

Bill No. 284
2009

By-law No. A.-6377-206

A By-law to continue the London Transit Commission.

WHEREAS the *City of London Act, 1951 c. 107* authorizes the Council of The Corporation of the City of London to establish by by-law a Commission under the name of the London Transportation Commission;

AND WHEREAS by By-law Number L.T.C.-1-158 passed May 19, 1952 the Council of The Corporation of the City of London established a Commission under the provisions of the *City of London Act, 1951 c. 107* under the name of the London Transportation Commission;

AND WHEREAS The Corporation of the City of London acquired all the outstanding shares of the London Street Railway Company and in accordance with the *City of London Act, 1951 c.107* section 15 was empowered to direct the transfer of all the London Railway Company's assets, both real and personal property and pursuant to an agreement dated May 29, 1952 and authorized by By-law L.T.C.-3-168 enacted June 2, 1952 between The Corporation of the City of London, the London Street Railway Company and the London Transportation Commission directed the transfer of the said assets to the London Transportation Commission;

AND WHEREAS by By-law No. L.R.C.-2(a)-247 enacted May 23, 1967 authorized and confirmed by the *City of London Act, 1968 c. 158 s. 1* the affairs of the London Railway Commission were wound up and the London Railway Commission ceased to exist;

AND WHEREAS the *City of London Act, 1951 c. 107* was amended by *City of London Act, 1952, c. 124, s.4, City of London Act, 1960-61, c.115, s.3, City of London Act, 1971, c.117, s.5, City of London Act, 1972, c.181, s.1, City of London Act, 1973, c.194, s.2, City of London Act, 1974, c.148, s.8, City of London Act, 1977, c.92, s.8, City of London Act, 1978, c.128, s.4 and City of London Act, 1991, c. Pr2, s.1, 3, 4;*

AND WHEREAS pursuant to the *City of London Act, 1977, c.92, s.8, and the City of London Act, 1991, c. Pr2, s.1* the London Transportation Commission was continued as a body corporate under the name of the London Transit Commission;

AND WHEREAS pursuant to the *Municipal Act, 2001 S.O. 2001, c. 25, as amended*, the London Transit Commission is a local board of The Corporation of the City of London;

AND WHEREAS subsection 5(3) of the *Municipal Act, 2001*, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001*, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001*, as amended, provides that a municipality may pass by-laws respecting: in paragraph 1, Governance structure of the municipality and its local boards, paragraph 3, Financial management of the municipality and its local boards, paragraph 5, Economic, social and environmental well-being of the municipality and in paragraph 7 services and things that the municipality is authorized to provide under subsection 10(1);

AND WHEREAS subsection 69 of the *Municipal Act, 2001*, as amended, provides that a municipality that has the authority to establish, operate and maintain a type of passenger transportation system may by by-law provide that no person except the municipality shall establish, operate and maintain all or any part of a passenger transportation system of that type within all of the municipality or that area of the municipality designated in the by-law;

AND WHEREAS subsection 3(1) of *The City of London Act, 1960-61* provides that the London Transit Commission has the exclusive right within the City of London to maintain and operate a bus service that picks up and discharges passengers within the limits of the City, including, without limiting the foregoing, transportation within the limits of the City by charter, contract, special trips or otherwise;

AND WHEREAS section 71 of the *Municipal Act, 2001*, as amended, provides that nothing in subsection 3 (1) of *The City of London Act, 1960-61* or in section 69 affects the right of any person to establish, operate and maintain a bus transportation system within the City of London in accordance with a valid operating licence issued to that person under the *Public Vehicles Act* on or before December 31, 1992;

AND WHEREAS subsection 216(1) of the *Municipal Act, 2001*, as amended, provides that without limiting sections 9 and 10 of the Act, those sections authorize a municipality to pass a by-law to change a local board;

AND WHEREAS subsection 216(2) of the *Municipal Act, 2001*, as amended, provides that in the event of a conflict between a by-law described in subsection 10(1) of the Act and any provision of this or any other Act or in the event of a conflict with a regulation made under any other Act, the by-law prevails;

AND WHEREAS the Council for the City of London considers it necessary to provide a local public transportation system;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE The Council of The Corporation of the City of London hereby enacts as follows:

1. For the purpose of this by-law,

“Corporation” means The Corporation of the City of London;

“Commission” means The London Transit Commission, and “commissioner” means a person holding the office of a member thereof;

“Council” means the Council of the Corporation;

2. The London Transit Commission is continued as a body corporate with the powers, rights and privileges vested in it by any general or special Act except as modified by this by-law.

3. The Commission shall consist of five members appointed by the Council of the Corporation as follows:

(a) Two or three members of the Commission, as determined by the Council on or before the 15th day of February in the first year of its term, shall be members of the Council and shall hold office during their term of office of the Council.

