. Home Rule allows municipal governments to take independent action and offers protection from arbitrary action by the State. While the provision is intended to increase local autonomy, it does not prevent the State from controlling the fiscal capacity of local governments.
 - (a) The Home Rule Charter in New York asserts that municipalities can pass laws which supersede general State laws as long as the laws passed by municipalities concern “municipal property, affairs and government” and are limited to local matters. If a dispute arises, the matter is generally settled by the courts. The Charter contains a Bill of Rights and a Statute of Local Governments.

Trends in Canada:

In response to increasing responsibilities and expectations placed on local governments along with changing urban conditions, many Canadian provinces have amended their Municipal Acts to give municipalities broader powers and greater flexibility.

- (1) In 1995, the Alberta government approved the *Alberta Municipal Government Act* (Bill 31) in response to growing demands placed on municipal governments as a result of provincial downloading and the reduction of provincial funding. The Act introduces two significant concepts: natural person powers and spheres of jurisdiction. Provisions for greater fiscal flexibility in municipal investment and borrowing are also embedded in the Act.
- (2) In 1996, the Government of British Columbia and the Union of British Columbia Municipalities (UBCM) signed a protocol of recognition for local government in British Columbia that explicitly recognizes local government as an “independent, responsible and accountable order of government”. The following year, the parties agreed to a set of principles to guide the reform of the *Municipal Act*. The aim of reform is to give municipalities broad powers to respond to the evolving needs of their communities. The Government of British Columbia adopted a multi-year phased approach to overhaul the *Municipal Act* within three to four years:
 - (a) 1998 – *Local Government Statutes Amendment Act, 1998* (Bill 31) – recognizing local government as an independent, responsible and accountable order of government; facilitating public-private partnerships; and providing flexible broad corporate powers.

- (b) 1999 – *Local Government Statutes Amendment Act, 1999* (Bill 88) – includes amendments in open meetings, elections, campaign financing, service powers, taxes, fees and charges (more flexible authority to impose a parcel of taxes, fees and charges), and tax collection.
- (3) Newfoundland’s House of assembly enacted a new *Cities Act*, which took effect on April 1, 2000. The more noteworthy features of the *Cities Act* are as follows:
- (a) the Preamble recognizes that each city is an order of government and is autonomous;
 - (b) the Preamble stipulates that each city “must have adequate powers and financial and legal resources (a) to ensure good government and services locally, (b) to meet existing and future community needs, (c) to apply creative, innovative and entrepreneurial solutions, (d) which ought not to be altered unilaterally, without consultation with other orders of government”;
 - (c) Newfoundland must consult with the mayor of a city before the province “enacts, amends, repeals or makes legislation, regulations, policies, programs or orders that affect the city” (section 2);
 - (d) each city is given natural person powers;
 - (e) the power given to each city “is stated in broad terms to give the city adequate power to provide good government and services, as the council considers appropriate, in response to existing and future local issues and needs and to give the council (a) full discretion in the exercise of its powers to meet local conditions, (b) the right to determine the local public interest” (section 46);
 - (f) the only limits on a city’s powers are that it not be inconsistent with a federal or provincial enactment, that it be within the province’s competence and it not be expressly excluded from the city’s competence by a statute (section 47); and
 - (g) the cities are given fifteen spheres of power in which they can act or exercise power, subject to the province’s right to establish standards for services in three spheres: natural environment, safety and protection of people and protection of property including fire and police services, and structures, including buildings, fences and signs (section 48).

- (4) Also in Newfoundland, a new *Municipalities Act* was passed by the House of Assembly in the 1999 spring session, and recently took effect on January 1, 2000. The new legislation removes many restrictive provisions contained in the former Act and provides support in fostering self-reliance and independence among local governments. The Act increases municipal autonomy in administration and financial management, expands taxation and collection capacities, and expands and provides new authorities for service delivery and municipal controls.

