

Association of suburban municipalities (ASM)
On the Island of Montreal

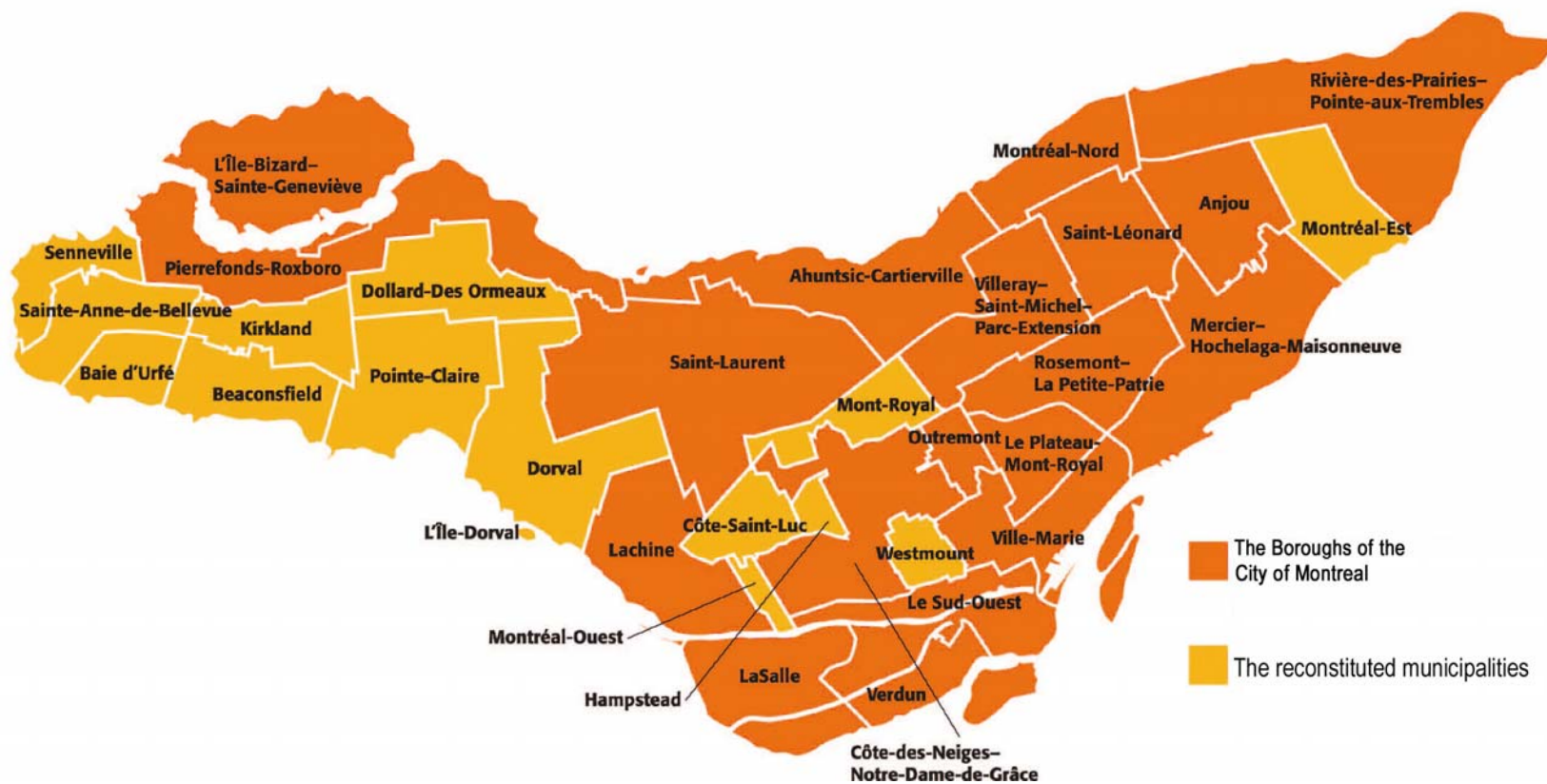
BRIEF

**PRESENTED TO MRS. NATHALIE NORMANDEAU,
MINISTER OF MUNICIPAL AFFAIRS AND REGIONS
AND TO THE MEMBERS OF THE COMMISSION DE L'AMÉNAGEMENT ET DU TERRITOIRE DE
L'ASSEMBLÉE NATIONALE,
RELATING TO THE STUDY OF GOVERNMENT BILL 22 TITLED
*LOI MODIFIANT DIVERSES DISPOSITIONS LÉGISLATIVES CONCERNANT L'AGGLOMÉRATION DE
MONTRÉAL***

November 2007

ASSOCIATION OF SUBURBAN MUNICIPALITIES (ASM) ON THE ISLAND OF MONTREAL
BRIEF ON BILL 22

The City of Montreal and the reconstituted municipalities



**ASSOCIATION OF SUBURBAN MUNICIPALITIES (ASM) ON THE ISLAND OF MONTREAL
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MESSAGE FROM THE MAYORS

Mrs. Nathalie Normandeau, Minister of Municipal Affairs and Regions,

Distinguished members of the *Commission de l'aménagement et du territoire de l'Assemblée nationale*,

It is with pride and open-mindedness that we submit to you the essential aspects of our reflections on Bill 22.

Our pride stems from the role with which we were entrusted by nearly a quarter of a million citizens who elected us and that we represent to the best of our competence.

Our open-mindedness is directed at the Government, which has demonstrated its capacity to listen to our criticisms regarding democratic life on the Island of Montreal and the inequitable sharing of contributions from different communities for equipments, assets and regional services. Without presuming the outcome of the present situation, the simple fact of our gathering together, at this time, to study a bill meant to improve the Montreal Agglomeration's political life, constitutes, in itself, a step in the right direction.

The recently reconstituted municipalities have always played a major role in the creation and governance of regional structures and services on the Island of Montreal. Ever since the Montreal Metropolitan Commission, created in 1921 and transformed into the Metropolitan Montreal Corporation in 1959, as well as during the years of the Montreal Urban Community up to the recent Montreal Metropolitan Community, we have always answered the call to the necessary pooling of our mutual competencies.

Unfortunately, the last territorial reorganization on the Island of Montreal – the creation of the Council of the Agglomeration – not only engendered a clear democratic setback but also presents with major dysfunctions regarding the management and administration needs of a modern metropolitan structure.

