Strong(er) Mayors in Ontario –
What Difference Will They Make?

Zack Taylor
About IMFG

The Institute on Municipal Finance and Governance (IMFG) is an academic research hub and non-partisan think tank based at the School of Cities at the University of Toronto.

IMFG focuses on the fiscal health and governance challenges facing large cities and city-regions. Its objective is to spark and inform public debate, and to engage the academic and policy communities around important issues of municipal finance and governance. The Institute conducts original research on issues facing cities in Canada and around the world; promotes high-level discussion among Canada’s government, academic, corporate, and community leaders through conferences and roundtables; and supports graduate and post-graduate students to build Canada’s cadre of municipal finance and governance experts. It is the only institute in Canada that focuses solely on municipal finance issues in large cities and city-regions.

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Speaker Biographies

Karen Chapple is director of the School of Cities at the University of Toronto, where she also serves as professor in the Department of Geography and Planning. She is professor emerita of City and Regional Planning at the University of California, Berkeley, where she served as department chair and held the Carmel P. Friesen chair in Urban Studies. Chapple studies inequalities in the planning, development, and governance of regions in the United States and Latin America, with a focus on economic development and housing. Her most recent book is *Transit-Oriented Displacement or Community Dividends? Understanding the Effects of Smarter Growth on Communities* (with Anastasia Loukaitou-Sideris, MIT Press, 2019).

Matt Elliott has reported on Toronto City Hall for 12 years, offering readers insight, analysis, and lots of charts. Starting as a blogger, he now contributes a weekly column to the Toronto Star and publishes *City Hall Watcher*, an award-winning independent newsletter providing in-depth news and analysis focused on the city’s municipal government. He teaches journalism at Humber College and makes regular appearances on CBC Radio, Newstalk 1010, and other Toronto media outlets.

Alison Smith is an assistant professor of political science at the University of Toronto. Her teaching and research interests relate to Canadian politics and public policy, including complex policy-making, homelessness governance, and the history of housing policy. Her book, *Multiple Barriers: The Multilevel Governance of Homelessness in Canada* was published in July 2022. It asks why homelessness governance differs widely across the country, and argues that the disparate definitions of homelessness can explain many of these differences.

Gabriel Eidelman is assistant professor, teaching stream, at the University of Toronto’s Munk School of Global Affairs and Public Policy, where he serves as director of the Urban Policy Lab, with a joint appointment at the Institute for Management and Innovation. His research focuses on cities, urban governance, and intergovernmental relations in Canada and North America. He has been published in numerous journals, including *Cities, Urban Affairs Review*, and the *Journal of Urban Affairs*. He is also co-editor of IMFG’s Who Does What research series. In 2016, Gabriel co-led the City Hall Taskforce, which proposed changes to the mayor’s powers.

Zack Taylor is associate professor of political science at the University of Western Ontario, as well as a fellow at the Institute on Municipal Finance and Governance. His book *Shaping the Metropolis* (McGill-Queen’s University Press, 2019), compares the different pathways taken in the historical development of Canadian and American urban governance and their implications for local autonomy and democracy, equity, and urban growth. His paper with Alec Dobson, *Power and Purpose: Canadian Municipal Law in Transition*, was published by IMFG in 2020.
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Executive Summary

On October 19, 2022, IMFG convened a public panel discussion titled “Strong(er) Mayors – What Difference Will They Make?” The speakers were Karen Chapple, director of the School of Cities at the University of Toronto; City Hall journalist Matt Elliott; Alison Smith, assistant professor of political science at the University of Toronto; and Gabriel Eidelman, assistant professor, teaching stream, at the Munk School of Global Affairs and Public Policy at the University of Toronto. The panel was moderated by Zack Taylor, associate professor of political science at the University of Western Ontario.

The discussion and follow-up questions by the audience brought to the surface a variety of perspectives, both for and against the “strong mayor” provisions of the Strong Mayors, Building Homes Act passed by the Ontario legislature on September 8, 2022. This commentary contextualizes and summarizes the speakers’ remarks. It also takes account of the additional provisions in the Better Municipal Governance Act passed on December 8, 2022, and the February 17, 2023, resignation of Mayor John Tory.

The invited speakers provided insights on specific aspects of the law and their implications. Karen Chapple discussed the inspiration for the reform, American “strong mayor” cities. Matt Elliot probed how the relationship between the mayor and councillors might change. Alison Smith talked about the provincial-municipal intergovernmental relationship and the politics of housing policy. Finally, Gabriel Eidelman examined the implications of the change for the relationship between elected officials and professional administrative staff. Zack Taylor provides context for the discussion and, in his conclusion, addresses questions such as the risk of politicizing the public service, the implications for small and regional municipalities, and the role of the province.
Strong(er) Mayors in Ontario – What Difference Will They Make?

Introduction

Zack Taylor

Doug Ford wrote the following after his defeat in the 2014 Toronto mayoral election:

If I ever get to the provincial level of politics, municipal affairs is the first thing I would want to change. I think mayors across this province deserve stronger powers. One person in charge, with veto power, similar to the strong mayoral systems in New York and Chicago and LA. I would want our mayors to have strong powers but to be held accountable; if the voters don’t like the job he or she is doing, they can fire that mayor in four years. That’s how it should work.¹

Now, of course, Doug Ford is premier of Ontario and his government has passed a law and accompanying regulations that, for the cities of Toronto and Ottawa, change the mayor’s prerogatives in potentially important ways. A second bill, now passed, further expands mayoral powers in ways that are without precedent in western democracies. If deemed a success, the government plans to roll out the changes to all cities across the province.

