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These Minutes were confirmed by City Council on June 24, 2003

**MINUTES OF A SPECIAL MEETING
OF THE COUNCIL OF THE
CITY OF TORONTO**

TUESDAY, MAY 13, 2003

City Council met in the Council Chamber, City Hall, Toronto.

S6.1 CALL TO ORDER - 9:45 a.m.

Deputy Mayor Ootes took the Chair and called the Members to order.

The meeting opened with O Canada.

Council rose and observed a moment of silence and personal reflection.

S6.2 NOTICE OF SPECIAL MEETING

Deputy Mayor Ootes read the following Notice of Special Meeting:

“The purpose of this Special Meeting is to:

- (1) consider enacting a by-law to submit the following referendum question to the electors, pursuant to the Municipal Elections Act, 1996, as amended:

“Are you in favour of a one (1) percent tax increase per year in each of the years 2004, 2005 and 2006, for the purpose of funding a Toronto Transit Commission Capital expansion program?”;

- (2) permit Council to resolve itself into Committee of the Whole to hear depositions on the proposed referendum question; and
- (3) introduce and enact a confirming by-law for this Special Meeting.”

S6.3 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

S6.4 **Proposed Referendum Question on the 2003 Municipal Election Ballot**

Procedural Motion:

Councillor Moscoe moved that Council now resolve into Committee of the Whole to hear deputations from the public on the proposed referendum question.

Vote:

The motion by Councillor Moscoe carried.

Committee of the Whole:

Council resolved itself into Committee of the Whole at 10:17 a.m.

Deputy Mayor Ootes in the Chair.

Deputations:

The following persons addressed the Committee of the Whole on the proposed referendum question:

- Andy Manahan;
- Gord Perks; and
- Rhona Swarbrick.

Committee of the Whole rose, reconvened as Council at 10:35 a.m., and met in the Council Chamber.

Deputy Mayor Ootes took the Chair and called the Members to order.

Council had before it, during consideration of this matter, the following communications, reports and presentation materials:

- (a) (May 6, 2003) from the City Clerk advising that Council at its special meeting held on April 24, 2003, adopted a Motion to hold a Special Meeting of Council on Tuesday, May 13, 2003, at 9:30 a.m., to consider enacting a by-law to submit a referendum question to the electors during the 2003 election for a dedicated tax increase for public transit Capital expansion programs, which is on file in the Office of the City Clerk;

- (b) (May 2, 2003) copy of the Notice of Public Meeting and Intention to Pass a By-law to submit a referendum question to the electors pursuant to the Municipal Elections Act, 1996, which is on file in the Office of the City Clerk;
- (c) (May 6, 2003) from the City Clerk, entitled “Proposed Question on the Ballot - TTC Capital Expansion Program”, reporting on the legislative requirements and impacts of placing a question on the ballot (See Attachment No. 1, Page 14);
- (d) (May 1, 2003) from the General Secretary, Toronto Transit Commission (See Attachment No. 2, Page 20);
- (e) communications received from the following regarding the enactment of a by-law to submit a referendum question to the electors during the 2003 election for a dedicated tax increase for public transit capital expansion programs, which are on file in the Office of the City Clerk:
 - (i) (May 9, 2003) from Dermot Grove-White;
 - (ii) (May 10, 2003) from Jerry and Bonnie B. Good;
 - (iii) (May 11, 2003) from Arel Agnew;
 - (iv) (May 11, 2003) from Andrew Stewart;
 - (v) (May 12, 2003) from Rino Zan;
 - (vi) (May 12, 2003) from Norman Liu;
 - (vii) (undated) from Sidney Salino;
 - (viii) (May 12, 2003) from Scott James;
 - (ix) (May 13, 2003) from Michael Kainer, Chair, Palmerston Area Residents Association;
 - (x) (May 13, 2003) from Roger Greenwald; and
 - (xi) (May 12, 2003) from Kerry McLorg;
- (f) presentation by the Director of Election Services on the legislative requirements and impacts of placing a question on the ballot, which is on file in the Office of the City Clerk;
- (g) chart, entitled “Infrastructure Funding for the City of Toronto 2003”, submitted by the Chief General Manager of the Toronto Transit Commission, which is on file in the Office of the City Clerk;
- (h) presentation, entitled “TTC 1% Tax - Capital Expansion”, submitted by the Chief General Manager of the Toronto Transit Commission, which is on file in the Office of the City Clerk; and
- (i) presentation, entitled “Transit Requirements, Plans and Funding Issues, May 2003”, submitted by the Chief General Manager of the Toronto Transit Commission, which is on file in the Office of the City Clerk;

