
2006 BUDGET BRIEFING NOTE

Toronto Transit Commission and Police Services Board: Financial Approval Relationship with the City

Issue/Background:

At its meeting of November 10th, Budget Advisory Committee requested the City Solicitor and the Deputy City Manager and Chief Financial Officer to report to the Budget Advisory Committee wrap-up meeting on the financial approval relationship between the Toronto Transit Commission (and other major boards and agencies, and their employees) and the City of Toronto. The intent is to provide a clear understanding of the City's authorities over financial approvals to determine the extent to which the TTC and such other local boards and their staff are authorized to make expenditures and commitments in the absence of any Council approval. This briefing note addresses the two major boards: the TTC and the Police Services Board.

Key Point(s):

Council may approve all or part of the Police Services Board's budget, but may not approve or disapprove specific items. Council has no authority to direct its funding to particular Board projects and cannot cancel any such projects.

Unlike the Police Services Board, the TTC must seek Council approval prior to purchasing any property, either real or personal, which is to be paid for through the issuance of City debentures.

Furthermore, City Council may use Ontario Regulation No. 214/96 ("O.Reg. 214/96") to require the TTC to follow any rules and procedures it may specify related to: (a) the provision of information, including information concerning its estimates and finances; (b) requiring approval of its estimates or amendments to its estimates by the City; and (c) the manner in which the board applies the money paid to it by the City.

In order to require the TTC to follow any such rules and procedures, City Council must pass a by-law imposing such a requirement on the TTC, and must give notice of its intention to pass such a by-law to the TTC.

This regulation is not applicable to the Police Services Board.

Both the Police Services Board and the TTC require City approval for any commitment, the cost or any portion of it which, is to be raised after the current term of Council. Such approval has been

delegated to the Deputy City Manager and Chief Financial Officer where the commitment is within the City's debt and financial obligation limits and is consistent with the Police Services Board's or the TTC's approved budget, as the case may be.

Comments:

Police:

The Police Services Board (the "Board") is required by the *Police Services Act* to submit its operating and capital estimates to City Council (s. 39(1)). Council is required to review the estimates submitted by the Board and to establish an overall budget for the Board, which budget shall be for the purposes of: (a) maintaining the police force and providing it with equipment and facilities; and (b) paying the expenses of the Board's operation other than the remuneration of Board members (s. 39(3)).

Council is not required to adopt the estimates submitted by the Board (s. 39(3)). However, the *Police Services Act* expressly provides that in establishing an overall budget for the Board, Council does not have the authority to approve or disapprove specific items in the estimates (s. 39(4)).

If the Board is not satisfied that the budget established for it by Council is sufficient to maintain an adequate number of officers or other employees of the police force, or to provide the police force with adequate equipment or facilities, the Board may request the Ontario Civilian Commission on Police Services (the "Commission") to determine the question of the adequacy of the budget. The Commission will then hold a hearing to do so (s. 39(5)).

Section 216 of the *Municipal Act, 2001*, and O.Reg. 214/96 do not apply to the Police Services Board. Accordingly, Council has no authority to impose rules and procedures on the Board with respect to information concerning the Board's estimates or finances or the manner in which the Board applies the money paid to it by the City.

The City does, however, have control over commitments of the Board for which the costs, or partial costs, are to be raised after the current term of Council (*Ontario Municipal Board Act*, s. 65). Accordingly, where the Board intends to proceed with such a commitment, it must first seek approval from the City. Authority to provide such approval has been delegated to the Deputy City Manager and Chief Financial Officer, who is authorized to approve the work if the commitment is within the City's debt and financial obligation limits and is consistent with the Board's approved budget.

TTC:

The *City of Toronto Act, 1997 (No.2)* (the "Act") provides that if the TTC intends to purchase property, either real or personal, to be paid for with money raised by the City issuing debentures, Council must first approve any such purchase before the TTC may proceed with it (s. 30(5)).

Unlike with the Police Services Board, this provision allows the City some level of control in approving specific TTC capital projects prior to commencement. Despite the Act expressly providing that the TTC has all the powers of a municipal council with respect to the local passenger transportation system and expressly prohibiting the City from exercising any such powers (s.

30(1)(c) and s. 30(2)), this level of control is currently quite significant as much of the TTC's capital budget is financed by City debentures.

Furthermore, section 216 of the *Municipal Act, 2001* and O.Reg. 214/96 provide authority for Council, by by-law, to require the TTC to follow any rules and procedures which may be specified by Council related to the following: (a) the provision of information, including information concerning its estimates and finances; (b) requiring approval of its estimates or amendments to its estimates by the City; and (c) the manner in which the board applies the money paid to it by the City.

If used, this would allow Council to attach conditions to its funding, require the provision of financial information, and direct the City's funding to particular projects, thereby leaving others unfunded. It would not allow Council to force the TTC to cancel any such unfunded projects, as the TTC could still choose to fund them on its own through fares, but arguably provides Council with additional control over the use of the City's contribution to the TTC's budget.

If Council wishes to exercise this power, it must do so by by-law and it must give notice to the TTC of its intention to pass such a by-law prior to enacting it (s. 216(4) of the *Municipal Act, 2001*).

Pursuant to section 65 of the *Ontario Municipal Board Act*, Council authority is required to approve any commitments, the cost or partial cost of which are to be raised after the current term of Council. As discussed above, Council has delegated this approval authority to the Deputy City Manager and Chief Financial Officer, who is authorized to approve the work if the commitment is within the City's debt and financial obligation limits and is consistent with the TTC's approved budget. Any reallocation to fund a different commitment beyond the current term of Council, which is not in the TTC's approved budget, would require Council approval.

The Deputy City Manager and Chief Financial Officer has been consulted in the preparation of this briefing note.

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