But what is a “strong” mayor? There is no simple answer to this question. The term itself comes from the United States, where the historical norm at all levels of government is the separation of powers. Just as the president or a state governor leads the executive branch, sitting apart from the legislature, an American “strong mayor” is not a member of council. As the country industrialized and cities grew in the second half of the 19th century, big-city mayors accumulated a wide range of formal powers, which they often used to partisan ends. By the early 20th century, such “boss rule” was restrained as reformers passed state laws and rewrote city charters to produce something similar to what we have in Ontario and other Canadian provinces: non-partisan local governments in which most decisions are made by council as a whole, and implementation is left to professional administrators. American experts refer to the unreformed
structure as the “mayor-council” system, and reformed
governments as the “council-manager” system.

Some strong-mayor or mayor-council systems remain. In
Chicago, “American Pharaoh” Richard J. Daley ruled Chicago
from 1955 to 1976, his corrupt Democratic Party “machine”
dispensing patronage across the city, often to the detriment
of minorities. His cultural legacy, as seen in Bos, City Hall,
and other television shows and movies, is the image of an
unrestrained chief executive who heads a separate executive
branch of government, can make unilateral decisions without
consulting council, hire and fire employees, spend money at
will, reward friends, and punish enemies – in short, someone
who, elbows out, has the political and institutional resources
to get things done.

Others point to more congenial examples. In If Mayors
Ruled the World, political scientist Benjamin Barber portrayed
former New York mayor and billionaire Michael Bloomberg
as a benign autocrat who
used his discretionary
powers wisely to govern a
large and extraordinarily
diverse city facing
complex problems.

Both models are far from how things have
worked in Ontario and
most other Canadian
provinces since before Confederation, and indeed how they
work in most American cities today. Ontario’s new legislation
will not create Canadian Daleys or Bloombergs. To be sure,
the mayors of Toronto and Ottawa, and perhaps in future
other Ontario cities, will gain new prerogatives; however,
their use is circumscribed, not least by their subordination to
“provincial priorities.” Ontario will have stronger mayors, not
American-style strong mayors.

On October 19, 2022, IMFG held a public panel
discussion titled “Strong(er) Mayors – What Difference Will
They Make?” to gain perspective on these legislative changes.
This commentary includes edited and updated versions of
the speakers’ remarks, along with remarks by Zack Taylor,
IMFG fellow and associate professor of political science at the
University of Western Ontario, who also comments on Bill
39, the Better Municipal Governance Act, which augments the
new powers in significant ways.

What is in Bill 3, the Strong Mayors, Building
Homes Act?
The Ontario government introduced Bill 3, An Act to amend
various statutes with respect to special powers and duties of heads
of council, on August 10, 2022. The bill received Royal Assent
less than a month later, on September 8. The bill amends
sections of the City of Toronto Act, the Municipal Act, and
the Municipal Conflict of Interest Act. The legislation’s short
title, the Strong Mayors, Building Homes Act, indicates the
government’s association of strong mayor powers with a high-
profile policy issue: the housing affordability crisis.

The legislation provides for some aspects to be fleshed out
by regulation. The text of two draft regulations was released
on October 3, 2022, and came into effect on November 15,
the start of the new council term.

The new provisions apply only to the cities of Toronto
and Ottawa. However, the government may, by regulation,
add other municipalities to the list. The premier has signalled
that it will add “other large cities” next year.

The Act is not permissive. Municipalities listed in the
regulation cannot opt out of the Act’s application. However,
the mayor is not compelled to use the new powers. Mayors
may voluntarily choose not to use them, and the regulation
permits them to delegate certain powers to the council.

Mayors in several Ontario
cities, including Ottawa,
have pledged not to use
the new powers.

The provisions in
the Act and regulations
fall into three main
categories: provincial
priorities, changes to
the mayor and council’s
relationship with the municipal administration, and changes
to the mayor’s relationship with council.

1. Provincial priorities
A key element of the Act is the creation of a new provincial
prerogative: the ability to define, by regulation, “provincial priorities.” As described below, some of the new mayoral
powers can be exercised only if they are deemed to “advance”
a provincial priority. There are no guidelines for how general
or specific the priorities may be, or the topics to which they
may pertain. In keeping with the provincial government’s
linking of the new powers to its housing agenda, the
regulations specify two provincial priorities related to
housing:
• building 1.5 million new residential units by 2031;
• the construction and maintenance of infrastructure to
support accelerated supply and availability of housing
including transit, roads, utilities, and servicing.

The provincial government may change or add priorities
at its own discretion and without consultation.

2. Changes to council’s relationship with the
administration
A second element is the transfer to the mayor of several
powers regarding the municipal administration previously

A key element of the Act is the creation of a new provincial prerogative: the ability to define, by regulation, “provincial priorities.”
exercised by council as a whole. These include the power to appoint the Chief Administrative Officer (CAO), known in Toronto as the City Manager; to hire and dismiss municipal managers and the chairs and vice-chairs of agencies, boards, and commissions; and to reorganize the city's administrative structure with its functional divisions. The mayor may also direct municipal employees to “undertake research and provide advice to the head of council and city council on policies and programs of the City or of the head of council” and to undertake actions to implement them.

There are several limitations on these powers. First, the ability to hire and fire managers does not extend to positions which have special legal authority under provincial law. These include the City Clerk, Treasurer, and their deputies, as well as the Chief Building Official; accountability officers, that is, the Integrity Commissioner, Ombudsman, and Auditor General; the heads of the police and fire services; and the Medical Officer of Health. These restrictions are intended to maintain professional conduct, without political interference, of municipal elections, record-keeping, finance, policing, fire protection, public health, the application of the building code, and other functions prescribed by provincial law. They are also intended to preserve independent oversight of the conduct of the mayor and councillors.

