

Memorandum

Date: December 14, 2020

To: Members of Council

From: Devan Lobo, Senior Business Analyst, Corporate Projects, Corporate Strategy and Innovation

Subject: Composition Review of Regional Council

This memo is in response to Council's request for more information on the history of composition reviews of Peel Regional Council.

Current Context

Currently, the Region of Peel operates as a two-tiered governance model, the Region being the upper-tier, while the Town of Caledon, City of Brampton and City of Mississauga are the lower-tiers. As the upper-tier, the Region receives a portion of the tax levy raised in each lower-tier municipality, providing specific services, such as water, waste management, and social services as outlined in the Region of Peel Act.

Geographically the largest municipality in the Region, Caledon has a land area of about 688 square kilometres, making up 56% of the land area of Peel Region. Consisting of both rural farmland and several urban communities, Caledon is a growing municipality with a population of 75,270 (as of Q2 2020). It is projected that steady growth will continue over the foreseeable future, with the Town reaching 300,000 people by 2051.

The Region of Peel and the lower-tier municipalities have reviewed Regional Council governance and composition several times. The composition was last amended in 2005 through Bill 186, modifying Regional Council composition to 24 members total, with Mississauga, Brampton and Caledon at 12, 7 and 5 seats respectively. This composition remains status quo today.

As per the Region of Peel Procedural By-law 56-2019, thirteen members of Council, including at least one member representing each local municipality, are necessary to form a quorum at a meeting of Council. Additionally, the Region of Peel has 14 active committees and advisory boards, many of which require within their Terms of Reference at least one member from each area municipality. Currently, Caledon has at least one representative on 13 of the Region's committees and advisory boards and 5 local boards and special purpose bodies that make up the Regional governance model.

Background on Current Composition

The Regional Municipality of Peel, comprised of the Cities of Brampton and Mississauga and the Town of Caledon, was incorporated in 1974, as part of the Province's larger move to a regional government model. While issues regarding Peel regional governance and representation were raised in the 1990s, and municipal ad hoc committees established, no changes to Peel Regional Council composition were made during this time.

On October 23, 2002, the City of Mississauga Council endorsed a Citizen Task Force's recommendation by passing a resolution requesting the Province of Ontario permit the transition of the City of Mississauga to a separated city in advance of the 2006 municipal election. The City of Mississauga commissioned a financial analysis to predict the property tax impacts to each of the lower-tier municipalities if the Region of Peel was dissolved.

In 2004, the Honourable Justice George W. Adams, at the request of the then Minister of Municipal Affairs and Housing, facilitated discussions between the Mayors and CAOs of the four municipalities in the Region of Peel, on various matters of mutual interest, including regional representation. In 2004, Justice Adams provided a set of recommendations, that in time for the 2006 elections, Mississauga's regional representatives be increased from 10 to 12, Brampton's regional representatives be increased from 6 to 11 with each municipality agreeing to a weighted vote at Peel Regional Council. Currently used by several upper-tier municipalities in Ontario and Canada, weighted voting splits an allocated number of votes among a set of representatives. In this case, Justice Adams recommended starting from the 2006 term, weighted votes equal to eight members for Brampton until 2009 when Brampton would receive 11 full votes , and Caledon to retain its 5 regional representatives. The Region of Peel endorsed Adams' recommendations to address service delivery issues, however, a local consensus was not achieved with respect to regional council representation and Justice Adams' recommendations did not take effect.

In 2005, the Province passed Bill 186, Regional Municipality of Peel Act, which changed Peel Regional Council make up to include an appointed chair, increasing the City of Brampton's representation from 6 to 7, maintaining 5 representatives for the Town of Caledon and increasing the City of Mississauga from 10 to 12 representatives (the current composition).

