



THE REGIONAL MUNICIPALITY OF NIAGARA  
PROCEDURAL BY-LAW REVIEW COMMITTEE  
AGENDA

PBLRC 3-2019

Tuesday, July 30, 2019

2:30 p.m.

Committee Room 4

Niagara Region Headquarters

1815 Sir Isaac Brock Way, Thorold ON

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	Pages
1. <u>CALL TO ORDER</u>	
2. <u>DISCLOSURES OF PECUNIARY INTEREST</u>	
3. <u>PRESENTATIONS</u> None.	
4. <u>DELEGATIONS</u> None.	
5. <u>ITEMS FOR CONSIDERATION</u>	
5.1 <u>PBLRC-C 8-2019</u> Outstanding Recommendations from the Ontario Ombudsman Report "Press Pause"	3 - 12
6. <u>CONSENT ITEMS FOR INFORMATION</u>	
6.1 <u>PBLRC-C 7-2019</u> Regional Development Charge Complaint Hearing Process	13 - 17
6.2 <u>PBLRC-C 9-2019</u> Councillor Information Request - Information respecting Member Term Length on Committees and Agencies, Boards and Commissions	18 - 19
7. <u>OTHER BUSINESS</u>	

8. **NEXT MEETING**

The next meeting will be held at the call of the Chair.

9. **ADJOURNMENT**

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

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## MEMORANDUM

**PBRLC-C 8-2019**

**Subject: Outstanding Recommendations from the Ontario Ombudsman Report  
“Press Pause”**

**Date: July 30, 2019**

**To: Procedural By-law Review Committee**

**From: Ann-Marie Norio, Regional Clerk**

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Further to the recommendations of the Ontario Ombudsman Report “Press Pause”, there are some outstanding items to be reviewed by the Procedural Review Committee. Those items are noted below. The referenced policies are attached.

3. The Regional Municipality of Niagara should clarify its intent with respect to the authority of staff to seize personal property in its procedure by-law and policies, with reference to the rights protected by the *Canadian Charter of Rights and Freedoms*.

**Action Taken:**

On March 22, 2018, Regional Council approved By-law 2018-31, a by-law that amended Niagara Region Procedural By-law 120-2010, as amended, to include provisions respecting personal recording devices being found during a closed session meeting.

Council further approved policy C-RC-007 Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council was approved by Council on July 5, 2018.

This matter can be further reviewed by the Procedural By-law Review Committee to consider further refinements that may be required.

4. The Regional Municipality of Niagara should ensure that any by-law or policy that references “improper conduct” include a definition of that term, including reference to specific categories or examples.

**Action Taken:**

Policy C-RC-007 does reference “disruptive behaviour” and “improper conduct” and the Procedural By-law (section 9.5) references expulsion for “improper conduct” and policy C-A-025 Managing Public Spaces in a Safe and Welcoming

Environment. This policy will be referred to the Procedural By-law Review Committee for further examination.

5. The Regional Municipality of Niagara should amend its procedural by-law and relevant policies to state that expulsion from a meeting should not take place unless the Chair is satisfied that evidence exists to support expulsion.

**Action Taken:**

Currently the Procedural By-law does not contain any provisions related to this; however, staff will include this recommendation for consideration by the Procedural By-law Review Committee.

6. The Regional Municipality of Niagara should amend its procedural by-law to specify that, where the Chair exercises his authority under the *Municipal Act, 2001*, to expel an individual from a meeting, the reasons for the expulsion must be recorded in the meeting minutes.

**Action Taken:**

Currently the Procedural By-law does not contain any provisions related to this; however, staff will include this recommendation for consideration by the Procedural By-law Review Committee.

9. The Regional Municipality of Niagara should amend its procedural by-law to clarify council's authority to exercise discretion to hold a closed session outside of a set agenda order.

**Action Taken:**

The Procedural By-law (section 9.13) provides as follows:

*After the Council agenda has been adopted by resolution, a motion to move into closed session is only in order if the motion relates to an item already on the approved agenda and a closed session is permitted in accordance with the provisions of this by-law.*

This; however, can be further reviewed by the Procedural By-law Review Committee to see if further clarification to other related provisions of the by-law would be beneficial.

Respectfully submitted and signed by

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Ann-Marie Norio  
Regional Clerk

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Regional Council</i>	<i>Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council</i>

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<b>Policy Owner</b>	Regional Clerk
<b>Approval Body</b>	Regional Council
<b>Approval Date</b>	July 5, 2018
<b>Effective Date</b>	July 10, 2018
<b>Review by Date</b>	May 2019

## 1. Policy

This policy has been developed to uphold the Values of the municipality and introduce procedures to effectively conduct closed session meetings of Council and/or Committee.

