



THE REGIONAL MUNICIPALITY OF NIAGARA
CORPORATE SERVICES COMMITTEE
AGENDA

CSC 2-2020

Wednesday, February 12, 2020

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 Exemption under the *Retail Business Holidays Act* - 2664479 Ontario Limited, operating as Sobeys Grocery Store - 450 Garrison Road in the Town of Fort Erie

3.1 Registered Speakers

No speakers had been registered at the time of this agenda's release.

3.2 Report for Consideration

3.2.1 CLK 2-2020

Application for Tourism Exemption for Holiday Openings under the Retail Business Holiday Act – 2664479 Ontario Limited operating as Sobeys Grocery Store - 450 Garrison Road in the Town of Fort Erie

4 - 21

3.3 Adjournment of the Public Participation Meeting under the Retail Business Holidays Act

4. PRESENTATIONS

5. DELEGATIONS

6. ITEMS FOR CONSIDERATION

- | | | |
|-----|--|---------|
| 6.1 | <u>HR 1-2020 REVISED</u>
Chief Administrative Officer (CAO) Recruitment, Selection, Offer of
Employment and Performance Management Policy and Procedures | 22 - 45 |
| 6.2 | <u>HR 2-2020</u>
Citizen Appointments to Women's Advisory Committee | 46 - 48 |
| 6.3 | <u>CSD 4-2020 REVISED</u>
Appointments to the Licensing Appeals Committee | 49 - 58 |

A presentation will precede the consideration of this item.

7. CONSENT ITEMS FOR INFORMATION

- | | | |
|-----|---|---------|
| 7.1 | <u>CSD 13-2020</u>
Disposition Strategy for Lands Previously Declared Surplus | 59 - 71 |
| 7.2 | <u>CSC-C 4-2020</u>
Update on Recommendations from Report CAO 17-2019 –
Recommendations from the Ontario Ombudsman Report “Inside Job”
November 2019 | 72 - 77 |

8. OTHER BUSINESS

9. CLOSED SESSION

- | | |
|-----|--|
| 9.1 | <u>Confidential Appendix 1 to Report HR 2-2020</u>
A Matter Respecting Personal Matters About Identifiable Individuals -
Recommended Citizen Appointments to the Women's Advisory
Committee |
| 9.2 | <u>Confidential Appendix 1 to Report CSD 4-2020 REVISED</u>
A Matter Respecting Personal Matters About Identifiable Individuals -
Recommended Citizen Appointments to the Licensing Appeals
Committee |
| 9.3 | <u>Confidential CSC-C 3-2020</u>
A Matter of a Proposed or Pending Acquisition or Disposition of Land by
Niagara Region - Disposition Strategy for Lands Previously Declared
Surplus |
| 9.4 | <u>Confidential CSD 12-2020</u>
A Matter Respecting a Proposed Acquisition of Land by the Municipality
– Public Health Lease Extension, 3550 Schmon Parkway, Thorold |

10. **BUSINESS ARISING FROM CLOSED SESSION ITEMS**

11. **NEXT MEETING**

The next meeting will be held on Wednesday, March 11, 2020 at 9:30 a.m. in the Council Chamber, Regional Headquarters.

12. **ADJOURNMENT**

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

Subject: Application for Tourism Exemption for Holiday Openings under the *Retail Business Holiday Act* – 2664479 Ontario Limited operating as Sobeys Grocery Store - 450 Garrison Road in the Town of Fort Erie

Report to: Corporate Services Committee

Report date: Wednesday, February 12, 2020

Recommendations

1. That Report CLK 2-2020, Application for Tourism Exemption for Holiday Openings under the *Retail Business Holidays Act*, 2664479 Ontario Limited operating as Sobeys Grocery Store - 450 Garrison Road in the Town of Fort Erie, **BE RECEIVED**;
2. That the application from 2664479 Ontario Limited, requesting a tourism exemption under the *Retail Business Holidays Act*, to permit the Sobeys grocery store, located at 450 Garrison Road, in the Town of Fort Erie, to open on Family Day, Victoria Day, Canada Day, Labour Day and Thanksgiving Day from 7:00 a.m. to 11:00 p.m., Good Friday from 7:00 a.m. to 7:00 p.m. and any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of the *Retail Business Holiday Act*, **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 application for tourism exemption, under the *Retail Business Holidays Act*, to permit the Sobeys grocery store located at 450 Garrison Road in the Town of Fort Erie to open on Family Day, Victoria Day, Canada Day, Labour Day and Thanksgiving Day from 7:00 a.m. to 11:00 p.m., Good Friday from 7:00 a.m. to 7:00 p.m. and any other public holiday declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of this Act.
- By-law No. 7396-93, granted a tourism exemption to the IGA Grocery store located at 200 Garrison Road, in the Town of Fort Erie to open on New Year's Day, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and the 26th day of December.
- A letter supporting this application, received from the Town of Fort Erie in response to the Region's request for comments, is attached as Appendix 2 to this report.

Financial Considerations

There are no financial considerations.

Analysis

The application received from 2664479 Ontario Limited, operating as Sobeys grocery store, 450 Garrison Road, Fort Erie, requests a tourism exemption under the *Retail Business Holidays Act* to permit the store to open on Family Day, Victoria Day, Canada Day, Labour Day and Thanksgiving Day from 7:00 a.m. to 11:00 p.m., Good Friday from 7:00 a.m. to 7:00 p.m. and any other public holiday that may be declared by proclamation of the Lieutenant Governor to be a holiday for the purposes of the *Retail Business Holidays Act*.

