



**Toronto Civic Employees Union, Local 416 CUPE**

**Submission to Chief Administrator's Office  
City of Toronto**

**Water and Wastewater Utility Study**

**April 2002**

## **INTRODUCTION**

Toronto Civic Employees Union, Local 416 CUPE, represents approximately nine thousand members employed by the City of Toronto, including the majority of employees who work in Water and Wastewater Services, approximately 1,650 people.

We are pleased to submit our contribution to the City of Toronto's Chief Administrator's Office Water and Wastewater Utility Study of governance options.

First and foremost, we must say that Local 416 remains unconvinced that there is a problem that needs to be fixed. We believe quite strongly that the Water and Wastewater Division of Works and Emergency Services can work very well if it is properly managed and that it is possible to successfully meet all challenges within the current structure.

The City has efficiently delivered an abundant supply of safe, affordable drinking water to the population of Toronto for over 100 years. Water and sewer systems were among the first services brought into the jurisdiction of the municipality, to foster and protect public health. As public servants, we are proud of the work that we have done and continue to do.

The presentation made by the CAO's office at the Open Houses in the last month says that this study is being conducted to:

- a) examine public sector governance options for water and wastewater, and
- b) ensure long-term sustainability of Toronto's water and wastewater infrastructure.

While the CAO's staff have been publicly examining the first issue, there has not been any substantial discussion of the second, and the two are not at all the same issue. We will assume that the City intends to convene further studies and public discussions before concluding that it has determined how to ensure the long-term sustainability of the infrastructure.

## **PREFERRED OPTION**

We do not doubt that Toronto's water and wastewater system, like that of every other Ontario city, faces challenges in long-term infrastructure maintenance and replacement, in environmental sustainability and in responding to new safety and security issues and standards. Senior City staff and several Councillors seem determined that water and wastewater services must be separated from Works and Emergency Services to meet these present and future challenges. There is no doubt that our water and wastewater systems are extremely important and deserve Council's complete attention.

If a change in governance of the City's water and wastewater systems is inevitable, we propose that, of the governance options put forward for study by City Council, only Option #1, the status quo or modified status quo can meet the criteria listed in the study. It is also the option, which offers residents of Toronto the best value for their tax dollars in the short-run and the long-run. We cannot be sure what City Council or staff mean by modified status quo, but we suggest that if change is needed, the creation of a separate Water and Wastewater Department of the City reporting to it's own committee of Council will meet all of the evaluative criteria laid out in the study and be very able to meet the challenges facing water and wastewater operations.

Because the mandate of the Water and Wastewater Services includes protecting public health and the environment, there is discussion about bringing it under the purview of the Department of Public Health. We believe that while there may be much to be gained from increased inter-departmental cooperation in ensuring the future safety and sustainability of our water supply, but there is no more advantage to having the division in one department than another.

We are also aware that the provincial government is moving toward requiring full-cost accounting for water and wastewater operations and maintenance and that this will be more easily accomplished if the systems are in their own department.

We will proceed to explain how Option #1 – creating a new Water and Wastewater Department in the City of Toronto – better meets all of the evaluation criteria listed in the City's governance study than either of the other 2 options – a municipal service board (utility commission) or a city-owned utility corporation.

## **THE PRIVATIZATION QUESTION**

The Mayor and some members of Council hotly deny that they are studying or in any way considering privatizing water and wastewater services. We have been accused of scare-mongering for raising the issue of privatization. But we didn't raise it first. Councillors did.

“Mayor Mel Lastman has given his go-ahead to turn the city's sewer and water department into a public utility, setting the stage for a restructuring that could save about \$110- million a year. Contracting out the department's operations privately could offer substantial savings in the \$440-million customers pay every year.” (Globe and Mail, August 1, 2001, A14)

In the same Globe and Mail article Councillor Duguid is quoted as saying that a city-owned utility “opens the door ... to bring forward the most efficient possible way to manage the business” and the author explains that the \$110 millions in savings is the amount that commercial operators tell the City they can save by

privatizing operations and maintenance. Other journalists and columnists, both for and against, write that the creation of a public utility or corporation opens the door to privatization.

It seems safe to say that when many of the Councillors voted against privatizing water last December, they voted against selling off the assets of the water and wastewater systems, but not against privatizing operations. Comments made on the floor of Council during the debate about this study reinforce this view.

