



STAFF REPORT INFORMATION ONLY

Revenue Collected from Hydro Corridor Lands and Payments for leasing these lands by the City and its ABCs

Date:	January 18, 2010
To:	Executive Committee
From:	Treasurer
Wards:	All
Reference Number:	P:\2010\Internal Services\rev\ec10001rev (AFS11207)

SUMMARY

This report provides information on the amount of revenue collected by the City from lands used as hydro corridors, and payments made for leasing these lands by the City and its Agencies, Boards and Commissions (ABCs) for providing municipal services.

Financial Impact

There are no financial implications from this report.

DECISION HISTORY

At its meeting held on June 2, 2009, Executive Committee, while considering the report entitled “2009 Levy on Railway Roadways and Rights of Way and on Power Utility transmission and Distribution Corridors” (re: Executive Committee Report EX33.14) requested the Acting Treasurer to report to the Executive Committee on the revenue collected by the City from land used as transmission and distribution corridors owned by power utilities and payments for lease of these same lands leased by the City and its ABCs for providing municipal services.

The decision of the Executive Committee, minutes of City Council and the report are available at:

<http://www.toronto.ca/legdocs/mmis/2009/ex/reports/2009-06-02-ex33-cr.pdf>

<http://www.toronto.ca/legdocs/mmis/2009/cc/minutes/2009-08-05-cc38-mn.htm>

<http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-21506.pdf>

ISSUE BACKGROUND

Pursuant to *Reliable Energy and Consumer Protection Act, 2002*, the Province assumed ownership of close to 50,000 acres of Hydro One Networks transmission corridor lands on December 31, 2002. This transfer enabled the Province to protect the corridor lands and dedicate the lands for other uses. While the corridor lands are primarily used for electrical transmission, municipalities have been given opportunities to use the corridor lands for transit, parks, trails, road crossings, parking lots and other secondary uses. The Ontario Realty Corporation (ORC), acting as the exclusive agent for the government of Ontario, is responsible for administering all secondary land use agreements, including leases, licences and easements. The ORC has retained Hydro One as its service provider.

Within the City of Toronto boundaries approximately 2,773 acres of land are assessed as hydro corridors. The hydro corridors are taxed based on acreage and acreage rates prescribed by provincial regulation (currently \$2,042.68 per acre), generating total tax revenues of approximately \$5.7 million annually.

Under the Provincial Secondary Land Use Program (PALUP), the City of Toronto has leased parcels of hydro corridor lands for use as parks, parking lots, commuter parking lots of TTC (Toronto Transit Commission), etc. Depending on the individual lease agreements, the City pays rent and/or taxes to the Ontario Realty Corporation on these leased lands.

COMMENTS

Revenue from Hydro Corridor Lands

Prior to 1998, the taxation of power utility transmission and distribution corridors was based on the assessed value of abutting lands. In 1998, with the introduction of Current Value Assessment, the Province established that hydro rights of way would be taxed based on acreage rates prescribed by the Province (dollars per acre). The Province enacted Ontario Regulations 387/98 (city portion of the acreage taxes) and 392/98 (education portion of acreage taxes) which introduced the new acreage rates. These new acreage rates were phased-in over an eight year period beginning in 1998 and ending in 2005. The current per-acre rates for hydro corridors, referred to as mature rates, have not changed since 2005.

There are approximately 2,773 acres of land assessed as hydro corridors within the City of Toronto. At the current prescribed rate of \$2,042.68 per acre in taxes, the City levies taxes of approximately \$5.7 million annually on Hydro One Corporation. Of the \$5.7 million total taxes, \$2.3 million is the City portion and \$3.4 million is the education (school board) portion. Since the taxes on hydro corridors are treated as payments-in-lieu of taxes, the City retains both the municipal and education portion of taxes as general revenue. Since the provincially prescribed per-acre rates have remained stable each year since 2005, and provided the acreage does not change significantly, the City will continue to receive approximately \$5.7 million annually as taxation revenue from hydro corridor lands.

Payments for Use of Hydro Corridor Lands

Parks Properties

Of the 2,773 acres of land under hydro corridors, the City's Parks, Forestry & Recreation Division currently holds 67 licence agreements for approximately 400 acres of land used as parks and associated parking lots or related uses. Most of the licences held by the City for the lands in hydro corridors used for parks and recreation purposes were granted by Ontario Hydro prior to 1999 and have continued to the present in overholding arrangements, even though many of the original agreements have expired. These licences required the City to pay a nominal rent of \$1 per year, while assuming maintenance responsibilities for the lands under licence. The property taxes remained the responsibility of Ontario Hydro.

