

1

SMART COMMUTE INITIATIVE - TRANSITION TO THE GREATER TORONTO TRANSPORTATION AUTHORITY (METROLINX)

The Planning and Economic Development Committee recommends the adoption of the recommendations contained in the following report dated December 13, 2007, from the Commissioner of Planning and Development Services:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council authorise the transfer of the Smart Commute Initiative project (including its assets, liabilities, and contracts) for nominal consideration to the Greater Toronto Transportation Authority (GTТА).
2. The Regional Chair and the Regional Clerk be authorised to execute the transfer agreement, assignments of contracts, assignment of official mark, and necessary legal documentation, on the Region's behalf to give effect to the transfer of the project, subject to the prior review of Legal Services.
3. The Region be authorised to enter into the necessary legal documentation respecting the transfer on its own behalf as well as on behalf of each of the participating municipalities, including entering into any documentation arising after the expiration of the Memorandum of Understanding among them on December 31, 2007.
4. The Regional Treasurer be authorised to disburse to the participating municipalities their respective portion of the balance of the funding for the project, net of any final disbursements and costs.
5. The Regional Clerk forward a copy of this report to the Clerks of the City of Toronto, City of Hamilton, Regional Municipalities of Durham, Peel and Halton, City of Mississauga and local municipalities in York Region, and to the CEO of the GTТА.

2. PURPOSE

The purpose of this report is to inform Regional Council on the details of the negotiated transfer of the Smart Commute Initiative to the GTТА and to seek authorisation to carry out the transfer.

3. BACKGROUND

3.1 Smart Commute Initiative

The Smart Commute Initiative is a joint municipal project of the Regions of York, Durham, Peel, and Halton and the Cities of Toronto, Hamilton and Mississauga to deliver transportation demand management (TDM) programs and services across the GTA+Hamilton region through a two-tier structure consisting of a coordinating body, the Smart Commute Association, and a network of local transportation management associations. There are three transportation management associations operating in York Region. They are Smart Commute 404-7 (Markham, Richmond Hill), Smart Commute Central York (Newmarket, Aurora) and Smart Commute North Toronto-Vaughan.

TDM increase the efficiency of our transportation infrastructure through measures that reduce vehicular travel, increase vehicle occupancies and promote the use of other alternative modes of travel. TDM provides services and programs that improve public transit use, carpooling, walking and cycling that leads to a reduction in single-occupant-vehicle use.

3.2 Funding and Governance of the Smart Commute Initiative

Led by York Region and the City of Toronto, the municipal partners were successful in their application for funding from the Federal Government's Urban Transportation Showcase Program in 2003. Transport Canada (through the Urban Transportation Showcase Program) and the regional and single-tier municipalities (primary municipal partners) provided funding to the Smart Commute Association and the transportation management associations while local municipal partners such as Towns of Markham, Richmond Hill and Newmarket and the City of Vaughan provide additional funding to their local transportation management associations.

The financial and operating arrangements of the Smart Commute Initiative are also captured within a Memorandum of Understanding that binds the primary municipal partners to their respective roles and responsibilities in the delivery of the Smart Commute Initiative.

York Region is the lead member of this partnership by being the signatory in the contribution agreement with Transport Canada. By being the "host" organisation for the Smart Commute Association, York Region has been providing the necessary corporate services to support the project.

The Initiative began operation in May 2004 with the signing of the Federal contribution agreement and municipal MOU under the direction of a Steering Committee consisting of representatives from the municipal partners.

3.3 Previous Updates to Regional Council

Staff have reported periodically to Regional Council on the progress and status of the Initiative from its origins as a proposal to the Urban Transportation Showcase Program

back in October 2002 to the last update on the ending of Showcase Program support in February 2007.

Regional Council was informed in the February 2007 report that both the current financial and operating arrangements of the municipal partnership (the Memorandum of Understanding) and the financial support from Transport Canada (the funding agreement) for Smart Commute was ending on March 31, 2007. From that report, Regional Council endorsed the following recommendations from the Planning and Economic Development Committee:

1. The Region agrees to an extension to December 31, 2007 of the Smart Commute Initiative Memorandum of Understanding dated as of the 22nd day of May, 2004.
2. The Regional Chair and Regional Clerk are authorised to execute on the Region's behalf such amending agreement to give effect to the extension, subject to the prior review of Legal Services.
3. Staff continue to work with other partners in discussions with Ministry of Transportation staff on options for the continuation of the Smart Commute project and to report back later in the year on the results of these discussions.

