THE REGIONAL MUNICIPALITY OF NIAGARA
CORPORATE SERVICES COMMITTEE
FINAL AGENDA

CSC 6-2021

Wednesday, June 16, 2021

9:30 a.m.

Meeting will be held by electronic participation only

This electronic meeting can be viewed on Niagara Region's Website at:

https://www.niagararegion.ca/government/council/

Due to efforts to contain the spread of COVID-19 and to protect all individuals, the Council Chamber at Regional Headquarters will not be open to the public to attend Committee meetings until further notice. To view live stream meeting proceedings, visit: niagararegion.ca/government/council

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Pages

1. CALL TO ORDER

2. DISCLOSURES OF PECUNIARY INTEREST

3. PRESENTATIONS

4. DELEGATIONS

5. ITEMS FOR CONSIDERATION

5.1. CSD 39-2021 — 3 - 31
Q1 2021 Financial Update

A presentation will precede the consideration of this item.

5.2. CSD 33-2021 — 32 - 42
Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, St. Catharines

5.3. CSD 35-2021 — 43 - 52
2021-T-5 Award of Tender - Long Term Care (LTC), Linhaven, St. Catharines

5.4. AC-C 6-2021 53 - 59
Update to Audit Committee Terms of Reference

This item was referred to the Corporate Services Committee at the Regional Council meeting held on May 20, 2021.

6. CONSENT ITEMS FOR INFORMATION

6.1. CSD 34-2021 60 - 65
Debt Information Report – 2021 Debenture Issuance

6.2. CSC-C 18-2021 66 - 104
Code of Conduct Documents

7. OTHER BUSINESS

8. CLOSED SESSION

8.1. Confidential CSD 1-2021
A Matter Respecting a Proposed Acquisition of Land by the Municipality under s. 239(2) of the Municipal Act, 2001– Niagara Regional Police Services (NRPS) Lease Agreement

8.2. Confidential HR 1-2021
A Matter of Labour Relations or Employee Negotiations under s. 239(2) of the Municipal Act, 2001 - Corporate Labour Relations Strategy - 2021 - 2024

9. BUSINESS ARISING FROM CLOSED SESSION ITEMS

10. NEXT MEETING

The next meeting will be held on Wednesday, July 14, 2021 at 9:30 a.m.

11. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

Q1 2021 Financial Update

Corporate Services Committee
CSD 39-2021

June 16, 2021

Beth Brens, Acting Associate Director Reporting & Analysis

TWENTY21

NIAGARA REGION

Q1 2021 FINANCIAL UPDATE

Corporate Services Committee

June 16, 2021

Niagara Region

Agenda

Q1 COVID-19 Overview

Taxpayer Relief Reserve Forecast

Q1 Consolidated Operating Results – Levy & Rate

Next Steps

2021 Key Messages as of Q1 2021

The purpose of this report is to:

- provide an overview of COVID-19 related financial activities (hybrid Q1 report with only significant non-COVID items reported)

- seek Council's approval to adjust the 2021 operating budget for incremental expenses and confirmed sources of funding
  - That a gross budget increase of $13,596,268 for COVID-19 expenditures **BE APPROVED** and **BE FUNDED** with incremental external revenue

Q1 2021 COVID-19 Reporting

(in thousands)

Program Area	Total Forecasted COVID-Related Costs at Q1	Total Confirmed External Funding	Forecast - Levy-Funded	Net Forecasted Reserve Funding
Regional Departments	48,762	(43,712)	593	(5,643)
ABCs	5,561	(4,721)	(840)	-
Total Levy-Supported	54,323	(48,433)	(247)	(5,643)
Rate-Supported	921	(921)	-	-
Total Niagara Region	**55,244**	**(49,354)**	**(247)**	**(5,643)**

Detailed schedule – Appendix 3

Budgeted Reserve funding was $19 million

Overview of COVID-19 2021 External Funding

Approved Budget
$2.7 million

In-Year Approval
$46.7 million

Revised Budget
$49.4 million

Forecasted Use of In-Year External Funding:

- Mass Immunization Clinics – staffing ($15.9 million), medical supplies ($2.2 million)
- Homelessness agency-related costs ($4.7 million)
- Childrens Emergency provider payments ($2.4 million)
- NRPS additional lost Casino revenue for the full year ($3.2 million)
- Economic Development Niagara Tourism Adaption and Recovery ($2.0M)
- Reduce transfers from Taxpayer Relief reserve ($13.4 million)

Q1 COVID-19 Reporting – Taxpayer Relief Reserve

(in millions)	2021 Budget	2021 Forecast	2022 Forecast	2023 Forecast
Opening Balance (reflects 2020 year-end approved transfers)	**$53.5**	**$53.5**	**$42.3**	**$24.2**
Non-COVID Transfers				
Annual Contribution	0.9	0.9	0.9	0
Transfer for one-time operations	(2.0)	(2.0)	0	0
Mitigation of 2021	(4.3)	(4.3)	0	0
Community Services/Homelessness Project	(1.0)	0.0	0	0
Niagara Foreign Trade Zone Transfer (1)	(0.2)	(0.2)	0	0
Total Non-COVID Transfers	**(6.6)**	**(5.6)**	**0.9**	**0**
COVID-19 Funding Requirements				
2021 COVID-19 Regional Levy & General Government funding	(17.2)	(5.6)	(17.2)	0
2021 COVID-19 ABC funding	(1.6)	0	(1.6)	0
2021 COVID-19 Rate funding	(0.2)	0	(0.2)	0
Total COVID-19 Funding Transfers	**(19.0)**	**(5.6)**	**(19.0)**	**0**
Closing Balance	**$27.9**	**$42.3**	**$24.2**	**$24.2**

- Balance forecasted at end of 2021 is $14.4 million greater than forecast due to confirmed funding for 2021 expenses.
- Provides for funding to mitigate 2022 COVID-19 expense forecast.

Two Year COVID-19 Cost Summary

(in thousands)

Financial Impacts	2021 Spent & Committed	2021 Forecasted	2021 Total	2020 Total	Total Cumulative
Redeployed resources	$ 4,519	$ 5,107	$ 9,626	$ 20,780	$ 30,406
Costs incremental to base budget	11,578	38,412	49,990	31,132	81,122
Lost Revenue	-	11,740	11,740	14,382	26,122
Less: Cost Savings	-	(6,486)	(6,486)	(17,306)	(23,792)
Total COVID Gross Cost	**16,097**	**48,773**	**64,870**	**48,988**	**113,858**
Less: Confirmed Funding	(13,055)	(36,299)	(49,354)	(47,911)	(97,265)
Net Cost to Region	**3,042**	**12,474**	**15,516**	**1,077**	**16,593**

Gross costs reported above include the cost of redeployed resources funded through base budgets.

External funding has been applied in accordance with each provincial or federal funding agreement.

Q1 Consolidated Operating Results

(in thousands)		Forecasted Surplus (before indirect allocations)	Percentage of Gross Budget
Total Regional Departments	$	4,487	0.75%
Total Agencies, Boards and Commissions		628	0.22%
Total Levy Supported Programs		**5,115**	**0.58%**
Total Rate Supported Programs		**1,502**	**0.73%**
Consolidated Forecasted Surplus	**$**	**6,617**	**0.61%**

These consolidated results incorporate the net levy COVID-19 impact reflected on slide 4

Major Factors Impacting Forecasted Results:

- Regional Departments and General Government
  - Labour-related savings – gapping (Public Health) and Transit-related savings
- ABCs – Labour-related savings – gapping in NRPS
  - NRPS will use non-COVID surplus/savings to mitigate COVID-related costs of $594 thousand
- Rate - Increased recycling sales revenue in Waste Management

Other/Next Steps

- Staff will continue to monitor funding announcements and costs
  - Provide updates quarterly on the forecasted Reserve funding requirements

- Full Quarterly Financial Update report will be prepared for Q2, including fulsome forecasts for non-COVID items

Questions?

Beth Brens

Acting Associate Director, Reporting & Analysis

Subject: Q1 2021 Financial Update

Report to: Corporate Services Committee

Report date: Wednesday, June 16, 2021

Recommendations

1. That the March 31, 2021, Q1 Financial Update of the Regional Municipality of Niagara ("the Region") **BE RECEIVED** for information; and

2. That a gross budget increase of $13,596,268 for COVID-19 expenditures **BE APPROVED** and **BE FUNDED** with incremental external revenue (Appendix 3 to Report CSD 39-2021).

Key Facts

- The purpose of this report is to provide an overview of forecasted operating variances based on actual results as of March 31, 2021, including a detailed financial report of COVID-19 related financial activities. Quarterly financial updates are typically provided as of June, September and December each year. Given the significant financial implications associated with COVID-19 in the Region, staff are providing a hybrid Q1 report to Council through a fulsome forecast of COVID-19 financial implications to report on the impacts of the pandemic, and reporting of the non-COVID budget for known significant changes from the approved operating budget.
- The recommended gross budget increase of $13,596,268 for COVID-19 expenditures will bring total gross expenditures to $55,244,109 (see Appendix 3 to Report CSD 39-2021) and is recommended to be funded with COVID-19 incremental external revenue.
- As required in the Budget Control By-Law, staff are requesting that Council approve a gross budget adjustment for $13.6 million in relation to confirmed external COVID-19 specific funding and related expenditures that were not known at the time the 2021 budget was approved.
- Total confirmed COVID-19 external funding is $49.4 million (see Appendix 6 to Report CSD 39-2021 for a summary of the funding). Funding announcements that are anticipated but have not been confirmed have not been included in this forecast.
- The 2021 budget included a transfer from the Taxpayer Relief Reserve of $19.0 million to fund COVID-19 related expenditures ($18.8 million for Levy programs and

$0.2 million for Rate programs). Staff are forecasting that this budgeted transfer from reserve will be reduced by $13.4 million to $5.6 million due to confirmed external COVID-19 funding. As these estimates are subject to change, staff will continue to monitor and provide updates quarterly on the actual Reserve funding required.

- Regional departments and General Government are projecting a surplus of $6.3 million (1.05% of budget) at year-end. Levy-supported programs (Regional Departments consolidated with Agencies, Boards and Commissions (ABCs)) are projecting an overall surplus of $4.9 million (0.55% of budget) at year-end.
- Rate-supported programs (Water and Wastewater Services and Waste Management Services) are projecting an overall surplus of $1.8 million (0.86 % of budget) at year-end (Appendix 1 to Report CSD 39-2021).
- Departments prepare forecasts using assumptions and estimates based on information available at the time of writing the quarterly financial updates. All financial implications quantified in this report include estimates up to December 31, 2021 unless otherwise noted. Estimates in this report are fluid and changing and as a result, the forecasts contain inherent risks and actual results may differ.

Financial Considerations

COVID-19

COVID-19 expenditures of $19.8 million were approved in the 2021 operating budget, funded with, $0.8 million in levy funding and $19.0 million in reserve funding. Additionally $2.7 million was included in the base budget for Homelessness and Public Health and funded 100% with external funding. Council has approved two in-year budget adjustments related to COVID-19 totaling $18.6 million gross and $0 net (funded with external revenue). As part of this report, staff have forecasted and are requesting a further increase in gross COVID-19 expenditures of $13.6 million gross and $0 net (funded with external revenue), bringing total gross COVID-19 expenditures to $55.2 million as per Table 1.

The 2021 budgeted transfer from the Taxpayer Relief reserve of $19.0 million ($18.8 million for Levy programs and $0.2 million for Rate programs), is forecasted to be reduced by $13.4 million to $5.6 million through substitution with confirmed external COVID-19 funding (Appendix 3 to Report CSD 39-2021).

See Table 1 below for a summary of the COVID-related adjustments.

Table 1 – 2021 COVID-19 Budget Overview

(in millions)	**Gross Expenditures**	**External Funding**	**Levy Funding**	**Reserve Funding**
2021 COVID Expenses	$19.8	$0	$(0.8)	$($19.0)
2021 Base COVID Expenses	2.7	(2.7)	0	0
In-Year Budget Approval – Public Health COVID-19 Extraordinary Cost Funding (PHD 6-2021)	16.6	(16.6)	0	0
In-Year Budget Approval – Economic Development Niagara Tourism Adaption and Recovery (ED 4-2021)	2.0	(2.0)	0	0
Approved to Date	**41.1**	**(21.3)**	**(0.8)**	**(19.0)**
Q1 Financial Report - External Funding Implications	13.6	(28.1)	1.1	13.4
Q1 Financial Report – Levy Funding	0.5	0	(0.5)	0
Forecasted	**55.2**	**(49.4)**	**(0.2)**	**(5.6)**

Key drivers of the year to date COVID surplus are as follows:

Savings/Additional Funding:

- Transit ($1.2 million) – lower than anticipated costs within Inter-Municipal Transit as a result of planned service reductions due to COVID-19. These savings are not being used to offset incremental COVID-19 pressures at this time and are

contributing to the overall levy surplus in alignment with the source of funding for the program.

- Public Health wages ($0.6 million) – Six permanent FTEs were budgeted with levy funding ($0.6 million); however, staff have requested that the Ministry of Health fund these positions through the Annual Service Plan. If the Ministry approves the request, a further budget adjustment would be recommended to recognize the Ministry funding in the budget for these positions
- Federal & Provincial Grants ($46.7 million) – incremental confirmed funding announcements, reducing requirement for funding from Reserves.

Pressures/Incremental Expenditures:

- Unbudgeted costs for Mass Immunization clinics – staffing ($15.9 million) and medical supplies ($2.2 million) (Budget adjustment was approved after Q1 reporting deadline)
- Homelessness agency-related costs ($4.7 million)
- Childrens Emergency Child Care provider payments ($2.4 million)
- Reduced water sales ($0.5 million)
- NRPS lost Casino revenue for the full year versus budget of only one quarter ($3.2 million)
- Reduction in transfer from Taxpayer Relief Reserve ($13.4 million)

Non-COVID-19

Preliminary Non-COVID-19 financial results are for Regional departments and General Government are forecasted at a surplus before indirect allocations of $3.4 million as of December 31, 2021 (Appendix 2 to Report CSD 39-2021). Key drivers of this forecasted surplus include cost savings within compensation due to gapping related to delays in filling vacant positions, particularly within Public Health as resources have been redirected to support the pandemic, and savings within transit as a result of lower than anticipated service costs.

The ABCs are forecasting a non-COVID surplus from regular operations before indirect allocations of $1.2 million, mainly as a result of salary and benefit savings in NRPS due to delays in hiring of vacant positions within uniform and civilian salaries. The non-COVID savings within NRPS are forecasted to be used to partially mitigate the COVID-related costs that have been forecasted.

The forecasted non-COVID surplus before indirect allocations for the rate-supported programs, including Water and Wastewater Services and Waste Management Services, is $1.5 million, mainly due to a significant increase in revenue from the sale of recyclable materials as a result of an increase in the commodity rates for these materials.

Staff caution that these are high-level estimates, as a fulsome forecast was not completed for Q1 reporting purposes.

Capital

The impacts of COVID-related claims regarding delays on capital projects have not been included in this report, as all of the funding that would be available to fund such claims has been allocated to operating costs at this time. Staff will continue to monitor this and incorporate it into the reporting as available in the future.

The Environmental Centre expansion project, approved but uninitiated with the 2019 capital budget with a budget of $23.2 million, has been closed and the committed funds from the Water, Wastewater and Waste Management capital reserves have been released to fund other capital and infrastructure needs. Staff will revisit the need for the project through a future budget request.

Analysis

In order to better understand the financial impacts of COVID-19, staff continue to track costs directly related to the pandemic. Total gross cost related to the pandemic for 2021 is forecasted to be $55.2 million, with a net regional contribution after program-specific and general corporate COVID-19 funding of $0.2 million in levy funding and a forecasted transfer from reserve of $5.6 million (see Appendix 3 to Report CSD 39-2021 for a detailed breakdown by department).

The Region has received confirmed external COVID-19 funding totalling $49.4 million in support of the COVID-19 emergency (see Appendix 6 to Report CSD 39-2021 for details). The funding sources for program-specific funding will be fully utilized to the extent possible as outlined by each different agreement. Included in the funding total of $49.4 million is $9.0 million in general corporate COVID-19 funding ($2.4 million in Safe Restart – Municipal Phase 2 funding and $6.6 million in 2021 COVID-19 Recovery Funding for Municipalities), which is forecasted to be utilized as a funding source in place of the budgeted transfer from the Taxpayer Relief Reserve. Staff continue to

monitor and assess eligibility for transit-related program funding and will report on it when determined to be eligible.

Staff are recommending a budget adjustment to increase gross COVID-related expenditures by $13.6 million based on the Q1 forecast using $13.6 million in confirmed incremental funding. Funding was provided for expenditures such as Emergency Child Care payments to providers and payments to providers within Homelessness, which are incremental to the approved budget.

Due to the incremental external funding, a total of $13.4 million will be used to substitute budgeted transfers from the Taxpayer Relief Reserve, leaving $5.6 million remaining to be funded through the reserve. It should be noted that these are preliminary estimates of the forecasted costs for the year and are subject to change as the pandemic continues to evolve, potentially increasing COVID-related costs and requiring more than the forecasted reserve transfers.

In addition to the confirmed external COVID-19 funding staff continue to monitor Provincial and Federal funding announcements and will further recommend budget adjustments and communicate additional reserve substitutions in future quarterly reports to align with these announcements. Since the time this forecast was completed, the Ministry of Health and Long-Term Care has confirmed additional emergency funding for April to June 2021 and the Ministry of Health has confirmed that the School-Focused Nurse Program has been extended from July 31, 2021 to December 31, 2021. In addition, the Province of Ontario introduced three paid sick days for full-time and part-time qualified workers where there is no current contractual obligation, which will result in the Region being able to recover our costs as they relate to this announcement. The costs and funding related to these announcements will be reflected in the Q2 Quarterly Financial Update.

All estimates in the forecast analysis have been made up to December 31, 2021, unless otherwise noted in Appendix 4 to Report CSD 39-2021 showing further detail on the corporate assumptions and cost categories. A detailed breakdown by operating department can be found in Appendix 5 to Report CSD 39-2021.

