



THE REGIONAL MUNICIPALITY OF NIAGARA
CORPORATE SERVICES COMMITTEE
FINAL AGENDA

CSC 2-2018

Wednesday, February 20, 2019

9:30 a.m.

Council Chamber

Niagara Region Headquarters, Campbell West

1815 Sir Isaac Brock Way, Thorold, ON

Pages

1. CALL TO ORDER

2. DISCLOSURES OF PECUNIARY INTEREST

3. PUBLIC PARTICIPATION MEETING PURSUANT TO THE RETAIL BUSINESS HOLIDAYS ACT

Application for Tourism Exemptions under the *Retail Business Holidays Act* - Metro Inc. operating as Food Basics Grocery Stores - 3770 Montrose Road and 6770 McLeod Road in the City of Niagara Falls

3.1 Registered Speakers

3.1.1 Procedure for Providing Comments

3.1.2 *Liz Palmucci, resident, Niagara Falls*

3.2 Report for Consideration

3.2.1 CLK 04-2019

Application for Tourism Exemptions under the *Retail Business Holidays Act* - Metro Inc. operating as Food Basics Grocery Stores - 3770 Montrose Road and 6770 McLeod Road in the City of Niagara Falls

3 - 32

3.3 Adjournment of the Public Participation Meeting under the Retail Business Holiday's Act

4. PRESENTATIONS

5. DELEGATIONS

6. ITEMS FOR CONSIDERATION

- | | | |
|-----|---|---------|
| 6.1 | <u>CSD 18-2019</u>
Debt Risk Management Framework | 33 - 51 |
| | A presentation will precede the discussion of this item. | |
| 6.2 | <u>CLK 05-2019</u>
Consideration of Independent External Governance Auditor - First Report | 52 - 70 |
| 6.3 | <u>CLK 06-2019</u>
Pregnancy and Parental Leave of Members of Council Policy | 71 - 76 |
| 6.4 | <u>CSD 13-2019</u>
NRPS 1 District Tender Award | 77 - 91 |

7. CONSENT ITEMS FOR INFORMATION

- | | | |
|-----|---|-----------|
| 7.1 | <u>CSC-C 4-2019</u>
Councillor Information Request - Code of Conduct Documents | 92 - 101 |
| 7.2 | <u>CSC-C 6-2019</u>
Shape Niagara - Council Strategic Planning Process | 102 - 103 |
| 7.3 | <u>CSC-C 7-2019</u>
City of Welland Motion re: Forks Road Bridge | 104 - 107 |

8. OTHER BUSINESS

9. CLOSED SESSION

- | | |
|-----|--|
| 9.1 | <u>CSD 19-2019 - A Matter of Advice that is Subject to Solicitor Client Privilege and Respecting Litigation - Summary of Civil Lawsuits Commenced Against the Regional Municipality of Niagara, Niagara Regional Police Service and Niagara Regional Housing</u> |
|-----|--|

10. BUSINESS ARISING FROM CLOSED SESSION ITEMS

11. NEXT MEETING

The next meeting will be held on Wednesday, March 20, 2019 at 9:30 a.m. in the Council Chambers, Regional Headquarters.

12. ADJOURNMENT

events, please contact the Accessibility Advisory Coordinator at 905-980-6000 (office), 289-929-8376 (cellphone) or accessibility@niagararegion.ca (email).

Subject: Applications for Tourism Exemptions for Holiday Openings under the Retail Business Holiday Act – Metro Inc. operating as Food Basics Grocery Stores – 3770 Montrose Road and 6770 McLeod Road in the City of Niagara Falls

Report to: Corporate Services Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That Report CLK 04–2019, Applications for Tourism Exemptions for Holiday Openings under the *Retail Business Holidays Act*, Metro Inc. operating as Food Basic Grocery Stores, 3770 Montrose Road and 6770 McLeod Road in the City of Niagara Falls, **BE RECEIVED**;
2. That the applications from Metro Ontario Inc., requesting tourism exemptions under the *Retail Business Holidays Act*, to permit the Food Basics grocery stores located at 3770 Montrose Road and 6770 McLeod Road in the City of Niagara Falls, to open on New Year's Day and Good Friday from 7:00 a.m. to 10:00 p.m., **BE APPROVED**; and
3. That the necessary by-law **BE PREPARED** and **PRESENTED** to Regional Council for consideration.

Key Facts

- The purpose of this report is to seek Committee's approval for the applications for tourism exemptions, under the *Retail Business Holidays Act*, to permit the Food Basics grocery stores located at 3770 Montrose Road and 6770 McLeod Road in Niagara Falls to open on New Year's Day and Good Friday from 7:00 a.m. to 10:00 p.m.
- These days are in addition to the exemption already granted to both stores to be open on Family Day, Victoria Day, Canada Day, Labour Day and Thanksgiving Day (By-laws 8990-98, 60-2002 and 07-2012).
- Since the last requests for Tourism Exemptions for Holiday Openings from Metro Inc. for these two stores were approved by Regional Council, other grocery stores in Niagara Falls have been granted exemptions to include New Years Day and Good Friday (Sobey's – By-law 39-2012, Zehrs – By-law 85-2012 and Freshco – By-law 30-2013).
- A motion supporting these applications has been received from the City of Niagara Falls Council in response to the Region's request for comments.

Financial Considerations

There are no financial considerations.

Analysis

The applications received from Metro Inc., operating as Food Basics grocery store, 3770 Montrose Road, Niagara Falls and Food Basics grocery store 6770 McLeod Road, Niagara Falls, requests tourism exemptions under the *Retail Business Holidays Act* to permit these stores to open on New Years' Day and Good Friday from 7:00 a.m. to 10:00 p.m. These applications have been processed in accordance with By-law No. 6728-92, being a by-law to establish procedures and fees for the processing of applications for holiday openings for tourism under the *Retail Business Holidays Act* and related Ontario Regulation 711/91. The applications are available as Appendix 1.

By-law 6728-92 requires that a public meeting be held in order that any interested persons have the opportunity to comment on the applications. A notice of the public meeting respecting these applications was posted on the Region's website on January 16, 2019 and in Niagara This Week on January 24, 2019.

On December 14, 2018, a letter was sent to the City of Niagara Falls requesting their comments regarding these applications. Correspondence was received from the City of Niagara Falls on January 17, 2019, advising of a motion of support for the request for the tourism exemptions for Metro Inc. (Appendix 2).

The following two requirements of "Tourism Criteria" in O. Reg. 711/91, s. 2, must both be met by the applicant:

- (a) The tourist attractions which the retail establishment must be "within 2 km" of are "natural", "outdoor recreational", "historical", "cultural, multi-cultural or educational" as defined in s. 2 of O. Reg. 711/91. Council previously approved applications for exemptions for both stores in accordance with these criteria. The application includes supporting detail (Appendix 1).
- (b) The applicant may be exempted from closing on holidays if "it is directly associated with the tourist attraction or relies on tourists visiting the attraction for business on a holiday." These stores are located in Niagara Falls, which in itself may be considered to be a tourist attraction. The application submitted (Appendix 1) includes further detail responsive to these criteria.

The *Retail Business Holidays Act* also requires that Councils "shall take into account the principle that holidays should be maintained as common pause days". Section 6 of Part III of the application gives an applicant the opportunity to justify the opening in light of this principle. The applicant has responded that since their last application for an

exemption in 2012, three nearby grocery retailers (Sobey's, Zehrs and Freshco) have been granted the exemption to open on, among other holidays, Good Friday and New Years Day. Metro Inc. states that they are only requesting the same exemptions that have already been granted to these other stores to ensure a level playing field and that there is no competitive disadvantage.

Alternatives Reviewed

Council could decide not to approve these applications for Tourism Exemptions for Holiday Openings for these two stores. As there are currently other grocery retailers within a short distance who have exemptions to be open on New Years Day and Good Friday, denying this application is not recommended.

Relationship to Council Strategic Priorities

This report aligns with Council's Strategic Priority of Doing Business Differently by promoting strategies that foster economic prosperity in Niagara.

Other Pertinent Reports

ICP 39-2013 – Application for Tourism Exemption – Freshco	April 10, 2013
ICP 85-2012 – Application for Tourism Exemption – Zehrs	October 4, 2012
ICP 39-2012 – Application for Tourism Exemption – Sobey's	April 25, 2012

Prepared and Recommended by:

Ann-Marie Norio
Regional Clerk

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

Appendices

Appendix 1	Applications for Tourism Exemptions
Appendix 2	Letter of Support from the City of Niagara Falls

Jeffrey Burkett – Legal Counsel Tel.: (416) 234-6592 Fax: (416) 234-6000
Email: jeff.burkett@metro.ca

RECEIVED OCT 19 2018

October 18, 2018

DELIVERED BY COURIER

The Regional Municipality of Niagara
1815 Sir Isaac Brock Way
P.O. Box 1042
Thorold, ON L2V 4T7
Attention: Regional Clerk

Niagara Region Clerk's Office
Original to: Clerk

CAO	<input type="checkbox"/>	ICP	<input type="checkbox"/>
Chair	<input type="checkbox"/>	Leg. Asst	<input type="checkbox"/>
Comm Ser.	<input type="checkbox"/>	Legal	<input type="checkbox"/>
Corp Ser.	<input type="checkbox"/>	NRP	<input type="checkbox"/>
Councillors	<input type="checkbox"/>	Public Health	<input type="checkbox"/>
HR	<input type="checkbox"/>	Public Works	<input type="checkbox"/>

File: _____ Initials: _____

Dear Sir or Madam:

RE: Metro Ontario Inc.'s application for a tourism exemption for the Food Basics grocery store located at 3770 Montrose Road, Niagara Falls ("Montrose FB Store") and the Food Basics grocery store located at 6770 McLeod Road South, Niagara Falls ("McLeod FB Store")
Our File E-149

Please find enclosed:

- (1) An Application requesting a tourism exemption for the Montrose FB Store to open on New Year's Day and Good Friday together with a proposed draft by-law.
- (2) An Application requesting a tourism exemption for the McLeod FB Store to open on New Year's Day and Good Friday together with a proposed draft by-law.

If there is any way the enclosed Applications can be processed and approved in time for New Year's Day 2019, we would be most appreciative.

We also enclose, in a single cheque for \$1,695.00 payable to Niagara Region, the combined application fee for the two (2) Food Basics Stores (\$750 plus HST for each store).

Should you have any questions, please do not hesitate to contact the undersigned, at the coordinates set out in the Applications.



Metro Ontario Inc.
5559 Dundas Street West
Toronto, Ontario
M9B 1B9
www.metro.ca

Thank you for your assistance with this matter.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Jeff Burkett". The signature is fluid and cursive.

Jeffrey Burkett
Legal Counsel

cc: Chris MacDonald, Senior Director, Discount Operations, East

Enclosures.

Bill 6715, *as amended by By-law No. 19-2010.*

THE REGIONAL MUNICIPALITY OF NIAGARA
APPLICATION FOR TOURISM EXEMPTION
RE HOLIDAY OPENINGS

The undersigned hereby applies to the Council of the Regional Municipality of Niagara for an exempting by-law under subsection 4(1) of the Retail Business Holidays Act, R.S.O. 1990, Chapter R. 30.

If more than one person carrying on retail business is represented in this application, please list information for each on a separate page and attach to form.

Pursuant to the Regulations under the Act, an application relating to a retail business establishment that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public or normally has four or more employees serving the public shall be made only by that business establishment.

(PLEASE PRINT OR TYPE AND ADD EXTRA PAGES, IF NECESSARY)

PART 1 – APPLICANT INFORMATION

1. Type of applicant (please check one):

- ☒ one or more person carrying on retail business in the Regional Municipality of Niagara
- ☐ an association, whether or not incorporated, representing persons carrying on retail business in the Regional Municipality of Niagara
- ☐ a council of a local municipality

2. Name of Applicant:

METRO ONTARIO INC.

Mailing Address of Applicant:

5559 Dundas Street West

Etobicoke, ON M9B 1B9

Telephone No. of Applicant:

416-234-6192 Fax No.: 416-234-6006

Email Address of Applicant

Legal@metro.ca

Bill 6715, *as amended by By-law No. 19-2010.*

3. Applicant's Authorized Agent
(to whom all correspondence
will be sent)

N/A

Mailing Address of Applicant:

Telephone No. of Applicant:

Fax No.:

Email Address of Applicant

4. Location of Retail Business Establishment

Municipal Address

Street Number, Municipality

FOOD BASICS

3770 Montrose Road

Niagara Falls, ON L2H 3K3

5. If you wish the exemption to apply to one or more classes of retail business
establishments, please define and specify the classes:

Grocery store

Pharmacy

Total No. of Sq. Ft. normally used for serving the public:

40,000 approx.

Total No. of Employees normally serving the public:

90 approx.

Bill 6715, *as amended by By-law No. 19-2010.*

PART II – TOURISM CRITERIA

Tourist attractions are limited to:

- a) Natural attractions or outdoor recreational attractions;
- b) Historical attractions; and
- c) Cultural, multi-cultural or educational attractions.

The two (2) kilometre restriction set out in the Regulations to the Act does not apply to a retail business establishment located in a local municipality within the Regional of Niagara, having a population of less than 50,000

1. Is business located within two kilometres of a tourist attraction? Yes ☒ No ☐

If yes, describe the nature of tourist attraction:

See schedule attached

2. Describe nature of direct association with the tourist attraction or reliance on tourists visiting the attraction for business on a holiday.

See schedule attached

3. Where the application involves a business that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public, or normally has four or more employees serving the public, please outline the goods or services provided primarily to tourists.

see schedule attached

Bill 6715, *as amended by By-law No. 19-2010.*

This section relates only to applications to grant exemptions on an area basis.

4. a) In what local municipality is it located?

- b) Describe subject area (in words):

(Please attach a map or sketch)

- c) How many businesses are included in this application?

- d) Are all the retail business establishments in the described area within two kilometres of the tourist attraction?

- e) Does the area exceed that necessary to encompass all of the retail business establishments for which an exemption is sought?

If not, explain how it does not:

- f) How many of the businesses are directly associated with the tourist attraction or rely on tourists visiting the tourist attraction for business on a holiday? (Regulations to the Act require at least 25% of the businesses)

Bill 6715, *as amended by By-law No. 19-2010.*

- g) If application is submitted by an association, describe briefly the purpose of the association, the area and type of businesses it represents.

PART III - GENERAL

1. Indicate which holidays, and which specific times or specific number of hours you wish to be open on those holidays:

New Year's Day from 7:00am to 10:00pm.
Good Friday from 7:00am to 10:00pm.

2. Is request seasonal in nature, e.g. summer months only?
If yes, what time period is sought?

No.

3. What is the justification in relation to the seasonal nature, if any, of the tourist attraction, for the time period sought in the exemption?

See Schedule attached

Bill 6715, *as amended by By-law No. 19-2010.*

4. Is request related to a special event?

NO.

NOTE: A retail business establishment may be exempted for up to five holidays a year during which a fair, festival or other special event (but not solely a parade) is being held in that municipality.

For what holidays is exemption being sought?

Describe special event, duration and time of year

5. Indicate how the exemption would, if granted, be for the maintenance or development of tourism and briefly identify other material submitted with this application that supports this conclusion:

See Schedule attached

6. What justification is there for the opening of the retail business establishment(s) on holidays in light of the principle, stated in the Retail Business Holidays Act, that holidays should be maintained as common pause days?

See Schedule attached

Bill 6715, *as amended by By-law No. 19-2010.*

EXECUTION BY APPLICANT

I, Judith Howard
(Name of Applicant) of the City
(City, Town, or Township) of Toronto in the
(Name of Municipality)
do solemnly declare that all of the statements contained in this
(Region, County, District, Single Tier)
application are true and I make this solemn declaration conscientiously, believing it to
be true and knowing that it is of the same force and effect as if made under oath and by
virtue of the Canada Evidence Act.