Councillor Lindsay Luby in the Chair.

Deputy Mayor Ootes in the Chair.

Motion:

Councillor Moscoe moved that Council adopt the following recommendations:

“It is recommended that:

- (1) the matter of City Council enacting a by-law to submit a referendum question to the electors be received; and
- (2) Council adopt the following Recommendations Nos. (1) and (3) embodied in the report dated May 6, 2003, from the City Clerk:

‘It is recommended that:

- (1) funds in the amount of \$10,000.00 be transferred to the City Clerk’s 2003 Operating Budget to cover the advertising costs that Clerk’s has already incurred for giving notice to the public on May 2, 2003, of Council’s intention to enact a by-law to submit a question to the electors; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.’ ”

Councillor Lindsay Luby in the Chair.

Deputy Mayor Ootes in the Chair.

Vote Be Now Taken:

Councillor Soknacki moved that, in accordance with §27-45C of Chapter 27 of the City of Toronto Municipal Code, the vote be now taken, the vote upon which was taken as follows:

Yes - 22	
Mayor:	Lastman
Councillors:	Augimeri, Balkissoon, Bussin, Flint, Ford, Hall, Johnston, L. Jones, Lindsay Luby, Mammoliti, McConnell, Milczyn, Minnan-Wong, Moscoe, Nunziata, Ootes, Pantalone, Pitfield, Soknacki, Sutherland, Tziretas
No - 9	

Councillors: Altobello, Chow, Holyday, Kelly, Korwin-Kuczynski, Mihevc, Shaw, Shiner, Walker
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Carried, more than two-thirds of Members present having voted in the affirmative.

Votes:

Adoption of Part (1) of the motion by Councillor Moscoe:

Yes - 33
Mayor: Lastman
Councillors: Altobello, Augimeri, Balkissoon, Berardinetti, Bussin, Cho, Chow, Duguid, Ford, Hall, Holyday, Johnston, I. Jones, L. Jones, Korwin-Kuczynski, Lindsay Luby, Mammoliti, McConnell, Mihevc, Milczyn, Miller, Minnan-Wong, Moscoe, Nunziata, Ootes, Pantalone, Pitfield, Shaw, Soknacki, Sutherland, Tziretas, Walker
No - 3
Councillors: Flint, Kelly, Shiner

Carried by a majority of 30.

Part (2) of the motion by Councillor Moscoe carried.

Councillor Sutherland requested that his opposition to Part (2) of the motion by Councillor Moscoe be noted in the minutes of this Special Meeting.

In summary, Council adopted the following recommendations:

“It is recommended that:

- (1) the matter of City Council enacting a by-law to submit a referendum question to the electors be received; and
- (2) Council adopt the following Recommendations Nos. (1) and (3) embodied in the report dated May 6, 2003, from the City Clerk:

‘It is recommended that:

- (1) funds in the amount of \$10,000.00 be transferred to the City Clerk’s 2003 Operating Budget to cover the advertising costs that Clerk’s has already incurred for giving notice to the public on May 2, 2003, of Council’s intention to enact a by-law to

submit a question to the electors; and

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

MOTIONS (NOTICE PREVIOUSLY GIVEN) AND NOTICES OF MOTION

S6.5 Proposed “Toronto You Belong Here Event Weekend”

