

To: Board of Directors
From: Penny Wyger
Vice President, Business Services
Date: July 6, 2009
Re: By-law No. 5 – Appointment of Officers for By-law Enforcement Purposes

EXECUTIVE SUMMARY

The Board is required by the *Metrolinx Act, 2006* (the “Act”) to appoint officers to enforce the Corporation’s fare by-laws and parking rules. Rather than requiring that the Board appoint specific individual employees by name, the proposed By-law enables the Board to appoint a class of employees who will become officers once they commence employment with the Corporation. Those officers will cease to be enforcement officers if they cease to be employed by the Corporation or if their job changes within the Corporation. The By-law numbering has been changed to reflect the new sequencing of by-law numbers for the merged organization.

RECOMMENDATION

BE IT RESOLVED:

THAT the Board repeal By-law No. 4 of the former Greater Toronto Transit Authority (“GO Transit”) regarding the appointment of Provincial Offences Officers;

AND THAT the Board approve a new By-law No. 5 regarding the class of employees that Metrolinx (the “Corporation”) designates as officers for the purposes of enforcing by-laws of the Corporation pursuant to section 21(5) of the *Metrolinx Act, 2006*;

AND FURTHER THAT the Chair and Secretary be authorized and directed to sign the attached restated By-law No. 5 of the Corporation.

BACKGROUND

As part of the mandate of the Transit Safety Office, staff are tasked with enforcing by-laws passed pursuant to section 21(1) of the Act. These by-laws govern the terms and conditions upon which tickets are sold, the legal requirements for travel on the regional transit system and parking rules and regulations. Largely, these by-laws are enforced through the issuance of provincial offence tickets with minor monetary fines. These processes are governed through the *Provincial Offences Act* and as such only a designated provincial offences officer may issue tickets.

In addition, the Transit Safety Office employs staff who are further appointed as Special Constables pursuant to the *Police Services Act* and have additional authorities. These staff have a broader provincial offences officer status and can enforce additional provincial acts.

Section 21(5) of the Act requires that officers be appointed in writing. It is necessary for the Board to enact the attached by-law to provide provincial offences officer status to those employees who, by job description, are employed to administer or enforce the by-laws of the Corporation. This by-law supplements a letter designating such classes of persons as provincial offences officers issued by the Honourable Jim Bradley, Minister of Transportation in May 2009, a copy of which is attached.

Historically by-laws named individual officers and required constant amendment when officers were hired or left the Corporation. The attached, revised by-law reflects a new format which designates the class of officers by job requirement; consequently, the appointment is effective immediately upon commencing duties in that classification and ceases when the employee is no longer performing that job function or is no longer employed with the Corporation. This will greatly improve the effectiveness and timeliness of getting new officers into the field to perform their functions. This new approach is consistent with how many municipalities appoint their enforcement personnel.

BUDGET POSITION

This amendment will have no impact on the operating budget.

ATTACHMENTS

1. Draft By-law 5
 2. Provincial Offences Designation Letter
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Respectfully submitted,

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BY-LAW NO. 5

A by-law regarding
to the appointment of officers for the purposes of
administering and enforcing by-laws of the Corporation
passed under section 21(1) of the *Metrolinx Act, 2006*.

METROLINX (the “Corporation”)

BE IT ENACTED as a by-law of the Corporation as follows:

WHEREAS subsection 21(5) of the *Metrolinx Act, 2006* (the “Act”) provides that the Corporation may appoint in writing one or more of its employees as an officer or officers for the purposes of administering the by-laws passed under Section 21(1); and

WHEREAS subsection 21(5.1) of the Act provides that any person appointed under Section 21(5) is a constable at common law for the purposes administering and enforcing the by-laws passed under Section 21(1); and

WHEREAS subsection 21(5.2) of the Act provides a person appointed under Section 21(5) of the Act is deemed to be an officer appointed for carrying out the provisions of the *Highway Traffic Act* for the purposes of section 33 of that Act while the person is on land owned, leased or occupied by the Corporation or its subsidiary corporation for the purpose of the regional transit system or any local transit system or other transportation service provided by the Corporation or its subsidiary corporation by agreement with a municipality; and