Municipal Governments' Access to Financial Resources:

What Others Are Doing:

(1) Local Income Tax:

- (a) Manitoba allocates revenues from two percentage points of the personal income tax and one percentage point of the corporate income tax for distribution to municipalities in the form of a per capita grant.
- (b) Section 1301 of the New York State Tax Law allows New York cities with populations in excess of one million to impose a local income tax (New York City and Yonkers). The personal income tax is imposed on residents only.
- (c) Municipalities in Pennsylvania have access to local earned income taxes. Local income taxes generate 20 percent of municipal revenues and represent about one-sixth of local government tax revenues.
- (d) Local governments in Germany receive 15 percent of national income and wage tax revenues (shares may differ according to municipalities). The state governments distribute revenues to local governments in originating municipalities (where the taxpayer resides).
- (e) Municipalities and counties in Sweden are able to levy their own income tax and rely heavily on this tax as a major source of revenue. Local income taxes account for roughly half of total local revenues. In addition, municipalities receive one-quarter of their funding from the central government, the remainder of funding comes from fees and charges.

(2) Local Retail Sales Tax:

- (a) In British Columbia, legislation provides that the province share retail sales tax revenues with the municipalities.
- (b) New York City is entitled to a portion of state sales tax.
- (c) Municipalities in California have access to the sales tax.

(3) Business Tax:

In Frankfurt, Germany, the business tax (Gewerbesteuer) is a tax on corporate profits. The base is determined by central government and the individual municipalities set the local rate. The business tax accounts for two-thirds of Frankfurt's tax revenues, and roughly a quarter of total revenue.

(4) Hotel and Motel Occupancy Tax:

The hotel tax is an additional levy that transfers a tax to non-residents (visitors) who use municipal services. Municipalities have the option to "piggy back" on the existing provincial retail sales tax rate or administer their own independent tax. A number of U.S. cities have implemented a hotel occupancy tax.

(5) Gasoline Tax:

- (a) In most cases, revenues from a gasoline tax are earmarked for local roads and public transit. The tax affects both residents and visitors.
- (b) For every one litre of gasoline sold in Ontario, the provincial government collects almost 15 cents.
- (c) It is estimated that every cent of taxes levied on a litre of gasoline raises revenues between \$19 million and \$28 million. In the GTA, each cent per litre would generate annual revenues ranging from \$47 million to \$53 million.
- (d) Montreal's Agence Metropolitaine de Transport (AMT) is partially funded by a 1.5 cent /litre gas tax (total raised: \$47 million).
- (e) Greater Vancouver's TransLink (Vancouver Regional Transit System) is partially funded by a 4 cent/litre gas tax (total raised: \$79 million).
- (f) Public transit in the U.S. is receiving 2.8 cents per gallon (0.7 cents/litre) from gas taxes to reduce deficits (Transportation Equity Act for the 21st Century). It is estimated that American transit systems will receive more than \$29 billion from gas taxes over the next five years.
- (g) Different U.S. states collect different tax rates:
 - (i) The state of Michigan collects 19 cents per gallon gas tax and diverts 1.5 cents to a Comprehensive Transportation Fund.
 - (ii) The state of Florida diverts 8.8 cents per gallon to a Transportation Trust Fund.

- (iii) New York State provides subsidies to transit systems based on the Petroleum Business Tax. The tax is measured by the quantity of various petroleum products refined or sold in the state or imported for sale or use in the state. The state collects approximately 10 cents per gallon.

(6) Automotive License Fees:

Montreal's Agence Metropolitaine de Transport (AMT) is partially funded by a \$30 car registration fee, annual revenues: \$43 million

(7) Land Transfer Tax:

- (i) Approximately one-third of all municipalities in Nova Scotia levy a land transfer tax at a rate of 0.5 to 1 percent of the value of the transferred property.
- (ii) Municipalities in Quebec can levy a land transfer tax at the rate of 3/10 of 1 percent on the first \$50,000.00 of sale price and 6/10 of 1 percent on the excess.