Mayor Lastman moved that the necessary provisions of Chapter 27 of the City of Toronto Municipal Code be waived to permit introduction of the following Notice of Motion J(1), which carried, more than two-thirds of Members present having voted in the affirmative:

Moved by: Mayor Lastman

Seconded by: Councillor Ootes

“WHEREAS Air Canada is offering great discounts on flights to Toronto, as part of their ‘Canada Loves Toronto’ promotion, and Jetsgo will be giving away 1,000 free flights to our City from Montreal, Ottawa and New York; and many others in the Hospitality Sector are promoting Victoria Day weekend special events; and

WHEREAS we are promoting the Victoria Day Weekend as the ‘Toronto You Belong Here’ weekend and I am encouraging all Torontonians to get out and enjoy all our City has to offer, including the special events we have planned and our great restaurants and retail areas; and

WHEREAS our Retailers have lost a great deal of business over the last two months and need all the help they can get to rebuild sales and this weekend, with all the great activities going on, would be a great opportunity; and

WHEREAS Regulation 711/91 under the Retail Business Holidays Act, provides that retail business establishments in a municipality may be exempted for up to five holidays a year during which a fair, festival or other special event is being held in that municipality; and

WHEREAS each retail business establishment should be able to decide whether to open or not and they should seek input from their staff to ensure that staff that are not able to work on the holiday are not required to do so; and

WHEREAS this great weekend includes fireworks at Mel Lastman Square, Albert Campbell Square and Centennial Park, culminating in a huge fireworks display at Ashbridges Bay; and

WHEREAS the Mayor's 'Toronto: You Belong Here' Recovery Task Force agreed to forward this Motion to Council;

NOW THEREFORE BE IT RESOLVED THAT May 17, 18 and 19, 2003, be declared 'Toronto You Belong Here Event Weekend', and retail business establishments may remain open during the 'Event' if they so wish; and

AND BE IT FURTHER RESOLVED THAT staff do all things necessary to advise retail establishments immediately."

Advice by Deputy Mayor:

Deputy Mayor Ootes advised the Council that the provisions of Chapter 27 of the City of Toronto Municipal Code requiring the referral of Motion J(1) to the Economic Development and Parks Committee would have to be waived in order to now consider such Motion.

Procedural Vote:

The vote to waive referral of Motion J(1) to the Economic Development and Parks Committee carried, more than two-thirds of Members present having voted in the affirmative.

Council also had before it, during consideration of Motion J(1), a communication dated May 9, 2003, from the Minister of Consumer and Business Services, addressed to Mayor Lastman, which is on file in the Office of the City Clerk.

Vote:

Adoption of Motion J(1), without amendment:

Yes - 37	
Mayor:	Lastman
Councillors:	Altobello, Augimeri, Balkissoon, Berardinetti, Bussin, Cho, Chow, Duguid, Flint, Ford, Hall, Holyday, Johnston, I. Jones, L. Jones, Kelly, Korwin-Kuczynski, Lindsay Luby, Mammoliti, McConnell, Mihevc, Milczyn, Miller, Minnan-Wong, Moscoe, Nunziata, Ootes, Pantalone, Pitfield, Shaw, Shiner, Silva, Soknacki, Sutherland, Tziretas, Walker
No - 0	

Carried, without dissent.

S6.6 Proposed Standing Water By-law

Councillor Lindsay Luby moved that the necessary provisions of Chapter 27 of the City of Toronto Municipal Code be waived to permit introduction of the following Notice of Motion J(2), which carried, more than two-thirds of Members present having voted in the affirmative:

Moved by: Councillor Lindsay Luby

Seconded by: Councillor Mihevc

“WHEREAS the West Nile virus is a serious health risk to the City of Toronto; and

WHEREAS standing water provides a breeding environment for mosquitoes that could carry the West Nile virus; and

WHEREAS a Standing Water By-law would require landowners to take responsibility for the maintenance of swimming pools, hot tubs and artificial ponds; and

