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April 23, 2009

Honourable James J. Bradley, Minister
Ministry of Transportation
3rd Floor, Ferguson Block
77 Wellesley Street West
Toronto, Ontario M7A 1Z8

FAX: 416-327-9188

RE: **BILL 163: THE GREATER TORONTO AND HAMILTON
AREA TRANSIT IMPLEMENTATION ACT, 2009**

**CORRESPONDENCE DATED MARCH 30, 2009 FROM
MINISTER OF TRANSPORTATION, HONOURABLE
JAMES BRADLEY RE: THE GREATER TORONTO AND
HAMILTON AREA TRANSIT IMPLEMENTATION ACT,
2009 (2009-J-19)**

The Regional
Municipality
of Durham

Clerk's Department

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Pat M. Madill, A.M.C.T., CMM I
Regional Clerk

Dear Minister, please be advised the Joint Finance and Administration, Works and Planning Committee of Regional Council considered the above matter and at a meeting held on April 22, 2009 Council adopted the following recommendations of the Committee:

- "a) THAT the following recommendations for changes to Bill 163, *the Greater Toronto and Hamilton Area Transit Implementation Act 2009* be forwarded to the Minister of Transportation and to the provincial Standing Committee on Finance and Economic Affairs:
- i) The Province must recognize in Bill 163 that, for municipalities to plan effectively for key intensification corridors, they must be included as true partners in the planning and implementation decisions around major transit infrastructure in their municipality;
 - ii) The Province must foster the meaningful participation and strong co-operation from municipalities that is vital to effectively implement the Regional Transportation Plan by creating a 'hybrid board of directors' that retains municipal representation on the proposed 15 member consolidated Metrolinx board as well as including private sector experts;



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- iii) Since Metrolinx will be investing a very large amount of public funding, Bill 163 must include provisions to ensure that the consolidated board will operate as openly, transparently and accountably as possible;
 - iv) The Province must simplify and clarify how the various provincial acts, plans and policies for the Greater Golden Horseshoe fit together;
 - v) The Province must assume the responsibility for establishing, implementing and administering a Provincial Transit/Transportation Development Charge and related funding model to replace the existing GO Transit development charge pursuant to the *Development Charges Act 1997*. This Provincial Transit/Transportation Development Charge and related funding models must form an integral part of the future investment strategy by incorporating the capital projects set forth in the Metrolinx Regional Transportation Plan and GO Transit capital plans to ensure that the growth components of these plans are funded from growth revenue sources;
 - vi) The regulatory authority in Bill 163, to prescribe a transit system as part of the Metrolinx system, must be accompanied by a responsibility to mitigate any negative impacts, financial or otherwise, on an affected municipally-operated transit system, as a result of the prescription of a system within its service area. One way to do this is to balance provincial investment in the regional and municipal transit systems; and
- b) THAT a copy of Joint Report No. 2009-J-19 of the Commissioners of Finance, Works and Planning be forwarded for information to the Ministers of Energy and Infrastructure, and Municipal Affairs and Housing, Durham Region MPPs, the Chairs of Metrolinx and GO Transit, the Cities of Toronto and Hamilton, the Regions of Halton, Peel and York, and the eight Durham area municipalities."

Report No. 2009-J-19 has been submitted to the Standing Committee on Finance and Economic Affairs as the Region's response to *Bill 163 the Greater Toronto and Hamilton Area Transit Implementation Act*. Council also directed that the Report and recommendations be forwarded for your consideration. We appreciate the opportunity to provide input on Bill 163.

As directed, please find enclosed a copy of Report #2009-J-19 of C. Curtis, Commissioner of Works, R.J. Clapp, Commissioner of Finance, and A.L. Georgieff, Commissioner of Planning.