Declared before me at the

City
(city, town, or municipality)

of Toronto

in the Province of Ontario,

this 18th day of

October, 2018

Judith Howard
(Applicant)

[Signature]
A Commissioner, etc.

APPOINTMENT OF AUTHORIZED AGENT

I/We, [Click here to enter text.](#) hereby appoint [Click here to enter text.](#) of [Click here to enter text.](#) to act as my/our authorized agent in this application.

Witness:

Signed:

Date:

Bill 6715, *as amended by By-law No. 19-2010.*

NOTES:

1. It is required that the original application be filed with the Regional Clerk, together with appropriate documentation, accompanied by a cheque in the amount of \$750, made payable to:

THE REGIONAL MUNICIPALITY OF NIAGARA

This fee will cover the following:

- publication costs
 - legal costs to review applications
 - administrative costs i.e. printing, mailing
2. Applications are to be filed at the Clerk's Department, the Regional Municipality of Niagara, 2201 St. David's Road, Thorold, Ontario, L2V 4T7 to the attention of the Regional Clerk (685-1571).
 3. This application and any by-law passed by the Region are subject to the provisions of the Retail Business Holidays Act. It is strongly suggested that Applicants contact their solicitor with respect to the provisions of the Act.
 4. It is preferred where possible that applicants submit a proposed exemption by-law with their applications.
 5. Each application must be accompanied by a scaled plan or map of the area covered by the proposed by-law showing:
 - (a) the retail business establishment(s);
 - (b) the tourist attraction; and
 - (c) the scale of the plan or map enabling the distances to be measured.

Schedule to Metro Ontario Inc.'s Application for Tourism Exemption

**Food Basics #858,
3770 Montrose Road
Niagara Falls, Ontario L2H 3K3**

PART II- TOURISM CRITERIA

1. Describe the nature of the tourist attraction:

The region of Niagara Falls in its entirety has become a tourist site, with its history and plethora of activities. There are also many tourist attractions specifically located in close proximity to Food Basics Store #858 at 3770 Montrose Road (the "Store") (see Exhibit "A" for map), including:

- i. Canada One Factory Outlets, located at 7500 Lundy's Lane, has over 30 retail stores and is open on Good Friday and New Year's Day;
- ii. Bruce Trail;
- iii. Firemen's Park is a 135-acre natural park which offers the following draws to tourists: trails for hiking, fishing and concerts. It is located on the Niagara Escarpment;
- iv. Gale Centre, recreation and cultural centre, where the Al Boone Memorial Hockey League Classic and the Tyke Jamboree (hockey tournaments) take place on weekends in and around New Year's Day;
- v. Local wineries; and
- vi. Outlet Collection at Niagara, located at 300 Taylor Rd and received an exemption in 2014 to open on Good Friday and New Year's Day

2. Describe the nature of direct association with the tourist attraction or reliance on tourists visiting the attraction for business on a holiday.

Tourists, particularly those visiting the attractions listed above, account for a considerable amount of the sales at the Store. The Store relies heavily on such business, especially on long weekends. In order to better serve tourists, the Store offers unique and specific products targeted at this important segment of the market, as described below.

3. Where the application involves a business that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public, or normally has four or more employees serving the public, please outline the goods or services provided primarily to tourists.

The Store offers a wide assortment of food and non-food products that are popular among tourists including, but not limited to:

- i. Pre-packaged meals and snacks;
- ii. Grocery products such as, beverages, produce, meat and baked goods;
- iii. In-store Pharmacy with full line of over-the-counter (OTC) products;
- iv. General Merchandise (i.e. sunscreen, insect repellent, batteries, etc.);
- v. First aid equipment;

- vi. Propane tanks and refills; and
- vii. Beer and wine

PART III- GENERAL

3. What is the justification in relation to the seasonal nature, if any, of the tourist attraction, for the time period sought in the exemption?

Niagara Falls is one of the most travelled tourist destinations in Ontario, with over 14 million tourists arriving every year.¹ With respect to New Year's Day, the winter holiday season is a popular time for tourists to visit Niagara Falls because of the special events happening in the area. Every December 31st, there is a New Year's Eve Concert that takes place in Queen Victoria Park, which is in close proximity to the Store. The concert itself draws in approximately 50,000 people to Queen Victoria Park.² Since the concert ends after midnight, most tourists stay the night in Niagara Falls, spending all or part of New Year's Day in the city. If granted the exemption, the Store would provide these tourists with the opportunity to purchase food and non-food products they may desire on New Year's Day, making the tourist overnight experience more enjoyable.

Similarly, Good Friday is the beginning of the Easter long weekend and usually coincides with spring break for Americans³ and so the downtown core of Niagara Falls plans many activities for families visiting that weekend, including Easter egg hunts.⁴

5. Indicate how the exemption would, if granted, be for the maintenance or development of tourism and briefly identify other material submitted with this application that supports this conclusion:

If granted, the Store would better satisfy the demand tourists have for our food and non-food products and help improve the tourism experience in the Niagara Region. There is greater tourist traffic during the Easter⁵ and New Year's long weekends because it is a statutory holiday for both Canadians and Americans. American tourists who visit the downtown core of Niagara Falls are inclined to shop at local retailers, including grocery stores, given the strength of the US currency relative to the Canadian dollar⁶ and the comparable pricing. Visiting tourists will also find the Store conveniently located from the downtown core.

The Store also supports the surrounding tourist attractions by providing tourists with alternate options for meals as well as non-food items they may want on their trip. One of these attractions is the Outlet Collection at Niagara. This Mall has over 100 outlet brands and provides tourists a shopping experience just minutes away from the city's downtown area and the Store. In 2014 the Mall received an exemption to open on New Year's Day and Good Friday, the same two holidays for which the Store is seeking an exemption. If the Store receives the same exemption, then visitors of

¹ <https://www.niagarafallstourism.com/info/media/tourism-research/>

² <https://www.cliftonhill.com/events/niagara-falls-new-years>

³ https://www.cliftonhill.com/falls_blog/american-spring-break-in-niagara-falls-ontario/

⁴ https://www.cliftonhill.com/falls_blog/niagara-region-easter-egg-hunts/

⁵ <https://www.canada.ca/en/border-services-agency/news/2018/03/easter-long-weekend---cbsa-tips-for-travellers-for-returning-re.html>

⁶ <https://www.niagarafallsreview.ca/news-story/8196734--one-of-the-best-years-for-tourism/>

the Mall would not have to travel far to purchase the food and non-food products the Store offers, creating a more positive overall tourist experience.

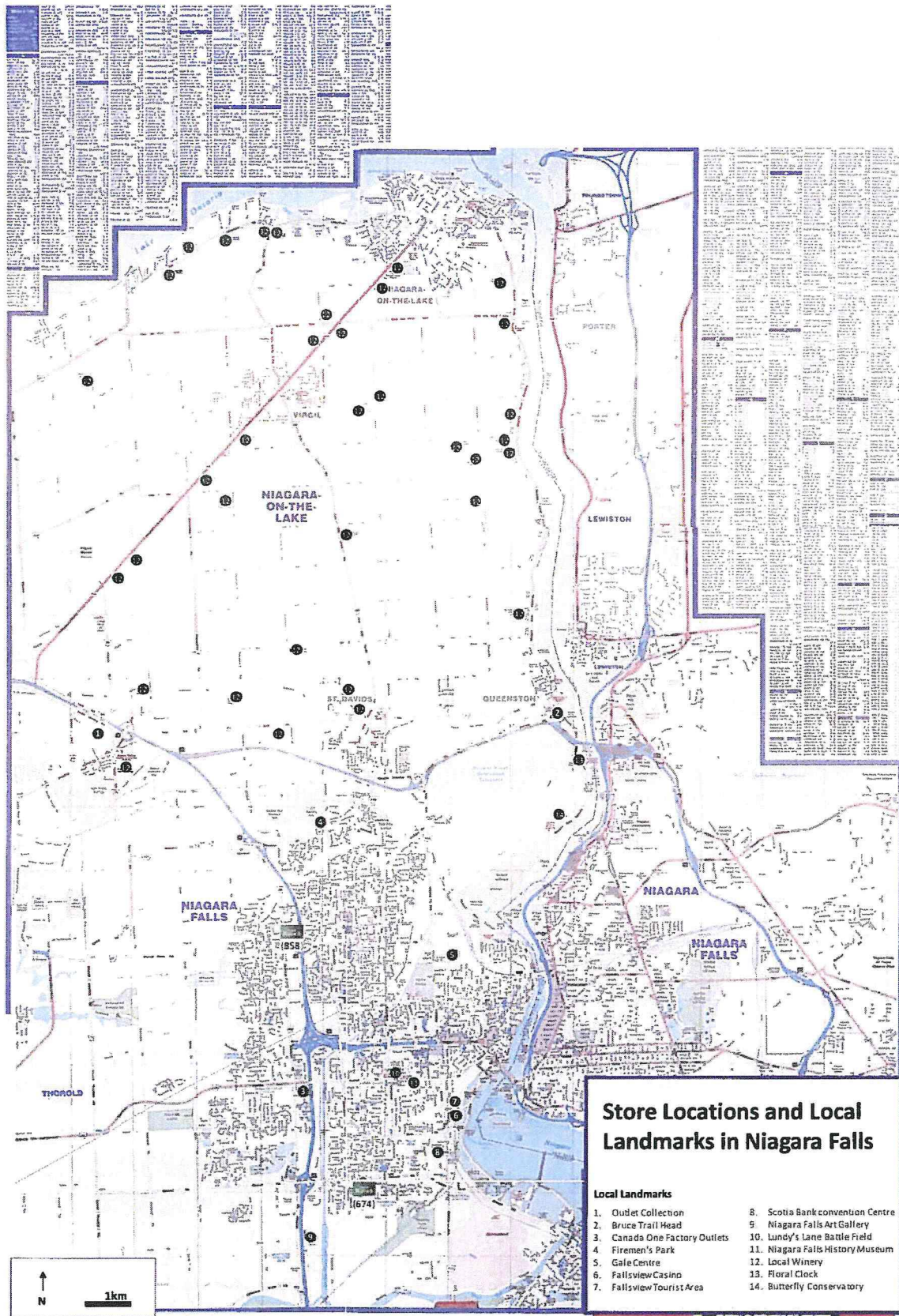
6. What justification is there for the opening of the retail business establishment(s) on holidays in light of the principle, stated in the Retail Business Holidays Act, that holidays should be maintained as common pause days?

Since our last application in 2012, three nearby grocery retailers, Sobey's on May 3rd, 2012, Zehrs Markets on October 4th, 2012, and Freshco Grocery Store on April 18th, 2013 were granted the exemption to open on, among other holidays, Good Friday and New Year's Day. We are only requesting the same exemptions that have already been granted to other grocery retailers to ensure a level playing field and that we are not at a competitive disadvantage.

In addition, many workers in the service area are accustomed to working on holidays since the Niagara Region has a prominent tourism industry. The local economy stands to benefit even further by the fact that Store employees, who are already willing to work on existing exempted holidays and have expressed a willingness to work on Good Friday and New Year's Day, would be paid premium wages (time and a half) as per the applicable collective bargaining agreement.

Subsequent to 2012, the Store received authorization to sell beer and wine from the AGCO. The feedback we have received from our customers who visit the Store specifically to purchase beer and wine is that they are disappointed the Store is closed on Good Friday and New Year's Day (both long weekends). These are days when many families get together and have company from out-of-town and rely upon nearby grocery stores to be open so that they can purchase beer and wine, especially since LCBO is closed on all statutory holidays.

EXHIBIT "A"



Bill 6715, *as amended by By-law No. 19-2010.*

THE REGIONAL MUNICIPALITY OF NIAGARA
APPLICATION FOR TOURISM EXEMPTION
RE HOLIDAY OPENINGS

The undersigned hereby applies to the Council of the Regional Municipality of Niagara for an exempting by-law under subsection 4(1) of the Retail Business Holidays Act, R.S.O. 1990, Chapter R. 30.

If more than one person carrying on retail business is represented in this application, please list information for each on a separate page and attach to form.

Pursuant to the Regulations under the Act, an application relating to a retail business establishment that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public or normally has four or more employees serving the public shall be made only by that business establishment.

(PLEASE PRINT OR TYPE AND ADD EXTRA PAGES, IF NECESSARY)

PART 1 – APPLICANT INFORMATION

1. Type of applicant (please check one):

- ☒ one or more person carrying on retail business in the Regional Municipality of Niagara
- ☐ an association, whether or not incorporated, representing persons carrying on retail business in the Regional Municipality of Niagara
- ☐ a council of a local municipality

2. Name of Applicant: METRO ONTARIO INC.

Mailing Address of Applicant: 5559 Dundas Street West
Etobicoke, ON M9B 1B9

Telephone No. of Applicant: 416-234-6192 Fax No.: 416-234-6006

Email Address of Applicant: Legal@metro.ca

Bill 6715, *as amended by By-law No. 19-2010.*

3. Applicant's Authorized Agent
(to whom all correspondence
will be sent)

N/A

Mailing Address of Applicant:

Telephone No. of Applicant:

Fax No.:

Email Address of Applicant

4. Location of Retail Business Establishment

Municipal Address

Street Number, Municipality

FOOD BASICS

6770 McLeod Road South

Niagara Falls, ON L2G 3G6

5. If you wish the exemption to apply to one or more classes of retail business
establishments, please define and specify the classes:

Grocery store

Total No. of Sq. Ft. normally used for serving the public:

30,000 approx.

Total No. of Employees normally serving the public:

60 approx.

Bill 6715, as amended by By-law No. 19-2010.

PART II – TOURISM CRITERIA

Tourist attractions are limited to:

- a) Natural attractions or outdoor recreational attractions;
- b) Historical attractions; and
- c) Cultural, multi-cultural or educational attractions.

The two (2) kilometre restriction set out in the Regulations to the Act does not apply to a retail business establishment located in a local municipality within the Regional of Niagara, having a population of less than 50,000

1. Is business located within two kilometres of a tourist attraction? Yes ☒ No ☐

If yes, describe the nature of tourist attraction:

See Schedule attached

2. Describe nature of direct association with the tourist attraction or reliance on tourists visiting the attraction for business on a holiday.

See Schedule attached

3. Where the application involves a business that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public, or normally has four or more employees serving the public, please outline the goods or services provided primarily to tourists.

See Schedule attached

Bill 6715, *as amended by By-law No. 19-2010.*

This section relates only to applications to grant exemptions on an area basis.

4. a) In what local municipality is it located?

- b) Describe subject area (in words):

(Please attach a map or sketch)

- c) How many businesses are included in this application?

- d) Are all the retail business establishments in the described area within two kilometres of the tourist attraction?

- e) Does the area exceed that necessary to encompass all of the retail business establishments for which an exemption is sought?

If not, explain how it does not:

- f) How many of the businesses are directly associated with the tourist attraction or rely on tourists visiting the tourist attraction for business on a holiday? (Regulations to the Act require at least 25% of the businesses)

Bill 6715, *as amended by By-law No. 19-2010.*

- g) If application is submitted by an association, describe briefly the purpose of the association, the area and type of businesses it represents.

PART III - GENERAL

1. Indicate which holidays, and which specific times or specific number of hours you wish to be open on those holidays:

New Year's Day from 7:00am to 10:00pm
Good Friday from 7:00am to 10:00pm

2. Is request seasonal in nature, e.g. summer months only?
If yes, what time period is sought?

No

3. What is the justification in relation to the seasonal nature, if any, of the tourist attraction, for the time period sought in the exemption?

See Schedule attached

Bill 6715, *as amended by By-law No. 19-2010.*

4. Is request related to a special event?

NO

NOTE: A retail business establishment may be exempted for up to five holidays a year during which a fair, festival or other special event (but not solely a parade) is being held in that municipality.

For what holidays is exemption being sought?

