

Municipal Mantras, Myths, and Musings: Five Facts or Fantasies

Presentation by

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Statement #1

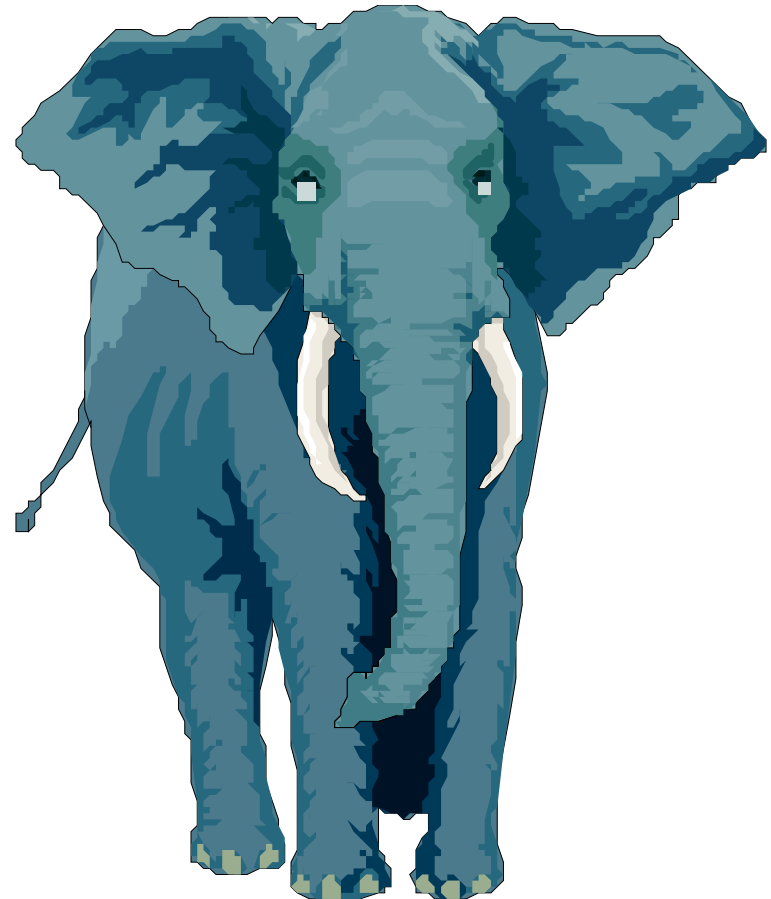
- That municipalities have been substantially empowered by the Municipal Act 2001 and amendments.
- Yes or No?

#1. Yes, but

- Broad spheres of jurisdiction
- Natural person powers
- Blanket power “to provide any service or thing necessary or desirable for the public”
- Supportive court decisions
- Difficult to imagine potential mun service, program, or initiative not covered by new broad authority provisions (Mascarin & Williams)

#1. Yes, but (continued)

- Municipalities haven't tested their new powers
- Provincial veto power never used
- Why this municipal powers mystery?
- What do elephants have to do with it?



Statement #2

- That municipalities are constrained by insufficient revenues, largely because the increasingly burdensome property tax has reached the upper limits of taxpayer tolerance.
- Yes or No?

#2. An Emphatic No

- Tax we love to hate has become less burdensome over past half century

(Canada West Foundation Report Nov. 2008, available at www.cwf.ca)	1961	2007	
Local taxes as % of all taxes collected	16.7%	8.9%	↓ 50%
Local taxes as % of GDP	4.1%	3.0%	↓ 25%
Local taxes as % of personal disposable income	6.2%	5.2%	↓ 16%

#2 No (continued)

- Remember annual budget crisis in Toronto in summer of 2007?
- Refused, initially, to use new taxing powers
- Sought \$ from province
- Yet residential taxes in Toronto (on \$400,000 home) very low.

Toronto	\$2355
Mississauga	\$2954
Oakville	\$2973
Vaughan	\$3022
Markham	\$3033
Richmond Hill	\$3039
Pickering	\$4367
Oshawa	\$5797

#2. No (continued)

- Considerable scope for user fees, not only to raise revenues but to promote conservation and better use of resources.
- Much available long term borrowing capacity.