This application has 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 application is available as Appendix 1 to this report.

By-law 6728-92 requires that a public meeting be held in order that any interested persons have the opportunity to comment on the application. A notice of the public meeting respecting this application was posted on the Region's website on January 3, 2020 and in the Fort Erie Observer on January 9, 2020.

On November 28, 2019, a letter was sent to the Clerk of the Town of Fort Erie requesting comments regarding this application. Correspondence dated January 6, 2020, received from the Town of Fort Erie in support of this request for the tourism exemption for Sobeys grocery store is attached to this report as 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. The applicant has stated that Mathers Park is 1.7 km from the store.
- 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."

The applicant refers to Regional By-law 7396-93 in the application. This by-law, passed by Regional Council on November 18, 1993, grants permission for the IGA grocery store located at 79 Courtwright Steet ("soon to be located at 200 Garrison Road") in the Town of Fort Erie to open on New Year's Day, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and the 26th day of December for the "maintenance of development

of tourism.” The applicant has stated that the IGA grocery store located at 200 Garrison Road was later moved to 450 Garrison Road, the banner name of the store changed to Sobeys and as such, the store has continued to remain open on the days granted under this by-law as they were unaware that the by-law was for a specific location only.

Alternatives Reviewed

Council could decide not to approve this application for a Tourism Exemption for Holiday Openings for this store.

Relationship to Council Strategic Priorities.

This report aligns with Council’s Strategic Priority of Supporting Businesses and Economic Growth, specifically Economic Growth and Development (Strategic Objective 1.1).

Other Pertinent Reports

None.

Prepared and Recommended by:

Ann-Marie Norio
Regional Clerk

Submitted by:

Ron Tripp, P. Eng.
Acting Chief Administrative Officer

Appendices

Appendix 1	Application for Tourism Exemption
Appendix 2	Letter of Support from the Town of Fort Erie

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:

2664479 ONTARIO LTD. (SOBEYS FONT ERIE)

Mailing Address of Applicant:

450 GARRISON ROAD

FONT ERIE, ONTARIO

L2A 1N2

Telephone No. of Applicant: 905-871-0463

Fax No.: 905-871-1555

Email Address of Applicant

mike.barnes@sobeys.com

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

MICHAEL BARNES

Mailing Address of Applicant:

450 GARRISON ROAD

Font Enie, ONTARIO

L2A 1N2

Telephone No. of Applicant:

289-696-1605

Fax No.:

905-871-1555

Email Address of Applicant

mike.barnes@sobeys.com

4. Location of Retail Business Establishment

Municipal Address

Street Number, Municipality

450 GARRISON ROAD

Font Enie, ONTARIO

L2A 1N2

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

SUPERMARKET

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

35,272 (TOTAL STORE)

Total No. of Employees normally serving the public:

100 TOTAL EMPLOYEES

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:

MATHEUS PARK (Arch) 1.7 km

Old Fort Erie 2.1 km

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

Provide Food & BEVERAGES TO Purchase
for TOURISTS & LOCALS

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.

DELI Prepared MEALS, GROCERIES
AND BEVERAGES

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

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

Font Erie

- b) Describe subject area (in words):

GOOGLE MAPS ATTACHED.

(Please attach a map or sketch)

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

1

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

YES

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

YES

If not, explain how it does not:

BUSINESS IS LARGER THAN

2,400 SQUARE FEET WITH MORE THAN

4 EMPLOYEES

- 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)

0

Google Maps

Mather Arch, Niagara Pkwy, Fort Erie, ON to Sobeys Fort Erie Walk 1.4 km, 19 min



Map data ©2019 Google

200 m



via Garrison Rd/Niagara 3

4 min

Fastest route, despite the usual traffic

1.7 km



via Lakeshore Rd and Concession Rd

5 min

2.6 km



via Garrison Rd/Niagara 3

19 min

Mostly flat

1.4 km

Google Maps Old Fort Erie to Sobeys Fort Erie

Drive 2.1 km, 4 min



Map data ©2019 Google 200 m

Old Fort Erie

350 Lakeshore Rd, Fort Erie, ON L2A 1B1

↑ 1. Head north on Lakeshore Rd toward Dominion Rd
5 s (62 m)

↶ 2. Turn left onto Dominion Rd/Niagara 1
20 s (170 m)

Take Concession Rd to Niagara 3

↗ 3. Turn right at the 1st cross street onto Radford St
400 m

↗ 4. Turn right onto Albany St
300 m

↶ 5. Turn left onto Concession Rd
800 m

↶ 6. Turn left onto Niagara 3
41 s (350 m)

Drive to your destination

18 s (58 m)

➤ 7. Turn right

28 m

➤ 8. Turn right

 Destination will be on the left

30 m

Sobeys Fort Erie

450 Garrison Rd, Fort Erie, ON L2A 1N2

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

- 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:

FAMILY DAY 7am-11pm, GOOD FRIDAY 7am-7pm,

VICTORIA DAY 7am-11pm, CANADA DAY 7am-11pm,

LABOUR DAY 7am-11pm + THANKSGIVING DAY 7am-11pm

2. Is request seasonal in nature, e.g. summer months only? *ANY OTHER PUBLIC HOLIDAYS DECLARED BY PROCLAMATION OF THE LIEUTENANT GOVERNOR TO BE A HOLIDAY FOR THE PURPOSE OF THIS ACT*
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?

