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### **REGIONAL POLICY AMENDMENT FUNDING COLLECTOR ROAD CROSSINGS OF 400-SERIES HIGHWAYS**

**The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report, September 19, 2007, from the General Manager, Roads:**

#### **1. RECOMMENDATIONS**

It is recommended that:

1. Regional Council adopt the “Funding Collector Road Crossings of 400-Series Highways” policy that provides for shared capital cost sharing funding between York Region and its local municipal partners.
2. Regional staff be directed to work with the Town of Markham and Town of Richmond Hill staff to draft an agreement with the Ministry of Transportation for the new Highway 404 crossing north of Highway 7 to reflect the Ministry’s responsibility for long-term structure maintenance and rehabilitation.
3. Regional Chair communicate York Region’s concerns with the recent MTO funding practice to the Minister of Transportation and seek provincial execution of the legal agreement to allow for construction of the Highway 404 crossing to proceed immediately.
4. A copy of this report be circulated by the Clerk to local municipalities

#### **2. PURPOSE**

This report is to seek Council endorsement of an amended policy for funding local collector road crossings of 400-Series Highways.

#### **3. BACKGROUND**

On September 21, 2006 Regional Council adopted Report No. 8 of the Transportation and Works Committee which laid out a policy for York Region participating in a 1/3 contribution towards the capital costs of local collector road crossings of the provincial 400-series highways. The report included one amendment as follows:

*“Clause 12 relating to Regional Policy, Funding of Collector Road crossings of 400-Series Highways, be amended by referring the issue of operating costs to a future meeting of the Committee.”*

This report provides some additional information on the issue of operating costs of the mid-block crossings and makes recommendations as to how the current policy can be amended to address this item.

### **3.1 Crossing Locations / Status**

There are nine projects identified in the Development Charge By-law, five of which are in the approved 2007 – 10-Year Capital Program. Table 1 identifies the status of the five projects while *Attachment 2* shows their location.

**Table 1**  
Project Status Table

| <b>Project</b>                                                                 | <b>Municipality</b>                       | <b>Project Status</b>                                                                                                                                                                                           | <b>Estimated Cost</b> |
|--------------------------------------------------------------------------------|-------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 1 Hwy 400 Crossing at Portage Parkway (formerly Applewood Crescent)            | City of Vaughan                           | <ul style="list-style-type: none"><li>• Contract tendered March 2005</li><li>• Construction on going</li></ul>                                                                                                  |                       |
| 2 Hwy 407 Crossing at Rodick Road (between Woodbine Ave and Warden Ave)        | Town of Markham                           | <ul style="list-style-type: none"><li>• Project complete</li></ul>                                                                                                                                              |                       |
| 3 Hwy 407 Crossing at Birchmount Road (between Warden Avenue and Kennedy Road) | Town of Markham                           | <ul style="list-style-type: none"><li>• Currently under construction</li><li>• Completion in 2009</li></ul>                                                                                                     |                       |
| 4 Hwy 404 North of Hwy 7 (Bayview, northeast Business Park)                    | Town of Markham And Town of Richmond Hill | <ul style="list-style-type: none"><li>• Environmental Assessment completed.</li><li>• Design consultants procurement on hold pending local municipal approval</li><li>• Expect project tender in 2008</li></ul> |                       |

|                                                                                 |                                                       |                           |
|---------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------|
| 5 Hwy 404 North of<br>Major Mackenzie Drive<br>(North Leslie<br>Secondary Plan) | Town of<br>Markham<br>And<br>Town of<br>Richmond Hill | • Project not yet started |
|---------------------------------------------------------------------------------|-------------------------------------------------------|---------------------------|

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### **3.2 Changing Provincial Position Regarding Highway Crossings**

In the past, the capital cost-sharing arrangements related to highway crossings/interchanges have been generally proportioned according to the perceived benefits that the project represented to each party. Typically, the Ministry of Transportation (MTO) was responsible for maintenance and replacement or rehabilitation of a bridge due to its structural conditions or lack of capacity. The municipality was responsible for maintenance and rehabilitation of the crossing road surface over or under the freeway or highway.