Taxpayer Relief Reserve

The 2021 budget included a transfer from the Taxpayer Relief Reserve of $19.0 million to fund COVID-19 related expenditures ($18.8 million for Levy programs and $0.3 million for Rate programs). Staff are forecasting that this budgeted transfer from reserve

will be reduced by $13.4 million to $5.6 million, through substitution with confirmed external COVID-19 funding (Appendix 3 to Report CSD 39-2021) as discussed above.

Table 2 outlines the impact of Q1 forecasted results on the Taxpayer Relief Reserve balance. The forecast assumes no change to the 2022 or 2023 budgets from what was presented in the multi-year budget in 2021, in that all incremental costs related to COVID-19 have been forecasted as being funded from the reserve.

Table 2 – Taxpayer Relief Reserve 3-Year Forecast

(in millions)	**2021 Budget**	**2021 Forecast**	**2022 Forecast**	**2023 Forecast**
Opening Balance (1)	**$53.5**	**$53.5**	**$42.3**	**$24.2**
Non-COVID Transfers				
Annual Contribution	0.9	0.9	0.9	0
Transfer for one-time operations	(2.0)	(2.0)	0	0
Mitigation of 2021	(4.3)	(4.3)	0	0
Community Services/Homelessness Project	(1.0)	0	0	0
Niagara Foreign Trade Zone Transfer (1)	(0.2)	(0.2)	0	0
Total Non-COVID Transfers	**(6.6)**	**(5.6)**	**0.9**	**0**
COVID-19 Funding Requirements				
2021 COVID-19 Regional Levy and General Government funding	(17.2)	(5.6)	(17.2)	0
2021 COVID-19 ABC funding	(1.6)	0	(1.6)	0
2021 COVID-19 Rate funding	(0.2)	0	(0.2)	0
Total COVID-19 Funding Transfers	**(19.0)**	**(5.6)**	**(19.0)**	**0**

(in millions)	**2021 Budget**	**2021 Forecast**	**2022 Forecast**	**2023 Forecast**
Closing Balance	**$27.9**	**$42.3**	**$24.2**	**$24.2**

(1) The 2021 budgeted balance has been adjusted to reflect 2020 year-end results and approved transfers.

Alternatives Reviewed

Forecasts for the year are provided using the best information and estimates based on circumstances know at the time of the financial update.

Staff are working with both the area municipality treasurers within Niagara Region and with colleagues across the province (through the Ontario Regional and Single-Tier Treasurers group) to share ideas and strategies to respond to the financial and operational impacts of this pandemic.

Council approval of a budget adjustment is recommended to ensure COVID program-specific funding and general corporate funding is applied in accordance with funding requirements; therefore, no alternatives are provided at this time.

Council may recommend that surpluses experienced due to the pandemic be utilized to offset direct COVID pressures; however, the net effect at year-end is the same and the current method of presentation provides for greater transparency.

Relationship to Council Strategic Priorities

Forecasting financial results and providing formal reporting to Council and the public supports the Council Strategic Priority of Sustainable and Engaging Government.

Supporting the COVID-19 emergency response directly supports Council's strategic priority of a Healthy and Vibrant Community.

Other Pertinent Reports

- ED 4-2021 Tourism Adaption and Recover Fund Budget Adjustment
- PHD 6-2021 Public Health and 2021 Annual Service Plan and Budget Submission
- CSD 17-2021 2020 Year-End Results and Transfer Report

- CSD 5-2021 2021 Levy Operating Budget

Prepared by:
Beth, Brens, CPA, CA
Acting Associate Director, Reporting & Analysis
Corporate Services

Recommended by:
Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:
Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Sara Mora, Corporate Reporting Supervisor and with the Corporate Leadership Team and consolidated ABCs and reviewed by Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer

Appendices

Appendix 1	Summary of Consolidated Operating Surplus/(Deficit)
Appendix 2	Summary of Non-COVID and COVID Surplus/(Deficit)
Appendix 3	COVID-19 Incremental Costs and Funding Sources
Appendix 4	COVID-19 2021 Total Cost Summary (inclusive of redeployed resources)

Appendix 5 COVID-19 2021 Total Cost by Department

Appendix 6 Confirmed COVID-19 Funding Announcements

Summary of Consolidated Operating Surplus/(Deficit) (in thousands of dollars)

LEVY SUPPORTED DEPARTMENTS & PROGRAMS	Annual Budget Before Indirect Allocations	Annual Forecast Before Indirect Allocations	Q1 Forecasted Surplus/(Deficit) Before Indirect Allocations	Annual Budget After Indirect Allocations	Annual Forecast After Indirect Allocations	Q1 Forecasted Surplus/(Deficit) After Indirect Allocations
Regional Departments						
Governance	$2,123	$2,072	$51	$2,503	$2,453	$50
General Government	-$327,340	-$329,789	$2,449	-$411,255	-$413,705	$2,450
Corporate Administration	$14,739	$14,605	$134	$6,888	$6,477	$411
Corporate Services	$37,563	$40,833	-$3,270	$1,051	$1,205	-$154
Community Services	$29,427	$29,373	$54	$50,753	$50,852	-$99
Public Health & Emergency Services	$28,499	$26,433	$2,066	$44,156	$42,213	$1,943
Public Works - Transportation	$38,910	$36,522	$2,388	$80,658	$79,534	$1,124
Planning & Development	$3,897	$3,282	$615	$4,760	$4,146	$614
Sub-Total - Regional Departments	**-$172,182**	**-$176,669**	**$4,487**	**-$220,486**	**-$226,825**	**$6,339**
Agencies, Boards & Commissions						
Court Services	-$1,765	-$1,814	$49	-$680	-$742	$62
Niagara Regional Housing	$28,618	$28,619	-$1	$37,288	$37,229	$59
Niagara Regional Police	$161,060	$160,480	$580	$177,952	$179,562	-$1,610
Niagara Peninsula Conservation Authority	$5,926	$5,926	$0	$5,926	$5,926	$0
Subtotal Agencies, Boards & Commissions	**$193,839**	**$193,211**	**$628**	**$220,486**	**$221,975**	**-$1,489**
Total Levy Supported Programs	**$21,657**	**$16,542**	**$5,115**	**$0**	**-$4,850**	**$4,850**
RATE SUPPORTED DEPARTMENTS						
Public Works - Water & Wastewater	-$20,071	-$19,958	-$113	$0	-$144	$144
Public Works - Waste Management	-$1,586	-$3,201	$1,615	$0	-$1,622	$1,622
Total Rate Supported Departments	**-$21,657**	**-$23,159**	**$1,502**	**$0**	**-$1,766**	**$1,766**
TOTAL	**$0**	**-$6,617**	**$6,617**	**$0**	**-$6,617**	**$6,617**

Summary of Non-COVID and COVID Surplus/(Deficit) Before Indirect Allocations (in thousands of dollars)

	Non-COVID			COVID		
LEVY SUPPORTED DEPARTMENTS & PROGRAMS	**Annual Budget**	**Annual Forecast**	**Q1 Forecasted Surplus/(Deficit)**	**Annual Budget**	**Annual Forecast**	**Q1 Forecasted Surplus/(Deficit)**
Regional Departments						
Governance	$2,123	$2,072	$51	$0	$0	$0
General Government	-$327,300	-$329,736	$2,436	-$40	-$53	$13
Corporate Administration	$14,739	$14,605	$134	$0	$0	$0
Corporate Services	$37,563	$40,833	-$3,270	$0	$0	$0
Community Services	$29,427	$29,372	$55	$0	$0	$0
Public Health & Emergency Services	$27,916	$25,823	$2,093	$583	$611	-$28
Public Works - Transportation	$38,910	$37,673	$1,237	$0	-$1,151	$1,151
Planning & Development	$3,897	$3,282	$615	$0	$0	$0
Sub-Total - Regional Departments	**-$172,725**	**-$176,076**	**$3,351**	**$543**	**-$593**	**$1,136**
Agencies, Boards & Commissions						
Court Services	-$1,805	-$1,867	$62	$40	$53	-$13
Niagara Regional Housing	$28,426	$28,427	-$1	$193	$193	$0
Niagara Regional Police	$161,060	$159,886	$1,174	$0	$594	-$594
Niagara Peninsula Conservation Authority	$5,926	$5,926	$0	$0	$0	$0
Subtotal Agencies, Boards & Commissions	**$193,607**	**$192,372**	**$1,235**	**$233**	**$840**	**-$607**
Total Levy Supported Programs	**$20,882**	**$16,296**	**$4,586**	**$776**	**$247**	**$529**
RATE SUPPORTED DEPARTMENTS						
Public Works - Water & Wastewater	-$20,071	-$19,958	-$113	$0	$0	$0
Public Works - Waste Management	-$1,586	-$3,201	$1,615	$0	$0	$0
Total Rate Supported Departments	**-$21,657**	**-$23,159**	**$1,502**	**$0**	**$0**	**$0**
TOTAL	**-$775**	**-$6,863**	**$6,088**	**$776**	**$247**	**$529**

COVID-19 Incremental Costs and Funding Sources (In Thousands)

	Gross COVID-Related Costs				External COVID Funding				Regional Funding	
Regional Departments	**COVID-Related Costs Approved in Budget**	**Budget Adjustments Approved In-Year (1)**	**Recommended Gross Expenditure Adjustment**	**Total Forecasted COVID-Related Costs at Q1**	**Budgeted Program-Specific COVID Funding**	**Incremental Program-Specific Funding Confirmed**	**Incremental General Corporate 2021 COVID Funding Confirmed**	**Total Confirmed External Funding**	**Forecast - Levy-Funded**	**Net Forecasted Reserve Funding**
General Government	$ 1,008	$ -	$ -	$ 1,008	$ -	$ -	$ (1,061)	$ (1,061)	$ 53	$ -
Corporate Administration	57	2,000	250	2,307	-	(2,000)	(307)	(2,307)	-	-
Governance	-	-	-	-	-	-	-	-	-	-
Corporate Services	1,521	-	46	1,567	-	-	(1,567)	(1,567)	-	-
Planning	-	-	-	-	-	-	-	-	-	-
Transportation/Transit	(74)	-	(1,227)	(1,301)	-	-	(11)	(11)	1,151	161
Public Health										
Public Health	6,664	16,552	(1,321)	21,895	(1,169)	(19,990)	-	(21,159)	(611)	(125)
EMS	788	-	694	1,482	-	(804)	(171)	(975)	-	(507)
Sub-total Public Health	7,452	16,552	(627)	23,377	(1,169)	(20,794)	(171)	(22,134)	(611)	(632)
Community Services										
Childrens Services	267	-	2,903	3,170	-	(2,894)	(276)	(3,170)	-	-
Seniors Services	7,487	-	2,219	9,706	-	(4,534)	-	(4,534)	-	(5,172)
SAEO	-	-	-	-	-	-	-	-	-	-
Homelessness Services	2,729	-	6,199	8,928	(1,499)	(7,429)	-	(8,928)	-	-
Sub-total Community Services	10,483	-	11,321	21,804	(1,499)	(14,857)	(276)	(16,632)	-	(5,172)
Total Regional Departments	**20,447**	**18,552**	**9,763**	**48,762**	**(2,668)**	**(37,651)**	**(3,393)**	**(43,712)**	**593**	**(5,643)**

Court Services	40	-	13	53	-	-	-	-	(53)	-
Niagara Regional Housing	605	-	-	605	-	-	(412)	(412)	(193)	-
NRPS	1,050	594	3,150	4,794	-	-	(4,200)	(4,200)	(594)	-
NPCA	109	-	-	109	-	-	(109)	(109)	-	-
Total ABCs	**1,804**	**594**	**3,163**	**5,561**	**-**	**-**	**(4,721)**	**(4,721)**	**(840)**	**-**
Total Levy Supported	**22,251**	**19,146**	**12,926**	**54,323**	**(2,668)**	**(37,651)**	**(8,114)**	**(48,433)**	**(247)**	**(5,643)**
Waste Management	126	-	169	295	-	-	(295)	(295)	-	-
Water/Wastewater	125	-	501	626	-	-	(626)	(626)	-	-
Total Rate Supported	**251**	**-**	**670**	**921**	**-**	**-**	**(921)**	**(921)**	**-**	**-**
Total Niagara Region	**22,502**	**19,146**	**13,596**	**55,244**	**(2,668)**	**(37,651)**	**(9,035)**	**(49,354)**	**(247)**	**(5,643)**

(1) The NRPS cost adjustment is the reallocation by NRPS of non-COVID resources to mitigate the additional costs forecasted for 2021.

COVID-19 2021 Total Cost Summary (Inclusive of Redeployed Resources) (in thousands)

Financial Impacts	2021 Spent & Committed	2021 Forecasted	2021 Total	2020 Total	Total Cumulative
Redeployed resources	$ 4,519	$ 5,107	$ 9,626	$ 20,780	$ 30,406
Costs incremental to base budget	11,578	38,412	49,990	31,132	81,122
Lost Revenue	-	11,740	11,740	14,382	26,122
Less: Cost Savings	-	(6,486)	(6,486)	(17,306)	(23,792)
Total COVID Gross Cost	**16,097**	**48,773**	**64,870**	**48,988**	**113,858**
Less: Confirmed Funding Matched to Expenses	(13,055)	(36,299)	(49,354)	(47,911)	(97,265)
Net Cost to Region	**3,042**	**12,474**	**15,516**	**1,077**	**16,593**
Less: Redeployed resources	(4,519)	(5,107)	(9,626)	(20,780)	(30,406)
Net COVID Costs	**$ (1,477)**	**$ 7,367**	**$ 5,890**	**$ (19,703)**	**$ (13,813)**
Reserve Funding	-	(5,643)	(5,643)	-	(5,643)
Net Expense (Revenue)	**$ (1,477)**	**$ 1,724**	**$ 247**	**$ (19,703)**	**$ (19,456)**

Financial Impacts	Spent & Committed As of Date	2021 Spent & Committed	2021 Forecasted	2021 Total	2020 Total	Total Cumulative
Redeployed Resources						
EOC Dedicated Resources [1]	31-Mar	$ 917	$ 2,688	$ 3,605	$ 4,952	$ 8,557
Lost Productivity – Staff Unable to Work [2]	03-Apr	452	113	565	3,289	3,854
Redeployed Resources [3]	31-Mar	2,804	1,613	4,417	11,937	16,354
Emergency Child Care Costs [4]	31-Mar	346	693	1,039	602	1,641
Total redeployed resources		4,519	5,107	9,626	20,780	30,406
Costs incremental to base budget						
Additional labour related costs [5]	03-Apr	5,462	22,478	27,940	11,117	39,057
PSW Wage Enhancement [6]	20-Mar	680	899	1,579	5,669	7,248
Purchases made [7]	31-Mar	5,436	15,035	20,471	14,346	34,817
Total costs incremental to base budget		11,578	38,412	49,990	31,132	81,122

Financial Impacts	Spent & Committed As of Date	2021 Spent & Committed	2021 Forecasted	2021 Total	2020 Total	Total Cumulative
Lost Revenue [8]		-	11,740	11,740	14,382	26,122
Cost Savings		-	(6,486)	(6,486)	(17,306)	(23,792)
Total COVID Gross Cost		**16,097**	**48,773**	**64,870**	**48,988**	**113,858**
Confirmed Funding Matched to Expenses [9]		(13,055)	(36,299)	(49,354)	(47,911)	(97,265)
Net Cost to Region		**3,042**	**12,474**	**15,516**	**1,077**	**16,593**
Redeployed Resources		(4,519)	(5,107)	(9,626)	(20,780)	(30,406)
Net COVID Costs		**$ (1,477)**	**$ 7,367**	**$ 5,890**	**$ (19,703)**	**$ (13,813)**
Reserve Funding		-	(5,643)	(5,643)	-	(5,643)
Net Expense (Revenue)		**$ (1,477)**	**$ 1,724**	**$ 247**	**$ (19,703)**	**$ (19,456)**

[1] EOC members have been individually assessed for their time commitment, and salary and benefit costs related to the Regional EOC, Public Health EOC, and EMS EOC are included and forecasted to December 31.

[2] Staff unable to work due to self-isolation, needing to care for family members or being sick directly associated with COVID-19.

[3] Corporate cost of redeployed resources, forecasted to June 30.

[4] Emergency child care services were provided as requested by the province. Cost includes base staffing and supplies used while delivering emergency childcare.

[5] Additional salary, benefits and overtime costs related to managing the emergency.

[6] PSW Wage Enhancement from January 1 and forecasted to June 30.

[7] Additional purchases made to directly support the emergency (e.g. cleaning supplies and services, personal protective equipment, emergency shelter, screening, advertising).

[8] Estimated loss of expected revenue sources (e.g. rental income on owned units, transit fare revenue, business licensing revenue, parental fees, POA infraction revenue).

[9] Funding received has been matched to eligible expenditures.

COVID-19 Total Cost by Department (in thousands of dollars)

Regional Departments	Division	Redeployed Resources	COVID Costs	Lost Revenue	Cost Savings	Total Gross Cost
General Government		$ -	$ -	$ 1,008	$ -	$ 1,008
Corporate Administration		594	2,307	-	-	2,901
Governance		94	-	-	-	94
Corporate Services		847	1,232	335	-	2,414
Planning		77	-	-	-	77
Transportation		(5)	(2)	4,176	(5,475)	(1,306)
Public Health						
	Public Health	3,929	22,001	(106)	-	25,824
	EMS	1,289	1,482	-	-	2,771
Sub-total Public Health		5,218	23,483	(106)	-	28,595
Community Services						
	Childrens Services	1,181	3,170	-	-	4,351
	Seniors Services	1,200	8,923	783	-	10,906
	SAEO	32	-	-	-	32
	Homelessness Services	152	8,935	(7)	-	9,080
Sub-total Community Services		2,565	21,028	776	-	24,369
Total Regional Departments		**9,390**	**48,048**	**6,189**	**(5,475)**	**58,152**
Court Services		3	101	-	(48)	56
Niagara Regional Housing		1	605	-	-	606
NRPS *		119	724	4,827	(757)	4,913
NPCA		-	109	-	-	109
Total Agency, Boards & Commissions		**123**	**1,539**	**4,827**	**(805)**	**5,684**
Total Levy Supported		**9,513**	**49,587**	**11,016**	**(6,280)**	**63,836**
Waste Management		19	295	-	-	314
Water/Wastewater		94	108	724	(206)	720
Total Rate Supported		**113**	**403**	**724**	**(206)**	**1,034**
Total		**$ 9,626**	**$ 49,990**	**$ 11,740**	**$ (6,486)**	**$ 64,870**

*NRPS figures reflect Q1 results presented to NRPS Board in May 2021.