WHEREAS other jurisdictions, including the Town of Newmarket, have passed Standing Water By-laws to prevent the spread of the West Nile virus; and

WHEREAS the West Nile Virus has affected the entire Province of Ontario;

NOW THEREFORE BE IT RESOLVED THAT Toronto City Council direct staff to introduce a ‘Standing Water By-law’, similar to that of the Town of Newmarket;

AND BE IT FURTHER RESOLVED THAT municipalities across Ontario be asked to adopt similar Standing Water By-laws to prevent the breeding of mosquitoes and limit spread of the West Nile Virus.”

Advice by Deputy Mayor:

Deputy Mayor Ootes advised the Council that the provisions of Chapter 27 of the City of Toronto Municipal Code requiring the referral of Motion J(2) to the Works Committee would have to be waived in order to now consider such Motion.

Procedural Vote:

The vote to waive referral of Motion J(2) to the Works Committee was taken as follows:

Yes - 13	
Mayor:	Lastman
Councillors:	Altobello, Cho, Duguid, Ford, Kelly, Korwin-Kuczynski, Lindsay Luby, Mammoliti, Ootes, Pitfield, Shaw, Soknacki
No - 24	
Councillors:	Ashton, Augimeri, Balkissoon, Berardinetti, Bussin, Chow, Flint, Hall, Holyday, Johnston, I. Jones, L. Jones, McConnell, Mihevc, Milczyn, Miller, Moscoe, Nunziata, Pantalone, Shiner, Silva, Sutherland, Tziretas, Walker

Lost, less than two-thirds of Members present having voted in the affirmative.

Having regard to the foregoing decision of Council, Motion J(2) was referred to the Works Committee.

S6.7 Request to Incoming Council to Impose Tax Increase to Fund the Toronto Transit Commission Ridership Growth Strategy and Subway Expansion Plan

Councillor Moscoe moved that the necessary provisions of Chapter 27 of the City of Toronto Municipal Code be waived to permit introduction of the following Notice of Motion J(3):

Moved by: Councillor Moscoe

Seconded by: Councillor Soknacki

“BE IT RESOLVED THAT, conditional upon the federal and provincial governments committing their one-third share of the funding for the Subway Expansion Plan and the Ridership Growth Strategy capital programs, in addition to their one-third share of the current Toronto Transit Commission State of Good Repair Budget for 2003, City Council recommend to the next City Council that it implement a one percent property tax increase in 2004, 2005 and 2006, across the entire tax base, to be dedicated to the Subway Expansion Plan and Ridership Growth Strategy.”,

the vote upon which was taken as follows:

Yes - 13	
Councillors:	Bussin, Chow, Flint, I. Jones, Korwin-Kuczynski, McConnell, Mihevc, Miller, Moscoe, Shaw, Shiner, Silva, Soknacki
No - 24	
Mayor:	Lastman
Councillors:	Altobello, Ashton, Augimeri, Balkissoon, Berardinetti, Cho, Duguid, Ford, Hall, Holyday, Johnston, L. Jones, Kelly, Lindsay Luby, Mammoliti, Milczyn, Nunziata, Ootes, Pantalone, Pitfield, Sutherland, Tziretas, Walker

Lost, less than two-thirds of Members present having voted in the affirmative.

Having regard that the motion to waive Notice did not carry, Councillor Moscoe gave Notice of the foregoing Motion to permit consideration at the next regular meeting of City Council scheduled to be held on May 21, 2003.