P.M. Madill, AMCT, CMM I
Regional Clerk

PMM/cb

Enclosure

c: G. Smitherman, Minister of Energy & Infrastructure
J. Watson, Minister of Municipal Affairs & Housing
J. Dickson, MPP (Ajax/Pickering)
R. Johnson, MPP (Haliburton-Kawartha Lakes-Brock)
W. Arthurs, MPP (Pickering/Ajax/Uxbridge)
C. Elliott, MPP (Whitby/Ajax)
J. O'Toole, MPP (Durham)
J. Ouellette, MPP (Oshawa)
R. MacIsaac, Chair, Metrolinx
P. Smith, Chairman, GO Transit
U. Watkiss, Clerk, City of Toronto
K. Christenson, Clerk, City of Hamilton
J. MacCaskill, Acting CAO, Region of Halton
C. Gravlev, Clerk, Region of Peel
D. Kelly, Clerk, Region of York
M. de Rond, Clerk, Town of Ajax
T. Gettinby, Clerk, Township of Brock
P. L. Barrie, Clerk, Municipality of Clarington
S. Kranc, Clerk, City of Oshawa
D. Wilcox, Clerk, City of Pickering
K. Coates, Clerk, Township of Scugog
D. Leroux, Clerk, Township of Uxbridge
P. Jones, Clerk, Town of Whitby
R.J. Clapp, Commissioner of Finance, Region of Durham
C. Curtis, Commissioner of Works, Region of Durham
A.L. Georgieff, Commissioner of Planning, Region of Durham



The Regional Municipality of Durham
To: The Planning, Works and Finance & Administration
Committees
From: A.L. Georgieff, Commissioner of Planning
C.R. Curtis, Commissioner of Works
R.J. Clapp, Commissioner of Finance
Report No.: 2009-J-19
Date: April 22, 2009

SUBJECT:

Bill 163 the Greater Toronto and Hamilton Area Transit Implementation Act 2009

Correspondence dated March 30, 2009 from Minister of Transportation, Hon. James Bradley re: *the Greater Toronto and Hamilton Area Transit Implementation Act, 2009*

RECOMMENDATIONS:

That the Planning, Works, and Finance and Administration Committee recommend to Regional Council:

- a) THAT the following recommendations for changes to Bill 163, *the Greater Toronto and Hamilton Area Transit Implementation Act 2009* be forwarded to the Minister of Transportation and to the provincial Standing Committee on Finance and Economic Affairs:
 - i) The Province must recognize in Bill 163 that, for municipalities to plan effectively for key intensification corridors, they must be included as true partners in the planning and implementation decisions around major transit infrastructure in their municipality;
 - ii) The Province must foster the meaningful participation and strong co-operation from municipalities that is vital to effectively implement the Regional Transportation Plan by creating a "hybrid board of directors" that retains municipal representation on the proposed 15 member consolidated Metrolinx board as well as including private sector experts;
 - iii) Since Metrolinx will be investing a very large amount of public funding, Bill 163 must include provisions to ensure that the consolidated board will operate as openly, transparently and accountably as possible;
 - iv) The Province must simplify and clarify how the various provincial acts, plans and policies for the Greater Golden Horseshoe fit together;

- v) The Province must assume the responsibility for establishing, implementing, and administering a Provincial Transit/Transportation Development Charge and related funding model to replace the existing GO Transit development charge pursuant to the Development Charges Act 1997. This Provincial Transit/Transportation Development Charge and related funding models must form an integral part of the future investment strategy by incorporating the capital projects set forth in the Metrolinx Regional Transportation Plan and GO Transit capital plans to ensure that the growth components of these plans are funded from growth revenue sources;
 - vi) The regulatory authority in Bill 163, to prescribe a transit system as part of the Metrolinx system, must be accompanied by a responsibility to mitigate any negative impacts, financial or otherwise, on an affected municipally-operated transit system, as a result of the prescription of a system within its service area. One way to do this is to balance provincial investment in the regional and municipal transit systems; and
- b) THAT a copy of Joint Report No. 2009-J-19 be forwarded for information to the Ministers of Energy and Infrastructure, and Municipal Affairs and Housing, Durham Region MPPs, the Chairs of Metrolinx and GO Transit, the Cities of Toronto and Hamilton and Regions of Halton, Peel and York, and the eight Durham area municipalities.
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REPORT:

1. PURPOSE

- 1.1 This report provides an overview of the *Bill 163, the Greater Toronto and Hamilton Area Transit Implementation Act 2009* which amends the *Greater Toronto Transportation Authority Act 2006*.
- 1.2 Changes from the previous legislation and the anticipated impact of these changes on the Region's relationship with Metrolinx and GO Transit are outlined. The report also recommends proposed changes to Bill 163.
- 1.3 In this report, the phrases *regional transit system* and *regional transportation area* have the meanings ascribed in the Bill 163 and refer to the transit system and the area covered by the Metrolinx regional transportation plan.
- 1.4 This report has also been provided to the Durham Region Transit Commission for their information.

