

Corporate Report

REPORT NUMBER 285-2023-City Manager's Office-Office of the City Clerk

DATE

PREPARED

September 5, 2023

FILE

MEETING DATE

September 18, 2023

SUBJECT

Update to Municipal Act, 2001 – Strong Mayor Powers

RECOMMENDATION

This report is provided for information only.

EXECUTIVE SUMMARY

Amendments have been made to the *Municipal Act, 2001* (Part VI.1) (“strong mayor powers”) that grant new powers and duties to some designated mayors, in addition to their role as head of council (section 225) and chief executive officer (section 226.1). Ontario Regulation 530/22 identifies which municipalities have strong mayor powers. Currently, the regulation identifies 27 municipalities. This list does not include Thunder Bay, as it has yet to be designated.

At the Association for Municipalities of Ontario (AMO) conference in August, Premier Ford announced new housing targets for municipalities that had not been previously assigned one including the City of Thunder Bay. Thunder Bay as of August 21, 2023 has been assigned a housing target of 2,200 homes by 2031. The Premier also introduced a new provincial fund, entitled “Building Faster Fund”. This program is a three-year \$1.2 billion program to help municipalities exceed their provincially assigned housing targets. Funds can be directed to housing-enabling infrastructure and costs that support community growth. Eligible expenses under this fund and ways to track the progress of municipalities has yet to be determined. In order to gain access to this fund municipalities must achieve at least 80% of the annual housing target; municipalities that are not achieving at least 80% of their annual target will receive zero funding.

At this same conference, the Premier announced that 21 additional municipalities including Thunder Bay, will be given strong mayor powers if their mayors (or heads of council), by October 15, 2023, commit in writing to meet their provincially assigned housing target. Upon receipt of this written commitment, strong mayor powers would be bestowed upon the municipality which would come into effect on October 31, 2023 by regulation.

This report outlines new powers and duties of the Mayor if and when these powers come into force in Thunder Bay.

DISCUSSION

Mayoral decisions using these new powers fall into several different categories.

A. Council Committees

The Mayor has the following powers with respect to Council Committees that are composed of only Members of Council:

1. The power to establish or dissolve Committees.
2. The power to appoint the Chairs and Vice-Chairs of Committees.
3. The power to assign functions to Committees.

The City of Thunder Bay has a small number of committees that are comprised only of Members of Council including Committee of the Whole, Intergovernmental Affairs Committee, Community, Youth and Cultural Funding – Appeals Committee, Coordinating Committee and Tbaytel/Synergy North Recruitment Committee. Council Advisory Committees that include citizen representation would be unaffected under this power.

As it relates to local boards, there is no regulation posted to date that prescribes which local boards will be affected and how these powers may come into play. As the legislation is currently worded the mayor would have the power to appoint Chairs and Vice Chairs of local boards but which boards will be affected are yet to be determined by legislation.

B. Powers relating to the City Administration

1. The Mayor has the power to appoint and dismiss the municipality's chief administrative officer and assign duties to them.
2. The Mayor has the power to hire or dismiss a "head of any division or the head of any other part of the organizational structure". City officials excluded from this authority are listed in the legislation.
3. The Mayor may determine the City's organizational structure.
4. The Mayor can make requests of City staff to undertake research and provide advice to the Mayor and City Council on City policies and programs, as well the Mayor can direct city staff to carry out duties and implement decisions of the Mayor where they relate to the exercise of strong mayor powers.

With the exception of the first above noted power, the Mayor may delegate these powers to the CAO/City Manager by providing written notice of delegation. Direction

to staff is required to be in writing and required to be provided to the City Clerk and distributed to City Council within prescribed timelines.

C. Duty to introduce the City Budget

Bill 3 introduced new requirements for the adoption of a City budget.

Each year, the Mayor is required to present proposed City budget no later than February 1 to City Council. If the Mayor does not present a proposed budget, the duty would revert back to City Council.

Where the Mayor presents the budget, City Council has 30 days to amend the proposed budget. The Mayor may veto Council amendments up to 10 days after Council adopts the amendment. If the Mayor does not exercise his veto the amended budget is deemed adopted. City Council may then override the Mayor's veto with a 2/3 vote up to 15 days later in which case the amended budget is deemed adopted. If Council does not exercise an override of the Mayor's veto the proposed budget is deemed adopted. These noted timelines may be shortened by the Mayor or City Council.

Mayors may also initiate in-year budget amendments to raise additional amounts from property taxes by providing the budget amendment to each member of council and the City Clerk. Council may amend the proposed budget amendment within 21 days of receiving the budget amendment. The mayor may, within 5 days after the expiry of the time period for council to pass a resolution (being the 21 days) veto the council amendment. Within 10 days after the 5-day deadline for the mayor to veto the budget amendment, council may override the veto with a 2/3 majority vote. These noted timelines may be shortened by the Mayor or City Council.

The Mayor cannot delegate the duty of a budget to City Council. To date, we have seen Strong Mayors choose to direct city administration to bring a budget in line with previous direction of City Council under the authority of the Mayor. We have also seen Strong Mayors forfeit the duty to submit a budget which then leaves the approval of the budget to City Council. Administration is tracking Strong Mayor decisions being made in other municipalities relative to municipal budgets and will share this information in due course with the Mayor and members of city council.

D. Mayor's Veto and Provincial Priorities

The Act introduces the power for the Mayor to veto a by-law (not related to the City Budget, which is dealt with under a separate process) if in the Mayor's opinion a bylaw or part of it could potentially interfere with a prescribed provincial priority.

The Mayor may also introduce new matters without notice to a Council meeting in order to advance a provincial priority.

