

Clause embodied in Report No. 3 of the Policy and Finance Committee, as adopted by the Council of the City of Toronto at its meeting held on April 14, 15 and 16, 2003.

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Provincial Policy for Secondary Uses in Hydro Corridors

(City Council on April 14, 15 and 16, 2003, amended this Clause by inserting the words “and commuter parking lots”, after the words “park uses”, in Recommendation No. (1) embodied in the report dated March 21, 2003, from the Chief Administrative Officer, so that such recommendation now reads as follows:

“(1) request the Province of Ontario to amend its policy on secondary uses in hydro corridors to provide lands to municipalities for park uses and commuter parking lots without imposing the property tax pass-through;”.)

The Policy and Finance Committee recommends the adoption of the following report (March 21, 2003) from the Chief Administrative Officer:

Purpose:

This report provides an update on the status of hydro corridors and recommends further action to address City uses in the corridors.

Financial Implications and Impact Statement:

This report recommends actions on the part of the Province of Ontario to eliminate increased costs to the City for the use of hydro corridor lands for park uses. If the Province of Ontario does require the pass-through of property taxes to the City on renewed licenses for existing park uses in hydro corridors, costs to the City would increase by about \$560,000.00 per year at 2003 tax rates which represents the provincial education portion of property taxes. The Chief Financial Officer and Treasurer has reviewed this report and concurs with the financial impact statement.

Recommendations:

It is recommended that Council:

- (1) request the Province of Ontario to amend its policy on secondary uses in hydro corridors to provide lands to municipalities for park uses without imposing the property tax pass-through;
- (2) communicate this report to the Association of Municipalities of Ontario (AMO) and the municipalities represented on the AMO Hydro Corridors Working Group requesting their support for the request to the Province of Ontario; and

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

Background:

At its meeting on November 26, 27 and 28, 2002, City Council adopted Clause No. 3 of Report No. 15, of the Policy and Finance Committee entitled "Proposals for Provincial Management of Secondary Uses in Hydro Corridors". The report was prepared in anticipation of the transfer of ownership of the hydro corridors from Hydro One to the Province of Ontario. In adopting the report Council requested that the Chair of Management Board include in the provincial protocol for ownership of the hydro corridors and management of secondary uses the following:

- (a) recognize that the primary purpose of the corridors is electricity transmission;
- (b) provide for a two-year planning period for municipalities to identify public uses requiring hydro corridor lands;
- (c) provide for the use of hydro corridor lands by municipalities for public uses at nominal rent;
- (d) provide for City use of hydro corridor lands for parks and recreation with no share of realty taxes;
- (e) provide for TTC use of hydro corridor lands for commuter parking with the City and TTC assuming responsibility for 50 percent of the realty taxes; and
- (f) provide for terms and conditions, such as duration of the leases and licences, that are appropriate for the public uses.

The Association of Municipalities of Ontario (AMO) Hydro Corridors Working Group was in general agreement with the recommendations.

Council requested that the Commissioners of Works and Emergency Services, Economic Development, Culture and Tourism and Urban Development Services identify potential City uses in hydro corridors. That work is underway.

This report provides information recently received from the Province of Ontario regarding the Provincial Secondary Land Use Program for hydro transmission corridors and comment on the implications for the City. This report was prepared in consultation with staff in Corporate Services, Economic Development, Culture and Tourism, Urban Development Services, and Works and Emergency Services.

Comments:

In a letter (attached to this report) dated February 14, 2003, to the Chief Administrative Officer, the Honourable David Tsubouchi, Chair of Management Board, indicated that the transfer of hydro corridor ownership from Hydro One to the Province of Ontario took place December 31, 2002. The letter indicated that, while the primary purpose of the hydro corridors is for transmitting electricity, the Province will continue to allow access for secondary uses including parks and trails, road crossings, water and sewer pipelines and parking lots for transit and commercial facilities.

An attachment to the letter provided information on provincial policy with respect to public uses in the hydro corridors. The key elements of the provincial policy in the context of Council's position are discussed below.

Public Uses:

The provincial policy gives public uses priority over private uses in corridor lands. Public uses relying on contiguous land, such as road, busways and trails, will have priority.

This concept is consistent with the Council position and new Official Plan policies and the position of the AMO Hydro Corridors Working Group. The corridors were acquired with public funds and therefore should remain available for public use. The corridors provide contiguous linear lands that are particularly valuable for specific uses such as cycling trails and transitways. The Official Plan recognizes the importance of protecting the corridors for linear uses.