Describe special event, duration and time of year

5. Indicate how the exemption would, if granted, be for the maintenance or development of tourism and briefly identify other material submitted with this application that supports this conclusion:

See Schedule attached

6. What justification is there for the opening of the retail business establishment(s) on holidays in light of the principle, stated in the Retail Business Holidays Act, that holidays should be maintained as common pause days?

See Schedule attached

Bill 6715, *as amended by By-law No. 19-2010.*

EXECUTION BY APPLICANT

I, Judith Howard
(Name of Applicant), of the City
(City, Town, or Township) of Toronto
(Name of Municipality) in the
do solemnly declare that all of the statements contained in this
(Region, County, District, Single Tier)
application are true and I make this solemn declaration conscientiously, believing it to
be true and knowing that it is of the same force and effect as if made under oath and by
virtue of the Canada Evidence Act.

Declared before me at the

City
(city, town, or municipality)

of Toronto

in the Province of Ontario,

this 16th day of

October, 20 18

Judy Howard
(Applicant)

[Signature]
A Commissioner, etc.

APPOINTMENT OF AUTHORIZED AGENT

I/We, Click here to enter text. hereby appoint Click here to enter text. of Click here to enter
text. to act as my/our authorized agent in this application.

Witness:

Signed:

Date:

Bill 6715, *as amended by By-law No. 19-2010*.

NOTES:

1. It is required that the original application be filed with the Regional Clerk, together with appropriate documentation, accompanied by a cheque in the amount of \$750, made payable to:

THE REGIONAL MUNICIPALITY OF NIAGARA

This fee will cover the following:

- publication costs
 - legal costs to review applications
 - administrative costs i.e. printing, mailing
2. Applications are to be filed at the Clerk's Department, the Regional Municipality of Niagara, 2201 St. David's Road, Thorold, Ontario, L2V 4T7 to the attention of the Regional Clerk (685-1571).
 3. This application and any by-law passed by the Region are subject to the provisions of the Retail Business Holidays Act. It is strongly suggested that Applicants contact their solicitor with respect to the provisions of the Act.
 4. It is preferred where possible that applicants submit a proposed exemption by-law with their applications.
 5. Each application must be accompanied by a scaled plan or map of the area covered by the proposed by-law showing:
 - (a) the retail business establishment(s);
 - (b) the tourist attraction; and
 - (c) the scale of the plan or map enabling the distances to be measured.

Schedule to Metro Ontario Inc.'s Application for Tourism Exemption

**Food Basics #674,
6770 McLeod Road South
Niagara Falls, Ontario L2G 3G6**

PART II- TOURISM CRITERIA

1. Describe the nature of the tourist attraction:

Food Basics Store #674 is located at 6770 McLeod Road South (the "Store") (see Exhibit "A" for map), and McLeod Road South is one of the main entrances tourists use to access Niagara Falls and the downtown core area. The Store is also within close proximity to a number of significant tourist attractions, including:

- i. Fallsview Casino;
- ii. Fallsview Tourist Area, which includes a view of the Falls, accommodations and casinos;
- iii. Canada One Factory Outlet Mall, located at 7500 Lundy's Lane, has over 30 retail stores, and is open on Good Friday and New Year's Day;
- iv. Scotia Bank Convention Centre that hosts conferences, concerts and trade shows;
- v. Niagara Falls Art Gallery; and
- vi. Lundy's Lane Battlefield, a Historical Museum that holds walking tours.

2. Describe the nature of direct association with the tourist attraction or reliance on tourists visiting the attraction for business on a holiday.

Tourists, particularly those visiting the attractions listed above, account for a considerable amount of the sales at the Store. The Store relies heavily on such business, especially on long weekends. In order to better serve tourists, the Store offers unique and specific products targeted at this important segment of the market, as described below.

3. Where the application involves a business that on days other than holidays normally uses a total area of 2,400 square feet or more for serving the public, or normally has four or more employees serving the public, please outline the goods or services provided primarily to tourists.

The Store offers a wide assortment of food and non-food products that are popular among tourists including, but not limited to:

- i. Pre-packaged meals and snacks;
- ii. Grocery products such as, beverages, produce, meat and baked goods;
- iii. BMO ABM;
- iv. Over the counter medication;
- v. General Merchandise (i.e. sunscreen, insect repellent, batteries, etc.);
- vi. Propane tanks and refills; and
- vii. In-store wine boutique

PART III- GENERAL

3. What is the justification in relation to the seasonal nature, if any, of the tourist attraction, for the time period sought in the exemption?

Niagara Falls is one of the most travelled tourist destinations in Ontario, with over 14 million tourists arriving every year.¹ With respect to New Year's Day, the winter holiday season is a popular time for tourists to visit Niagara Falls because of the special events happening in the area. Every December 31st there is a New Year's Eve Concert that takes place in Queen Victoria Park, which is near the Store area. The concert itself draws in approximately 50,000 people to Queen Victoria Park.² Since the concert ends after midnight, most tourists stay the night in Niagara Falls, spending all or part of New Year's Day in the city. If granted the exemption, the Store would provide these tourists with the opportunity to purchase food and non-food products they may desire on New Year's Day, making their overnight experience more enjoyable.

Similarly, Good Friday is the beginning of the Easter long weekend and usually coincides with spring break for Americans³ and so the downtown core of Niagara Falls plans many activities for families visiting that weekend, including Easter egg hunts.⁴

5. Indicate how the exemption would, if granted, be for the maintenance or development of tourism and briefly identify other material submitted with this application that supports this conclusion:

If granted, the Store would better satisfy the demand tourists have for our food and non-food products and help improve the tourism experience in the Niagara Region. The Store also supports the surrounding tourist attractions by providing tourists with alternate options for meals and easy accessibility to general items they may want on their trip. There is greater tourist traffic during the Easter⁵ and New Year's long weekends because it is a statutory holiday for both Canadians and Americans. American tourists who visit the downtown core of Niagara Falls are inclined to shop at local retailers, including grocery stores, given the strength of the US currency relative to the Canadian dollar⁶ and the comparable pricing. Visiting tourists will also find the Store conveniently located from the downtown core.

6. What justification is there for the opening of the retail business establishment(s) on holidays in light of the principle, stated in the Retail Business Holidays Act, that holidays should be maintained as common pause days?

Since our last application in 2012, three nearby grocery retailers, Sobey's on May 3rd, 2012, Zehrs Markets on October 4th, 2012, and Freshco Grocery Store on April 18th, 2013, were granted the exemption to open on, among other holidays, Good Friday and New Year's Day. We are only

¹ <https://www.niagarafallstourism.com/info/media/tourism-research/>

² <https://www.cliftonhill.com/events/niagara-falls-new-years>

³ https://www.cliftonhill.com/falls_blog/american-spring-break-in-niagara-falls-ontario/

⁴ https://www.cliftonhill.com/falls_blog/niagara-region-easter-egg-hunts/

⁵ <https://www.canada.ca/en/border-services-agency/news/2018/03/easter-long-weekend---cbsa-tips-for-travellers-for-returning-re.html>

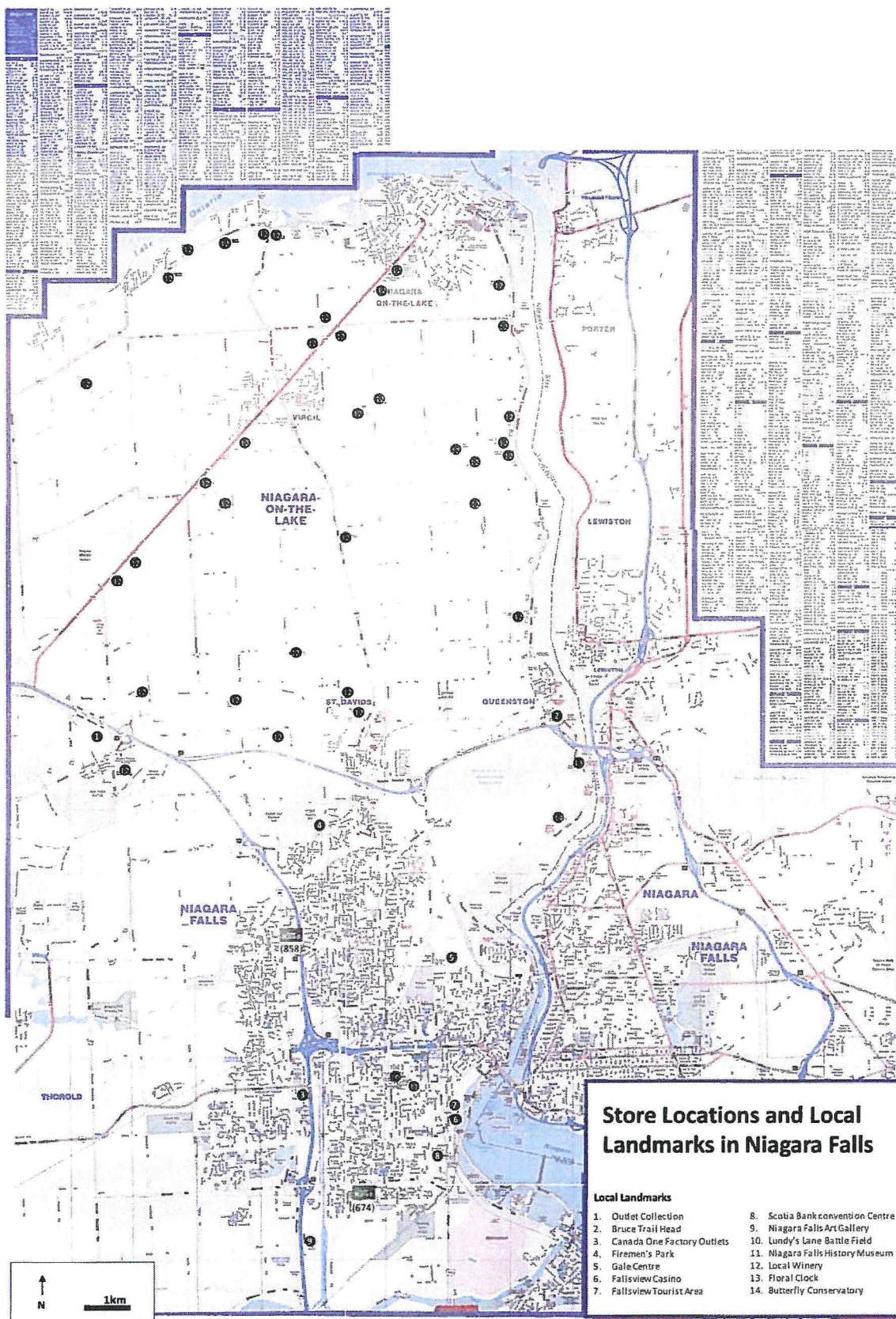
⁶ <https://www.niagarafallsreview.ca/news-story/8196734--one-of-the-best-years-for-tourism/>

requesting the same exemptions that have already been granted to other grocery retailers to ensure there is a level playing field and that we are not at a competitive disadvantage.

In addition, many workers in the service area are accustomed to working on holidays since the Niagara Region has a prominent tourism industry. The local economy stands to benefit even further by the fact that Store employees, who are already willing to work on existing exempted holidays and have expressed a willingness to work on Good Friday and New Year's Day, would be paid premium wages (time and a half) as per the applicable collective bargaining agreement.

The feedback we have received from our customers is that they are disappointed by the Store's closure on Good Friday and New Year's Day (both long weekends). If granted, the in-store wine boutique will be open for customers to purchase wine during long weekends when families get together and have company from out of town. This service is particularly important to have available for tourists since LCBO is closed on all statutory holidays. By permitting the Store to be open, we will help to maintain the tourism industry of the Niagara Region by satisfying the needs of our customers on those long weekends.

EXHIBIT "A"





January 17, 2019

Niagara Region
1815 Sir Isaac Brock Way
P.O. Box 1042
Thorold, ON L2V 4T7

Ms. Kelly Lotimer:

Sent via E-mail

Re: Tourist Exemption for Retail Holiday Openings

Please be advised that at the January 15, 2019 meeting of Niagara Falls City Council, the following motion was passed:

ORDERED on the motion of Councillor Thomson, seconded by Councillor Ioannoni that Council support the request made from both Food Basics Grocery Stores at 3770 Montrose Road and 6770 McLeod Road, Niagara Falls, for the tourist exception for retail holiday openings on future New Year's Days and Good Fridays.

If you have any questions, please contact me directly.

Sincerely,

Bill Matson
Acting City Clerk

2019

Debt Risk Management Framework

Corporate Services Committee

February 20, 2019

Agenda

Background

Purpose

Debt Risk Management Strategy
Committee

Financial Indicators

Debt Risk Management Framework

Future Considerations

Background

Municipal Act includes legislation on the issuance of debentures:

- Region issues debentures on behalf of Local Area Municipalities
- Municipalities required to comply with Annual Repayment Limit
- Region and Municipalities assume joint and several liability for debt
- Municipal debt is shown on Region's Statement of Financial Position

Background



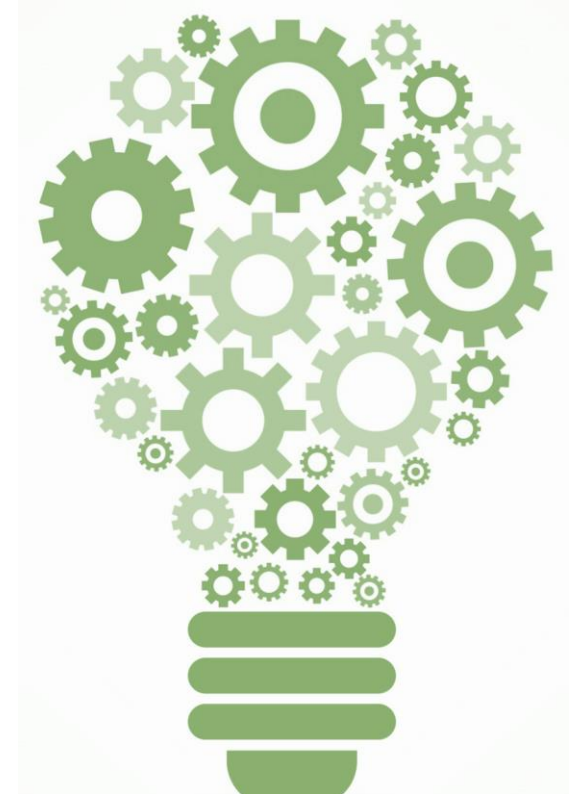
Purpose

- Demonstrate Region's due diligence process
- Monitor risk related to debt
 - Potential to impact Region's credit rating and overall cost of borrowing for all Municipalities
 - Monitoring compliance with Annual Repayment Limit regulations
- Support Municipalities with regard to debt financing
 - Streamlining of debenture approval process and documentation



Debt Risk Management Strategy Committee

- Members included: Regional Finance and representatives of Local Area Treasurers and CAOs
- The Committee met four times during 2018
- Key contributions to the Framework:
 - Inclusion of nine financial indicators
 - Definitions and context for each financial indicator
 - Separate reporting form for each municipality, allows for municipalities to provide comment



Financial Indicators - Flexibility

- Measures the ability to react and adapt to changing financial conditions

Ratios included:

Annual
Repayment
Limit %

Debt Service
Coverage
Ratio

Debt to
Reserve
Ratio

Debt
Outstanding
per Capita

Financial Indicators - Sustainability

- Measures ability to maintain an organization and manage risks over the long term

- Ratios included:

Net Financial
Assets/(Debt) as a
% of Own Purpose
Taxation + User
Fees

Total Reserves &
Discretionary
Reserve Funds as a
% of Opex

Asset Consumption
Ratio

Operation Surplus
Ratio

Total Municipal
Burden as a % of
Household Income

Debt Risk Management Framework

Comprised of two documents:

1. Financial indicator definition sheet including information on calculation, source and relevance of metric
2. Framework reporting form for debt and results of financial indicators
 - debt approvals
 - forecast debt issuance

Debt Risk Management Framework

- Information used for annual credit rating review
 - Early warning of potential pressure on Standard & Poor's rating
- Transparency - information presented to Council (part of debt by-law approval process)
- Awareness for all Local Area Municipalities on debt risks
 - Region and Local Area Municipalities can continue conversation

Future Considerations

- Work collaboratively with Area Treasurers to consider development of financial policies
- Retain third-party facilitator with financial expertise in the following areas to assist in establishing common guiding principles/policies:
 - Barriers to use of debt
 - Appropriate use of debt
 - Rate vs. levy debt thresholds
 - Impacts of rate vs. levy debt on the S&P rating methodology
 - Appropriateness of self-imposed limits below the ARL
 - Debt vs. other types of capital funding



Subject: Debt Risk Management Framework

Report to: Corporate Services Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That the Debt Risk Management Framework **BE APPROVED**; and,
2. That this Report **BE CIRCULATED** to Municipal Clerks and Local Area Treasurers.