2. BACKGROUND

- 2.1 Bill 163 was introduced in the Ontario Legislature on March 30, 2009. If passed, it will amend the *Greater Toronto Transportation Authority Act 2006* which created the Greater Toronto Transportation Authority, later renamed Metrolinx. The 2006 Act created a provincial agency, with an 11 member board, consisting mainly of municipally-recommended members, to lead the development of a transportation plan and network for the Greater Toronto and Hamilton area. It also provided for the eventual merging of GO Transit with the Authority, though this section of the Bill was never proclaimed.
- 2.2 On April 6, 2009, Bill 163 passed second reading and was referred to the Standing Committee on Finance and Economic Affairs. The Committee will hold public hearings on the Bill in Toronto on April 22 and 23, 2009. **Written submissions will be accepted until 5:00 p.m. on April 23.**
- 2.3 Correspondence to the Regional Chair from the Minister of Transportation dated March 30, 2009 indicates that the appointments of the current Metrolinx Board members will be terminated upon passage of the Act. Media releases from the Ministry and Metrolinx indicate that a new "transition advisory" board has been appointed by the Minister.
- 2.4 Due to the broad implications of Bill 163 for the Region, the Office of the C.A.O., Durham Region Transit, the Finance, Planning, Works and Legal Departments have collaborated in the preparation of this report.

3. SUMMARY OF BILL 163

- 3.1 Bill 163 makes substantial amendments to the *Greater Toronto Transportation Authority Act 2006*. If enacted, it will **change the name** of that Act to the *Metrolinx Act* and will integrate GO Transit and Metrolinx into a **single transportation agency**.
- 3.2 Previously unproclaimed sections 43 to 45 of the *Greater Toronto Transportation Authority Act 2006*, relating to the **dissolution of GO Transit** as a separate entity continue and will come into force when the Bill receives Royal Assent.
- 3.3 The current governing boards of GO Transit and Metrolinx are terminated and the **size, composition and appointment process** for the **new single Board** are established. **Board members may not be an elected official or staff member of municipal, provincial, or federal governments or related agencies.**

- 3.4 The Minister of Transportation will appoint an **interim (transition) board** to serve for up to one year following Royal Assent of the Act. Members could be reappointed by the Lieutenant Governor in Council (LGIC) to the subsequent regular Board. The interim CEO will also be appointed by the Minister and may serve up to 18 months.
- 3.5 After the first year, the LGIC will appoint a **regular board** of not more than 15 members; recommended by the Minister, to serve staggered terms. On the Minister's recommendations, the LGIC will designate the chair and vice chair and appoint the CEO of the first regular board.
- 3.6 The list of occasions when **public board meetings** are required is amended and no longer includes the meetings to consider the rolling five-year capital plan or annual budget.
- 3.7 Every board member will have a **vote** and the chair can cast a second vote to break a tie.
- 3.8 The **internal structure** of the Metrolinx corporation is no longer outlined in the legislation. This will be left up to management to design.
- 3.9 Two **new objectives** are added to the corporation's objectives:
- provide leadership in the implementation of the transportation network; and
 - ensure the transportation network supports a high quality of life, a sustainable environment, and a strong prosperous and competitive economy.
- 3.10 The objective related to the operation of GO Transit is amended to make the corporation responsible for the **regional transit system** which includes the **GO Transit system and other prescribed passenger transportation systems** in the regional transportation plan area. These other systems, **proposed or existing**, will be prescribed by minister's regulation and their assets will be owned by Metrolinx or one or more of its subsidiary corporations.
- 3.11 The requirement for the regional transportation plan (RTP) to be consistent with the official plans of the municipalities in the GTHA is replaced by the requirement that the **RTP conform with the growth plans** prepared and approved under the *Places to Grow Act, 2005*. The new Act requires Metrolinx to develop and adopt the regional transportation plan, be guided by the plan in all its decisions and actions, and make the plan available to the

public. When developing or amending the RTP, notice to, and consultation with, governments, First Nations and municipalities in the regional transportation area and the public is required, in the manner the Board "considers appropriate".

