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I'M GONNA OVERRULE A COUNCIL DECISION AND DECLARE TRANSIT CITY DEAD AND BURY THE EGLINTON LRT AND ... ACTUALLY MR. MAYOR... YOU PROBABLY CAN'T DO THAT;

When Mayor Rob Ford declared Transit City dead, was he overstepping his authority, as some councillors suggested this week, or was he merely acting in the tradition of all great mayors, exercising the power he'd have in an American city of comparable size? As Patrick White reports, maybe it's time Toronto gave the strong-mayor system a second look

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At 9:45 a.m. on Monday morning, City Hall was treated to a rare visit from the man affectionately known as Old Rob.

He is that red-faced and often incoherent star of YouTube clips, the Etobicoke councillor who called fellow councillors Gino-boys, wastes of skin and snakes before adopting some discipline and becoming the man we now know as His Worship Mayor Rob Ford.

City Hall was abuzz with a legal decision commissioned by Councillor Joe Mihevc suggesting Mr. Ford exceeded his mayoral authority when he declared David Miller's Transit City dead and signed an agreement with Queen's Park to build an \$8.4-billion underground line along Eglinton Avenue. Mr. Mihevc's lawyer said the mayor needed council consent to introduce such policy reversal.

The controversy has sparked a debate about whether he did or didn't overstep his authority under the City of Toronto Act and, subsequently, whether it is Mr. Ford or the legislation that needs to change.

Clearly, Mr. Ford wasn't moved to personal epiphany. Apprised of the legal decision on Monday, New Rob, surrounded by reporters during a weigh-in for his Cut the Waist initiative, was peppered with questions that had nothing to do with his girth.

One reporter asked what gave him the legal authority to override city council on the matter and Old Rob quickly cut her off. "It's like winning an election," he barked. "So if they voted me in ... it doesn't make any sense."

The matter of whether he did or didn't overstep his authority will remain in question until it is brought before council, likely in April, but it raises a much larger issue. Through his scorn, Mr. Ford was actually articulating a view of mayoral power currently undergoing a renaissance in the United States and elsewhere: Large cities need leaders with large powers. Perhaps the question isn't whether the mayor exceeded his legal boundaries but whether the legal boundaries need changing.

## Acting outside The Act

Any claim that a mayor's electoral mandate provides free rein to make and impose policies at city hall can only be made with abject ignorance of the City of Toronto Act, the provincial legislation outlining this city's governance structure.

"He has no authority to overrule a council, he has no authority to contract on behalf of the city unless the council delegates that power to him," explained **George Rust-d'Eye**, the municipal law expert who drafted much of the original City of Toronto Act in the mid-1990s. "And he has no power to cancel something that council has decided."

But did he cancel anything? The mayor is the point person for all intergovernmental matters, but he can't force the city to act on any agreements with higher levels of government without a majority vote from the 44-member council. Mr. Mihevc contends that the mayor did force the city to act, pointing to a meeting with TTC chief general manager Gary Webster and a note on the TTC website explaining that, based on the mayor's directive, the transit agency has diverted its efforts away from Transit City and towards "a new transit plan consistent with his platform."

Not so, says Mr. Ford's office, which maintains it was Metrolinx, the provincial transit agency paying for the entire project, not the mayor, who directed the TTC to stop work on Transit City and redirect its efforts elsewhere.

"Metrolinx directed the TTC to stop work," said Kathleen Wynne, the provincial transit minister who signed the agreement with Mr. Ford. At the same time, she said, it was understood that the mayor would have to bring the agreement before council.

This week the mayor finally said he would do so, likely in April, a full year after he signed it.

Ship of 44 captains

Come spring, the granular issue of did-he-or-didn't-he could be moot, but the larger power struggle won't die as long as Doug Ford is around.

"I have said this from Day One, even when I lived in Chicago and Mayor Miller wanted more power, I have always said, 'Give it to him,'" said Doug Ford. "In Toronto, people believe the mayor has way more power than he actually does. Anything goes wrong with the police or roads or transit, and they blame the mayor. The mayor doesn't have much power over all those areas, but people treat him like he does. It makes for a tough job."

The Etobicoke councillor would like to see Toronto adopt a strong-mayor system, similar to those in New York and Chicago, where mayors like Bloomberg, Giuliani and the Daleys have used their power to become dominant forces in American civic life.

And maybe they have a point. In the U.S., 70 per cent of the largest 25 cities have a strong-mayor system, where the mayor's office forms the executive branch and holds veto power over council, similar to the relationship an American president has with Congress. And more are moving in that direction. The mayor of Sacramento, former basketball star Kevin Johnson, is pushing his eight councillors to approve greater powers for his office in that city. He gives a too-many-cooks-spoil-the-broth argument, reasoning that a city so large and complex as Sacramento cannot possibly be run by committee.

Toronto has five times the population and five times the councillors.

"In Toronto, each one of your councillors is 1/44th accountable for city business; in a strong mayor, one person is responsible," said Adrian Kwiatkowski, president of the California-based Strong Mayor-Council Institute. "You need strong. On a ship of 44 captains, you'd never go anywhere."

During his first term, David Miller found it so challenging to move his agenda forward that council struck a three-member panel to provide advice on how the city could change its governance structure. They found that municipal governance in Canada is rooted in the parliamentary democratic tradition. Executive and legislative branches are intertwined with premiers, prime ministers and their respective cabinets sitting among the legislative body.

"The role of the mayor is a bit anomalous," said one of the panel members, constitutional law expert Sujit Choudhry, now a New York University law professor. The panel had to stay true to that tradition, so recommending an American-style strong-mayor structure was out of the question. Instead, they recommended granting the mayor power to appoint an executive committee consisting of standing committee chairs, which has cabinet-like powers. Previously, council elected committee chairs and the mayor had to rely on moral and political persuasion on every issue, according to Mr. Choudhry.

"What that does is give the mayor the power of

agenda control," he said. "It gives him control over policy proposals. And having the power to control what council will debate should not be underrated ... I don't think it can be called a weak-mayor system any more. Rob Ford has many more powers than David Miller had in [his] first term."

There were other reasons the panel didn't want to extend the mayor's power further, he said. The strong system works if you have a magnificent leader. "But you can't build your system around one magnificent person. You have to build it around the unplanned. The mayor earned the mandate, but not unlimited power."

Party time?

But what of Councillor Ford's contention that stronger powers would actually make the mayor more accountable? He could act according to the will of constituents rather than trying to grind every policy through council, something that has stalled transit planning in the city for decades. "Someone, some individual, has to be held accountable at the end of the day," Councillor Ford said. "That can't happen when you have every councillor deciding everything."

There is one more adjustment Toronto could make to boost the mayor's authority without introducing a full strong system. In Vancouver, Montreal and other Canadian cities, municipal politicians have party affiliations. Mayors can pursue an agenda confident in the knowledge that they have a given number of votes behind them. In Ontario, they have to run as individuals, without party affiliation.

"That's the one piece Toronto might want to consider," said Mr. Choudhry. "There has always been this sense that municipal politics is different, that councillors work collaboratively together on issues. And I respect all that. But with the size of Toronto now, some sort of party system might not be such a bad idea."

But the imperfection of the rules is not a valid excuse for dysfunction, he adds. "At some point, it's up to the people in these positions to get things done. At some point the blame can't be laid at the foot of the rules."

With files from Elizabeth Church

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