Key Facts

- The purpose of the report is to finalize the Debt Risk Management Framework which was approved at Audit Committee on May 7, 2018, however Council did not approve the framework and staff were tasked with working with Local Area Treasurers and CAOs to incorporate further feedback
- Debt Risk Management Strategy Committee was formulated, comprised of three Area Treasurers and three CAOs, and resulted in the following contributions:
 - Nine financial indicators and their formulas were agreed upon to be calculated for each area municipality
 - Definitions and context for each financial indicator are included, providing standard terminology and messaging on a summary sheet
 - Established a separate data collection form for each municipality, which includes debt approval and debt issuance forecasts, resulting in calculation of financial indicators
- Continuing efforts are being made to establish financial policies to support the Region and municipality's financial strength and mitigate overall financial risk
- This framework has been presented to the larger group of Local Area Treasurers and CAOs

Financial Considerations

There are no financial considerations for this report; however having a Debt Risk Management Framework and continuing efforts towards establishment of financial policies, will continue to support the Region's financial strategies, planning, and strong credit rating.

Analysis

The Debt Risk Management Framework aims to achieve the following:

- Provide evidence to external stakeholders of the Region's due diligence process
- Provide additional supports to Local Area Municipalities who may leverage debenture financing on a less frequent basis
- Satisfy Local Area Municipalities that collectively the Region is making best efforts to preserve each municipality's debt capacity and lowest cost of borrowing

In finalizing the framework, Niagara Region undertook the following:

- Debt Risk Management Framework was developed as the starting point towards development of financial policies – the framework was approved at Audit Committee on May 7, 2018
- Debt Risk Management Strategy Committee was assembled for the purpose of gathering feedback on the framework, and included members from Regional finance and representatives of Local Area Treasurers and CAOs:
 - Todd Harrison (Regional Treasurer)
 - Helen Chamberlain (Regional Deputy Treasurer)
 - Carmen D'Angelo (Regional CAO)
 - Bev Hendry (West Lincoln CAO)
 - Gary Long (Welland CAO)
 - Steven Gruninger (Grimsby Treasurer)
 - Kristine Douglas (St. Catharines Treasurer)
- Debt Risk Management Strategy Committee met four times during 2018, and updates and feedback was taken from the Area Treasurers and Area CAOs meetings:
 - July 9, 2018 (Debt Risk Management Strategy Committee)
 - August 3, 2018 (Debt Risk Management Strategy Committee)
 - August 17, 2019 (Area Treasurers Meeting)
 - October 29, 2018 (Debt Risk Management Strategy Committee)
 - November 16, 2018 (Area Treasurers Meeting)
 - December 3, 2018 (Debt Risk Management Strategy Committee)
 - December 7, 2018 (Area CAO Meeting)
- Debt Risk Management Strategy Committee agreed that its mandate was fulfilled, and each Local Area Treasurer agreed to provide requested information as part of the framework

The Debt risk Management Framework is summarized below:

- This information will be included as part of the debt information reports to Council ahead of capital markets debenture issuance

- The Region will request framework information from each municipality twice per year:
 1. When the Capital Budget is approved by the municipality (First Quarter)
 2. In advance of the Regional capital markets debenture issuance (Second Quarter)
 - may only reflect updates from those intending to issue debentures in the capital markets

The following are the components of the request for information:

1. Municipality Information (See Appendix 1)

- The first section includes two tables to be completed by each individual municipality – debt approval forecast, and debt issuance forecast
- The second section will auto-calculate the nine financial indicators, and will allow each municipality to provide comments
- Through efforts of the Debt Risk Management Strategy Committee, the following updates were made to this sheet:
 - One sheet will be provided/reported for each municipality, as opposed to consolidated
 - The sheet includes a comment section for each financial indicator

2. Debt Related Financial Indicators (See Appendix 2)

- This summary sheet defines and explains the nine financial indicators that have been chosen as a basis of measuring various types of risk
- Through efforts of the Debt Risk Management Strategy Committee, the following updates were made to this summary sheet:
 - Nine financial indicators were agreed upon, including the definition and categorization under flexibility or sustainability
 - Financial indicators removed from the original version: Debt Servicing Cost as a % of Total Operating Revenue; Debt Outstanding per 100K of Assessment, as the Committee felt this information was duplicated as part of the other nine indicators
 - Financial indicators added to the finalized version: Debt to Reserve Ratio; Total Municipal Burden as a % of Household Income. The Committee determined that these indicators assist in identifying the impact of financial policies on taxpayers

Next Steps

Staff will continue to work collaboratively with the Area Treasurers to build on the Debt Risk Management Framework, to consider financial policies, strategies and definitions, which will assist with consistent messaging around capital financing, debt and reserves. A third party facilitator may be retained to assist the Area Treasurers in establishing guiding principles and/or financial policy expertise in the following areas:

- Barriers to the use of debt

- Appropriate use of debt (i.e. life cycle replacement vs. growth)
- Rate vs. levy debt thresholds
- Impacts of rate vs. levy debt on the S&P rating methodology
- Appropriateness of self-imposed limits below the ARL
- Debt vs. other types of capital funding (i.e. pay-as-you-go, reserves, etc.)

Alternatives Reviewed

The Region could continue with the current process of reporting the Annual Repayment Limit without input from the Local Area Municipalities, however this is not recommended. Regional staff believe the new framework will allow the Region to enhance its fiduciary responsibilities, protect the Region's credit rating, and provide greater transparency to Regional Council.

Relationship to Council Strategic Priorities

This supports organizational excellence by collaborating with municipalities on debenture issuances, ensuring confidence in the Region's debt issuance process.

Other Pertinent Reports

AC-C 22-2018 – Debt Risk Management Framework

Prepared by:

Talib Valli
Senior Treasury Analyst
Enterprise Resource Management
Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Enterprise Resource Management
Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared by Talib Valli, Senior Treasury Analyst, Margaret Murphy, Associate Director, Budget Planning & Strategy and Helen Chamberlain, Deputy Treasurer.

Appendices

Appendix 1	Municipality Information
Appendix 2	Debt Related Financial Indicators

Instructions:

Step 1: Area Treasurers to complete tables in the Section A. Section B will auto-calculate.
Step 2: Area Treasurers to complete Comments in section B.
Step 3: Return completed form to Region.

Section A. Debt Requirement Data

Forecasted Debt Approval - please enter total amount of debt planned to be approved in Capital Budget

Term (Years)	Debt Approval 2018 and prior (not yet issued)	Debt Approval 2019	Debt Approval 2020	Debt Approval 2021	Debt Approval 2022	Debt Approval Beyond 2022	Total
\$ 5	\$ -						\$ -
\$ 10	\$ -						\$ -
\$ 15	\$ -						\$ -
\$ 20	\$ -						\$ -
\$ 25	\$ -						\$ -
\$ 30	\$ -						\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Forecasted Debt Issuance - please enter total amount of debt forecasted for issuance

Term (Years)	Forecasted Debt Issuance 2018		Forecasted Debt Issuance 2019		Forecasted Debt Issuance 2020		Forecasted Debt Issuance 2021		Forecasted Debt Issuance 2022 and onward		Total
	IO Amount	Capital Markets Amount	IO Amount	Capital Markets Amount	IO Amount	Capital Markets Amount	IO Amount	Capital Markets Amount	IO Amount	Capital Markets Amount	Total
\$ 5	\$ -	\$ -									\$ -
\$ 10	\$ -	\$ -									\$ -
\$ 15	\$ -	\$ -									\$ -
\$ 20	\$ -	\$ -									\$ -
\$ 25	\$ -	\$ -									\$ -
\$ 30	\$ -	\$ -									\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Section B. Financial Indicators

Indicator	Based on Total Forecasted Debt Approval	Based on 2018 Forecasted Issuance	Comments
Annual Repayment Limit %			
Debt Service Coverage Ratio			
Debt to Reserve Ratio			
Debt Outstanding per Capita			
Net Financial Assets/(Debt) as a % of Own Purpose Taxation + User Fees			
Total Reserves & Discretionary Reserve Funds as a % of Opex			
Asset Consumption Ratio			
Operating Surplus Ratio			
Total Municipal Burden as a % of Household Income			

Debt Related Financial Indicators				
Indicator	Definition	Why is it important	Relevant Agency/Source	Calculation
Flexibility Indicators				
Annual Repayment Limit %	Percentage of tax and user fee revenues that are used to pay for principal and interest charges on debt.	This shows the % of total debt expenditures, including interest as a % of own source revenue. It is a measure of the municipality's ability to service its debt payments. A higher number indicates that debt servicing is consuming a larger portion of the operating budget and may result in constraints in funding available for other service delivery. Provincial limit is 25%, beyond which approval of the Local Planning Appeal Tribunal (LPAT) is required.	Municipal Act. This ratio is also used by BMA.	<u>Debt Service Costs for the Year (Debt Register)</u> Own source revenues (SLC 81 2610 01)* *Own Source Revenues are calculated as Operating Revenues such as property taxes and user fees. Less predictable revenues such as government grants, development charges and sales of real property are excluded.
Debt Service Coverage Ratio	Revenues available after operating expenses as a percentage of annual debt servicing cost.	If this number is less than one it could indicate that the net operating income is constrained in covering debt servicing costs.	Infrastructure Ontario	<u>Adjusted operating Surplus*</u> Debt Service Costs (Debt Register) *Adjusted Operating Surplus: Operating Revenues -Non-recurring Revenue -Capital Related Revenue -Total Operating Expenses +Amortization +Interest
Debt to Reserve Ratio	Total debt outstanding as a ratio of total reserves (excluding obligatory reserves such as gas tax and development charges)	Provides a measure for financial prudence. Ratio of less than one means that debt outstanding is less than reserves available. A ratio greater than one means that debt outstanding is greater than reserves available.	BMA Study	Total Debt Outstanding/Total reserves
Debt Outstanding per Capita	Debt outstanding per citizen in the municipality	A measure of how much debt a municipality has per citizen. There is no optimal number for this indicator. It is important to understand the trend and its alignment with asset management planning. Also used for benchmarking to other municipalities for comparison of their use of debt in long term financial planning.	BMA Study	Debt Outstanding/Population
Sustainability Indicators				
Net Financial Assets/(Debt) as a % of Own Purpose Taxation + User Fees	Extent to which financial liabilities could be met by operating revenues.	A ratio greater than zero indicates that total assets exceed total liabilities. A ratio less than zero indicates that total liabilities exceed the total assets. It is important to understand the situation which is driving the trend for this metric year over year. An increasing negative number may indicate challenges for long term sustainability. A minimum three year trend is required to assess this metric.	Ministry of Municipal Affairs and Housing. BMA calculates a similar ratio on a net financial liability basis.	<u>Net Financial Assets or Net Debt (SLC 70 9945 01)</u> Own Purpose Taxation + User Fees (SLC 10 0299 01 +SLC 10 1299 01) Note: Net Financial Assets = Total Assets - Total Liabilities
Total Reserves & Discretionary Reserve Funds as a % of Opex	Funds set aside for future needs/contingencies.	Reserves offer liquidity and the ability to make extraordinary operational expenditures. A high % is not necessarily better or worse. Municipalities with a high reserve % may have an opportunity to rely less on debt. Municipalities with a lower % may be relying more heavily on a pay-as-you go strategy, and may wish to think about supplementing this with a reserve strategy to ensure sustainability, because capital needs may be volatile.	Ministry of Municipal Affairs and Housing	<u>Reserves + Discretionary Reserve Funds (SLC 60 2099 03 + SLC 60 2099 02)</u> Municipal Expenses (SLC 40 9910 11 – SLC 12 9910 03 – SLC 12 9910 07)

Asset Consumption Ratio	Extent to which tangible capital assets have been used.	A higher ratio may indicate significant replacement needs. However if assets are renewed and replaced in accordance with an asset management plan, a high ratio should not be a cause for concern. MMAH considers a rate of 25% or under to be relatively new, 26% to 50% to be moderately new, 51% to 75% to be moderately old and over 75% to be old.	Ministry of Municipal Affairs and Housing. This ratio is also used by BMA.	<u>Closing Amortization Balance (SLC 51 9910 10)</u> <u>Cost of Capital Assets (SLC 51 9910 06)</u>
Operating Surplus Ratio	Revenues available after operating expenses as a percentage of total revenues. An operating surplus/(deficit) arises when operating revenue exceeds (less than) operating expenses including amortization.	A positive number indicates greater financial flexibility and sustainability. When a surplus is achieved, it indicates the ability to cover operational costs and have funds available for other purposes such as debt servicing, capital funding and reserve contributions. Long term sustainability is dependent upon ensuring that on average, over time, expenses are less than revenues. In essence, this requires current taxpayers to fully meet the cost of services. Municipalities operating with a deficit over several years should ensure that the long-range financial plan provides clear direction to turn this around. The MMA suggested target is to have an operating surplus ratio in the range of 0%-15%, with an advanced target of 15% or greater.	Ministry of Municipal Affairs and Housing. This ratio is also used by BMA.	Operating Revenue (SLC 10 9910 01) – Operating Expenses (40 9910 11) + PSAB Adjustments and other (SLC 10 2030 01 + <u>SLC 10 2040 01 + SLC 10 2045 01</u>) Own Source Revenues (Property Tax, User fees, service charges) (SLC 10 0299 01 + SLC 1299 01)
Total Municipal Burden as a % of Household Income	Measures total taxes (inclusive of general levy and water/wastewater) as a % of average household income	May assist in quantifying household ability to sustain taxation increases supporting infrastructure costs financed by debt.	BMA calculates total taxes as a % of household income. Region calculates total taxes as a % of weighted average household income.	Municipal: Total taxes / average household income Regional: Total taxes / weighted average Household Income

Subject: Recommendations from Independent External Governance Auditor – First Report

Report to: Corporate Services Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That the following Advisory/Steering Committees **BE DISCONTINUED** effective immediately with thanks, having completed the mandate for which they were established:
 - i. Chief Administrative Officer Recruitment Committee
 - ii. Glenridge Quarry Naturalization Site Liaison Committee
 - iii. Human Resources Taskforce
 - iv. Task Force to Recommend a Response to the Expert Panel Report;
2. That the following Advisory/Steering Committees **BE DISCONTINUED** effective immediately with thanks, as alternative mechanisms have evolved which address the mandates of the committees:
 - v. Corporate Communications Committee
 - vi. Corporate Labour Relations Strategy Sub-Committee
 - vii. Culture Committee
 - viii. Smarter Niagara Steering Committee
3. That the following items **BE REFERRED** to the Procedural By-law Review Committee for consideration:
 - i. Elimination of Co-Chair system for Public Health and Social Services Committee
 - ii. Membership Limits for Standing Committees

Key Facts

- The purpose of this report is to seek Committee's guidance respecting recommended items in the Independent External Governance Auditor's First Report.
- As part of an external governance review, Dr. Andrew Sancton was requested to review advisory committees.
- At its Special meeting held on December 13, 2018, Regional Council referred the Independent External Governance Auditor's First Report to the Corporate Services Committee for further review.