None

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:

BY-LAW NO. 7396-93 WAS GRANTED TO IGA

WHICH WAS LOCATED AT 200 GARRISON ROAD WHICH LATER

MOVED TO 450 GARRISON ROAD AND SWITCHED BRANDS NAMES

TO SOBEY. SOBEYS HAS CONTINUED TO OPEN ON HOLIDAYS NO
REALIZING THE BY-LAW DIDN'T MOVE WITH THE STORE.

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?

WITH THE INFORMATION ABOVE I FEEL

NOT HAVING A SUPERMARKET OPEN IN FORT

THAT WOULD HAVE A NEGATIVE IMPACT ON THE COMMUNITY

AND THE TOURIST WHO CAMP AND COTTAGE IN
THE AREA.

Bill 7390

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 7396-93

A BY-LAW TO PERMIT IGA CURRENTLY LOCATED
AT 79 COURTWRIGHT STREET AND SOON TO BE
LOCATED AT 200 GARRISON ROAD IN THE TOWN
OF FORT ERIE, TO BE OPEN ON CERTAIN HOLIDAYS
FOR THE MAINTENANCE OR DEVELOPMENT OF TOURISM

WHEREAS pursuant to section 4(1) of the Retail Business Holidays Act, R.S.O. 1990, Chapter R.30, as amended, the Council of the Region may by by-law permit retail business establishments in the Region to be open on holidays for the maintenance or development of tourism;

AND WHEREAS Regional Council has taken into account the principle that holidays should be maintained as common pause days;

AND WHEREAS there is compliance with the tourism criteria set out in the regulations made under section 4 of the Retail Business Holidays Act;

AND WHEREAS application has been made by certain persons carrying on retail business in the Region and by the Corporation of the Town of Fort Erie;

AND WHEREAS Regional Council has considered the written material submitted in support of the application;

AND WHEREAS Regional Council has held a public meeting in respect of this by-law;

AND WHEREAS Regional Council has published notice of the public meeting in a newspaper having general circulation in the Municipality at least thirty days before the meeting was held;

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

1. The following retail business establishment in the Town of Fort Erie may be open on New Year's Day, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and the 26th day of December:

IGA, currently 79 Courtwright Street, and soon to be 200 Garrison Road.

Bill 7390

- 2 -

2. This by-law shall come into force and take effect, subject to an appeal under section 4.3 of the Retail Business Holidays Act, on the thirty-first day after it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA


(Brian E. Merrett, Regional Chair)


(Sandra McDougall, Acting Regional Clerk)

Passed: November 18, 1993

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.

EXECUTION BY APPLICANT

I, MICHAEL BANNES, of the Town of Font Enne in the
(Name of Applicant) (City, Town, or Township) (Name of Municipality)

Niagara Region 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

Region of Niagara
(city, town, or municipality)

of the City of Thorold

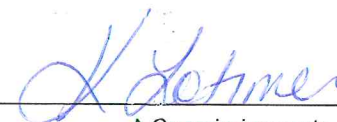
in the Province of Ontario,


(Applicant)

this 26th day of

November, 20 19th

Deputy Clerk
Regional Municipality of Niagara


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:



Community Services

Legislative Services

January 6, 2020
File No. 110301

Sent via Email: "Norio, Ann-Marie" <Ann-Marie.Norio@niagararegion.ca>

Ms. Ann-Marie Norio
Regional Clerk
Regional Municipality of Niagara
1815 Sir Isaac Brock Way
P.O. Box 1042
Thorold, ON L2V 4T7

Dear Ms. Norio:

**Re: Request for Comments on Application for Tourism Exemption for Holiday
Openings – Sobeys, 450 Garrison Road, Fort Erie**

Further to your letter dated November 28, 2019 regarding the above-referenced matter, please be advised that I circulated your enquiry to the relevant parties and their comments are as follows:

Mr. Al Stouffer, Coordinator – Community Liaison and Business Licencing advised that Sobeys have two licences:

1. New Business Licence issued on July 2, 2019, only expires when ownership changes or location changes. The licence number is 2019-45.
2. Restaurant/Fresh Food Licence issued on July 2, 2019 is an annual licence expiring on December 31 of the current year. Licence number is 2019-44.

No other pertinent information.

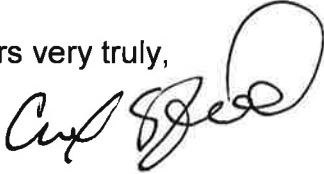
Ms. Ann-Marie Norio
Regional Clerk

Page 2

Ms. Caralee Grummett, Ec.D., Manager, Economic Development & Tourism Services advised that from an economic development and tourism perspective, there is no objection to Sobey's application for a tourism exemption under the *Retail Business Holiday Act*.

Trusting this information is of assistance to you.

Yours very truly,



Carol Schofield, Dipl. M.A.
Manager, Legislative Services/Clerk
cschofield@forterie.ca

CS/cw

Subject: Chief Administrative Officer (CAO) Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures

Report to: Corporate Services Committee

Report date: Wednesday, February 12, 2020

Recommendations

1. That the Chief Administrative Officer Recruitment, Selection, Offer of Employment and Performance Management, attached to Report HR 01-2020 REVISED as Appendix 1, **BE APPROVED**;
2. That the corresponding Procedure Chief Administrative Officer Recruitment, Selection, and Offer of Employment, attached to Report HR 01-2020 REVISED as Appendix 2, **BE APPROVED**;
3. That the Chief Administrative Performance Management Procedure, attached to Report HR 01-2020 REVISED as Appendix 3, **BE APPROVED**.

