



The Corporation of the Town of Milton

Report To: Council

From: William Mann, Chief Administrative Officer

Date: March 25, 2019

Report No: ES-004-19

Subject: Council Resolution 104-18 - Provincial Legislation Requiring Rescinding/Revision

Recommendation: THAT Report ES-004-19 be received for information.

EXECUTIVE SUMMARY

Council Resolution 104-18 states:

WHEREAS the Province of Ontario has, over many years, implemented legislation that has made it financially and operationally difficult for the Town of Milton to deliver programs and services to its various publics as effectively and efficiently as the Town deems appropriate;

AND WHEREAS some, but not all, of these legislative impediments have been identified by the Association of Municipalities of Ontario (AMO); the Federation of Canadian Municipalities (FCM); the Auditor-General of Ontario and the Independent Financial Commission of Inquiry;

THEREFORE, BE IT RESOLVED THAT the five departments plus the Library, that make up the Town of Milton identify those specific pieces of provincial legislation that most severely financially and operationally impair their abilities to achieve their stated mandates and should be rescinded or revised;

AND FURTHER, that Town staff report back to Milton Council before March 31, 2019, with their findings, including identifying financial and service-level impacts, so that Council can communicate these concerns in a timely fashion to the Premier of Ontario, the Cabinet Minister and Ministry responsible, the Member of Provincial Parliament for Milton, AMO, FCM, the Regional Municipality of Halton, area municipalities and other agencies, boards and commissions, where appropriate.



Note: This report has been prepared by SMT with input from various subject matter experts across the corporation and the Milton Public Library.

REPORT

Background

Municipalities are creatures of the province and as such many of the Town of Milton's day-to-day activities are prescribed by Provincial regulation and legislation. Over time, reporting requirements have grown, legislation hasn't kept pace with change, and roles and responsibilities of various departments and agencies have evolved and overlapped. This report aims to highlight some key areas where Town of Milton staff believe that provincial legislation requires review, revision or rescission.

Recognizing that as one of the fastest growing communities in Ontario, Milton faces unique growth related challenges, The Town of Milton developed an advocacy document, *Building A Complete Community*, to identify the key areas where changes to legislation and support from the Province of Ontario would help us achieve our shared vision for the community. An update to 'Building A Complete Community' is scheduled for summer 2019.

In addition to the work done by the Town of Milton, Halton Region has a long-standing advocacy program, *Advocating for a Strong Halton*, which has focused on highlighting issues of regional concern.

The Town of Milton also takes advantage of a number of avenues to regularly communicate the impacts of various policies, regulations, acts and statutes which impact local governments. This includes regular meetings with Ministers, Deputy Ministers and other provincial staff. Members of staff and Council also participate in various workshops and discussions through the Association of Municipalities of Ontario (AMO), the Federation of Canadian Municipalities (FCM), the Association of Municipal Clerks and Treasurers of Ontario (AMCTO), Large Urban Mayors and Chairs of Ontario (LUMCO), Mayors and Regional Chairs of Ontario (MARCO), Ontario Good Roads Association (OGRA), Rural Ontario Municipal Association (ROMA), and other ad hoc intergovernmental committees and working groups.

Discussion

Milton's 'Building A Complete Community' document highlights 5 key themes for federal and provincial support. For consistency, these themes have been used to organize the following discussion, where applicable.

Milton's Building a Complete Community themes:

- A safe and healthy community
- Enhanced transportation to move people efficiently
- A community of education and innovation
- Adequate funding to support infrastructure delivery
- Changes to support long-term financial stability

Enhanced transportation to move people efficiently

Under the portfolio of **Transit**, the Engineering Services Department notes the following regulations are obsolete and/or out of date for current operational practices:

- Permanently exempt transit operations from **Bill 118 Countering Distracted Driving and Promoting Green Transportation Act, 2009**, to allow use of hand-held two-way radios. Currently there is a 3-year temporary exemption which needs to be renewed before expiry.
- Exempt Transit from regulatory requirements of the **Public Vehicles Act** for inter-municipal cross-border transit operations, including filing tariffs and schedules with the Ontario Highway Transport Board (OHTB). Additionally, exempt Milton Transit from the 1/3 standee rule. Both of these items reduce Milton's Transit's ability to operate efficiently by creating additional administration and bureaucracy.
- Exempt Milton Transit from **commercial vehicle Drive Clean testing requirements** as the volume of passengers makes these vehicles more efficient and clean.
- Each year, the **Ministry of Transportation** charges Milton Transit \$1000 fleet-wide for over-length permits and fees for bike racks on transit vehicles.

A community of education and innovation

Through 'Building A Complete Community', Milton has called for engagement from the Region and the Province as partners in our growth plans to achieve our vision for the Milton Education Village and Trafalgar Corridor.

Many of Milton's challenges from a planning perspective are being addressed through amendments to the **Growth Plan** (as highlighted in PD-011-19). One of the largest challenges facing the Town is the misalignment between Provincial policy documents, like the **Growth Plan** and **Metrolinx's Regional Transportation Plan**.

- For example, the Growth Plan identifies population and employment targets which are not reflected in or supported by Metrolinx policy documents which guide the timing of infrastructure investment.

In addition to the changes proposed in Growth Plan Amendment 1, our planning processes could be expedited if policy direction provided by the Province was not required to be implemented through the Regional Official Plan and/or review processes (for example employment lands conversions). We would certainly see efficiencies if local municipalities had the latitude to identify local issues and/or priorities and respond to them in a more timely manner.

Milton's Building a Complete Community advocacy document identified the need to ensure an adequate supply of future employment lands to balance non-residential with residential assessment growth as a key priority. Report PD-011-19 'Making It Possible' highlighted Milton's support for the Growth Plan Amendments which would help our community in this regard.

Being that the Region is the Town's approval authority, as delegated from the Ministry of Municipal Affairs and Housing, even in cases where there is no Regional interest, the Region is required to determine whether a local official plan amendment is exempt from or requires further Regional approval. This has created a substantial bureaucratic process and current practice is that the Region will not make the determination until the review, draft amendment and draft technical staff report are complete.

From a land use planning perspective, the degree of legislatively required oversight by the Region as the Town's approval authority has the largest operational impact on achieving the mandate of the department.

Adequate funding to support infrastructure delivery

- A) Ensure that provincial, regional and local infrastructure projects are funded and timed to support growth.

Development charges (**Development Charges Act, 1997**) are a major source of revenue for cost recovery that fund the infrastructure needed for Ontario's growing communities. The Act does place limitations, however, on municipalities' ability to recover all of the growth related costs.

Examples of these limitations include:

- Ineligible services in areas such as parkland acquisition, cultural and entertainment facilities, facility space for administration, computer equipment and hospital contributions
- Mandatory 10% reduction for certain services, such as recreation and libraries
- Imposed ceiling based on average level of service standards
- Statutory exemptions related to housing intensification, government and industrial expansions

For a municipality growing at the pace that Milton is, these limitations result in a significant financial pressure. Based on Milton's 2017 Fiscal Impact Study, a total cost of \$337 million was identified for the 20 year period beginning in 2017.

The Province is currently undertaking consultation with respect to increasing the housing supply within the Province through the Ministry of Municipal Affairs and Housing and as a part of that process consideration of the Development Charges Act has been identified. Both the Association of Municipalities of Ontario (AMO) and the Municipal Finance Officers of Ontario (MFOA) have responded with submissions that outline the importance of development charges as well as the current limitations of the Act.

Another area where legislation creates financial and operational pressures is in the acquisition of parkland. Parkland is an important component of building a complete community, and acquiring sufficient lands to meet the passive and active recreation needs of residents is challenging and creates financial pressures as the municipality looks to fund shortfalls. Historically, the shortfall has been addressed through additional land dedications from landowners, however, **Bill 73, Smart Growth for Our Communities Act, 2015** has impacted the Town's ability to continue with past practice, and alternatives will need to be evaluated in the planning for new growth areas.