The prescribed provincial priorities, which predicates some of the legislative powers a strong mayor may exercise, are:

1. building 1.5 million new residential units by December 31, 2031, and
2. constructing and maintaining infrastructure to support housing, including:
 - (i) transit,
 - (ii) roads,
 - (iii) utilities, and
 - (iv) servicing.

As these provincial priorities are set by regulation, the provincial government may change priorities at any time, at its own discretion, without consulting municipalities.

Mayors can bring by-laws advancing prescribed provincial priorities and require council to vote on the proposed by-law at a meeting, despite any rules in the procedural by-law. These by-laws pass, if more than 1/3 of members of council, including the mayor, vote in favour of the by-law.

Mayors can veto certain by-laws, if they are of the opinion that all or part of the by-law could potentially interfere with a prescribed provincial priority (please note there is a separate veto process for municipal budgets). If the mayor uses their veto power, council can override the veto where 2/3 (including the mayor) of council votes to override the veto.

This section may cause confusion with the public as to how decisions are made if notice provisions are not met by the Mayor, there is also the potential for significant delays if vetoes and overrides are utilized which then holds administration from completing the associated work until the final decision is made.

The Ministry of Municipal Affairs and Housing has updated the Councillors Guide with respect to Strong Mayor Powers in order to provide information to public elected members. The updated section of the guide is appended to this report as Attachment A.

Immunity Provision

Mayoral decisions that exercise strong mayor powers (including vetoes) are protected by an immunity provision under Part VI.1 of the *Municipal Act, 2001*. Where exercised “legally” and “in good faith”, such decisions of the mayor shall not be quashed or open to review by any court due to the unreasonableness or supposed unreasonableness of the decision or exercise of veto or other power.

Impact on Administrative Processes

Readjusting timelines for work to begin;

- potential delays with matters that are subject to veto and potential override that do not allow administration to move forward in a timely manner

Administration will have to undertake significant work to transition the municipality to strong mayor powers, such as;

- creating an online repository to post mayoral decisions and directions
- creating templates for decisions, notice, vetos and overrides
- making amendments to numerous municipal by-laws and policies (e.g., the procedural by-law, council/staff relations policy, hiring of employees and other HR policies, etc.).
- increasing communications and providing education on these changes will be required for the public to best understand how decisions are being made by their municipal council or their strong mayor

The City Clerk, City Treasurer and City Solicitor are currently working with colleagues across the province to review best practices, established templates and review matters that have been decided via strong mayor powers to best inform Mayor and Council.

Appended to this report as Attachment B is a chart with Strong Mayor Powers and Duties, this is being provided as an information document to assist administration with a higher level of understanding on how these powers will affect the municipality in different forms.

FINANCIAL IMPLICATION

At this time, any financial impacts are unknown.

There may be additional cost for staffing to support the Mayor's Office as a result of increased requests and pressure on the Mayor's Office.

Should the Mayor dismiss or remove any members of administration without cause, there may be a financial impact to the city.

CONCLUSION

It is concluded that this report is provided for information for members of City Council, administration and the public.

BACKGROUND

September 8, 2022: **Bill 3, Strong Mayors, Building Homes Act, 2022** ("Bill 3") receives royal assent; in force November 23, 2022 (see Bill 3).

October 25, 2022: **Bill 23, Build More Homes Faster Act, 2022** is introduced the day after municipal voting across Ontario; written submissions to the Standing Committee due two days after the formation of new councils (e.g., no consultation with municipalities); Toronto and Ottawa have under a month to transition to “strong mayor powers” (see Bill 23).

November 23, 2022: **Ontario Regulation 530/22 (Part VI.1 of the Act)** comes into force; this regulation is an important companion to, and should be read together with, Bill 3. In particular, details about the budget process under strong mayor powers are provided, and other things prescribed (such as committees) for the purposes of Bill 3 (see O. Reg. 530/22).

December 8, 2022: **Bill 39, Better Municipal Governance Act, 2022** (“**Bill 39**”) receives royal assent; in force as of December 20, 2022 (see Bill 39).

June 16, 2023: Effective July 1, 2023, **twenty-six additional municipalities are given “strong mayor powers”**, in addition to Toronto and Ottawa, via amendment to Ontario Regulation 530/22 under the *Municipal Act, 2001* (see O. Reg. 180/23); these municipalities have only two weeks to transition to “strong mayor powers”.

August 21, 2023: Premier Doug Ford announces that **21 additional municipalities, including Thunder Bay, will be given strong mayor powers**, if their mayors commit in writing by October 15, 2023, to meet their respective provincially assigned housing targets. Any strong mayor powers granted to these additional municipalities will come into effect on October 31, 2023. Premier Ford encourages councils to prepare and submit a housing pledge by December 15, 2023, showcasing the strategies and actions that they will take to achieve their provincially assigned housing target.

August 21, 2023: Premier Doug Ford announces **brand new housing targets** for municipalities that had not been previously assigned one; Thunder Bay is assigned a housing target of **2,200 homes by 2031**; he also announces **a new provincial fund**, entitled “Building Faster Fund”, which is a three-year \$1.2 billion program to help municipalities exceed their provincially assigned housing targets, as described in their respective housing pledges. These funds can be directed toward housing-enabling infrastructure and related costs that support community growth. Eligible expenses under this fund and ways to track the progress of municipalities has yet to be determined. Access to this fund is contingent upon municipalities achieving at least 80% of its annual housing target; municipalities that are not achieving at least 80% of their annual target will receive no funding.

REFERENCE MATERIAL ATTACHED

Attachment A – Municipal Affairs and Housing – Councillors Guide (updated to include information about Strong Mayor Powers)

Attachment B- Strong Mayor Powers and Duties Chart

REPORT PREPARED BY

Krista Power, City Clerk including review by City Solicitor, Patty Robinet

REPORT SIGNED AND VERIFIED BY

Norm Gale, City Manager

09/11/2023