In the last decade, the Ministry has increasingly taken the position that should a municipality wish to increase the capacity of the arterial road or the interchange at a freeway prior to the Ministry programming of such work, then the municipality would be responsible for the capital costs of constructing such new capacity. This notion of attributing capital costs on the basis of perceived benefit led to the Region's development of the mid-block collector policy approved in September 2006. That policy reflected what had been to that point the normal practice of the municipalities designing and constructing highway works to MTO standards and then turning over the ownership of the new structures to the Ministry after construction with the Ministry assuming the infrastructure as part of the Provincial asset base. This occurs since the structure falls within the *Controlled Access Highway Designation* limits. This resulted in the Ministry, historically assuming responsibility for the ongoing maintenance and rehabilitation for the structure.

### **3.3 Recent Actions - Attempting to Further Download Provincial Highway Costs**

Recently however, there has been a noticeable shift in the Ministry's approach to these cost-sharing arrangements on projects in the Greater Toronto Area (GTA), and in particular York Region.

A copy of a document titled *Draft Municipal Project Crossing 407 MTO and/or 407 ETR Requirements* has been forwarded to York Region (see Attachment 3). The application of this document, although referencing 407 crossings, is now being attempted by Ministry staff towards crossings on other 400-series highways such as Highway 400 and Highway 404. The biggest difference with this draft document and the historical practice is found in item 3. In this paragraph, the Ministry attempts to transfer all costs (including construction and long term maintenance / rehabilitation /and replacement) to the municipality.

It should be noted that this attempt to transfer long term maintenance / rehabilitation and replacement has not been enacted in any legislation/ act or formal policy document at the Province. It appears to be a practice, initiated by MTO staff with no prior consultation with the municipal sector. It is not clear that the practice is being uniformly applied across the province.

### **3.4 Highway 400/Applewood Crossing in the City of Vaughan**

The Ministry's new approach to transfer responsibilities for all future life-cycle costs for structures crossing provincial freeways was first dealt with in York Region by the City of Vaughan. The City, as the lead proponent for the Applewood crossing over Highway 400, was in the unfortunate position of potentially incurring additional construction contract-related costs while the MTO refused to grant its permits/agreement for the already tendered structure. As such, the City of Vaughan reluctantly assumed the long-term costs through an agreement executed earlier this year.

City of Vaughan staff remain concerned that entering into any further agreements of this type in the absence of offsetting funding, would establish a precedent which could have significant financial consequences for all municipalities requiring such provincial highway crossings in the future.

## **4. ANALYSIS AND OPTIONS**

York Region is currently working with the Towns of Markham and Richmond Hill staff to prepare contract documents and drawings for the next such crossing, that being the planned Highway 404 crossing north of Highway 7. This crossing is being constructed to not only alleviate major traffic issues in the Highway 7/Highway 404 corridor, something which has a direct impact on the provincial freeway system, but more importantly supports both existing and planned economic development in this key business area. MTO staff have indicated that the Ministry seeks securities to offset the long-term maintenance / rehabilitation and replacement costs as a condition of the required legal agreement to construct this crossing.

The road is a local collector connecting the Towns. There is no local support (or budget) for incurring these additional costs. As such, the project is currently not proceeding to the next phase of design. Regional staff have been working with local counterparts to consider options:

**OPTION 1:** The first option is for York Region, and the Towns of Markham and Richmond Hill to assume the responsibility of the long-term maintenance/rehabilitation/replacement of these structures. Although, this option would allow the project to proceed quicker, this would impose a significant financial impact to each of the affected municipalities. The estimated cost is in the order of \$210,000 total per year, per structure. Each municipality (Town of Richmond Hill, Town of Markham and York Region) would be responsible for \$70K per year per structure in perpetuity.