More than one multi-national water/wastewater firm has established offices in Toronto in the past couple of years, and more than one has a lobbyist sitting in the Council Chambers while water governance is debated. Vivendi (U.S. Filter), Eaux-Lyonnaise (United Water) and American Water (RWE) seem to think that privatization of water and wastewater operations is under consideration in Toronto.

We might also point out that City Council has adopted an Alternative Service Delivery policy, which promises to look at privatization as one option for every city service and program.

If privatizing water and wastewater operations is scaring the public, it's not because we are raising it; it's because the obvious signs point in that direction. Like some of the Councillors, many members of the general public believe that devolving water and wastewater services to an arms-length organization, no matter what it's called, is the first step toward privatization and they are opposed to it.

## **PROCESS**

We find it incredible that the City is proceeding with a study of new governance options for water and wastewater before Justice O'Connor issues the final report of the Walkerton Inquiry. Everyone knows that implementation of Justice O'Connor's recommendations will require new legislation and regulations for water management in Ontario. What is the City's hurry? Why won't they wait to see what these changes will mean?

In addition, the province has not yet published the regulations under the new Municipal Act, which will govern the creation of corporations by municipalities. How can we pretend to scrupulously evaluate Option #3, a city-owned utility corporation, before we know what the laws governing such a corporation will be?

We strongly advise City Council to wait until both implementation of the recommendations of the Walkerton Inquiry and the regulations for the new municipal act are complete before proceeding any further with any consideration of a change of governance for the municipal water and wastewater systems.

The process of examining whether a change in governance is required for Toronto's water and wastewater systems is required and what it should be has been secretive and hurried from the beginning.

We have already commented on the fact that the original plan to bring the issue of water and wastewater governance forward was made by a secret, informal committee of Council through last summer. Then the issue was put on the agenda of the Policy and Finance Committee in the last hour of work before the meeting in November, with no public notice. We still do not know why that report went to Policy and Finance rather than to Works and Emergency Services. We commented earlier on the fact that keeping Water and Wastewater as a part of the City was not even to be considered in the study until the public and the unions representing City employees intervened.

The CAO's "open house" process has allowed some members of the public to become informed about the study and to express some general opinions. A very limited number of groups have been invited to meetings with the CAO's office to discuss the options. We do not think this is sufficient public consultation.

We are pleased to see that the public will have a chance to hear and comment on the CAO's recommendations on governance at a public meeting in May. We urge you to go even further. The population of Toronto and all of Ontario is keenly aware of the importance of the safety and security of our water system. The public must have ample opportunity to learn about and comment on whatever option the CAO intends to recommend to Council, and whatever option Council decides to consider. We would like to see the CAO's report, and any amendments to it, go to all Community Councils as well as the Works and Emergency Services and Policy and Finance Committees, before it goes to Council.

There is no excuse not to give the residents of Toronto every opportunity to fully understand and discuss any proposal for change in the governance or operation of our water and wastewater systems.

## **ACCOUNTABILITY AND PUBLIC TRANSPARENCY**

Accountability and public transparency are definitely the most important criteria to use in evaluating which governance option will best serve the population of Toronto. Without accountability and transparency the public will not be able to assure itself that the City is meeting the other criteria – high quality, environmental responsibility, efficient and effective operations and innovation and flexibility.

- Option no.1 – a Water and Wastewater Department for the City of Toronto – is the best of the 3 options under consideration for ensuring accountability and public transparency.

Keeping water and wastewater operations within the City ensures direct accountability to City Council and to the public. We want water and wastewater assets and operations to be under direct public control with direct public accountability.

Any other model allows for only indirect accountability. For either a service board or a corporation, City Council would appoint a Board of Directors, which may or may not include Councillors. In the case of the municipal service board, Council retains some degree of authority over the Board, and the Board of Directors reports to Council periodically, like the TTC and the Toronto Zoo. People know these are City services and that Council exercises some control through their budgets, but they also know that the City does not operate those services. Council shrugs off responsibility for their major decisions. For instance, Council makes decisions about the TTC's annual budget, but points at the Commission as being to blame for fare increases.

In the case of a municipal corporation, Council would have even less authority and control and the public would have even less accountability. This is the same model as Toronto Hydro. We know we cannot hold City Council accountable for our electricity bills.

As we pointed out above, the province has not yet set the regulations governing the establishment of municipal corporations, so we can really only speculate what rules of accountability and transparency will apply to them. Consideration of this option is premature.