The parameters for parkland dedication policies are established by **Section 42 and 51.1 of the Planning Act, 1990**. Dedication can take the form of land or payment-in-lieu. Dedication policies, as stated in the Planning Act, dictate park conveyance rates to be 2% for land developed or redeveloped for commercial or industrial purposes, and 5% in all other cases. As an alternative, lands developed or redeveloped for residential purposes may require the conveyance of land at a rate of one (1) hectare for each 300 dwelling units proposed, or at a lesser rate as specified by municipal by-laws.

If land cannot or is not required to be dedicated, other alternatives may be used. Commonly referred to as “cash-in-lieu (CIL)” Section 42(6) authorizes municipalities to accept all or part of the parkland dedication requirements through financial payments instead of land dedication. The maximum CIL conveyance when the alternative rate is used is 1 hectare for every 500 dwelling units developed.

B) Partner with other levels of government to deliver long-term, predictable, well timed community infrastructure funding to support sound asset management.

Investment in infrastructure renewal represents a significant challenge across the municipal sector. The Association of Municipalities of Ontario (AMO) has undertaken extensive research and analysis in this area, including a review of both the infrastructure and the share of the overall taxation revenue that resides at the municipal level. Presented as the “**Local Share**”, AMO’s advocacy is focused on **establishing a new, reliable funding source**.

Currently the Town of Milton receives annual funding from the Province through the **Provincial Gas Tax program**, however the utilization of that funding is exclusive for Transit services. Other funding opportunities for the Town are largely application-based and due to requirements related to incrementality, time constraints or scope restrictions, these programs can lead to challenges in aligning investment with optimal asset management practices.

C) Establish a long-term funding program that recognizes the financial needs to growing municipalities no longer eligible for OCIF.

The Ontario Community Infrastructure Grant (OCIF) was designed to provide infrastructure funding support for small, rural and northern municipalities. In 2018-2019, the program provided \$300 million in funding within the Province. The Town of Milton has been a recipient of funding from the program with an annual amount as



high as \$3.0 million in 2019. Following 2019, the Town will no longer qualify for funding as the Town's population now exceeds 100,000 (2016 Census).

As noted above, although the Town receives Provincial Gas Tax funding for the Transit program, there is no predictable funding program currently available at the Provincial level that would support the majority of the Town's services.

It is noteworthy that in December 2018 the Province notified municipalities that the funding provided through the Ontario Municipal Partnership Fund (OMPF) would be reduced and the 2019 allocation notices delayed. As Milton did not qualify for this funding there was no direct impact to the Town, however, such an announcement may provide insight into the potential challenges municipalities may expect to encounter when advocating for new or expanded funding programs during a time of Provincial deficit reduction.

Additional comments on application based funding programs and municipal reporting:

- **Application based programs can lead to inefficiencies at both the local and Provincial level** with respect to the time commitments to administrate the programs. Recent examples include both the **Development Charge Rebate program** (CORS-007-18) and the **Municipal Asset Management Plan program** (CORS-062-18) where resources were allocated by the Town to prepare submissions and the Province to review them with no funding ultimately provided.
- In place of inefficient, application based programs, Milton would prefer to see the establishing a predictable, sustainable funding program to support asset management for all of the Town's services.
- In addition to the above, the Association of Municipal Managers Clerks and Treasurers of Ontario (AMCTO) has advocated for easing the **reporting burden** placed on municipalities by the Province. Reporting is both important and necessary. It helps the Province to ensure accountability, monitor performance of funded programs, and ensure that transferred money is being spent appropriately. However, new regulations, funding agreements and programs have made municipal-provincial relations more complex and municipalities have become increasingly burdened with requirements to report to the province on hundreds of programs and services.