- 3.12 Throughout the new act, the **powers and duties of the corporation** pertaining to the GO Transit system are amended and extended to the broader *regional transit system*. Metrolinx is assigned duties to:
- maintain and operate the *regional transit system*
 - design, develop and construct the prescribed passenger transportation systems, if necessary
 - design, develop and construct any alterations, extensions and expansions to the regional transit system
 - operate local transit systems by agreement with municipalities within and outside the regional transportation area
 - build and operate parking lots related to the *regional transit system*
 - conduct studies relating to the *regional transit system* (design, operation, extent, fares, schedules, integration, etc.)
 - develop an emergency and security plan for the *regional transit system in coordination with the local transit systems*.
- 3.13 The corporation will be able to make **by-laws** for fares, parking fees, schedules and route locations, for the issue of permits and licences and granting of rights relating to the use of its land, and to administer and enforce by-laws for transit systems that it operates directly or **under agreement** with municipalities.
- 3.14 Bill 163 separates the requirement for an **investment strategy and rolling five year capital plan** from the content of the transportation plan. Instead it imposes a duty on the corporation to annually prepare a rolling five year capital plan, including funding priorities and allocations, as part of the budget and business planning process. Metrolinx budgets, business plans and annual financial reports will continue to be submitted to the Province. New section 32.1 requires that an investment strategy be provided to the Minister of Transportation and heads of municipal Councils in the *regional transportation area* by June 1, 2013. This strategy will propose potential revenue tools for the province and/or the municipalities to use to implement the transportation plan. The timing of having an investment strategy by 2013 is consistent with the date previously announced in the Metrolinx regional transportation plan, entitled *The Big Move*.

- 3.15 The bill provides **new powers** to the corporation, for purposes consistent with its objectives, to:
- enter into commercial arrangements with municipalities or others to design, develop, construct, maintain or operate a prescribed transportation system; and
 - acquire, hold, lease, or dispose of property to construct, alter, extend or expand transportation infrastructure.
- 3.16 Metrolinx must retain control of **subsidiary corporations** it establishes. The governance, structure, management, delegation of powers to, and dissolution of these subsidiaries will be subject to LGIC (i.e. Cabinet) approval.
- 3.17 The bill extends the life of the **GO Transit development charge by-laws** established in Section 35 of the *GO Transit Act 2001* and allows a municipality to collect DCs for capital costs it agrees to pay under the purposes of this Act. Additions to Section 42 (2) of the *GTTA Act* would allow the LGIC to make regulations about dates for the purposes of development charge payments.
- 3.18 The Minister of Transportation may require Metrolinx to amend the RTP to include implementation steps.
- 3.19 Under new Section 31.1, the Minister may also issue **transportation policy statements** approved by the LGIC. The section requires the Minister to consult with interested persons and bodies, including municipalities in the regional transportation area. The policy statements must *have regard for* the Metrolinx RTP and be *in alignment with growth plans* approved under the *Places to Grow Act 2005*. The Province may issue guidelines to clarify the relationship between a transportation policy statement and growth plan policies.
- 3.20 The transportation policy statements may contain **designated policies**. Municipal planning advice and decisions under the *Planning Act* or *Condominium Act* would have to be *consistent with the designated policies* and *have regard for* the other policies in the transportation policy statement. Municipal public works and by-laws could not be in conflict with the transportation policy statement(s).
- 3.21 Section 31.1 also requires single, upper tier and designated lower tier municipalities to adopt a **transportation master plan (TMP)** that is *consistent with* the Minister's policy statement(s). The TMP content and timeline for completion will be prescribed in a Minister's regulation. The process for completing the TMP is outlined and includes requirements for public

consultation. A TMP completed before the transportation policy statement is issued, will have to be redone.

- 3.22 The Minister may issue an amended transportation policy statement if Metrolinx changes the RTP. The LGIC may make a regulation to resolve conflicts between the transportation policy statement and other provincial plans or policies.
- 3.23 The Act will be reviewed by the Minister five years after it is enacted.
- 3.24 The full text of Bill 163 is available on the website of the Ontario Legislative Assembly at www.ontla.ca . A paper copy of the Act may be viewed in the Regional Clerk's Office.

4. ANALYSIS AND POTENTIAL IMPACT ON THE REGION

- 4.1 The relationship between Metrolinx, GO Transit and the municipalities in the regional transportation area would be dramatically changed if Bill 163 is enacted. The key elements of Regional interest include :
- removal of the municipality's role as a partner in agency governance and transportation system planning;
 - the uncertain role of the municipality in delivering, owning and operating major components of the regional transit system;
 - a new ability to contract with Metrolinx for operation of local transit systems;
 - financial impacts such as provisions related to GO Transit development charges and highly uncertain measures and effects of the investment strategy; and
 - the impact of the proposed transportation policy statements.

Recommended changes to the Bill are highlighted below in ***bold italicized text***.