(8) Intergovernmental Funding Arrangements:

- (i) The Transportation Equity Act for the 21st Century (TEA – 21) is the largest infrastructure investment program in the United States with a total budget of \$217 billion. Major U.S. cities are undertaking major transportation infrastructure programs under this program. It is estimated that an American urban region the size of the GTA would receive approximately \$42 million annually under TEA - 21 in base funding. Similarly, an American urban region comparable to the size of City of Toronto would receive about \$22 million annually under TEA-21.
- (ii) The Community Development Block Grant (CDBG) is the eighth largest federal grant program in the U.S. The program funds urban improvement projects that specifically benefit low and moderate income families. It is estimated that an American urban region the size of the GTA would expect to receive \$155 million annually under CDBG. Similarly, an American urban region comparable to the size of the City of Toronto would receive approximately \$81 million annually under the CDBG.
- (iii) The Home Investment Partnership Program (HOME) is the largest federal block grant to state and local governments with more than \$1 billion allocated to cities and states annually. The aim of the program is to create affordable housing for low income households. Funds are used to rehabilitate sites, demolish, rehabilitate or build housing for rent or ownership. It is estimated that an American urban region the size of the GTA would receive \$46.5 million under HOME annually. An American urban region comparable to the City of Toronto would receive \$24 million annually.

- (iv) The Big Cities Policy in the Netherlands is a bilateral funding agreement between the Dutch government and the four big cities: Amsterdam, Rotterdam, Utrecht and The Hague. The aim of the policy is to increase the financial resources of the big cities through the joint development of programs. Earmarked funds are channeled from central government to the cities for the construction of major infrastructure, house building, public transportation, improving quality of life in urban areas, economic development and job creation. The allocation of funds is based on plans submitted by each city. City councils propose projects that reinforce the city's economic structure and boost employment. 40 percent of funds from the policy are specifically earmarked for Amsterdam. Although the cities are not completely free to spend earmarked funds as they wish, they are free to spend resources as efficiently and integrally as possible on the specific purpose agreed to.

- (v) The financial relationship between the central and local governments in the Netherlands is clearly defined in the *Financial Relations Act, 1929*. The Act provides for a special fund known as the Municipal Fund. The Fund, which is fed by central tax revenues, transfers central government funds to municipalities in the form of a General Grant. Through this tax sharing system, payments are made to municipalities on the basis of certain allocation criteria. The Fund is administered by the Council for Municipal Finance, a neutral advisory body to the Vereniging van Nederlandse Gemeenten (Association of Dutch Municipalities).

- (vi) Trilateral Funding Agreements in Canada
 - (a) The Vancouver Agreement is a trilateral agreement between the City of Vancouver, and the Provincial and Federal governments. All three orders of government work together, within their own jurisdictions and mandates, and with communities in Vancouver, to promote and support sustainable economic, social and community development. The initial goal and focus of the Agreement is to work with residents in neighbourhoods in and around the Downtown Eastside to develop a healthy and sustainable community.

 - (b) The Winnipeg Development Agreement (WDA) is a \$75 million tri-partite agreement between the City of Winnipeg and the Provincial and Federal governments. The goal is to work with communities and businesses to support long term sustainable economic development in Winnipeg. Under the agreement, the City can implement projects under programs it administers. The WDA was due to expire on March 31, 2000.

For further information or additional copies of this report, please contact:

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Please visit our website at www.city.toronto.on.ca

The Policy and Finance Committee also submits the following communication (May 12, 2000) from Mayor Mel Lastman:

At the meeting of Toronto City Council on Thursday May 11, 2000, I informed members of Council that provincial downloading would be discussed at the next meeting of the Policy and Finance Committee.

I would ask that you add the issue of provincial downloading to the agenda for the upcoming meeting and circulate the attached letter from Premier Harris, the four page response prepared by the City Treasurer and my response of May 11th.

(Communication dated May 11, 2000, addressed to the
Honourable Michael D. Harris, Premier of Ontario
from Mayor Mel Lastman)

Thank you for your letter of May 10, 2000, regarding your concern about comments regarding the recent provincial budget and its lack of new provincial support for public transit.

From the tone of your letter, I can only assume you are getting some bad advice and wrong information from people in your government who may be concerned about talk of secession by our City.

First, I want to make it clear that I do not support secession. I do support strongly a new partnership with our great province and our great country to alleviate some of the horrendous funding pressures on Canada's largest City.

Second, I want to remind you of a major omission in your letter - the \$251.7 million annually in downloading costs we have had to assume since Toronto was formed by your government January 2, 1998. That downloading total is now more than \$750 million in three years.

Third, I remind you of the words "revenue neutral" which were used many times by your government before our City was even born. Downloading coincided immediately with amalgamation and "revenue neutral" seems to have disappeared from the provincial dictionary.