- In their research, the AMCTO identified 422 reports collected by the Province from municipalities annually, and while the number prepared by any individual municipality in a year would vary based on a variety of factors, several municipalities submitting in excess of 200 reports were identified. The majority of survey respondents in their study identified the reporting requirements as onerous, of minor value, and indicated that was unclear how the data submitted was used.
- In late 2018 the Ministry of Municipal Affairs and Housing committed to addressing the reporting burden and indicated that they would be forming a cross government working group to that effect. Any efficiencies or outcomes of this review should provide direct benefit to the Town of Milton.

Changes to support long-term financial stability

A) Permit a diverse range of funding tools, including partnerships between municipalities and developers.

As previously noted in this report, there are a variety of costs associated with growth that cannot be recovered by the Town through either development charges or dedications/contributions through the Planning Act. Historically within Milton, such costs have been shared between the Town and the development community.

Past agreements have been used to:

- Assist in accelerating the timing of projects at the request of developers,
- Assist in providing the infrastructure required while staying within debt capacity limits, and
- Maintaining tax/rate increases at acceptable levels.

A new section has been added to the **Development Charges Act (Section 59.1(1) & (2))**, which prohibits municipalities from imposing additional payments or requiring construction of a service not authorized by the Act. Exceptions to this may be provided for a class of service or development, by regulation, however, there has been no provision made at this time.

This new section may result in a loss of potential funding opportunities in the future and may also result in future pace of developments either being considerably restricted and/or delayed until such time as the municipality can financially provide for

the infrastructure required to service growth. In regard to the financial agreements for Bristol, Sherwood and Boyne, these agreements are grandfathered under the Act and will continue.

B) Implement reforms to joint and several liability laws for equality and to help lower the financial burden on municipalities.

The need to implement reforms to joint and several liability (**Negligence Act, 1990**) for equality and to help lower the financial burden on municipalities has been raised for several years. In January 2019, at the annual Rural Ontario Municipalities Association conference, the Provincial Government announced consultations on reforming joint and several liability. The Town of Milton is eager to participate in these consultations and supports the work done by AMCTO to advocate on behalf of municipalities on this item.

For quite some time municipalities (including Milton) have called for reforms to interest arbitration related to Emergency Services to ensure increases are fair, equitable and affordable for the community. **Bill 57, Restoring Trust, Transparency and Accountability Act, 2018** replaced three-member arbitration boards with single arbitrators for dispute resolution, which is seen as an improvement to the process. Additionally, the amendments include new criteria to be taken into consideration in an arbitrator's decision and a requirement that an arbitrator provide written reasons for a decision at the request of either party. The amendments have not yet been tested, so at this point it is too early to comment on whether the process requires additional changes.

Miscellaneous

1. The **Municipal Freedom of Information and Protection of Privacy Act** has a day-to-day impact on the Town, and fees need to be updated to reflect the true cost of service delivery.
 - The \$5.00 application fee does not come close to covering the amount of work required, in most instances, simply to provide an estimate of costs. Further it makes it too easy for people to submit frivolous requests.
 - The .20 cent per copy fee should also be increased, as it does not cover the cost to provide copies.
 - The \$7.50 per 15 minutes of search time also does not cover costs.