Second, in the interest of transparency, these actions must be communicated in writing and made public. Directions to staff must be reported to the City Clerk and to the CAO. Finally, as noted, mayors may, at their own discretion, delegate the powers to appoint the CAO and hire and dismiss senior managers and board heads back to council.

### 3. Changes to the mayor’s relationship with council

The third element is the granting of new prerogatives to the mayor vis-à-vis council. As before, the mayor sits as a member of council and votes on bylaws, but gains several new powers.

The first is the ability to create and dissolve council committees and appoint their chairs unilaterally. Under the current system, Ontario cities have wide latitude to organize their council committee structure. Councils adopt these systems by bylaw. Under the new provisions, mayors may do this at their discretion. The effect may be to make other municipalities more like the City of Toronto (see box).

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**Organizing Council in the City of Toronto**

In the City of Toronto, council has delegated to the mayor the power to appoint the chairs of standing committees and an executive committee composed primarily of the standing committee chairs. The effect of the Act in Toronto is therefore to reverse the onus; instead of council delegating the committee-making power to the mayor, the mayor has the power by default and may delegate it to council. Mayors in other cities will no doubt decide how to organize council in ways that make sense given the size of their municipality, the complexity of council business, and the size of the council. Toronto created its executive committee in 2006 on the premise that strengthening the mayor's influence over the council's agenda would improve accountability and streamline decision-making. As Matt Elliott’s analysis shows, this assumption has been borne out.

The feature that has attracted the most attention is the mayor’s new power to veto bylaws adopted by council, provided that the bylaw has to do with the budget or, in the mayor’s opinion, “could potentially interfere with” a provincial priority.

The budget veto may amount to a “line-item veto” as is common in many American jurisdictions, which in principle reduces pork-barrel politics, although the literature is far from unanimous on this point. The provincial priority veto gives the mayor broad discretion to decide what constitutes “interference.” As is common in the United States, council may override either type of veto by a two-thirds vote. A mayor cannot use the veto to invalidate bylaws that were adopted in the past – it can be used only within a certain number of days after the bylaw’s adoption.

Finally, the mayor is now charged with initiating the budget process, which previously was presented to council by the CAO. The regulation sets a February 1 deadline to propose the budget, after which council has 30 days to amend and ultimately approve it. The mayor may also circumvent normal procedure to put items related to provincial priorities on the council agenda.
What is in Bill 39, the Better Municipal Governance Act?

A little more than two months after the passage of Bill 3, the provincial government introduced the *Better Municipal Governance Act*. This new bill, which received royal assent on December 8, 2022, contains two elements relevant to the strong-mayor power.

1. Further changes to the mayor’s relationship with council

The bill gives the mayor a far-reaching new power: the ability to put into effect a bylaw that may be opposed by as many as two-thirds of council members. The veto created in Bill 3 gave the mayor the power to annul a bylaw passed by a majority of council members if it is deemed related to a provincial priority. This new provision goes further by lowering the approval threshold for passing bylaws proposed by the mayor. Provided that they “advance” a provincial priority, such bylaws can be passed with the approval of as few as one-third of councillors, including the mayor. In Toronto’s 26-member council (including the mayor), the mayor can now use this tool to pass bylaws with only eight additional votes — the same number of people who currently serve on the mayor’s hand-picked executive committee.

2. Possible future provincial interventions in selected regional municipalities

The provincial government appears to be laying the groundwork for reforming regional municipalities in the broader Toronto region. In 2018, the provincial government appointed a Regional Government Review commission to study reforms to regional municipalities. The final report was never made public and nothing concrete emerged from it. Some observers speculated that the commissioners had recommended amalgamating some or all two-tier municipalities, but this move may have been considered too radical at the time. Prior to the 2018 municipal elections, the government also cancelled the first direct election of the regional chairs of Peel and York Regions, reverting to the earlier practice whereby the regional council appointed the chair.

In tandem with Bill 39, the province announced its intention to appoint “facilitators” to “assess” governance arrangements in the regional municipalities of Durham, Halton, Niagara, Peel, Waterloo, and York. This assessment may open the door to consolidation of two-tier systems into single-tier municipalities similar to the Cities of Toronto and Ottawa, the abolition of the upper tier, other forms of restructuring, or the reallocation of responsibilities between tiers. Significantly, the government has linked these assessments to the extension of strong-mayor powers to the regional chairs. The government had not appointed facilitators as of March 2023.

Bill 39 also takes the extraordinary step of transferring the power to select the regional chairs in York, Peel, and Niagara from the respective regional councils to the Minister of Municipal Affairs and Housing, who will reappoint the incumbents to their positions. The directly elected regional chairs in Durham, Halton, and Waterloo remain unaffected.

These legislative changes are a clear departure from Ontario tradition. What effect will they have on the governance of Toronto, Ottawa, and other cities? We asked the panellists at the October 19 event to reflect on this question.
The American strong mayor: Similarities and differences

Karen Chapple

A rich body of mostly American scholarly research compares council-manager and mayor-council governments. Although most of the studies are 20 or 30 years old today, a few interesting insights from this literature can inform our discussion. I will touch on overall trends, effectiveness of the different systems, and partisanship.

The overall trend: The United States is shifting away from the strong-mayor model

Type of government is tied to city size in the United States. The council-manager form of government predominates in small cities with populations of less than 250,000. However, two-thirds of cities with populations of more than 500,000, many of them in the Midwest and Northeast, where big cities first emerged, use the mayor-council structure. Nevertheless, cities seem to be moving away from the mayor-council form; 56 percent of American municipalities had a strong mayor in 1984, compared with 44 percent in 2008. The reasons for the trend are not clear. They may have something to do with the effectiveness of the council-manager system.