It is therefore in the hope of reaching a more efficient, democratic and manageable governance that we submit to you today our reflections. The more democratic entities on the Island of Montreal work together, with trust and with the feeling that each can find a satisfactory outcome, the more likely it is that all citizens of the Island of Montreal will come out winners.

**

Maria Tutino, mayor of Baie-d'Urfé

Bob Benedetti, mayor of Beaconsfield

Anthony Housefather, mayor of Côte-Saint-Luc

Edward Janiszewski, mayor of Dollard-des-Ormeaux

**ASSOCIATION OF SUBURBAN MUNICIPALITIES (ASM) ON THE ISLAND OF MONTREAL
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Edgar Rouleau, mayor of Dorval

Gisèle Chapleau, mayor of l'Île-Dorval

Dr William Steinberg, mayor of Hampstead

John W. Meaney, mayor of Kirkland

Yvon Labrosse, mayor of Montréal-Est

Campbell Stuart, mayor of Montréal-Ouest

Vera Danyluk, mayor of Mont-Royal

Bill McMurchie, mayor of Pointe-Claire

Bill Tierney, mayor of Sainte-Anne-de-Bellevue

George McLeish, mayor of Senneville

Karin Marks, mayor of Westmount

**** The original version of this brief was signed by the 15 elected mayors of the Association of suburban municipalities on the Island of Montreal's member municipalities.**

OVERVIEW OF THE RECONSTITUTED SUBURBAN MUNICIPALITIES

	Reconstituted suburban municipalities		City of Montreal	
	Number	%	Number	%
Population¹	239 266	12,8 %	1 634 547	87,2 %
Occupied territory²	134 km ²	27 %	365 km ²	73 %
Standardized evaluation³	\$37 B	20 %	\$151 B	80 %

¹ Source : Ministry of Municipal Affairs and Regions – Population decree 2007

² Source : Statistics Canada

³ Source : Ministry of Municipal Affairs and Regions – Data on real estate appraisal rolls for each municipality – Fiscal year 2007

INTRODUCTION

Returning to an Agglomeration that serves citizens

Time is one of the most precious commodities at our disposal. We have lost enough.

We are all concerned: mayors and councillors of reconstituted municipalities, the mayor of Montreal, mayors and councillors of boroughs, municipal civil servants of all of the above, provincial civil servants of Municipal Affairs dedicated to different issues relating to Montreal and the Quebec government.

The time has come to fully understand the multiple aspects of the Island's political organization in the hope of creating more harmony through the new law.

Since our municipalities were forcefully merged by law, followed by the referendum legislation and a third bill establishing the Agglomeration's governing rules, in addition to the amendments to the City of Montreal's Charter and the decree on municipal jurisdictions, rarely has a metropolis received so much attention from legislators.

In spite of it all, things have unfortunately not turned out so well. Expertise and counter-expertise reports are endlessly accumulating in our town halls. Documents on *motives of opposition* have become run of the mill and municipal life is peppered with countless *answers to questions* papers.

Political life, which should be the realm of human relations, has become tangled in debates where the sole objective becomes the quest for "*the killer argument*" to the detriment of the true function of representation that we are called upon to fulfil as elected representatives.

We have lost enough time.

Bill 22 arrives at the right moment, as it presents with a unique opportunity, and maybe the last one, to make the Agglomeration efficient and truly dedicated to serving the citizens.

Reviewing accounts payable

The Agglomeration of Montreal's present structure is dysfunctional. Created to offer services to citizens and to unite the efforts of all the Island's elected officials, it serves neither one nor the other. After less than two years of operation, our political experience moves us to mobilize with the same energy as during the referendums to make our voices heard and to make our contribution to the democratic debate.

Without overly stirring up the past, the government must admit that things have changed between the demerger commitments and today's reality. At the time of the referendums, Bill

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9 comprised a list of equipments, infrastructures and activities of collective interest⁴, which was to be financed by all of the Agglomeration on the Island of Montreal.

This list, which contained around twenty infrastructures and fifty activities has unfortunately changed today: a dozen infrastructures have been added and almost as many activities as well. These add-ons were made during two post-referendum events: when Bill 75 was adopted and when Decree 1229-2005 was published.

In fact, we believe that, since the forced mergers of 2001 – and this remains true today under the Agglomeration regime – spending increases have been financed in part by a massive transfer of Montreal's fiscal burden to the citizens of suburban municipalities. Going against municipal taxation logic, the principle of “redistributive taxation” based on real estate value has been denatured following the mergers. The result, today, is striking: the Agglomeration of Montreal imposes upon an important proportion of its citizens and businesses, and particularly on the reconstituted municipalities' territory, a disproportionate fiscal burden in regard to the services it renders.

And this upsetting conclusion does not emanate solely from the mayors and citizens of reconstituted municipalities. In May 2006, the independent government agent designated to study this matter and make recommendations to the Minister of Municipal Affairs and Regions, Mrs. Nathalie Normandeau, recommended cutting over **\$40 million** in Agglomeration expenses, which she judged unfounded⁵.

While we do not wish to insist, it should be noted that the opposition of many reconstituted municipalities such as Côte-Saint-Luc, Dollard-des-Ormeaux, Baie d'Urfé, Kirkland and Pointe-Claire to the City of Montreal's tarification regarding drinking water has yet to be addressed in spite of the firm recommendation of the same government body *“to adopt a single calculation method, uniform if possible, so that the real and total cost of water be known and managed in a fair manner.”*⁶

Ensuring a healthier democracy

The diagnosis on the Agglomeration's state of health does not rest entirely on fiscal equity problems. With its dysfunctional character, the Agglomeration has engendered a climate of mistrust and of latent conflicts between representatives of the City of Montreal and those of the reconstituted municipalities. In this respect, we all have a duty to correct this unacceptable democratic deficit.

⁴ See the annex of article 105 of the *Loi concernant la consultation des citoyens sur la réorganisation territoriale de certaines municipalités* (2003, chap.14)

⁵ Noël, Roger. *Avis et recommandations relatifs à l'examen du bien-fondé des règlements RCG-06010 et RCG 06-016 de la Ville de Montréal, en regard de l'opposition des quinze villes reconstituées de l'agglomération de Montréal, et le règlement RCG 06-018, pour lequel les villes de Côte-Saint-Luc et Dollard-Des-Ormeaux ont signifié leur opposition, le tout en vertu de l'article 115 de la loi n° 75*, mai 2006.

