

Consolidated Clause from Report No. 14 of the Policy and Finance Committee, as adopted by the Council of the City of Toronto at its regular meeting held on November 26, 27 and 28, 2002.

16a**Update on Bill 151 - The Toronto Waterfront Revitalization Corporation Act, 2001**

(City Council at its regular meeting held on November 26, 27 and 28, 2002, amended this Clause by adding to Recommendation No. (4) of the Waterfront Reference Group embodied in the communication dated October 10, 2002, from the City Clerk, as embodied in the Clause, the words “and the delegation from City Council be requested to emphasize, in such deputation, the concerns raised by the City about Conflict of Interest and open meetings, as outlined in the ‘Background’ section of the report dated October 24, 2002, from the Commissioner of Urban Development Services”, so that such recommendation shall now read as follows:

“(4) the Mayor, Chair of the Waterfront Reference Group, the Commissioner of Urban Development Services, the Waterfront Project Director, Urban Development Services, and other appropriate staff, be requested to make a deputation before the Standing Committee considering Bill 151, and the delegation from City Council be requested to emphasize, in such deputation, the concerns raised by the City about Conflict of Interest and open meetings, as outlined in the ‘Background’ section of the report dated October 24, 2002, from the Commissioner of Urban Development Services.”)

(City Council on October 29, 30 and 31, 2002, deferred consideration of this Clause to the next regular meeting of City Council scheduled to be held on November 26, 2002.)

The Policy and Finance Committee recommends the adoption of the Recommendations of the Waterfront Reference Group embodied in the following communication (October 10, 2002) from the City Clerk:

Recommendations:

The Waterfront Reference Group recommends that:

- (1) the report (September 24, 2002) from the Commissioner, Urban Development Services be received;
- (2) staff continue to work with members of the Intergovernmental Steering Committee to resolve outstanding issues related to Bill 151;
- (3) staff continue to keep Council apprised of the progress of Bill 151 and if required, report back to the Waterfront Reference Group on any necessary actions; and

- (4) the Mayor, Chair of the Waterfront Reference Group, the Commissioner of Urban Development Services, the Waterfront Project Director, Urban Development Services, and other appropriate staff, be requested to make a deputation before the Standing Committee considering Bill 151.

Background:

At its meeting on October 8, 2002, the Waterfront Reference Group gave consideration to the report (September 4, 2002) from the Commissioner of Urban Development Services providing an update on Bill 151, the legislation to be enacted by the Province of Ontario to create the permanent Toronto Waterfront Revitalization Corporation, and submitting recommendations in regard thereto.

The Group also had before it a communication (September 24, 2002) from Dale E. Richmond, Chair, and M. Elyse Allan, President and CEO, The Toronto Board of Trade, forwarding comments on Bill 151 to the Hon. Janet Ecker, Minister of Finance expressing concern with the powers and governance structure of the Toronto Waterfront Revitalization Corporation as set out in Bill 151.

The following persons appeared before the Waterfront Reference Group in connection with the foregoing matter:

- Greg Bonser; and
- Michael Rosenberg.

(Report dated September 24, 2002, addressed to the
Waterfront Reference Group from the
Commissioner of Urban Development Services)

Purpose:

This report provides an update on Bill 151, the legislation to be enacted by the Province of Ontario to create the permanent Toronto Waterfront Revitalization Corporation.

Financial Implications and Impact Statement:

There are no financial implications resulting from this report.

Recommendations:

It is recommended that:

- (1) this report be received and forwarded to Council, through the Policy and Finance Committee;

- (2) staff continue to work with members of the Intergovernmental Steering Committee to resolve outstanding issues related to Bill 151;
- (3) staff continue to keep Council apprised of the progress of Bill 151 and if required, report back to the Waterfront Reference Group on any necessary actions; and
- (4) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

Bill 151, once enacted, will create the permanent Toronto Waterfront Revitalization Corporation (TWRC). It received First Reading in the Provincial Legislature on December 11, 2001, and is anticipated to be tabled for Second Reading this week. An amendment package from the Minister of Finance will follow reflecting the agreed changes by the three governments. When available, the amendment package will be circulated to Members of Council. Third Reading and enactment of the legislation is anticipated by year's end.