The rationale for this model was:

- A fair and balanced approach to composition that better reflected the population distribution in Peel
- No single lower-tier municipality has voting control of the regional council
- Comparison of the Caledon representation to that of Northern municipalities in the Provincial legislature, in terms of fair representation
- Breaking ties via the Regional Chair

Reviews of Model Since 2005

2013 Request for Additional Seats from the City of Brampton

In 2013, the Region of Peel established a Task Force to consider a request from Brampton to add four representatives. The result of this Task Force was a recommendation that the status quo for regional representation be maintained with direction to staff to report back to the newly elected Regional Council in early 2015 to initiate a review of Regional governance in order that any desired changes may be in place for the 2018 Municipal Election.

Following these recommendations, Brampton City Council passed a resolution for the Mayor to request a meeting with the Province to immediately initiate the process to amend the Region of Peel Act authorizing the Region to add four regional representatives from Brampton in time for the 2014 term of Council. In response, Mississauga presented four options to address the City of Brampton's request to Council – status quo; representation by population (principle of votes carrying equal weight/the number of people represented by a councillor should be equal/allocating council seats on the basis of population); modified representation by population; or implement Justice Adams recommendation including weighted voting. In the end, no changes were made in time for the 2014 election.

2015 Peel Regional Governance Task Force

Regional Council established the Peel Regional Governance Task Force to review governance, options for election of the Regional Chair and composition of Regional Council. Caledon Council engaged former CAO, Patrick Moyle as a senior advisor to Caledon Council on the Region of Peel Governance review.

The Regional Task Force retained the services of a facilitation team to assist in the development of options for future Council governance. A number of observations and interests were identified and considered as part of the analysis. The Task Force found that there was little appetite for directly elected regional councillors or weighted voting. In addition, the task force identified a strong appreciation for difficulties of a mixed model of area and regional representation, strong desire to avoid increasing the size of council and the need to reset size and composition with each election, recognition that growth requires change and there should be a formula for future changes, that Mississauga wants to maintain 50% of vote share without increasing their delegation size, Brampton wants their full delegation at the Region and Caledon wants to maintain their delegation as is.

On May 24, 2016, Caledon Council reviewed the options from the Task Force and supported the options that would increase representation of Brampton and Mississauga but still maintain the number of Caledon representatives. Meanwhile, Mississauga Council voted to seek their independence and leave the Region, and Brampton Council supported an option to make Regional Council increase to 32 seats; 11 for Brampton, 5 for Caledon, and 16 for Mississauga.

Caledon Council decided to continue to maintain the position that Caledon should have a minimum of 5 representatives on Regional Council given the demand for growth, financial issues facing taxpayers and the Province's proposed GTA East/West Corridor.

In its final report, the Task Force provided four options for Regional Council to consider. The four options were as follows:

1. Increase Brampton's representation by 4 to 11 seats, for a total of 28 regional council seats.
2. Increase Brampton's representation by 4 to 11 seats, and Mississauga's by 4 to 16 seats, for a total of 32 regional council seats.
3. Increase Brampton's representation by 2 to nine seats, and decreasing Caledon's by 2 to 3 seats, maintaining a total of 24 regional council seats.
4. Increase Brampton's representation by 2 to 9 seats, and Mississauga's by 2 to 14 seats for a total of 28 regional council seats.

Regional Council endorsed the Task Force's Option 2 to increase the size of Council to 32 seats, with the rationale that there is a need for greater representation for Brampton, for Mississauga to maintain 50% of the regional seats, preserve effective representation for Caledon and that it is a reasonable compromise that meets collective interests. Both the Town of Caledon and City of Brampton supported Option 2. Since Mississauga Council did not support the recommendation, the request did not meet the Province's "triple majority" rule requiring majority support of regional council, support by the majority of lower-tier councils, that represent the majority of electors, the Province rejected the change in composition. Other motions were put forward; however, no changes were made to the make up of Regional Council at this time.

2019 Provincial Review of Regional Municipalities

On January 15, 2019, the Province announced the regional government review of eight regional municipalities in Ontario focusing on efficiency and effectiveness of governance, decision-making and service delivery. Caledon's Mayor and CAO met with special advisors conducting the review, advocating for Caledon's interests, that Caledon has worked effectively within the structure, the importance of a made-in-Peel solution, and the role Caledon plays in the economic and environmental sustainability of the Region of Peel.