⁶ *Ibidem*, page 9.

Presently, as the City of Montreal's executive committee is the same as that of the Agglomeration Council, the principle of balance of power, which serves as the basis of all democracies, is not respected. The Agglomeration's decisions are determined by the City of Montreal and unilaterally adopted by the City of Montreal. Thus, the City can decide on its own to adopt the Agglomeration's budget, determine the property tax rate and impose internal bylaws. This is what we refer to as an acute democratic deficit.

Instituting renewed Agglomeration governance

These preliminary remarks, although not quite positive, have no bearing on our open-mindedness and our willingness to share the responsibility of regional services such as public security (police services), public transportation, fire prevention, environment and affordable housing, to name only the major ones.

We must collectively embrace a common objective, that of improving the quality of collaboration between suburban municipalities and the City of Montreal within the Agglomeration. We must recover our capacity to work together instead of against one another. It is in the interest of the City of Montreal as well as that of suburban municipalities.

It is in this frame of mind that, as mayors of the 15 reconstituted municipalities, we say today to the government:

- **yes, to renewed Agglomeration governance.** We appreciate the fact that government questions itself on the principles of democracy on the Island of Montreal. The simple fact of tabling Bill 22 at the National Assembly demonstrates the necessity to review certain governance rules affecting all of The Island of Montreal 's democratic life. We say yes to the Agglomeration Secretariat, but government will have to go further;
- **yes, to a fair and appropriate management of “collective interest” services and assets by an Agglomeration administration.** We appreciate that government is trying to clarify the definition and determination of Agglomeration services and proximity services. We say “yes” to the creation of an Arbitration Committee, whose mandate we wish to see widened. We say “yes” to its composition and the member nomination procedure. We say “yes” to the new double majority amendment formula for all future amendments to the equipments, activities and/or infrastructures within Agglomeration jurisdiction;
- **yes, to regional funding of services and assets jointly defined and recognized as being of a regional nature.** We recognize that the Agglomeration structure must allow equitable funding of these services and/or assets by all taxpayers living on the Island of Montreal;

- **yes, to giving the City of Montreal new sources of income**, be it by granting the new taxation powers **on its territory** proposed by the new bill, with the understanding that these new taxation powers could not, under any circumstance, be exercised on the territory of linked municipalities or by any other means.

Finally, the 15 mayors of the reconstituted municipalities are opposed to taxation powers for the Council of the Agglomeration on the Island of Montreal. As provided for in Bill 6 for the municipality Longueuil, we would rather prefer a quota formula based on the fiscal potential of each municipality. **In this context, each municipality would produce a single tax notice to citizens.** This method will eliminate many irritants and will allow citizens to better understand their municipal tax notices.

SECTION I OUR GENERAL POSITION ON BILL 22

1,1 Government openness

Insofar as efficiency principles are maintained, the ASM appreciates the fact that the government reviewed the Agglomeration's governance structure to improve its democratic character and to make it accountable to all of The Island of Montreal's citizens.

1,2 Our vision of the Island of Montreal

The ASM fervently wishes to reinforce the Island and its region. The more municipalities will work together while respecting their common identity, the stronger and more prosperous Greater Montreal will be. As a matter of fact, although the present debate touches only the Island's municipal entities, we are convinced that, in the long term, Montreal Metropolitan Community powers and mechanisms will have to be strengthened to better encompass Montreal's North Shore and the South Shore. Planning, coordination and funding of large metropolitan infrastructures are crucial elements at stake not only for Greater Montreal but also for the future of Quebec itself.

With a population approaching 4 million people, the Montreal area presents great potential for economic development if it can profit from its specific advantages: its low costs especially when compared with other Canadian metropolitan areas, its quality of life, its major successes in the industrial, cultural and social areas as well as its diversity of languages and cultures.

The Island of Montreal is the gravitational centre of this strength. As long as citizens and representation organizations remain unhappy and unsatisfied with democratic governing rules, this heart of Greater Montreal will be unable to attain the leadership capacity these times require of a modern metropolitan Agglomeration.

1,3 The ASM's aspirations

The ASM aspires to administer economically and socially blossoming municipalities that contribute to the Island's and the area's general prosperity. Our reconstituted municipalities' existence answers the strongly felt need of the citizens we represent, that of enjoying a close, almost direct contact with their municipal representatives. This need for proximity was clearly manifest by the very strong majorities of citizens during the 2004 referendums. Reconstituted municipalities' presence on the Island of Montreal allows this choice. We must accept and respect it.

1,4 Principles of the Agglomeration as an organization

The ASM supports the government's intention of reviewing the present structure of the Montreal Agglomeration. For us, harmonious development of the Island of Montreal requires a shared vision of its greater orientations. For this vision to emerge it is necessary to emphasize what unites different communities while avoiding actions, which feed internal tensions that can often become common in large urban centres.

The new structure of political governance of the Council of the Agglomeration of the Island of Montreal must therefore be based on sound democratic principles while remaining functional. It must promote transparency and accountability of civil servants and elected officials and ensure the protection of taxpayers' minority rights against certain types of abuse. Its authority must be legitimate and be perceived as such.

The structure of the Island's Council of the Agglomeration should therefore reflect the four following principles:

1. **Democracy**, by a fair and significant representation of the Island of Montreal's elected representatives at the decisional levels;
2. **Fiscal justice**, by fierce opposition to any taxation without real representation linked to real decisional power as well as to double taxation;
3. **Equity**, on one hand, through a fair level of contribution to the financing of services recognized by citizens as being regional and, on the other hand, by an equitable rendition of services across all of the Island of Montreal's territory;
4. **Protection of the minority rights of the reconstituted municipalities' taxpayers**, who represent only 13% of the Island's population but contribute approximately 20% of the Agglomeration's fiscal revenues.

SECTION II

GOVERNANCE OF THE AGGLOMERATION ON THE ISLAND OF MONTREAL

2,1 Elements of the Bill with which the ASM agrees.

Designation

The ASM agrees with the new designation “Agglomeration on the Island of Montreal” (*«agglomération de l’Île-de-Montréal»*) which appears to be more adequate since it comprises all Island citizens and not only those of the City of Montreal.

The Council of the Agglomeration

The ASM proposes that the Council of the Agglomeration be composed of the mayor of Montreal, the borough mayors and the mayors of reconstituted municipalities, for a total of 34 members⁷. The Montreal Agglomeration requires the lightest possible structure. It should be manageable and representative.