BILL AND BY-LAW

S6.8 On May 13, 2003, at 11:37 a.m., Councillor Duguid, seconded by Councillor Lindsay Luby, moved that leave be granted to introduce the following Bill, and that this Bill, prepared for this meeting of Council, be passed and hereby declared as a By-law:

Bill No. 349	By-law No. 358-2003	To confirm the proceedings of the Council at its Special meeting held on the 13th day of May, 2003,
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the vote upon which was taken as follows:

Yes - 34	
Mayor:	Lastman
Councillors:	Altobello, Ashton, Augimeri, Balkissoon, Berardinetti, Cho, Chow, Duguid, Flint, Ford, Hall, Holyday, Johnston, I. Jones, L. Jones, Kelly, Korwin-Kuczynski, Lindsay Luby, Mammoliti, McConnell, Mihevc, Milczyn, Miller, Moscoe, Nunziata, Ootes, Shaw, Shiner, Silva, Soknacki, Sutherland, Tziretas, Walker
No - 0	

Carried, without dissent.

OFFICIAL RECOGNITIONS:

S6.9 Presentations/Introductions/Announcements:

May 13, 2003:

The Director of Elections, with the permission of Council, gave a presentation to the Council on the legislative requirements and impacts of placing a question on the ballot.

The City Solicitor, with the permission of Council, briefed the Council on the legal aspects of the question.

The City Clerk, with the permission of Council, provided the Council with an overview of the procedures that applied to this Special Meeting.

The Chief General Manager of the Toronto Transit Commission, with the permission of Council, gave a presentation to the Council on the Capital requirements of the Toronto Transit Commission over the next ten years.

The Chief Financial Officer and Treasurer, with the permission of Council, gave a presentation to the Council on the financial implications for the City of Toronto.

S6.10 ATTENDANCE

Councillor Moscoe, seconded by Councillor Soknacki, moved the absence Councillors Di Giorgio, Feldman, Li Preti and Moeser, from this Special Meeting of City Council, be excused, which carried.

May 13, 2003	9:45 a.m. to 10:17 a.m.*	Committee of the Whole 10:17 a.m.	10:35 a.m. to 11:38 a.m.*	Roll Call 11:01 a.m.
Lastman	x	x	x	x
Altobello	x	x	x	x
Ashton	x	x	x	x
Augimeri	x	x	x	x
Balkissoon	x	x	x	x
Berardinetti	x	x	x	-

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May 13, 2003	9:45 a.m. to 10:17 a.m.*	Committee of the Whole 10:17 a.m.	10:35 a.m. to 11:38 a.m.*	Roll Call 11:01 a.m.
Bussin	x	x	x	-
Cho	x	x	x	x
Chow	x	x	x	x
Di Giorgio	-	-	-	-
Duguid	x	x	x	-
Feldman	-	-	-	-
Filion	x	x	x	x
Flint	x	x	x	-
Ford	x	x	x	x
Hall	x	x	x	x
Holyday	x	x	x	x
Johnston	x	x	x	x
Jones, I.	x	x	x	-
Jones, L.	x	x	x	-
Kelly	x	x	x	x
Korwin-Kuczynski	x	x	x	x
Li Preti	-	-	-	-
Lindsay Luby	x	x	x	x
Mammoliti	x	x	x	x
McConnell	x	x	x	x
Mihevc	x	x	x	x
Milczyn	x	x	x	x
Miller	x	x	x	x
Minnan-Wong	x	x	x	x
Moeser	-	-	-	-
Moscoe	x	x	x	x
Nunziata	x	x	x	x

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May 13, 2003	9:45 a.m. to 10:17 a.m.*	Committee of the Whole 10:17 a.m.	10:35 a.m. to 11:38 a.m.*	Roll Call 11:01 a.m.
Ootes	x	x	x	x
Pantalone	x	x	x	-
Pitfield	x	x	x	-
Rae	x	x	x	-
Shaw	x	x	x	x
Shiner	x	x	x	x
Silva	x	x	x	x
Soknacki	x	x	x	x
Sutherland	x	x	x	x
Tziretas	x	x	x	x
Walker	x	x	x	x
Total	40	40	40	31

* Members were present for some or all of the time period indicated.

Adjourned: 11:38 a.m.