- Staff have reviewed the list provided as part of Dr. Sancton's report and are recommending the discontinuation of some of the Region's advisory committees as alternative mechanisms to address the mandates have evolved or the committee mandate has been met.

Financial Considerations

There are no financial considerations associated with the adoption of this report; however, some cost savings may be achieved with respect to staff time required for working after hours to support some committees as well as if refreshments are provided.

Analysis

Advisory Committees

At a Special meeting held on December 13, 2018, Regional Council considered the Independent External Governance Auditor's First Report that recommended a number of advisory committees be abolished. These Committees were recommended for abolishment because many have not met in quite some time or their mandate was no longer relevant.

The creation of some of these committees had evolved through Council resolutions and may have been triggered by a number of factors, including ongoing public issues or trends, contentious issues requiring study, and/or legislative requirements.

It is important to respect the time commitments expended by both the public and Council members to ensure that they are warranted and used appropriately. Councils' committees also require the allocation of staff resources across the Corporation and should be validated. Overall, the committee structure should be reviewed periodically to ensure that both volunteer efforts and staff resources are being used and allocated appropriately. The last time a substantial committee review was completed was in 2014.

In addition the establishment of committees or task forces should also reflect the priorities of Council which focuses the volunteer and staff resources on matters of import as established within strategic or business plans of the Corporation.

As part of the review of the existing committee structure and Dr. Sancton's recommendations, a number of factors were considered to understand a committee's viability including:

- Has it been necessary for the committee to meet as initially anticipated?

- Does the committee achieve quorum at meetings – are the members still interested in attending?
- Are there clear lines of committee responsibility or are options available to merge similar committees?
- Has the committee completed its mandate or are there alternative mechanisms to achieve the mandate?
- Have the issues been resolved for which the committee was created?

In addition to those committees that have completed their mandate, staff is recommending the following be discontinued effective immediately with thanks.

- ix. Corporate Communications Committee
- x. Corporate Labour Relations Strategy Sub-Committee
- xi. Culture Committee
- xii. Smarter Niagara Steering Committee

The following committees are those in which either alternate mechanisms have evolved which address their mandate or they are found to be no longer relevant. A brief history of the committee is included below to provide context around the decision to discontinue the committee.

Corporate Communications Committee

In June 2016, Regional Council approved a recommendation of the Corporate Services Committee to establish a sub-committee to explore all aspects of Niagara Region's communications policies, strategies and structures. The sub-committee only met twice in 2016 and deferred a decision on a finalized terms of reference.

Culture Committee

The Culture Committee has been a long standing committee tasked with providing advice and recommendations through the Planning and Economic Development Committee, to help Council implement the Niagara Culture Plan which was approved in March 2010.

At this time, Niagara Region's planning service was not centralized and was delivering services beyond the scope of land use planning. Since the merger of the Region's planning services, accommodating the delivery of the Niagara Region Culture Committee mandate has been challenging as there is nowhere within the organization that has oversight for cultural policies or programs.

The Niagara Investment in Culture grant program is the only culture related program delivered by the Region which provides funding for projects on an annual basis, is subject to budget approval and is adjudicated by a separate panel. It is difficult to justify

the continuation of the Niagara Region Culture Committee as there is no longer a requirement for advice on matters related to the mandate. This Committee has had challenges meeting quorum requirements and upon review the Committee has not been recently called upon to provide recommendations to Council within the purview of its mandate.

Smarter Niagara Steering Committee

The core mandate of the Smarter Niagara Steering Committee is to provide input to staff and Regional Council on cross-disciplinary urban strategies and policies that create, improve, enhance, and protect the built and natural environment, in turn enriching the social, mental, and physical well-being of the people of Niagara.

The Smarter Niagara Steering Committee was established in 2001. Since this time, Provincial planning regulations and policies have changed significantly and the delivery of planning services at the Region has correspondingly evolved. Contemporary planning, both in regulation and best practice, requires consideration of concepts represented in the mandate of the Smarter Niagara Steering Committee.

In 2016, changes to Provincial planning legislation required an upper-tier municipality to establish a Planning Advisory Committee with representation from the public. In the same year, Regional Council also approved the preparation of a new Regional Official Plan.

As there was clear synergy between the mandate of the SNSC and the content of the new Regional Official Plan, discussion was held to determine if the SNSC would adopt the role of the Planning Advisory Committee. It was decided that the SNSC would not adopt this role and a new Planning Advisory Committee was established to advise on the preparation of the Regional Official Plan.

Since the establishment of the Planning Advisory Committee, it has become evident that the role of the SNSC has become redundant. It has been difficult to bring items of discussion to the SNSC that are not already being considered by the Planning Advisory Committee. For this reason, it is being recommended that the Smarter Niagara Steering Committee be discontinued. This Committee has had challenges meeting quorum requirements and upon review the Committee has not been recently called upon to provide recommendations to Council within the purview of its mandate.

Education Opportunities

Dr. Sancton recommended that Council decide if it wishes to engage instructors to provide educational sessions for Councillors that would commence in the spring of 2019. Given our current time constraints with the approval of the budget, staff are not providing any information with respect to educational opportunities for Council's

consideration. Council can, at any time, request staff to investigate or make arrangements for education opportunities for Council members.

Niagara Peninsula Conservation Authority (NPCA)

Niagara Region representation on the NPCA was also referred to Dr. Sancton as part of his governance review. His report includes a synopsis on the current state and a review of options; however, as Council has appointed an interim board that will be addressing the issue of representation on the board, staff have not offered any recommendations respecting this matter.

Alternatives Reviewed

Council could consider keeping some or all of those Committees recommended for disbandment; however, staff have fully and carefully reviewed these Committees and are of the opinion that other mechanisms have evolved which address their mandate.

Relationship to Council Strategic Priorities

The discontinuation of some of these Committees falls under Council Strategic Priorities via the theme “Advancing Organizational Excellence” and “Doing Business Differently”.

Other Pertinent Reports

CLK 7-2014 Region of Niagara Committees

Prepared by:
Ann-Marie Norio
Regional Clerk

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

Appendices:

CL-C 72-2018	“First Report” Niagara Region Independent External Governance Auditor
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FIRST REPORT

Prepared by Andrew Sancton Consulting:

Dr. Andrew Sancton

Dr. Timothy Cobban

December 6, 2018

1. INTRODUCTION

We are pleased to submit our first of three reports resulting from our work as Independent External Governance Auditor for Niagara Region. This *First Report* follows our *Fact Book*, which was dated 30 September and presented to Regional Council on 4 October 2018. Since that time, we have invited outgoing, continuing, and incoming regional councillors to consult with us during interviews lasting approximately one hour each. All but two of these interviews were face-to-face; the two others were conducted by telephone. When the process was complete, we had met with eleven outgoing regional councillors, seven returning regional councillors, and ten new regional councillors. We also conducted similar face-to-face interviews with nine senior members of regional staff. Finally, we also held a public meeting on 28 November 2018, with approximately 40-50 citizens in attendance.

Based on further direction from Regional Council and from the Regional CAO, the content of this report varies somewhat from our original *Work Plan*. It covers the following subjects.

- Various aspects of the system of **standing and advisory committees** including membership, functions, frequency of meetings, selection and remuneration of chairs and vice-chairs, and desirability of maintaining separate co-chairs for a single standing committee for public health and social services
- Desirability of having a **Deputy Regional Chair**
- Possible further **educational opportunities for regional councillors**
- Appointment process for **regional appointments to the Niagara Peninsula Conservation Authority**.

Subsequent reports later in December and in January will cover the other matters included in our original *Work Plan* as well as a discussion of possible ways of preventing leaks of confidential regional information to local media, a subject added to our mandate by Regional Council on 13 September 2018.

2. STANDING COMMITTEES

Niagara has four standing committees:

- Public Health and Social Services
- Corporate Services
- Planning and Economic Development
- Public Works

As reported in our *Fact Book*, the only regional municipalities using standing committees with memberships smaller than the entire regional council are Durham and Halton. No one with whom we consulted suggested that Niagara would be better off adopting some variant of the

committee-of-the-whole system, at least not as long as the Niagara regional council remains as large as it is. From 2018-22, Durham plans to establish four standing committees with subject matters very similar to Niagara's. There were very few suggestions during our consultations that the number or subject matters of the four standing committees be changed. We concur; there is no reason to do so.

An unusual feature of Niagara's committee system is that one committee, Public Health and Social Services, has two co-chairs, one for public health and one for social services. Although we encountered some support for this arrangement, many other interviewees either knew nothing about it or did not know the reasons for the arrangement. Although we recognize that public-health officials in the Region have distinct statutory authority stemming from Ontario's *Health Protection and Promotion Act*, we see nothing in this Act that touches on the committee systems of regional municipalities¹ and we see no reason for providing special treatment, especially because there are relatively few items each year related to public health on which the standing committee and Regional Council actually has to make a decision. The opioid crisis was mentioned in our consultations: we see this as a problem in which public health and social services are deeply intertwined.

We recommend:

That Niagara Region's standing committee for Public Health and Social Services be presided over by a Chair and a Vice-Chair in the same way as for the other three standing committees.

Membership rules for the four standing committees are more problematic. No other regional municipality (nor any other Ontario municipality as far as we know) operate a system similar to Niagara's in which regional councillors choose the standing committees on which they wish to be members and membership is adjusted accordingly, as long as each regional councillor agrees to serve on at least one standing committee. The result is that most committees are quite large (Public Works has 25 members as of November 2018; Public Health and Social Services has 17).

Some people we spoke to seemed to believe that Niagara's system was quite normal. These people tended to argue that membership rules should remain unchanged. The system was also defended by some interviewees who suggested that it made it easier for smaller municipalities with few regional councillors to insure that they were represented on all or most committees. A more common position was that there should be a pre-set number for the membership of each committee, making Niagara more similar to Durham and Halton and most other non-regional municipalities. Many of the advocates of this position claimed that "voluntary" membership

¹ Section 1(1) a. of the Health Protection and Promotion Act establishes all six regional municipalities, including Niagara, as a "board of health".

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served the interests of a dominant political group on council that could “pack” membership with enough councillors to elect chairs and vice-chairs of each committee and generally to control the committees’ agendas and decision-making. It was also suggested that this system sometimes led to poor attendance and even a lack of quorum because some members were not much interested in the committee’s business, especially perhaps if they also belonged to two or three other standing committees.

The Regional Chair is an *ex officio* member of all standing committees; he or she will not be included in the calculations that follow. Currently there are 31 regional councillors in Niagara. If each sat on two standing committees, membership on each of the standing committees would vary between 15 and 16. This number could be reduced somewhat if mayors were given the option of serving on only one standing committee because of the heavy demands on their time within their respective area municipalities.

We recommend:

That Niagara Regional Council amend its Procedural Bylaw such that each of the four standing committees have a maximum membership of 16 and a minimum membership of 13.

That each Regional Councillor who is not a mayor be required to sit on exactly two standing committees and that mayors have the option of sitting on either one or two standing committees.

That, at its first meeting after its Inaugural Meeting, Regional Council proceed with electing standing committee members in this way:

Four members to each standing committee with each councillor having four votes for each committee;

Then four more members to each standing committee;

Then, two, three, or four more members of each standing committee, until there are no more candidates;

If there are still further candidates for a committee, then two, three, or four more members of each standing committee until there are no more candidates.

Each regional councillor Regional Councillor must insure (by self-nomination if necessary), that he or she is nominated for two committees (and two committees only) at each stage in the process until he or she has been elected to two committees. As noted above, mayors can opt for being nominated for one or two committees at each stage until they have been elected to the desired number of committees.

That the order of selecting members for each standing committee be determined by lot as drawn by the Regional Clerk.

This mechanism borrows from Section 7.1 of the Region of Durham's Procedural Bylaw adopted in 2018. The reason for breaking the process down into three or four stages is to enable regional councillors to re-assess their own candidacies and votes after each stage.

We envisage the process working in this way:

1. After placing the names of each of the four standing committees in a container, the Regional Clerk selects one
2. She declares nominations open for the first four positions on that committee.
3. When nominations are closed, each regional councillor votes for up to four candidates
4. Votes are counted; the top four vote-getters are declared elected
5. The Regional Clerk then draws another name and the process described in Steps 2-4 above is repeated for that committee.
6. As soon as a councillor is elected to two committees, he or she is ineligible to be nominated again (a mayor may opt not to be nominated after being elected to one committee)
7. The process is repeated again for the remaining two committees
8. Steps 2-7 are repeated so as to elect four more members to each committee in the same committee order as was determined by the Regional Clerk
9. Steps 2-8 are repeated until every regional councillor is declared a member of two committees (or one in the case of mayors who have chosen to serve on only one committee).

We further recommend:

That committees be elected for two-year terms and that the process described above be repeated at every two-year interval.

That each committee elect a chair and vice-chair at their initial meeting for a term of two years each.

That regional councillors who are not members of a particular committee have a right to attend and speak at that committee, but not to vote.

3. FREQUENCY OF MEETINGS

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Niagara is the only regional municipality in Ontario that operates on a three-week meeting cycle. Others operate on a four-week, or monthly, cycle, although in systems based on committees of the whole, the entire council would meet together twice in a four-week cycle. We believe that the three-week cycle creates too many meetings, which could be another cause of sometimes failing to reach quorum. Staff are under constant pressure to produce new reports for the standing committees or for council.

We recommend:

That Regional Council meet every four weeks. We have no preference as to whether monthly meetings are adopted instead (e.g. meeting the third Thursday of every month) although we suspect such a system might generally be more convenient for all concerned.

Each standing committee meet once in the period between council meetings, presumably on the same day of the week as Regional Council.

Additional meetings of council would be held during annual budget deliberations and at the call of the Regional Chair or Regional Councillors as currently provided for in Niagara's Procedural Bylaw.

4. ADVISORY COMMITTEES

As noted in our *Fact Book*, Niagara appears to have many more advisory committees (or “sub-committees” as they are also called in Niagara) than any of the other regional municipalities. Many of these committees—listed on pp.4-5 of our *Fact Book*—have not met for more than a year. Especially given that a new council is now in place, we see no reason why these dormant committees should continue to exist. Although many of our interviewees had not reviewed our list, none of the ones who had reviewed it suggested that there were any whose existence should be protected.

We recommend:

That Regional Council abolish the following advisory committees and then consider if there are others that should be abolished or new ones that should be established.

**Burgoyne Bridge Replacement Project Taskforce
Chief Administrative Officer Recruitment Committee
Corporate Communications Sub Committee**

Corporate Labour Relations Strategy
Economic Development Working Group
Federation of Canadian Municipalities 2014 Niagara Committee
Human Resource Taskforce
Inter-Municipal Transit Steering Committee
Investment Committee
Niagara Gateway Economic Zone & Centre Implementation Committee
Niagara Regional Housing Board Structure Committee
Procedural By-law Review Committee
Property Assessment and Taxation Review Committee
Regional Development Charge Policy Task Force
Regional Niagara Active Transportation Sub Committee
Task Force to Recommend a Response to the Expert Panel Report
Water and Wastewater Review Task Force
Humberstone Landfill Site Public Liaison Committee
Niagara Road 12 Landfill Site Citizen's Liaison Committee
Long Term Care Task Force

The only advisory committee on our original list in our *Fact Book* that is not included above is the Greater Niagara Circle Route Committee. This committee received explicit support from at least three of our interviewees, even though it has not met for a year. In our view this committee appears to be doing valuable work and should continue, unless or least until Regional Council decides otherwise.

Among many of our interviewees and at the public meeting, considerable dissatisfaction was expressed about the region's advisory committees. Among the major perceived problems were:

1. Infrequent meetings and frequent difficulties in achieving quorum
2. Staff support from line departments that was sometimes inadequate and frequently inconsistent due to changing personnel
3. Committee minutes that were long-delayed and often too vague
4. In some cases, certain committees were perceived to be dominated by longstanding citizen appointees or councillors for whom particular committees had become "hobby horses" or "retirement projects."