Effectiveness of the council-manager system

Evidence suggests that the council-manager model has several benefits:

- It reduces corporate influence. In strong-mayor cities, developers and wealthy property owners have been shown to have more influence on land-use policy.
- The quality of public service is higher. In a council-manager system, department heads use their autonomy from political interference to focus on implementation rather than symbolic actions and have the freedom to innovate.
- Citizens are more engaged. When ward councillors have more autonomy from the mayor, they spend more time representing and serving constituents.
- It reduces conflict among elected officials. As councillors are accountable to each other rather than to the mayor, they have a strong incentive to collaborate and negotiate constructively.

Even if the parties are not obvious, one can foresee an outcome whereby a pro-development ideology can take hold more easily, as the “strong mayor” becomes a vehicle for the provincial government to advance its own goals – in the current case, the “provincial priorities” for housing supply and infrastructure.

We can always point to very successful strong mayors in the United States – my favourites are Michael Bloomberg in New York and Gavin Newsom in San Francisco, who were able to execute agendas on matters ranging from sustainability to same-sex marriage. But these are the exceptions rather than the rule.

Partisanship in elections

American cities with strong-mayor governments generally have partisan elections. Is this a good thing or a bad thing?

Evidence shows that partisan election increases voter turnout. But partisanship also affects the types of policies pursued by the city’s elected officials. Some recent work on this issue from Harvard’s Kennedy School shows that cities with Democrat mayors have higher rates of multifamily housing production, regardless of the type of government. These effects may be occurring in cities where councils have less power over land use changes.

This finding is more or less consistent with accounts of pro-growth regimes in the United States, where developers seem to get more housing built in certain cities than in others. Partisanship is complicated in the Ontario municipal context, as municipal elections are officially non-partisan and no party labels appear on the ballot. But even if the parties are not obvious, one can foresee an outcome whereby a pro-development ideology can take hold more easily, as the “strong mayor” becomes a vehicle for the provincial government to advance its own goals – in the current case, the “provincial priorities” for housing supply and infrastructure.

Intergovernmental relations

The provincial government’s creation of “provincial priorities” sharply distinguishes what is happening in Ontario from the American experience. The foundational principle of American local government is “home rule.” Most American states have adopted constitutional amendments or laws that inhibit state intervention in local affairs and allow cities to adopt charters that define (within limits) how their system of government operates. For example, the state cannot override local zoning laws, but it can set minimum standards for development controls. By contrast, Ontario and other Canadian provinces may override local official plans and zoning bylaws, or impose their own regulations, at will.
What we are about to see in Toronto and Ontario is antithetical to the American strong-mayor tradition. Ontario’s reforms are imposed from the top down, not demanded from the bottom up, and many of the mayor’s new powers can be exercised only in furthering provincial policy objectives. No American mayor would want to answer to the state governor. There is no U.S. precedent for what is happening in Ontario.

Some American strong mayors have leveraged their powers and influence to secure benefits for their cities from state government. Richard J. Daley had considerable influence in the Illinois State Legislature. More recently, in San Francisco, the affordable housing crisis and positive relationships between Democratic mayors and governors have led to a series of pro-housing laws with a strong affordability component. There are also counterexamples. New York City Mayor Bill De Blasio’s strong-mayor powers had little effect on his acrimonious relationship with former Governor Andrew Cuomo over public transit governance and transportation policy more generally.

One cause for optimism is the effect on regionalism. The American experience shows that intermunicipal collaboration within metropolitan areas is helped when a strong mayor in the central city exercises effective leadership. A strengthened executive may allow the mayor to make credible commitments on behalf of the city in intergovernmental negotiations. Whether the new powers in Ontario will increase the capacity of the mayor to lead regional discussions is something to watch for.

**Democracy, accountability, and majority rule**

Another important change is the way in which the *Better Municipal Government Act* gives the mayor the power to pass bylaws with only one-third support of council. The American theory of the separation of powers is designed to create checks and balances. A strong mayor in Chicago or New York can veto bylaws passed by a majority of council. This power is checked, however, by council’s ability to override a veto with a two-thirds vote. In no American city, with or without a strong mayor, can bylaws be passed without the support of a majority of councillors; this power would be seen as fundamentally undemocratic.
In Toronto, the Mayor Already Controls the Agenda
Matt Elliott

While the veto power has received the most attention of all the changes in the bill, I doubt it will have major ramifications for the way City Hall operates – at least in Toronto. That’s because of one number: 98 percent.

Some people may believe that council is full of rogues who routinely vote against the mayor, but the data suggest otherwise. I have been tracking significant votes on Toronto City Council for more than a decade in a project I call the Council Scorecard. It shows how often each councillor votes with the mayor and tracks the mayor’s win/loss record.

The Scorecard reveals a clear and striking pattern: the mayor almost never loses a vote. Former mayor John Tory won 98 percent of relevant council votes in his most recent term. In some years his record is essentially perfect – that is, he is on the winning side of 100 percent of council votes (see Figure 1). Rob Ford’s notorious mayoralty was the exception that proved the rule; like Tory, Mayors Mel Lastman and David Miller were also adept at ensuring that they won most council votes.

Councillor voting is also increasingly lopsided. Since amalgamation in 1998, we have seen that the proportion of recorded votes decided by 80/20 margins has doubled from about 30 percent in the Lastman and Miller eras to about 60 percent during Tory’s tenure (see Figure 2).

These plots indicate the margins by which council votes are decided. Higher bars at the right indicate lopsided votes; higher bars at the left indicate more evenly divided votes.

The bottom line is that there would not have been many opportunities to use the much-hyped mayoral veto over the past eight years, and this situation is unlikely to change.