This figure is not certain as access to allow for construction on MTO land would be subject to further conditions set out by MTO staff.

OPTION 2: The second option discussed by staff is to try to establish a consolidated position between all municipal partners and to draft the required municipal-provincial agreement to reflect the historic practice of transferring the planned structure as part of the provincial freeway system following construction and to properly transfer the responsibility for future costs to the MTO. This approach would not only be consistent with the longer term history on such structures, but would also reflect the significant operational benefits that the Ministry will derive at the adjacent freeway interchanges (Highway 7 and 16<sup>th</sup> Avenue) when the collector road crossing is open and when traffic volumes on the parallel arterials through the interchanges are alleviated.

Such an arrangement would also more appropriately reflect the fact that much of this freeway-related construction is being built by municipalities as a requirement of accommodating the provincially directed growth dictated through the *Places to Grow* legislation. Municipalities are now forced to undertake such construction in the absence of a provincial commitment to such servicing.

#### **4.1 Option 2 is Recommended**

In light of these considerations, staff are recommending the second option of maintaining the approach adopted in our current funding policy. This option would continue to see the Region and local municipalities pay for our fair share of the capital cost of infrastructure built in the provincial right-of-way in a manner consistent with the rest of the Province. A clarification to the policy is also being recommended to clarify Regional and local municipal expectations that all structure maintenance and rehabilitation costs must remain the responsibility of the Province.

York Region and local municipal staff have worked with Ministry staff to try to reach an agreement on these issues to allow work to proceed. To date however, it appears that a mutually-acceptable agreement can not be reached at the staff level. It is therefore suggested that staff proceed to work with the Towns of Markham and Richmond Hill to draft a new agreement for the new Highway 404 collector road crossing north of Highway 7. This agreement, for execution with the Ministry of Transportation, should reflect the historic assumption of long-term structure costs by the Province. Furthermore, it is suggested the Regional Chair and the local Mayors communicate the local municipal concerns to the Minister of Transportation, and request immediate execution of the new agreement to allow this critical work to proceed.

It is also recommended that staff continue efforts to engage the Province through advocacy with organizations such as the Greater Toronto Transportation Authority, Municipal Engineers Association, Ontario Good Roads Association, Association of Municipalities of Ontario to formalize a consistent and fair approach to dealing with the costs in question.

## **5. FINANCIAL IMPLICATIONS**

York Region's 10-year Capital Program has approximately \$17M identified for capital cost contribution to these structures. However, the adoption of the recommendations in this report will result in no additional financial impact to the Region or its local municipal partners. The cost of assuming 1/3 of the operational responsibilities for these structures is estimated to be \$70K per year per structure in perpetuity.

## **6. LOCAL MUNICIPAL IMPACT**

Both York Region and the local municipalities recognize the benefits of continuous collector roads across provincial freeways/highways and how these contribute to the provincial transportation system and economic vitality of the Region and Province. As a result the Region and municipalities are partnering to build such crossings.

Provincial imposition of further operational and maintenance obligations onto local/regional municipalities is not consistent with Province-wide practice. Assuming that the capital cost apportionment of 1/3 Regional, 2/3 local was extended to operating and future rehabilitation costing as well, the affected local municipalities would be responsible for costs of approximately \$140K per year per structure in perpetuity.

## **7. CONCLUSION**

York Region has an adopted policy in which funding is allocated to construct municipal collector road crossings of 400-series highways. The MTO staff is now attempting to absolve the Ministry of responsibility for maintenance and rehabilitation of infrastructure that is built to its standards and within its jurisdiction.

This somewhat arbitrary decision by Ministry staff places additional financial pressure on the municipalities and has resulted in delays to critical infrastructure in our communities.

It is recommended that our current funding policy be amended to clarify the jurisdictional responsibility for the maintenance/rehabilitation/replacement of these structures and that continued discussions take place both at the political and municipal advocacy group level to ensure York and its local municipalities are treated in a fair manner.

The Senior Management Group has reviewed this report.

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