Confirmed COVID-19 Funding Announcements (*in thousands)*

Description	Funding Agency	2021 Operating	2022 Operating	Capital
Social Services Relief Fund - Phase 1 (Note 1)	Ministry of Municipal Affairs and Housing	$ 606		
Social Services Relief Fund - Phase 2 (Note 1)	Ministry of Municipal Affairs and Housing	340		6,268
Social Services Relief Fund - Phase 3 (April 1, 2021 to December 31, 2021)	Ministry of Municipal Affairs and Housing	4,745		
Social Services Relief Fund - Mental Health & Addictions (Note 4)	Ministry of Municipal Affairs and Housing	121		
Reaching Home Funding (Note 1)	Employment and Social Development Canada	2,053		
Reaching Home Funding 2021/22 (Note 3)	Employment and Social Development Canada	1,063	1,993	
School-Focused Nursing Initiative (Note 2)	Ministry of Health	2,149		
Case and Contact Management Funding	Ministry of Health	32		
EMS Emergency Land Dispatch	Ministry of Health and Long-Term Care	41		
EMS Emergency Land Ambulance	Ministry of Health and Long-Term Care	718		
EMS - Infection Prevention & Control	LHIN	45		
Public Health COVID-19 Extraordinary Cost Funding	Ministry of Health	18,978		
Safe Restart - Child Care Funding	Ministry of Education	153		
Children's Services - Emergency Child Care	Ministry of Education	1,039		
Children's Services Additional Re-Investment	Ministry of Education	1,702		
Long-term Care - Emergency Funding	Ministry of Long-term Care	1,818		
Long-term Care - Infection Prevention & Control Minor Capital Funding	Ministry of Long-term Care	774		
Long-term Care - Infection Prevention & Control Staffing/Training	Ministry of Long-term Care	363		
Long-term Care - PSW Wage Enhancement (Note 5)	Ministry of Long-term Care	1,579		
Tourism Adaption & Recovery Fund	Federal Funding	2,000		
Sub-total of program specific funding		**40,319**	**1,993**	**6,268**
Safe Restart - Municipal Phase 2 Application-Based Funding	Province of Ontario	2,441		
2021 COVID-19 Recovery Funding for Municipalities	Province of Ontario	6,594		
Total		**$ 49,354**	**$ 1,993**	**$ 6,268**

Note 1: Social Services Relief Fund Phases 1 and 2 cover eligible operating expenses from April 1, 2020 to March 31, 2021 and capital expenses up to December 31, 2021. Reaching Home Funding covers eligible expenses from April 1, 2020 to June 30, 2021.

Note 2: Estimated based on 20 FTE; notice provided to July 31, 2021.

Note 3: Additional Reaching Home funding is being provided through the non-COVID funding stream; however, funding is eligible for costs associated with COVID. The funding covers eligible expenses from April 1, 2021 to March 31, 2022.

Note 4: Ministry of Municipal Housing & Affairs approved funding on February 2, 2021 in the amount of $120,760 to support Mental Health & Addictions to be spent by March 31, 2021.

Note 5: PSW Wage Enhancement funding from January 1 - June 30, 2021.

Subject: Development Charge Demolition Credit Extension Request – Brownfield Redevelopment, St. Catharines

Report to: Corporate Services Committee

Report date: Wednesday, June 16, 2021

Recommendations

1. That the eligibility period for the Regional Development Charge demolition credit associated with the brownfield redevelopment located at 155 Ontario St., Catharines, **BE EXTENDED** to August 8, 2024, in accordance with section 18 (c) of By-law 2017-98.

Key Facts

- The purpose of this report is to seek Council's approval to extend the Regional Development Charges (RDC) demolition credits associated with the brownfield redevelopment located at 155 Ontario St., St. Catharines, in accordance with section 18 (c) of the RDC By-law 2017-98 which are set to expire August 8, 2021 (demolition permit issued August 9, 2016).
- As per By-law 2017-98 if a demolition takes place on a brownfield, an application may be made to the Regional Treasurer for an extension of time for the demolition credit of up to three additional years (an increase from the base 5 years) if the redevelopment has not been able to proceed due to delays in completing the remediation works.
- The developer has identified in their extension request, as included as Appendix 1 to Report CSD 33-2021, that the site redevelopment was delayed as a result of the environmental remediation work that was required for the site in order to achieve the record of site condition.

Financial Considerations

The demolition permit for the former hospital located at 155 Ontario St., St. Catharines was issued to the developer on August 9, 2016. As per the demolition permits, the demolition resulted in the removal of 219,037 square feet of institutional building space. To date, 136,827 square feet has been utilized of the available credit to reduce the RDC payable for the redevelopment of special care dwelling and other institutional space by $1,216,396. On August 8, 2021, the remaining demolition credits of 82,210 square feet

are set to expire. If the extension is approved, the 82,210 square feet demolition credit will be extended for an additional 3 years as a reduction of $748,111 (based on 2021 rates) against DCs payable by the developer.

Table 1 – Summary of Demolition Credits

Description	Square Footage	Effective RDC Rate	Amount
Demolition Credit Available as per Demolition Permits – Issued August 2016	219,037	N/A	N/A
Partial Utilization of Demolition Credit for Redevelopment Permit – Issued 2020	(136,827)	$8.89 (2020 rate)	$(1,216,396)
Demolition Credits Remaining – To Expire August 2021	82,210	$9.10 (2021 Rate*)	$748,111

* Subject to annual indexing.

Analysis

On March 31, 2021, staff received a letter (Appendix 1 to Report CSD 33-2021) from Stantec on behalf of the owner of 155 Ontario St., St. Catharines, requesting that the RDC demolition credits associated with the former hospital use of the property be extended for an additional three years. The request was made under section 18 (c) of the RDC By-law 2017-98, which permits an extension of three years (i.e., in addition to the base five years for a total of eight year) if the redevelopment was delayed as a result of brownfield environmental remediation work required on the site.

Region staff have reviewed the request and believe the extension is reasonable and fits within the intent of section 18 (c) of the RDC Bylaw 2017-98. As such, staff is recommending Council approve the request to extend the remaining RDC demolition credits as identified in Table 1 to August 8, 2024.

The section from the RDC by-law that allows for the extension has been included below for reference:

> *"Where demolition takes place on a brownfield, the above conditions apply however, an application may be made to the Regional Treasurer for an extension of time for the redevelopment credit of up to three additional years if the redevelopment has not been able to proceed due to delays in completing the remediation works. This application must be received prior to the expiry of the initial five year period as provided in section 18. (1) of*

this By-law. This application will be considered by Regional Council for approval."

Notwithstanding the request for the demolition credit extension, the redevelopment of this property is progressing well as can be seen with the pictures included as part of Appendix 2 to Report CSD 33-2021.

Alternatives Reviewed

Council may elect to deny the extension request, which is not recommended. This project involves the redevelopment of a currently underutilized former institutional site. The extension of the demolition credits would be reasonable given the environmental remediation work that was undertaken, Council's previous endorsement establishing brownfield remediation as an incentive pillar priority, and the perceived benefit of the redevelopment on the surrounding area.

Relationship to Council Strategic Priorities

This report supports the Council Strategic Priority of Supporting Businesses and Economic Growth.

Other Pertinent Reports

None.

Prepared by:
Rob Fleming, MBA
Senior Tax & Revenue Analyst
Corporate Services

Recommended by:
Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:
Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was reviewed by Margaret Murphy, Associate Director, Budget Planning & Strategy and Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer.

Appendices

Appendix 1 Letter Re: Request for Development Charge Demolition Credit Extension

Appendix 2 Construction Progress Pictures

Stantec Consulting Ltd.
600-171 Queens Ave London ON N6A 5J7

May 7, 2021
File: 161413720

Attention: Mr. Todd Harrison, Regional Treasurer
Regional Municipality of Niagara
1815 Sir Isaac Brock Way
Thorold, ON
L2V 4T7

Dear Mr. Harrison,

Reference: 155 Ontario St. St. Catharine's - Regional Development Charges – Extension Request for Demolition Credits, under By-law No. 2017-98 - Seasons Retirement Communities (St. Catharine's) LP

Please accept this letter in support of a formal application for extending the timeframe to use the redevelopment credit permitted under subsection 18 (c) of the Regional Development Charges By-law (By-law No. 2017-98). The applicant, Seasons Retirement Communities (St. Catharine's) LP (also registered as 1671366 Ontario Ltd.), is seeking an extension of three additional years of demolition credits (due August 2021) for the redevelopment of the property identified as 155 Ontario St., St. Catharine's (former Hotel Dieu Hospital property), where demolition takes place on a brownfield site.

These lands have been identified, through the Environmental Site Assessment process, as requiring significant remediation works that has taken multiple years to undertake. Development has been unable to proceed as expected on these lands due to delay in completing the necessary remediation, notably the remediation of petroleum-impacted soil within the property.

Figure 1. Former Hotel Dieu Hospital

The former use of the property was institutional, as it was the site of the Hotel Dieu Health Sciences Hospital Facilities, as shown in Figure 1.

In accordance with the Environmental Site Assessment Phase I and II, two (2) areas with significant, historic environmental issues on the subject lands were investigated in advance of redevelopment (Figure 2), with the following remediation works occurring:

1. **AREA 1**: An underground storage tank (UST) located north adjacent to the Annex building.

    - Steel UST removed without incident following removal and disposal of residual tank fuel and water.

    - Six (6) confirmatory soil samples were removed from the excavation along with duplicate QA/QC samples and were submitted for petroleum hydrocarbon (PHC) and benzene, toluene, ethylbenzene and total xylenes (BTEX) analyses, to understand the extent of the impacted soil. The evacuation site was subsequently regraded using on-site soils.

    - Representative soil samples were also collected from the stockpiled soils adjacent to the excavation and submitted for PHCs, BTEX and metals, inorganics analyses. These samples did not meet Ministry standards for conductivity; and therefore, were removed from the site (between December 2016 and March 2017) and disposed of at a Ministry-licensed receiver.

2. **AREA 2**: Historic petroleum hydrocarbon impacted soil in the vicinity of the former boiler room (at the western portion of the site) including the UST located east of the former boiler room.

    - Steel UST removed without incident following removal and disposal of residual tank fuel and water.

    - Thirteen (13) confirmatory soil samples were removed from the excavation along with two (2) duplicate QA/QC samples and were submitted for petroleum hydrocarbon (PHC) and benzene, toluene, ethylbenzene and total xylenes (BTEX) analyses. Sampling revealed that two of the areas did not meet Ministry soil standards. Additional excavation work and subsequent collection of three (3) additional confirmatory soil samples from the excavation along with a duplicate QA/QC sample and submitted them for PHCs and BTEX analyses, which met Ministry standards. Subsequent re-grading occurred suing nearby on-site soils.

    - Thirty-eight (38) representative soil samples were collected from the stockpiled soil adjacent to the excavation and were submitted for analyses, which revealed that the submitted samples met Ministry standards. The material was subsequently used to backfill the nearby larger excavation.

Reference: **155 Ontario St. St. Catharine's - Regional Development Charges – Extension Request for Demolition Credits, under By-law No. 2017-98 - Seasons Retirement Communities (St. Catharine's) LP**

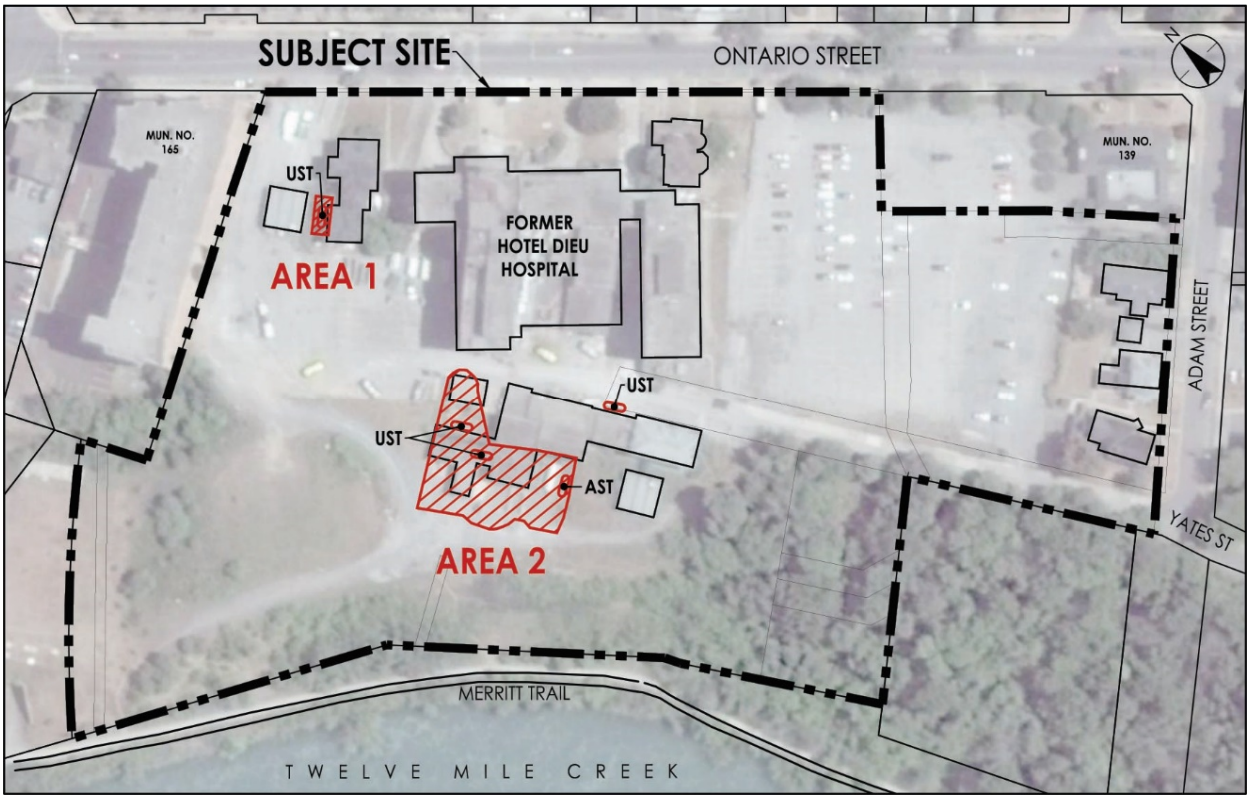

Figure 2. Areas of Environmental Concern

In summary, a Phase 1 and 2 Environmental Site Assessment (ESA) and a subsequent soil delineation program demonstrated the need for these site remediation activities, which included the decommissioning of two (2) USTs, soil remediation activities, and conducting confirmatory sampling and chemical analysis work. This was documented in a Remediation Report for 155 Ontario St., St. Catharines, ON (March 13, 2017, WSP).

In consultation with the Conservation Authority and the City of St. Catharine's, it was expressed that there was a requirement by Niagara Region to complete an Environmental Impact Study (EIS) for the Site, as well as a geotechnical report. These studies were required as part of the development process as a result of the environmental concerns on the Site stemming from the remediation. There was site disturbance to remediate the contaminated area that caused negative impacts on the soil stability and disturbed the top of bank line. As such, a geotechnical report was warranted to study the re-establishment of the top of bank location and the slope stability, and provide setbacks for the development, in Area 2. Furthermore, considerations to existing municipal services had to be addressed through detailed engineering design due to brownfield remediation. As a result of these additional approvals and studies, the project was significantly delayed.

Reference: **155 Ontario St. St. Catharine's - Regional Development Charges – Extension Request for Demolition Credits, under By-law No. 2017-98 - Seasons Retirement Communities (St. Catharine's) LP**

The remediation works described above have extended the timeframe for redeveloping the site to an 'Apartment Building/Long Term Care Facility' and have led to complexities in meeting the "Rules with Respect to Redevelopment – Demolitions" outlined in subsection 18 (a) of the By-law for demolition permits numbered: 68-2017. These permits were issued at two intervals. The first was in August of 2016 – the demolition of the Hotel Dieu Hospital; and, the second in July 2020 – the building permit issued for Phase 1. These have been provided on the Demolition Credit Review attached to this letter, as well as an indication of the total remaining future credits.

Currently, Phase 1 of the re-development is proceeding. Having received Site Plan Approval (SP-17-024), Phase 1 is currently under construction and the Final Site Plan agreement has been signed for the whole Site. As such, the applicant is continuing to redevelop the site as planned. Figure 3 shows the three phases of the proposed re-development.

