Provincial Elections 2007 Mississauga Matters

Current Value Assessment, Airport Payment in Lieu of Taxes and Tax Increment Corporate Report

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COUNCIL AGENDA
25 APR 2007

DATE: April 17, 2007

TO: Mayor and Members of Council
Meeting Date: April 25, 2007

FROM: Janice M. Baker, CA
City Manager and Chief Administrative Officer

SUBJECT: **Provincial Election 2007: Current Value Assessment, Airport Payment in Lieu of Taxes and Tax Increment Financing**

RECOMMENDATION:

1. That the report entitled "Provincial Election 2007: Current Value Assessment, Airport Payment in Lieu of Taxes and Tax Increment Financing" dated April 17, 2007 from the City Manager and Chief Administrative Officer, being one in a series of corporate reports regarding matters of importance relating to the upcoming October 10, 2007 provincial election, be received for information.

2. That Council endorse that any party wishing to govern the Province of Ontario needs to commit to the City of Mississauga that it will:
   a. maintain current value assessment as the basis upon which property taxes are calculated;
   b. implement and maintain a four-year reassessment cycle with phase in of reassessment related increases;
   c. eliminate the non-residential property tax cap and clawback and extend a four-year phase-in of reassessment increases to the non-residential classes;

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d. eliminate the per passenger formula used to calculate the GTAA payment in lieu of taxes on exempt airport property and implement a payment in lieu of taxes calculation based on the current value of the property at the applicable municipal tax rate;
e. consult with municipalities for the purposes of amending the current legislation and implementing meaningful and effective tax increment financing tools.

BACKGROUND:

A provincial election is a critical event which causes us to reflect on past achievements and look to the future to better understand and articulate actions that are required to ensure the Province of Ontario continues to flourish and be a premier location for businesses and residents.

For the first time in Ontario, the province has set a fixed election date, of October 10th, 2007, and this allows key stakeholders, such as the City of Mississauga, to structure their approach to influencing political party policy.

This is the second in a series of papers that will be brought forward to articulate the critical issues that impact the City of Mississauga where most attention needs to be paid.

After all corporate reports in this series have been received, the City Manager and Chief Administrative Officer will bring forward a summary report of these issues and the next steps towards engaging key stakeholders and provincial parties with the view to favourably influencing provincial policies on issues of major importance to the City of Mississauga. This summary report is expected to be presented at the June 20th, 2007 meeting.

While there are many issues that the City of Mississauga has with the provincial government ranging from Pit Bull legislation to a review of the Library Act, staff will outline the major issues where policy needs to be set or changed. Other issues will continue to be monitored and reports prepared to Council at the appropriate time.

This report reviews Current Value Assessment, Payment in lieu of taxes for Pearson Airport and Tax Increment Financing.

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COMMENTS:

Current Value Assessment (CVA)

The Province of Ontario introduced current value assessment in 1998 with a province wide common valuation date of June 30, 1996. Prior to 1998, valuation dates ranged from the 1940's to the 1990's at the discretion of the municipality. It was difficult for taxpayers to verify their assessment value since it was not expressed in current dollars. In addition, there was no ongoing program to keep assessments current. As a result, inequities crept into the system to the point where similar properties had significantly different assessments and therefore paid different amounts of property tax. The Province committed to keep the assessments up to date and properties were reassessed in 2001, 2003, 2004 and 2006.

The new property tax system was then distorted when the Province legislated capping for commercial, industrial and multi-residential properties for 1998 taxation after the final tax bills were issued. Reassessment related tax increases were capped at 10, 15 and 20% of 1997 taxes for 1998, 1999 and 2000 respectively. In 2001, and for subsequent years, the cap was changed to 5% of the previous year's taxation. In 2005, municipalities were given the option to increase the cap to 10% of the previous year's taxes, and/or 5% of the previous year's CVA taxes and/or to bill properties at CVA if they were within a threshold amount of CVA taxes, generally $250. The cap is funded through a clawback of reassessment related tax decreases. In addition, the Province legislated a special system for new commercial, industrial and multi-residential properties whereby their level of taxation is compared to other properties and reduced if it could be shown that other similar properties paid lower taxes. These changes to the system perpetuated the inequities of the old system where similar properties could pay different amounts of property tax.