In 2003, the City was advised that lease renewals or new lease agreements for the municipal use of hydro corridor lands would require the pass-through of all or a portion of the property taxes to the municipality, as lessee. The Ontario Realty Corporation, which assumed ownership of these lands from Ontario Hydro, has maintained that all lease renewals and new agreements occurring after January 14, 2005 be subject to a property tax pass-through of 50 per cent of the total property taxes on land used for recreational uses under the Provincial Secondary Land Use Program. The remaining 50 per cent share of the property taxes would be paid by the Province, and is roughly equivalent to the education portion of taxes. For lands used for non-parks uses, current lease agreements require payment of a market-based rental amount and 75% of the property taxes.

At present, however, of the 67 parks properties located within hydro corridors that are administered by the Parks, Forestry and Recreation Division, property taxes and/or rents are only being paid on six properties, comprising some 12.4 acres. The total annual liability for the lands under the six lease agreements is estimated as \$35,779 annually, of which \$21,628 is for rents and \$14,151 is for property taxes. Of the six licence agreements, three are for lands used as parking lots (2.3 acres), for which market rents are paid, in addition to property taxes which are paid at 75% of the total taxes attributable to the occupied space. The remaining three lease agreements are for lands used as parks (10.1 acres), for which the City is responsible for the property taxes only. The payments for the property taxes on the park land are based on 50% of the total taxes on the leased space. A summary of the rent and property taxes paid are provided in Table 1.

For the remaining 61 license agreements for lands used for parks purposes within hydro corridors, comprising approximately 388 acres, there are no property taxes or rents payable, other than a nominal rent of \$1 per year under the terms of the original license agreements.

Given that the majority of the existing licence and/or lease agreements on these lands have either expired or will fall due for renewal over the next 10 to 12 years, there is a possibility that the City's liability for property taxes on these lands may increase, depending on the Ontario Realty Corporation's treatment of new/renewal leases or

license agreements. If it were assumed that all 400 acres of lands currently used for parks purposes were to pay taxes based on 50 per cent of the total taxes for these lands, the total tax liability for these lands would increase from \$14,151 currently to approximately \$409,000 annually, based on an assumed tax rate of \$1,021.34 per acre (half of the current hydro corridor per-acre tax rate). This estimate does not include any additional amount payable for market rents for lands used as parking lots.

Lands Administered by Real Estate Services Division

In addition to the roughly 400 acres of lands administered by Parks, Forestry & Recreation Division, Real Estate Services Division administers approximately 71.5 acres of lands within hydro corridors that are used for Toronto Transit Commission (TTC) parking lots, parkland, and one parking lot associated with a long term care home, as summarized in Table 1.

From Table 1, the total payments for leasing the 71.5 acres of lands administered by Real Estate Services Division is approximately \$911,276 annually, comprising \$712,786 in rents and \$198,490 in property taxes. Of the total 71.5 acres of lands, approximately 13 acres are used by TTC as parking lots at Islington, Kipling and Finch Stations, on which the City pays \$712,786 annually in rent and \$138,210 annually in property taxes, based on 75% of the property taxes payable on the leased lands. A further 57.8 acres of land are parkland, with no rents payable but requiring payment of taxes of approximately \$59,200 per year for taxes based on 50% of the total property taxes for the leased lands. A further 0.4 acres of leased land is used for a parking lot for the Bendale Acres long term care home in Scarborough, and is subject to a property tax payment of approximately \$1,030 annually.

Table 1
Annual Revenues from Hydro Corridor Lands and Payments for Use of Hydro Lands

PROPERTY TAX REVENUE FROM HYDRO CORRIDORS		Acreage	Rate	Property Tax	Total Revenue
Annual tax levy on hydro corridors (Hydro One Networks Inc.)		2773.0	\$2,042.68	\$5,664,352	\$5,664,352

PAYMENTS FOR USE OF HYDRO CORRIDOR LANDS		Acreage	Rent	Property Tax	Total Payments
Lands Administered by Parks, Forestry and Recreation Division	Parkland under license agreements	387.6	\$0	\$0	\$0
	Parkland subject to property tax	10.1	\$0	\$3,499	\$3,499
	Parking Lots	2.3	\$21,628	\$10,652	\$32,280
	Total	399.9	\$21,628	\$14,151	\$35,779

Lands Administered by Real Estate Services Division	Toronto Transit Commission parking lots	12.6	\$712,786	\$138,210	\$850,996
	Parklands	57.8	\$0	\$59,251	\$59,251
	Parking lot (Long Term Care Home)	0.4	\$0	\$1,029	\$1,029
	Total	71.5	\$712,786	\$198,490	\$911,276

Total Payments	471.4	\$734,414	\$212,641	\$947,055
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In addition to the lands identified above, the City also holds various easements, road crossings, walkways, etc. within hydro corridors for which no rents or property taxes are currently payable.

Discussions are continuing with the Ontario Realty Corporation, as the Province's agent for the hydro corridor lands, and staff from Real Estate Services Division, regarding the use of hydro corridor lands for municipal purposes. At present, new policies or guidelines surrounding the amount of rent and/or property tax that will apply to the use of these lands under renewal or new licence agreements remain pending.

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SIGNATURE

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