Municipal government is the most open and transparent level of government. By law, almost all decisions taken by municipal government are subject to public scrutiny. Every detail of publicly delivered service can be examined by the public and by elected officials. Any change in a publicly delivered service must go through the public process of committees, public input and council. This not only allows the public to be informed about decisions affecting them, but also allows municipal politicians to hear directly from the public about what they want and how proposed changes might impact them. It's a critical feature of the democratic process. All information is available to the public through the Freedom and Information and Privacy Act. Neither of the other options is required to meet the same measures of openness and transparency.

The City's most recently appointed board only reinforces our fears. The brand new Toronto Community Housing Corporation Board has voted that it will only hear deputations that are pre-approved by the CEO. How's that for democratic and accountable?

Transparency and accountability are the keystones of local democracy and public control. The public wants to be able to call their Councillors and hold them directly accountable for the odour and safety of the drinking water and for the price of water.

## **QUALITY ASSURANCE AND ENVIRONMENTAL RESPONSIBILITY**

Residents of Toronto already enjoy very high-quality drinking water. The City's own standards for drinking water coming out of the taps and effluent going back into Lake Ontario are higher than the province's standards. Toronto tap water contains fewer bacteria than any bottled water available at the supermarket.

Water and effluent testing is carried out by the City's own employees right at plants and in City labs, not by private labs in some other locations. We are reassured in knowing that the City tests water every four hours – 300,000 times per year. Problems are identified immediately and adjustments are immediate to assure continued safety and quality.

Residents of Toronto have a supply and security of water that is almost unparalleled in the world.

The only objectives of a public system are the delivery of an adequate supply of safe, affordable drinking water and safe and effective treatment of wastewater. While there are pressures to keep the system efficient, there are no other objectives – such as making a profit. As soon as any other goal is first, quality and security of water are threatened. Local 416 members in wastewater operations already have first-hand experience of this. When the City brought in outside consultants to “find efficiencies”, one of their first recommendations was that the standards of effluent water going back into Lake Ontario from the treatment plant could be lowered to provincial levels.

The public does not trust any corporation of any sort to deliver safe and secure water. Safety and security can best be assured by keeping responsibility for water assets and operations in direct public control, where it is open to complete public scrutiny.

Many of the recent environmental initiatives undertaken by the City were initiated by citizen groups and developed in cooperative efforts between City politicians, staff and the public. These include the new sewer-use by-law, development of the wet weather flow management plan and the water efficiency plan. Experience in Toronto shows us that it is much easier to approach City Council and City staff to discuss and start these sorts of projects than it is to approach arms-length boards and commissions.

We believe that a water and wastewater system directly operated by the City is under more pressure to meet a number of social objectives at once – clean water with water conservation policies and energy efficiency – and is much better able to organize cooperative efforts to achieve multiple objectives than any organization dedicated solely to water operations.

As we pointed out above, public accountability and direct public control enable residents to ensure that the water and wastewater operations undertake environmentally responsible practices.

## **EFFICIENT AND EFFECTIVE OPERATIONS**

As with the other evaluative criteria being used in the City's study of governance options for water and wastewater, we believe that a direct City department is the best means of achieving efficient and effective operations.

A City department can certainly have effective management if it wants to. What stands in the way? A change in governance won't make the difference in terms of a motivated work force. That is determined by the terms and conditions of employment and the respect with which the work force is treated.

Current city staff – both management and union members – run one of the largest water and wastewater operations in the world and have done so successfully for over a century. Who could have more experience or expertise than that?

Toronto's water rates are among the 3 least expensive in the region. That's efficient.

Toronto, like most Ontario cities, is facing a huge capital investment in the near future to maintain and replace aging infrastructure. There seems to be some suggestion that a separate commission or corporation could somehow meet this demand for capital financing for less than the City can. That isn't true. A separate commission or corporation could take that capital financing off of the City's books, but it would cost residents more. Everyone agrees that a municipality is in the best position to borrow to meet capital requirements. The City has a better credit rating than any corporation and can borrow at better interest rates. Residents will pay less.

The City has already developed a plan to increase water rates much more dramatically than it has in the past in order to achieve an increased rate of infrastructure replacement. There was no public outcry. Public opinion polls show time and time again that people are prepared to pay a little more for a safe, secure and adequate supply of water – and that they are completely opposed to privatization of water systems.