A staff report highlighting issues of concern to the City was considered by City Council on February 13, 14 and 15, 2002 (Clause No. 19 of Report No. 2 of the Policy and Finance Committee). The major concerns with the legislation were: the lack of recognition of the City's Official Plan as the statutory governing document for planning in the Central Waterfront; the geographic boundary for TWRC activities which was limited to the central area; the absence of a provision for the approval of the TWRC's annual business plan by the three government partners; the degree to which important financial and policy decisions could be made through Provincial Regulation; and recognition, in the objects of the corporation, that the TWRC's mandate includes the enhancement of the ecological, social and cultural value of land in addition to economic value.

Council adopted staff's recommendation to address these concerns with our Provincial counterparts. Council also raised two additional issues, namely, that the TWRC conflict of interest policies be based on obligations imposed on elected officials under the *Municipal Conflict of Interest Act* and that all meetings of the TWRC board be open to the public except in circumstances in which the *Municipal Act* would permit closed meetings.

These concerns were communicated to the Province in correspondence on March 7, 2002 and reiterated by Mayor Lastman in correspondence directly to the Deputy Premier and Minister of Finance. Correspondence was again forwarded to Provincial representatives by City staff and the Mayor in July 2002 following an update to Council on the status of the legislation.

Comments:

Since the introduction of Bill 151, the government partners have been meeting to resolve outstanding issues relating to the legislation. This has been facilitated through the Intergovernmental Steering Committee, on which the City has been represented by the Chief Administrative Officer, Shirley Hoy and the Executive Lead for the Waterfront Project, Commissioner Paula Dill.

Significant progress has been made on all issues and, with the exception of open TWRC Board meetings, staff has been successful in ensuring that the legislation satisfies the City's objectives. The following summarizes the outcomes on each of the issues. New changes introduced subsequent to the introduction of Bill 151 are also reviewed.

(1) Recognition of the City's Planning Powers:

The original version of Bill 151 granted the TWRC the power to develop a plan consistent with the objects of the corporation. In addition, the legislation was silent on the City's Official Plan as the governing statutory document. This raised questions about the type of planning mandate the legislation envisioned for the TWRC.

The revised legislation will introduce a new clause which states that the TWRC, in carrying out its development activity, will be guided by the City of Toronto's Official Plan. This clause together with the discussions at the Intergovernmental Steering Committee level have assured staff that the government partners are in agreement that the City retains planning authority in the waterfront.

(2) Definition of the Designated Waterfront Area:

The legislation provides that the definition of the Designated Waterfront Area, which is the geographic boundary of the TWRC's mandate, shall be defined by Provincial Regulation. A draft definition was tabled shortly after Bill 151 was introduced and has been revised several times. It uses the Central Waterfront Plan boundaries, including an extension of the northerly boundary to Queen/King Street to accommodate transportation initiatives.

A key stumbling block from the beginning has been the unwillingness of the government partners to include the full 46 kilometre Toronto Waterfront as the area of jurisdiction with the primary focus being the Central Waterfront. This impasse has recently been settled by an agreement among Federal and Provincial staff to allow for strategic projects outside of the Central Waterfront with the agreement of the three governments. The Province has indicated a willingness to proceed with a Regulation concurrently with Bill 151 to define the agreed Central Waterfront boundary and to allow for the addition of strategic projects outside of the central area. The government partners have also demonstrated their support by allowing the inclusion of projects along the Port Union and Mimico waterfronts in the TWRC's business plan.