Governance Structure

- 4.2 Bill 163 would remove municipalities from any substantive role in the leadership or oversight of Metrolinx and GO Transit. This is a dramatic change for GO Transit which has a long, productive history of municipal involvement on the GO Board which includes both municipal and private sector appointees. GO Transit is viewed as a very successful transit operation, with annually growing ridership and one of the best revenue-to-cost ratios in the world for a public transit system. GO has planned and implemented extensive capital programs despite the challenges of working

within rail corridors owned by other agencies and with multi-government project funding arrangements. **Municipal involvement in its board has not been a major impediment to GO's progress.** In fact, roadblocks to timely delivery of GO's projects are often due to federal and provincial impediments (e.g. the West Toronto Diamond grade separation project, complex EA processes).

- 4.3 While the Metrolinx Board is much newer, partnership and collaboration with the municipalities were hallmarks of the agency's approach to developing the first regional transportation plan (RTP). This effort, which involved extensive public consultation, was seen to be timely and successful. The plan was assembled and approved within 18 months of the board's formation. Even on the difficult matter of financing the plan, Metrolinx board members were eager to begin discussing and exploring financing options ahead of the 2013 date. Board resolutions were passed urging early action on issues like development charges as a potential funding mechanism.
- 4.4 Both the GO Board and Metrolinx Board were seen to be open, accountable and transparent, with effective representation from affected communities. GO and Metrolinx board meetings were generally open to the public, with agenda materials available in advance. Metrolinx Board meetings were well attended by the public and media.
- 4.5 The members of the proposed new consolidated Board of Directors will be drawn entirely from the private sector, creating a "professional" board. This change is intended to bring "professional and corporate experience in customer service, planning, law, and financing of large capital projects" (Media release, Ministry of Transportation, March 30, 2009) and to accelerate implementation. However, such a board may be entirely devoid of the very critical expertise of planning and delivering transit projects within a municipal context.
- 4.6 The board composition proposed in Bill 163 is similar to the model adopted in British Columbia for Translink, the metropolitan Vancouver transportation agency. However, that model also includes a "Mayors Council on Regional Transportation" and a Regional Transit Commissioner as form of municipal engagement. The Mayors Council approves the Translink's strategic expansion plans and revenue increases beyond inflation. It also selects the board members from a pool of qualified candidates identified by an independent selection panel. The Translink approach to achieving municipal participation adds costs and a layer of administration. ***A hybrid board, with both municipal and private representatives provides a more streamlined solution.***

- 4.7 It is not clear how a private board structure will necessarily accelerate implementation of the RTP. If they are to be more than a "rubber stamp" board, members will require time for orientation and education on the RTP projects and policies, and will demand as much information and detail as the previous boards did. If delays in plan implementation actually reside outside the board process, changing the board structure may yield no improvement on the speed of project delivery.
- 4.8 In addition, the process of merging Metrolinx and GO Transit into a single corporate entity will consume a great deal of board time and energy, regardless of its composition. Dealing with the merger, will also be very demanding on senior staff of the organization and could very well affect the ability of the corporation to accelerate RTP implementation.
- 4.9 As it implements the RTP, the Metrolinx board will invest large amounts of public funding in infrastructure that will have a dramatic impact on municipalities in the regional transportation area. ***Durham Region recommends creating a hybrid board that retains municipal representation and also includes private sector expertise to oversee this process.***
- 4.10 The proposed legislation requires that the new board be guided by the regional transportation plan. However, there is little public accountability for specific actions or the decisions of the board. For example, the legislation requires the board to notify the Minister of changes to transit services but has no requirement to notify the municipalities in which those services are provided. While the meetings at which the board's annual report is presented, or where fare changes will be discussed, are to be public meetings, it is not clear if or how public, municipal or transit agency questions could be raised for discussion at those meetings. While the board could opt to conduct its business in a more public fashion, the Act contains very few public notification and reporting requirements. ***Durham recommends that the unified hybrid board should operate as openly, transparently and accountably as possible.***
- 4.11 The Bill enables the Province to own and operate prescribed transit systems so that project costs can be amortized in the Province's accounts over the lifespan of the infrastructure involved. The Province may take view that, since transit projects in the RTP are to be entirely provincially-funded under the MoveOntario 2020 initiative, there is no need for municipal involvement in decision-making. ***However, if municipalities are going to be levied in any way for projects, asked to contribute resources or expected to integrate their local transit systems with the Metrolinx system, they need to be true partners.***