Key Facts

- The purpose of this report is to obtain Council's approval of the CAO Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures.
- The Chief Administrative Officer Recruitment, Selection, and Offer of Employment Procedure includes a Terms of Reference for a CAO Recruitment Committee made up of the Regional Chair, specific members of Council, and applicable staff as noted therein.
- Council approval of the attached Policy and Procedures will satisfy the previous direction given to staff in Report CAO 17-2019 to take the necessary steps to implement the corresponding recommendations provided in the Ontario Ombudsman Report "Inside Job" dated November 2019 related to the CAO Recruitment process.
- **The initial report was discussed at Special Council on January 23, 2020. Council provided input on changes within the policy and procedures pertaining to the CAO Recruitment, Selection, and Offer of Employment Policy and Procedures, and subsequently referred the report to Corporate Services Committee.**
- **This revised report captures a number of the suggestions made at Special Council as they pertain to the CAO Recruitment, Selection, and Offer of Employment Policy and Procedures, there were no suggested changes to the Performance Management Procedure, as a result no changes have been made.**

-
- The Policy and Procedures are newly created with research conducted of best practices and survey of other municipal partners; if approved these would come into effect immediately upon Council approval.
 - The approval of the Policy and associated Procedures will provide Council the mechanisms to move forward with the recruitment of a permanent CAO should they wish to do so, it will ensure any CAO Recruitment is undertaken in a way that will address the concerns raised as a result of the 2016 hiring process.

Financial Considerations

The recommendations, as a result of the Ombudsman Report, are primarily policy and procedure focused and do not have any direct financial implications, save and except staff time to undertake the work, members of Council time to sit on the noted Committees, and the future costs associated with the services of an external Executive Search Firm to undertake the CAO recruitment and selection process in the future.

Should Council wish to proceed with the recruitment of a permanent CAO, any costs related to CAO recruitment activities in 2020 will be funded through the existing, and Council approved, 2020 budget.

Analysis

On November 29, 2019, the Ontario Ombudsman released his report titled “Inside Job” respecting the investigation he conducted regarding the process Niagara Region undertook in the 2016 hiring of its Chief Administrative Officer (CAO); the administration of the CAO’s contract, including any extension and amendment; and Niagara Region’s response to concerns about the CAO’s hiring, including the municipal ombudsman’s investigation and the external governance auditor.

The Ombudsman put forward 15 recommendations within the report to address the issues that were identified as part of his investigation (and a 16th recommendation requiring Niagara Region to report back at six-month intervals on progress in implementation of the recommendations). This Report and the corresponding Appendices serve to directly address the following numbered recommendations from the Ontario Ombudsman Report:

3. *The Regional Municipality of Niagara should require all officials and staff with access to confidential hiring process information to sign a specific confidentiality agreement at the outset of the process.*
4. *The Regional Municipality of Niagara should ensure that the terms of reference it establishes for a recruitment committee provide for a complete list of the staff and officials permitted to access confidential information.*
6. *The Regional Municipality of Niagara should adopt a policy clarifying that employees should not engage in any behaviour that provides an unfair*

advantage to a candidate during a hiring process, including assisting candidates by providing inside information such as interview questions and suggested answers.

9. *The Regional Municipality of Niagara should adopt a policy setting out the process for hiring a Chief Administrative Officer, including the appropriate roles of staff and their accountability to council or a committee of council charged with the hiring.*
12. *Before making changes to a contract affecting its legal interests, the Regional Municipality of Niagara should require staff to consult legal and human resources staff to ensure the terms are lawful and consistent with the municipality's interests.*
13. *The Regional Municipality of Niagara should adopt a policy governing the process for CAO performance appraisals.*

The attached CAO Recruitment, Selection, Offer of Employment and Performance Management Policy and corresponding Procedures are entirely new; they were drafted in response to the recommendations contained within the Ombudsman Report. In accordance with the recommendations of this report, staff have reviewed what is currently in place, researched best practices, considered tools and resources suggested in the Ombudsman Report, including reached out to a number of upper and lower tier municipalities to ensure that any Policy and Procedures that are put in place, subject to Council approval, would satisfy the recommendations of the Ombudsman.

Regarding the Terms of Reference for the CAO Recruitment Committee, staff ***have amended some of the provisions as outlined in the attached CAO Recruitment, Selection, and Offer of Employment Policy and Procedures, including the CAO Recruitment Committee Terms of Reference contained therein.*** ~~are recommending that this Committee be comprised of the 3 Chairs, and in the case of the Public Health and Social Services Committee 1 of the Co-Chairs, of each of the 4 Standing Committees (it also does include the process to select replacement members), plus the Regional Chair who will also assume the Chair of the CAO Recruitment Committee. The recommendation regarding the participation of the Chair's of the Standing Committee's is based primarily on how their respective roles work closely with the role of the CAO, and that their role as Chair of their respective Committee's are required to work within a mandate and make recommendations to be considered by Council.~~

Niagara Region currently has some other policies in place that are relevant to the aforementioned recommendations such as: Code of Ethics/Conflict of Interest, Accountability and Transparency, Delegation of Powers and Duties, Execution of Documents By-law, and Employment and Staffing. Staff will ensure, in light of the Ombudsman's recommendations, that those policies are strengthened and consistent with the attached Policy and Procedures and will be respectively brought back to Council at a future date.