There are, of course, exceptions. Tory lost on one big issue in the 2018–22 term: legalizing multi-tenant housing, also known as rooming houses, across the city. He argued that the current ban in most of the neighbourhoods outside of the city core had created an underground economy of poor-quality apartment housing. He brought the issue forward twice, but ultimately set it aside as his most consistent allies, councillors representing the suburban areas where multi-tenant housing has long been banned, turned against him. Tory knew the amended bylaw would not pass, so he delayed it. When he brought it forward again in December 2022, after the strong-mayor powers came into effect, a majority of councillors supported it, perhaps to avoid provoking the use of the mayor’s new power to push through bylaws even if two-thirds of council opposes them.15

The rooming house story demonstrates two things. First, mayors can avoid defeat by choosing not to bring votes to the
floor that they have a good chance of losing. More important for the strong mayor discussion, it also shows that, on its own, the veto would not have made any difference. A mayor cannot veto a bylaw that has not been passed.

A mayor can use the new powers to put items on the council agenda, and to veto certain bylaws passed by council. What the new powers cannot do is enable the mayor to pass bylaws without council’s approval. By lowering the approval threshold from 50 percent to 33 percent, however, Bill 39 stacks the deck in favour of the mayor.

What effect might the veto and the lower approval threshold have behind the scenes, when the mayor and councillors are informally horse-trading and negotiating? We can imagine how the mayor could threaten to veto an item about infrastructure funding in a councillor’s ward if that councillor does not support the mayor on another issue. We could start seeing that kind of hardball, especially if a mayor is less adept at using his or her existing prerogatives – committee assignments, for example – to shape council’s agenda.

Could future mayors actively use the veto and their discretion over how to attach it to provincial priorities to achieve political and policy goals that are potentially far removed from those priorities? It is possible, but unlikely, at least in Toronto. As we’ve seen, the mayor already has considerable powers to shape the council’s agenda. And by convention, council tends to defer to the mayor’s large electoral mandate, especially early in the term. Even Rob Ford saw early wins on issues such as the vehicle registration tax and declaring the TTC an essential service. No veto would have been necessary.

The veto would more likely come into play in situations like those in the later years of Rob Ford’s mayoralty. But I think it is more likely that the veto would result in gridlock and inaction, rather than in the mayor’s running roughshod over council. Nevertheless, the lower approval threshold would enable the mayor to push through items that a majority of council opposes, provided that they are deemed to “advance provincial priorities.”

Recall the 2012 votes on the Transit City transit plan. Mayor Rob Ford wanted “subways, subways, subways.” Council wanted light rail lines. Council voted for the LRTs and Ford could not do much about it. If he had had a veto, he could have vetoed LRT-related budget votes, but he still would have lacked the support to get his subway plan through. This might have led to compromise, or it could have just led to… nothing. I think the result could have been a year in which there was no city-endorsed transit plan. A stalemate.

This eventuality is interesting to think about in the context of this legislation, which the government has justified as a way to speed up the production of housing. It could just as easily slow things down.

Figure 2: Lopsided council votes are more common now than ever before
**Intergovernmental relations and the housing connection: Downloading political responsibility**

Alison Smith

**Executive federalism**

I have been asked to discuss the provincial-municipal relationship, especially as it concerns housing policy. In the 1970s, University of Toronto political scientist Richard Simeon wrote an important book called *Federal-Provincial Diplomacy*. He argued that in many fields, from pensions to education to constitutional reform, policy-making in Canada unfolds as a process of bargaining between federal and provincial executives, which he called “diplomacy” or “executive federalism.”

This model has been criticized for being undemocratic, unaccountable, and exclusive. In the late 1980s, the Meech Lake Accord collapsed in part because it was seen as a closed-door, elite-driven process. The subsequent Charlottetown Accord was more inclusive and was put to a national referendum (but was rejected).

It strikes me that strong-mayor powers for some or perhaps many cities would re-create this diplomatic relationship, but on a very uneven playing field between provincial and municipal governments. With provincial-municipal diplomacy, we could see a situation in which a small number of people decide policy behind closed doors for a very large number of people. This is concerning for two reasons.

First, the city is at a structural disadvantage in provincial-municipal relations. In my work with Zac Spicer on local autonomy in Canada, we conceptualized local autonomy as the ability of local governments to do what they want free from provincial constraints. To the extent that the mayor gains additional powers under the new legislation, it is entirely on the province’s terms. This change does not strike me as enhanced autonomy if the new authority must be exercised in alignment with the province’s priorities; rather, the mayor becomes another tool of the provincial government to implement its preferred policies. Mayors could request that an issue be made a provincial priority, but the province has all the power and could simply say no.

I am also concerned about the legitimacy and equity of policymaking at the local level as well. Several years ago, John Tory expressed interest in strong-mayor powers after a request from the Toronto chief of police, who wanted more funding for increased surveillance. Tory stated if he had strong-mayor powers, he could give the chief of police what he wanted. (In this example, the council approved the request within a few hours.) Major policy changes on policing or other matters, including transit, housing, and homelessness, should not be made by only two or three people. Public debate on these and other issues should occur not only within council, but with the participation of groups from around Toronto, such as Black Lives Matter, Indigenous-led advocacy groups, and others who would be affected.

**Downloading responsibility for addressing the housing crisis**

My second point relates to the housing crisis and who should bear the responsibility for addressing it. Note that while we are currently facing a housing crisis across Ontario, the crisis of housing for people with low incomes has existed for decades. For all but a brief period in the 1960s and 1970s, meeting the housing needs of people with low incomes has been low on the priority list of governments at all levels and of every political stripe. Municipalities certainly share some of the blame for this, but housing is a complex issue and requires the participation of government at all levels.

While empowering mayors to accelerate housing production may allow for more nimble action, it also downloads responsibility for addressing the housing crisis to the local level. When it comes to providing deeply affordable housing (housing that is affordable for people who are on social assistance), rent-geared-to-income housing (usually capped at 30 percent of someone’s income), and supportive housing for people who are or are at risk of being unhoused, municipalities cannot act on their own.