The ASM is not radically opposed to the government proposition of increasing the number of members of the Council of the Agglomeration on the Island of Montreal to 80, including the mayor of Montreal, the 64 councillors of the City of Montreal, the mayors of reconstituted municipalities and a second representative from Dollard-des-Ormeaux. A lot of criticism has been expressed toward a future Secretariat to the effect that it would represent an inappropriate addition of structure. In our view, this 80-member Council represents a much greater risk of unruliness and useless “overrepresentation” than the Secretariat. Simply said, there is no guarantee of better democratic representation with a Council of the Agglomeration inflated to 80 members.

Preliminary orientation

The ASM agrees with the government proposition to abolish the “preliminary orientation” principle, which forced the representatives of reconstituted municipalities to obtain a preliminary orientation from their own Council for all questions to be submitted to the Council of the Agglomeration. However, so that it can be exercised coherently by all members of the Council of the Agglomeration, this principle should also be abolished for City of Montreal representatives. It should be stated that the idea of freeing all of the City of Montreal’s elected officials from the constraint of preliminary orientation does not emanate from us. It was proposed by the City of Montreal last May⁸.

The Council of the Agglomeration on the Island of Montreal is a governing body in which every member should have the opportunity to express his/her vote freely and according to

⁷ The mayor of l’Île Dorval municipality would be represented by the mayor of Dorval municipality.

⁸ Présentation PWP, « Position Montréal, repenser l’agglomération », May 30th 2007.

his/her conscience. Following the same logic, the government should act coherently and abolish the principle of “preliminary orientation” for all representatives of the City of Montreal as has been done for those of reconstituted municipalities.

The Agglomeration Secretariat

Rapidly decried by too many democracy apostles from the moment it was proposed, the Secretariat of the Agglomeration on the Island of Montreal seems to us essential in the present context. However, we disagree with the government in respect to its status. This question will be discussed in more detail in section 2,2.

The first responders

The ASM agrees with the government proposition to exclude from Agglomeration on the Island of Montreal jurisdiction Côte-Saint-Luc first responders’ services.

Research capacity for elected officials

We welcome with much satisfaction the government’s intention to set aside research budgets for use by the representatives of reconstituted municipalities.

2,2 Elements of the Bill on which the ASM would like to comment, express wishes and/or recommendations.

2,2,1 Regarding the Council of the Agglomeration on the Island of Montreal

Council leadership

The present law and Decree 1229-2005⁹ consecrates in fact the mayor of Montreal as Agglomeration president. In this context, it should be remembered that the mayor of Montreal is neither the mayor of the Island or of the Agglomeration since he has not been elected by all the Island’s citizens, more specifically by the citizens of the municipalities we represent.

As a matter of fact, experience has shown that the mayor of Montreal himself is visibly ill at ease in this role. As he has declared publicly, his first loyalty rests with the City of Montreal: anything else would be rather surprising.

In the spirit of the law, this double allegiance will, at times, place certain members of Montreal’s public administration in a rather delicate position. Their first loyalty goes to the City of Montreal, which, under the circumstances, is perfectly normal.

⁹ Decree 1229-2005, article 13 (L.R.Q., c. E-20.001)

Democratic life

As mayors of reconstituted municipalities, our presence within the Council of the Agglomeration is trivialized and of little consequence. Even the City of Montreal's elected officials hardly find satisfaction in the process. For example, those who disagree with a majority position in the City of Montreal's municipal Council do not have the right to express their opposition by a vote at the Council of the Agglomeration.

The absolute necessity of a distinct entity

We insist on applying to the government to make it so that the Agglomeration's affairs and jurisdictions are administered by an independent legal entity, distinct from the City of Montreal. **Let us be clear: this represents, for us, an absolute necessity.** In this way, the legislator ensures that those who provide administrative support to those who are responsible for Agglomeration affairs and jurisdictions remain neutral and accountable to reconstituted municipalities as well as to the City of Montreal, thus alleviating concerns about equity between communities.

This entity would be under the control and governance of the Council of the Agglomeration on the Island of Montreal. The entity would not provide any services itself but would rather have these services dispensed either by supramunicipal organizations or by the City of Montreal following the guidelines we are proposing in the present brief. Since hiring or transfer of support staff would not necessarily be required, the entity would be a streamlined structure and it would not be costly to establish and maintain. The great administrative and democratic advantage of this entity would stem from the obligation of independence and fiduciary duty conferred upon its directors and not from control and day-to-day management.

It is precisely this absence of fiduciary duty, inherent to the present structure that makes it dysfunctional. The proposed Secretariat in Bill 22 would be an integral part of this structure instead of being an additional entity by itself.

To underline clearly this distinct and legal character, the government will have to substantially modify Section I of Decree 1229-2005, which describes the nature and composition of the Council of the Agglomeration.

In the same vein, to underline clearly the distinct character of management of Agglomeration Affairs and jurisdictions, the government will have to provide more transparent representation mechanisms. Thus, if the Council of the Agglomeration president comes from the City of Montreal, it would be logical that his vice-president comes from one of the reconstituted municipalities and vice-versa. Legislation might even allow for an alternation principle at these positions at each mandate renewal.

A distinct entity without an executive committee

As is the case with the City of Ottawa, the City of Calgary and many other Canadian cities, the ASM believes that the Council of the Agglomeration on the Island of Montreal should not have an Executive Committee.

In fact, in Bill 75 and in Decree 1229-2005, the government has designated *de facto* the Executive Committee of the City of Montreal to act as Agglomeration Executive Committee. This concept of automatically designating the City of Montreal's Executive Committee to act in the same capacity at the Agglomeration did not exist in Bill 9. This change occurred after the referendums.

But if the government should decide to keep an Executive Committee for the Agglomeration, it must modify the way it functions and its representativeness. The ASM wishes the abolition of the principle by which the City of Montreal Executive Committee is, everything being otherwise equal, the Executive Committee of the Agglomeration on the Island of Montreal. Reconstituted municipalities must truly be full and representative partners within a possible Executive Committee. In order to encourage the emergence of a common team spirit, the minimal configuration of an Executive Committee should include two mayors from reconstituted municipalities, the mayor of Montreal and five other representatives from the City of Montreal.