- 4.12 Under Bill 163, municipalities would be “consulted” as an “interested” party if the RTP or the province’s transportation policy statement is to be reviewed or amended. Municipalities have a key role in delivering the Province’s Growth Plan for the Greater Golden Horseshoe. ***For municipalities and their transit agencies to plan effectively for key intensification corridors, they must be included in the planning and decisions around major transit infrastructure in their municipality. Municipalities and local transit agencies must be recognized as partners in delivering the Growth Plan and the RTP***

Municipal role in transit projects identified in the RTP

- 4.13 The Act provides for all transit infrastructure projects identified in the RTP to potentially be owned by the Province (*prescribed transit systems*), either as part of GO Transit or as separately-constituted subsidiaries over which Metrolinx would retain control. Municipalities could be involved in these transit systems through contractual arrangements with Metrolinx. For example, municipalities could contract Metrolinx to provide local transit service, or conversely, be contracted by Metrolinx to operate or maintain some aspect of the *regional transit system*.
- 4.14 While the legislated links between Metrolinx and the municipalities and transit agencies largely will be dissolved by Bill 163, the working relationship between Metrolinx and municipalities and local transit agencies is still evolving. Regional staff is currently working with Ministry of Transportation staff to finalize a contribution agreement for Phase 1 of the Highway 2 BRT, for which Durham Region has received approval for \$82.3 million in provincial funding. The new legislation is not expected to impact this process. In addition, Regional staff anticipates that work underway on the benefits case analysis designed to secure funding for Phase 2 of the Highway 2 BRT will continue as planned through regular interaction with the various Metrolinx staff and consultants.
- 4.15 Less clear at this time is the municipal role, if any, in decision-making around transit project delivery options, future ownership, and operating models for RTP projects. Also unknown, is how the Province might “own” a phased, road-based transit project, like the Highway 2 BRT system. The project is primarily within Durham Region (other than links into TTC), and would depend on systems and facilities largely controlled by the Region and area municipalities (e.g., roadways, signals, sidewalks). ***It seems clear that a strong, co-operative relationship between Metrolinx and the affected municipalities and transit authorities will be essential to successful delivery of the RTP projects.*** Durham Region Transit experienced good

cooperation with GO's bus operations. The Region would also like to see a stronger relationship with the GO Transit operation in terms of planning and delivery of extensions to GO's rail services in Durham. ***For the Province to foster strong co-operation, they should retain municipal representation as a key component of the Metrolinx board structure.***

- 4.16 In terms of co-operation on project construction, the Region has developed a strong, collaborative relationship and regular communication with the MTO on projects they are delivering in the Region (e.g., 401 widening and interchanges). ***Durham staff recommends developing a similar method of working with Metrolinx on construction projects.***

Provincial transportation policy statement

- 4.17 Bill 163 is quite confusing in terms of the relationships between the transportation policy statement, the existing Provincial Policy Statement under the *Planning Act*, the approved growth plans and other land use planning policies. The transportation policy statement is to be *aligned with* the Growth Plan and *have regard for* the RTP. Municipal TMPs have to *be consistent with* designated policies of the transportation policy statement and *have regard to* other policies. The links to municipal official plans are not mentioned.
- 4.18 As noted earlier, municipalities will play a critical role in delivering Growth Plan objectives through land use planning and zoning, local transit service, economic development programs, development charge by-laws and property tax policies. Thus, the Region has a keen interest in being involved in the development of the province's transportation policy statement and the related regulations. However, ***the Province must simplify and clarify how the various provincial acts and plans, including the Growth Plan, fit together.***
- 4.19 The proposed Act would require the Region to undertake a new transportation master planning process and update its TMP once the Province's policy statement has been issued. Currently, it is the Region's intent to revise and update its TMP once the Regional Official Plan (Growth Plan) amendment is approved by the Province and the Long Term Transit Strategy has been completed (Feb. 2010). However, the timing of the TMP review may need to be adjusted in order to incorporate the as yet unknown requirements of the new transportation policy statement and TMP contents regulation.