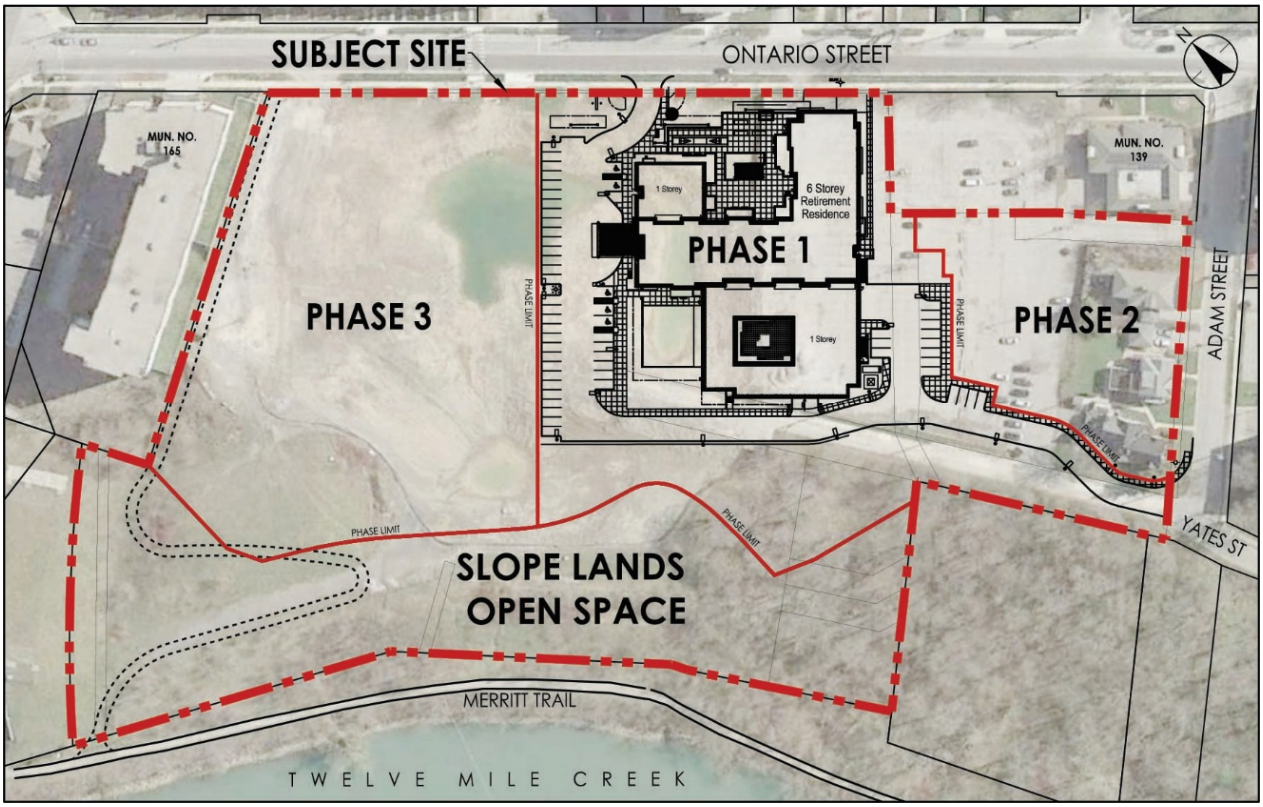

Figure 3. Phases of Development

Based on comments provided by City of St. Catharines staff, it is understood that the filing of a Record of Site Condition (RSC) in accordance with Ontario Regulation 153/04 is not required for the Site at this time, as there is no change in use or occupancy of the site. Therefore, no RSC has been submitted to the Province's Brownfield Environmental Site Registry.

Reference: **155 Ontario St. St. Catharine's - Regional Development Charges – Extension Request for Demolition Credits, under By-law No. 2017-98 - Seasons Retirement Communities (St. Catharine's) LP**

We are aware this request will need to be presented to Regional Council for approval and would appreciate any additional guidance on how we can help to facilitate the next steps. As outlined in the attached, the remaining Demolition Credit expires in June 2021; therefore, claiming these credits is time sensitive.

Regards,

Stantec Consulting Ltd.

Amelia Sloan, MCIP RPP

Phone: 226-926-8794
Amelia.Sloan@stantec.com

Attachment: Demolition Credit Review

c. Taya Devlin – City of St. Catharine's
David Gallagher – Seasons Retirement Communities
Brian Blackwell – Stantec Consulting Ltd.

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Demolition Credit Review

155 Ontario St - St. Catharines, On

Seasons Retirement Communities

May 7, 2021

Total Demolition Credits Available

Description	Demolition Permit	Date Issued	Demo Credit Expiry Date	Eligible Credit Building Area	Credit Type
155 Ontario Street Former Hotel Dieu Hospital	16-109945-IS	August 2016	August 2021	219,036.97 ft^2	Institutional Rate
	16-109948-IS				

Total Available - 2020 Rates

Development Charge / Demolition Credit	Available Demolition Credit
$8.89 per ft^2	**$1,947,238.66 (219,036.97 ft^2)**

Total Demolition Credits Claimed to Date

Description	Building Permit	Date Issued	Date Claimed	Claimed Credit Unit Count	Credit Type
155 Ontario Street New Seniors Facility	19-112048-RN	July 2020	July 2020	143 Units	Special Care
155 Ontario Street New Seniors Facility	19-112048-RN	July 2020	July 2020	17,264.00 ft^2	Institutional

Total Claimed - 2020 Rates

Development Charge / Demolition Credit	Claimed Demolition Credit
$7,433 per Unit	**$1,062,919.00**
$8.89 per ft^2	**$153,476.96**
Total Claimed	**$1,216,395.96**

Total Demolition Credits Remaining

Description	Demolition Permit	Total Available 2020 Rates	Total Claimed 2020 Rates	Total Remaining 2020 Rates	Dollar to ft^2 Conversion
155 Ontario Street Future Development	16-109945-IS	$1,947,238.66	$1,216,395.96	$730,842.70	Dollar / $8.89
	16-109948-IS	(219,036.97 ft^2)	(136,827.44 ft^2)	(82,209.53 ft^2)	(Institutional Rate)

Total Remaining - Future

Total Remaining for Future Credits	Demo Credit Expiry Date
82,209.53 ft^2 (Institutional Rate)	**August 2021 Plus Extension**

Notes:
- Demolition credit expiry dates shown above are original and do not include requested extensions
- Demolition credits are requested to be extended by 3 years, with a new expire date being August 2024
- Dollar amounts shown based on Niagara Region 2020 development charge rates, rates increase yearly

Stantec

HOLE

Subject: 2021-T-5 Award of Tender - Long Term Care (LTC), Linhaven, St. Catharines

Report to: Corporate Services Committee

Report date: Wednesday, June 16, 2021

Recommendations

1. That CCDC-2 Stipulated Price Contract 2021-T-5 “Linhaven Long Term Care (LTC) Home Redevelopment, St. Catharines” **BE AWARDED** to Buttcon Limited, at their bid price of $100,972,238 (including 13% HST);
2. That the Gross Budget for Linhaven LTC Home Redevelopment, St. Catharines, **BE INCREASED** by $3,652,420 and that the increase **BE FUNDED** from a Provincial Grant (Ministry of Long Term Care Development Grant); and
3. That the Regional Chair and the Regional Clerk **BE AUTHORIZED** to execute a CCDC-2 Stipulated Price Contract between Niagara Region and Buttcon Limited as proposed in Recommendation 1 above.

Key Facts

- The purpose of this report is to seek Council’s approval to award a contract to Buttcon Limited for construction of the new Linhaven LTC Home, St. Catharines and undertake a gross budget adjustment per the Budget Control By-law Section 6.6B.
- Council approved a total project budget of $102 million for the Linhaven Long Term Care Home Redevelopment, St. Catharines as part of the 2020 Capital Budget.
- A modernized Provincial Funding policy, announced in September 2020, will provide $17.1 million of additional funding to the Linhaven LTC redevelopment project.
- The Linhaven LTC Redevelopment construction budget has been significantly impacted by pandemic related disruptions and extraordinary material price increases.
- Additional funding required for the project will be offset by a Provincial Grant and will not impact the 2021 capital budget or require any increase to the Region levy.

Financial Considerations

In 2020, Regional Council approved the Linhaven and Gilmore Lodge Long Term Care (LTC) Home Redevelopments, with a total budget of $175,000,000 with a separate levy increase of 1.54% for the debt servicing costs net of Provincial per diem subsidy. The project budget for Linhaven Long Term Care Home Redevelopment, St. Catharines (Project Number 20001203) is $102,000,000 (Appendix 1 to Report CSD 35-2021). The project was part of the Region's asset management plan.

The cost of the tender award is $90,928,807 (inclusive of 1.76% non-refundable HST). To accommodate this tender award, the overall project budget will need to increase to $105,652,420, an increase of $3,652,420.

The Linhaven and Gilmore Lodge LTC Redevelopment construction budgets have been directly, and significantly, impacted by pandemic related disruptions to the construction sector. Over the past 14 months impacts including, but not limited to, new and enhanced employee safety protocols, supply chain interruptions, labour/travel restrictions and material shortages have resulted in significant construction cost increases.

Extraordinary material price increases and market volatility, coupled with a robust construction market since the fourth quarter of 2020 have resulted in escalated construction costs beyond what could have been anticipated. Building materials including, but not limited to, metal stud, aluminum framing, drywall, insulation, rebar, structural steel, metal fabrications, lumber and wood related products and sheet metal have experienced significant price increases between 15% and 25% over the past several months. Material price increases have translated to a 5% to 10% increase in the overall construction cost.

The project team has carried out three construction cost estimates for the Linhaven LTC home redevelopment between October 2020 and April 2021. Despite maintaining the same building program and implementing value engineering measures, construction costs continued to increase well over what was anticipated. Over the six month period from October 2020 to April 2021, the construction estimate increased by $3,491,000 or 4.2%. This is exclusive of the escalation allowance of 4% per annum that was accounted for in the cost estimate. When factoring in the anticipated escalation of 2% over six months, the actual construction cost increase of materials and labour over this period was $5,160,000 or 6.2%. The Gilmore Lodge construction budget experienced similar pressures over this same time period and will require additional funding to cover

the unprecedented price increases. The project team is monitoring Gilmore Lodge construction costs and will report on the amount of additional funding required following the tender closing in August.

The proposed increase of $3,654,420 will be funded from a Provincial Grant (Ministry of Long Term Care Development Grant). The additional funding became available through the Ministry of Long-Term Care's modernized funding model announced in September of 2020.

The Ministry of Long-Term Care provides a Construction Funding Subsidy (CFS) to support the cost of developing or redeveloping long-term care homes. Both of the Niagara Region's homes currently scheduled for redevelopment (Linhaven (256 Bed Home - St. Catharines) and Gilmore Lodge (160 Bed home - Fort Erie)) are eligible to receive funding under the Ministry's "Construction Funding Subsidy Policy for Long-Term Care Homes, 2019".

To incentivize the development and redevelopment of long-term care homes (for profit, non-profit and municipal homes), the Ministry has released a new modernized funding model to support constructing modern LTC homes for Ontario seniors. The new funding model recognizes differences in the way long-term care development is delivered across the province by tailoring funding to specific market segments. After initially being announced in September 2020, final details of the modernized funding policy were received in March 2021, confirming eligibility of Niagara Region's two planned capital redevelopment projects. The new policy provides additional funding in two areas:

Construction Funding Subsidy Per Diem

The Ministry has updated the policy to increase funding based on the homes market segment. Linhaven qualifies under the Urban market segment (population centre greater than 100,000) while Gilmore Lodge qualifies under Mid-size (population centre of at least 10,000 people, up to 100,000). Both the Urban and Mid-size market segments are eligible for an additional $2.50 per bed per day over the 25 year eligibility period. The impact in funding from the previous policy compared to the new policy for both projects is as follows:

Construction Funding Subsidy Per Diem (Amounts in Millions)

Home	Construction Funding Under Old Policy	Construction Funding Under New Policy	Additional Funding (25 Year Reimbursement Period)	Additional Funding (Annually)
Gilmore Lodge	27.4	31.1	3.7	0.146
Linhaven	39.2	44.8	5.6	0.225
Total	66.6	75.9	9.3	0.371

Construction Funding Subsidy Per Diem is paid on a monthly basis for a period of 25 consecutive years after the first resident takes occupancy in the home.

Development Grant

The Ministry has introduced a new development grant component to the funding model, which is intended to cover a portion of eligible project costs. The development grant is set according to the market segment of the project and a percentage of eligible projects costs (17% for Urban market segment, 10% for Mid-size market segment), up to a maximum value of $47,926 per bed for Urban and $24,923 for Mid-Size. Both Linhaven and Gilmore Lodge are expected to receive the maximum development grant available based on eligible expenses in the approved budgets:

Development Grant (Amounts in Millions)

Home	Funding Under Old Policy	New Development Grant	Difference
Gilmore Lodge	-	4.0	4.0
Linhaven	-	11.5	11.5
Total	-	15.5	15.5

The Development Grant is payable in full, following substantial performance of the construction contract, and is tied to eligible construction costs and the number of eligible beds on the project as determined by the Ministry. The amount of the development grant may be adjusted by the Ministry after final approval of the operator’s submission of eligible costs.

Summary of Provincial Funding Changes (Total 25 Year Reimbursement Period, Amounts in Millions)

Linhaven	Old Policy	New Policy	Additional Funding
CFS Per Diem	39.2	44.8	5.6
Development Grant	-	11.5	11.5
Linhaven Total	**39.2**	**56.3**	**17.1**
Gilmore Lodge			
CFS Per Diem	27.4	31.1	3.7
Development Grant	-	4.0	4.0
Gilmore Lodge Total	**27.4**	**35.1**	**7.7**
Combined			
CFS Per Diem	66.6	75.9	9.3
Development Grant	-	15.5	15.5
Combined Total	**66.6**	**91.4**	**24.8**

The proposed increase of $3,654,420 will be funded from the Development Grant. Since the grant amount exceeds the budget increase required from the award there is residual funding at this time. There is no recommendation to substitute debt financing with this funding until the results of the Gilmore Lodge tender is completed and staff are able to assess the overall budget impact of both projects. A summary of the overall funding impacts for both projects with recommendations for all additional funding will be included with Gilmore Lodge's tender award report.

In spite of this capital budget increase and the potential for increases to the Gilmore Lodge construction budget to be determined in the fall, we do not anticipate any increased pressure on the operating budget (because of the enhanced funding). We anticipate the potential for a modest decrease, which will be reported with the Gilmore Lodge tendering and the 2022 budget.

Impact to Operating Levy

In the 2020 operating budget, council approved a 1.54% separate levy in order to fund the debt financing costs (principal and interest) associated with the 2020 Capital request for the two projects. The separate levy approved in 2020 represents the net requirement to fund both the Linhaven and Gilmore Lodge projects (net of the ministry funding). Prior to the approval of the separate levy in the 2020 operating budget, the debt costs ($948,639) associated with the original project budget of $15,635,000, approved in the

2016 capital budget, were funded through a combination of ministry funding ($483,421) and reprioritization of base budget ($465,218).

The recently announced increase to the construction funding subsidy per diem of $224,817 for Linhaven and $146,112 for Gilmore reduces the net requirement which equates to a 0.1% savings on the separate levy (see chart below):

Item	**Dollars Required (Annually)**	**% of Levy**
LTC Redevelopment Debt Charge	$8,786,935	
MLTC Per Diem (Prior to Policy Update)	(2,683,018)	
Debt Charge/Net Cost	**6,103,917**	
Budgeted in 2016 for previously approved debt of $15 million	(483,421)	
Net requirement for LTC (Approved in 2020 operating budget)	**5,620,496**	**1.54%**
Additional CFS Per Diem Funding for Linhaven based on changes to Ministry policy	**(224,817)**	**(0.06%)**
Additional CFS Per Diem Funding for Gilmore based on changes to Ministry policy	**(146,112)**	**(0.04%)**
Revised requirement for LTC	**5,249,567**	**1.44%**

The additional CFS per diem funding for the Linhaven project has created savings on the previously approved separate levy which could be used as a mitigation option or be repurposed for other initiatives.

Analysis

A Request for Prequalification (RFPQ) of General Contractors “2020-RFPQ-83 - Request for Prequalification of General Contractors for the Niagara Region Long-Term Care Redevelopment Project” was issued through Procurement on September 16, 2020. The RFPQ closed on October 15, 2020, with the Region receiving a total of sixteen (16) submissions. Two of the proposals failed to meet all mandatory submission requirements and were disqualified. The remaining submissions were found to be in compliance with all mandatory requirements and technical submissions were evaluated.

A five-member evaluation committee, with representation from Construction Energy and Facilities Management, Seniors Services and the Architect was formed to review the remaining compliant RFPQ submissions. Proposals were evaluated according to the scoring criteria outlined in the RFPQ, and approved by Council through report CSD 26-2020. The overall evaluation process was overseen by a representative from Procurement Services. Coming out of the evaluation process, a total of seven (7) general contractors met the minimum benchmark score and were successfully pre-qualified for both the Linhaven and Gilmore Lodge tenders. The list of pre-qualified contractors is identified below.

- Amico Infrastructure Inc.
- Aquicon Construction Co. Ltd.
- Buttcon Limited
- Graham Construction and Engineering LP
- Magil Construction Ontario Inc.
- Percon Construction Inc
- Walsh Canada

On March 30, 2021, the Region issued Request for Tender 2021-T-5 “Linhaven Long Term Care (LTC) Home Redevelopment, St. Catharines – General Contractor for Construction” to the seven prequalified general contractors. A total of seven addenda were issued throughout the eight week tender period that closed on May 26, 2021.

At tender close, the Region received bids from six (6) of the pre-qualified contractors. Upon review of the mandatory submission requirements by Procurement Services, all bids were deemed to be compliant.

A summary of the tender results is presented in the table below. All bids include a $4 million construction contingency.

Bidder	**Tender Price**	**Rank**
Amico Infrastructure Inc.	$ 99,740,000	5
Aquicon Construction Co. Ltd.	$ 95,894,000	3
Buttcon Limited	$ 89,355,963	1
Graham Construction and Engineering LP	No Bid	-
Magil Construction Ontario Inc.	$ 100,800,763	6
Percon Construction Inc	$ 94,125,000	2
Walsh Canada	$ 96,744,000	4

Buttcon Limited was the low bidder, submitting a tender price of $89,355,963 + HST. All six bids were within $11,444,800 (11.9%) of one another. Despite being approximately $4.8 million (5%) lower than the second ranked contractor, Buttcon Limited's bid was in alignment with the pre-tender construction estimate prepared by the cost consultant, and indicative that they have a clear understanding of the project requirements.

Award of the Contract is contingent on the gross budget for Linhaven LTC Home Redevelopment being increased and funded through the Provincial Grant as detailed in the Financial Considerations section of this report.

Alternatives Reviewed

No Alternatives were reviewed.

Relationship to Council Strategic Priorities

Not applicable.