Two-year Planning Period:

The Province is providing a two-year planning period for municipalities to identify potential linear municipal uses on contiguous corridor lands and to ensure that appropriate official plan designations and zoning are in place. New uses will be permitted in hydro corridors during the two-year planning period but the Province will require provincial and municipal approval for such permissions to ensure that private uses do not preclude potential municipal uses.

Council and AMO requested that the Province provide the two-year planning period to identify all planned municipal uses not just linear uses. In accordance with the direction of Council, City departments and agencies are in the process of identifying all planned uses in order that they can be brought to the attention of the Province and protected.

The City's new Official Plan incorporates appropriate policies for hydro corridors and potential secondary uses. However, the zoning on the corridors needs to be harmonized across the City. City Planning is leading the identification of planned City uses in the hydro corridors, the municipal sign-off of proposals for other uses in the corridors and the review of zoning of the corridors.

Parks and Recreation Uses:

Most of the licenses held by the City for lands in hydro corridors for parks and recreation uses were granted by Ontario Hydro prior to 1999. These licenses require the City to pay nominal rent at \$1/year and assume maintenance responsibilities for lands under license. The property taxes remained the responsibility of Ontario Hydro. The two park licenses that the City has obtained from Hydro One since 1999 require the City to pay property taxes on the subject lands at \$2,042.68 per acre for the year 2002/2003. This amount attributes \$1,208.66 per acre for education tax purposes and \$834.02 per acre for municipal tax purposes. The tax pass-through adds new operating costs to EDCT for parks. The municipal tax portion comes back to the City through Hydro One. The education portion of the tax is remitted to the Province by Hydro One and is, therefore, a new net cost to the City.

The new provincial policy for secondary uses indicates that any new licenses for parks or renewals of existing licenses will require the City to pay the property tax pass-through from Hydro One. This pass-through of property taxes reduces the net cost to Hydro One even though the primary use of the corridor by Hydro One for electricity transmission is not impeded or hampered in any way by the secondary use.

The City has approximately 465 acres of park and recreation hydro corridor land under City occupation. Of that, approximately 144 acres are on expired licences that require renewal; the balance of the licenses will be due for renewal in the majority of cases over the next ten years. The requirement to pay taxes on the expired agreements will impose a total of about \$295,000.00 in property tax pass-through as new operating costs for the parks based on the current per acre rate, per annum resulting in a new net cost to the City of about \$174,000.00 per annum, which represents the education tax portion. Renewal of all licenses for all 465 acres of parkland would result in new total operating costs to EDCT for parks of about \$950,000.00 per year at the 2003 tax rate resulting in new net cost to the City of approximately \$560,000.00 per annum which represents the education tax portion. This additional operating cost will be a significant hardship as these park uses are non-revenue generating.

The provincial government should exempt the use of hydro corridor lands for non-revenue generating park use from pass-through of property taxes.

TTC Commuter Parking Facilities:

Prior to 1999 Ontario Hydro provided leases to the City for commuter parking in hydro corridors with the City paying market rent and 50 percent of the property taxes. After 1999, Hydro One increased the cost to include 75 percent of the property taxes in addition to market rent.

At its meeting February 24-28 and March 3, 2003, Council had requested a report from the Chief Administrative Officer, the City Solicitor and the Chief General Manager of the TTC, to be submitted to the April 3, 2003, Policy and Finance Committee to declare TTC commuter parking lots to be municipal capital facilities and therefore tax exempt. As a result, if the report is approved, the City would be relieved of property taxes on the lands under lease and paying both the municipal property tax portion, that would come back to the City, as well as the education portion of the tax, that stays with the Province, on the commuter parking lots that are leased in hydro corridors.

Process:

The Province has indicated that the Ontario Realty Corporation (ORC) will be managing the Provincial Secondary Land Use Program within transmission corridor lands and Hydro One will continue on an interim basis to process new proposals for uses in hydro corridors on ORC's behalf.

Conclusions:

The Province of Ontario policy for public uses in the hydro corridors is consistent with Council's position with respect to the priority for public uses over private, the priority of linear uses over

non-linear and the provision of a two-year planning period. The provincial policy to pass-through the property taxes for lands used for parks and recreation does not reflect Council's position that the hydro corridor lands should be provided for non-revenue generating City uses at nominal cost and no property tax.

It is recommended that the City request the Province of Ontario to amend its policy to provide hydro corridor lands to municipalities for park uses for nominal rent and no share of property tax.

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(A copy of the letter dated February 14, 2003, from David Tsubouchi, Chair of Management Board of Cabinet, and the attachments thereto, referred to in the foregoing report were forwarded to all Members of Council with the April 3, 2003, agenda of the Policy and Finance Committee and a copy thereof is also on file in the office of the City Clerk, City Hall).