In 2006 following the Provincial Ombudsmen's report, *Getting it Right*, the Province deferred reassessment until 2008 for 2009 taxation to allow MPAC time to implement the recommendations. In the 2007 budget, the Minister of Finance announced that reassessment would begin again in 2008 with updates every four years (i.e. 2012, 2016, R-4-c

etc.). Further, reassessment increases for residential properties would be phased in over each four-year period while decreases would be immediate.

When the Province implemented CVA in 1998, it stressed the need to value properties appropriately in relation to one another and to calculate the property tax on that basis. It also provided municipalities with the tools to mitigate the impact of reassessment if they so desired. In late 1998, after the final tax bills were issued, the Province took a step away from pure CVA as the basis for the property tax with the implementation of the commercial and industrial property tax cap and clawback.

Following reassessments in 2001, 2003, 2004 and 2006, opposition to CVA grew as the volatility of CVA in a rising market became apparent.

In 2006, the Provincial Ombudsman reviewed the assessment system as a result of a number of complaints. The Ombudsman in his review made 22 recommendations. They dealt with the information to be provided to taxpayers interested in understanding how their assessment was determined and in improving the Request for Reconsideration and ARB processes. None of these recommendations suggested that CVA was an inappropriate basis for taxation.

Also in 2006, the NDP Task Force on Property Taxes released a report recommending that a "freeze till sale" assessment system be adopted for residential properties. The Task Force recommended that assessments be frozen at their January 1, 2005 value until the property is sold or until renovations totalling more than $40,000 have occurred.

In March 2006, *The Homestead Act* was introduced as a private members bill by Tim Hudak, MPP for Erie-Lincoln. Bill 75 proposed a cap of 5% on the increase that can occur in the assessment of residential property if the owner of the property is the same as the owner of the property in the immediately preceding taxation year or is a child or spouse of that owner.

In March 2007, John Tory, the leader of the Progressive Conservative opposition, announced a key platform promise to cap residential property assessment increases to 5% per year as long as an individual owns their home.

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In March 2007, as noted previously, the Liberal government of Dalton McGuinty announced changes to the assessment cycle and proposed a four-year mandatory phase-in of assessment increases.

If the budget proposals are enacted, assessment volatility for residential properties would likely be reduced while ensuring that assessment is updated on a regular basis. With any mitigation measure, there will be some dissimilarity in taxes paid by similar properties since increases are phased in and decreases are granted immediately. However every fourth year, all properties will be fully valued at CVA based on a valuation date four years earlier.

Mississauga Council has supported current value assessment since it was legislated in 1998. This budget measure maintains CVA. It does have the advantage of addressing some of the concerns expressed by residential taxpayers with respect to large tax increases resulting from reassessment. It also allows reassessment related tax decreases to flow directly to the taxpayer.

As with any measure where a group of taxpayers are conferred a benefit, some other group of taxpayers must pay. It is not clear at this time if only taxpayers in the residential class will provide this subsidy or taxpayers of all classes will provide this subsidy.

The legislation received first reading on March 22, 2007 which outlined the general framework for a four-year reassessment cycle and residential phase-in. The implementation details will be contained in the regulations which are still being written. It is unknown how complicated this will be to implement and who will be responsible for its implementation (i.e. MPAC, upper-tier, lower-tier or some combination).

Staff are recommending that the Province's proposal for a four-year phase-in of reassessment related tax increases and immediate recognition of assessment related tax decreases be supported. As noted previously, this approach maintains CVA as the basis for property taxation, and is therefore consistent with Council's past

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position on CVA. From our experience with residents over the past nine years, we are of the opinion that some limited tax mitigation is necessary to address the volatility problem. We also believe that this measure will restore the public's support for CVA. Without change, we are concerned that a future government might introduce mitigation measures that ruin the integrity of a CVA based taxation system and return the Province to the inequitable system in place prior to 1998 where similar properties paid dissimilar taxes.