Finally, on this subject, it is not superfluous to keep in mind that an eventual Executive Committee should, in our opinion, have only very limited powers. All important matters should be dealt with directly by the Council of the Agglomeration and this Executive Committee's spending powers should be limited to awarding contracts not in excess of \$50 000.

Agglomeration jurisdiction

Bill 75¹⁰, Articles 16 and 17, state that only the City of Montreal can act and exercise Agglomeration jurisdictions, not only on its territory but also on that of reconstituted municipalities. In this respect, the ASM wishes to express to the government that it is not opposed to the fact that the City of Montreal can act **in the exercise** of Agglomeration jurisdiction on the territory of reconstituted municipalities. Moreover, the ASM considers the following services as Agglomeration jurisdictions:

- public security services;
- fire prevention services;
- real estate appraisal;
- municipal courts;
- social housing;
- public transit;
- regional parks management;
- greater environment services **with the exception of** residual waste management.

¹⁰ Source : Loi sur l'exercice de certaines compétences municipales dans certaines agglomérations (L.R.Q.,c. E-20.001)

However, the City of Montreal's capacity to exercise its Agglomeration jurisdictions on the territory of reconstituted municipalities must be circumscribed by the Council of the Agglomeration on the Island of Montreal. By decreeing that the City of Montreal Executive Committee is *de facto* the Agglomeration's Executive Committee, the government has distorted the logic of Agglomeration jurisdiction management. Present legislative logic must be revised.

The ASM recommends that Articles 16 and 17 of Bill 75 be amended to determine that Agglomeration jurisdictions **belong** to the Council of the Agglomeration on the Island of Montreal. The exercise of the latter would be delegated to the City of Montreal. The delegation of Agglomeration jurisdiction to the City of Montreal should be based on the subsidiarity principle, that is to say that we consider that these responsibilities can be exercised more efficiently if they are put in common rather than being exercised independently by each of the municipalities on the Island of Montreal. It therefore becomes, by definition, a delegated power. Following this logic, the City of Montreal must consider itself, in a fashion, the agent of reconstituted municipalities and their taxpayers for the exercise of its Agglomeration jurisdictions on their territory.

To ensure a balance of powers and a transparent follow-up of Agglomeration jurisdictions' management, the government must envision binding legislative mechanisms which would make the City of Montreal liable and accountable to the Council of the Agglomeration on the Island of Montreal, its Commissions and Secretariat for the management of its Agglomeration jurisdictions on the territory of reconstituted municipalities.

The commissions

Regarding the commissions, which might be created by the Council of the Agglomeration on the Island of Montreal, we believe the legislator should have the same concerns of proportional representation between representatives of the City of Montreal and representatives of suburban municipalities as those offered for the Council itself. As in the case of the Council presidency, the main positions attached to these commissions (president and vice-president) could be filled following the principle of alternation.

The budget and audit procedures

We are asking the government to provide the necessary mechanisms so that the reconstituted municipalities may be active partners in budget preparation for the Agglomeration on the Island of Montreal.

In this area, in fact, the government could plan the creation of a **budget commission with an equitable representation of elected officials**, which could follow the budget preparation procedures, oblige civil servants to testify to explain budgetary choices and make recommendations to the Council of the Agglomeration.

In the same vein, as the Montreal Agglomeration Transition Committee recommended in 2005, the Agglomeration should give itself an Auditing Committee and the accounting records should be submitted to independent audits.

We endorse the 2005 Transition Committee's views on this matter. The Agglomeration auditing committee should comprise five people, including two representatives from the City of Montreal and three members from reconstituted municipalities, including the president. As noted by the 2005 Transition Committee, the composition and presidency of the Auditing Committee would conform to the new governance requirements that apply in other areas of society.

Let us recall, finally, one last wish of the Transition Committee, underlining the importance "*of ensuring a **fair** (our underlining) and precise attribution of what constitutes an Agglomeration expense and a proximity expense in the City of Montreal's accounting records*"¹¹. The least we can say is that the operational experience of the last two years within the Agglomeration has shown us just how essential such an Auditing Committee can be.

Supramunicipal services

In order to improve efficiency of supramunicipal services, we recommend to the government that special attention be given to the organization of these services so as to establish a very clear distinction between the role of elected representatives and that of managers.

In this respect, and to the exception of public security and fire prevention, each major supramunicipal service could constitute an autonomous entity with its own board of directors and could be provided with its own staff. Supramunicipal services would then be accountable to their users rather than to the City of Montreal.

This approach is not new. Such entities exist everywhere: in Montreal, with the Port Authority and Aéroports de Montréal; in Quebec, with the Société des alcools du Québec; elsewhere in Canada, with Canada Post and the Vancouver Board of Parks and Recreation & Police Board; in the United States, with the Police Board & Transit Authority (Chicago), Water Resource Authority (Massachusetts), Port Authority & Metropolitan Transportation Authority (New York), Airport Authority (San Diego) and the Municipal Transportation Agency & Airport Commission (San Francisco).

All of these autonomous organizations provide:

- a better overall efficiency as their mission is better circumscribed;
- a clearer distinction between the role of elected officials who determine orientations and managers, who run the service;
- greater accountability of directors and managers with respect to quality and cost of services;
- a better balance and more transparency between costs and revenue sources;

¹¹ Source : Montreal Agglomeration Transition Committee report. October 2005. Chap. III.

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- a structure allowing easier application of principles such as *user-payer* when accounting time comes.

Finally, we should mention that this type of organization facilitates the financing of long-term assets either through loans or by grants from higher levels of government.

While we do not suggest it is a panacea, as food for thought, here is how certain supramunicipal services could be structured for the Agglomeration.

Service	Type of organization	Financing
STM	Municipal corporation	Tariffs and quotas
Water treatment and main sewage network	Municipal corporation	Tariffs to municipalities according to flows
Water production and main aqueduct network	Municipal corporation	Tariffs to municipalities according to flows
Regional parks	Municipal corporation	User tariffs, autonomous revenues and quotas
Appraisal	Board	Quotas
Municipal Court	Board	Self-financing
Arts Council	Independent council	Quotas

Needless to say, the Arbitration Committee proposed by the government and charged with reviewing the list of equipments, infrastructures and collective interest activities could very well reflect on these matters. It will be discussed in the next section of the Brief.

To conclude on supramunicipal services, it should be mentioned that such a reform should not incur significant impact on the working conditions of affected employees.