The Town's unanimous position on regional governance has been to continue with the two-tier governance structure in the Region of Peel and offer to engage in a joint municipal/regional exercise to explore and identify operational and service efficiencies.

In response to this review, the Region created a Regional Council Policies and Procedures Committee to review the Region's Council operational structure, procedures and regulatory tools and provide recommendations to Regional Council regarding: Council transparency and accountability; Council's effective and efficient decision making structures and procedures; and, methods/tools to build on current practices. Three financial analysis of Peel governance options were also completed at this time:

- The City of Mississauga updated the financial analysis regarding Peel dissolution, citing specific recommendations and cost savings to the City. The report claims that Mississauga provides \$84 million more per year to the Region than it receives in services. Mississauga Council endorsed the position that the Province make Mississauga a single-tier municipality as the City's preferred option for regional government.
- The Region commissioned an independent financial analysis of Peel governance options by Deloitte. The release of Deloitte's report in March prompted Region of Peel Council to request further information.
- The Region of Peel passed a motion directing the CAOs of the Brampton, Caledon, Mississauga and Region of Peel to jointly undertake a financial analysis of three governance scenarios. The scenarios included: status quo, amalgamation of the four municipalities and dissolution of the

Region of Peel into three single-tier municipalities. The Ernst & Young (EY) report *Financial Impact Analysis of Service Delivery Models* that was produced from this analysis highlights potential cost increases with changes to municipal government in Peel.

In the end, the Province decided to not make any changes related to Regional Governance, and instead allow for local communities to decide what is best for them. Additionally, the Province asked municipalities to focus on finding ways to find efficiencies and improve service delivery.

Throughout all of these reviews, Caledon Council's position has remained the same which is that any changes to the make up of the Region of Peel should not come at the cost of any of Caledon's five seats.

Municipal Act's Updated Requirements for Composition Reviews

In 2018, the Municipal Act was amended requiring regional governments to review its composition within a specific timeframe. Section 218 (6) of the Municipal Act, 2001, as amended, requires that a regional municipality review, for each of its lower-tier municipalities, the number of members of its council that represent the lower-tier.

If within two years of the date that the new Council is organized following the regular election in 2018, the regional municipality does not:

- Pass a by-law to change, for one or more of its lower-tier municipalities, the number of the members of its council that represent the lower-tier municipality; or
- Pass a resolution to affirm, for each of its lower-tier municipalities, the number of the members of its council that represent the lower-tier municipality, the Minister of Municipal Affairs and Housing may make a regulation changing the composition of the Council of the regional municipality.

When considering whether to make such a regulation, the Minister shall, in addition to anything else the Minister wishes to consider, have regard to the principle of representation by population.

A regional by-law or resolution under Section 218 is not valid unless triple majority support is received. Prior to passing a by-law to change or maintain the composition of Regional Council, public notice of Council's intention to pass a by-law or resolution must be given and at least one public meeting held to consider the matter. A change in Regional Council's composition must occur before December 31, 2021 if it was to take effect for the 2022 election under this regulation.

Region of Peel's Review Under this Regulation

At the Region's February 2020 Policies and Procedures Committee meeting, the Committee deferred a report regarding the review of Regional Council Composition and discussion to a future meeting. On October 1, 2020, the Committee deferred the item until February 2021 and requested the following be provided at the next meeting:

- a review of Regional Municipalities including number of seats assigned, representation by population, method of seat allocation, and indication of which municipalities have completed composition reviews;
- a review of the City of Ottawa's formula for seat allocation using a mix of representation by population and area; and
- the history of the Region of Peel's composition review including considerations and recommendations provided by previous consultants.

At the meeting in October the minutes reflect that the Regional Clerk informed the Committee that a decision was to be made by December 31, 2021 for the composition to be effective for the next term of Council beginning in 2022.

On November 25, 2020, Brampton Council passed resolution that the Region of Peel be requested to add additional Brampton Regional Councillors to Peel Council in time for the October 2022 Municipal Election based on the principle of representation-by-population.