Staff are also of the opinion that the Province replace the non-residential property tax cap with the residential assessment phase-in plan. In 2006, only 50% of the non-residential properties were paying taxes based on CVA. As noted earlier, the non-residential property tax cap is complicated and difficult to understand. Further it results in cross municipal subsidies to pay for the cap. An end to the cap would also end the clawback used to finance the cap.

Airport Payment in Lieu of Taxes

Property taxation in Ontario is based on Current Value Assessment. Federal and provincial properties are exempt from property taxation and generally pay a Payment in Lieu of Taxes (PILT) that approximates the taxes that would be paid if the property was not exempt. In most cases, the PILT is calculated based on the CVA of the property. Since the airport is a Federal property, it is exempt from property taxes. The Greater Toronto Airports Authority (GTAA) which operates the airport under a long term lease is considered to be a tenant of this Federal property. Tenants on Federal property are generally assessed as owners and pay taxes not PILTs. The GTAA is treated differently and must pay a PILT as determined by the Ontario Minister of Finance.

Section 45.1 of O. Reg. 282/98 specifies that the GTAA will pay a PILT which is calculated at $0.94029 per passenger as reported by Statistics Canada for the third year preceding the taxation year (i.e. for 2007 taxation, the 2004 passenger count will be used). Increases in passenger count are capped at 5% of the previous year. Decreases in passenger count are not capped. The per passenger rate has not changed since the legislation was enacted in 2001.

Appendix 1 provides a summary of the Airport's exempt and taxable assessment and related PILT and tax payments from 1999 to 2006. There are a number of problems with the PILT legislation. The per passenger rate has not increased since it was legislated in 2001. During that time, the City has increased its tax rate by 21% on an assessment adjusted basis. Clearly use of an unchanging per passenger rate is not reflective of the City's budget funding requirements and allows the GTAA to avoid paying its fair share of City services.

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The GTAA property has undergone significant change with the demolition of old terminal one, the building of new terminal one and parking garage, the purchase of the Boeing lands and building, the renovation of terminal three, the building of a co-generation facility, the LINK people mover and the future demolition of terminal two. Had the PILT been based on assessment, the City would have received additional revenue as a result of this expansion. In fact, the PILT has declined because the passenger count decreased and there is no provision in the legislation to adjust the PILT for property improvements.

When the per passenger PILT methodology was established in 2001, (well before 9/11 and SARS) the City advised the Minister that it made little sense to cap the PILT. Given that GTAA revenue fluctuates with landing activity and passengers, there was no need to cap an expense that was based on a revenue stream. In addition, the PILT is calculated based on the number of passengers from a period three years earlier than the tax year. The amount of the PILT can be estimated well in advance of billing. There is no uncertainty as to amount and hence no risk to the GTAA caused by variability in the number of passengers. In 2007, the GTAA will receive a significant benefit from capping. This benefit is expected to be approximately $2.5 million. This loss of revenue must be passed on to all City taxpayers, not just those in the same property class. The GTAA's financial statements have noted that passenger growth increased at an average annual compounded rate of 7.8% from 2003 to 2006. This means that the City will experience continuing revenue losses resulting from the cap on passenger count.

Using assessment as a basis for taxation of tenants at the airport and

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using a different basis - passenger count - for taxation of the GTAA can lead to legitimate steps by the GTAA to reduce tax burdens for its tenants. This can be done by structuring the use of leased property so that control of the area remains with the GTAA. For example, check-in kiosks are no longer assigned to only one airline; they rotate throughout the day depending on flight schedules. As a result, individual airlines do not pay taxes for check in areas; these are now PILTable spaces paid for by the GTAA. Tax revenue goes down with no corresponding increase in the PILT. Similarly the parking garage is exempt from taxation because it is owned and operated by the GTAA. If it were leased out to a third party it would be taxable. The City loses tax revenue as a result.