**MEL LASTMAN,
 Mayor**

**ULLI S. WATKISS,
 City Clerk**

ATTACHMENT NO. 1

Report dated May 6, 2003, from the City Clerk, entitled "Proposed Question on the Ballot - TTC Capital Expansion Program" (See Minute No. S6.4, Page 2):

Purpose:

To report on the legislative requirements and impacts of placing a question on the ballot.

Financial Implications and Impact Statement:

To date, the costs incurred for the May 2, 2003 notice to the public of Council's intention to pass a by-law to submit a question to the electors is estimated to be \$10,000.00. The 2003 City Clerk's Operating Budget does not include funding for this advertising. As these costs have already been incurred by Clerk's, additional funding needs to be provided to cover this expenditure.

Should the by-law be passed, it is estimated that additional costs of \$95,000.00 will be incurred to place the question on the ballot. Funding for this has not been provided in the City Clerk's 2003 Operating Budget. Additional funding would need to be provided to cover this expenditure.

Should the by-law be passed and electors decide in favour of a one (1) percent tax increase in each of the years 2004, 2005 and 2006, the financial impacts will be reflected in the capital and/or Operating Budgets of the TTC and any other affected programs in the respective future years.

The Chief Financial Officer and Treasurer has reviewed this report and concurs with the financial implications.

Recommendations:

It is recommended that:

- (1) funds in the amount of \$10,000.00 be transferred to the City Clerk's 2003 Operating Budget to cover the advertising costs that Clerk's has already incurred for giving notice to the public on May 2, 2003, of Council's intention to enact a by-law to submit a question to the electors;
- (2) should Council decide to enact a by-law to submit a question to the electors, funds in the amount of \$95,000.00 be transferred to the City Clerk's 2003 Operating Budget to cover the costs associated with having the question on the municipal ballot; and

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

Background:

At its Special Meeting held on April 24, 2003, Council adopted Notice of Motion J(2) to consider the enactment of a by-law to submit the following question to the electors during the 2003 election:

“Are you in favour of a one (1) percent tax increase per year in each of the years 2004, 2005 and 2006 for the purpose of funding a Toronto Transit Commission Capital expansion program?”

As required by subsection 8.1(3) of the Municipal Elections Act, 1996, a public meeting is to be held on May 13, 2003, to hear from any interested individuals on the proposed question.

Comments:

This report outlines, for Council’s information, the legislative requirements for placing a question on the ballot, the impacts a question will have on the 2003 election project, including operational and budget implications, and the impact of a binding result of the question on Council’s discretionary decision making ability.

(1) Legislative Requirements

The Municipal Elections Act, 1996 (the “Act”) was amended by the Direct Democracy Through Municipal Referendums Act, 2000 (Bill 62) to provide for binding referendums. These amendments significantly changed both the process and the impacts of placing a question on the ballot.

A by-law to submit a question to the electors must be passed at least 180 days prior to voting day [clause 8.1(1)(a)]. For the purposes of the November 10, 2003 election, the by-law would need to be passed by Wednesday, May 14, 2003.

A question must comply with the following rules[subsection 8.1(2)]:

- (a) it must be a matter within the jurisdiction of the municipality;
- (b) it cannot be a matter that has been prescribed as a provincial interest by the Minister of Municipal Affairs and Housing;
- (c) it must be clear, concise and neutral; and
- (d) it must be capable of being answered by either “yes” or “no”.

Prior to passing a by-law to submit a question to the electors, the Act requires the Clerk to give at least ten days notice of the intention to pass a by-law to the public and the Minister of Municipal Affairs and Housing and a public meeting must be held to consider the matter [subsection 8.1(3)]. The notice must include [subsection 8.1(5)]:

- (a) the wording of the question;
- (b) a clear, concise and neutral description of the consequences of the question if it is approved and the consequences if it is rejected, including an estimate of the costs, if any, of implementing the results of the question; and
- (c) a description of the right to appeal to the Chief Election Officer of the Province of Ontario on the grounds that the question is not clear, concise or neutral, and/or the question is not capable of being answered in the affirmative or negative.