This is particularly true in Ontario and in Toronto in particular, where there is acute housing need but also a mismatch of authority and resources not seen in any other Canadian province. Ontario was the only province to download responsibility for housing policy to municipalities in the 1990s, and did so without transferring additional funding. The result was a generational failure to maintain and expand the affordable housing stock. Intergovernmental alignment in Ontario is extremely important, because the order of government that has the authority for housing policy – the municipal – does not have the resources to create an inclusive housing system that provides supportive, affordable, and deeply affordable housing to those who need it.
Municipalities certainly have a role, but senior governments do as well. I find it frustrating that the provincial government states that housing is a major priority, and yet it has done very little with the powers and resources it has. The province's own Housing Affordability Task Force suggested that the government eliminate exclusionary zoning. The provincial government appears willing to do just that. But eliminating exclusionary zoning is not going to solve the entire housing crisis, including the crisis of deeply affordable and supportive housing. The provincial government could help with the missing middle, but municipalities do not have the resources to develop and maintain housing for people who are unable to access adequate and affordable housing through the private market.

Making the mayor more accountable
Gabriel Eidelman

I have been asked to focus my remarks on the executive dimension of stronger mayor powers – that is, how mayors in Ottawa and Toronto will oversee the administrative functions of government – rather than the mayor's legislative powers at council, including the veto. In this respect, I am rather positive about some of the proposed changes.

The way the provincial government dropped these changes on Toronto and Ottawa – a surprise from on high, without consultation, in the middle of an election – is inexcusable. Setting this matter aside, I will focus on the substance of two specific reforms contained in the Strong Mayors, Building Homes Act that I believe have merit: the mayor’s new statutory responsibility to lead the municipal budget process, and the mayor’s new power to hire and fire, with several notable exceptions, the most senior members of the civil service as well as reorganize the machinery of municipal government.

Responsibility for the budget
Giving the mayor responsibility to prepare the city budget seems like a small change, but it flips the current budget process on its head. Most people assume that politicians, not public servants, initiate and present the city budget. After all, this what we see at the federal and provincial levels, where after weeks and months of consultation and preparation, the minister of finance stands up in the legislature, presents the government’s priorities, parliament votes, and the public service gets on with the business of implementation.

If you ask me, that is how it should work at the city level, too. But in municipal government, it is almost the reverse. The formal budget process begins with a presentation by the city manager, who tables the staff-recommended “preliminary” or “draft” operating and capital budgets. And in most cases, despite months of debate in committees, council usually passes the staff-proposed budget with almost no meaningful changes.

Consider that Toronto’s 2023 operating budget was passed almost exactly as proposed, even though it came with a nearly $1-billion shortfall, on a hope and a prayer that other orders of government would fill the gap! (As of March 2023, neither the federal nor the provincial government has agreed to bail Toronto out.)

Who is accountable for this process? Everyone and no one, all at the same time. It’s a system defined by ambiguity and plausible deniability. Staff get to say they are following council’s direction – and remember that only council can formally direct staff, not the mayor. Councillors get to say that they are following staff’s expert advice. And mayors get to take their pick, deferring to staff or respecting the will of
council. In short, right now, no one owns the budget – not councillors, not staff, and certainly not the mayor.

That’s not right. The buck should stop somewhere. And I think it is perfectly reasonable to expect that the mayor wear this responsibility, and formally lead the budget process. The mayors of Toronto and Ottawa – past, present, and future – are the only people elected to office not by 5,000 or 10,000 voters in a single ward, but by hundreds of thousands of people across the city. In the 2022 general election, Mayor Tory directly received 15 times the number of votes as those for Josh Matlow, the ward candidate who received the greatest number votes in any ward, and 64 times the votes received by Jamal Myers, who received the fewest. Voters elect mayors to lead their city government. I say: make them lead!

Of course, I’m not advocating that the mayor, and only the mayor, should have complete control over every aspect of the budget. Council has a key role to play: to debate and approve that budget in public. The new legislation does not change this responsibility. The only formal power that the mayor actually gains in the process is the power to propose the budget. Why is this important? First, it would give clarity to staff about how to plan and deliver services consistent with the mayor’s city-wide priorities and commitments. Second, it would send a signal to councillors that the priorities of the city writ large take precedence over strictly local matters. Third, it would match the public’s expectations that the job of the mayor is to lead, and that mayors should be held accountable for their decisions.

The power to hire and dismiss senior managers

That leads to the second function: control over the machinery of government. Here, once again, the reality of municipal government in Canada conflicts with people’s understanding of how things work. Up to now, Ontario has designated mayors as the “chief executive officers” of their cities. This sounds impressive, but the designation comes with no actual power to act like a CEO as most people understand the term. Bill 3 gives the mayor the authority to hire or fire top civil servants, and otherwise reorganize the structure of local government.

Now, if you are cringing at the thought of the mayor’s having unilateral power to hire and fire senior civil servants, I will remind you that this is precisely how things work at the federal and provincial levels. Who appoints and dismisses the Clerk of the Privy Council, the Secretary to Cabinet, and all federal and provincial deputy ministers? The prime minister and premier. In principle, this power would be no different.

Today, the lines of accountability between the city manager, the executive team, and the mayor are not as clear as they should be. The public service currently serves all councillors equally. In practice, that means public servants are pulled in contradictory directions. Making senior staff more responsive to the mayor’s priorities, as chief executive, would, in my opinion, rebalance the policy process to prioritize city-wide concerns over the often-parochial concerns of local councillors.

Does this mean the mayor should have the power to hire and fire anyone they please? Of course not. This is why the limitations specified in the legislation matter. As it stands, the act provides a short list of positions the mayor cannot hire or dismiss. The draft version of the regulation proposed that these powers extend only to “heads of divisions,” defined as “the highest level of senior management” (emphasis added) – which I interpret to mean the city manager and their deputy city managers.

