

**OC TRANSPO STRUCTURAL RELATIONSHIP AND  
ADMINISTRATIVE INTEGRATION WITH THE R.M.O.C.**

**JOINT COMMITTEE RECOMMENDATIONS**

**That Council approve the following:**

- 1. That the RMOC and OC Transpo proceed immediately with the integration of administrative functions and the streamlining of operations with a view to enhancing broad service and reducing costs.**
- 2. That the RMOC and OC Transpo establish a Transition Team, as set out in this report, to implement the administrative integration and streamlining process;**
- 3. That, as part of this transition to improve the accountability and control by Regional Councillors in public transit matters, the membership of the Transit Commission be increased from nine Regional Councillors to all members of Regional Council.**
- 4. That the former Transit Commission become the Transit Committee to report to Regional Council, sitting as the OC Transpo Commission, in the same manner as all other Standing Committees of Council.**
- 5. That the membership of the Transition Team be amended by replacing the Transit Commission's Manager of Human Resources with the Chair of the Transit Committee, Councillor A. Loney**

Our File/N/Réf.  
Your File/V/Réf.

DATE 11 February 1998

TO/DEST. Secretary, Ottawa-Carleton Regional Transit Commission  
Co-Ordinator, Corporate Services and Economic Development  
Committee

FROM/EXP. Chief Administrative Officer, RMOC and  
General Manager, OC Transpo

SUBJECT/OBJET **OC TRANSPO STRUCTURAL RELATIONSHIP AND  
ADMINISTRATIVE INTEGRATION WITH RMOC**

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### **DEPARTMENTAL RECOMMENDATIONS**

**That the OC Transpo Commission and the Corporate Services and Economic Development Committee recommend Council approve:**

- 1. That the RMOC and OC Transpo proceed immediately with the integration of administrative functions and the streamlining of operations with a view to enhancing broad service and reducing costs;**
- 2. That the RMOC and OC Transpo establish a Transition Team, as set out in this report, to implement the administrative integration and streamlining process.**
- 3. That, as part of this transition to improve the accountability and control of Regional Councillors in public transit matters, the membership of the Transit Commission be increased from nine Regional Councillors to all members of Regional Council;**

### **PURPOSE**

This joint report seeks the approval of both the Ottawa-Carleton Regional Transit Commission ("OC Transpo") and Regional Council to authorize changes to the reporting relationship of OC Transpo to render it more accountable to Regional Council by increasing the Transit Commission's membership from nine to all members of Council. In addition, this report recommends the creation of a joint Transition Team to proceed with integrating the administrative functions of OC Transpo and the Regional Corporation with a view to enhancing customer service and reducing costs overall.

## BACKGROUND

OC Transpo and its predecessors have been the suppliers of passenger transport in the National Capital for more than 130 years. In its current form, OC Transpo was incorporated in 1972 as the Ottawa-Carleton Regional Transit Commission by legislative amendment to the *RMOC Act*. As such, the Commission is an independent and largely autonomous body statutorily imbued with the responsibility for public transit on a Regional basis. A unique and significant feature of the transit system operated by OC Transpo is that it is a “federal undertaking” and thus subject to a variety of federal labour laws and related legislation, such as the *Canada Labour Code*, and the *Canadian Human Rights Code*. This situation arises by virtue of the *Constitution Act*, which provides that the federal Parliament has authority over interprovincial modes of transportation. In 1983, the Ontario Court of Appeal confirmed that OC Transpo was a federal undertaking and therefore subject to the jurisdiction of the federal government. Further detailed information about the legislative history of OC Transpo can be found at Annex “A”.

On June 11, 1997, the Regional Council adopted Motion No. 279 whereby Council supported “in principle the merger of OC Transpo administrative functions with regional administrative functions, where such mergers can reduce costs”. The motion further directed staff to advise how “services could be rationalized” and to provide “options for changing the current arm’s length relationship between the Transit Commission and Council to make transit service more accountable to the full Council”. The complete motion is set out at Annex “B”.

Furthermore, on June 18, 1997, the Ottawa-Carleton Regional Transit Commission passed a comprehensive motion which established a six member Steering Committee to undertake “a review of all aspects of the OC Transpo operation and structure”. The Steering Committee was also required to report its progress at regular meetings of the Commission (see Annex “C”).

This joint report constitutes the staff response to Regional Council’s Motion No. 279 while acknowledging the Transit Commission’s direction to its own Steering Committee.