The extension of the municipal MOU was necessary for two reasons: first, to allow the municipal partners to complete their final reporting requirements of the contribution agreement with Transport Canada, and second, to allow time for the municipal partners to find alternate arrangements for sustaining the Initiative.

This staff report details the conclusion of the discussions with Provincial and Greater Toronto Transportation Authority staff in support of the continuation of the Initiative.

This report has been reviewed by Legal Services.

4. ANALYSIS AND OPTIONS

As was reported in February 2007, staff from the municipal partners as well as the transportation management associations have been in discussion with Provincial staff on ways to sustain the Initiative.

A key part of the discussions with Provincial staff was the consensus that the objectives of the Initiative are a good fit with a number of Provincial or GTTA programs. For instance, transportation demand management is part of the GTTA's mandate, including promoting the use of transit, carpooling, bicycling and other sustainable modes of travel.

One of the key transportation players missing from the Initiative has been the Province. Through this transfer, Provincial funding for the Initiative would be assured as the GTTA is Provincially funded.

4.1 Agreement with GTTA

The efforts of the Initiative partners culminated with the commitment of the Greater Toronto Transportation Authority to assume the funding gap created by the end of Federal funding. This commitment was confirmed on August 24, 2007 by the endorsement of the GTTA Board of the following motion:

“Resolved that staff be directed to proceed expeditiously with an integration of the Smart Commute initiative within GTTA’s operations in accordance with Resolution 07-B44.”

Subsequently, the Steering Committee of the Initiative prepared a proposal to the GTTA (Attachment 1) which laid out a broad structure for an agreement on financial support. The proposal sought GTTA funding to begin January 1, 2008, continuing the Initiative when the municipal agreement ends. A favourable response on the proposal was received from the GTTA in November 2007 (Attachment 2). During this time, the Steering Committee and staff from the Smart Commute Association were also in discussion with GTTA staff in providing details for GTTA’s budget planning process.

Overall, the GTTA has agreed to assume the responsibilities of the Smart Commute Association and provide matching funds to the transportation management associations.

4.2 Transferring the Initiative to the GTTA

As part of the transfer of the Initiative to the GTTA, several agreements must be reached with regard to specific aspects of the Initiative operations. The following sub-sections as well as Section 5 provide details on specific areas of responsibility that are subject to this transfer agreement with the GTTA.

4.2.1 Human Resources – Smart Commute Association

By assuming the responsibilities of the Smart Commute Association, the GTTA has agreed to absorb the staff of the Association. Staffing level at the Smart Commute Association has fluctuated during its operation. At the end of the extended municipal MOU, the Association had three full-time employees, a project director, a program coordinator and a program assistant. York Region provided human resource services to the Association in terms of hiring, termination and payroll administration. All three employees were treated as contract employees of the Association with a termination date of December 22, 2007. The GTTA agreed to retain the Association staff as full-time GTTA employees effective January 1, 2008.

4.2.2 Smart Commute Initiative Assets

As the corporate host for the Association, all official mark, service contracts and physical assets acquired by the Association were under York Region’s name. That is, on behalf of the all the municipal partners in the MOU, York Region was the legal owner of the following items:

- Smart Commute Official Mark
- Smart Commute branding and marketing design and template
- Web-based CarpoolZone operating licence and service contract
- Smart Commute website (smartcommute.ca) and web hosting service contract
- Office equipment

The Steering Committee of the Initiative agreed in November 2007 to transfer these assets and the associated contracts and liabilities to the GTTA. The legal firm of WeirFoulds assisted Legal Services staff in developing the necessary transfer agreements with the GTTA.

4.2.3 GTTA Funding to Transportation Management Association

In the October 2007 proposal to the GTTA, the Smart Commute Steering Committee recommended that the GTTA provides one-to-one matching fund to each transportation management association, up to a 2008 maximum of \$130,000 per management association.

The GTTA has agreed to this funding formula. Essentially, the GTTA will provide 50% operating funds to each management association up to a maximum operating budget of \$260,000 for 2008. Beyond 2008, funding from the GTTA will be subject to its normal budget approval process.