(b) The members of the Commission who are not members of the Council shall be appointed by the Council on or before the 15th day of February in the first year of its term and shall hold office during the term of the Council that appointed them.

(c) No person is eligible to be appointed or to hold office as a member of the Commission unless that person is qualified to be elected or to hold office as a member of the Council of the Corporation.

(d) A member of the Commission shall hold office until the member’s successor is appointed.

(e) If the office of a member of the Commission becomes vacant, the Council shall appoint a person to hold office for the remainder of the term for which the preceding member was appointed.

(f) No member shall be appointed for a term that extends beyond the term of the Council that appointed them.

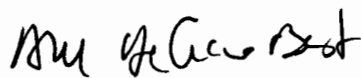
(g) A member of the Commission is eligible for reappointment.

4. Three members of the Commission constitute a quorum.
5. The Commission may pass by-laws for the government and control of its affairs, operations and undertakings.
6. The Commission is the agent of the Corporation and shall operate, repair, control and manage the local transportation system of the municipality on behalf of the Corporation.
7. Except as otherwise provided in this by-law, the Commission shall possess and may exercise all the powers, rights, authorities and privileges with respect to the operation, extension, alteration, repair, control and management of the local transportation system of the City of London and all powers now conferred or hereafter conferred upon the Corporation or the Commission with respect thereto. Subject to the provisions aforesaid, such powers, rights, authorities and privileges shall include full power, right, authority and privilege,
 - (a) to manage, operate, establish, equip, alter, extend and maintain a bus system over the streets and public places in the City of London, and, subject to *The Highway Traffic Act* and *The Public Vehicles Act*, upon, along, across and over streets, highways and public places throughout Ontario;
 - (b) to purchase, lease, acquire and use stock, plant, equipment and property, real and personal, for the purposes aforesaid;
 - (c) to take, transport, carry and convey passengers by means of such local transportation system, together with the right, subject to *The Highway Traffic Act* and *The Public Vehicles Act*, to take, transport, carry and convey passengers throughout Ontario whether by chartered trips or otherwise;
 - (d) to appoint, employ, discharge, fix the salaries and wages of, and to pay all employees of the Commission for the purposes aforesaid, and to specify the duties of all persons so employed, and enter into agreements with such persons, classes of persons, unions and bargaining units; provided no contract of employment shall be made for any term or length of service not exceeding four years, and no contract may be made which may not be terminated at any time for cause;
 - (e) to agree from time to time with any chartered bank or trust company for temporary advances to meet with expense of operating and maintaining such transportation system; provided the total amount so borrowed from all sources shall not at any time exceed the sum of \$100,000, or such greater amount as may from time to time be authorized by by-law of the Council;
 - (f) to enter into agreements with the Corporation for all or any of the following: the payment to it annually of such sums as may be agreed upon in lieu of payment of taxes upon the lands used in connection with the transportation system or upon the business thereof, the performance of services by the Commission to the Corporation, the maintenance or contribution to the maintenance of highways whether by fixed sums or upon a mileage basis, and the care of highways including sweeping, snow removal and sanding, which agreements the Corporation is hereby empowered to make.
8.
 - (a) The Commission has the exclusive right within the City of London to maintain and operate a bus service that picks up and discharges passengers within the limits of the City, including, without limiting the foregoing, transportation within the limits of the City by charter, contract, special trips or otherwise.
 - (b) The Corporation is empowered to pass by-laws imposing such penalties as are provided for contravention of by-laws under *The Municipal Act 2001*, as amended, upon any other person or corporation who carries on such service within the limits of the City.
 - (c) Section 8(a) does not apply in respect of:
 - (i) rickshaws;
 - (ii) pedicabs;
 - (iii) railways incorporated under federal or provincial statutes;
 - (iv) taxis;
 - (v) limousines;
 - (vi) vehicles used for providing sightseeing tours;