## 2. Purpose

This policy will improve the management of personal items, equipment and disruptive behaviour that may occur prior to or during a closed session of Council and/or Committee.

## 3. Scope

This policy applies to all Councillors and Regional staff. Adherence to this policy will enable the improvement to the business flow of Council when transitioning from open to closed session.

### 3.1. Roles and Responsibilities

The primary responsibility in administering and reviewing this policy is the Regional Clerk. Although the primary responsibility of administering this policy resides with the Regional Clerk, the overall responsibility is the Chief Administrative Officer, and thereafter, the Regional Chair.

## 4. References and Related Documents.

### 4.1. Legislation, By-Laws and/or Directives

Municipal Act

Procedural By-Law

<i>Policy Category</i>  <i>Regional Council</i>	<i>Name of Policy</i>  <i>Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council</i>
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## 4.2. Procedures

- 4.2.1 All authorized video recordings of Committee and Council should be readily posted on the Region's website as coordinated by the Office of the Regional Clerk. Any request for the video recording should be made to the Office of the Regional Clerk.

### Closed Sessions

- 4.2.2 If a motion of Committee or Council is duly passed to proceed into closed session (as permitted under the *Municipal Act*), then the Regional Chair or presiding officer will read aloud a statement to the media and public that all portable belongings (such as laptops, smartphones, cameras and associated equipment) are to be removed. The Regional Chair or presiding officer shall provide sufficient time (maximum of five minutes) for the media and public area to vacate.
- 4.2.3 Upon the direction of the Clerk, the Deputy Clerk or Legislative Coordinator will scan the meeting room to ensure all personal belongings in the media and public areas are removed. In the event that an item is left behind by the media or public, the Clerk will request that the appropriate security personnel remove the item. The security personnel will then return the item to the appropriate person owning the property. If the owner cannot be identified, the item will be secured in the Clerk's Office until the owner claims the item.
- 4.2.4 For clothing items (such as hats, gloves, scarfs, etc.), the item will be kept in the "lost and found" container for a period of one year. Thereafter, the item will be donated or discarded.
- 4.2.5 If there exists heavy or bulky media equipment (such as a recording camera on a tripod), then the Clerk may grant permission to leave the equipment within the meeting room, provided that the equipment is powered down and turned away from the Council seating area.
- 4.2.6 Should staff or Council locate equipment that has possibly recorded a closed session meeting, the owner of the equipment shall be located and the owner shall demonstrate to the Clerk that the device has not recorded. If the device did record the meeting inadvertently, then the owner shall erase the recording to the satisfaction of the Clerk. Should the owner of the item not be compliant with the request of the Clerk, then Section 4.2.7 and 4.2.8 applies.

### Disruptive Behaviour

- 4.2.7 If there is a member of the media (including a citizen journalist or member of the public) that does not comply with the direction of the Clerk or security personnel, then every attempt will be made to speak with the person to discuss the disruptive behavior.

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Regional Council</i>	<i>Management of Personal Items, Equipment and Disruptive Behaviour Prior to a Closed Session of Committee or Council</i>

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4.2.8 If the disruptive behaviour continues, the Regional Chair or presiding officer may expel the person for improper conduct at a meeting, as per Section 241 (2) of the *Municipal Act*. Should the person not comply with the decision of the Head of Council or presiding officer, the security personnel will contact police services for assistance.

## 5. Related Policies

Procedural By-Law

## 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	July 5, 2018	July 10, 2018

### Revision History

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



<i>Policy Category</i>	<i>Name of Policy</i>
<i>Administrative</i>	<i>Managing Public Spaces in a Safe and Welcoming Environment</i>

Page 1 of 4

<b>Policy Owner</b>	Office of the Regional Clerk
<b>Approval Body</b>	Council
<b>Approval Date</b>	March 22, 2018
<b>Effective Date</b>	March 22, 2018
<b>Review by Date</b>	March 2019

## 1. Policy

This policy has been developed to uphold the Values of the municipality and create a safe and welcoming environment within public spaces.

## 2. Purpose

This policy will provide procedures for designated regional staff in managing public spaces.

## 3. Scope

This policy applies to all Councillors and regional staff. Adherence to this policy will create a safe and welcoming environment within public spaces.

### 3.1. Roles and Responsibilities

The primary responsibility in administering and reviewing this policy is the Regional Clerk. Although the primary responsibility of administering this policy resides with the Regional Clerk, the overall responsibility is the Chief Administrative Officer, and thereafter, the Regional Chair.

## 4. References and Related Documents.

### 4.1. Legislation, By-Laws and/or Directives

Charter of Rights and Freedoms, Section 2, Fundamental Freedoms.

