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Toronto Police Services Board

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June 24, 2008

Mr. Bill Fisch
Chair
Council of the Regional Municipality of York

and to:

✓ Councillor Joyce Frustaglio
Chair, Transit Committee
Regional Municipality of York

17250 Yonge St.
Newmarket, Ontario L3Y 6Z1

Dear Chair Fisch and Chair Frustaglio:

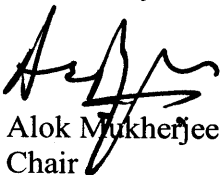
Re: Response to Clause No. 3, Report No. 8 of the York Transit Committee

At its meeting on May 21, 2008, the Toronto Police Services Board (the "Board") considered a report from the Chief of Police containing a response to the Regional Municipality of York's request that York Region's special constables be appointed as special constables in the City of Toronto.

The Board received the Chief's report and agreed to forward copies to you for information.

A copy of the Minute, which contains the Chief's report, is attached. If you have any questions regarding this report, please contact Staff Sergeant Gord Barratt, Special Constable Liaison Officer, Toronto Police Service, at 416-808-8399.

Yours truly,


Alok Mukherjee
Chair

attach: TPSB Minute No. P132/08
cc: Staff Sergeant Gord Barratt, Special Constable Liaison Officer, Toronto Police Service



**THIS IS AN EXTRACT FROM THE MINUTES OF THE PUBLIC MEETING OF THE
TORONTO POLICE SERVICES BOARD HELD ON MAY 21, 2008**

**#P132. RESPONSE TO REGIONAL MUNICIPALITY OF YORK'S REQUEST
 THAT YORK REGION'S SPECIAL CONSTABLES BE APPOINTED AS
 SPECIAL CONSTABLES IN THE CITY OF TORONTO**

The Board was in receipt of the following report dated April 18, 2008 from William Blair, Chief of Police:

Subject: STATUS REPORT - YORK REGION TRANSIT REQUEST FOR SPECIAL
 CONSTABLE APPOINTMENT WITHIN THE CITY OF TORONTO

Recommendation:

It is recommended that:

- (1) the Board receive this status report; and forward a copy of this report to the Council of the Regional Municipality of York and the Regional Municipality of York Transit Committee.

Financial Implications:

There are no financial implications relating to the recommendation contained within this report.

Background/Purpose:

At its meeting on November 15, 2007, the Council of the Regional Municipality of York (Regional Council) adopted without amendment Clause No. 3, Report No. 8 of the Transit Committee. By the adoption of the foregoing clause, Regional Council authorized the following:

1. The City of Toronto be requested to consent to the enforcement of By-law R-1415-2005-028 by York Region Transit enforcement staff within the jurisdictional boundary of the City of Toronto.
2. The Region enter into an agreement with the City of Toronto, if required, for the enforcement of the By-law, on terms satisfactory to the General Manager, Transit.
3. Regional staff be authorized to request the Toronto Police Services Board to appoint York Region's Special Constables as Special Constables within the City of Toronto.
4. The Region enter into to an agreement with the Toronto Police Services Board governing the powers and duties of Special Constables within the boundaries of the City.

5. The Regional Chair and Regional Clerk be authorized to sign the agreements with the City of Toronto and the Toronto Police Services Board, respectively, subject to approval by Legal services.
6. The Regional Solicitor review and amend the Transit By-law, if necessary, to ensure enforceability within the City.
7. The Regional Clerk forward this report to the City of Toronto and the Toronto Police Services Board for appropriate action.

The York Regional Clerk's Office forwarded a copy of Clause No. 3, Report No. 8 of York Region's Transit Committee to the Chair of the Toronto Police Services Board (the Board). The Board's Executive Director, Joanne Campbell requested the Chief of Police to review the York Transit Committee recommendations and provide a report to the Board. In light of the direction provided by the Board through the Chief of Police, the purpose of this report is to provide a report on the status of the York Transit Committee's recommendations as outlined in Clause No. 3, Report No. 8.

Historical Overview

In January 2001, the Regional Municipality of York (York Region) amalgamated the local conventional transit systems in Vaughan, Aurora, Richmond Hill, and Markham to create York Region Transit (YRT). The YRT has a fleet of over 300 vehicles and an annual ridership in excess of 15 million trips.

In April 2005, the Regional Council enacted By-law R-1415-2005-028 to regulate the use of public transit vehicles and facilities in the York Region.

YRT is responsible for the management of the operations of the new rapid transit service called "Viva", on behalf of the York Region Rapid Transit Corporation. Commencing in September 2005, YRT implemented the first phase of Viva, which is a rapid transit network along 4 key transportation corridors in York Region.

YRT initiated the use of a Proof-of-Payment (POP) fare collection system on the rapid transit service rather than the traditional Pay-on-Entry fare collection system currently in use on the conventional bus service. POP is an honour-based fare collection system, similar to the system used by GO Transit, requiring the passenger to purchase a ticket before boarding. To increase the speed of boarding, there is no checking of tickets at the door however, random inspections are conducted to ensure that fares have been properly paid. YRT has been using two person teams comprised of a ticket inspector and a special constable to perform these inspections.