Other Pertinent Reports

COM 8-2021	Public Health & Social Services	April 13, 2021
CSD 26-2020	Corporate Services Committee	May 13, 2020
CSD 53-2019	Budget Review COTW	October 10, 2019
COTW 05-2019	Committee of the Whole	July 4, 2019
CSD 15-2018	Corporate Services Committee	April 4, 2018
CL-C 21-2018	Regional Council	April 12, 2018
CSD 50-2017	Regional Council	June 20, 2017
CSD 49-2017	Regional Council	June 29, 2017
CSD 43-2017	Corporate Services Committee	June 21, 2017
CSD 9-2017	Corporate Services Committee	January 11, 2017
CAO 10-2016	Regional Council	July 21, 2016
CAO 4- 2016	Regional Council	March 24, 2016
CAO 13-2015	Regional Council	June 11, 2015
CAO 05-2015	Regional Council	March 26, 2015

Prepared by:
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Senior Project Manager
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Recommended by:
Todd Harrison, CPA, CMA
Commissioner, Corporate Services/Treasurer

Submitted by:
Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Adam Niece, Program Financial Specialist; Jordan Gamble, Program Financial Specialist; and reviewed by Nicole Wolfe, Director CEFMS; Bradley Ray, Associate Director CEFMS; Jeff Mulligan, Procurement Manager; Helen Chamberlain, Director Financial Management & Planning/Deputy Treasurer.

Appendices

Appendix 1	Linhaven LTC Home Redevelopment, St. Catharines Total Estimated Project Cost

Linhaven LTC Home Redevelopment, St. Catharines
Total Estimated Project Cost

CSD 35-2021
June 16, 2021
Appendix 1

Cost Elements	Council Approved Budget	Budget Increase	Revised Council Approved Budget	Expended & Committed as of 05/26/21	Contract Award/ Forecast	Budget Remaining
	(A)	(B)	(C) = (A) + (B)	(D)	(E)	(F) = (C) - (D) - (E)
Total Estimated Project Cost (20001203)*						
(a) Construction (including Construction Contingency and 1.76% non-refundable HST)	83,891,000	7,037,807	90,928,807	-	90,928,807	-
(b) Project Contingency	8,047,000	(3,976,592)	4,070,408	-	4,070,408	-
(c) Property Acquisition	-	-	-	-	-	-
(d) Consulting Services	3,737,000	-	3,737,000	835,404	2,901,596	-
(e) Permitting	-	622,100	622,100	-	622,100	-
(f) Furniture, Fixtures and Equipment	4,792,000	-	4,792,000	-	4,792,000	-
(g) Project Management (In-House) and Operations	1,533,000	(30,895)	1,502,105	212,915	1,289,190	-
Total Estimated Project Cost	**102,000,000**	**3,652,420**	**105,652,420**	**1,048,319**	**104,604,101**	**-**
Project Funding Sources						
Debt	(86,500,000)	-	(86,500,000)	-	(86,500,000)	-
Development Charges - LTC Facilities	(15,500,000)	-	(15,500,000)	(118,897)	(15,381,103)	-
Provincial Grant (MLTC Development Grant)	-	(3,652,420)	(3,652,420)	-	(3,652,420)	-
	(102,000,000)	**(3,652,420)**	**(105,652,420)**	**(118,897)**	**(105,533,523)**	**-**

*All costs include 1.76% non-refundable HST
** Total Contract Award is equal to i) $89,355,963 before tax; ii) $90,928,807 including 1.76% non-refundable HST; iii) $100,972,238 including 13% HST

Niagara Region

Subject: Update to Audit Committee Terms of Reference

Report to: Audit Committee

Report date: Monday, May 10, 2021

Recommendations

1. That the updated Audit Committee Terms of Reference, Appendix 1 to Report AC-C 6-2021, **BE APPROVED**.

Key Facts

- At the Audit Committee meeting of February 8, 2021 members requested that staff review the current Terms of Reference and provide updates as necessary, including considering the merits of having non-Regional councillors participate as members.
- The previous update to the Audit Committee Terms of Reference was approved by Council on June 29, 2017.
- This update is provided following a scan and discussions with several comparable jurisdictions to ensure best practices are considered and Niagara Region's Audit Committee remains accountable and progressive in its oversight capacity and role.

Financial Considerations

There are no financial impacts related to the recommendations within this report. If Council proceeds with either area of analysis below there could be a financial impact based on potential remuneration and staffing impact.

Analysis

The only change to the Audit Committee Terms of Reference was removing reference to the former Internal Control and Organizational Performance (ICOP) office. All other changes are minor in nature to ensure the document reflect current operating procedures.

Audit Committee Composition Considerations:

- The current Terms of Reference calls for, at a minimum, three councillors, in addition to the Regional Chair. The four members, as is stated, should have

financial literacy and familiarity with the Region's accounting, operating and financial reporting structure.

- Several municipalities, including Peel Region, Cities of Burlington, Vaughan, Thunder Bay, Brampton and London allow for non-councillors to be active and full members of their Audit Committee.
- Niagara Region does not provide any remuneration for non-elected committee members which is consistent with all other municipalities scanned.
- External members' participation could provide a specific skill set or certification that may not exist within the current Audit Committee members, such as CPA, CIA or Forensic Auditing designation.
- Majority of reports are available for public review, however non-council members would be required to sign an oath of confidentiality to fully participate in in-camera sessions.
- Non-council membership should be capped such that the majority of voting members at all Audit Committee meetings should still be elected representatives
- All Audit Committee reports and recommendations are still approved and ratified by Regional Council.

Alternatives Reviewed

Due to the potential confidentiality of reports, the time commitment to implement a process of advertising, interviewing, educating potential new audit committee members and in light of the limited remaining term of Council, staff are not recommending the addition of external committee members at this time.

Relationship to Council Strategic Priorities

Effective internal and external audit reporting and processes align with current Council's Strategic Priority – Sustainable and Engaging Government. The goal of this strategic initiative is a commitment to high quality, efficient, fiscally sustainable and coordinated core services through enhanced communication, partnerships and collaborations with the community.

Other Pertinent Reports

AC-C 9-2017 Audit Committee Terms of Reference

AC-C 32-2018 – Audit Committee Terms of Reference

Prepared by:
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Frank Marcella, MPA, CRMA
Manager, Internal Audit

Recommended by:
Todd Harrison, CPA, CMA
Commissioner, Corporate Services/Treasurer

Submitted by:
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Acting Chief Administrative Officer

Appendices

Appendix 1 – AC-C 6-2021 - Audit Committee Terms of Reference

Audit Committee Terms of Reference

The Audit Committee Terms of Reference outlines the Committee's composition, authority, meetings, reporting, mandate, and procedure.

Composition:

The Audit Committee is an advisory committee of Regional Council and will be comprised of the Regional Chair, and at least three other Councillors.

Members of the Audit Committee should be financially literate which includes:

- understanding of the Region's internal and external reporting, accounting policies and process;
- a general understanding of the Region's major economic, operating, and financial risks;
- a broad awareness of the interrelationship of the Region's operations and its financial reporting; and
- understanding the difference between the oversight function of the Committee and the decision-making function of management

Audit Committee deliberations will normally be supported by staff including the CAO, Internal Auditors, Commissioner of Corporate Services/Treasurer, Director, Financial Management & Planning and other appropriate staff as required.

The length of term to be served by members on the Committee is concurrent with the term of Regional Council, giving consideration to the benefits of periodic rotation of committee membership.

The Audit Committee Chair and Vice Chair will be elected from the Committee members for a two year term at the first meeting of the year and two years subsequent to that date.

Authority:

Regional Council may authorize the Audit Committee to investigate any activity of the Region. All employees are to co-operate as requested by the Committee. In addition, any Standing Committees may request that any activity be considered for an audit with requests submitted directly to Audit Committee.

With approval of Regional Council, the Audit Committee may assign staff (e.g. Internal Audit) or retain persons or a third party having special expertise to assist the Committee in fulfilling its responsibilities.

Meetings:

The Audit Committee shall meet at least four times per year or at the call of the chair as required.

The meetings will be scheduled to permit timely review of internal and external financial reporting and special purpose audit reports. Additional meetings may be held as deemed necessary by the Regional Chair, Audit Committee Chair or as requested by any Committee member or the external auditors.

At the beginning of each year a meeting schedule will be proposed that meets the above criteria and proposes the subject matter to be considered at each meeting.

Reporting:

The minutes of meetings of the Audit Committee will be provided to Regional Council for final approval.

Mandate:

The Audit Committee assists Regional Council in the provision of effective municipal governance by advising on complex accounting policies, accounting estimates, internal controls, financial statement disclosures, safeguarding of corporate assets, compliance with legal, ethical, and regulatory requirements and the efficient and effective use of resources.

The responsibilities of the Audit Committee are to satisfy itself, on behalf of Regional Council on the following matters:

1) **External Audit**

- Niagara Region's annual consolidated financial statements are fairly presented in accordance with generally accepted accounting principles and to recommend to Council whether the annual financial statements should be approved;

- Audited financial statements of the Niagara Region's boards, agencies, and commissions, and other audited financial statements be received for information purposes following approval by the respective Board or Standing Committee, to assist in its overall assessment of the Region's annual consolidated financial statements and internal controls over financial reporting;

- The Region has implemented appropriate systems of internal control over financial reporting and that these are operating effectively;

- The Region has implemented appropriate systems of internal control to ensure compliance with legal, regulatory and ethical requirements;

- The external audit function has been effectively carried out and that any matter which the independent auditors wish to bring to the attention of Audit Committee, and/or Council has been addressed; and

- The Audit Committee will approve the replacement, reappointment and/or appointment of the external auditors to Council.

2) Internal Audit

- Audit Committee will review and approve the mandate for the internal audit function (Internal Audit Charter) and ensure that all of the Region's operations are considered for review based on a risk-based annual work plan;

- The Region has implemented appropriate systems of internal control to ensure compliance with legal, regulatory and ethical requirements;

- The audit function is effectively carried out and that any matter which the independent auditors wish to bring to the attention of Audit Committee, and/or Council has been addressed;

- Audit reports are relevant, reliable, objective and transparent. In making this assessment, the Audit Committee may recommend the use of external subject matter experts. For purposes of efficiency and matters of budgeting expenditures, it is recommended that the use of subject matter experts be determined annually when the Internal Audit work plan is approved;

- As necessary, Quality Assurance reviews are conducted in accordance with the Institute of Internal Auditors' Standards for the Professional Practice of Internal Auditing;

- Internal auditing includes a review of the adequacy of internal control systems for safeguarding assets, the effectiveness of corporate reporting systems regarding administrative and program performance and the level of compliance with legislation, regulations, corporate objectives, policies and ethics;

- Assess the Region's system of internal financial controls and the control environment to gain reasonable assurance that such controls are effective and efficient and assist Audit Committee in assessing whether management has created a culture of integrity and an effective control environment throughout the organization;

- Review all internal audit reports and provide advice to Regional Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of best practice; and

- Monitor management's implementation of internal audit recommendations.

Applicability of Procedural By-Law:

As an advisory committee of Council, the Audit Committee is governed by the sections of the Region's Procedural By-law relating to advisory committees.

Subject: Debt Information Report – 2021 Debenture Issuance

Report to: Corporate Services Committee

Report date: Wednesday, June 16, 2021

Recommendations

That this report **BE RECEIVED** for information.

Key Facts

- This report has been prepared to advise Council of the Region's intention to issue debentures in 2021, in accordance with debenture issuance procedures that have been established.
- Each year the Region and Local Area Municipalities (LAMs) require the issuance of debentures for capital projects with debt financing that has been previously approved in capital budgets. During construction, these projects were internally financed and are now either complete or are nearing completion and financing must be secured (see Appendix 1 to Report CSD 34-2021).
- Issuance of the proposed $76.9 million in previously approved Regional debt will increase the Region's 2021outstanding debt from $415.9 million to $463.2 million (net of 2021 principal repayments of $32.4 million and new debt from the Niagara Regional Housing acquisition of Julius Court of $2.7million, see Appendix 2 to Report CSD 34-2021).
- Previously authorized but unissued debt for the Region will decrease from $458.7 million to $381.8 million.
- The Region's Annual Repayment Limit (ARL) will be 8.17% after the 2021 debenture issuance, well below the 25% ARL set by the Province.
- Staff is monitoring the Infrastructure Ontario lending program and capital markets, and proposes to issue debentures taking into consideration interest rate levels and timing requirements.

Financial Considerations

The Region plans to issue debentures in 2021 for its financing requirements and that of certain LAMs identified in Appendix 1 of Report CSD 34-2021. The debenture issuance requirements for 2021 are as follows:

Debt Term	Region Amount	LAM Amount	Total
1-15 Year Debt	$15.9M	$47.2M	$63.1M
20-30 Year Debt	$61.0M	$20.8M	$81.8M
Total	$76.9M	$68.0M	$144.9M

Total issued debt will be recorded as a long-term liability on the Region's financial statements with a corresponding debt recoverable from the LAM for the amount issued on behalf of the LAM. All debt servicing costs associated with the Region's approved debt have been included within the Region's operating budget. The projected debt servicing costs associated with the Region's debt requirement of $76.9 million is estimated at $5.6 million per year. Debt servicing costs for the LAMs are budgeted by each individual LAM and recovered by the Region from the LAM. The ARL for each LAM is provided in Appendix 1 to Report CSD 34-2021 and is based on the latest available published Financial Information Return (FIR).

Analysis

Each year, the Region raises funds through the sale of Niagara Region debentures in the capital markets or through the Infrastructure Ontario lending program to finance previously approved capital projects for both the Region and the LAMs. While projects are under construction funding is generally provided internally and once projects are complete financing must be secured. The authority to issue debentures is granted solely to regional government in accordance with the Municipal Act.

A listing of the proposed debenture amounts are shown in Appendix 1 to Report CSD 34-2021:

- **For the 1-15 year term** the Regional portion totals $15.9 million. This requirement includes projects for Niagara Regional Housing and Roads Rehabilitation projects. The proposed requirement for the municipalities of Niagara Falls, Niagara-on-the-lake, St.Catharines, Welland and West Lincoln totals $47.2 million.
- **For the 20-30 year term** the Regional portion totals $61.0 million for, Long Term Care Homes as well as Water and Wastewater projects. The proposed requirement for the municipalities of Grimsby, Niagara on the Lake, Wainfleet and Welland is $20.8 million.

The Region monitors the markets and in consultation with our fiscal agents determines the most appropriate time to enter the capital market. Since March, the market has been active with municipal debenture issuances including those from Waterloo, London, Halton and Guelph.

The Region engages its fiscal syndicate in the sale of Regional debentures; the syndicate is comprised of three fiscal agents: CIBC World Markets, RBC Capital Markets and National Bank Financial. National Bank Financial will be the lead for the 2021 capital market transaction as per the established annual rotation.

Staff are also proceeding with debenture issues via the Infrastructure Ontario lending program throughout the remainder of 2021. Infrastructure Ontario provides long-term financing for infrastructure projects up to 30 years. Longer term projects, such as 30 year projects, are financed through Infrastructure Ontario as term acceptance for long-term debentures are typically only available with Infrastructure Ontario.

For comparison purposes, the 10-year rates between Infrastructure Ontario and capital markets is approximately 2.04% and 1.83% respectively. The 30-year Infrastructure Ontario rate is currently 3.04%. These rates are indicative of current conditions and it should be noted that rates may change according to subsequent market conditions and timing of the actual debenture issue. In 2020, the Region was able to obtain debt in both the capital markets at a rate of 1.43% for 10 years and with Infrastructure Ontario at a rate of 2.39% for 30 years.

Alternatives Reviewed

There would be no option for the Region not to proceed with the issuance of debentures, given the debt has already been approved through prior capital budgets and capital projects are substantially complete. Staff recommends proceeding with the debenture issuance through capital markets and/or Infrastructure Ontario, with prudent consideration in respect to market conditions and risk factors.

Relationship to Council Strategic Priorities

The proposed 2021 debt issuance will fund capital infrastructure projects that support Council’s Strategic priorities of Healthy and Vibrant Community and Responsible Growth and Infrastructure Planning.

Other Pertinent Reports

CSD 5-2021 – 2021 Levy Operating Budget (https://pub-niagararegion.escribemeetings.com/)
CSD 65-2020 – 2021 Water and Wastewater Operating and Rate Requisition Budget - REVISED (https://pub-niagararegion.escribemeetings.com/)
CSD 58-2020 – 2021 Capital Budget (https://pub-niagararegion.escribemeetings.com/)

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Recommended by:
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Commission of Corporate Services/Treasurer
Corporate Services

Submitted by:
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Acting Chief Administrative Officer

This report was reviewed by Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer.