The STM is already a distinct organization. Policemen already have specific conditions (union, pension fund, etc.); Fire prevention services are the result of amalgamation following municipal mergers and are also distinct from other City of Montreal services. Other services represent few employees. Normally, unions should be able to count on the protection provided by the *Code du travail* in cases of business alienations.

Voting at the Council of the Agglomeration

We believe that the weighting of votes at the Council of the Agglomeration should be done on a *pro rata* basis according to the different populations represented by the elected officials. Thus, the vote of a municipal or borough representative whose population represents 2% of the Island's total population should count for 2% of total votes in all matters submitted to a vote.

Regarding the Secretariat of the Agglomeration on the Island of Montreal

We are sensitive to the criticisms – often caustic – leveled against the government regarding the spectre of “*a new additional structure*”, incarnated by the Secretariat of the Agglomeration on the Island of Montreal. However, given our recent experience in the matter of access to information we think it is imperative that this Secretariat be created.

We would, however, modify the status of “*public corporation*” that government plans on granting it and simply integrate this Secretariat within the Council of the Agglomeration on the Island of Montreal, since the latter entity would have a distinct legal status, as we have recommended before.

The ASM wishes that the Secretariat remain a light administrative structure to avoid all unnecessary bureaucracy. It would fall under the responsibility of a director general or a secretary general and would have its own registry services.

In this format, the Secretariat would naturally be composed of employees accountable to the Council of the Agglomeration. The government will understand that the intention of making this Secretariat an entity entirely dedicated to the Agglomeration is of capital importance to us. Previous difficulties in our relations with the City of Montreal remain unacceptable and they have been constant over the last few years:

- members of the ASM have been refused direct access to personnel working on Agglomeration matters;
- in many cases, employees clearly indicated that they were not working for a reconstituted municipality but rather for the City of Montreal, which reflects reality since they are paid and evaluated by the City of Montreal; in this respect, their allegiance rests primarily with Montreal even if their salary is seen as an Agglomeration expense;
- ASM representatives were refused any participation in Agglomeration budget preparation, which represents no less than \$2 billion of public funds. Taxpayers of reconstituted municipalities contribute \$400 million of these dollars. In answer to our demands in this matter, the City of Montreal maintains that the Agglomeration budget constitutes a part of Montreal’s budget and, in that respect, cannot accept external intervention because of the confidential nature of the process;
- Even Roger Noël, the government agent charged with reviewing our opposition to certain bylaws¹², mentions in his report difficulties obtaining information from the City of Montreal on budget parameters;
- The same scenario was repeated in the determination of tax rates.

¹² Noël, Roger. *Avis et recommandations relatifs à l'examen du bien-fondé des règlements RCG-06010 et RCG 06-016 de la Ville de Montréal, en regard de l'opposition des quinze villes reconstituées de l'agglomération de Montréal, et le règlement RCG 06-018, pour lequel les villes de Côte-Saint-Luc et Dollard-Des-Ormeaux ont signifié leur opposition, le tout en vertu de l'article 115 de la loi n° 75*, mai 2006.

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Just as the Transition Committee mentioned, « *this Secretariat (referring to a general Secretariat) distinct from those of the City Council and Executive Committee of the City of Montreal, ensures preparation of briefs for the Council Presidency Committee and logistical support for the work of the Agglomeration's permanent commissions* »¹³.

¹³ Montreal Agglomeration Transition Committee report. October 2005. Chap. III.

SECTION III SHARING OF RESPONSIBILITIES

3,1 Elements of the Bill with which the ASM agrees

Regarding the Arbitration Committee

The ASM agrees with the government's proposition to create an Arbitration Committee as well as with the proposed number of members and the nomination procedure. We cannot sufficiently insist to say that we wish that this Arbitration Committee may count on the necessary human and material resources so that it can start over the whole process of determining the list of equipments, infrastructures and activities of interest over which the Council of the Agglomeration on the Island of Montreal will have jurisdiction.

Since the very beginning, determination of equipments and regional assets has not been conducted in an open and transparent manner. Criteria have been variable and were modified along the way.

The creation of this Arbitration Committee is more than necessary.

We have explained at length in the preceding section why we think it is timely that the possibility that certain Agglomeration jurisdictions be submitted to a more in-depth analysis in order to explore new avenues in their exercise. To improve the efficiency of delivering services, we have already recommended to government to pay special attention to the creation of supramunicipal organizations. The Bill provides for the creation of an Arbitration Committee. Why not take further advantage of its expertise?

In this respect, we recommend the government widens the Arbitration Committee's mandate so that it can examine and, the case being, recommend the creation of distinct supramunicipal entities which, as is the case of public transit, could be asked to provide, on the Agglomeration's territory, the following services:

- a) water delivery;
- b) water treatment;
- c) regional parks;
- d) municipal appraisal;
- e) municipal Court.

Also, we support the government's proposition to exclude from the Agglomeration's jurisdiction the first responders' services of the City of Côte-Saint-Luc.

3,2 Elements of the Bill on which the ASM would like to comment, express wishes and/or recommendations

Annex A of Decree 1229-2005

The government must abrogate annex A of Decree 1229-2005. This is a fundamental question in the reflection process that is getting underway. The ASM appreciates that the government, by creating an Arbitration Committee, recognizes that it is imperative to re-examine the so-called “*collective interest*” elements within the Agglomeration on the Island of Montreal. Must it be underlined that, between Bill 9, Bill 75 and annex A of Decree 1229-2005, it is impossible to find any coherence whatsoever in the definition and recognition of the Agglomeration’s “*collective interest elements*”?

For the ASM, the decision to classify equipments, infrastructures or “*collective interest*” activities should only be justified in the cases where these elements truly have overflowing effects on all of the Agglomeration’s population, in the City of Montreal as well as in reconstituted municipalities.

Close examination of the annex in Bill 9 revealed that many of the elements included in the list did not meet the collective interest criteria. This list was produced unilaterally, on the basis of information emanating from the City of Montreal, and it has proved to be a considerable source of useless conflicts and tensions between the City of Montreal and reconstituted municipalities.

Decree 1229-2205 not only failed to correct this unacceptable situation but actually made it worse by adding some more, including in areas which comes under exclusive proximity jurisdiction.

We therefore understand that the Arbitration Committee’s conclusions will have the effect of abrogating Annex A of Decree 1229-2005.

The collective equipments list

Regarding the collective equipments list that will eventually be submitted to the Arbitration Committee, the ASM believes that criteria included in Article 40 of Bill 75¹⁴, used to determine an equipment and/or asset of *regional* nature are much too imprecise.