4.2.4 Remaining Obligations of Federal Contribution Agreement

At the writing of this report, the final monitoring and reporting requirements of Smart Commute in the Federal contribution agreement was being worked on for completion by the end of 2007. This was a York Region (through the Smart Commute Association) responsibility. To protect the interest of York Region, the transfer agreement with the GTTA assigned the remaining obligations of the contribution agreement to the GTTA.

4.3 Consensus of Municipal Partners

The Initiative Steering Committee discussed the transfer of the Initiative to the GTTA on November 15, 2007 and approved the transfer.

5. FINANCIAL IMPLICATIONS

The Smart Commute Initiative has been supported by the municipal partners described in Section 3 and by the Federal Government. With the expiry of Federal funding and the GTTA assumption of the Smart Commute Association, York Region's funding support for Smart Commute will decrease as set out in more detail below.

5.1 GTTA Funding Implications on York Region

Regional Council in June 2006 endorsed the recommendation of the Planning and Economic Development Committee to "the continuing funding of the Smart Commute

Initiative and the Transportation Management Associations' activities to the sum of \$180,000 per year at \$60,000 per year each for Smart Commute 404-7 and Smart Commute-Central York, \$30,000 per year for Smart Commute North Toronto Vaughan, and \$30,000 maximum per year for York Region's share to maintain the Smart Commute Initiative programs and services".

With the transfer of the Smart Commute Association to the GTTA, there is no on-going cost to York Region. Therefore, this represents an annual cost savings of \$30,000 starting in 2008. Similarly, each of the other municipal partners will also realise a proportional cost savings.

York Region's continuing funding support to the local transportation management associations will not change with this transition to the GTTA. However, given the GTTA's agreement on funding transportation management associations, York Region's combined annual funding of \$150,000 to SC 404-7, SC North Toronto Vaughan and SC Central York will leverage another \$150,000 per year from the GTTA.

5.2 Financial Balance at End of Initiative

As described above, the final reporting requirements of the Federal contribution agreement has yet to be completed. As part of the same agreement, the Federal Government is holding back a portion of funding to the Smart Commute Initiative until all the conditions of the contribution agreement have been completed.

Staff anticipate receiving the final payment from Transport Canada sometime in 2008. Until then, the exact financial balance of the Smart Commute Initiative won't be known. However, initial estimates of account balances suggest a small positive financial balance overall. This remaining fund belongs to the municipal partners in the MOU. The Steering Committee of the Initiative has agreed that the appropriate action is to disburse the balance back to the municipal partners in accordance to the proportion of financial contribution to the Initiative net of any final disbursements and costs, including without limitation, legal costs with respect to the transfer to the GTTA.

6. LOCAL MUNICIPAL IMPACT

With this transition to the GTTA taking the lead role in operating the Smart Commute Initiative, the local transportation management associations must work cooperatively with York Region and the GTTA to continue the common promotion and marketing of Smart Commute programs and services. The local Smart Commutes must cooperate with the GTTA in order to receive matching funds for their operations. However, the GTTA reporting requirements of the transportation management associations to secure GTTA funding is anticipated to be much lower than the past requirements of the Federal contribution agreement.

7. CONCLUSION

The efforts of the partners in the Smart Commute Initiative in pursuing sustainable funding has culminated in the Greater Toronto Transportation Authority agreeing to absorb the Smart Commute Association and its full operating costs and a commitment to provide matching funds to the local transportation management associations on an annual basis. This has freed York Region from its past role as corporate host of the Initiative as well as reduced York Region's funding of the Initiative.

With stable funding, a legislated mandate and the ability to service an area beyond what was being covered by the municipal partners, the GTTA is in a better position to coordinate and enhance the Smart Commute Initiative.

As such, staff is recommending that Regional Council authorise the transfer of the Initiative to the GTTA for nominal considerations including the transfer of the Smart Commute Official Mark and assignment of service contracts through a transfer agreement.

For more information on this report, please contact Loy Cheah, Manager, Transportation Planning at 905-830-4444 ext. 5024 or loy.cheah@york.ca.

The Senior Management Group has reviewed this report

(The two attachments referred to in this clause are attached to this report.)