The recruitment of a permanent CAO has been held in abeyance pending the completion of the Provincial governance review and the Ombudsman's Report into the 2016 CAO hiring process. Given that both of those matters have now been concluded, staff have created the Policy and Procedures as directed by Council in Report CAO 17-2019. The approval of these items will ensure that the corresponding Policy and Procedures, and the amended By-law that has been prepared under separate Report, are in place prior to a CAO recruitment process being initiated. As a result, should Council approve this Report, staff recommends proceeding with the recruitment of a permanent CAO done so in accordance with this Policy. Should Council **Approve this Policy**, a Report outlining next steps in the CAO recruitment process will be brought to the Corporate Services Committee meeting on **March 11, 2020 and will include direction to staff to proceed with the appointment of members to the Recruitment Committee at Regional Council.**

Alternatives Reviewed

Municipalities, both local and beyond, were contacted for information on their CAO recruitment practices, including requests for copies of any policies related to same. Although the existence of a policy specific to the recruitment of a CAO are not generally in place, there is a fairly consistent approach that Human Resources facilitate the engagement of an external executive search firm to guide any candidate search, and to form a committee of Council tasked to be a recruitment committee.

Consideration was given to have internal staff and resources from Human Resources conduct the CAO Recruitment process; this alternative is not recommended for a number of reasons; namely Human Resources currently reports to the CAO and the optics of hiring their own manager are not favourable to the corporation. The inclusion of an Executive Search Firm (ESF) as part of the Policy brings the objectivity, specialized skills, and ability to perform a broader search for optimal candidates, still allows the Region to set the scope of work any ESF would undertake in the CAO recruitment process.

Relationship to Council Strategic Priorities

This report is based on the recommendations of the Ontario Ombudsman and Council's prior confirmation of same; however, the implementation of this Policy and corresponding Procedures aligns with Council's Strategic Priority of Sustainable and Engaging Government.

Other Pertinent Reports

- CAO 17-2019 – Recommendations from the Ontario Ombudsman Report "Inside Job" November 2019

Prepared and Recommended by:

Franco Meffe

Director, Human Resources

Submitted by:

Ron Tripp, P.Eng.

Acting, Chief Administrative Officer

This report was prepared in consultation with Ann-Marie Norio, Regional Clerk, and Jodie Middleton, Manager Organizational Development and Talent Acquisition.

Appendices

Appendix 1 – **REVISED** Chief Administrative Officer Recruitment, Selection, Offer of Employment and Performance Management Policy

Appendix 2 – **REVISED** Chief Administrative Officer Recruitment, Selection, and Offer of Employment Procedure

Appendix 3 – DRAFT Chief Administrative Officer Performance Management Procedure

<i>Policy Category</i>	<i>Name of Policy</i>
Human Resources	Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management

Page 1 of 5

Policy Owner	Corporate Administration, Human Resources, Director Human Resources
Approval Body	Regional Council
Approval Date	
Effective Date	
Review by Date	

1. Policy

Regional Council is committed to engaging in good governance through approved policy and procedures for both the recruitment (attraction, selection and offer of employment) and performance management (performance appraisal, objective setting and development plan) for the position of Chief Administrative Officer (CAO).

2. Purpose

The CAO is the senior appointed official of the Regional Municipality and provides leadership in all operational areas, policy, government affairs, business/service delivery, and implementation of Council's strategic priorities. Ensuring the CAO is qualified for the role; that the terms and conditions of their employment are appropriate; that their annual performance is properly aligned to key priorities; and that the incumbent is functioning at an appropriate level, is a key accountability of Council.

3. Scope

This policy applies to the role of the CAO, Council, and key designated external vendors and staff roles accountable for execution of the policy.

There are to be no acts of favouritism or discrimination in the CAO recruitment process. Members of Council, staff, external vendors, and anyone else approved to be part of the recruitment process shall not attempt to influence the hiring of any applicant in a manner that is inconsistent with this policy. This includes that no one shall engage in any behaviour that provides an unfair advantage to a candidate during the CAO recruitment process to assist any candidates by providing inside information, such as but not necessarily limited to, interview questions and suggested answers, presentation materials, information about

<i>Policy Category</i>	<i>Name of Policy</i>
Human Resources	Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management

Page 2 of 5

other candidates, or any information gathered in meetings, conversations, email or any other form of communication or discussion.