Creating a separate commission or corporation will create increased expenses. It will cost a lot of money just to set up a new organization. The new organization will have to pay taxes that the City doesn't pay, and these increases will be passed on in water rates. (Our electricity rates went up April 1 because Hydro has to pay taxes now.) Management will undoubtedly cost more in a new commission or corporation than it does at the City.

One of the arguments commonly made is that the City's water and wastewater operations are paying too much in inter-departmental charges and are subsidizing other City departments. The inference is that changing the governance of the water and wastewater operations will significantly reduce these costs.

Any organization would have to meet the costs that are covered by inter-departmental charges. The City has centralized all collections; accounts payable and accounts receivable functions in the Finance Department, rather than having each department do its own. All human relations functions have been centralized in the Human Relations Division of the Corporate Services department, rather than having 5 different divisions doing the same work. Facilities management, purchasing, information technology, printing and fleet services are shared between all City departments and divisions. Given the economies of scale that the City can achieve in each of these support functions, we question whether a separate organization could do them as economically. City residents would likely end up paying more for support services in a separate corporation.

Meanwhile, the City Auditor has pointed out that inter-departmental charges are not properly allocated to the Department of Public Health. It may well be that they are not fairly allocated to Works and Emergency Services either and an overall review of the City's procedures for allocating central administration charges is required.

There is also mention of inter-departmental subsidies. City departments are not charged for water. Senior staff told a recent conference that Water and Wastewater that the cross-subsidization to other departments is \$10 million annually, including \$2 million to Parks and Recreation. That means that Toronto residents are paying for the water used in City swimming and paddling pools and for watering City parks through their water bills, not their taxes. Either way, they pay for it. We need a clear and accurate accounting of these amounts and their purposes. The public and our elected representatives need to be able to say what we think about subsidization of water and make transparent decisions about it.

We have also heard the argument that the current political structure is inefficient. Some feel that staff could operate a much more efficient water and wastewater system if they didn't have to report to and wait for decisions from a management

committee composed entirely of very busy municipal politicians who are too sensitive to public concerns about water rates or water pressure or the smell of water. Well, we realize that democracy and public accountability may be inefficient at times, but we think it is well worth it! We expect that voters feel the same way we do.

## **INNOVATION AND FLEXIBILITY**

Again, we believe that a City Department of Water and Wastewater will be better able to adapt to changing knowledge, technology and challenges to the safety and security of our water system than a separate commission or corporation. We have already pointed out the reasons we believe this in sections above. A directly controlled public system is most responsive to changing needs and most likely to respond to emerging concerns because it has the public interest as its first priority.

And we know we are facing new challenges. Environment Canada predicts that Lake Ontario will be 1.3 meters lower by 2030, affecting both our water quality and quantity. There are concerns about new "super-bugs", bacteria resistant to antibiotics, entering the water supply in the near future. Water conservation becomes more crucial as global warming advances.

A City department certainly has the same opportunity to implement new technology as any other organization. In fact, the City's lower borrowing rates make it more economical for the City to capitalize on investment in new technology.

The City is in a better position to combine different ideas and explore new technologies because it is more likely to be able to devote funds to innovation that require a different way of thinking than an organization dedicated solely to water and wastewater. For instance, it is more likely that the City will work toward reducing water use, and thus revenue streams, through the City's Water Efficiency Plan, than an organization that relies solely on that revenue stream.

## **OTHER ISSUES**

There are several other important issues to consider in evaluating a change in governance for the City of Toronto's water and wastewater system.

One is liability.

Another is the implication of international trade agreements on municipal services.

Very near and dear to us are the implications for the work force.

## **SUMMARY AND CONCLUSION**

- We are not convinced that major change to the City's water and wastewater systems are necessary.
- Of the governance options being considered, the one that best meets the important evaluation criteria used in the study would be the creation of a new Water and Wastewater Department that stays within the City of Toronto.
- Even the option of creating a new Water and Wastewater Department needs more study to determine how to make it best meet the evaluation criteria that have been identified as important and best ensure the long-term sustainability of Toronto's water and wastewater infrastructure.
- It is premature to make decisions on any major changes to the City's water and wastewater system before the release and implementation of the final report of the Walkerton Inquiry and the publication of the regulations for the new Ontario Municipal Act.
- Any change to the City's water and wastewater systems requires extensive public education and consultation.
- Residents pay for water no matter what the governance structure. Do politicians favour the creation of a new organization, even if residents end up paying more, so that they won't be held responsible for increases in rates?
- Let's make a good system even better, rather than spending millions of dollars to fix something that isn't broken.