

Delegation of Certain Matters to Community Councils

Date:	January 2, 2007
To:	Executive Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

The *City of Toronto Act* provides authority to City Council to delegate certain final-decision-making powers to Community Councils. This report proposes delegation of authority to Community Councils of some routine local matters, subject to the necessary statutory powers being in effect, to improve local decision-making.

The City of Toronto Act prohibits delegation of the majority of planning matters including adopting official plans and official plan amendments, passing zoning by-laws and adopting community improvement plans. A few matters are not recommended for delegation to Community Councils as they have City-wide implications. These include exemptions issued under Toronto Municipal Code Chapter 813, Trees and listing on the City's Inventory of Heritage Properties. Some minor administrative matters that are recommended for delegation to Community Councils could likely be further delegated to City Officers. These matters will be evaluated for further delegation to staff and reported out in the second quarter of 2007.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council delegate the legislative authority for the local routine matters described in Appendix A (the "Matters") to Community Councils effective March 2007, subject to the necessary statutory powers being in effect and subject to the following conditions;
 - (a) The delegated authority to act with respect to the Matters applies only when such Matters, in the opinion of the City Manager, do not have City-wide significance and do not affect more than one Community Council;

- (b) City Council retains the ability to revoke the delegation to Community Councils by by-law at any time;
- (c) Subject to (a) and (b), the legislative authority to act with respect to the Matters is fully delegated to Community Councils, and City Council retains no authority to act with respect to the Matters;
- (d) The delegated authority to Community Councils includes the power to pass any necessary by-laws with respect to the Matters, and all by-laws enacted by Community Councils under this delegated authority have the full force and effect as if enacted by City Council, including any necessary amendments to the Municipal Code;

2. City of Toronto Municipal Code Chapter 27, Council Procedures, be amended to:

- (a) give effect to the delegation set out in Recommendation 1;
- (b) make other amendments required to give effect to the delegation to Community Councils, including:
 - i. to allow Community Councils to re-open and to reconsider final decisions under the same rules as apply to City Council;
 - ii. to provide a process for Community Councils to pass by-laws;
 - iii. to make applicable to Community Councils certain other rules effecting final decision-making which currently only apply to City Council; and

3. Authority be granted to the City Solicitor to submit any bills required to enact the delegation of authority to Community Councils including all necessary amendments to City of Toronto Municipal Code Chapter 27, Council Procedures, and other chapters in the Municipal Code and other by-laws, generally in accordance with the report recommendations and Appendix A, and subject to any necessary technical adjustments.

IMPLEMENTATION POINTS

The delegation of local routine matters will be implemented for the March 27, 2007 cycle of Community Council meetings. Orientation regarding the delegated authority of local routine matters to Community Councils will be provided to Community Council chairs, vice chairs and committee administrators. Notice will be provided to the general public and communications materials distributed to City staff that interacts with Community Councils.

FINANCIAL IMPACT

There is no financial impact as a result of this report. The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

City Council approved the report, Implementation of a New Council Governance Model for the Next Term of Council, at its meeting on June 27, 28 and 29, 2006 including proceeding with the delegation of authority to Community Councils for some local routine matters and all local Community Council planning issues. City Council requested the City Manager report early in the next term on the technical, legal and operational impacts of this delegation. This report responds to Council's request.

ISSUE BACKGROUND

The new governance model approved by City Council at its meeting on June 27, 2006 includes reforms designed to improve the decision-making structure, enhance neighbourhood involvement and prepare the City for powers resulting from the new *City of Toronto Act*.

The *City of Toronto Act* provides authority for Council to delegate certain final decision-making powers to Community Councils. Under the new *City of Toronto Act*, Council may delegate powers under the *City of Toronto Act*, the *Planning Act* or any other Act that the Minister prescribes, subject to certain rules and limitations.

COMMENTS

The report, Implementation of a New Council Governance Model, included a list of matters for potential delegation. The matters have been evaluated for delegation to Community Councils using the following principles:

- local routine matters should be delegated to Community Council for final decision;
- only matters that can be legally delegated will be delegated;
- matters that are City-wide will not be delegated; and
- Community Councils should not have final decision-making powers on matters that fetter Council's subsequent decision on a City-wide matter or on a matter that cannot be delegated.

A. Matters that Cannot be Delegated in the City of Toronto Act

Under section 22 in the *City of Toronto Act*, there are some matters that Council cannot delegate to Community Councils or any other body.

These include:

- (i) the power to appoint or remove City officers whose appointment is required by the Act;
- (ii) the power to impose a tax, set a tax rate or establish a tax ratio;
- (iii) the power to incorporate corporations in accordance with section 148 pending the adoption of regulations;
- (iv) the power to adopt an official plan or amend an official plan under the *Planning Act*;
- (v) the power to pass a zoning by-law under the *Planning Act*;
- (vi) the power to adopt a community improvement plan;
- (vii) the power to adopt or amend the City budget; and
- (viii) the power to cancel or defer taxes in support of rehabilitation of a property.

B. Matters that Cannot be Delegated as Powers Reside in Other Acts

In addition, there are some local routine matters that cannot be delegated at this time because they involve powers that are provided for in other Acts other than the *City of Toronto Act* or the *Planning Act*. These include:

- (i) speed changes, restrictions and reductions;
- (ii) installation of stop signs;
- (iii) designation of fire routes;
- (iv) endorsements of significant events for liquor license purposes; and
- (v) powers under the Ontario Heritage Act.