3.1. Roles and Responsibilities

3.1.1. CAO New Hire Recruitment, Selection and Offer of Employment

- Regional Chair: Serves as Chair of the **Recruitment Committee and oversees performance management process**; ensures the requirements of XXX Policy is fulfilled. Includes establishing **Council approved Recruitment Committee** membership, working with any external Executive Search Firm (**ESF**), enforcement of roles and responsibilities, **provide regular detailed updates in writing to Council concerning the recruitment and selection process including particulars of preferred candidate(s)**, along with integrity and confidentiality requirements. Oversees hiring process through Recruitment Committee and ESF selection, to **Council approval** of candidate offer of employment.
- Recruitment Committee Member: **Acts on behalf of members of Council in the recruitment and selection process**. Engages in all procedural elements as outlined in respective XXX Procedure. Includes mandatory attendance at all meetings and interviews, engaging in the development of selection criteria and position profile development as required, **collaborating with the Chair and ESF on providing regular detailed updates in writing to Council concerning the recruitment and selection process including particulars of preferred candidate(s)**. Requires alignment to all integrity and confidentiality requirements.
- Director, Human Resources: Facilitates the recruitment process on behalf of the Regional Chair and Recruitment Committee, **and the performance management process**. Serves as primary contact point for any ESF; provides guidance and advice to the Chair and Recruitment Committee members ensuring best practices and legal interests of the corporation are upheld, **supports the Chair and Recruitment Committee in the preparation of regular detailed written update(s) to Council**, leads the procurement of an ESF, facilitates Legal consultation and candidate offer of employment and/or offer letter creation, and any amendment to the employment contract; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.
- Executive Search Firm (ESF): An external firm or specialized consultant who works with the Chair and Recruitment Committee to confirm the CAO profile, position

Policy Category	Name of Policy
Human Resources	Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management

competencies, and search, selection and offer strategy. **ESF** accountabilities will align with the **defined** scope of work, which may include but not necessarily limited to – attraction, screening of prospective candidates, development of short list of candidates to be interviewed by the Committee, including they may support the interview, reference **checking** and offer of employment process as required.

Required to attend meeting(s) of Council to provide detailed updates to members of Council concerning the recruitment and selection process, be prepared to present to Council on its processes to short list candidates, provide candid feedback on the recruitment process, provide observation(s) on any short listed candidates, along with responding to any inquiries made by members of Council.

- **Acting/Interim CAO:** A member of the Region's Corporate Leadership Team or an external person appointed by Council to fulfil the duties of the CAO on an acting or temporary basis. The appointment of the Acting CAO does not preclude their candidacy in the selection process for a permanent CAO. If they are not a candidate for the permanent role, they may participate as a member of the Recruitment Committee if approved by the Chair and Recruitment Committee. However, if they are a candidate for the position as permanent CAO, they are not permitted to participate or influence the recruitment process and must excuse themselves from all business associated with same.
- **Regional Clerk:** Ensures required governance related supports and advice to ensure effective completion of the process; provides agenda and meeting management functions; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.
- **Regional Council:** Responsible for the hiring of the CAO and all associated approvals noted within this Policy and its Procedures. ***Attendance at any meeting of Council where matters pertaining to the CAO recruitment, selection, and offer of employment are being discussed.***

3.1.2. Performance Management

- **Regional Chair:** Ensures the mandate of the XXX Procedure is fulfilled annually. Includes development and execution of annual performance management schedule, providing feedback to CAO; enforcement of roles and responsibilities, annual rating selection, report creation to Council, annual objective and development plan setting with the CAO as well as integrity and confidentiality requirements.
- **Chief Administrative Officer:** Completing annual assessment; engaging in all aspects of the process as laid out in this XXX policy and the procedure document.

<i>Policy Category</i>	<i>Name of Policy</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management</i>

Page 4 of 5

- Engaging in the performance appraisal process, and development of annual objectives and development plan.
- Director, Human Resources: Initiates and facilitates the performance appraisal process and creation of annual objective and development plan on behalf of the Regional Chair in accordance with the Region's Non-Union Performance Management Program. Sources and serves as primary point of contact for additional resources or supports such as Legal or Consultants. Provides guidance and advice to the Chair as required, is required to attend all meetings with Council, and any other meetings upon request of the Chair.
 - Regional Clerk: Ensures required governance related supports and advice to ensure effective completion of the process; provides agenda and meeting management functions; is required to attend all meetings with Council, and any other meetings upon request of the Chair.
 - Regional Council: Responsible for the evaluation of the performance of the CAO and all associated approvals noted within this Policy and Procedures. ***Attendance at any meeting of Council where matters pertaining to CAO performance management are being discussed.***

4. References and Related Documents.

List related legislation, directives, By-laws and associated procedures

4.1. Legislation, By-Laws and/or Directives

- Municipal Act, 2001
- Employment Standards Act, 2000
- CAO By-law # XXX

4.2. Procedures

- XXX – Chief Administrative Officer Recruitment, Selection, Offer of Employment
- XXX – Chief Administrative Officer Performance Management

5. Related Policies

- Non-Union Compensation C-HR-001
- Employment and Staffing C-HR-010

6. Document Control

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

Approval History

<i>Policy Category</i> <i>Human Resources</i>	<i>Name of Policy</i> <i>Chief Administrative Officer – Recruitment, Selection, Offer of Employment, and Performance Management</i>
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Page 5 of 5

Approver(s)	Approved Date	Effective Date

Revision History

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

<i>Procedure Category</i>	<i>Name of Procedure</i>
Human Resources	Chief Administrative Officer – Recruitment, Selection, and Offer of Employment

Procedure Owner	Corporate Administration, Human Resources, Director Human Resources
Parent Policy	XXX – Chief Administrative Officer Recruitment, Selection, Offer of Employment, and Performance Management
Approval Body	Regional Council
Approval Date	
Effective Date	
Review by Date	

The following procedure outlines the Chief Administrative Officer (CAO) Recruitment, Selection, and Offer of Employment.

When a permanent vacancy for CAO occurs, the Regional Chair (**Chair**) notifies the Director, Human Resources (HR) to initiate the recruitment process to fill the permanent CAO vacancy **in accordance with** the XXX Policy and XXX Procedure.