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- There is no mechanism to recover other costs (i.e. if a municipality needed to hire someone to assist with large requests).
2. The **Municipal Act** imposes several administrative responsibilities on the municipality which have necessitated staff training and the creation of processes and policies. Examples include requirements for an Ombudsman, closed meeting investigators and Integrity Commissioners to oversee issues that may arise as a result of various legislation.
 3. There are many other pieces of legislation intended to protect citizens and the public good which are applicable to municipalities. These include, the **Accessibility for Ontarians with Disabilities Act (AODA)**, **Canada's Anti-Spam Legislation (CASL)** and the **Freedom of Information and Protection of Privacy Act**. These pieces of legislation are important and serve to protect the public, however they do have an impact on day-to-day activities.
 - By way of example, AODA impacts all facets of municipal activity from construction and maintenance of facilities to website publishing.
 4. Since the end of the 2014 election, AMCTO has been advocating for transformational changes to the way that Ontario creates and maintains the **voters' list for municipal elections**. The voters' list in Ontario is plagued by inaccuracies, and a constant source of frustration for voters and election administrators. Neither the use of new technology, nor a willingness to explore new methods of voting have altered the reality that every four years municipalities will be provided with a list of electors that is deeply flawed. Milton would benefit from a reduction in errors, and a solution to the data currency problem. While incremental changes are being worked on, AMCTO is advocating for a transformational solution.
 5. The Municipal Law Enforcement Unit has identified a number of Acts which require modernization. These include the **Vital Statistics Act**, the **Pounds Act** and the **Ontario Wildlife Damage Compensation Program**.
 - The Vital Statistics Act death registration would be more efficiently managed with an online tool as opposed to the current paper process that exists between funeral homes, the Town and the Province.
 - The Pounds Act requires a municipality to impound farm animals and poultry found running at large in the community.

- The Ontario Wildlife Damage Compensation Program requires the local municipality to submit claims for financial assistance from local farmers for livestock, poultry and/or honey bees that have been damaged or killed by wildlife. The municipality should not act as an intermediary in these claims, which ultimately are handled by Ontario Ministry of Food and Agriculture.
6. **The Endangered Species Act** is managed by the **Ministry of Natural Resources and Forestry** (MNRF), and there are four categories of permit that can be issued (17 a,b,c,or d). Regularly, the staff at MNRF choose the most restrictive and lengthy permit requiring a sign off from the Minister and a one year wait period.
- One recent example is the Highpoint Pond project, which aims to retrofit the pond from a quantity pond to a quantity/quality pond. Town staff attempted to make the argument that this project was positive for the environment, but it was met with no avail. Unfortunately funding for the project is tied to grants with deadlines and due to the prolonged permit process we had no choice but to scale back and eliminate parts of the project. Prolonged permit processes such as this one constrain our ability to grow and maintain assets as needed.
7. Fire Departments in Ontario are governed by the **Fire Protection and Prevention Act, 1997 (FPPA)** and the **Office of the Ontario Fire Marshal and Emergency Management (OFMEM)**. OFMEM provides many technical guidelines and direction to municipalities to determine the level of service related to fire protection services (public education, fire prevention, fire suppression). In recent years, there has been a delay in updating technical guidelines and providing direction. Additionally, the Province continually downloads responsibilities to the local fire service and does so without the provision of funding to meet the associated legislative requirements.
- Recently, the province provided direction related to mandatory requirements around Vulnerable Occupancies. The province mandated annual inspection and fire drills of vulnerable occupancies but provided no funding to meet these legislative requirements.
 - As reported in Report ES-011-18 'New Regulations under the FPPA' the province mandated requirements with respect to Firefighter Certification, Community Risk Assessment and Public Reporting and again provided no financial support.

8. The **Public Libraries Act** sets out how public libraries are to be governed, however, there is limited funding from the provincial government. There have been ongoing discussions with the provincial government about the need for a centralized pool of electronic resources (ebooks /online databases etc.) that public libraries from across the province could access. This would benefit the Milton Public Library by ensure that these expensive resources would be purchased at a provincial level and reduce the impact on purchasing budgets of the municipality.
9. The **Public Library Operating Grant (PLOG)** from the province is based on population figures for the community from 1990. The data used to calculate the amount Milton Public Library receives from the province has not been updated for almost 20 years, and as a result Milton currently receives less funds than smaller municipalities. The data which informs the PLOG needs to be updated to current census data to ensure the Milton Public Library is provided with adequate funding to meet the needs of the population in our community.
 - In 2018, Milton received less funding from the PLOG than Halton Hills as their population was larger than Milton's in 1990. Today, Milton's population is almost twice the size of Halton Hills.
 - For Milton's comparator group (Libraries that serve a population between 100,000-250,000), by far and away Milton Public Library receives the smallest amount of funding.