WHEREAS subsection 21(6) of the Act provides that a person appointed under subsection 21(5) shall, while carrying out his or her duties under the appointment, have in his or her possession a certificate of the appointment and shall produce the certificate upon request;

This by-law provides:

1. THAT By-law No. 4 and By-law No. 5 and any amendments thereto of the Greater Toronto Transit Authority are repealed and the by-law contained herein shall become By-law No. 5 of the Corporation with respect to the appointment of officers for the purposes of administering and enforcing by-laws of the Corporation passed under section 21(1) of the Act; and
2. THAT any person employed by the Corporation for the purposes of administering or enforcing any of the by-laws passed under section 21(1) of the Act by the Corporation is hereby appointed an officer for that purpose upon commencing their employment; and
3. THAT the appointment of a person as an officer for that purpose shall cease immediately upon such person ceasing to be an employee of the Corporation or upon such person ceasing to be employed by the Corporation for the purposes of administering or enforcing any of the by-laws passed under section 21(1) of the Act; and
4. THAT all such employees shall be provided with a certificate of appointment by the Corporation and the certificate of appointment shall be carried by such employee while carrying out their duties.

This By-law No. 5 is hereby consented to and passed by the Board of Directors of the Corporation, this 13th day of July, 2009, pursuant to section 21(5) of the *Metrolinx Act, 2006*.

Chair

Secretary



DESIGNATION OF PROVINCIAL OFFENCES OFFICERS METROLINX

WHEREAS Metrolinx is a corporation without share capital continued under subsection 2(1) of the *Metrolinx Act, 2006* (“Act”);

AND WHEREAS Metrolinx may pass by-laws under subsection 21(1) of the Act with respect to its operation of the regional transit system or any local transit system or other transportation service provided by agreement with a municipality;

AND WHEREAS Metrolinx may under subsection 21(5) of the Act appoint in writing one or more of its employees as an officer or officers for the purposes of administering and enforcing the by-laws of Metrolinx passed under 21(1) of the Act;

AND WHEREAS under subsection 1(3) of the *Provincial Offences Act* a minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.

Pursuant to subsection 1(3) of the *Provincial Offences Act*, I hereby designate the classes of persons described in Column 1 of the following Table as provincial offences officers for the purposes set out opposite that class in Column 2 of the Table:

Table

Column 1 – Classes of Persons	Column 2 – Purposes of Appointment
All persons employed by Metrolinx who are appointed under subsection 21(5) of the <i>Metrolinx Act, 2006</i> as officers of Metrolinx for the purposes of administering and enforcing the by-laws of Metrolinx passed under subsection 21(1) of the <i>Metrolinx Act, 2006</i> , or who, on or before May 13, 2009, were appointed under subsection 11(6) of the <i>GO Transit Act, 2001</i> as officers of the Greater Toronto Transit Authority for the purposes of carrying out the by-laws of the Greater Toronto Transit Authority passed under subsection 11(1) of the <i>GO Transit Act, 2001</i>	All offences under the by-laws of Metrolinx passed under subsection 21(1) of the <i>Metrolinx Act, 2006</i> and under the by-laws of the Greater Toronto Transit Authority passed under subsection 11(1) of the <i>GO Transit Act, 2001</i> and continued under subsection 43(6) of the <i>Metrolinx Act, 2006</i> .
All persons employed by Metrolinx appointed as special constables under section 53 of the <i>Police Services Act</i> .	All offences under the <i>Highway Traffic Act</i> , the <i>Liquor Licence Act</i> , the <i>Safe Streets Act, 1999</i> and the <i>Trespass to Property Act</i> .

This designation shall come into operation on the _____ day of May, 2009.

Dated this _____ day of May, 2009.

Jim Bradley
Minister of Transportation