The Director HR, *in consultation with the Chair*, will initiate the CAO selection process in accordance with the CAO Recruitment Committee Terms of Reference as follows:

Chief Administrative Officer Recruitment Committee Terms of Reference

Mandate / Scope

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

The mandate of the Chief Administrative Officer (CAO) Recruitment Committee is to facilitate the recruitment process for the CAO and recommend to Regional Council a preferred candidate for the role of CAO.

Goals/Purpose

1. *Formation of a CAO Recruitment Committee*

- a. The Committee will be comprised of the Regional Chair, who will serve as Committee Chair, and four (4) members of Regional Council to be appointed by Regional Council. Members must be able to commit to full and active participation over the course of the CAO recruitment, including mandatory attendance at all meetings, interviews, etc.*
- b. CAO Recruitment Committee will be governed by the Region's Procedural By-law.*

2. *Engagement of an External Executive Search Firm (ESF)*

- a. CAO Recruitment Committee, in consultation with Director Human Resources, to determine scope of work and select ESF, as per the Niagara Region Procurement By-law.*
- b. ESF to develop the key CAO character traits and competencies required, in consultation with the CAO Recruitment Committee, to drive results forward in Niagara.*
- c. ESF to undertake CAO candidate search, with active engagement of the CAO Recruitment Committee.*
- d. ESF, in consultation with the Recruitment Committee, to provide detailed updates to Council concerning the recruitment and selection process, be prepared to present to Council on its processes to short list candidates, provide candid feedback on the recruitment process, observation(s) on any short listed candidates, along with responding to any inquiries made by members of Council.*

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

3. CAO Recruitment Process

- a. ***CAO Recruitment Committee members actively participate in a transparent, competitive, and comprehensive recruitment process, while holding in strict confidence all confidential information concerning matters dealt with by the Committee.***
- b. ***CAO Recruitment Committee, with ESF, to provide detailed updates to members of Council concerning the recruitment and selection process.***
- c. ***Upon completion of the recruitment process, the CAO Recruitment Committee to present up to three (3) preferred candidate(s) to Regional Council for approval of a preferred candidate and approval on presented associated terms and conditions of employment.***
- d. ***Upon Regional Council's approval of the preferred candidate, Council authorizes the Director, HR, to extend the approved terms of employment to the preferred candidate, in a form satisfactory to the Director Legal and Court Services, in consultation with any external legal counsel as required, ensuring all legal requirements are met.***

Recruitment Committee Membership

The membership structure of the CAO Recruitment Committee will be comprised of **five (5) members of Regional Council, including the Regional Chair, who will serve as Committee Chair.**

Privacy Considerations

The CAO Recruitment Committee will comply with all open meeting provisions. Information provided to the CAO Recruitment Committee, specifically pertaining to applicants for the position of the CAO, will be held in strict confidence and managed in accordance with the principles of protection of personal information as defined by the *Municipal Freedom of Information and Protection of Personal Privacy Act* (MFIPPA).

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

The CAO Recruitment Committee shall hold in strict confidence all confidential information concerning matters dealt with by the Committee, members of the Recruitment Committee, and any approved staff who support the recruitment process, will be required to execute a confidentiality agreement at the outset of the recruitment and selection process.

Attendance

A recruitment best practice is that all candidates are interviewed by a consistent interview panel, in support of a fair, transparent, and comprehensive recruitment process. It is mandatory that members of the CAO Recruitment Committee actively participate in all stages of the CAO recruitment process, with specific attention paid to attending all CAO candidate interviews, at any/all steps of the process.

A member of the CAO **Recruitment** Committee who is absent for two (2) ~~consecutive~~ meetings shall be deemed to have resigned from the committee and Regional Council will be notified that a re-appointment is necessary.

The aforementioned does not preclude Council from re-appointing the Committee member in question.

Staff Support to Committee

The Director, HR, Director, Legal and Court Services, and the Regional Clerk, or their respective designates, will function in an advisory capacity to the CAO Recruitment Committee, and the selected ESF. Involvement of any staff not noted herein will require Recruitment Committee approval prior to being engaged to provide any support to the Committee or be in attendance at meetings. In any event, any staff engaged to support the Recruitment Committee shall hold in strict confidence all confidential information concerning matters dealt with by the Committee, including all such staff will be required to execute a confidentiality agreement prior to engaging in support of the Committee. The Director HR, and the Regional Clerk, or their respective designates, are required to attend all Recruitment Committee and Council meetings.

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

Financial Resources

The CAO Recruitment Committee will consult with the Director, HR, to secure the required financial resources to fulfill the direction of the committee to facilitate the CAO recruitment.

Frequency of Reporting

Regular, ***detailed written updates will be provided to Regional Council throughout the CAO recruitment and selection process up to and including particulars of preferred candidate(s) being presented to Regional Council. This will include participation of ESF representative, as defined in XXX Policy.***

Termination of CAO Recruitment Committee

The CAO Recruitment Committee shall cease at the conclusion of a successful recruitment of a new CAO.

Meetings

Meetings shall be governed by Niagara Region's Procedural By-law as may be amended from time to time.