Quite concerningly, this qualifier was quietly removed in the final version of the adopted regulation without explanation. Mayor Tory subsequently issued a formal “mayoral decision,” which stipulated that his powers reached below the city manager and deputy city manager levels, to director and general manager roles, such as the executive director of financial planning, general manager of transportation services, and the chief planner (see Figure 3).²¹

Whether a future mayor could reach even further down the administrative hierarchy, potentially including unionized employees, remains to be seen. It is therefore vitally important to beef up protections for these senior staff, and the public service in general, to avoid potential abuses of this power. This might mean drafting new codes of conduct, amending the public service bylaw, and even making legislative changes at the provincial level to protect the independence of the municipal public service (as discussed in the next section).

All that said, as long as the mayor’s administrative control is restricted to the most senior ranks, and appropriate guardrails are enacted to protect the independence of the broader public service, I would say that changes to the mayor’s executive authority could help bring about more effective, responsive, and accountable local government.
Figure 3: Powers to hire or fire City of Toronto public servants

Note: Based on Strong Mayors, Building Homes Act, 2022, and Mayoral Decision 11-2022.
Source: Gabriel Eidelman, University of Toronto; adapted from City of Toronto organizational chart, November 14, 2022.
Conclusion
Zack Taylor

The panel discussion revealed a mixture of positive and negative assessments. Karen Chapple cautioned us to avoid too closely identifying Ontario’s strong(er) mayors with American strong mayors. The powers, organizational structures, and relationship to party politics in the two models differ considerably, with different implications.

Some aspects of the law provoked more negative reactions than others. Karen Chapple and Alison Smith were critical of its potential effect on intergovernmental relations, finding that instead of empowering mayors relative to the province, it subordinates them to provincial priorities. Smith saw the real and symbolic strengthening of the mayor as blame-avoidance by the provincial government – should mayors fail to improve housing affordability, they will bear the political cost, not Queen’s Park.

Matt Elliott was skeptical that the balance of power between the mayor and council would change much in practical terms, at least in the City of Toronto. Gabriel Eidelman was the most positive of the group, arguing that strengthening the executive, subject to appropriate safeguards laid out in legislation and regulations, would improve accountability for decisions and reinforce the city-wide perspective in policymaking.

Smith, however, remains concerned that even with these safeguards, concentrating authority in the mayor will reduce democratic oversight and inclusion. The minority-rule provision added in Bill 39 reinforces these concerns. For bylaws to be passed with the support of only one-third of council violates long-standing democratic norms and has no counterpart in any western democracy.

The panel presentations were followed by discussion and audience questions that probed nuances and raised new issues. Given the panel’s focus on Toronto, a key question is how the new powers will play out in smaller municipalities. We summarize some of these additional points here.

Is there a risk of “politicizing” the public service?
How worried should we be about politicizing the municipal public service? Will the changes make it easier to recruit high-quality administrative leadership, or will potential applicants be repelled by the political relationship with the mayor?

Karen Chapple argued that in the United States at least, talented administrators have been attracted to a system in which they are encouraged to innovate and their ideas can be implemented – think of New York City Mayor Michael Bloomberg’s handpicked transportation commissioner Janette Sadik-Khan, whose work on land use and transportation has achieved international renown. There is also Boston’s mayor, who created a Mayor’s Office of New Urban Mechanics (MONUM) to develop special projects outside the conventional administration, including innovative apps for use by residents.

Overall, however, the American research has shown that the council-manager system fosters more consistent implementation. This finding suggests that, on the one hand, a well-resourced and relatively autonomous chief executive may empower innovators in the local public service. On the other hand, when a mayor and high-profile staff “own” particular innovations, they may not survive when elected officials and senior managers change. Moreover, residents may appreciate consistent service delivery by a professional, meritocratic public administration.

Gabriel Eidelman made a different point: senior federal and provincial administrators are appointed by the political executive. What makes this practice relatively uncontroversial are the guardrails that protect the system from abuse and corruption. The City of Toronto already has a robust public service bylaw and procedural bylaws that regulate the interactions between elected officials and senior administrators.

Eidelman noted three directions that all cities should pursue. First, council should clarify, in its code or procedural bylaw, the political role and responsibilities of the mayor as CEO versus the administrative role and responsibilities of the chief administrative officer, as well as their respective reporting relationships to council. Under no circumstance should the mayor be able to tell the CAO or any other administrator that “you work for me, and only me.” Senior managers should remain accountable to council as a whole, not just the mayor, including being required to answer questions in public about the administrative operations of government. The senior leadership hiring process should also be codified in a bylaw.
to ensure that all appointees are highly qualified. And there should be explicit limits on how far down the administrative hierarchy the mayor can unilaterally exercise hiring and dismissal powers.

Second, as recommended by Justice Bellamy in the Computer Leasing Inquiry report and Justice Marrocco in the more recent Collingwood inquiry, councils should stipulate in their public service or procedural bylaw that staff must conduct themselves at all times in a neutral, objective, and impartial manner, and require them to provide professional, independent, and truthful expert advice when called upon.24

Third, mandatory training should be required for mayors, councillors, and staff to help them adapt to new reporting relationships and institutionalize the dividing line between politics and administration using best practices and norms of local public administration.