Properly functioning advisory committees can perform valuable functions in municipal government. They can act as a mechanism for encouraging citizen engagement in municipal issues. Indeed, they are often important recruiting mechanisms for new council candidates, which is one reason why they are not always looked on with great favour by incumbent councillors. As their name implies, these committees, if their membership comes from

knowledgeable citizens, can also provide to councillors an alternative source of advice to that provided by staff, which is a reason that they are not always looked on with great favour by staff.

We recommend:

That regional staff, as a corporate-wide objective, commit to fully and effectively supporting the reduced number of advisory committees that remain after Regional Council has acted on our previous recommendation. Such a commitment should be led by the Regional Clerk, but it will require support from all line departments that are in any way connected to the work of any of the remaining advisory committees.

5. DEPUTY REGIONAL CHAIR

During the last term of regional council there were suggestions that the council would benefit from having a deputy regional chair who would serve for at least a two-year term and possibly for the entire four-year term. The main argument seemed to be that this would eliminate inconsistencies and uncertainties resulting from the practice of rotating the position of “acting regional chair” among all regional councillors. As noted in our *Fact Book*, no other region has a deputy regional chair, although many other municipalities have deputy mayors who are directly elected or appointed by the mayor or by the council. Some of our interviewees considered the proposal to be part of a scheme to enhance the political power of the regional chair and/or the dominant political group on council. Many others simply saw no need for such a position. At least one of the new councillors thought that serving a brief term as “acting regional chair” would be a valuable experience and would enable her/him to better perform the job of regional councillor.

We recommend:

That no action be taken on any proposal to create the position of Deputy Regional Chair.

6. EDUCATIONAL OPPORTUNITIES FOR REGIONAL COUNCILLORS

Almost everyone we spoke to was in favour in principle of “more education”. Some seemed to argue that it was the previous council that needed instruction in the principles of good municipal governance and that some of the problems education was meant to correct were in fact corrected by the recent election. It is not our job to assess the validity of such an argument. We do note, however, that some of the newly-elected regional councillors have already sought out education

in municipal governance, notable examples being AMCTO certification and graduate courses in local public administration at the University of Western Ontario. A member of the previous council had taken a course for new councillors offered by AMO. Some incoming regional councillors, although new to the Region, have many years of experience on the councils of area municipalities.

If Regional Council adopts the four-week meeting cycle recommended earlier, then scheduling educational sessions should be easier than with a three-week cycle. In the early weeks and months of this council's term there will, however, be great pressures on councillors' time: familiarizing themselves with the operations of the Region and preparing to adopt a new budget. In an ideal world, educational opportunities would precede these imperatives, but there is not much in local government that is ideal. If there are to be any educational opportunities for councillors, they will probably not be able to be offered until the Spring of 2019.

During our interviews, many respondents suggested that some of the wider subject matter of our reports would likely be overtaken by impending provincial initiatives to restructure regional governments, especially perhaps the one with the most constituent municipalities and the most councillors: Niagara. If this turns out to be true, then regional councillors will have to be prepared to respond to and/or to advance a wide range of potential structural alternatives. To do so they will need to understand a great many issues that transcend the local policy issues on which most of them were probably elected. Can regional municipalities be dismantled without harming existing regional services? Is complete amalgamation the answer? Is there a middle ground? These are just some of the questions to which regional councillors in this term are likely to be expected to be able to answer.

Other possible subjects for educational sessions include provincial-municipal and council-staff relations, codes of conduct and integrity commissioners, the potential utility of other municipal "accountability officers" (e.g. auditors-general, ombudsmen, closed-meeting investigators, registrars of lobbyists) as well as a wide range of potential cross-corporate policy issues (e.g. homelessness) in which the Region has a potentially important role to play.

In the research we did for our *Fact Book*, we concluded that the courses for new councillors offered by AMO are not offered in convenient locations and would be of limited utility for regional councillors elected to serve only at the regional level (as in Niagara). We found no other potential providers of educational opportunities for regional councillors.

This is where things get difficult. We believe that we are uniquely qualified and experienced to prepare and teach the kind of subject matter referred to in previous paragraphs. We would do so in a similar manner to how we conducted our public meeting, a meeting attended by some current regional councillors. From feedback we received after the meeting and by email, we believe that our interactive way of dealing with the subject matter was much appreciated.

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We believe that any instructors hired to teach such courses should be willing to do so in meetings that are open to the public (including the media), although we would not support holding them in the council chamber or having them recorded or live-streamed. These caveats to the openness of the sessions are suggested so as to help councillors resist the temptation to make speeches or to record their positions “for the record”. It should be noted, however, that under Section 239.3 (1) meetings of councillors “may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council....”

If the majority of councillors take the position that the any educational sessions held in public would be significantly less useful than if held *in camera*, they have every right to invoke the provision of the *Municipal Act* quoted above. However, because many of our interviewees were concerned that Regional Council had met too often *in camera*, and because we do not believe that the educational experience would be unduly hampered by taking place in public, we recommend:

That any educational sessions held for regional councillors be held in public, but that they not be recorded or live-streamed.

For obvious reasons, we are not going to formally recommend in this Report that we be engaged for this purpose. Indeed, we understand that the Region might want to prepare a Request for Proposals and/or a formal tendering process. We would not be prepared to assist the Region in these tasks because we would prefer to be the people actually teaching the courses.

We recommend:

That Regional Council decide as soon as possible whether or not it wishes to engage instructors to provide educational sessions for councillors that would commence in the Spring of 2019 and, if so, that it provide instruction to staff as to how to proceed.

7. NIAGARA PENINSULA CONSERVATION AUTHORITY (NPCA)

The minutes of Regional Council for 13 September 2018 record the following:

Niagara Region Representation on the Niagara Peninsula Conservation Authority

Moved by Councillor Timms Seconded by Councillor Maloney

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Whereas Hamilton is seeking two additional seats on the Niagara Peninsula Conservation Authority due to the new levy apportionment.

NOW THEREFORE BE IT RESOLVED:

That Niagara Region REQUESTS two additional seats on the Niagara Peninsula Conservation Authority Board to reflect its apportionment of the Niagara Peninsula Conservation Authority general levy, subject to the superior court confirmation of apportionment ruling by the Ontario Commissioner of Mines and Lands; and,

That the two additional seats BE HELD by members of the public appointed by Regional Council through a selection process based on a public notice, application and interview basis, with preference given to subject expertise in the Conservation Authorities Act, and mandate areas....

Moved by Councillor Heit Seconded by Councillor Volpatti

That the motion respecting Niagara Region Representation on the Niagara Peninsula Conservation Authority....BE REFERRED to Andrew Sancton Consulting for consideration as part of the on-going governance review. Carried²

With respect to the first part of the motion, it is not entirely clear what it is that we are supposed to be investigating or making recommendations about. Regardless of what we might say, whatever Regional Council requests concerning the make-up of the NPCA board is obviously subject to relevant provincial legislation. The *Conservation Authorities Act* does state in Section 14 (2.1) that membership of a CA can be changed with the agreement of the participating municipalities. The unusual problem in this case is that there seems to be considerable uncertainty about how the law governs the *current* composition of the NPCA.

The very recent (undated) letter to the Niagara Region CAO from Bruce Bateman (Assistant Deputy Minister, Land and Water Division, Ministry of Environment, Conservation and Parks) is helpful in many respects, but it does not authoritatively state the number of seats on the NPCA to which Niagara Region is entitled. We are not lawyers and cannot give a legal opinion, but it seems possible to us from a careful reading of this letter that the Region is entitled to 24 appointees. It is clear from Mr. Bateman's letter that the NPCA's participating municipalities have the legal authority to negotiate whatever representation arrangements they want. But the obvious problem is that no one seems to know what the starting point is. One might think that the current composition of the NPCA board could be the starting point. The problem with this position is that no one—including current NPCA officials—seem to have been able to find any legal justification for the current state of affairs. Amidst all of this legal confusion one thing is

² <https://www.niagararegion.ca/council/Council%20Documents/2018/council-minutes-sep-13-2018.pdf> , pp.12-3.

clear: no one has produced any authoritative document that justifies the fact that Niagara Region now has 12 representatives on the NPCA. Even the NPCA website claims only that “The *past practice* [our emphasis] of the regional council has been to offer a single appointment from each of their twelve local municipalities.”³

Given this legal uncertainty, we recommend that

In the short term, Regional Council take advice from the Regional Solicitor as to if or how it should proceed with appointments to the NPCA board.

In the event that Regional Council does choose to make immediate appointments to the NPCA board, it make use of Section 14 (4.1) of the *Conservation Authorities Act* and not appoint anyone for a term longer than six months. During this period, Council should negotiate with the other participating municipalities about NPCA membership and make every effort to insure that the legal basis of its future appointments are clear.

Because the most important immediate business of the NPCA board will be sorting out its own legal status, any short-term appointments made by Region Council should be from amongst its own membership.⁴

A wider issue remains, an issue that relates to the second part of the original council resolution on which the NPCA part of our mandate is based: When legal issues are sorted out, who should be appointed to the NPCA? Regional councillors, ordinary citizens, or some combination of the two? To help answer this question, we investigated the appointment practices of the other five regional municipalities. Unlike Niagara, each of them appoints members to more than one CA. We found that Halton and Peel were the only regional municipalities that appointed anyone *other* than elected councillors. Four of Halton Region’s 14 appointees to the Halton Region Conservation Authority in the last term of council were ordinary citizens; one of Peel’s two appointees to the same CA was such a citizen.⁵ There were six other CAs to which regional municipalities made appointments; *all* were elected councillors.⁶

In the past term of Regional Council, one of twelve Niagara appointees has been an ordinary citizen.⁷ This is one more citizen appointee than were made by the regional municipalities of

³ <https://npca.ca/selection-members-npca-board-director>

⁴ After this report had been written but just prior to its official submission, Niagara Region Council voted to appoint twelve of its members to the NPCA board for a period of three months.

⁵ <https://www.conservationhalton.ca/board-of-directors>

⁶ Determined by examining the relevant parts of the websites of the following CAs: Credit Valley (Peel and Halton); Toronto Region (Durham, Peel, and York); Central Lake Ontario (Durham); Kawartha Region (Durham); Grand River (Waterloo and Halton); and Lake Simcoe (Durham and York)

⁷ <https://npca.ca/npca-board>

Durham, York, and Waterloo, and it is equal to Peel. It is unlikely that anyone could determine the exact motivations for regional councillors to appoint regional councillors to the boards of conservation authorities. During our consultation process, it was suggested by at least one person that their motives are primarily pecuniary: there is remuneration involved for membership on a CA board. Such a factor is likely at least a partial motivator in many cases. However, we accept that regional councillors generally believe that financial demands on the regional tax base should be under the control of elected councillors. We are in broad agreement with this position.

However, given concerns with recent practices within the NPCA, as articulated in the Auditor-General's special report,⁸ we understand the desire of many to increase the proportion of ordinary citizens who are Niagara appointees to the NPCA board. We therefore recommend that:

When the legal basis of the appointment process to the NPCA board is clarified, between one-third and one-half of Niagara appointees should be ordinary citizens, the remainder being regional councillors.

We recognize, however, that it will be difficult to follow this recommendation if Regional Council does not exert its undisputed ultimate control of the appointment process.⁹ If Regional Council merely rubberstamps recommendations from local municipalities, it would have no control over the proportion of appointees who are regional councillors or ordinary citizens. We therefore recommend that

Regional Council make it clear to local municipalities that, when local municipalities are recommending appointees to the NPCA, they recommend both ordinary citizens and regional councillors, leaving Regional Council to make the final choices.

Many of our interviewees expressed the view that NPCA appointees should have some special knowledge of the issues with which the NPCA deals. Appointees – including regional councillors – should obviously have some interest in the work of the NPCA. But they need not have any of the professional or technical expertise that we would expect to find within the staff of the NPCA. The job of the board of directors is to provide overall direction to the NPCA, including the approval of an annual budget. We recommend that:

In making appointments of ordinary citizens to the NPCA, Regional Council attempt to appoint a mix of people with varying backgrounds and interests who are broadly representative of the population of Niagara Region as a whole and who are willing to commit their time and knowledge to serving their interests.

⁸ http://www.auditor.on.ca/en/content/specialreports/specialreports/NPCA_en.pdf

⁹ Section 4 (1) of the *Conservation Authorities Act*

Subject: Pregnancy and/or Parental Leave of Members of Council Policy

Report to: Corporate Services Committee

Report date: Wednesday, February 20, 2019

Recommendations

That the Pregnancy and/or Parental Leave of Members of Council Policy, attached as Appendix 1 to Report CLK 6-2019, **BE APPROVED**.

Key Facts

- The purpose of this report is to bring forward the Pregnancy and/or Parental Leave of Members of Council Policy for approval that addresses a new leave for Members of Council.
- As per Section 270(1) of the *Municipal Act, 2001*, municipalities are required to adopt and maintain policies with respect to various matters.
- *Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017*, amended section 270(1) of the *Municipal Act, 2001*, to include the requirement for municipalities to adopt and maintain a policy respecting pregnancy and parental leave for Members of Council.
- In accordance with the legislation, this policy must be in place by March 1, 2019.

Financial Considerations

There are no financial considerations associated with the recommendations of this report.

Analysis

Unlike Niagara Region employees who are entitled to maternity/pregnancy and/or parental leave, as per the *Employment Standards Act, 2000*, Members of Council are not employees. As a result, prior to the introduction of Bill 68, a Member was required to obtain a resolution of Council for a leave of absence due to pregnancy, or the birth/adoption of a child failing which their seat could be declared vacant pursuant to Section 259 of the *Municipal Act, 2001*.

However, as of May 30, 2017, Section 259 was amended as follows:

Clause (1) (c) does not apply to vacate the office of a member of council of a municipality who is absent for 20 consecutive weeks or less if the absence is a result of

the member's pregnancy, the birth of the member's child or the adoption of a child by the member.

Effective March 1, 2019, Section 270(1) of the *Municipal Act, 2001* requires that a policy be in place for pregnancy and parental leave for Council members. The pregnancy and parental leave available to a Member is 20 consecutive weeks, and does not require a resolution of Council (in accordance with section 259).

The proposed draft Pregnancy and/or Parental Leave of Members of Council policy, attached as Appendix 1, includes provisions for the Member to continue to receive remuneration and claim expenses during their absence. It also provides for the ability of local area municipal Councils to appoint a temporary alternate Member to Regional Council while a Member is on pregnancy and/or parental leave, in accordance with the Procedural By-law and the *Municipal Act, 2001*. The proposed draft policy further authorizes the Regional Clerk, as administrator of the policy, to establish administrative procedures as necessary to implement the policy.

Alternatives Reviewed

As this policy is a legislative requirement, no alternatives were reviewed.

Relationship to Council Strategic Priorities

N/A.

Other Pertinent Reports

None.

Prepared by:
Ann-Marie Norio
Regional Clerk

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

Appendices

Appendix 1 Pregnancy and/or Parental Leave of Members of Council Policy

3

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Human Resources</i>	<i>Pregnancy and Parental Leave of Members of Council</i>

Page 1 of 4

Policy Owner	Regional Clerk
Approval Body	Council
Approval Date	
Effective Date	March 1, 2019
Review by Date	

1. Policy

- 1.1. The Region of Niagara recognizes a Member of Council's right to take leave for the Member's pregnancy, the birth of the Member's child or the adoption of a child by a Member.

1.2. Leave Notice

Where a Member of Council will be absent due to a Pregnancy and/or Parental Leave, the Member shall provide written notice to the Regional Clerk outlining the expected duration of the leave.

The Member shall inform the Regional Clerk of any changes regarding their return date, including any request for an extended leave of absence.