(3) Annual Approval of the TWRC Business Strategy:

The original version of the legislation only required that the TWRC Board provide a copy of the business plan to the government partners. A new clause requires that the three government partners approve the business plan each year, and prohibits implementation of new development activity proposed in the business plan until the Plan is approved. Staff are pleased with the introduction of an approval clause in the legislation. To avoid project delays, however, it may be appropriate for the legislation to also allow individual

projects supported by the three government partners to proceed even if the approval of the entire business plan has not been issued. Staff are discussing this matter with our government counterparts.

(4) Use of Provincial Regulations:

A major concern with the original legislation was the number of matters which were relegated to Provincial Regulation, a process which does not provide for concurrence of the government partners. The revised legislation removes the possibility of the Province unilaterally allowing the TWRC to borrow money, mortgage or otherwise encumber any of its assets and raise revenue. It also removes the provision that allowed the Province to determine by resolution how assets and liabilities would be distributed upon wind-up of the TWRC. TWRC powers in these areas will require approval of the three governments.

Two regulatory powers remain in the legislation. One allows the Province to expand the objects of the Corporation, by Regulation, beyond what is currently legislated. The objects deal with the Corporation's mandate including implementing a plan which achieves a wide range of objectives for the waterfront. This approach is acceptable as it gives the government partners the flexibility to expand the mandate of the Corporation, where warranted, without the more rigorous and time-consuming process of amending the Act. Added control in the legislation has been provided by requiring the Province to consult with the federal government and City before making any Regulations. The other regulatory power provides for the definition of the Designated Waterfront Area by Regulation. As was discussed earlier in this report, the definition has been resolved in a satisfactory manner.

A final clause in the legislation allows the Province to act by Order to require wind-up of the Corporation. This is a safeguard which only comes into play if actions by the other government partners on the wind-up have not occurred.

(5) Expanding the Objects of the Corporation:

The revised legislation incorporates the City's desire to expand the TWRC mandate beyond enhancing the economic value of land and now includes, in the objects, "social and cultural value of the land...and to do so in a ...environmentally responsible manner".

Staff had requested stronger wording on commitment to the environment. The other levels of government took the position that nothing further was required in the legislation, but verbally confirmed their recognition of the importance of showing environmental leadership in waterfront revitalization.

(6) Conflict of Interest Policy:

Council's position that the TWRC's conflict of interest policy mirror the obligations imposed on elected officials under the Municipal Conflict of Interest Act has been communicated to the government partners and TWRC. The TWRC has secured expertise

to develop this policy and is continuing to work on developing a conflict of interest policy which meets the City's requirements.

(7) Open TWRC Board Meetings:

The government partners do not support the City's request to legislate that TWRC Board meetings be open to the public (except where the *Municipal Act* would permit closed meetings). The position of Provincial and Federal staff is that because of the very nature of the TWRC's mandate, it is important that board members be in a position to have wide-ranging discussions without the need to go *in camera* each time they discuss sensitive matters such as real estate acquisition/disposition and any possible revitalization strategies where confidentiality must be maintained.

The proposed legislation requires that the Board's annual business plan, which must be approved by the three levels of government, include a public consultation plan for the year. Staff believe that this, to some degree, responds to the desire for public accountability and transparency and is a reasonable approach given the circumstances.

(8) New Clauses in the Legislation:

A number of new and revised clauses appear in the legislation. These are the result of ongoing discussions between the government partners. Most are of an editorial or clarification nature or result from legal input on the legislation.

Two changes are worth highlighting. Use of the terminology "development plan" has been removed from the legislation and replaced with a "plan for revitalization." The revitalization plan now appears as a component of what is required in the business plan rather than a freestanding document. This is a desirable change. The legislation requires that the revitalization plan be produced every five years. The second clause requires the TWRC to carry out a review of this Act and regulations one year following the legislation coming into force. This is a reasonable requirement given the TWRC's unique role in the waterfront and the precedent setting nature of the legislation.

Conclusion:

Much progress has been made to ensure the City's interests are reflected in the legislation. Staff will continue to discuss the finalization of the legislation with our government counterparts and monitor its progress through the legislative process. We will continue to keep the Waterfront Reference Group and Members of Council apprised.

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