If Council enacts the by-law, the Clerk is required to give notice of the passing of the by-law to both the public and to the Minister [subsection 8.1(4)]. This notice must include [subsection 8.1(5)]:

- (a) the wording of the question;
- (b) a clear, concise and neutral description of the consequences of the question if it is approved and the consequences if it is rejected, including an estimate of the costs, if any, of implementing the results of the question;
- (c) a description of the right to appeal to the Chief Election Officer of the Province of Ontario on the grounds that the question is not clear, concise or neutral, and/or the question is not capable of being answered in the affirmative or negative; and
- (d) the last day for the filing of an appeal with the Chief Election Officer.

Within 20 days after receiving notice of the passage of a by-law, the Minister or any other person may appeal to the Chief Electoral Officer of the Province of Ontario on the grounds that the question is not clear and concise and/or that it cannot be answered by either a “yes” or “no” response [subsection 8.1(6)].

If an appeal is received, the Chief Election Officer shall hold a hearing and may dismiss the appeal or allow it in whole or in part [subsection 8.1(9)]. The Chief Election Officer may make an order to amend the by-law or to direct the municipality to amend the by-law [subsection 8.1(10)].

Under sections 8.2 and 8.3 of the Act, the results of a question are binding on the City if at least 50 percent of the eligible electors vote on the question and more than 50 percent of the votes cast on the question are in favour of those results. If the results are binding and the affirmative answer receives the majority of the votes, Council shall do everything in its power to implement the results of the question in a timely manner. If the results are binding and the negative answer receives the majority of the votes, Council shall not do anything to implement the results for a period of three years following voting day. In addition, if Council has passed a by-law or resolution or taken any other action to implement the results of the question, it

cannot do anything within its jurisdiction to reverse or substantially change the action for a period of three years following the day the action took effect.

However, Council is not required to take any action nor prevented from taking any action to implement the results if:

- (a) a subsequent binding question authorizes such action or inaction; or
- (b) Council is of the opinion that there has been a material change in circumstances since the time it passed the by-law to submit a question to the electors.

If the by-law is passed, Council may appoint scrutineers to be present in the voting places to supervise the conduct of the vote on the question [subsection 16(2)]. If Council does appoint scrutineers, an equal number of scrutineers shall be appointed to represent the supporters and opponents of the question [subsection 47(4)].

Any individual, corporation or trade union may register with the Clerk to raise and spend money to support or oppose the question [section 39.1]. A registrant is subject to the same campaign finance rules as is a candidate for municipal office [section 82.1].

(2) Impact on the 2003 Election Operation Plan and Budget

The Clerk's 2003 budget does not contain any funds to pay for the additional costs of having a question on the ballot. With the majority of the election costs already being committed, the sole discretionary expenditure is the number of election staff present in each of the voting places. If additional funding is not provided to the Clerk's 2003 budget, staff will need to reduce the number of ballot issuers present in the voting places by approximately 800. This may result in line-ups at the polls, especially during the evening period.

- (a) Notices - \$26,000.00

In addition to the notice already given of Council's intention to pass a by-law to submit a question to the electors; if a by-law is passed, notice must be given of the passage of the by-law. This notice would also include the requirement for supporters/opponents to register with the Clerk if they intend to raise or spend money. Additional notices calling for persons interested in being scrutineers should Council decide to appoint scrutineers and notice to electors of the question would also be required. These notice provisions are contained in subsections 8.1(3), 8.1(4) and 13(2) of the Act.

The total estimated costs of these additional notices is \$26,000.00.

(b) Registrants - \$9,000.00

Staff would need to develop and distribute information to any individual, corporation or trade union that registers with the Clerk to raise or spend money to support or oppose the question. This material would include a Registrant's Guide to provide general election information and specific details on the campaign finance provisions of the Act, election sign by-law requirements, and copies of the ward maps and voters' lists. As the registrants will be campaigning across the entire City, they are eligible to receive all 44 ward maps, voters' lists and the lists of electors who voted at the continuous and ward advance votes.