1.3. Alternate Member

If a Member, except for the Regional Chair, who is also a member of the council of an Area Municipality takes a Pregnancy Leave and/or Parental Leave for a period exceeding one (1) month, the council of the Area Municipality may appoint one of its members as an alternate member of Council to act in place of the Member until the Member is able to resume acting as a member of both councils.

1.4. Remuneration and Expenses

A Member of Council on Pregnancy and/or Parental Leave shall continue to receive remuneration and to be eligible to claim expenses paid in accordance with the Regional Council Expense Policy, as may be amended from time to time, for the duration of their Pregnancy and/or Parental Leave, up to a maximum of twenty (20) consecutive weeks.

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Human Resources</i>	<i>Pregnancy and Parental Leave of Members of Council</i>

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If the Member of Council's term of office ends prior to the end of the Pregnancy and/or Parental Leave period, the leave will be deemed to end effective the same date as the end of the term of office.

1.5. Continued Participation in Meetings etc.

Members of Council on Pregnancy and/or Parental Leave may continue to participate in events, conferences, committee meetings, council meetings, constituent meetings and respond to communications, at the level they determine. Members may utilize an out of office email feature to identify that they are on leave, the level of service offered and an alternate contact if required.

1.6. Access to Corporate Resources

Members of Council on Pregnancy and/or Parental Leave shall continue to have access to all equipment and support supplied to a Member of Council, including but not limited to their access card to Regional Headquarters' facilities and offices, information technology equipment and account access.

1.7. Extensions

Members of Council wishing to take an extended leave beyond the Pregnancy and/or Parental Leave of twenty (20) consecutive weeks shall require a resolution of Council in accordance with Section 259 of the *Municipal Act, 2001*.

1.8. Definitions

"Pregnancy and/or Parental Leave" means an absence of twenty (20) consecutive weeks or less as a result of a Member's pregnancy, the birth of a Member's child or the adoption of a child by the Member in accordance with Section 259 (1.1) of the *Municipal Act, 2001*.

"Area Municipality" means means any one of the municipalities of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and the Township of West Lincoln.

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Human Resources</i>	<i>Pregnancy and Parental Leave of Members of Council</i>

2. Purpose

This policy provides guidance on how Niagara Region addresses a Member's pregnancy or parental leave in a manner that respects a Member's statutory role as an elected representative and complies with the *Municipal Act, 2001*.

3. Scope

This policy applies to Members of Council, in accordance with Section 270 of the Municipal Act, 2001.

3.1. Roles and Responsibilities

3.1.1. Regional Council

Members of Council are responsible for adhering to the parameters of this policy.

3.1.2. Regional Clerk

It is the responsibility of the Regional Clerk for administering and reviewing this policy.

The Regional Clerk is delegated the authority to establish administrative procedures to implement this policy as necessary, and to make administrative changes to this policy that may be required from time to time due to legislative changes or for amendments that do not change the intent of the policy.

4. References and Related Documents.

4.1. Legislation, By-Laws and/or Directives

Bill 68 – Modernizing Ontario's Municipal Legislation Act, 2017

Municipal Act, 2001

5. Related Policies

Regional Council Expense Policy.

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Human Resources</i>	<i>Pregnancy and Parental Leave of Members of Council</i>

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6. Document Control

The electronic version of this document is recognized as the only valid version.

Approval History

Approver(s)	Approved Date	Effective Date
Council		

Revision History

Revision No.	Date	Summary of Change(s)	Changed by

Subject: NRPS 1 District Tender Analysis & Award

Report to: Corporate Services Committee

Report date: Wednesday, February 20, 2019

Recommendations

1. That Contract 2018-T-23 “Niagara Regional Police Service (NRPS) 1 District Facility St. Catharines – General Contractor for Construction” **BE AWARDED** to Merit Contractors Niagara Ltd at their bid price of \$16,761,290 (including 13% HST); and,
2. That the Gross Budget for Long-Term Acc-2017 NRPS D1 **BE INCREASED** by \$3,795,841 and that the increase **BE FUNDED** from the Capital Variance Project

Key Facts

- The purpose of this report is to seek Council approval for an increase to the NRPS 1 District project budget and to approve the Tender Award to Merit Contractors Niagara Ltd.
- The provision of a new NRPS 1 District facility was mandated as part of an Ontario Civilian Commission on Police Services (OCCOPS) negotiated settlement between the Niagara Region and Niagara Region Police Services Board in September 2009.
- Remaining funding for the NRPS 1 District Project was initiated in 2018, as part of the original \$83,076,100 budget for the NRPS Long-Term Accommodation Project.
- Significant project costs of \$3.3M for land purchase and remediation were not anticipated in the original \$83,076,100 budget.
- The increased project cost is due to higher than expected tender prices due to market conditions and refinement of drawings after the final cost estimate was prepared.
- Staff will negotiate targeted cost savings with the low bidder, Merit Contractors Niagara Ltd., following contract award.
- The NRPS 1 District budget will be offset by funding sources that do not impact the 2019 capital budget.

Financial Considerations

In April 2011 a project budget of \$83,076,100 was approved by Council to implement the NRPS Long-Term Accommodation Project. Of the overall budget, \$65,856,108 was allocated to the Headquarters & 2 District project (10PO0515), leaving \$17,219,992 to complete the 1 District facility project (20000805).

The NRPS Accommodations Master Plan envisioned construction of the NRPS Headquarters & 2 District Facility in Niagara Falls and a new 1 District Facility at the existing 68 Church Street property in St. Catharines. While working through the schematic design phase for 1 District, the NRPS and Region determined that constructing the new 1 District facility on the existing 68 Church Street property would not provide sufficient parking to meet operational requirements and requested the Police Services Board authorize the search for a new site. On January 18, 2013 Council approved staff to proceed with the design and tender of Headquarters & 2 District independent of the 1 District Facility in St. Catharines and that staff continue to work on finding a new site for 1 District.

The NRPS Headquarters & 2 District Facility proceeded through design, tender and construction and achieved substantial completion in September 2016. The project was delivered at a final cost of \$65,148,000, approximately \$900,000 under budget which is inclusive of \$191,892 in revenue from lease payments, energy incentives and credit in design costs.

The \$900,000 favourable variance on the NRPS Headquarters & 2 District budget is being returned to the Capital Variance Project and will be used to fund the 1 District project. The return of the \$900,000 to the Capital Variance Project reduces the overall ask for funds outside NRPS Long-Term Accommodations related capital projects from 3,795,841 to \$2,895,841.

As described earlier in the report, constructing the 1 District facility on the existing 68 Church Street site posed operational challenges for NRPS, necessitating the search for a new property. Following an extensive property search Council, through report CSD 62-2014, directed staff to proceed with the purchase of a new site at 198 Welland Avenue for the 1 District facility. The brownfield site was purchased and remediated at a total cost of approximately \$3.3M. The cost to purchase and remediate the Welland Avenue property was not accounted for in the original project budget since the 1 District facility was to be constructed on land owned by the Region. To address the unanticipated costs, the project team went through an extensive value engineering exercise, reducing the building program area and making additional modifications to the design prior to releasing the tender with the belief that the results would be within the available budget.

On August 14, 2018 the Region issued a Request for Tender for the construction of the NRPS 1 District Facility. Based on the results of the Request for Tender and a low bid of \$14,833,000 (before tax) or \$15,094,061 (including 1.76% non-refundable HST), the 1 District project is tracking \$3,795,841 over budget. The Project Budget Summary for 1 District is provided in Appendix 1.

After the tender closed, the consultant was requested by staff to review the results and identify any potential causes for the tenders coming in significantly higher than

anticipated. The Consultant's analysis identified approximately half of the variance was attributable to the refinement of drawings and specifications that occurred after the last cost estimate was prepared in addition to clarifications provided through addendums issued during the tender period. The remainder of the deficit is believed to be due to current market conditions and construction demands.

Since commencing operations at their new facility in Niagara Falls, NRPS has been managing an operational issue of insufficient parking on site. A change to the NRPS take home vehicle policy in 2014, resulted in greater number of vehicles being accommodated on site than originally contemplated during design. As a result, the parking lot is often over capacity presenting challenges for staff, especially during the winter months due to snow accumulation. To address the issue, it was proposed that an overflow parking area adjacent to the property be constructed at a cost of approximately \$400,000 with funding coming from the \$900,000 project surplus. The return of \$900,000 to the Capital Variance project to fund the 1 District Project has eliminated the funding source for the parking lot. It is anticipated that the required funding for the parking lot could be achieved through cost savings obtained from negotiations with Merit Contractors following award of the Contract.

Staff will report back to Council with updates on cost savings negotiated with the Contractor, the status of the parking lot at Headquarters and eventual disposition of the 68 Church Street property, proceeds of which will be returned to the Capital Variance Project that is funding the 1 District shortfall.

Analysis

A Request for Prequalification (RFPQ) of General Contractors "2018-RFPQ-04 - Request for Prequalification of General Contractors for the Niagara Regional Police Service (NRPS) 1 District Facility in St. Catharines" was issued through Procurement Services on May 18, 2018. The RFPQ closed on June 7, 2018 with the Region receiving a total of six (6) submissions from the following firms:

Aquicon Construction
BECC Construction Group Limited
Collaborative Structures Limited (CSL)
Matheson Constructors
Merit Contractors Niagara Ltd.
Tambro Construction Ltd.

Based on the size and quality of this project, it was anticipated there would be a greater number of respondents to the RFPQ. The low number of submissions was likely due to an active construction market. This fact is consistent with the cost consultant's review of the results. To achieve the best value for the project, it was the Region's intention to

prequalify the maximum number of contractors with the requisite experience and qualifications to successfully deliver the project.

A four member evaluation committee, with representation from the Niagara Regional Police Service (NRPS), Region and Architect, was formed to evaluate the RFPQ submissions. Proposals were evaluated independently by each committee member in accordance with the scoring criteria outlined in the RFPQ and approved by Council, through report CSD 20-2018. The evaluation committee convened on June 26, 2018 with a representative from Procurement to review individual scoring, discuss any deviations and to establish final scores for each proponent. The project team presented the evaluation results to the NRPS Steering Committee and were provided direction by the Committee to invite all six proponents to participate in the Request for Tender.

On August 14, 2018 the Region issued Request for Tender 2018-T-23 “Niagara Regional Police Service (NRPS) 1 District Facility St. Catharines – General Contractor for Construction” to the six invited bidders. A number of requests for information were submitted by the bidders throughout the tender period. To provide sufficient time for the consultants to respond and contractors to process and cost the information, the tender period was extended from the original closing date of September 13 to October 2, 2018.

The Region received bids from each of the six proponents. All submissions were reviewed by Procurement Services and found to be compliant bids. A summary of the tender results is presented in the table below.

NRPS 1 District Tender Results:

Bidder	Tender Price	Rank
Aquicon Construction Co. Ltd.	\$15,133,000	4
BECC Construction Group Ltd.	\$15,785,664	6
Collaborative Structures Limited	\$14,850,000	2
Matheson Constructors	\$14,962,288	3
Merit Contractors Niagara Ltd.	\$14,833,000	1
Tambro Construction Ltd.	\$15,120,000	5

Merit Contractors was the low bidder, submitting a tender price of \$14,833,000. All six bids were within \$952,664 (6.5%) of one another with the range considerably narrower at 1.9% for the top five bidders. The narrow spread is indicative of a competitive bidding process, however the cost per square foot was significantly higher than anticipated ranging from \$493 to \$504 per square foot. Based on most current construction estimate prepared by the Cost Consultant, the cost per square foot was expected to be in the range of \$379 per square foot. The Class B estimate was deemed by the Cost Consultant to be accurate to +/- 5 to 10 percent and was within a tolerance acceptable the Steering Committee to proceed to tender.

The two low bidders, Merit Contractors and Collaborative Structures Limited, submitted detailed cost breakdowns of their bids that were reviewed by the Consultant to identify any variations or discrepancies between the bids and the most current cost estimate.

The low bid of \$14,833,000 exceeds the available construction budget for the Project and award of the Contract cannot proceed unless additional funds are approved or the construction cost is brought back within the available budget. Reducing the budget by over \$3,000,000 would require substantive changes to the building program and large reductions in building area.

As part of their analysis, the Consultant identified a number of areas with potential for achieving targeted cost savings. The strategy focused on eliminating certain building elements, material substitutions and reduced finishes rather than eliminating square footage from the building, as area reductions were already considered and reduced during the design phase to reduce costs. The value of potential savings would be determined through negotiations with the low bidder but is anticipated to be a maximum of 30 percent of the current deficit.

The Request for Tender identified an irrevocability period of 90 days, which represents the duration for which contractors are required to hold their bid price. Based on a tender closing of October 2, 2019, the irrevocability period would have expired on December 31, 2018. With staff not being able to bring this report to Council until February 2019, Merit Contractors was approached to determine if they would be responsive to extending the irrevocability period for an additional 90 days to March 31, 2019. Merit Contractors has agreed to the extension and will hold their tender price until March 31, 2019.

Alternatives Reviewed

Staff reviewed several alternatives in analysing how to achieve required cost savings for the 1 District Project, giving consideration to best procurement practices and risk mitigation for the Region. Options considered included negotiation with the Contractor, cancelling the Request for Tender and re-issuing the bid documents under a new Tender. Details of the reviewed alternatives are provided in Appendix 2 of this report.

Relationship to Council Strategic Priorities

Highlight how the recommendation will strategically enforce/improve that priority (why this report is being brought forward).

Other Pertinent Reports

COTW 7-2009	Committee of the Whole	Sep 10, 2009
CSD 10-2013 (confidential)	Corporate Services Committee	Jan 9, 2013
CSD 123-2013	Corporate Services Committee	Dec 4, 2013
CSD 62-2014 (confidential)	Corporate Services Committee	Jul 16, 2014
CSD 76-2014 (confidential)	Corporate Services Committee	Sep 3, 2014
CSD 84-2014	Corporate Services Committee	Sep 24, 2014
CSD 20-2018	Corporate Services Committee	Apr 4, 2018

Prepared by:

Mislav Koren
Project Manager
Enterprise Resource Management
Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Enterprise Resource Management
Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Bradley Ray, Associate Director, Facilities Projects, Assets & Energy Management; Adam Niece, Program Financial Specialist, ERMS; Bart Menage, Director, Procurement and Strategic Acquisitions, ERMS; Donovan D'Amboise, Manager, Program Financial Support, ERMS; and reviewed by Brent Julian, Director, Construction, Energy & Facilities Management.

Appendices

Appendix 1	Total Estimated Project Cost Contract Award
Appendix 2	Analysis of Alternatives Reviewed
Appendix 3	Site Plan
Appendix 4	Exterior Renderings

CSD 13-2019 APPENDIX 1
Total Estimated Project Cost
Contract Award

Contract 2013-T-23 Niagara Regional Police Service (NRPS) 1 District Facility St. Catharines

	Council Approved Budget	Budget Increase/ Reallocation	Revised Council Approved Budget	Expended & Committed as of 12/19/18	Contract Award/ Forecast	Budget Remaining
	(A)	(B)	(C) = (A) + (B)	(D)	(E)	(F) = (C)-(D)- (E)
<u>Total Estimated Project Cost (20000805)*</u>						
(a) Construction (including Construction Contingency and 1.76% non-refundable HST)**	12,020,400	3,074,441	15,094,841	-	15,094,841	-
(b) Project Contingency	91,250	744,220	835,470	-	835,470	-
(c) Property Acquisition	1,359,321		1,359,321	1,359,321	-	-
(c) Furniture, Fixtures, Equipment	203,520		203,520	-	203,520	-
(d) Consulting Engineering Services						
i. Detailed Design & Contract Administration	1,224,712	(25,207)	1,199,505	960,981	238,525	-
ii. Fees & Permits	54,369		54,369	-	54,369	-
(e) Project Management (In-House) and Operations	304,348	2,387	306,735	102,874	203,861	-
(f) Miscellaneous (Site Remediation)	1,962,072		1,962,072	1,962,072	-	-
Total Estimated Project Cost	17,219,992	3,795,841	21,015,833	4,385,247	16,630,586	-

Project Funding Sources (NOTE - only include if you are increasing budget and only include relevant line items)

Regional reserves & debt	(17,069,313)		(17,069,313)	(4,535,926)	(12,533,387)	-
NRPS Capital Levy	(150,000)		(150,000)	(150,000)	-	-
Capital Interest Closeout	(679)		(679)	(679)	-	-
Capital Variance Project - Levy		(3,795,841)	(3,795,841)		(3,795,841)	-
	(17,219,992)	(3,795,841)	(21,015,833)	(4,686,605)	(16,329,228)	-

*All costs include 1.76% non-refundable HST

** Total Contract Award is equal to i) \$14,833,000 before tax; ii) \$15,094,061 including 1.76% non-refundable HST; iii) \$16,761,290 including 13% HST

Negotiating with the Lowest Compliant Bidder

The Region's Procurement By-Law No. 02-2016 allows for negotiation under specific circumstances, including when the lowest compliant bid received, meeting all specifications, exceeds the budget amount.