In September 2005, the York Regional Police Services Board and the York Region entered into a joint services agreement to facilitate an 18 month YRT special constable pilot project. The pilot project commenced on January 1, 2006 and concluded on June 30, 2007. Pursuant to Section 53 of the *Police Services Act* (the Act), the York Board, with the approval of the Minister of Community Safety and Correctional Services appointed 8 YRT special constables with the

following specific enforcement powers to perform the fare enforcement activities for the newly implemented POP system.

Specific Enforcement Powers – York Regional Transit Special Constables

York Regional Transit special constables have the following Peace Officer powers as set out in the Criminal Code of Canada, with respect to the sections indicated below:

Section 129	Obstructing or Resisting a Peace Officer
Section 139(2)	Obstructing Justice
Section 362 (2)(b)	False Pretence Under \$5000.00
Sections 366, 367 (1)	Forgery
Section 368	Utter a Forged Document
Section 380	Fraud Under \$5000.00

Police Officer powers under various other provincial statutes were not requested by the YRT as part of the pilot project.

YRT special constables act in a law enforcement capacity by enforcing the YRT by-law, which covers both POP and conduct, and can escalate to criminal charges, if warranted, for issues that arise from fare evasion. Other matters are dealt with either through police intervention or utilizing authorities under the *Trespass to Property Act* as agents of the owner, or the arrest without warrant by anyone and owner of property sections [494.(1), 494.(2)] of the Criminal Code of Canada.

The geographic jurisdiction of the YRT special constables is restricted to the property and vehicles under the control of the Regional Council situated within the boundaries of York Region.

The Ministry of Community Safety and Correctional Services (Ministry) established a YRT Special Constable Pilot Project Review Team. The team reviewed all aspects of the pilot project performance measures and confirmed YRT's compliance with the York Police Services Board agreement and the terms and conditions established by the Ministry.

At the conclusion of the successful YRT pilot project, the York Police Services Board supported ongoing special constable status for YRT special constables for a five-year period with the same geographic jurisdiction and purpose as exercised during the pilot project.

Discussion:

The Toronto Police Service (TPS) has established an excellent working relationship with non-police employers of special constables participating in the Board's special constable program, as well as, other agencies and police services across Ontario.

As part of our Service's ongoing partnership with special constable agencies, the TPS Special Constable Liaison Officer, Staff Sergeant Gord Barratt, was a member of the Ministry's YRT Special Constable Pilot Project Review Team. The YRT special constable program has now been operating for almost one-year, following the successful 18-month pilot project.

The 4 key YRT transportation corridors in York Region all have Viva bus routes crossing into the City of Toronto, with destination/turnaround locations at York University, Toronto Transit Commission (TTC) subway stations at Downsview and Don Mills, the GO Transit Finch Terminal, Woodbine Race Track and Humber College. The YRT special constables are limited to conducting fare enforcement only within the geographic jurisdiction of their special constable appointments which currently does not include the City of Toronto.

Pursuant to Section 53 of the Act, YRT is seeking Board appointment of their special constables as special constables to conduct fare enforcement within the boundaries of the City of Toronto.

The request by YRT to appoint their special constables in more than one jurisdiction is not unprecedented. Several years ago, the TTC entered into separate agreements with the York Region and Peel Region Police Services' Boards for the administration of TTC special constables while conducting enforcement activities on TTC bus routes in their respective regions. The TTC special constables are not authorized to enforce TTC By-law No. 1 when outside the boundaries of the City of Toronto.

The TPS, Special Constable Liaison Officer has reviewed the correspondence from the York Regional Clerk's Office, regarding the York Council Transit Committee's recommendations contained in Clause No. 3, Report No. 8. As a result, Mr. Angelo Apfelbaum, the YRT Supervisor of Transit Enforcement has been consulted. Mr. Apfelbaum was instrumental in the development, implementation and successful completion of the YRT special constable pilot project and he currently manages the YRT special constable program.

Mr. Apfelbaum advises that Recommendation No. 1 is currently being reviewed by the York Regional Solicitor to determine the feasibility of the request. At the time of this report it has been confirmed that the By-law referred to in Recommendation No. 1 has not been forwarded to the City of Toronto for its consideration. As a result, any further action on Recommendation No's. 2 and 6 is dependent upon a final decision by the City of Toronto.

In order to determine the feasibility of proceeding with Recommendation No's. 3, 4, and 5, YRT has been requested by the TPS Special Constable Liaison Officer to prepare and submit to the TPS a business case outlining the justification for the appointment of YRT special constables as special constables within the boundaries of the City of Toronto.

Recommendation No. 7 was completed by the York Regional Clerks Office and led to the creation of this status report.

Conclusion:

There are many issues which need to be resolved before the Board makes a final decision on bestowing special constable status to York Region's special constables. Most importantly, there needs to be consent by the City of Toronto to allow for the enforcement of By-law R-1415-2005-028 by York Region Transit enforcement staff within the jurisdictional boundary of the City of Toronto. Secondly, subject to the receipt and review of a formal business case from York Region Transit to justify the appointment of YRT special constables as special constables within the boundaries of the City of Toronto, a report, complete with recommendations will be submitted to the Board at a future meeting.

Deputy Chief A.J. Warr, Specialized Operations Command, will be in attendance to answer any questions that the Board may have regarding this report.

The Board received the foregoing report and agreed to forward a copy to the Council of the Regional Municipality of York and the York Transit Committee.