The ASM recommends to the government that these criteria be redefined in a much clearer way for the obvious reason of avoiding the incongruities and absurdities of the first list imposed by decree.

¹⁴ Loi sur l'exercice de certaines compétences municipales dans certaines agglomérations (L.R.Q.,c. E-20.001)

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We also insist on writing, in an eventual Bill, main principles that will allow defining in a more adequate manner the delivery of services on a local or regional base, as it applies.

In this context, we think the legislator will have to take into account at least three main parameters:

1. a locally rendered service or a municipal infrastructure serving citizens locally should be financed locally without duplication and be placed under the responsibility of a local administration;
2. a service and/or equipment considered as regional should always answer to the fundamental criteria of existing for the direct benefit of all Island residents, and be used by a substantial part of the population. In this case, we should consider the population that lives on the territory of the Island of Montreal as well as the reconstituted municipalities' population (for example, Mount Royal Park);
3. an equipment identified as regional should be strictly financed for its direct costs, its operations and maintenance budget, whereas activities with a regional character will have to be identified and recognized separately and independently of the location where they might be held.

It is in this perspective that we recommend that the Arbitration Committee be also conferred the mandate:

- to evaluate any proposition from a member municipality regarding an element of collective interest in view of these criteria;
- to propose rules of management, expense funding and revenue sharing that can be applied to each element of collective interest;
- to submit its reflections directly to the Minister of Municipal Affairs and Regions in the form of a public report, as in the case of a commission of inquiry.

As we have mentioned in the preceding chapter, the Arbitration Committee should also seriously consider the possibility of creating autonomous administrative entities for certain supramunicipal services.

Responsibility of the road network's main arteries

We believe that the road network, as is the case for the municipalities of the Agglomeration of Longueuil, should be removed from the Council of the Agglomeration's jurisdiction. Should this be the case, the Arbitration Committee would not have to revise the main arteries plan, as Bill 22 proposes. It would also be necessary to reinstate financing and management methods in the same way that they existed before forced mergers. As a general rule, each municipality should be responsible for the main artery networks on its territory, including its financing.

In the event of a retrocession of main arteries under the responsibility and authority of member municipalities, the long-term debt related to work done by the Agglomeration since January 2006 should be transferred to the municipalities that benefited from this work.

This question may seem of secondary importance but it has rapidly become a major source of problems and conflicts between the City of Montreal and suburban municipalities since the forced mergers of 2001. Certain cases border on administrative absurdity: Saint-Jean Boulevard, in the West Island, has received three types of pavement on a section of less than a kilometre; one part from the agglomeration, one part, further, also from the agglomeration and one last completion around the overpass, which is under the responsibility of Transport Quebec, owner of the structure, which was completed by the City of Pointe-Claire.

SECTION IV FINANCING AND TAXATION

4,1 Elements of the Bill with which the ASM agrees

The City of Montreal's new enabling powers

The ASM agrees with the idea that an analysis of the best possible way to offer new sources of funding for the City of Montreal must be conducted. In this bill, the government wishes to confer to the City of Montreal a general taxation power on its territory, subject to exclusions enumerated in the Bill or later determined by the government.

Be it by new taxation powers provided for in the bill or by other sources of financing, the ASM believes the time has come to examine new possible sources of revenue for the City of Montreal.

4,2 Elements of the bill on which the ASM would like to comment, express wishes and/or recommendations.

Regarding the City of Montreal's taxation powers

Regarding the new taxation powers of the City of Montreal, as presented, the ASM wishes to indicate to the government that these are not the only possible avenues or financing sources. If the legislator wishes to maintain the introduction of these new enabling powers in the bill, it is important for the ASM that it be written that these new taxation powers of the City of Montreal apply exclusively on its territory and cannot in any way be extended on the territory of the 15 reconstituted municipalities of the Agglomeration on the Island of Montreal.

Regarding taxation power in general

The ASM is opposed to giving the Council of the Agglomeration on the Island of Montreal a direct taxation power over citizens. As is provided for in Bill 6, we would rather prefer a quota formula based on the fiscal potential of each municipality. **In this context, each municipality would produce a single tax bill to citizens.**

Furthermore, the ASM is asking the government to propose a new principle of financing to determine each municipality's quota. In the past, the City of Montreal has used its majority to impose calculations that did not always respect the required equity principles inherent to such an exercise.

In fact, we wish to affirm **an unwavering principle**: the Agglomeration's fiscal regime **must be neutral towards all parties** of the Island of Montreal and not be vulnerable to decisions

aimed at transferring the burden between different categories of citizens and/or different areas of the Island.

This is why we consider that, **to respect this unwavering principle**, it is necessary to:

- remove the Council of the Agglomeration's taxation power over the citizens of the reconstituted municipalities;
- establish that funding of Agglomeration expenses must be done by tariffs and a quota for reconstituted municipalities;
- determine that distribution of quotas must be made on the basis of each municipality's fiscal potential;
- submit any change in criteria used to determine quota distribution to the double majority rule.

Finally, we cannot insist enough on the proposition we made in Section II on Agglomeration governance. The government must provide the necessary mechanisms so that reconstituted municipalities may act as full partners in the preparation of the Agglomeration on the Island of Montreal's budget.

The creation of a **Budget Commission with an equitable representation of elected officials**, which could follow the budget preparation process, is in fact related to the principle of quotas for the funding of Agglomeration jurisdictions.

SECTION V

OTHER SECTORS OF MUNICIPAL LIFE THAT SHOULD BE SUBJECT TO LEGISLATIVE OR REGULATORY MODIFICATIONS

Even if they are absent from Bill 22, the matters of water and waste management represent important questions for the ASM, as they are frequently subjects of irritation and misunderstandings that undermine the Island's democratic life.

5,1 Drinking water and wastewater management

The present situation regarding water management is unacceptable, as certain residents of reconstituted municipalities are doubly taxed for water.

Thus, the Agglomeration today collects some 8.9 cents per cubic meter of water to municipalities served by the City of Montreal, including the City of Montreal itself, whereas municipalities that obtain water from other sources pay around 30 cents per cubic meter.

In the case of Baie d'Urfé, this expense represents around 15% of the local budget. However, all municipalities pay the same tariff to the Agglomeration, regardless of if they are supplied by the Agglomeration or other sources.