Financial Impact

Municipalities are significantly impacted by decisions made by the Province in terms of legislated authorities and requirements, as well as through the funding provided on either an on-going, periodic or application basis. As such, any advocacy that leads to improvements for municipalities in the areas detailed in this report has the opportunity to positively benefit the Town of Milton.

Given the resources committed to advocacy by numerous associations (AMO, FCM, LUMCO, MARCO, etc.), the Town will continue to leverage those efforts and opportunities to take advantage of efficiency and collaboration in our advocacy efforts going forward.



The Corporation of the Town of Milton

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Respectfully submitted,

Choose an item.

Chief Administrative Officer

For questions, please
contact:

Jodie Sales x 2110

Attachments
Appendix A: Building A Complete Community (Version: Spring 2018)

CAO Approval
William Mann, MCIP, RPP, OALA, CSLA, MCIF, RPF
Chief Administrative Officer



Milton's First Principles of Growth

1. Ensure that Town revenues match the cost of growth to ensure the financial stability of the municipality.
2. Deliver a balanced residential/employment ratio of 1 job for every 2 residents, with an emphasis on jobs in the knowledge based and innovation sectors.
3. Plan passive and active recreation areas, and embrace the stewardship of green spaces and the natural environment.
4. Provide for a variety of housing forms in the right places with an emphasis on intensification near transit supported locations.
5. Deliver a steady flow of continuous and appropriate infrastructure investments to build and maintain Town assets.
6. Advocate for timely, coordinated investments from the Province in transit and community infrastructure (schools, hospitals and highways).
7. Encourage timely, coordinated investments in water, wastewater and regional roads from Halton Region.



MILTON

Building a Complete Community

A Place of Possibility

A Safe and Healthy Community

- Oppose the CN Intermodal Logistics Hub Project at its proposed location in Milton to ensure the long-term health and safety of the community.
- Confirm Regional and Provincial regulatory roles in proposed CN truck-rail hub.



Enhanced Transportation to Move People Efficiently

- A Regional transit governance structure and funding support from Halton Region to deliver integrated, connected transit.
- Advocate for enhanced, well-timed GO Transit services to connect our growing community to others in the GTA, specifically:
 - Accelerate the timelines for planning and delivery of two-way, all-day GO Train service to/from Milton to accommodate the needs new and future residents and visitors.
 - Support for proposed future GO Stations to be located at Derry/Trafalgar and Tremaine/Steeles.
- Support the Northwest GTA Corridor study as an option to address regional transportation issues and resolve 'The Missing Link'.

A Community of Education and Innovation

- Advocate for affordable and reliable broadband internet service in the rural area.
- Promote the long-term viability and sustainability of Milton's rural and agricultural economies.
- Engage the Region and Province as partners in our growth plans for the Milton Education Village and Trafalgar Corridor.

Adequate Funding to Support Infrastructure Delivery

- Ensure Provincial, Regional and Local infrastructure projects are funded and timed to support growth.
- Partner with other levels of government to deliver long-term, predictable, well-timed community infrastructure funding to support sound asset management.
- Establish a long-term funding program that recognizes the financial needs of growing municipalities no longer eligible for OCIF.

Changes to Support Long-term Financial Stability

- Ensure an adequate supply of future employment lands to balance non-residential with residential assessment growth.
- Permit a diverse range of funding tools, including partnerships between municipalities and developers.
- Implement reforms to joint and several liability laws for equality and to help lower the financial burden on municipalities.
- Reform interest arbitration related to Emergency Services to ensure increases are fair, equitable and affordable for the community.

Accomplishments

- ✓ Announcement of GO Station redevelopment to improve access and transit connections.
- ✓ Milton District Hospital Expansion.
- ✓ Announcement of Laurier/Conestoga post secondary site in the Milton Education Village.
- ✓ 15 minute peak direction GO Train service.
- ✓ Construction of the interchange at Highway 401 and Tremaine Road.
- ✓ Commencement of the initial phases of widening of Highway 401 through Milton.