Tax Increment Financing Act, 2006

The *Tax Increment Financing Act, 2006*, S.O. 2006, c. 33, Sched. Z.7 (the "TIF Act") was enacted on December 6, 2006 to authorize the Province to assist in funding designated municipal projects through tax increment financing. Eligible projects under the TIF Act include the construction of municipal infrastructure or amenities, the environmental remediation of land and the construction of municipal public transit facilities.

While new to Canada, tax increment financing has been widely used in the United States as a municipal financing tool to kick start both public and private development or redevelopment which would not have otherwise occurred. In the U.S., tax increment financing has been used primarily to facilitate the redevelopment of blighted urban areas, but has also been used to finance infrastructure improvements such as educational facilities, roads, bridges, parking facilities, recreational facilities, water and waste water facilities and electrical power plants.

The mechanics of the TIF Act are to be prescribed by way of regulation, however, as of the date of this report, no regulation has been filed. The result is that the detailed mechanics of tax increment financing under the TIF Act are not clear at this time. Typically, tax increment financing is arranged in the following manner. A TIF Authority, in our case a municipality or other approved entity, will identify a project, such as the development of a parking structure or road, to be constructed using tax increment financing. Then the geographic area which will benefit from the project is defined (the "TIF District"). If the project and associated business plan is approved by the relevant authority, in our case the Lieutenant Governor in Council, the TIF Authority will raise money and fund the project by way of the issuance of TIF Bonds. The incremental tax/assessment increases expected to be generated in the TIF District by the project are pledged to the repayment of the TIF Bonds – the municipality's general tax base is not usually pledged as additional security. Only the additional property tax revenues which have resulted from the project in the TIF District are used to pay off the TIF Bond, and the municipality continues to collect the same amount of property taxes as it did prior to the completion of the project. The net result is the completion of a project which, but for tax increment financing, would not have been built. Additionally, the project will have been self-funded without having to increase property taxes, or imposing additional or special taxes.

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Under the TIF Act, in order to apply for provincial assistance/approval a municipality must prepare a feasibility study for submission to the Minister of Finance. If the Lieutenant Governor in Council considers it to be in the public interest, the Lieutenant Governor in Council may designate the project, establish the TIF district for the project and authorize the Minister of Finance to enter into a funding agreement for the project. The funding agreement provides for the making of payments by the Minister of Finance to fund part of the cost of the project. The amount of the provincial assistance is calculated based on the projected future increase in education tax revenues in the TIF District as a result of the works undertaken by the municipality.

The details and contents of any feasibility study or funding agreement prepared or entered into in accordance with the TIF Act, are to be prescribed by regulation.

The TIF Act relies heavily on the regulations to be filed thereunder to provide the direction and detail necessary for the purposes of preparing the feasibility studies and funding agreements required by the TIF Act. One can assume that the requirements for such studies and funding agreements will be onerous. In the absence of the required regulations, the relationship and potential for duplication between the

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process under the TIF Act and the process currently provided for in section 28 of the *Planning Act*, R.S.O. 1990, c. P.13 (Community Improvement Plans) is unclear, with the exception that tax increment financing will be primarily limited to municipal infrastructure works while grants or loans to private parties are permitted under the *Planning Act*. Additionally, the TIF Act does not address how the impacts of tax capping and reassessments will be dealt with. As a further limit, the TIF Act restricts the total amount of tax increments that can be used in a given year to 1 percent of the total taxes for municipal purposes that are expected to be raised in that year. In the case of the City of Mississauga, 1% equals approximately $6.4 million consisting of $2.4 million at the City level and $4 million at the Regional level. Details relating to the issuance of TIF Bonds are also absent, and must be provided for by way of the regulations.

Given the above noted limitations, at this time, it is unclear how the TIF Act will be of benefit to most municipalities. In its current form, the TIF Act appears to be a mechanism for the Province to divert the education portion of the property tax levy to limited pilot projects (i.e. the Toronto-York Subway expansion) that meet Cabinet approval.