If the province does not agree with our numbers and our downloading costs, I suggest we appoint an outside auditor to go over the figures.

Our great City wants to be a strong partner with the province of Ontario and the government of Canada. We do not want to be treated as a municipal marionette.

I enclose a response to your letter from our financial people and a copy of a speech I delivered today to our Council regarding secession and new partnerships.

The Policy and Finance Committee also submits the following communication

(May 16, 2000) from the City Clerk:

City Council, at its meeting held on May 9, 10 and 11, 2000, received a presentation from Mayor Lastman, Mr. Patrick Moyle, Executive Director, Association of Municipalities of Ontario, the Chief Administrative Officer and the Chief Financial Officer and Treasurer in response to the communication dated May 10, 2000, addressed to the Mayor, from the Premier of Ontario, with respect to provincial downloading.

Council was advised by Mayor Lastman that he would be submitting material to the Policy and Finance Committee for consideration at its next regular meeting scheduled to be held on May 25, 2000, in this regard.

Council subsequently referred the following motion by Councillor Ashton to the Policy and Finance Committee for further consideration with the material to be submitted by Mayor Lastman:

“Be It Resolved That the Province of Ontario bring transparency and accountability with respect to the financial impact of disentanglement and amalgamation by hiring an independent auditor to determine that provincial totals for service costs reflect the full and true costs of delivering these services.”

City Council also had before it, during consideration of the foregoing matter, the following communications:

- (i) Letter dated May 10, 2000, from the Premier, Province of Ontario, addressed to Mayor Lastman, regarding provincial downloading to the municipality;
- (ii) submission from the Chief Administrative Officer, in response to the letter dated May 10, 2000, from the Premier, Province of Ontario, addressed to Mayor Lastman; and
- (iii) AMO Resolution No. 99-002, adopted at the AMO Conference on Monday, August 23, 1999.

The Policy and Finance Committee also submits the following communication (May 18, 2000) from the City Clerk:

City Council, at its meeting held on May 9, 10 and 11, 2000, had before it the following Motion:

Moved by: Councillor Walker

Seconded by: Councillor Silva

“WHEREAS the City of Toronto precipitated a referendum around the then proposed creation of the new ‘Megacity’, back in 1997; and

WHEREAS that referendum initiative precipitated an extensive public debate and

outrage on the part of many citizens which forced the provincial government to slow down its amalgamation legislation; and

WHEREAS that City initiative provoked changes in the proposed provincial legislation, after consultation with the citizens of the City of Toronto; and

WHEREAS the worst predictions of amalgamation are unfolding at this present time, namely the provincial government downloading significant new responsibilities to the City of Toronto without any additional funding; and

WHEREAS the provincial government has short-changed the taxpayers and citizens of the City of Toronto, in the amount of \$251 million each year, through its downloading exercise, despite promises that it would be revenue neutral; and

WHEREAS the Province has unilaterally issued a new 'dictate', reorganizing the City once again, with no provision whatsoever for consultation and possible amendments; and

WHEREAS the taxpayers of the City of Toronto are short-changed by the provincial and federal governments to the tune of \$6 billion dollars, - i.e., taking \$6 billion more out of the economy annually than they return in the form of spending; and

WHEREAS these two levels of government refuse to issue any additional funding to help this City deal with its homelessness and housing problem, and its transportation system; and

WHEREAS there is no end in sight to the attacks against the City of Toronto on behalf of the provincial government; and

WHEREAS economic trends, such as globalization and free trade, are stimulating the emergence of the City-State as a key political entity; and

WHEREAS the provincial government has demonstrated time after time, its willingness to utilize its power without mandate, to change the administration of governance within the City of Toronto to its advantage, and to the extreme disadvantage of the City;

NOW THEREFORE BE IT RESOLVED THAT:

- (1) appropriate City staff be requested to submit a report to the appropriate Committee, on holding a public referendum as part of the 2000 municipal election to determine public support for proceeding with separation from the Province of Ontario; and
- (2) appropriate City staff be requested to develop an extensive communications package outlining the argument (financial and social) for and against

separation and a plan to provoke full participation and debate on the part of the citizens prior to the referendum.”