## DISCUSSION

### A. Current Reporting Relationship of OC Transpo

Pursuant to the *RMOC Act*, the OC Transpo Commission is comprised of nine Regional Councillors, appointed by by-law of the Regional Council and is responsible for overseeing the operation of public transit in Ottawa-Carleton. The General Manager is the Chief Executive Officer of OC Transpo and, in accordance with the policies of the Commission, is responsible to the Commission for the operation and well being of OC Transpo. The organization currently has some 2,000 employees.

The *RMOC Act* gives the Transit Commission and the Regional Corporation the exclusive authority to operate the transit system in Ottawa-Carleton. In addition, the *Act* expressly enables Regional Council to enact by-laws with respect to a limited number of matters, including:

- a) the purchase of any real or personal property needed for passenger transport purposes;
- b) the conduct of persons on any vehicle or structure used in connection with passenger transport; and
- c) levies to meet any anticipated deficits which may arise out of the total operations of the Commission.

In 1990, Regional Council established a Task Force to review OC Transpo's operations with an emphasis on the quality of service provided to its customers. One of the Task Force's eighteen recommendations was that OC Transpo be established as a regional department. In response to this recommendation, reports put forward by the Region's Legal Department and OC Transpo in 1991 recommended that departmentalization not be pursued as a result of complex constitutional, corporate and labour relations reasons.

However, it was subsequently recommended that Regional Council should have greater input in the Commission's decision-making process, and the following motions were adopted on June 24, 1992:

- a) That Regional Council approve the Commission's budget;
- b) That all fare increases be approved by Regional Council;
- c) That Regional Council approve the Annual Service Plan; and
- d) that other major service changes be approved by Council.

To further enhance co-operation and co-ordination between Regional Council and the Transit Commission, it was agreed that the General Manager of OC Transpo become a member of the Region's Management Committee.

### Options for Change

The Council Motion No. 279 directed staff to explore options for changing OC Transpo's existing arm's length relationship in an effort to make transit service even more accountable to Regional Council. This direction made specific reference to "procedural by-law changes, changes to legislation, or other means that are available." This section will summarize the options reviewed.

### 1. Procedural By-Law

One of the options listed in Motion No. 279 was with respect to possible changes to the procedural by-law to effect the stated objective of revising the arm's length relationship between the Transit Commission and Regional Council. Both Regional Council and the Transit Commission are required by Section 55 of the *Municipal Act* to have procedure by-laws for "governing the calling, place and proceedings of meetings." While procedural rules may assist the parties in narrowing their arm's length relationship, such revisions would only be superficial and not constitute any real, fundamental change.

### 2. Legislation

A second, more traditional option is to amend the *RMOC Act* as it relates to the Transit Commission and its relationship with Council. While such statutory revisions could ultimately attain the desired result of making the "transit service more accountable to the full Council", this option presents a number of significant obstacles as well.

On the one hand, any amendments to the *RMOC Act* could not alter the fact that the OC Transpo service is a federally-regulated function. If transit were to be simply a department of the Region, then many uncertainties, complications and difficulties could arise in areas of collective bargaining, operating legislation, health and safety regulations and employee pension plans because of the different and competing provincial and federal regulatory regimes.

Further, should the parties seek to amend the *RMOC Act*, or insert clauses in the new *Municipal Act*, the final version of such legislation would be subject to approval by the Provincial Government - thereby leaving the decision to another level of government. The exact time required for the passage of legislation is almost impossible to predict, and staff have been repeatedly advised that the Government's legislative agenda is full.

### 3. Other Means

One other option to be considered in this respect is Bill 26, otherwise known as the *Savings and Restructuring Act, 1996*, S.O. 1996, c. 1. Although some of the reforms to the *Municipal Act* were not directly applicable to regional municipalities, (e.g. the mergers and amalgamations provisions), one section concerning local boards does apply. Section 210.4(2) provides as follows:

- (2) Despite any Act, if a local board is the local board of a single municipality, the council of the municipality may by by-law *dissolve* or *make prescribed changes* to the local board.

Set out below is a brief analysis of the two options available in Bill 26, Section 210.4(2).

(a) Dissolve the Local Board

It seems clear that under Bill 26, Regional Council has the statutory authority to dissolve a local board such as OC Transpo despite the establishment of the Commission in the *RMOC Act*. However, this radical solution is not recommended.