In this context, and in the same vein as our suggestion of creating independent organizations for certain supramunicipal services (see section II of the Brief), the ASM recommends that the government creates a **Water management Council** for the Agglomeration on the Island of Montreal.

This Council would be mandated to establish equitable rules for water billing according to actual water consumption of the different Island populations. The municipalities of Pointe-Claire and Dorval should be represented, while maintaining property of their installations. Subsidiarily, the government cannot afford not to clarify the "real cost" criteria of water billing. It represents a major irritant, which causes nothing but frustration and dissent between reconstituted municipalities and the City of Montreal. This problem must be resolved.

5,2 Regarding the responsibility of residual waste management

Present legislation confers responsibility for the collection and transport of residual waste while its treatment is an Agglomeration responsibility, which represents another difficult expense to oversee since it is mixed with the City of Montreal's treatment and collection of residual waste.

However, recent technological developments concerning residual waste treatment pave the way to clearly more efficient and less costly local solutions. The ASM therefore recommends to remove residual waste management from the Agglomeration and to return it to the

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municipalities. They will be able, as they see fit, to make pooling agreements where these are advantageous.

It should be noted that the dispute between the City of Montreal and the reconstituted municipalities surrounding fee collection is ongoing. At stake is a \$1,3 million invoice that constitutes an eloquent example of the necessity of recognizing residual waste management as a proximity jurisdiction.

SECTION VI SUMMARY OF RECOMMENDATIONS

THE MAYORS OF THE ASM RECOMMEND TO THE GOVERNMENT AND THE MEMBERS OF THE NATIONAL ASSEMBLY TO:

1. recognize the importance of reviewing certain governance rules relating to the democratic life of all of the Island of Montreal;
2. Clarify the definition and determination of Agglomeration and proximity services;
3. Recognize that the Agglomeration structure must allow fair and equitable funding of these services by all taxpayers residing on the Island of Montreal.

TO THESE ENDS, so that the affairs and jurisdictions of the Agglomeration may be democratically managed:

4. decree that they are the responsibility of an entity distinct from the City of Montreal

SUBSIDIARILY:

5. modify Decree 1229-2005 so that all functions given to the Executive Committee by any law or law enforcement text may not be exercised by this Committee when they are comprised in the exercise of an Agglomeration jurisdiction;
6. constitute the Secretariat of the Agglomeration on the Island of Montreal endowed with the powers required to exercise its functions efficiently;
7. constitute a Budget Commission with equitable representation from the reconstituted municipalities;
8. constitute an Auditing Committee composed of two representatives from the City of Montreal and three representatives from the reconstituted municipalities, including the president;
9. decree that the presidency and vice-presidency of all Council of the of Agglomeration commissions are exercised alternately by a representative of the City of Montreal and by a representative of the reconstituted municipality.

IN ALL CASES:

10. Adopt the new designation of “Agglomeration on the Island of Montreal” (agglomération de l’Île de Montréal) as proposed in Article 8, which seems more

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- adequate than the former denomination of “Agglomeration of the City of Montreal” (agglomération de la Ville de Montréal);
11. decree that the Council of the Agglomeration on the Island of Montreal is composed of the mayor of Montreal, the borough mayors and the mayors of reconstituted municipalities;
 12. abrogate the preliminary orientation rule presently imposed on representatives of member municipalities at the Council of the Agglomeration;
 13. decree that each member municipality has an amount of votes proportional to its population relative to that of the Agglomeration;
 14. decree that all expenses incurred in the exercise of an Agglomeration jurisdiction are funded by quotas paid by Agglomeration municipalities rather than by a tax imposed by the Council of the of Agglomeration;
 15. decree, in the case of the Agglomeration on the Island of Montreal, that the main road artery network as well as the elimination and valorisation of residual waste are not Agglomeration jurisdictions;
 16. adopt the creation of the Arbitration Committee and determine the number of members and the method by which they are nominated;
 17. ensure that this Arbitration Committee may count on the necessary human and material resources to review the whole process of establishing the list of equipments, infrastructures and activities of interest on which the Council of the of Agglomeration on the Island of Montreal will have jurisdiction;
 18. modify Article 40 of the *Loi sur l'exercice de certaines compétences municipales dans certaines agglomérations* (Law on the exercise of certain municipal jurisdictions in certain agglomerations), before the Arbitration Committee begins its work, to decree that an equipment, an infrastructure or an activity is of collective interest if it answers to the fundamental criteria of being to the direct benefit of all of the Island of Montreal's residents and of being used also by a substantial part of the reconstituted municipalities' citizens;
 19. modify the Arbitration Committee's mandate to allow it to: a) evaluate all propositions made by a member municipality to recognize an element as being of collective interest, b) propose management, expense funding and revenue sharing rules applicable to each collective interest element, and c) submit its studies directly to the Minister of Municipal Affairs and Regions, in a public report format;
 20. widen the mandate of the Arbitration Committee so that it can examine and, if such is the case, recommend the creation of distinct supramunicipal entities that, as is the case with public transit, could have the mission of delivering, on the Agglomeration territory, the following services: a) supplying water; b) water treatment; c) regional parks; d) municipal evaluation, and; e) municipal Court.

FURTHERMORE, THERE WOULD BE GROUNDS TO:

21. Grant the City of Montreal new financing sources through the new taxation powers provided for in the bill, all the while remembering that these new taxation powers may not under any circumstance be exercised on the territory of member municipalities or by any other means;
22. Create an Agglomeration water management Council – on which the City of Montreal and the municipalities of Pointe-Claire and Dorval would be represented – with the mission of establishing equitable rules for water billing according to actual water consumption.

CONCLUSION

Today's reconstituted municipalities have always played a major role in the creation and governance of structures and services with a regional vocation on the Island of Montreal. They have always answered the call of necessary pooling of regional jurisdictions.

United within the Association of suburban municipalities (ASM), reconstituted municipalities now ask government to continue to listen to them and to be attentive to the recommendations expressed in this brief. Our objective is noble: to obtain more efficient governance, more democratic and manageable. The ASM asks for no more than to be able to work in harmony with the government and the administration of the City of Montreal with trust and the feeling that we will all come out winners.

All of the residents of the Island of Montreal have the right to have their voices heard and, especially, to be managed with efficiency, in a modern and fully democratic metropolitan structure.

This is the essence of our message.

The mayors of the Association of suburban municipalities,
November 2007