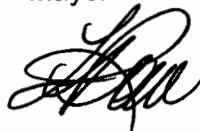
- (vii) vehicles exclusively chartered to transport a group of persons for a specified trip within the City, for a group fee;
 - (viii) buses owned and operated by a board of education, school board or private school, or operated under a contract with such a board or school;
 - (ix) buses owned and operated by not for profit organizations solely for their own purposes, without charging a fee for transportation;
 - (x) the right of a person to maintain and operate buses for the conveyance of passengers within the area annexed to the City on the 1st day of January, 1993 or between that area and the City as it existed on the 31st day of December, 1992, in accordance with a valid operating licence issued to the person under the *Public Vehicles Act* on or before the 31st day of December, 1992.
9. The Commission and the Council shall consult regularly on local transportation system policy and on the general administration and affairs of the Commission in relation to general municipal policy and the administration and affairs of the Corporation.
10. If, despite the consultations, there emerges a difference of opinion between the Commission and the Council concerning the course of policy to be followed, the Council may by resolution give to the Commission a directive concerning the local transportation system policy of the Commission in specific terms and applicable for a specified period, and the Commission shall comply with the directive.
11. The Commission shall, in each year on or before such day as Council may prescribe, prepare and submit to the Council for its consideration a budget in such form and detail as may be required by the Corporation consistent with any budget target or direction that may be given by Council of all sums required during the year for the purposes of the Commission. Such budget will be considered by Council and Council may approve the budget with or without modification. The Council may as part of approving any expenditures for the Commission, pass a by-law in accordance with the provisions of the *Municipal Act, 2001*, as amended, for borrowing and may borrow, upon the debentures of the Corporation such sum or sums of money as may be requested for such purposes.
12. The Commission shall, in each year on or before such day as Council may prescribe, make a report to the Council upon the affairs of the Commission and the local transportation system of the municipality.
13. With the intent that the transportation system shall be self-sustaining and shall not operate with a deficit, the Commission shall so regulate and fix all tolls and fares for the carriage of passengers that a revenue shall be produced which, together with the application of an appropriate part of any annual approved operating subsidy from the City of London, other operating revenues and funding from reserves and/or senior levels of government shall be in each year sufficient to provide the cost of operating the transportation system and works and equipment used in connection therewith, including interest charges upon moneys raised by the Commission, the cost of repair, the maintenance and upkeep of such system and all buildings and equipment used in connection therewith, the cost of making such renewals and replacements as are properly chargeable to revenue, the cost of insurance against fire, public liability and property damage, the setting up of appropriate operating and capital reserves including those required by federal and/or provincial legislation, such sums as are required to pay such amounts as may be agreed to be paid pursuant to clause (f) of section 7, such sums as are required to pay audit charges and such remuneration of commissioners as may be provided by by-law of the Council. Failure to produce such revenue shall not impose any personal liability upon any commissioner.
14. Notwithstanding any provisions of this by-law, the Council may by by-law enter into an arrangement with the Commission to provide, either at all times, or within specified times, free transportation or transportation at reduced fares, to any class of residents of the City of London and to provide in such by-law or by-laws for the making of grants to the Commission to cover the cost of providing such transportation.
15. All moneys expended by the Corporation for the acquisition of or for any of the purposes of the transportation system, including moneys expended in any way for the acquisition of such transportation system and for all steps and formalities preceding such acquisition and incidental to acquiring a transportation system, shall be set up upon the books of the Commission in the amount certified by the Corporation.

16. The Commission shall report to the Corporation in each year the projected operating surplus or deficit together with its recommendations for the utilization or disposition of such surplus or deficit. The Corporation may or may not approve the recommendations of the Commission and may or may not direct that any surplus or part thereof be paid to the Corporation.
17. The fiscal year of the Commission shall be the calendar year, and on or before the 1st day of April in each year the Commission shall submit to the Corporation a financial statement of its affairs during the preceding fiscal year, which shall include a statement of revenue and expenditure, profit and loss and a balance sheet showing the affairs of the Commission. The Commission shall at the same time report to the Corporation upon its operations during the year and give a statement of assets acquired and disposed of during each year. These financial statements will be presented to the Council through the Audit Committee on an annual basis, along with the Commission's consolidated financial statements.
18. The Commission may invest in securities money that it does not require immediately provided any such investment complies with section 418 of the *Municipal Act, 2001*, as amended, and all applicable regulations including without limitation to O. Reg 438/97, as amended, and "The Corporation of the City of London Investment Policy" [Council Policy 8(12) as amended].
19. The Commission shall at all times insure the real property and personal property held and used by the Commission and shall carry public liability and indemnity insurance in connection with all phases of its operation.
20. The auditor of the Corporation shall be the auditor of the Commission and the Commission shall submit all its books, documents, transactions, accounts, vouchers and papers for audit and inspection by such auditor. The said auditor shall report annually to the Council upon the operations of the Commission and from time to time as the Council may request. All monetary transactions of the Commission shall be carried on through and all moneys of the Commission shall be deposited with one or more chartered banks or trust companies.
21. All claims, accounts and demands arising from or relating to the operation, management or control of the transportation system or from the exercise of any of the powers of the Commission shall be made upon and brought against the Commission and not upon or against the Corporation and the Commission may sue and be sued in its own corporate name.
22. If a provision of this by-law conflicts with a provision of another, *the Municipal Act, 2001*, as amended, *the City of London Act, 1951 c. 107* as amended, *the City of London Act, 1960-61 c. 115*, *the City of London Act, 1991 c. Pr2* or any other Act, the provisions of this by-law apply.
23. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on June 29, 2009.



Anne Marie DeCicco-Best
Mayor



Linda Rowe
Acting City Clerk