To begin with, the law provides that upon the dissolution of such a local board, “the municipality stands in the place of the board for all purposes”. Therefore, all rights, claims, undertakings and obligations, as well as assets and liabilities of the local board, would then vest in the municipality. Unfortunately, such a dissolution would still have no effect on the fact that the transit system in Ottawa-Carleton is a federal undertaking and subject to federal laws. In addition, the labour relations concerns set out above in “(2) Legislative Amendments”, would arise once again under this scenario.

(b) Make Prescribed Changes

The term “prescribed changes” merely refers to those changes set down in the regulations to the *Act*. Section 5(1) of Ontario Regulation 214/96 sets out the following changes which a municipality may, by by-law, make to a local board:

1. It may assume one or more of the powers of the board ... .
2. *It may make any changes it considers advisable related to membership on the board, including changes related to the number of members, their terms, their remuneration and the manner by which they become members.*
3. It may dispense with any requirement to elect members to a board and replace those members, after their current term has expired, with members appointed to the board by the municipality.
4. It may change the name of the board.
5. It may require the board to follow any rules and procedures it may specify related to,
  - a) the provision of information, including information concerning its estimates and finances,
  - b) requiring approval of its estimates or amendments to its estimates by the municipality, and

- c) the manner in which the board applies the money paid to it by the municipality.

Briefly, it is submitted that the prescribed changes available in paragraphs 3 and 4 above are not relevant for the purposes of this report. Furthermore, the potential changes described in paragraph 5 have largely already been mutually agreed upon between the parties by their actions in 1992. Similarly, the possibility in paragraph 1 of the RMOA assuming “one or more powers” of OC Transpo could constitute a precarious undertaking which would, once again, retain all the labour relations problems cited above.

Therefore, the staff recommendation is for Regional Council to apply paragraph 2 in order to expand the current size of the Transit Commission to include all members of Regional Council for the reasons set out below.

For the past twenty-five years, the *RMOA Act* has established the composition of the Transit Commission as “nine members of Regional Council appointed by by-law.” The precise electoral method for choosing these nine Councillors was subsequently incorporated into Section 80 of the RMOA Procedure By-Law. However, Bill 26 and its regulations now provide that Regional Council may, by by-law, “make any changes it considers advisable related to membership on the board, including changes related to the number of members.”

Therefore, such a by-law could,

- effect a relatively speedy change to the membership of the Transit Commission without waiting for untimely and uncertain legislative changes to either the *RMOA Act* or the new *Municipal Act*;
- change the membership of the Commission which would have no substantive effect on the federal nature of the transit operations in Ottawa-Carleton. In essence, such a change would be labour-relations neutral and not invite any of the employment-oriented problems listed earlier in this report; and
- ensure that OC Transpo’s corporate status and public identity remains intact.

## B. Integration of Administrative Services

### Transition Team

One of the many “Mega Week” announcements was that the Provincial Government will no longer provide funding for public transit. It is estimated that this would mean a loss of approximately \$28,000,000 annual operating subsidy (not including any capital subsidy). As a result, starting in 1998, funding for public transit will come from only two sources - municipal property taxes and the fare box. With these ever increasing funding pressures, streamlining administrative and support functions between the two organizations where savings can be made makes good business sense.

It is recommended that a Transition Team be established to oversee the legislative aspects of the changes cited above and to ensure the administrative integration is comprehensive and successful. The Transition Team would be chaired by the Chief Administrative Officer and be comprised of the General Manager, OC Transpo, the Regional Solicitor, the Human Resources Commissioner and the Transit Commission’s Manager of Human Resources. This team will co-ordinate and review proposals for administrative streamlining of such matters as:

1. human resources information system (“H.R.I.S.”);
2. financial systems renewal (“FSR”);
3. procurement and materials management; and
4. all other matters appropriate for integration or streamlining.

Reports will be brought forward to the OC Transpo Commission and/or Regional Council for information or approval depending on content, as progress occurs.

The reviews directed by both motions (one of Regional Council and one of the Transit Commission) involve considerable overlap of the review of administrative functions. This report recommends that where costs can be reduced some administrative functions be streamlined immediately and that some be streamlined after further review by the Transition Team. As well, the Comprehensive Review, directed by the OC Transpo Commission, relates to many service delivery areas. Thus, when decisions are made regarding the service delivery areas, further administrative efficiencies may be identified.



CONCLUSION

Approval of the recommendations in this report will enable Management to expedite Regional Council's direction with respect to the reporting relationship of OC Transpo to Council and the streamlining of common administrative and support functions between OC Transpo and the Corporation.