Financial Issues

- 4.20 Bill 163 makes provisions to extend the current GO Transit **Development Charges By-laws** for the Regions of Peel, York, Halton and Durham and the City of Hamilton, extending the Regions'/City's responsibility to establish, implement, administer and collect GO Transit development charges for remittance to the Province. These existing by-laws and the resulting development charge quantum were established in 2000 based upon the prevailing ten year capital growth forecasts developed for the period 2001 to 2010. As a result, both the forecasts and development quanta have become outdated and bear no resemblance to current GO Transit growth requirements.
- 4.21 The Regions/City are thus required to collect development charges for GO Transit service over which they have no direct operational control or influence to ensure that the ten year capital program is undertaken and projects completed. **Since 2003, the Regions/Cities have repeatedly asked the Province to amend the *Development Charges Act 1997* but no action has been taken.**
- 4.22 Furthermore, since Bill 163 will enshrine GO Transit as a responsibility of Metrolinx, the imposition of Development Charges for GO Transit purposes is effectively a provincially-regulated charge imposed for provincially-determined purposes. ***As such, the Province must assume the responsibility for establishing, implementing and administering the requisite development charges and related funding models or mechanisms.*** Bill 163 provides an opportunity for the Province to ***replace the existing GO Transit Development Charge with a more comprehensive Provincial Transit/Transportation Development Charge to recover growth related costs for all transit/ transportation initiatives including GO Transit.*** The Provincial Development Charge, along with the related funding models, then ***should form an integral part of the future Investment Strategy.***
- 4.23 Should a Region/City wish to finance the cost of a specific project in the future for service relating to a Metrolinx service, the Act allows the Region/City to collect a development charge for that project pursuant to the *Development Charges Act 1997*.
- 4.24 The Act also mandates that Metrolinx provide an "**Investment Strategy**" by June 1, 2013, that includes "proposals for revenue generating tools that may be used by the Province or the municipalities" to support a transportation plan within the regional transportation area. Other than stating that the board will provide the strategy to the Province and municipal councils, the Bill offers no details about how the investment strategy will be enacted, so its effects on

municipalities are unknown. Further, without these details, it is challenging for municipalities to gauge affordability of RTP projects or to incorporate them into budget forecasts or planning processes.

- 4.25 In addition to the unknown impacts after 2013, Bill 163 prolongs the current uncertainty for municipalities about the financial effects of RTP projects by raising the prospect that municipalities may have no role or possibly a limited role in implementing RTP projects in that time frame.
- 4.26 Bill 163 creates a consolidated provincial agency to deliver a *regional transit system* that will consist of GO Transit and *prescribed transit systems*. There is the potential for currently-local transit routes to be prescribed as part of the Metrolinx system by regulation under Bill 163. If ownership and operation of key local transit spines are transferred to Metrolinx, there is a risk the Region will lose some of the better-performing Durham Region Transit routes. Re-allocation of these transit revenues towards services owned and operated by the consolidated agency may impair remaining local transit systems that are already struggling with operating costs. In addition, the potential reduction of the "local" component of ridership could affect the amount of provincial gas tax received by the municipality. Moving forward, the Province must recognize that success on its transportation, Growth Plan and climate change objectives also depends on developing and improving local transit services in collaboration with regional transit services. **The creation and improvement of the (Metrolinx) regional transit system must not be achieved at the expense of local transit.**
- 4.27 ***Bill 163 should be changed to ensure the regulatory authority (Section 42) to prescribe a transit system should be accompanied by a responsibility to ensure that the local transit system will not be negatively affected and preferably, will see financial and system improvements, as a result of the prescription of a system within its service area. Provincial investment in developing and improving local transit services must be in balance with development of the (Metrolinx) regional transit system.***

5. NEXT STEPS

- 5.1 This report and its recommendations will be forwarded to the Minister of Transportation and the Standing Committee on Finance and Economic Affairs. Based on input at the Standing Committee public hearings, Bill 163 may be amended before third reading in the Legislature.

- 5.2 If the Bill is passed, the current boards of GO Transit and Metrolinx will cease to exist and be replaced by a new single Metrolinx Board. Steps to integrate GO Transit with Metrolinx will begin. Policies and regulations to enact the provisions of the Act, such as the transportation policy statement, would be developed and introduced by the Province.
- 5.3 Staff will continue to track the progress of the legislation and keep Regional Council informed of ongoing developments.

6. **CONCLUSION**

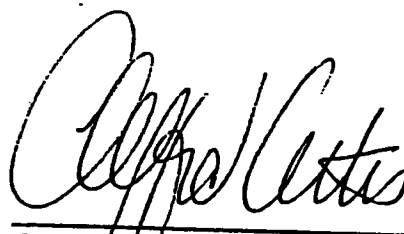
Based on the experience and record of the previous GO Transit and Metrolinx Boards, this report recommends that the Province ensure a strong component of municipal participation in a new consolidated Metrolinx Board. The report also suggests that GO development charges legislation should be amended, as part of the Bill, to replace the existing municipally-collected GO Transit development charges with a new Transit/Transportation Development Charge administered by the Province. This new Development Charge could become a funding mechanism for inclusion in the future investment strategy.