On November 26, 2020 Regional Council adopted a resolution regarding the Composition of Regional Council, for notice to be given in accordance with legislation, that the Region intend to adopt a by-law to change the number of its members that represent the City of Brampton and the Town of Caledon by increasing the number representing Brampton by 2 to 9 members and decreasing the number representing Caledon by 2 to 3 members to be effective for purposes of the municipal election to be held in October 2022. The resolution also directed staff to organize a public meeting to be held to consider the matter of Council's intention, which has been scheduled for December 17, 2020.

Following the Public Meeting the proposed by-law would be presented for enactment. If enacted by Regional Council, the by-law would be forwarded to the local municipalities requesting that they pass resolutions consenting to the by-law by a specified date. Region of Peel staff would report to Regional Council to confirm receipt of consent (or not) from the local municipalities. In order to be valid, the by-law would need to have what is referred to as a "triple majority".

If triple majority is achieved and the proposed by-law is passed by December 31, 2021, the change will at a minimum be in effect for the 2022 term of council until 2026.

If within two years of the day the new council is organized, a regional municipality does not pass a by-law to change its composition or pass a resolution to affirm its composition, the Minister of Municipal Affairs and Housing may make a regulation changing the composition. After December 6, 2020, the Minister could get involved.

The Region's November 26, 2020 resolution brings Brampton's regional representation closer to representation by population, however, does not achieve the intent of Brampton's November 25, 2020 resolution for full representation and does allow Mississauga to maintain majority of the vote share.

On November 30, 2020 the Town of Caledon held a Special Town Council meeting with respect to the composition of Regional council and passed a motion requesting the Province provide the Region of Peel an extension until March 31, 2021 to decide its council composition under section 218 of the Municipal Act. Caledon asked that the Minister of Municipal Affairs respond to the request by December 16, 2020.

On December 9, 2020 both the City of Brampton and City of Mississauga adopted resolutions supporting the by-law related to the proposed changes to regional council composition. Furthermore, Mississauga is requesting the Region hold a Special Meeting of Council following the December 17, 2020 public meeting for the purposes of dealing with the proposed by-law.

Key Considerations

Throughout discussions of council composition, the factors that are often taken into account include:

- Level of fairness and balance of approach
- Representation by population
- Effective representation which includes:
 - representation by population, as well as
 - geography,
 - community history,
 - community interests and
 - minority representation
- Current and projected population
- Environmental sustainability
- Area, households, eligible voters
- Ward size
- Fiscal history
- Practices of peer jurisdictions
- Practices of federal and provincial levels of government
- Public notice and participation
- Vote share, vote control and voting trends
- Workload of representatives
- Impact to taxpayers
- Size of council
- Efficiency of council
- Governance model options
- Service delivery
- Powers and duties under the Municipal Act
- Timing

Other Regional Municipalities

During the 2014-2018 Council term, Durham, Halton and Niagara Regions each changed their councils' composition without the Provincial Minister making a regulation. Niagara added a representative for the Township of West Lincoln. Halton added two representatives for the Town of Milton and one for the Town of Oakville. Durham reallocated two representatives from the City of Oshawa, shifting one representative to the Town of Ajax and another representative to the Town of Whitby and maintaining their council size. Along with Peel, the Regions of Waterloo and York are required under the Municipal Act (s.218) to review their compositions in advance of the 2022 term. On September 24, 2020, York enacted and passed a by-law to add an additional representative for the City of Vaughan to take effect for the 2022 election.

Although the composition of these regional municipalities includes both urban and rural lower-tier municipalities, the Region of Peel is unique with two urban lower-tier municipalities and one rural lower-tier municipality.

Caledon's Official Position

With respect to regional council composition, Caledon Council's position has remained the same which is that any changes to the make up of the Region of Peel should not come at the cost of any of Caledon's five seats.

If a change in composition takes effect, Caledon's ward boundary review will consider the change and recommendations will be made on where appropriate representation should be within the Town for Council's consideration.

Attachments

Schedule A: Justice Adams Facilitation Report to the Region of Peel

Schedule B: Region of Peel Report - Recommendations Arising from the Governance Review Task Force