Ontario Human Rights Code

Includes discriminatory behaviour to a person's Age; Ancestry, colour, race; Citizenship, Ethnic origin, Place of origin; Creed; Disability; Family status; Marital status (including single status); Gender identity, gender expression; Sex (including pregnancy and breastfeeding); and Sexual orientation.

<i>Policy Category</i>	<i>Name of Policy</i>
Administrative	<i>Managing Public Spaces in a Safe and Welcoming Environment</i>

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Municipal Act

Procedural By-Law

Improper conduct may include verbal or non-verbal behaviour that has been deemed to be discriminatory to a person's Age; Ancestry, colour, race; Citizenship, Ethnic origin, Place of origin; Creed; Disability; Family status; Marital status (including single status); Gender identity, gender expression; Sex (including pregnancy and breastfeeding); and Sexual orientation.

## 4.2. Procedures

4.2.1 All persons are welcomed to public spaces managed by the Region of Niagara.

Non-Meeting Public Spaces

4.2.2 If improper conduct occurs at a public space managed by the Region of Niagara, the most senior official of the municipality that is immediately available shall manage the issue. For the purpose of defining the most senior official, the following ranking shall be used:

Chief Administrative Officer

Commissioner or General Manager

Director or Regional Clerk

Associate Director

Manager

Supervisor

Most Senior Employee

4.2.3 If the senior official deems the conduct to be an immediate danger to the person engaged in the conduct, or others, then 9-1-1 shall be called and local police services shall be requested. The senior official will attempt have all persons leave the immediate area to reduce the exposure to the danger.

4.2.4 If the senior official has confirmed the conduct was improper, but the conduct has stopped, the senior official will document the event (including identifying persons involved, witnesses, and all employees). The senior official will then file a report with the Corporate Leadership Team (CLT). The CLT will then determine if any further action is warranted.

4.2.5 If the senior official has confirmed the conduct is improper, and the conduct is continuing, the senior official will request that the conduct be immediately stopped.

<i>Policy Category</i>	<i>Name of Policy</i>
Administrative	<i>Managing Public Spaces in a Safe and Welcoming Environment</i>

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4.2.5.1 If the conduct is stopped, the senior official will document the event (including identifying persons involved, witnesses, and all employees). The senior official will then file a report with the Corporate Leadership Team (CLT). The CLT will then determine if any further action is warranted.

4.2.5.2 If the conduct does not stop, the senior official will contact local police services for assistance. Thereafter, the senior official will document the event (including identifying persons involved, witnesses, and all employees). The senior official will then file a report with the Corporate Leadership Team (CLT). The CLT will then determine if any further action is warranted.

#### Disruptive Behaviour at a Committee or Council Meeting

4.2.7 If there is a member of the public that does not comply with the direction of the Clerk or security personnel, then reasonable attempts will be made to speak with the person to discuss the disruptive behavior.

4.2.8 If the disruptive behaviour continues, the Head of Council or presiding officer may expel the person for improper conduct at a meeting, as per Section 241 (2) of the *Municipal Act*. Should the person not comply with the decision of the Head of Council or presiding officer, the security personnel will contact police services for assistance.

## 5. Related Policies

Procedural By-Law

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Administrative</i>	<i>Managing Public Spaces in a Safe and Welcoming Environment</i>

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## 6. Document Control

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Approver(s)	Approved Date	Effective Date

### Revision History

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

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## **MEMORANDUM**

**PBLRC-C 7-2019**

**Subject: Regional Development Charge Complaint Hearing Process Background**

**Date: July 30, 2019**

**To: Procedural By-Law Review Committee**

**From: Helen Chamberlain, Director/Deputy Treasurer**

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The Procedural By-Law Review Committee made the following request for information at the meeting held on June 17, 2019:

*Provide information respecting Development Charge hearings being held at a Committee meeting rather than a meeting of Regional Council.*

The following has been prepared as additional background on the complaint process adopted by the Region:

- Section 20 of the Development Charges (DC) Act provides a means to address Development Charge complaints.
- On March 3, 2011, Council elected to delegate the authority to hold the complaint hearings to the appropriate Standing Committee of Council. Planning Committee at that time had purview of the DCs therefore complaints went to that committee and a By-Law, attached as Appendix 1, to delegate authority was passed by Council.
- On May 16, 2018, when reviewing the Regional Development Charges Task Force (RDCTF) Terms of Reference (TOR), an amendment was recommended that hearings be directed to Corporate Services Committee (CSC) as that committee now had purview of DCs as a result of changes to the committee by-laws. However committee directed staff to return the authority to hold complaint hearings back to Council, repealing the previously passed By-Law. The concern was that by continuing to have a committee hold the hearings it would diminish the authority of Council.
- Council approved the revised Regional process for complaint hearings on July 5, 2018 as per CSD 12-2018 Revised.