This report also expresses a desire for the Region to participate in the development of a transportation policy statement and recommends that the Province clarify and simplify the relationship among the various provincial acts and policies governing land use and transportation planning in the Greater Golden Horseshoe. The report also recommends that local transit requirements must be considered in tandem with the transportation policy statement. In addition, the Region recommends that the regulatory authority provided in Bill 163, to prescribe transit systems as part of the Metrolinx system be accompanied by a responsibility to protect the viability and operations of affected municipal transit systems. The Province must balance investment in developing and improving local transit services with the development of the (Metrolinx) *regional transit system*.

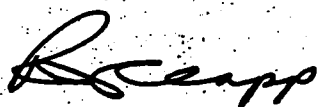
The Durham Region Transit General Manager assisted with the analysis in this report and concurs with the recommendations.



A.L. Georgieff, M.C.I.P., R.P.P.
Commissioner of Planning

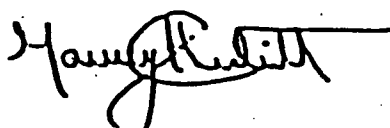


Clifford Curtis, P.Eng., MBA,
Commissioner of Works



R. J. Clapp, CA
Commissioner of Finance

RECOMMENDED FOR PRESENTATION TO COMMITTEE



Garry H. Cubitt, M.S.W.
Chief Administrative Officer

Attachments: 1. Correspondence to Regional Chair from Minister of
Transportation, Hon. James Bradley

Ministry of
Transportation

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Ferguson Block, 3rd Floor
77 Wellesley St. West
Toronto, Ontario
M7A 1Z8
(416) 327-9200
www.mto.gov.on.ca

Ministère des
Transports

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REGION OF DURHAM
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OFFICE OF THE
REGIONAL CHAIR

March 30, 2009

Mr. Roger Anderson
Chair – Regional Municipality of Durham
605 Rossland Road East
Whitby, Ontario
L1N 6A3

Dear Mr. Anderson:

I am writing to inform you of our government's proposed legislative changes to the *Greater Toronto Transportation Authority Act, 2006* to facilitate the efficient and effective delivery of transportation projects in the Greater Toronto and Hamilton Area.

I would also like to express my appreciation for your efforts as a member of the board of directors of Metrolinx. Since its inception in 2007, Metrolinx has developed a solid foundation for the future quality of life in the Greater Toronto and Hamilton Area with the development, through broad-based public consultations, of the Regional Transportation Plan "The Big Move."

The proposed amending legislation, the *Greater Toronto and Hamilton Area Transit Implementation Act, 2009*, if passed by the Ontario Legislature, would consolidate Metrolinx and GO Transit. This new organization would be named "Metrolinx" and would be governed by a new single Metrolinx Board. If passed, the legislation would also end the terms of the existing Metrolinx Board and GO Transit Board members, effective upon Royal Assent.

In the interim, both GO Transit and Metrolinx will continue to operate under the existing authorities until such time as the proposed legislation may receive Royal Assent and the new Metrolinx becomes a reality. During this period, I ask that Metrolinx continue the important work of coordinating and planning the development of an integrated, multi-modal transportation network in the Greater Toronto and Hamilton Area. I have communicated with your Chair, and provided specific direction regarding my expectations during this interim period.

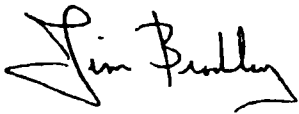
Mr. Roger Anderson
Page 2

A key objective of the proposed legislation is to provide the new Corporation with the tools necessary to support expeditious implementation of key elements of the Regional Transportation Plan. It also includes provisions, recommended by Metrolinx, for the Minister to issue transportation planning policy statements guiding transportation and related planning decisions, and providing status for key policies in the Regional Transportation Plan.

It is important to ensure that we continue to work toward our common goals to implement transit projects as quickly and efficiently as possible, to provide high quality service to transit riders, and to improve transportation in the Greater Toronto and Hamilton Area.

Once again, thank you for your service and your contribution to this important initiative.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jim Bradley". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke extending to the right.

Jim Bradley
Minister