Respectfully submitted,

C.M. Beckstead  
Chief Administrative Officer

Ian G. Stacey, P.Eng.  
General Manager, OC Transpo

JDC/MRO/CMB/IGS/pc  
Attach (3)

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**ANNEX "A"**

**REGIONAL MUNICIPALITY OF OTTAWA-CARLETON**  
**MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON**

**MEMORANDUM**  
**NOTE DE SERVICE**

Our File/N/Réf.  
 Your File/V/Réf.

DATE 12 December 1997

TO/DEST. Donna Carter, CAO's Office

FROM/EXP. Jacqueline V. Loignon, Solicitor

SUBJECT/OBJET **ANNEX "C" - OC TRANSPO LEGISLATIVE HISTORY AND  
 RELATIONSHIP TO REGIONAL COUNCIL**

**LEGISLATIVE HISTORY**

The legislative history at the Ottawa-Carleton Regional Transit Commission (OC Transpo) dates back to 1866 when the Ottawa City Passenger Railway Company was first created for the purpose of transporting passengers on a horse drawn street railway. This company was incorporated by special act of the Province of Canada. While the original company operated first only in Ottawa and then adjoining municipalities, in 1892, another Federal act was passed allowing the company to extend lines into Quebec. This work was declared to be for the "general advantage of Canada" but subject to statutes of Ontario and Quebec in relation to street railways. Throughout the years, numerous pieces of legislation were passed, both federally and provincially, allowing for the more efficient operation of the transit system. The most significant piece of legislation in recent years was the *Regional Municipality of Ottawa-Carleton Amendment Act*, S.O. 1972, c. 126, which created the Ottawa-Carleton Regional Transit Commission, and granted exclusive authority to the Region and the Commission to operate the transit system<sup>1</sup>

**FEDERAL UNDERTAKING**

There is no doubt that the exclusive authority to operate the transportation system is vested with OC Transpo and the Regional Corporation<sup>2</sup>. This having been said however, there are certain particularities which, over the years, have impacted on the structure of OC Transpo. Indeed, in 1866, when the Ottawa City Passenger Railway Company was incorporated, it was incorporated

<sup>1</sup> *Regional Municipality of Ottawa-Carleton Act*, R.S.O. 1990, c. R.14, s. 11(2).

<sup>2</sup> *The Regional Municipality of Ottawa-Carleton Act*, R.S.O. 1990, c. R.14, s. 11(4) & 12(1).

by virtue of a Federal act. In addition to this, because of the operation of a regular bus service into Hull, the nature of the service provided by OC Transpo went beyond that of ordinary

municipalities. Indeed, the interprovincial service meant that it fell within the jurisdiction of the Federal Parliament. This is what is meant by “federal undertaking”.

The notion of a Federal undertaking arises as a result of the *Constitution Act* of 1867. Pursuant to section 92(10) of the *Constitution Act*, the Federal Parliament is vested with the authority over interprovincial modes of transportation. In addition to this, the Federal Parliament has the authority to unilaterally declare a work to be “for the general advantage of Canada or for the advantage of two or more of the provinces”. The term “undertaking” has been equated with “organization” or “enterprise”. In addition to this legislative division of powers in the *Constitution Act*, there is decided case law concerning the Ottawa-Carleton Regional Transit Commission which very clearly confirms OC Transpo as a Federal undertaking coming within the legislative jurisdiction of Parliament. Indeed, the Court of Appeal stated that “by reason of the legislative history, OC Transpo inherited and assumed an undertaking that was Federal in nature and subject to the legislative jurisdiction of Parliament.”

The significance of the Federal undertaking is the application of Federal legislation in relation to OC Transpo in the following areas: labour relations, employment standards, human rights, employment equity, occupational health and safety, and pension benefits.

### **AUTHORITY AND REPORTING STRUCTURE**

As indicated above, the Commission and Region have the exclusive authority to operate the transit system in Ottawa-Carleton<sup>3</sup>. There are certain subtleties in terms of the wording of the *Regional Municipality of Ottawa-Carleton Act*, and some ramifications but, for all intents and purposes, the authority to operate the transit system vests with the Region and the Commission. The powers given to OC Transpo and Regional Council concerning passenger transportation services include the following:

1. Operating a passenger transport service;
2. Fixing fares;
3. Constructing parking lots and structures for vehicles in connection with the transport system;
4. Providing pension and retirement plans and other benefits to employees; and
5. Regional Council may pass by-laws subject to compliance with the laws of the Province of Quebec, to permit the Commission to transport and convey passengers.