Appendices

Appendix 1 Debenture Request
Appendix 2 Annual Repayment Limit

Proposed 2021 Debenture Amount

Regional Municipality of Niagara

Description	Proposed Amount
1-15 Year Term	
Region	
Niagara Regional Housing	8,196,840.00
Roads	7,762,277.00
Total for Region	**15,959,117.00**
Area Municipalities	
Niagara Falls	15,666,187.00
Niagara on the Lake	958,564.68
St. Catharines	8,500,000.00
Welland -10yr	21,088,892.00
West Lincoln	990,000.00
Total for Area Municipalities	**47,203,643.68**
Total 1 - 15 Year Term	**63,162,760.68**
20-30 Year Term	
Region	
Senior Services	20,000,000.00
Wastewater	40,400,000.00
Water	565,000.00
Total for Region	**60,965,000.00**
Area Municipalities	
Grimsby	6,000,000.00
Niagara on the Lake	955,000.00
Wainfleet	5,500,000.00
Welland -25 yr	8,350,000.00
Total for Area Municipalities	**20,805,000.00**
Total 20 - 30 Year Term	**81,770,000.00**
Total Proposed Debenture Amount - 2021	**144,932,760.68**

Department / Local Area Municipality	Total Outstanding Debt (including sinking fund assets) as at Dec 31, 2020 (in $000s)	Debt per NRH Property Acquisition in 2021 (in $000s)	Principal Payments in 2021 (in $000s)	Adjusted Debt Outstanding As at Dec. 31, 2021 (in $000s)	Forecasted Debt Issuance for 2021 (in $000s)	Total Debt Outstanding, including 2021 Forecasted Issuance As at Dec. 31, 2021 (in $000s)	Annual Repayment Limit % [1]
IT Solutions	1,456	0	(566)	891	0	891	
Court Services	8,565	0	(298)	8,267	0	8,267	
Properties Management	9,054	0	(1,066)	7,987	0	7,987	
General Government - Other	6,350	0	(592)	5,758	0	5,758	
General Government	**25,425**	0	**(2,522)**	**22,903**	0	**22,903**	
Police	**84,371**	0	**(4,360)**	**80,010**	0	**80,010**	
Roads	132,303	0	(11,872)	120,431	7,762	128,193	
NRT	10,753	0	(1,096)	9,656	0	9,656	
Transportation	**143,056**	**0**	**(12,968)**	**130,087**	**7,762**	**137,849**	
Public Health	7,791	0	(757)	7,034	0	7,034	
Emergency Medical Services	4,876	0	(752)	4,124	0	4,124	
Public Health	**12,667**	**0**	**(1,509)**	**11,158**	**0**	**11,158**	
Community Services	11,619	0	(1,711)	9,909	0	9,909	
Seniors Services	20,645	0	(1,613)	19,032	20,000	39,032	
Community Services	**32,265**	**0**	**(3,324)**	**28,940**	**20,000**	**48,940**	
NRH	**35,375**	**2,759**	**(4,456)**	**33,678**	**8,197**	**41,875**	
Sub-Total Levy	**333,158**	**2,759**	**(29,140)**	**306,777**	**35,959**	**342,736**	
Wastewater	57,725	0	(2,489)	55,236	40,400	95,636	
Water	25,065	0	(769)	24,295	565	24,860	
Sub-Total Rate	**82,790**	**0**	**(3,258)**	**79,532**	**40,965**	**120,497**	
Total Niagara Region:	**415,947**	**2,759**	**(32,398)**	**386,309**	**76,924**	**463,233**	**8.17%**
External:							
Fort Erie	5,525	0	(824)	4,701	0	4,701	2.39%
Grimsby	2,784	0	(365)	2,419	6,000	8,419	2.75%
Lincoln	7,817	0	(545)	7,272	0	7,272	2.49%
Niagara Falls	53,070	0	(3,867)	49,204	15,666	64,870	3.35%
NOTL	4,480	0	(369)	4,110	1,914	6,024	1.74%
Pelham	33,465	0	(2,433)	31,032	0	31,032	12.81%
Port Colborne	30,270	0	(1,440)	28,831	0	28,831	7.30%
St. Catharines	118,509	0	(13,945)	104,564	8,500	113,064	8.70%
Thorold	830	0	(125)	705	0	705	0.51%
Wainfleet	1,518	0	(195)	1,324	5,500	6,824	1.17%
Welland	48,151	0	(6,310)	41,842	29,439	71,281	9.17%
West Lincoln	17,834	0	(662)	17,171	990	18,161	7.11%
Local Area Municipalities	**324,254**	**0**	**(31,079)**	**293,175**	**68,009**	**361,184**	
Total Consolidated	**740,201**	**2,759**	**(63,477)**	**679,484**	**144,933**	**824,417**	

[1] Niagara Region Annual Repayment limit is 8.17% and includes the forecasted 2021 Issuance. The Local Area Municipalities is based on the most recent Financial Information Return. The Region relies upon the Local Area Municipality to update their Financial Information Return and Annual Repayment Limit in accordance with the Municipal Act.

Administration
1815 Sir Isaac Brock Way, Thorold, ON L2V 4T7
905-980-6000 Toll-free: 1-800-263-7215

MEMORANDUM

CSC-C 18-2021

Subject: Code of Conduct Documents

Date: June 16, 2021

To: Corporate Services Committee

From: Ann-Marie Norio, Regional Clerk

At its Special meeting held on April 29, 2021, Regional Council passed the following motion:

1. That the Code of Conduct review undertaken by John Mascarin **BE PROVIDED** to the Corporate Services Committee for review;
2. That a Task Force **BE ESTABLISHED** to make improvements regarding the risk of confidential information being released; and
3. That a copy of the Code of Conduct and an acknowledgment to adhere to its contents **BE PROVIDED** to Members of Council to sign on a semi-annual basis.

In accordance with recommendation #1 above, please find attached the draft Code of Conduct documents provided by John Mascarin in 2017. Since this Code of Conduct was written, there have been a number of legislative changes that provide additional authority for an Integrity Commissioner and additional requirements for specific content within the Code itself.

Should Council wish to consider adopting the wording from Mr. Mascarin's Code of Conduct, some updating would be required to comply with the current provisions of the Municipal Act.

Respectfully submitted and signed by

_____
Ann-Marie Norio
Regional Clerk

AIRD & BERLIS LLP

Barristers and Solicitors

John Mascarin
Direct: 416.865.7721
E-mail: jmascarin@airdberlis.com

May 10, 2017

Our File No.: 133915

Chair Caslin & Members of the Procedural By-law Review Committee
Regional Municipality of Niagara
1815 Sir Isaac Brock Way
Thorold, ON L2V 4T7

Dear Chair Caslin and Committee Members:

Re: Report on Niagara Region's Revised Code of Conduct and Accountability Framework

A. INTRODUCTION

On December 8, 2016, Council of the Regional Municipality of Niagara ("Niagara Region") passed a resolution that the Procedural By-law Review Committee ("PBRC") review and update Niagara Region's Code of Conduct for Members ("Code of Conduct").

On January 31, 2017, the PBRC approved a recommendation to engage our services to conduct a review of the Code of Conduct in consultation with the PBRC. The review process by the PBRC has been composed of three meetings, which have included:

- a thematic discussion of the Code of Conduct and associated procedures;
- a public meeting conducted by the PBRC to receive feedback and comments from the public on the Code of Conduct; and
- a final meeting at which this report is to be presented to the PBRC for consideration and possible submission to Council.

Council's existing Code of Conduct is Appendix "A" to its Procedural By-law. The existing Code of Conduct was first enacted on January 18, 2013 when Council passed By-law No. 06-2013 to amend the Procedural By-law. It has been revised several times.

B. BACKGROUND

1. Code of Conduct

A municipality is entitled to establish a code of conduct pursuant to section 223.2 of the *Municipal Act, 2001*.[1] A code of conduct is the document by which a municipal council establishes and maintains standards of appropriate conduct to foster public confidence and trust. In *Municipal Ethics Regimes*, Gregory J. Levine describes the purpose of a code of conduct as follows:

[1] S.O. 2001, c. 25, as amended.

> Codes of ethics in the public sector are intended to promote integrity in public affairs and to provide guides to acceptable behaviour. They are intended to gain and retain public confidence and trust in public institutions. They are intended to help ensure that decision-making is fair, that information is appropriately shared and confidences maintained; that public resources are properly used; and that office is properly attended, acquired and utilized. Codes are about promoting fairness at large, and avoiding corruption and corrupt influences. They are intended to promote a public service imbued with a sense of public purpose and propriety.[2]

As far back as 2010, Council considered it appropriate to establish a code of conduct to set out its policy for the proper conduct of its elected officials in order to ensure that members of Council behaved and conducted themselves in an ethically responsible and acceptable manner.

It is our view that a code of conduct establishes a standard set of requirements to guide members of Council so that they comport themselves in a manner that is acceptable to their residents, taxpayers and all others, and that fosters public confidence in their integrity, honesty and professionalism since they are representatives of Niagara Region.

A code of conduct is not an encyclopaedia and does not, and is not meant to, address in specific and express in detail each and every instance of ethical behaviour. Rather, a code of conduct sets out general standards which serve to guide councillors' behaviour and provide a standard against which the public may view and assess councillors' actions.

2. Statutory Authority to Establish a Code of Conduct

Niagara Region's authority to establish the Code of Conduct is found in the accountability and transparency provisions of Part V.1 of the *Municipal Act, 2001*. These provisions were modeled after those found in Part V of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Sched. A.

Part V of the *City of Toronto Act, 2006* was added as a direct result of Justice Denise Bellamy's public inquiry report in the *Commission of the Toronto Computer Leasing Inquiry, Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry*.[3]

Justice Bellamy's report included a large number of recommendations and advocated for an expanded municipal code of conduct, the hiring of a full-time Integrity Commissioner who would report directly to city council, a gift registry and a number of other enhancements to improve the accountability and transparency of government in the City of Toronto (including additional accountability officials).

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[2] Gregory J. Levine, *Municipal Ethics Regimes*, (St. Thomas, Ontario: Municipal World Inc., 2009) at 7.

[3] Denise E. Bellamy, *Commission of the Toronto Computer Leasing Inquiry, Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry* (Toronto: City of Toronto, 2005).

The *Municipal Statute Law Amendment Act, 2006*[4] made significant amendments to the *Municipal Act, 2001*. The amendments implemented a recognition of municipalities as responsible and accountable governments and provided them with enhanced general powers and authorities. This additional authority was counterbalanced by the inclusion of Part V.1 – Accountability and Transparency into the statute to ensure that municipalities acted appropriately and responsibly within an ethical and accountability framework.

Part V.1 is proposed to be significantly amended by Bill 68 – Modernizing Ontario's Municipal Legislation Act, 2017. As of the writing of this report, Bill 68 has been ordered for Third Reading and its enactment is expected imminently. We have taken into account the proposed statutory amendments and have attempted to the best of our ability to address issues so as to ensure the proposed Code of Conduct complies with the anticipated amendments to the *Municipal Act, 2001 and the Municipal Conflict of Interest Act*.

While municipalities are granted broad authority to enact by-laws in respect of the "accountability and transparency of the municipality and its operations and of its local boards and their operations" under subsections 10(2) and 11(2) of the *Municipal Act, 2001*, the specific powers in Part V.1 set out the authority for codes of conduct and for integrity officers to carry out their functions.

Section 223.2 of the *Municipal Act, 2001* authorizes municipalities to establish codes of conduct for members of council.[5] The statute does not prescribe the contents of a code of conduct. A municipality is accordingly left to determine the ethical standards to govern the actions and behaviour of its own members of council.

While municipalities now have the authority to establish codes of conduct, it is anticipated that forthcoming amendments to the *Municipal Act, 2001* will impose a mandatory requirement on all municipalities to establish a code of conduct.[6] It is also proposed that the Province will retain onto itself the authority to prescribe certain mandatory contents for codes of conduct for all municipalities.

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[4] S.O. 2006, c. 32, as amended.

[5] Section 223.2 of *the Municipal Act, 2001* provides for the establishment of a code of conduct for members of municipal council:

> **Code of Conduct**
>
> **223.2** (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality.
>
> (2) A by-law cannot provide that a member who contravenes a code of conduct is guilty of an offence.

[6] Bill 68 proposes to amend section 223.2 of the *Municipal Act, 2001* to:

(a) require all municipalities to implement codes of conduct for members of council and local boards; and

(b) reserve onto the Province the ability prescribe certain mandatory requirements that are to be included in a municipal code of conduct.

3. Niagara Region's Existing Code of Conduct

Niagara Region's original Code of Conduct was originally established on September 24, 2010, when Council passed By-law No. 120-2010, which included an Appendix "A", Code of Conduct for Members of Council.

On January 17, 2013, Council enacted By-law No. 06-2013 to amend the procedural by-law. This amendment consisted of replacing Appendix "A", Code of Conduct for Members of Council, which is the Code of Conduct in its current substantive form.[7]

On October 10, 2013, Council passed By-law No. 109-2013 to amend the procedural by-law, and which repealed By-law No. 06-2013 and again replaced Appendix "A", Code of Conduct for Members of Council. By-law No. 01-2014 once again amending the procedural by-law by including a minor addition to the Code of Conduct.

Council promulgated a Complaint Protocol when it passed By-law No. 91-2013 on August 2, 2013. The Complaint Protocol was later repealed by Council by By-law No. 31-2015.

On July 2, 2015, Council passed By-law No. 65-2015 to amend the procedural by-law, which established the current complaint procedure as outlined in Appendix "A", Code of Conduct for Members of Council.[8]

4. The Role and Function of an Integrity Commissioner

An Integrity Commissioner is a statutory official created pursuant to section 223.3 of the *Municipal Act, 2001*:

> **Integrity Commissioner**
>
> **223.3** (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to,

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[7] Appendix "A" consisted of the following sections: Purpose of the Code of Conduct; Scope of the Code of Conduct; General Principles; Foster Respect for Decision-making Process; Release of Confidential Information Prohibited; Avoiding Conflict of Interest and Unethical Behaviour; Compliance with the *Municipal Conflict of Interest Act* and Avoidance of Conflicts; Respect, Truth, Honesty and Integrity; Pursuit of Excellence; Gifts and Benefits, and; Complaint Procedure.

[8] The Code of Conduct provides as follows:

> **Complaint Procedure**
>
> The procedure for filing complaints alleging that a member of Council has contravened the Code shall be governed by the policies of Council as amended from time to time.

Niagara Region's webpage, entitled Code of Conduct for Members of Council, contains various information and documents respecting complaints under the Code of Conduct, including a link entitled "Submit a complaint" that sets out the "Complaint Process for Council Code of Conduct" (see https://www.niagararegion.ca/government/council/code-of-conduct/submit-complaint.aspx).

(a) the application of the code of conduct for members of council ...;

(b) the application of any procedures, rules and policies of the municipality...governing the ethical behaviour of members of council; or

(c) both of clauses (a) and (b).[9]

The *Municipal Act, 2001* does not explicitly describe an Integrity Commissioner's role. An effective Integrity Commissioner system provides: (1) an advisory service to assist councillors and staff seek advice before they act, and (2) an investigative or enforcement service, to examine conduct alleged to be an ethical breach.[10]

It is important to note that the Integrity Commissioner is an independent statutory officer of the municipality who reports directly to Council. Council cannot direct the Integrity Commissioner in carrying out his or her duties. The role and function of the Integrity Commissioner should be free of any political interference. Furthermore, a code of conduct can only be enforced if an Integrity Commissioner is appointed. We are aware that there are municipalities which have established codes of conduct but have not appointed Integrity Commissioners. It is our view that the scheme of Part V.1 of the *Municipal Act, 2001* provides that the enforcement of a code of conduct can only be effectively undertaken if an Integrity Commissioner is appointed.[11]

C. INPUT FROM THE PUBLIC, THE PBRC AND MEMBERS OF COUNCIL

In preparing the proposed Code of Conduct, we took into account the views and input as expressed by the PBRC, members of Council and the public.

As a general theme, the proposition that councillors should be fully accountable to members of the public was universally supported. There was also a consensus among members of the public and members of Council that the new Code of Conduct must incorporate well-defined procedures for dealing with contraventions in order to ensure that the process is fair and transparent, and that all procedures related to the complaint process are clearly laid out for the benefit of members of Council and the public.

There was also broad support for the appointment of an independent Integrity Commissioner. [12]

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[9] An Integrity Commissioner is one of five accountability officers set out in the *Municipal Act, 2001* (which include the municipal Ombudsman, Auditor General, Lobbyist Registrar and Closed Meeting Investigator). Bill 68 proposes that a municipality must either appoint an Integrity Commissioner or make arrangements for the services of an Integrity Commissioner to be provided for its residents.

[10] *Di Biase v. Vaughan (City) Integrity Commissioner* (2016), 55 M.P.L.R. (5th) 173 (Ont. Div. Ct.) at para. 22.

[11] Bill 68 proposes that the services of an Integrity Commissioner will be made *mandatory* for all municipalities in Ontario.

[12] In one instance, it was suggested that the Integrity Commissioner should be an elected position. We note that subsection 223.3(1) of the *Municipal Act, 2001* specifically contemplates that municipal councils "appoint" an Integrity Commissioner. It is not an elected office.

1. Application of the Code of Conduct

We heard from both members of the public and members of the PBRC with respect to the applicability of the Code of Conduct to members of Council: should the Code of Conduct apply to members of Council at all times or only when the member of Council is "on duty" (i.e. acting in his or her official capacity as a member of Council at meetings, etc.).

Several members of the public expressed the opinion that the Code of Conduct should apply to members of Council at all times. One individual stated that Council members should be treated like doctors, police officers, social workers and teachers, and accordingly their conduct should be judged at all times. Several individuals noted the difficulty of differentiating between a council member's own "personal" time and the time during which the Council member is acting in his or her official capacity. These individuals were clear that councillors should be held accountable for all comments made publicly, whether in person, at public meetings or through social media, as a council member's representative role is full-time.

We also heard from others who expressed concern that holding a councillor to the Code of Conduct in his or her free time would be unfair. These individuals argued in favour of stipulating that the Code of Conduct only apply to councillors when they are acting in their official capacity. Some members of the PBRC concurred with this view, pointing out that members of Council are paid on a part-time basis.

2. Defined Terms

Several members of the public and PBRC asked that the Code of Conduct include definitions for key terms. Some participants asked that all terms in the Code of Conduct be defined. In general, codes of conduct typically contain *some* defined terms but the definitions are not extensive. We have included some additional defined terms in the proposed Code of Conduct in order to assist with the interpretation of the document.

3. Complaint Process

We heard the public express a desire that political partisanship be kept out of the complaint process, and that unmeritorious complaints be dealt with expeditiously and summarily. The PBRC was very clear that frivolous, vexatious and abusive complaints/requests for investigation should be summarily dismissed and that the Integrity Commissioner should have clear authority to do so.