Delegation of the above-noted matters requires regulations prescribing them as matters eligible for delegation. A request has been filed with the Minister regarding these matters and they will be evaluated for potential delegation to Community Councils when the required statutory authority to delegate has been obtained.

C. Matters Recommended for Delegation to Community Councils for Final Decision

There are a variety of routine local matters that should be immediately delegated to Community Councils for final decision.

These include:

- (i) enforcement and exemptions of City by-laws and policies in particular matters such as on-street parking/standing/stopping, certain on-street traffic regulations, road alterations, traffic calming, natural garden exemptions, and exemptions to the Noise, Fence and Graffiti by-laws;
- (ii) permit appeals in particular matters such as residential front-yard parking permit appeals, boulevard café application appeals and street vending appeals;

- (iii) citizen appointments to specific boards of management and advisory boards such as arena boards, boards of management of community centres, business improvement areas (BIAs) and museum advisory boards; and
- (iv) other miscellaneous matters such as acceptance of art donations for public spaces.

A complete list of matters recommended for delegation of authority to Community Councils for final decision is attached as Appendix A.

Matters related to various real estate transactions (including leasing, acquisitions and disposals) are currently being reviewed and evaluated by Facilities and Real Estate and Legal Services for potential delegation. A report regarding the delegation of these matters will be submitted in the first quarter of 2007.

All matters listed in Appendix A are recommended to be delegated to Community Councils only if the matter is not of City-wide significance and does not affect more than one Community Council. City Council will retain the legislative authority to decide all matters of City-wide significance or affecting more than one Community Council.

Community Councils will have the power to enact all necessary by-laws relating to matters over which authority has been delegated to them. They will also have the power to re-open issues with a two-thirds majority vote similar to provisions in the Procedure By-law for City Council.

D. Delegation of Local Community Council Planning Issues

The *City of Toronto Act* prohibits delegation of the majority of planning matters including adopting official plans and official plan amendments, passing zoning by-laws and adopting community improvement plans.

A number of routine planning-related matters are already delegated to staff including condominiums, plans of subdivisions, and site plan approval.

There are very few remaining planning issues to consider for delegation to Community Councils at this time. If Council wishes to pursue broader delegation of planning matters, there will be an opportunity to seek legislative amendments during the mandated two-year review of the *City of Toronto Act*.

E. Options Regarding Delegating the City's Powers and Duties

The *City of Toronto Act* outlines rules for delegating any of the City's powers and duties. The *City of Toronto Act* provides that Council can limit the delegation of authority in the following ways:

- (i) reserving the right to rescind the delegation at any time without notice;
- (ii) by ruling out the ability to rescind the delegation until the start of the new term; and

- (iii) by providing that only the delegate can exercise the delegated power or that the delegation can be shared by Council and the delegate.

It is recommended that Council fully delegate the list of matters attached as Appendix A to Community Councils for final decision-making provided they affect only one Community Council, and that Council retain the right to rescind the delegation throughout this term of office.

F. Matters Not Recommended for Delegation to Community Councils

There are a small number of matters that are not recommended for delegation to Community Councils for final decision as they have City-wide implications. These matters include exemptions issued under Chapter 813, Trees and listing on the City's Inventory of Heritage Properties.

(a) Exemptions Issued under Chapter 813, Trees

Overall exemptions issued under the City's Tree By-law have broad City-wide policy implications that need to be balanced with the more routine approval of individual tree exemptions applications. Trees play a large part in improving the City's overall environmental health and have lasting impacts on water and air quality, noise pollution, soil erosion, and energy conservation. Issues related to trees need to be coordinated with the broader Council priorities of the development of a comprehensive climate change plan and improving the City's tree management and care program. Additionally, exemptions to the City's Tree By-law needs to be coordinated with Council's powers and duties related to development applications and official plan amendments to ensure that Community Councils do not limit Council's powers on subsequent planning-related matters.

(b) Listing on the City's Inventory of Heritage Properties

The majority of heritage powers cannot be legally delegated at this time. Listing properties on the City's inventory of heritage properties is the only heritage matter that can be legally delegated.

The conservation of Toronto's heritage environment is both a local and a City-wide matter. Conserving Toronto's history often begins as a local issue when neighbourhoods identify a landmark or building of historic neighbourhood interest leading to a listing on the City's inventory of heritage properties. Listing is often the first step toward a formal delegation and can sometimes lead to designations of larger heritage districts which have broader policy implications for the City.

In addition, given the majority of all heritage matters continue to require Council approval at this time, with the exception of listing on the City's heritage inventory; coordination of decision-making in all heritage-related matters is necessary to ensure broader policy implications are considered.

G. Delegation of Routine Administrative Matters to City Officers

During the evaluation of potential matters for delegation, a number of minor administrative matters that are recommended for delegation to Community Councils were identified as potential candidates for further delegation to City Officers. These matters include such issues as minor encroachments and some minor, routine traffic controls such as installing bus pick-up and drop-off zones.

The City Manager's Office will evaluate these matters for potential delegation to City Officers and report back in the next few months. Principles of public transparency, civic engagement and access to local decision-making will be included as part of this review process.

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SIGNATURE



City Manager

ATTACHMENTS

Appendix A – Delegation of Certain Matters to Community Councils