Long Term Borrowing as % of Capital Expenditures			
1977	1987	1997	2007
41.7%	16.6%	19.2%	21.6%

- How much of financial constraint is political?

Statement #3

- That what municipalities need is stronger leadership that can be provided by giving mayors the additional powers that the province gave to the mayor of Toronto in the City of Toronto Act.
- Yes or No?

#3. Sorry, trick question!

- Toronto mayor's additional power came from council, not the province in City of Toronto Act
- Mun Act 2001 also failed to strengthen head of council, even with Bill 130 amendments
- Toronto mayor's main extra power (appointing executive committee) not anything new.
- Hasn't helped Miller much, while others not hindered without extra powers

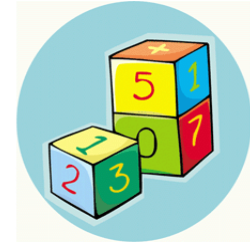
Statement #4

- That the definitions provided in the Municipal Act now make clear the roles and relationship of members of council and senior staff.
- Yes or No?

#4. Mostly No

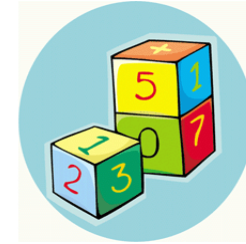
- Role definitions vague and general
- Arbitrary separation based on policy/admin not the answer
- Roles inevitably overlap, more so since Bill 130
- Only council and staff can define roles and relations
- Especially need to reach agreement on:
 - Handing public queries
 - Providing policy advice
 - Implementing policies
 - Stewardship/ management of operations
- Need to set this down in protocol, guidelines

#4. Mostly No Building Blocks for Protocol



- Considerations before policy adopted:
 - Can staff initiate when deemed appropriate?
 - Does council want “just the facts” or realism?
 - Firm recommendation or just some options?
 - Does council shoot messenger with bad news?
 - Is how fully considered before adoption?
 - Is intent and likely impact understood before?

#4. Mostly No Building Blocks II



- Considerations after policy adopted
 - Applied consistently or exceptions sought?
 - Established review process/sunset clause?
 - Clear benchmarks for monitoring impl?
 - Variance reports/other ways to flag problems?
 - Council using management by exception?
 - Incentives to reinforce superior performance?

Statement #5

- That responsible and ethical municipal behaviour is now ensured because of new accountability and transparency provisions in Municipal Act.
- Yes or No?

#5. No – Rules Aren't Enough

- Rules and regulators are usual response to ethical lapses:
 - Enron, Tyco, etc led to Sarbanes-Oxley Act in U.S.
 - Sponsorship scandal led to Justice Gomery and Federal Accountability Act
 - Toronto computer leasing fiasco led to Justice Bellamy and elaborate new oversight regime – mandatory for Toronto, optional for the rest

#5. (continued)

New Oversight Regime

- Code of Conduct
- Integrity Commissioner
- Lobbyist Registry and Registrar
- Local Ombudsman
- Auditor General
- Also must appoint meetings investigator
(or accept provincial ombudsman by default)

#5. (continued)

Problems with rules-based regime

- Usually enacted/expanded after scandal – worst time, acting in haste, reactive
- Result is increasingly complex, costly operating environment
- To define is to confine. Anything not ruled out, not “illegal,” must be ethical
- Negative focus on unacceptable behaviour not promotion of preferred behaviour

#5. (continued)

What we learned from Magnificent 7



- Brynner: “we took a contract.”
- McQueen: “it’s not the kind a court would enforce.”
- Brynner: “That’s the kind you’ve got to keep.”
- Law requires obedience to the enforceable; ethics requires obedience to the unenforceable.
[British Jurist, 1924]

#5. (continued)

Instilling an Ethical Culture

- Keep any code of conduct front and centre
- Leaders must model the code and look for opportunities to teach about ethics
- Focus on integrity in hiring and evaluations
- Focus on ethical issues underlying decisions
- Ensure all systems reinforce ethical climate
- Nurture corporate culture in which staff develop moral compass, apply sniff test