The Clerk is required to give notice to registrants of information to enable them to exercise their rights under the Act [subsection 13(2)]. Consequently, throughout the election period the Clerk would be mailing information packages to registrants.

The total estimated costs of these additional requirements is \$9,000.00.

(c) Two-sided Ballot - \$60,000

There has been considerable interest in the 2003 election from potential candidates. To date, 111 candidates have filed nomination papers with the City Clerk as compared with only 88 candidates within the same time period in the 2000 election. Staff have already received 26 nominations for the office of mayor, which was the total number received in the 2000 election, compared with 7 at this point in the 2000 election. With over four and a half months remaining in the nomination period, more candidates are expected.

Given the increased interest in this year's election it is likely that, in order to accommodate space for a question on the ballot, staff would need to move to a two-sided ballot. The design of the ballot is the Clerk's responsibility under the Act. If a two-sided ballot is required, the Clerk will need to make design decisions that meet the requirements of the Act. The cost of printing a two-sided ballot is more expensive than printing a single sided ballot; estimated to be an additional one cent (\$0.01) per ballot. In addition, as Toronto has never used a two-sided ballot, additional program development and logic and accuracy testing would be required.

With a two-sided ballot, the likelihood of a higher malfunction rate than has been experienced in past elections is a possibility. It would be prudent for the City to rent additional replacement vote tabulators from the vendor to address this increased risk.

The total estimated costs of these additional requirements is \$60,000.00.

(3) Impact on Council's Discretionary Decision Making Ability

Council should be aware that a question may not be placed on the ballot solely for the purpose of ascertaining the views of eligible electors. If Council votes to place a question on the

ballot, it must be prepared to implement the results of the vote.

As mentioned above, the Act provides that if 50 percent of the electors vote on the question and more than 50 percent of those who voted vote for the result, then the result is binding. If there is a binding affirmative result, the Act requires the municipality to do everything in its power to implement the results of the question. Council would be required to levy a one percent tax increase on the tax bill of all assessable property in the City. Under current Provincial legislation, however, the City of Toronto cannot impose any tax increases on the commercial, industrial or multi-residential property classes and, therefore, they would not be affected by the tax increase. Should this Provincial legislation change in whole or in part, Council would also be required to impose a one per tax increase on those property classes that are no longer excluded. The levy would have to be dedicated to funding Toronto Transit Commission capital expansion and would have to be imposed for each of the years referred to in the question.

If there is a binding negative result, then Council would be prohibited from imposing the levy in those years.

Should Council choose not to place the question on the ballot, it would maintain the discretion to choose to impose the levy on those property classes upon which it could impose a property tax increase in those years. It could also decide not to.

Conclusions:

There are implications on the 2003 election operations and budget if a by-law is passed to submit a question to the electors. Funding is not available in the Clerk's 2003 election budget to cover these additional costs. If additional funding is not transferred to the budget, reductions in service level at the voting place will need to be implemented. There will also be implications on Council's discretionary decision making ability should a binding result be received on the question.

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ATTACHMENT NO. 2

Communication dated May 1, 2003, from the General Secretary, Toronto Transit Commission (See Minute No. S6.4, Page 2):

At a special meeting on Thursday, May 1, 2003, the Commission adopted the following Resolution:

“That the Toronto Transit Commission request City Council to implement a 1% property tax increase in 2004, 2005 and 2006 across the entire tax base to be dedicated to the Subway Expansion Plan and Ridership Growth Strategy; and that this be conditional upon the federal and provincial governments committing their 1/3 share of this capital program in addition to their 1/3 share of the current TTC State of Good Repair Budget for 2003.”

The foregoing is forwarded to City of Toronto Council for consideration at its special meeting on Tuesday, May 13, 2003, dealing with the enactment of a by-law to submit a referendum question to the electors of the City of Toronto.