A number of specific submissions with respect to the complaint process were received throughout the consultation process. It was suggested that the complaint process incorporate or maintain the following:

- establish clear criteria for filing complaints
- include guidance for assessing the validity of a complaint
- provide for a "pre-meeting" or informal complaint process to be followed before the Integrity Commissioner is asked to engage in a formal complaint process

- provide an opportunity for the councillor to respond to the complaint before the Integrity Commissioner issues his or her final report
- impose a fixed timeline for the Integrity Commissioner's report to be included on Council's agenda
- stipulate how often the Integrity Commissioner must report to Council with an overview of the number of complaints received, dismissed, outstanding and ruled upon
- impose a time limit within which complaints must be filed from the date of the alleged contravention or breach of the Code of Conduct

We were also provided with a variety of other suggestions specifically addressing the issue of frivolous and vexatious complaints, which were sometimes contradictory. For example, it was suggested by some individuals that the Code of Conduct impose certain requirements or limits on complaints, while others suggested that *all* complaints should be investigated. We heard that the Code of Conduct and complaint process should:

- impose a refundable fee for filing a complaint for the purpose of deterring frivolous complaints
- impose a moratorium on complaints before elections in order to prevent the use of the complaint process for partisan or political purposes
- impose a limit on the number of complaints investigated per year per complainant
- provide that all complaints be treated as legitimate and accordingly that all complaints be fully investigated

Additionally, we received a range of suggestions with respect to the confidentiality of the complaint process. A number of these suggestions conflicted with one another. For example, we were advised that the Code of Conduct and complaint process should:

- prohibit councillors from filing complaints respecting other councillors
- provide that the identity of the complainant be publicly disclosed
- permit anonymous complaints
- provide that an original, un-redacted copy of the complaint be publicly available
- provide that investigations should remain strictly confidential
- provide that the results of the process be made public

Finally, we also received requests to increase public outreach and education as part of the complaint process and ethical accountability framework.

4. Form & Structure

Although the current Code of Conduct contains a majority of the substantive terms and provisions that are typically found in other municipal codes of conduct, the format and structure left something to be desired. It was suggested that the Code of Conduct be presented in a list format instead of in paragraph form. The current Code of Conduct does not contain section numbers which makes it difficult to reference.[13] We have created a numbered listing in the Code of Conduct.

5. Social Media

With respect to the use of social media by members of Council, we received a range of comments from the community. While there were some persons who commented that the Code of Conduct should permit councillors to enjoy, unabated, their right to freedom of speech, the vast majority recommended that councillors posting on social media must remain professional and respectful, and must not post racist or discriminatory content.

We understand that the Region currently does not have a social media policy for members of Council. We would recommend that Council consider adopting such a policy to further guide regional councillors.

6. Additional Requirements for Members of Council

It was recommended that a requirement be imposed as part of the Region's accountability and transparency system that Council members undergo periodic mandatory diversity training.

It was also suggested that the Council member's duties under the *Municipal Conflict of Interest Act* be reviewed at the beginning of every meeting in order to remind councillors of their duty to disclose direct or indirect pecuniary interests in matters before Council or committees.

7. Public Meeting

We received various correspondence forwarded to us directly that expressed a great degree of disappointment and frustration with the public meeting conducted by the PBRC on April 11, 2017.

In particular, a number of persons complained about the strictures imposed at the meeting and the Chair's handling of deputations from the public, including allowing a Council member to address the PBRC as a resident and reserving that member's ability to speak last, as well as allowing the same member and other persons to speak directly to specific instances and investigations when the clear direction to the public at the commencement of the meeting was to refrain from doing so and others were admonished for doing so.

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[13] For example, the downloadable Request for Investigation Form/Affidavit that is available on-line contains a box (in paragraph 2) that provides the complainant with the direction to "specify section(s) of the Code of Conduct" that is alleged to have been contravened. However, the Code of Conduct does not actually number its main provisions. This does not invalidate the Code of Conduct in any way but it certainly does not make it user-friendly for complainants.

A number of persons commented that the meeting, purportedly called to receive representations from the public, appeared to be orchestrated to allow a particular view to be propagated.

D. BEST PRACTICES FROM OTHER MUNICIPALITIES

We reviewed municipal codes of conduct from approximately two dozen municipalities across the province in order to identify best practices from other municipalities. We conducted this review recognizing that no two codes of conduct would be identical since they are intended to reflect local concerns which will differ in each municipality and geographical region.

The inclusion of a purpose statement and/or principles as well as a list of other applicable legislation governing the conduct of members of Council was consistent in the vast majority of other codes of conduct.[14]

Most codes of conduct included a definitions section. The breadth of defined terms varied significantly, with some codes of conduct defining only two or three key terms (usually "child", "parent" and "spouse" to incorporate with definitions under the *Municipal Conflict of Interest Act*) and others providing a more extensive list of definitions including definitions for terms such as "frivolous," "vexatious" and "good faith", as well as "lobbyist", "*in camera*", "confidential information" and "pecuniary interest".

We also noted stipulations in a number of codes of conduct providing that they were to be given "broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein."[15] These codes often emphasized that their contents were "illustrative and not exhaustive." Some codes of conduct explicitly referenced the fiduciary role of councillors as "public trustees."

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[14] It should be noted that the purpose of a preamble and the articulation of key principles is to provide an interpretive guide to the operative provisions of the Code of Conduct and not to create stand-alone obligations. Much like the recitals to a by-law, a preamble establishes a general framework for the understanding of the responsibilities of elected officials under a code of conduct. The principles of a code of conduct are not intended to create operate, stand-alone obligations – in general, the intent of the principles or a purpose clause is to assist with the interpretation of the code of conduct and to provide guidance to both members of council and public.

For example, while many of these codes of conduct state that members of council are governed by other legislation such as the *Criminal Code*, municipalities are obviously not able to deal with *Criminal Code* allegations since these are laws established by the federal Parliament and are therefore outside of a municipality's jurisdiction to enforce.

[15] We note that the principle of "broad and liberal" interpretation of statutes is codified in subsection 64(1) of the *Legislation Act, 2006*, S.O. 2006, c. 21, Sched. F:

> **Rule of liberal interpretation**
>
> **64** (1) An Act shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects.

We noted that most codes of conduct include certain standard provisions relating to matters such as the role of members of council, policies about the use of municipal property, rules about election activity and a statement of penalties that may be recommended by the Integrity Commissioner following an investigation into a contravention of the code of conduct.[16]

The codes of conduct we reviewed frequently included a statement providing that "members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny."

E. PROPOSED CODE OF CONDUCT

The proposed Code of Conduct (and the accompanying Complaint Protocol) are the result of review and consideration of feedback from residents of Niagara Region, members of Council and the PRBC, in addition to a review of best practices from other municipal codes of conduct.

The proposed Code of Conduct maintains the basic principles of the existing Code of Conduct, but has been reformatted and now includes section numbers and lists where appropriate for ease of reference.

The proposed Code of Conduct is comprised of seventeen sections:

1.0	Application
2.0	Statement of Principles
3.0	Definitions
4.0	Responsibilities of Council
5.0	General Obligations
6.0	The Role of Staff
7.0	Regional Property
8.0	Gifts and Benefits
9.0	Confidentiality
10.0	Discrimination and Harassment
11.0	Improper Use of Influence
12.0	Conflicts of Interest
13.0	Council Policies and Procedures
14.0	Election Activity

[16] While subsection 223.4(5) of the *Municipal Act, 2001* specifically enumerates the penalties that Council may impose if a councillor is found to have contravened the applicable code of conduct, a municipality may nevertheless choose to include these penalties in its code of conduct so that the penalties for contravention are easily accessible for councillors and the public.

15.0 Respect for the Code of Conduct

16.0 Penalties for Non-Compliance with the Code of Conduct

17.0 Complaint Protocol

Additional language was added to further define and clarify the Code of Conduct's provisions.

Section 3.0 - Definitions provides a number of defined terms within the Code of Conduct. For example, "non-pecuniary interest" has been specifically defined in order to clarify the circumstances under which councillors' non-pecuniary interests are engaged. Other terms such as "conflict of interest," "fiduciary", "frivolous" and "vexatious" have also been defined.

In other instances, certain sections such as sections 4.0 - Responsibilities of Council, 7.0 - Regional Property and 14.0 - Election Activity have been imported into the document, as the inclusion of these provisions appeared to be contained in many, if not most, of the other municipal codes of conduct we canvassed. Inclusion of these sections serves to restate the law from other statutes (such as the *Municipal Elections Act, 1996*) for ease of reference and also ensures that members' obligations are incorporated explicitly and not just by reference.

While we heard conflicting opinions about whether or not the Code of Conduct should apply to members of Council at all times or only while members of Council are acting in their official capacity or when carrying out their council obligations, we opted to maintain Council's approach in the existing Code of Conduct. Accordingly, the proposed Code of Conduct seeks to recognize the representative capacity of elected office and ensure that members of Council act at all times in accordance with the Code of Conduct.

F. PROPOSED COMPLAINT PROTOCOL

The proposed Complaint Protocol is Appendix 1 to the Code of Conduct.[17]

It sets out a process that is in keeping with the principles of procedural fairness in this context.[18] The intent of the proposed Complaint Protocol is to properly balance the desire to curb frivolous and vexatious complaints while at the same time not imposing policies that will have a chilling effect on complaints. The Complaint Protocol also seeks to

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[17] Bill 68 proposes to authorize Integrity Commissioners to have a role with respect to the interpretation and application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*. The rules relating to this aspect of the Integrity Commissioner's powers are quite different than a complaint under a code of conduct and will require its own separate complaint protocol or procedure. We have reserved the space in the proposed Code of Conduct for Appendix 2 which will be a form of form of Complaint Protocol for requests for inquiries pursuant to the *Municipal Conflict of Interest Act*.

[18] For more information on the content of procedural fairness owed in the context of a code of conduct for municipal councillors, please see the Ontario Divisional Court's decision in *Di Biase v. Vaughan (City)*, *supra* note 10.

maintain the Integrity Commissioner's duty of confidentiality found in sections 223.5 and 223.6 of the *Municipal Act, 2001*.

Part A of the proposed Complaint Protocol sets out an informal process that may be pursued by complainants and members of Council, either with or without the involvement of the Integrity Commissioner, before a formal complaint is filed. This informal process is not a precondition or prerequisite to pursuing the formal complaint process.

Section 1 of the proposed Complaint Protocol stipulates the information that must be included when a formal complaint is filed. The proposed Complaint Protocol provides that complaints will be filed with the Clerk, who must in turn forward the complaints to the Integrity Commissioner. The proposed Complaint Protocol also lists and explains the types of complaints that are outside of the Integrity Commissioner's jurisdiction, for example criminal matters or if the complaint relates to a decision of Council or a local board as a whole and not one or more individual members.

The proposed Complaint Protocol prescribes a number of timelines. Pursuant to section 4 of the proposed Complaint Protocol, the Integrity Commissioner shall report annually to Council on all complaints received and on their disposition. Section 10 of the proposed Complaint Protocol provides that the Integrity Commissioner must report to the complainant and the councillor named in the complaint within 90 days of the official receipt of the complaint.

Similarly, sections 8 and 13 of the proposed Complaint Protocol impose a moratorium on complaints being referred to the Integrity Commissioner and Integrity Commissioner's report to Council, respectively, after the fourth Friday in July in a municipal election year.[19]

Section 7 of the proposed Complaint Protocol sets out the investigative steps to be followed by the Integrity Commissioner. In conformity to the principles of procedural fairness appropriate in this context, the Integrity Commissioner is under no obligation to disclose the identity of the complainant or any witnesses unless it is essential for the member of Council to be able to adequately respond to the complaint. The Complaint Protocol contemplates an opportunity for both the member of Council to provide a written response to the allegations and the complainant to provide a written reply to the member's response within a set timeframe.

The proposed Complaint Protocol also provides that if the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a

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[19] Bill 68 proposes to create new subsections 223.4(7) to (9) of the *Municipal Act, 2001* to provide that an Integrity Commissioner is required to terminate all ongoing inquiries, cannot accept new inquiries and cannot report to the council after nomination day for a regular election. The municipality would similarly not be permitted to consider whether to impose penalties for a contravention of the Code of Conduct after nomination day.

Section 5 of the *Municipal Elections Act, 1996* provides that the voting day in a regular election is the fourth Monday in October in an election year (which is every fourth year starting in 2006). Section 31 of the *Municipal Elections Act, 1996* provides that nomination day for a regular election is the fourth Friday in July in an election year.

contravention occurred but the councillor took all reasonable measures to prevent it, it was trivial, it was committed through inadvertence or it resulted from an error of judgment made in good faith, the Integrity Commissioner may state so in a report and can take such matters into consideration in making appropriate recommendations pursuant to the *Municipal Act, 2001*.

G. ACCOUNTABILITY FRAMEWORK BY-LAW

We have also prepared a draft by-law, entitled the Accountability Framework By-law, that essentially establishes the office of the Integrity Commissioner for Niagara Region and the various accountability services he or she is to provide. It is an updated and refreshed version of now-repealed By-law 91-2013 – Integrity Commissioner By-law.

The previous version of now-repealed By-law 91-2-13 included much of the procedural steps and rules that we propose to include in the Complaint Protocol as Appendix 1 to the Code of Conduct. In our view, attaching the Complaint Protocol to the Code of Conduct achieves a greater level of transparency and accessibility, since the procedural rules governing the process would be more readily available to members of Council and the public.

The draft by-law addresses matters related to the selection, appointment, removal and resignation of the Integrity Commissioner as well as a recommended fixed term of office for this statutory officer. We have also added a two-thirds majority requirement for the removal of the Integrity Commissioner during his or her term of office.

H. CONCLUSIONS

The policies contained in the proposed Code of Conduct and Complaint Protocol are the result of our review of the statutory framework governing the accountability and transparency provisions of municipalities in Ontario, their codes of conducts and complaint procedures and accountability office by-law; a consideration of comments received from members of the public and members of Council; and our analysis of best practices in other municipal codes of conduct and ancillary documents.

As noted above, we have also, to the date of writing, kept apprised of the progress and status of the proposed amendments to the municipal accountability framework in Bill 68. We have provided our recommendations and have drafted the proposed Code of Conduct, the Complaint Protocol and the Accountability Framework By-law in order that they comply with Bill 68 in its current ordered-for-Third-Reading format. We expect that there will be a transition period for the amendments to be implemented so that modifications can be made as needed.

Ultimately, the final form and content of Niagara Region's revised Code of Conduct are at the discretion of Council. However, the policies proposed in the enclosed Code of Conduct, Complaint Protocol and Accountability Framework By-law reflect a concerted effort to balance the wide range of comments, suggestions and approaches that were advanced throughout the review process dictated by Council, while at the same time

taking into account the constraints of the law and the spirit and intent of the policies in Niagara Region's existing Code of Conduct.

We respectfully submit the foregoing.

Yours truly,

AIRD & BERLIS LLP

John Mascarin

JM/MTB/cw

Encl.	Appendix A	-	Code of Conduct
	Appendix B	-	Complaint Protocol: Code of Conduct
	Appendix C	-	Accountability Framework By-law

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Appendix A

Code of Conduct

REGIONAL MUNICIPALITY OF NIAGARA

CODE OF CONDUCT FOR MEMBERS OF COUNCIL

[MAY, 2017]

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1.0 Application

1.1 This Code of Conduct applies to Members of the Council of Niagara Region, including the Regional Chair.

1.2 The purpose of this Code of Conduct is to establish a general standard to provide a common basis for the acceptable conduct of Members and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedural By-law and other sources of applicable law, including but not limited to:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Region by its Members as duly elected public representatives to ensure that they each operate from a foundation of integrity, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office and act without self-interest;

- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;

- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and that will bear public scrutiny;

- Members shall be cognizant that they are at all times representatives of the Region and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and always maintain and promote the public trust in the Region; and

- Members will uphold the letter of the laws of Canada, Ontario and the laws and policies adopted by Council from time to time.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

(a) "CAO" means the Chief Administrative Officer of the Region;

(b) "child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

(c) "Chair" means the Regional Chair;

(d) "confidential information" means information or records that are in the possession, in the custody or under the control of the Region that the Region is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;

(e) "conflict of interest" means a situation in which a Member has competing interests or loyalties between the Member's personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular a matter;

(f) "Council" means the Regional Council for Niagara Region;

(f) "fiduciary" means the obligation of a person in a position of authority to act on behalf of another, assuming a duty to act in good faith and with care, candour and loyalty in fulfilling this obligation;

(g) "frivolous" means something that is not worthy of serious consideration, or that is of little or no importance, due to its lack of seriousness or sense;

(h) "Member" means a Member of the Council for the Region;

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(i) "non-pecuniary interest" means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member's decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;

(j) "parent" means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

(k) "Region" means the Regional Municipality of Niagara;

(l) "spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;

(m) "staff" means the CAO and all commissioners, officers, directors, managers, supervisors and all non-union and union staff, whether full-time, part-time, contract, seasonal or volunteer, as well as agents and consultants acting in furtherance of the Region's business and interest;

(m) "vexatious" means something that is instituted without sufficient grounds and serving only to cause annoyance, frustration or worry.

4.0 Responsibilities of Council

4.1 Council is responsible for and dedicated to providing good and effective government for the public in the Region in an open, accountable and transparent manner.

4.2 A fiduciary relationship exists between the Council and residents of the Region.

5.0 General Obligations

5.1 In carrying out their duties, Members shall:

(a) make every effort to act with good faith and care;

(b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Region's Procedural By-law or other applicable procedural rules and policies;

(c) seek to advance the public interest with honesty;

(d) respect the individual rights, values, beliefs and personality traits of any other person and refrain from imposing their own personal moral and religious beliefs on others;

(e) refrain from making statements known to be false or with the intent to mislead Council or the public;

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(f) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings; and

(g) refrain from making disparaging comments about another Member or unfounded and speculative accusations about the motives of another Member.

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6.0 The Role of Staff

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6.1 Council as a whole approves the budget, policies and governance of the Region through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the staff of the Region.

6.2 The Region's staff serve Council and work for the Region as a body corporate under the direction of the CAO. Inquiries of staff from Members should be directed to the CAO or to the appropriate senior staff as directed by the CAO. Members shall not publicly criticize staff. Should a Member have any issue with respect to staff such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior.

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6.3 Members shall respect the role of staff in the administration of the business affairs of the Region. Members shall respect that staff:

(a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;

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(b) work within the administration of justice and Members must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and

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(c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

7.0 Regional Property

7.1 Council is the custodian of the assets of the Region. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

7.2 By virtue of their office or appointment, Members must not use or permit the use of the Region's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Region. No Member shall seek financial

gain for themselves, family or friends from the use or sale of Region-owned intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Region.

8.0 Gifts and Benefits

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8.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Region. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of his or her duties. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.