The Motion, together with the following proposed amendments thereto, was referred to the Chief Administrative Officer, with a request that he submit a report to the Policy and Finance Committee, as soon as possible, on:

- (1) a comprehensive strategy to deal with the issues raised; and
- (2) the issue of ‘Charter Cities’ and any other alternative deemed appropriate to halt the provincial download:

Moved by Councillor Ashton:

“That Motion F be amended by adding thereto the following new Operative Paragraphs:

‘AND BE IT FURTHER RESOLVED THAT Council establish a panel of experts (constitutional, legal and political science) to review and recommend a model of governance for the City of Toronto that provides a degree of autonomy to reflect an order of government in concert with a city in modern society;

AND BE IT FURTHER RESOLVED THAT a Sub-Committee of Council be struck to establish terms of reference, select the panel, receive the report and make recommendations to Council.’ ”

Moved by Councillor Duguid:

“That Motion F be amended by striking out the Operative Paragraph and inserting in lieu thereof the following new Operative Paragraph:

‘NOW THEREFORE BE IT RESOLVED THAT the appropriate City staff be requested to prepare a proposal for submission to the Province of Ontario that would provide more autonomy to municipalities in such areas as:

- (a) governance (including consideration of constitutional status for municipalities);
and
- (b) revenue generation (including taxation options, municipal fees, legislation and codes governing municipal enforcement and public/private partnerships);

as well as options that would provide greater stability of provincial funding of municipal services, such proposal to be submitted to Council for approval, and further, that this proposal be brought forward for consultation with the Mayor’s consultation team.’ ”

Moved by Councillor Johnston:

“That Motion F be amended by:

- (a) deleting from Recommendation No. (1) embodied in the Operative Paragraph, the words “separation from the Province of Ontario”, and inserting in lieu thereof the words “the establishment of a City State”, so that such recommendation shall now read as follows:

‘(1) appropriate City staff be requested to submit a report to the appropriate Committee, on holding a public referendum as part of the 2000 municipal election to determine public support for proceeding with the establishment of a City State;’; and

- (b) adding thereto the following new Operative Paragraph:

‘AND BE IT FURTHER RESOLVED THAT the Mayor be requested to host a summit meeting on the role and financing of cities and City States, such summit to be held immediately prior to, or after, the June 2000 Federation of Canadian Municipalities Annual Conference, to be held in London, Ontario.’”

Moved by Councillor Kinahan:

“That Motion F be amended by:

- (a) amending Recommendation No. (1) embodied in the Operative Paragraph to read as follows:

‘(1) appropriate City staff be requested to submit a report to the appropriate Committee on holding a public referendum as part of the 2000 municipal election to determine public support for:

- (a) proceeding with separation from the Province of Ontario; and
- (b) negotiating a Constitutional Accord with the Province of Ontario.’; and

- (b) adding thereto the following new Operative Paragraph:

‘AND BE IT FURTHER RESOLVED THAT the Chief Administrative Officer be requested to submit a report to the Policy and Finance Committee on the feasibility of convening a Constitutional Assembly and inviting the Cities of Montreal and Vancouver to attend.’ ”

Moved by Councillor Korwin-Kuczynski:

“That Motion F be amended by adding thereto the following new Operative Paragraph:

‘AND BE IT FURTHER RESOLVED THAT a third “LUV TORONTO” team, composed of “grass-roots” Toronto citizens, be struck to promote the interests of the City

of Toronto to senior levels of government, and the Mayor be requested to submit a report to Council, through the appropriate Committee, on the membership and terms of reference for this third “LUV TORONTO” team.’ ”

Moved by Councillor Walker:

“That Motion F be amended by adding thereto the following new Operative Paragraph:

‘AND BE IT FURTHER RESOLVED THAT, in the event a referendum is conducted as part of the 2000 municipal election, a suggested ballot question be as follows:

“Should the Council of the City of Toronto be given the authority to proceed with negotiation for provincial status for Toronto?’ ’ ”

Moved by Councillor Johnston:

“That the foregoing proposed amendment to Motion F by Councillor Walker be amended by deleting from the ballot question the word ‘provincial’ and inserting in lieu thereof the words ‘City-State’, so that such ballot question now reads as follows:

‘Should the Council of the City of Toronto be given the authority to proceed with negotiation for City-State status for Toronto?’ ’ ”

City Council also had before it during consideration of the Motion, the following communications and submissions:

- (i) (April 11, 2000) submitted by Mayor Lastman, from Mr. Dan King, Communication Director, Province of Ontario Committee, requesting support for referral of the motion to a committee;
- (ii) (May 9, 2000) Briefing Note from the Chief Financial Officer and Treasurer, entitled “Estimated Net Outflows to Senior Governments by Residents and Businesses” circulated at the request of Mayor Lastman;
- (iii) (May 10, 2000) submitted by Councillor Walker, from Mr. David Vallance, forwarding extracts from the Supreme Court’s decision pertaining to Quebec secession;
- (iv) (August 23, 1999) submitted by Councillor Ashton, Association of Municipalities of Ontario, Resolution #99-002, entitled “Costs of Downloaded Services”; and
- (v) (undated) submitted by Councillor Moscoe, a chart entitled “Public Transit, The Download”.

AMO Resolution No. 99-002

Costs of Downloaded Services

Whereas a partnership between the Province and municipalities governs the delivery and funding of public health, ambulance, social housing, social assistance, and child care services for

Ontarians; and

Whereas the Province requires municipalities to report on service expenditures and costs; and

Whereas the Province has not shared *its* expenditure information and accounting procedures associated with these services; and

Whereas the municipal costs related to the services, such as insurance, are greater costs than when the Province delivered the service;

Therefore Be It Resolved That the Province of Ontario be made aware of the additional costs of the services downloaded to municipalities and demand that the Province fully fund these costs; and

Further Be It Resolved That the Province of Ontario provide municipalities with a detailed breakdown and accounting for all expenditures and costs associated with the shared and billed services that include ambulance, social housing, social assistance, child care and . public health; and

Further That the Province of Ontario bring transparency and accountability to the process by hiring an independent auditor to determine that provincial totals for service costs reflect the full and true costs of delivering these services. .

Action:

Adopted at the AMO Conference, Monday August 23rd, 1999.

The Policy and Finance Committee also had before it the following communications which were forwarded to all Members of Council with the June 22, 2000, agenda of the Policy and Finance Committee and a copy thereof is also on file in the office of the City Clerk:

- Attachment E, referred to in the joint report dated June 6, 2000, from the Chief Administrative Officer and the Chief Financial Officer and Treasurer;
- (June 21, 2000) from Mr. Brian Maguire, Secretary, North Hill district Home Owners' Association, supporting the concept of a Toronto Charter and the increased powers and responsibilities that would go with it; and
- (June 21, 2000) from Mr. David Vallance, forwarding comments in support of a referendum.

The following persons appeared before the Policy and Finance Committee in connection with the foregoing matter:

- Ms. Olga Kremko;
- Ms. Ruth Cohen; and filed a written submission in regard thereto;
- Mr. David Vallance;
- Ms. Hilda Jones;
- Mr. Dan King; and filed a written submission in regard thereto; and
- Mr. Alan Broadbent, Chairman, Avana Capital, and filed:
 - (i) a written submission in regard thereto;
 - (ii) a publication, entitled “Toronto Considering Self-Government”; and
 - (iii) a paper entitled “Towards a Greater Toronto Charter – A Declaration for the Greater Toronto Region”

Councillor Michael Walker, North Toronto, also appeared before the Policy and Finance Committee in connection with the foregoing matter.

(City Council on July 4, 5 and 6, 2000, had before it, during consideration of the foregoing Clause, the following communications respecting the Charter Status for the City of Toronto:

- (i) questionnaire submitted by the Chief Administrative Officer, entitled “Charter Status for the City of Toronto”;*
- (ii) (July 3, 2000) from Mr. Stig Harvor;*
- (iii) (July 3, 2000) from Mr. Al McPherson, submitted by Councillor Walker;*
- (iv) (July 5, 2000) from Ms. Phyllis Creighton, submitted by Councillor Walker;*
- (v) (July 3, 2000) from Ms. Peg Lush, submitted by Councillor Walker; and*
- (vi) (July 5, 2000) from Ms. Olga Kremko.)*