FINANCIAL IMPACT: These recommendations will assist in using the property tax as a fair method of raising appropriate revenues for a municipality.

CONCLUSION: Current Value Assessment should remain as the basis upon which property taxes are calculated. CVA is easy to understand and verify. The 2007 Provincial budget has proposed maintaining CVA with a four-year phase-in of assessment increases between reassessments for residential properties. This would reduce assessment volatility while maintaining CVA as a basis for assessment. The budget proposal should be supported and the Province requested to replace the non-residential cap/Clawback with the four-year phase-in approach.

The payment in lieu of tax paid by the GTAA is based upon an arbitrary methodology established by the Minister of Finance of Ontario that bears no relationship to the value of the property. The PILT should be based upon the assessed value of the property which would be consistent with the manner in which other properties are taxed. This would ensure that the GTAA is treated fairly relative to

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other City taxpayers and that the GTAA contributes its fair share towards the City's budget requirements.

As a financing tool, tax increment financing could be used to assist municipalities in meeting the challenges of intensification and redevelopment. However, in its current form, the TIF Act is too limited in scope and lacks the clarity necessary for municipalities to even consider using tax increment financing in order to meet these challenges.

ATTACHMENTS: Appendix 1: Airport Properties 1999-2006

Janice M. Baker, CA
City Manager and Chief Administrative Officer

Prepared By: Jeffrey J. Jackson, Director, Revenue and Materiel Management Division

Appendix 1

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AIRPORT PROPERTIES 1999-2006

TAXABLE	Assessment Base Year 1996		Assessment Base Year 1999		Assessment Base Year 2001	Assessment Base Year 2003		Assessment Base Year 2005
	1999	2000	2001	2002	2003	2004	2005	2006
CVA Roll	694,858,432	660,949,500	520,614,700	523,815,700	538,277,070	560,505,700	550,411,700	761,977,200
CVA Taxes	26,167,883	24,869,679	16,562,564	16,739,707	15,636,536	15,676,908	15,618,909	19,631,297
Net Capped Amount	(9,807,925)	(9,059,304)	(657,375)	(3,347,326)	(406,373)	(456,898)	(1,230,717)	(1,707,923)
Tax Levied	16,359,957	15,810,375	15,905,889	13,401,093	15,230,163	15,220,010	14,388,192	17,923,374

PILT	Assessment Base Year 1996		Assessment Base Year 1999		Assessment Base Year 2001	Assessment Base Year 2003		Assessment Base Year 2005
	1999	2000	2001	2002	2003	2004	2005	2006
CVA Roll	1,157,109,568	1,200,574,500	2,051,237,000	2,098,645,000	2,028,068,430	2,094,396,000	2,161,837,000	2,389,149,700
CVA Tax Equivalent	43,197,669	45,108,830	65,067,168	65,935,848	58,028,290	57,904,562	60,629,065	60,985,985
PILT Shortfall	(20,064,442)	(22,437,185)	(41,169,763)	(41,016,599)	(32,421,343)	(34,047,792)	(37,953,757)	(39,478,019)
PILT Paid	23,133,227	22,671,645	*23,897,405	*24,919,249	*25,606,947	*23,856,770	*22,675,308	*21,507,966

TOTAL	Assessment Base Year 1996		Assessment Base Year 1999		Assessment Base Year 2001	Assessment Base Year 2003		Assessment Base Year 2005
	1999	2000	2001	2002	2003	2004	2005	2006
CVA Roll	1,851,968,000	1,861,524,000	2,571,851,700	2,622,460,700	2,566,345,500	2,654,901,700	2,712,248,700	3,151,126,900
Taxes and PILT Payments	39,493,184	38,482,020	39,803,294	38,320,342	40,837,110	39,076,780	37,063,500	39,431,340

Note: 1) For purposes of comparison for 1999 and 2000 Terminal 3 is shown in the chart as half taxable, however it was totally paid as a PILT.
2) 2001, 2002, 2003, 2004, 2005, 2006 tax years - No supplementary assessments are included in chart

*PILT paid based on passenger volume.