Staff reviewed the following two scenarios for negotiating with the lowest compliant bidder:

1. Negotiate the full amount of the variance
2. Negotiate to reduce the amount of the variance

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Negotiation	<p>1. Negotiate full amount of variance</p> <p>Timing:</p> <ul style="list-style-type: none"> • Redesign & Negotiation 1-2 months • SPA & Building Permit Re-submissions 2-3 months • Council approval of additional funding & contract award – March 2019 • Construction start – April 2019 	<ul style="list-style-type: none"> • Likely to involve significant changes to the building program including area reductions, affecting NRPS operations • Facility redesign of this magnitude would require resubmission for Site Plan Approval and Building Permit • Contract could be awarded within the approved budget without request for additional funding from Council <p>Risks:</p> <ul style="list-style-type: none"> • Irrevocability period would be exceeded and require written agreement from low bidder to honour their bid price for an extended period of time • Negotiation at odds with the express and implied duties of Contract A (the duty to award the contract as tendered) • May face legal challenge from other bidders

Negotiating the full amount of the variance would involve significant changes to the building program including large area reductions. The required revisions would impact police operations and result in a facility that isn't in compliance with the NRPS mandate to deliver adequate and effective policing. This approach also carries significant legal risk as it runs contrary to Contract "A" obligations created under the terms of the RFP. Therefore this approach was not recommended.

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Negotiation	<p>2. Negotiate to reduce amount of the variance & seek Council approval for remaining funds</p> <p>Timing:</p> <ul style="list-style-type: none"> • Redesign & Negotiation 4-6 weeks • Council approval of contract award and additional funding– January 2019 • Construction start – February 2019 	<ul style="list-style-type: none"> • Less significant changes not likely to affect building program or NRPS operations • Revisions not likely to require resubmission for Site Plan Approval or Building Permit • Project would require approval of additional funding by Council <p>Risks:</p> <ul style="list-style-type: none"> • Irrevocability period would be exceeded and require written agreement from low bidder to honour their bid price for an extended period of time. • Negotiation at odds with the express and implied duties of Contract A (the duty to award the contract as tendered) • May face legal challenge from other bidders, however risk may be lower if changes not significant • Council may not award additional funding for project

Negotiating with the lowest compliant bidder to reduce the amount of the variance would involve less significant changes to the building program. NRPS operations may still be impacted if building elements were to be removed from the project or higher life cycle costs may be realized if less durable finishes are selected to reduce the construction cost. There remains some legal risk with this approach, but to a lesser extent than if the full amount of the variance was negotiated. Additional project funding would still be required with this approach. This approach was not recommended, however there is an opportunity to negotiate with the Contractor following award of the Contract. This would significantly reduce any perceived procurement issues around negotiation.

Cancel Request for Tender and Re-issue Bid Documents

The Request for Tender (RFT) document provides the Region with reserved rights including the ability to cancel the RFT process at any stage and issue a new RFT for deliverables the same as or similar to the deliverables.

Staff reviewed the following two scenarios for cancelling and reissuing the Tender:

1. Cancel RFT and re-tender for deliverables the same as or similar to the Deliverables
2. Cancel RFT and re-tender on modified Bid Documents

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Cancel RFT	<p>1. Cancel RFT and re-tender for deliverables the same as or similar to the Deliverables</p> <p>Timing:</p> <ul style="list-style-type: none"> • Re-issue Tender Documents 4-8 weeks • Council approval of contract award (and budget increase) – January 2019 • Construction start – February 2019 	<ul style="list-style-type: none"> • Re-issuing same or similar documents will likely result in pricing that is over budget • Would be perceived as bid shopping and not be looked upon favourably by the bidders • Project would still require additional funding and need to be approved by Council • Irrevocability period would not be exceeded <p>Risks:</p> <ul style="list-style-type: none"> • Face significant legal risk from all bidders for perceived bid shopping • May not have all bidders respond to the RFT • High probability of remaining over budget • May not have the ability to add additional funding to the 2019 capital budget • Council may not award additional funding for project • Region may be perceived negatively for employing this methodology and could impact future procurements

Cancelling the RFT and reissuing similar documents under a new procurement process would likely result in bids that are still over budget. If changes to the documents are not substantive, the bidders may perceive this as bid shopping and elect not to participate in the procurement process or commence legal action against the Region for bid shopping. The Region may be perceived negatively for employing this methodology and could impact future procurements. The option was not recommended.

OPTION	DESCRIPTION & TIMING	ITEMS TO CONSIDER
Cancel RFT	<p>2. Cancel RFT and re-tender on modified Bid Documents</p> <p>Timing:</p> <ul style="list-style-type: none"> • Re-design and issue Tender Documents 8-10 weeks • SPA & Building Permit Re-submissions 2-3 months • Council approval of contract award (and budget increase) – March 2019 • Construction start – April 2019 	<ul style="list-style-type: none"> • Re-issuing tender documents with sufficient changes to original scope so as not to constitute bid shopping • Project still likely to require additional funding that would need to be approved by Council • Redesign of facility may require resubmission for Site Plan Approval and Building Permit • Irrevocability period would not be exceeded <p>Risks:</p> <ul style="list-style-type: none"> • Substantive changes to project scope may impact NRPS operations • Tenders may still come in over budget and require additional funding • If Tenders come in over budget may not have the ability to add additional funding to the 2019 capital budget • Council may not award additional funding for project

To revise the scope of the project to realistically align with the budget under current market conditions and allow all bidders to compete for the revised contract in a new procurement process would involve making substantive changes to the program and negatively impact NRPS operations. For these reasons this option was not recommended.







MEMORANDUM

CSC-C 4-2019

Subject: Councillor Information Request – Code of Conduct Documents

Date: February 20, 2019

To: Corporate Services Committee

From: Ann-Marie Norio, Regional Clerk

At the Corporate Services Committee meeting held on January 9, 2019, the following Councillor Information Request was made:

Councillor Ip requested staff provide information respecting the review of the current code of conduct and report back at the Corporate Services Committee meeting being held on February 20, 2019 and include a copy of the Code of Conduct drafted by John Mascarin, Niagara Region's previous Integrity Commissioner.

Staff can confirm that a Committee of the Whole meeting has been tentatively scheduled for April 11, 2019 to have Dr. Sancton provide his final report to Council which will include his recommendations respecting the Code of Conduct.

In accordance with the above request, please find attached the Code of Conduct as drafted by John Mascarin, Niagara Region's previous Integrity Commissioner.

Respectfully submitted and signed by

Ann-Marie Norio
Regional Clerk

Attachments: PBLRC-C 11-2017 Appendix A Code of Conduct

Appendix A

Code of Conduct

REGIONAL MUNICIPALITY OF NIAGARA
CODE OF CONDUCT FOR MEMBERS OF COUNCIL
[MAY, 2017]

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;

- (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;

- (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.

6.0 The Role of Staff

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.

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;
- (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
- (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

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.

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

- (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;
- (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;
- (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.

9.0 Confidentiality

- 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".
- 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.
- 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.
- 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

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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

- 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.

MEMORANDUM

CSC-C 6-2019

Subject: Shape Niagara – Council Strategic Planning Process

Date: February 20, 2019

To: Corporate Services Committee

From: Kristen Delong, Manager of Internal Control & Organizational Performance

With the beginning of each new term of Regional Council, staff prepares a background report which serves to inform the new Council on the current state of Niagara. Combining the background report information with Councilor's individual knowledge, Council identifies the priorities that will be the focus of the organization for the next four years and creates a new Council strategic plan.

Staff will be leading Council through their strategic planning process over the coming months; this memo serves to introduce the process and outline the initial timelines.

Why a strategic plan?

A strategic plan sets the direction and establishes priorities for the organization. It defines the organization's vision for success and prioritizes the activities that will make this vision a reality. The strategy will tell staff what they should be focusing on, so that work can be aligned with Council's priorities.

What is Shape Niagara?

For this current Council, staff have been working to prepare two reports which capture both the results of an extensive community engagement initiative, *What We've Heard*, with information collected through an environmental scan of Niagara, *Setting the Stage for Strategy*. The combination of these reports captures the voice and ideas of residents, input from senior staff from across the organization, and trends and influencing factors. This work has been branded as the Shape Niagara initiative.

Expected Timelines

With only four years to make a meaningful impact, it is important to identify a strategy early in the term that is focused and clear in its direction. This will set the stage for staff's work plans for the next four year period, and ensure the entire organization is moving in the same direction towards the set out goals.

Staff from the Internal Control & Organizational Performance division will be bringing the *Setting the Stage for Strategy* report to Committee of the Whole on April 4, 2019, and will provide a re-cap of the *What We've Heard* report.

A Council workshop will be scheduled in May, 2019 that will bring all Regional Councillors together to identify and prioritize their strategic objectives for the term. At this workshop, Council will be provided the opportunity to renew the vision for the organization, set their strategic objectives and goals, and begin identifying criteria for an implementation plan to action the strategy.

The final strategy is expected to be brought to Council for their approval at the July 18, 2019 Council meeting. From there the implementation plan will be developed and brought forward for Council's approval in alignment with the 2020 budget planning process.

Respectfully submitted and signed by,

Kristen Delong
Manager of Internal Control & Organizational Performance
Enterprise Resource Management Services

MEMORANDUM

CSC-C 7-2019

Subject: City of Welland Motion re: Forks Road Bridge

Date: February 20, 2019

To: Corporate Services Committee

From: Todd Harrison, Commissioner/Treasurer

At the January 31, 2019 Budget Review Committee of the Whole (BRCOTW) meeting, a motion regarding the Forks Road Bridge in Welland was referred to staff to provide a report to the BRCOTW meeting to be held on February 14, 2019. Specifically, the motion from the City of Welland requested that the Region of Niagara assume the Forks Road bridge and budget \$4 million in the 2019 capital budget for demolition, pier testing and detailed design subject to staff advising the impact of the approval on the 2019 budget.

This motion is a very significant request of the Region, consequently, staff were unable to have a report and recommendation for the February 14th BRCOTW meeting. As a result, staff agreed to bring back a memo to this Corporate Services Committee meeting outlining the key facts. While this memo has been drafted due to the immediacy of the matter facing the City of Welland, staff strongly recommend Council's consideration to bring back a more fulsome report at a later date if Council wishes to move forward with the motion as presented by Councillor Campion.

This request is unique in a number of ways. This memo will cover the original asset transfer to the Region, the subsequent transfer to the City from the Region, an example of similar asset transfer, and some key financial factors of this request.

Original Asset Transfer to the Region

The Forks Road Bridge was transferred by the St. Lawrence Seaway to the combined parties of (Region of Niagara, City of Welland, City of Thorold, Federal & Provincial Governments) in an agreement dated February 21, 1994.

The finalized asset transfer by the St. Lawrence Seaway to the Region was completed in March 1994 for \$1.

Approximately \$850K worth of rehabilitation works were completed on the Forks Bridge at the time of transfer to the Region. The costs were shared between Region (50%) and Feds/Province (50%), without contributions from the lower tier municipalities.

Additional rehabilitation was performed by the Region leading up to and prior to the asset transfer to the City of Welland. In 1997, the Region issued a Rehabilitation of Forks Road Bridge Tender RN97-06. Works included: tower removals, new sidewalk, expansion joint rehabilitations, abutment repairs, pier resurfacing, new curbing, asphalt replacement, and steel strengthening for approximate costs totaling \$700K, funded exclusively by the Region.

Asset Transfer from the Region to the City of Welland

Regional Council approved the transfer of this section of roadway, including the structure to the City of Welland on April 20, 2000. The transfer of Forks Road, the surrounding road system as well as the bridge to the City was determined by the Road Classification Criteria (1996). Similar roads and structures were transferred across all of Niagara, based on these criteria. The asset was considered to be in good condition at the time of transfer. Attached is a map of the road system discussed in this report.

This transfer was 19 years ago. A normal lifespan of the bridge would indicate it would have been due for a reconstruction by 2020. Ellis Engineering performed a Bridge Inspection Report for the Region on this bridge in 1999. It indicated steel work repairs and coating were needed at an estimated \$1.3M within 1-5 years in excess of the rehabilitation that was previously performed in 1997.

Ellis Engineering commenced performing bridge inspections for the City of Welland in 2002 and have continued to the present time. Forks Rd Bridge is included in those inspections. Regional staff understand that the City was made aware in 2010 by Ellis Engineering based on a Rehab vs Replacement Analysis Report, that a replacement was needed by 2020. Cost of replacement was estimated at \$8.7M in 2010 dollars. Regional staff understand that the capital infrastructure pressures facing the City of Welland and all other local area municipalities are significant. However, the time horizon of this information being known was sufficient to develop a funding strategy.

Other Asset Transfers to the Region

Several Reports dated between 1999 and 2000 were brought forward to PWC and Council regarding the downloading of several roadways and some bridge structures throughout the Region to other Municipalities, based on similar Road Classification Criteria. A notable example of a bridge transfer, the Merritt Bridge transferred in 2000 to the City of St. Catharines which was later replaced at an approximate cost of \$7M to the City.

Other Financial Considerations Related to the Motion

As per Ontario Regulation 588/17 section 5.(1) Every municipality shall prepare an asset management plan in respect of its core municipal infrastructure assets by July 1, 2021, and in respect of all of its other municipal infrastructure assets by July 1, 2023.

The Region of Niagara has recently approved its own Asset Management Plan (AMP) where a funding shortfall of over \$500M has been identified. Specifically for this term of Council, there is a funding gap on the levy based assets of \$214.5M. The Region has proposed a 2019 Capital Budget of \$274.2M which does not include replacing non-Regional assets. While the Region regularly coordinates infrastructure projects with local area municipalities, it does not fund their infrastructure needs.

In addition, if Regional Council decides to provide funding for the initiative by including the \$4M in its capital budget, the Region would be required to eliminate a similar sized project from its own assets which would be a contradiction to its AMP. Alternatively, if the Region decided to provide a grant to Welland for the \$4M cost, this would increase the Regional levy request by 1.19% to a cumulative total of 6.9% for 2019. Neither option is recommended by staff. Lastly, moving forward with this request would establish a precedent that may cause other LAM's to make similar requests thereby compounding the Region's ability to fund its infrastructure.

Lastly, it should be noted that the average capital expenditure for the remainder of this council's term for transportation assets is approximately \$100M annually without consideration of local area municipal projects.

Staff's Recommendation to the Motion

Staff does not recommend assuming the Forks Road Bridge back from the City of Welland, nor does it support budgeting \$4 million in the 2019 capital budget for demolition, pier testing and detailed design of the Forks Road Bridge.

Respectfully submitted and signed by

Todd Harrison, CPA, CMA
Commissioner/Treasurer

Appendix 1 – Map of the Road System