Do mayors have the capacity to manage these new powers?
The new powers require that mayors have the administrative capacity to make good decisions about how to use them. Matt Elliott and Gabriel Eidelman noted that even the mayors of Ontario’s largest cities have relatively small political offices and rely on the city manager’s office to provide advice and manage complex administrative and fiscal processes. Indeed, mayors’ offices are predominantly staffed by communications people and a handful of advisers. With the veto and greater power over the budget and the ability to hire and dismiss senior managers, mayors will likely need to expand their in-house expertise and advisory capacity. Following the introduction of strong-mayor powers, Toronto’s council increased the mayor’s office budget by $800,000, or 37 percent.25 Will future “strong mayors” in Toronto and other municipalities seek to expand their office resources, and will their councils support these moves? In exchange, councils may adopt bylaws defining the staff structure of mayors’ offices and how funds may be spent.

How will this work in smaller municipalities?
Almost all the focus has been on Toronto and Ottawa. The implementation of strong-mayor powers is likely to be very different – and the risks arguably greater – in smaller Ontario cities that have fewer senior managers, flatter management structures, and less elaborate rules and procedures.

Gabriel Eidelman argued that much will hinge on the existing organizational culture and the rules already in place. Smaller municipalities are often portrayed as old-boys’ clubs in which the lines that separate the political from the administrative are blurry and conflicts of interest are rife. The province could help by amending the City of Toronto Act and the Municipal Act to require councils to adopt municipal codes or procedural bylaws to define and regulate these processes. The provincial government could also enact separate legislation akin to the Public Service of Ontario Act or the federal Public Service Employment Act, or further limit the range of positions the mayor is empowered to hire or dismiss.

Speaking as a journalist, Matt Elliot brought up another dimension: scrutiny by the media and the public. Toronto has an exceptionally rich media environment, with a range of newspapers and broadcast media outlets that employ city hall reporters, and many activists and bloggers. Smaller places have fewer or none of these, with a corresponding lack of public awareness of what is happening at city hall.

How the ability of mayors under Bill 39 to pass bylaws despite the opposition of two-thirds of council will play out in municipalities with small councils is another unanswered question. In Ontario, municipal councils must have a minimum of four members in addition to the mayor. While Toronto and Ottawa each have 25 ward councillors plus the mayor, many medium-sized cities have small councils. Markham, Richmond Hill, and Vaughan have nine-member councils, including the mayor. Some city councils are even smaller: Waterloo has eight members, Burlington seven, and Brampton six. In Brampton, the mayor would need only one other councillor to agree to pass a bylaw that advances provincial priorities. This situation raises fundamental questions about legitimacy, democracy, and accountability.

What about the regional municipalities?
The two-tier regional municipalities – such as Halton, Peel, York, Durham, Niagara, and Waterloo – present a dilemma that the province has recognized with its introduction of Bill 39. In these places, upper-tier municipalities make decisions and perform functions that are germane to the nominal purpose of the Stronger Mayors, Building Homes Act: building more housing quickly. Regional councils make policies regarding settlement area expansions, urban structure planning, and the extension of hard infrastructure, including.

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The implementation of strong-mayor powers is likely to be very different – and the risks arguably greater – in smaller Ontario cities that have fewer senior managers, flatter management structures, and less elaborate rules and procedures.
Given the regional municipalities’ policy influence over housing production and infrastructure provision, does it make sense to extend strong mayor powers to the regional chairs? The Better Municipal Governance Act signals that the province is considering how best to extend strong-mayor powers in these contexts.

Turning regional chairs into strong mayors would alter the relationship between lower-tier municipalities and the region – but how? A key dilemma is democratic legitimacy: while some regional chairs are directly elected, most are appointed. Imagine a scenario in which an appointed regional chair vetoes a regional bylaw passed by a regional council composed of elected local mayors and councillors. One possible outcome of the facilitators’ work is the direct election of all regional chairs – in effect, making them regional mayors.

**What are the limits of “provincial priorities”??**
In most cases under the new legal framework, the new mayoral powers can be exercised only when a bylaw is deemed to advance or impede a provincial priority. Housing is the provincial government’s current preoccupation, but what about two, five, or ten years from now, when future provincial governments face different challenges?

We can imagine several outcomes. As policy concerns change, the minister may amend the regulation to remove one provincial priority while adding another. In her remarks, Alison Smith pointed to policing as a potential future provincial priority. There is no requirement that the province have only one priority at a time. The regulation may evolve over time to contain a laundry list of priorities. If the province uses its power to name priorities strategically, it may gain considerable influence over local policy agendas and choices, potentially undermining local autonomy.

Provincial priorities do not have to be focused on a substantive policy dilemma, such as housing affordability. They could also be framed in more general terms. For example, the province could identify low taxes, crime reduction, climate change mitigation, disaster preparedness, or transportation congestion as priorities. Depending on how many priorities are listed, and how broadly or specifically they are worded, one can imagine a situation in which mayors could deem just about any bylaw to be eligible for special council consideration, the veto, or Bill 39’s lower approval threshold.

**Summing up: An uncertain future**
The provincial government introduced these legislative changes to address an immediate problem: housing unaffordability. Whether strong-mayor powers will have any effect on housing production remains to be seen. Of greater concern is how the mayors’ new powers, and the province’s ability to define provincial priorities, may be used in future. Will local policy-making and implementation become more innovative, responsive, and effective? Will these improvements come at the expense of local autonomy, democracy, and accountability, especially if use of Bill 39’s one-third approval threshold – an unprecedented violation of democratic norms and traditions – becomes routine? Now that John Tory – who asked for these powers – has departed from Toronto’s political scene, how will they be used by the next mayor? Will changes that appear to be designed with Ontario’s largest cities, Toronto and Ottawa, in mind, readily transfer to other contexts, such as small and mid-sized cities and two-tier systems? How big are the risks that the use of the mayors’ new powers will intensify local conflict and generate policy gridlock? And without any guidelines for how provincial priorities should be defined, will future provincial governments use them for political ends rather than to further legitimate policy objectives? Only time will tell.
Endnotes