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<sup>3</sup> The Commission consists of nine members of Regional Council; *Regional Municipality of Ottawa-Carleton Act*, R.S.O. 1990, c. R.14, s.11(2).

In 1990, a task force was struck and given the responsibility of reviewing OC Transpo's operations and was asked to provide recommendations for change. One of the recommendations

of the report was that OC Transpo be established as a department of the Regional Municipality of Ottawa-Carleton. This recommendation was referred to the Regional Solicitor to prepare an opinion, in consultation with OC Transpo and the CAO. A number of different reports were put forward by the Legal Department and OC Transpo. In these, because of constitutional and labour difficulties, it was recommended that departmentalization not be pursued. Notwithstanding this position, it was suggested that Regional Council have a greater input in the Commission's decision-making process. As a result, the following recommendations were adopted by Regional Council.

1. that Regional Council approve the Commission's budget;
2. that all fare increases be approved by Regional Council;
3. that Regional Council approve the Annual Service Plan; and
4. that other major service changes be approved by Council.

Later on, it was further agreed that the General Manager of OC Transpo become a member of Management Committee.

This then is where matters presently stand. The legislative issues which arose in 1992 of course remain relevant for current discussions. If you require further information, please advise me and I'll get it to you as soon as possible.

*Jacqueline V. Loignon*

JVL:cab

ANNEX "B"

THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
DISPOSITION OF COMMITTEE REPORTS TO COUNCIL  
11 JUNE 1997

POSTPONEMENTS AND DEFERRALS

MOTION NO. 279

Moved by Councillor A. Munter  
Seconded by Councillor P. Hume

WHEREAS public transit is a service of regional government with a significant taxpayer contribution and significant public priority; and

WHEREAS OC Transpo's separate structure means it has its own communications and public affairs, transportation planning, finance and administration, human resources, information systems and equipment maintenance departments, running in parallel to regional government departments that carry out the same functions; and

WHEREAS OC Transpo has faced provincial budget cuts of approximately \$10 million and has made decisions to accommodate this loss in revenue; and

WHEREAS the merger of numerous OC Transpo administrative functions with regional functions would allow for considerable savings and thus reduce the impact on service;

THEREFORE BE IT RESOLVED THAT Regional Council support in principle the merger of OC Transpo administrative functions with regional government, where such mergers can reduce costs; and

FURTHER THAT the Regional Auditor prepare a report outlining how services could be rationalized; and

FURTHER THAT the Chief Administrative Officer prepare a report on options for changing the current arm's length relationship between the transit commission and Council to make transit service more accountable to the full Council, including how this could be accomplished through procedural by-law changes, changes to legislation or other means that are available; and

FURTHER THAT these reports be brought to Council by January 15, 1998.

"CARRIED"

**ANNEX “C”**

Excerpt from OC Transpo Commission Minutes of 97-06 (cont’d)

The complete approved amended motion now reads as follows:

That the Ottawa-Carleton Regional Transit Commission order a review of all aspects of the OC Transpo operation and structure.

That the review be performed by a steering committee composed of:

- two members from the Commission
  - two members representing unionized personnel
  - two members representing the non-unionized staff
- and that the RMOC Internal Auditor provide administrative support to the Steering Committee and act in the capacity of Project Manager under direction from the Steering Committee.

That the Steering Committee engage the assistance of specialists in the field of public transit, to complete this task in a thorough and timely manner.

That the review include the service requirements of both current transit users and non-users.

That the review examine the current operational plan of OC Transpo and the operation of comparable transit systems in other jurisdictions.

That all aspects of OC Transpo’s labour-management practices be analyzed.

That this review fully recognize and respect the current collective agreements between OC Transpo and its unions.

That a budget, in an amount to be determined by the OC Transpo Commission, be provided for this project.

That the Steering Committee report, at regular Commission meetings, on the progress of the Steering Committee.

That consultation with the Regional Transit Advisory Committee be a part of the Terms of Reference.

That a marketing analysis be carried out to determine the marketing program needed to move OC Transpo towards the proposed Official Plan growth in ridership.

That the planning advocacy function be examined to determine the necessary structure/needs to meet the growth in ridership for the next 25 years for the planning horizon of the Official Plan.