Should Council direct future complaints to be heard by CSC, the TOR and a By-Law would need to be updated for Council's consideration. If Council delegates the authority to hold complaint hearings to CSC, then any complaint rulings made by CSC would be final and would not need to be ratified by Regional Council.

Respectfully submitted and signed by

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Helen Chamberlain, CPA, CA  
Director, Financial Management & Planning/Deputy Treasurer

By-law No. 02-2014 was repealed by By-law No. 2018-61.

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THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 02-2014

A BY-LAW TO DELEGATE  
REGIONAL COUNCIL'S POWER  
TO HOLD HEARINGS  
UNDER THE *DEVELOPMENT CHARGES ACT, 1997*

WHEREAS Section 20 of the *Development Charges Act, 1997* (the "Act") permits a person required to pay development charges to complain to the Council of the municipality imposing the development charge; and

WHEREAS Complainants are entitled under the Act to make representations at a hearing before Council; and

WHEREAS Regional Council may delegate the power to hear such complaints to a Committee of Council; and

WHEREAS Regional Council adopted the Terms of Reference for the Regional Development Charge Task Force on March 3, 2011, stating that appeals of staff decisions respecting development charges may go to "an appropriate Standing Committee of Council".

WHEREAS Regional Council wishes to repeal By-law No. 82-2012 and replace same with an updated by-law regulating the delegation of the power to hold hearings under the *Development Charges Act, 1997*.


NOW THEREFORE BE IT RESOLVED THAT the Council of the Regional Municipality of Niagara enacts as follows:

1. That the power under the *Development Charges Act, 1997* to hold hearings into complaints about development charges is hereby delegated to the Standing Committee having responsibility for Development Services;
2. That following such hearings, the Standing Committee shall report to the full Regional Council for its information; and



3. This By-law takes effect on the day it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

  
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Gary Burroughs, Regional Chair  
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Janet Pilon, Regional Clerk

Passed: January 16, 2014

## MEMORANDUM

**PBLRC-C 9-2019**

**Subject: Councillor Information Request - Information respecting Member Term Length on Committees and Agencies, Boards and Commissions**

**Date: July 30, 2019**

**To: Procedural By-law Review Committee**

**From: Ann-Marie Norio, Regional Clerk**

The Corporate Services Committee, at its meeting held on February 20, 2019, referred the matter of Membership Limits for Standing Committees to the Procedural By-law Review Committee for consideration.

The Procedural By-law Review Committee made the following request for information at the meeting held on June 17, 2019:

*Provide information respecting any rules or processes currently in place which determine the length of term for members appointed to Committees, including appointments made by Regional Council to its Agencies, Boards and Commissions.*

Staff have provided excerpts from legislation respecting term length in the following table:

<b>Committee / ABC</b>	<b>Legislation</b>	<b>Clause Respecting Length of Term</b>
Niagara Regional Housing Board of Directors	<i>Corporations Act, 1990</i>	<p><u>Section 287(2)</u> Unless the by-laws otherwise provide, the election of directors shall take place yearly and all the directors then in office shall retire, but, if qualified, are eligible for re-election. R.S.O. 1990, c. C.38, s. 287 (2); 1998, c. 18, Sched. E, s. 76 (1).</p> <p><u>Section 287(5)</u> The by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. R.S.O. 1990, c. C.38, s. 287 (5); 1998, c. 18, Sched. E, s. 76 (2).</p>
Niagara Peninsula Conservation Authority	<i>Conservation Authorities Act, 1990</i>	<u>Section 14(4.1)</u> A member shall be appointed for a term of up to four years, as may be determined by the council that appoints the member. 2017, c. 23, Sched. 4, s. 12 (2).

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Niagara Region Police Services Board	<i>Police Services Act. 1990</i>	<u>Section 27(10.1)</u> The term of office for a member appointed by resolution of a council shall be as set out by the council in his or her appointment, but shall not exceed the term of office of the council that appointed the member. 1997, c. 8, s. 19 (2).
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It has been the practice of Council to appoint members of its Standing and Advisory Committees for a four-year term, in alignment with the term of office of the Council appointing those members.

Additional considerations respecting a change in the length of term for members appointed to Committees, including Agencies, Boards and Commissions, are as follows:

- Time required to advertise for vacant citizen/community member positions
- Orientation of newly appointed members to Committee/Board processes, procedures and strategic priorities, where applicable.

Respectfully submitted and signed by

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Ann-Marie Norio  
Regional Clerk