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8.2 For greater clarity, Members shall not accept any gift or benefits in their public capacity other than in the following circumstances:

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(a) compensation authorized by law;

(b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;

(c) a political contribution otherwise reported by law, in the case of Members running for office;

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(d) services provided without compensation by persons volunteering their time;

(e) a suitable token, memento or souvenir received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;

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(f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or any agencies or subdivisions of them or by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity;

(g) food and beverages consumed at banquets, receptions or similar events, if:

(i) attendance serves a legitimate purpose related to the normal business of the Region,

(ii) the person extending the invitation or a representative of the organization is in attendance, and

(iii) the value is reasonable and the invitations are infrequent;

(h) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and

(i) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

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9.0 Confidentiality

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9.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Region that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council. Members shall comply with the Region's "Information Access and Privacy Protection Policy".

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9.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting and the Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

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9.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Region that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Region and must follow the same processes as any private citizen to obtain such information.

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9.4 Members shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or as required by law.

9.5 Members shall not misuse confidential information in any way or manner such that it may cause detriment to the Region, Council or any other person, or will benefit themselves or others.

9.6 Members shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Regional policies, procedures and rules, ethical standards and, where appropriate, professional standards.

10.0 Discrimination and Harassment

10.1 Members shall treat all members of the public, another Member and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

10.2 Members shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. Members shall not make an expression in any manner that is discriminatory to any individual based on the individual's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability.

11.0 Improper Use of Influence

11.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.

11.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

11.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

12.0 Conflicts of Interest

12.1 Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Region and its elected officials. Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

13.0 Council Policies and Procedures

13.1 Members shall strictly observe and adhere to the policies, procedures and rules established by Council.

14.0 Election Activity

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14.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any Region policies. The use of the Region's resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

15.0 Respect for the Code of Conduct

15.1 Members shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Region. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.

15.2 Members shall cooperate with requests for information during any investigations or inquiries under the Code. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code or any process for complaints adopted by the Region.

16.0 Penalties for Non-Compliance with the Code of Conduct

16.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

(a) a reprimand; or

(b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to 90 days.

16.2 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following actions in furtherance of a reprimand, and require that the Member:

(a) provide a written or verbal apology;

(b) return property or make reimbursement of its value or of money spent;

(c) be removed from or not be appointed to the membership on a committee of Council;

(d) be removed from or not be appointed as chair of a committee of Council.

17.0 Complaint Protocol

17.1 The Complaint Protocol – Code of Conduct is Appendix 1 to the Code of Conduct.

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Appendix B

Complaint Protocol: Code of Conduct

COMPLAINT PROTOCOL

Council Code of Conduct - Appendix 1

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PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:

   (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;

   (b) advise a third party about the concerns regarding the Member's actions;

   (c) advise the Member that the behaviour or activity appears to contravene the Code of Conduct;

   (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;

   (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;

   (f) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the issue;

   (g) if applicable:

      (i) confirm to the Member that his or her response is satisfactory, or

      (ii) advise the Member that his or her response is unsatisfactory;

   (h) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

2. Individuals are strongly encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.

3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.

4. The Informal Complaint Procedure is <u>not</u> a precondition or a prerequisite to pursuing the Formal Complaint Procedure set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

1.(1) Any individual who identifies or witnesses behaviour or activity by a Member that they reasonably believe contravenes the Code of Conduct may file a formal complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:

(a) all complaints shall be in writing on the prescribed form and shall be dated and signed by an identifiable individual;

(b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a supporting sworn affidavit setting out the evidence in full in support of the allegation; and

(c) Council may also file a complaint against any of its Members by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.

(2) Individuals filing a formal complaint must provide a full and complete record of evidence to the Integrity Commissioner who is under no obligation whatsoever to, but may, seek additional or further information to supplement or complete the evidentiary record to substantiate or support the allegation set out in the complaint.

Filing of Complaint and Classification by Integrity Commissioner

2.(1) The complaint shall be filed with the Regional Clerk, who shall forward the matter forthwith to the Integrity Commissioner without added comment.

(2) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

Complaints Outside Integrity Commissioner's Jurisdiction

3. If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation or complaint procedure under another Region procedure, policy or rule, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter

(a) if the complaint is, on its face, an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that:

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(i) the Integrity Commissioner will refer it to the appropriate police service, or

(ii) the complainant may pursue it with the appropriate police service if the complainant wishes to pursue any such allegation;

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Municipal Freedom of Information and Protection of Privacy Act

(b) if the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the Regional Clerk to deal with under its access and privacy policies under the statute;

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Other Procedure, Policy or Rule Applies

(c) if the complaint appears to fall within the scope of another procedure, policy or rule of the Region, the complainant shall be advised to pursue the matter under such procedure, policy or rule with the appropriate Regional official;

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Lack of Jurisdiction

(d) if the complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner (for example, it relates to a decision of Council or a local board as a whole and not one or more individual Members), the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate;

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Matter Already Pending

(e) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, a human rights or workplace harassment complaint or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his/her sole discretion and in accordance with legislation, suspend any investigation, in whole or in part, pending the result of the other process;

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Similar Matter Already Pending

(f) if the complaint is in relation to a similar matter which is subject to an outstanding complaint before the Integrity Commissioner, the Integrity Commissioner may, in his/her sole discretion, consider the matter in conjunction with the similar matter or deal with it separately, including not undertaking an inquiry if the matter can be adequately addressed in any report and/or recommendations made with respect to the complaint in the similar matter; and

Municipal Conflict of Interest Act

(g) if the complaint is in relation to a contravention of sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, an elector, as defined in section 1 of that statute, or a person demonstrably acting in the public interest may file a formal

complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened any of those aforementioned provisions of the statute.

Limitation Period

4. The Integrity Commissioner shall not accept a complaint for which the event giving rise to the complaint occurred or came to the attention of the complainant more than one (1) year prior to the complaint. The complainant must establish that the event giving rise to the complaint occurred and/or came to the complainant's attention within one (1) year of the complaint being filed in accordance with Section 2.

Periodic Reports to Council

5.(1) The Integrity Commissioner shall provide an annual report to Council summarizing his or her activities, including a report on all complaints received and on their disposition (including complaints deemed and ruled not to be within the jurisdiction of the Integrity Commissioner).

(2) Notwithstanding Section 5(1), Council may by resolution request that the Integrity Commissioner provide a periodic report more frequently than once a year.

Refusal to Conduct Investigation

6. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:

(a) is frivolous or vexatious,

(b) is not made in good faith,

(c) constitutes an abuse of process, or

(d) discloses no grounds or insufficient grounds for an investigation,

the Integrity Commissioner shall not be required to conduct an investigation and, where this becomes apparent in the course of an investigation, the Integrity Commissioner shall terminate the inquiry and provide notice to the complainant and, if necessary, to the Member.

Opportunities for Resolution

7. Following receipt and review of a formal complaint or at any time during the investigation where the Integrity Commissioner, in his or her discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

Investigation

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8. (1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in his or her discretion, that no additional information is required, where otherwise required by the *Public Inquiries Act, 2009* or where the Integrity Commissioner has not otherwise terminated the inquiry:

(a) provide the Member with an outline of the complaint with sufficient particularity to allow the Member to understand the complaint against him or her but shall not have any obligation to disclose:

(i) the identity of the complainant, or

(ii) the identity of any witnesses set out in the complaint or that are questioned/interviewed by the Integrity Commissioner,

unless it is essential for the Member to adequately respond to the complaint;

(b) request that the Member provide a written response to the allegations to the Integrity Commissioner within seven (7) days; and

(c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant within seven (7) days.

(2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Region's computers and servers, and may enter any Region work location relevant to the complaint for the purpose of investigation and potential resolution.

(3) The Integrity Commissioner may, but is under no obligation, to provide the Member with a draft of the proposed report on the complaint.

(4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had an opportunity either in person or in writing to comment to the Integrity Commissioner on the proposed finding(s).

(5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.

(6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or any other person encountered during the formal complaint investigation.

(7) The Integrity Commissioner shall retain all records related to the complaint and investigation but may provide copies of certain records, in confidence, to Regional administrative staff who are required to ensure that any such records are securely and confidentially retained.

No Complaint Prior to Municipal Election

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9. Notwithstanding any other provision of this Complaint Protocol, no complaint may be referred to the Integrity Commissioner on or after the fourth Friday in July in a municipal election year.

Advice Provided to Member by Integrity Commissioner

10. (1) Subject to Section 10(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter provided that the Member fully disclosed all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.

(2) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct or generally at law, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of the investigation that may impact the Member's rights under the Code of Conduct or at law.

Investigation Report

11. (1) The Integrity Commissioner shall report to the complainant and the Member no later than ninety (90) days after the official receipt of any complaints. If the investigation process is anticipated to or takes more than ninety (90) days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available. The Integrity Commissioner may also, at his or her discretion, advise any witnesses or other persons of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended remedial or corrective action.

(3) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released. The Member shall, subject to Subsection 11(5), have the right to address the report when it is considered by Council.

(4) Where the complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings although such information may be included in a report or as part of an annual or other periodic report by the Integrity Commissioner.

(5) If the report of the Integrity Commissioner recommends a penalty that suspends the remuneration paid to the Member, the Member shall not have a right to address the report and recommendation when the matter is considered by Council.

Findings

12. If the Integrity Commissioner determines that:

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(a) there has been no contravention of the Code of Conduct, or

(b) a contravention occurred but:

(i) the Member took all reasonable measures to prevent it,

(ii) it was trivial,

(iii) it was committed through inadvertence, or

(iv) it resulted from an error of judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to, a recommendation of no penalty.

Report to Council

13. Upon receipt of a report from the Integrity Commissioner, the Regional Clerk shall place the report on the next regular agenda of Council for consideration by Council and Council must consider the report at that meeting and may accept or refuse the recommendations set out in the report and accept, refuse or vary any penalties or sanctions contained in the report. A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting before its next regular meeting to consider the report.

No Reports Prior to Municipal Election

14. Notwithstanding any other provision of this Complaint Protocol, the Integrity Commissioner shall not make any report to Council or to any other person on or after the fourth Friday in July in a municipal election year, until the first official meeting of the newly-elected Council following the election.

Duty of Council

15. Council shall consider and make a determination on the Integrity Commissioner's report at the same meeting at which the report is tabled.

Public Disclosure

16.(1) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Protocol.

(2) The Integrity Commissioner shall retain all records related to the complaint and investigation although copies may be provided to the Region's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.

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(3) The identity of the Member who is the subject of the complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant may be disclosed if deemed appropriate and necessary by the Integrity Commissioner or if consented to by the complainant.

(4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Regional Clerk.

Delegation

17. The Integrity Commissioner may delegate in writing to any person, other than a Member of Council, any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.

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Code of Conduct — Formal Complaint Form/Affidavit

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AFFIDAVIT OF _____

I, _____ (full name), of the (City, Town etc.)

_____ (municipality of residence) in the Province of Ontario.

MAKE OATH AND SAY (or AFFIRM):

1. I have personal knowledge of the facts as set out in this affidavit, because

_____

_____.

(insert reasons e.g. I work for... I attended a meeting at which... etc.)

2. I have reasonable and probable grounds to believe that:

_____ (specify name of Member)

a member of the Council of Niagara Region, has contravened section(s) _____ (specify section(s)) of the Council Code of Conduct of Niagara Region. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space above, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule A form. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B etc. and attach them to this affidavit.)

This affidavit is made for the purpose of requesting that this matter be reviewed and/or investigated by Niagara Region's appointed Integrity Commissioner and for no other purpose.

SWORN (or AFFIRMED) before me at the)
_____ (City, Town etc. of),)
in the Regional Municipality of Niagara on)
_____ (date))
)

_____

(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false affidavit may expose you to prosecution under ss. 131 and 132 or 134 of the *Criminal Code*, R.S.C. 1985, c. C-46 and also to civil liability for defamation.

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Appendix C

Accountability Framework By-law

THE REGIONAL MUNICIPALITY OF NIAGARA
BY-LAW NO. ___ -2017

A BY-LAW TO ESTABLISH AN ACCOUNTABILITY FRAMEWORK FOR NIAGARA REGION

D

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides for the establishment of codes of conduct for members of council and local boards of a municipality and for the appointment of an Integrity Commissioner to carry out certain functions and responsibilities;

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AND WHEREAS The Regional Municipality of Niagara will benefit from having a framework that creates a regime to provide for a code of conduct, the appointment of an Integrity Commissioner and the accountability services to be provided by an Integrity Commissioner;

AND WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize The Regional Municipality of Niagara to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 11(2) authorizes by-laws respecting accountability and transparency in the municipality and its operations;

THEREFORE the Council of The Regional Municipality of Niagara hereby enacts as follows:

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1. Definitions:

In this By-law the following terms shall have the meaning indicated:

(a) "**Accountability Services**" means advice, education, complaint resolution, reporting to Council and matters required for assisting Council in the application of any procedures, rules and policies of the Region governing the ethical behaviour of members of Council;

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(b) "**By-law**" means this Accountability Framework By-law;

(c) "**Code of Conduct**" means the Niagara Region Code of Conduct for Members of Council established under the authority of subsection 223.2(1) of the *Municipal Act, 2001*;

(d) "**Complaint Protocol**" means the Complaint Protocol, Appendix 1 to the Code of Conduct;

(e) "**Council**" means the Council for the Region;

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(f) "**Integrity Commissioner**" means the Integrity Commissioner for the Region appointed under the authority of subsection 223.3(1) the *Municipal Act, 2001*;

(g) "**Member**" means a person who is a Member of the Council;

(h) "**Region**" means The Regional Municipality of Niagara;

(i) "**Regional Clerk**" means the individual appointed by Council to the office of clerk in accordance with section 228 of the *Municipal Act, 2001*;

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(j) "**Year**" means calendar year, unless otherwise indicated.

2. Code of Conduct

(a) Council shall adopt a Code of Conduct for Members of Council in accordance with the provisions of the *Municipal Act, 2001*.

(b) In recognition of their roles as elected representatives and as Members of Council, Members shall at all times conduct themselves in accordance with the Code of Conduct.

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3. Integrity Commissioner

(a) Council shall appoint an Integrity Commissioner by by-law to provide Accountability Services in accordance with Part V.1 of the *Municipal Act, 2001*, sections 5, 5.1. or 5.2 of the *Municipal Conflict of Interest Act*, the Code of Conduct, the Complaint Protocol and this By-law.

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(b) The Integrity Commissioner carries out in an independent manner the duties and responsibilities of his or her office as set out in Part V.1 of the *Municipal Act, 2001*, sections 5, 5.1. or 5.2 of the *Municipal Conflict of Interest Act,* the Code of Conduct, the Complaint Protocol and this By-law.

(c) The Integrity Commissioner is accountable to and reports directly to Council.

(d) The Integrity Commissioner is independent of Council and the Region's administration, subject to the requirements of this By-law.

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(e) The Integrity Commissioner has full carriage and control of, and is fully responsible for, carrying out his or her responsibilities in compliance with the Code of Conduct, the Complaint Protocol, this By-law and all applicable laws except that the Integrity Commissioner is entitled to rely on the services of Regional staff to ensure that complaints are validly received and that adequate reporting to Council is facilitated and arranged.

(f) The Integrity Commissioner shall liaise with the Regional Clerk, or his or her delegate and any persons that the Regional Clerk assigns responsibility to deal with any matter related to Part V.1 of the *Municipal Act, 2001*, subject to the duty of confidentiality set out in subsection 223.5(1).

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4. Appointment, Removal and Resignation of Integrity Commissioner

(a) A simple majority of Council is required for the appointment of an Integrity Commissioner and a two-thirds majority is required for an the extension of term, removal from office or termination for cause of the Integrity Commissioner.

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(b) The Integrity Commissioner shall be appointed for a fixed term of office.

(c) The term of office for the Integrity Commissioner may be extended by Council in exceptional circumstances.

(d) The Integrity Commissioner may only be removed from office for cause, prior to the expiry of the term of office, in accordance with this By-law and the procedures established by Council.

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(e) The Integrity Commissioner may resign from office at any time by giving ninety (90) days' written notice to the Council, unless the notice requirement is waived by both parties.

5. Selection of Integrity Commissioner

(a) The selection process for the Integrity Commissioner shall be overseen by a selection panel appointed by the Chair and chaired by the Chair or the Chair's designate.

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(b) The appointment of the Integrity Commissioner shall be recommended to Council by the selection panel.

6. Term of Office for Integrity Commissioner

The Integrity Commissioner shall be appointed for a four (4) year non-renewable term of office.

7. Responsibilities of the Integrity Commissioner

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The Integrity Commissioner will provide Accountability Services to the Region including:

(i) to provide advice on the application of the Code of Conduct, Regional policies, procedures and rules, the Complaint Protocol and sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*;

(ii) to conduct inquiries as directed by Council regarding whether a Member has contravened the Code of Conduct or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*;

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(iii) to provide advice to a Member, upon written request, respecting the Member's obligations under the Code of Conduct, Regional policies, procedures and rules, the Complaint Protocol and the *Municipal Conflict of Interest Act*;

(iv) to provide opinions on policy matters and make other reports to Council as requested on issues of ethics and integrity;

(v) to provide educational information and training to Council, to Members and to the public on matters related to the Code of Conduct and issues of ethics and integrity and to the *Municipal Conflict of Interest Act*;

(vi) to provide general information to members of the public, on request, about the Code of Conduct, the Complaint Protocol and the availability of complaint resolution services or referrals as contemplated by the Complaint Protocol;

(vii) to maintain custody and control of the Integrity Commissioner's complaint and inquiry/investigation files and, on completion of his or her term of appointment, to retain jurisdiction of any complaints that are made to the Integrity Commissioner during the term of the contract;

(viii) to provide such other services respecting ethical and integrity matters as assigned by Council or as may be required by the *Municipal Act, 2001*.

8. Two-thirds Vote Required for Changes

(a) A two-thirds vote of all Council Members is required to pass a motion to amend or repeal this By-law.

(b) This By-law shall come into force and take effect on the date it is passed, except for such provisions as may be required to come into force and take effect by any transitional provisions included within the *Modernizing Ontario's Municipal Legislation Act, 2017* or any regulations made thereunder.

9. Short Title

This By-law shall be referred to as the "Accountability Framework By-law".

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