The following is intended to provide further clarity concerning the above Terms of Reference in support of the CAO recruitment process:

1. The Recruitment Committee will be orientated to By-laws, Policies, and Procedures relevant to the recruitment of a CAO. They will be educated on the roles, responsibilities and accountabilities of their role including confidentiality and ethics based expectations, along with executing a confidentiality agreement at the outset of the recruitment and selection process.
2. The Recruitment Committee, with the support of the Director HR and ESF, will engage in a thorough and comprehensive analysis of the position requirements of Senior Leader Competencies, skills, experience, knowledge and qualifications of the role. Due to the importance of this position, consultation with the Corporate Leadership Team, other ***relevant***

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

staff, and community stakeholders may be initiated and incorporated into the recruitment and selection process.

3. The recruitment methodology inclusive of any testing and/or evaluations will be determined by the Recruitment Committee through consultation with the ESF and Director HR, and will be aligned to Regional Policy. The position will be advertised both internally and externally.
4. In consultation with the Recruitment Committee and Director HR, the ESF will undertake CAO recruitment activities within the approved scope of work, which may include but not be limited to: posting the vacant position through appropriate channels, targeted recruitment, review of all applicant resumes and follow up to clarify applicant experience for short listing purposes, screen prospective candidates and develop a formal short list of candidates to be recommended to the Recruitment Committee, leadership assessment, reference checking, and preparation of a written summary of a specific number of candidates as agreed to with the Recruitment Committee for consideration for short listing.
5. The Recruitment Committee and the ESF will interview and assess selected candidates with the intent to identify preferred candidates.
6. Based on the results of interview(s), any testing, evaluation, or assessment, reference checking, etc... the Recruitment Committee will make a recommendation on preferred candidates ***in a report to Regional Council for consideration.***
7. The Director, HR will be responsible for the preparation of ***the Council approved terms of the*** offer of employment to the preferred candidate, including the responsibility to engage the Director Legal and Court Services, and any external Legal Counsel when preparing the offer of employment, and negotiation with the preferred candidate, if any. The Offer of Employment documentation will align to corporate practice and meet all legal requirements, including ensuring compensation is aligned to the Non-Union Compensation Policy and Salary Administration Procedures.
8. Any report to Council as noted above will include a detailed summary of the recruitment and selection process undertaken by the Recruitment Committee.

Procedure Category	Name of Procedure
Human Resources	Chief Administrative Officer – Recruitment, Selection, and Offer of Employment

Definitions

Regional Chair: Serves as Chair of the **Recruitment** Committee; ensures the requirements of XXX Policy is fulfilled. Includes establishing **Council approved** committee membership, working with Director HR and the ESF, enforcement of roles and responsibilities, **provides regular detailed updates in writing to Council during the recruitment and selection process including particulars of preferred candidate(s)**, along with integrity and confidentiality requirements. Oversees hiring process through Recruitment Committee and ESF selection, to **Council approval of preferred** candidate offer of employment.

Recruitment Committee Member: **Acts on behalf of members of Council in the recruitment and selection process**. Engages in all procedural elements as outlined in respective XXX Procedure. Includes mandatory attendance at all meetings and interviews, engaging in the development of selection criteria and position profile development as required, **collaborating with the Chair and ESF on providing regular detailed updates in writing to Council concerning the recruitment and selection process including particulars of preferred candidate(s)**. Requires alignment to all integrity and confidentiality requirements.

Director, Human Resources: Facilitates the recruitment process on behalf of the Regional Chair and Recruitment Committee. Serves as primary contact point for any ESF; provides guidance and advice to the Chair and Recruitment Committee members ensuring best practices and legal interests of the corporation are upheld, **supports the Chair and Recruitment Committee in the preparation of regular detailed written update(s) to Council**, leads the procurement of an ESF, facilitates Legal consultation and candidate offer of employment and/or offer letter creation, and any amendment to the employment contract; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.

Executive Search Firm (ESF): An external firm or specialized consultant who works with the Chair and Recruitment Committee to confirm the CAO profile, position competencies, and search, selection and offer strategy. **ESF** accountabilities will align with the **defined** scope of work, which may include but not necessarily limited to – attraction, screening of prospective candidates, development of short list of candidates to be interviewed by the Committee, including they may support the interview, reference **checking** and offer of employment process as required. **Required to attend meeting(s) of Council to provide detailed updates to members of Council concerning the recruitment and selection process, be prepared to present to Council on its processes to short list candidates, provide candid feedback on the**

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

recruitment process, provide observation(s) on any short listed candidates, along with responding to any inquiries made by members of Council.

Regional Clerk: Ensures required governance related supports and advice to ensure effective completion of the process and provides agenda and meeting management functions; is required to attend all meetings with the Recruitment Committee and with Council, and any other meetings upon request of the Chair.

Regional Council: Responsible for the hiring of the CAO and all associated approvals noted within this Policy and its Procedures. ***Attendance at any meeting of Council where matters pertaining to the CAO recruitment, selection, and offer of employment are being discussed.***

Competencies: In addition to high character traits, are the attitudes and behaviours required at a high level of performance for an individual to be successful in a role.

1. Appendices

None

2. Document Control

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

Approval History

Approver(s)	Approved Date	Effective Date

Revision History

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Recruitment, Selection, and Offer of Employment</i>

Revision No.	Date	Summary of Change(s)	Changed by
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<i>Procedure Category</i>	<i>Name of Procedure</i>
Human Resources	Chief Administrative Officer – Performance Management

Page 1 of 5

Procedure Owner	Corporate Administration, Human Resources, Director Human Resources
Parent Policy	XXX - Chief Administrative Officer Recruitment, Selection, Offer of Employment, and Performance Management
Approval Body	Regional Council
Approval Date	
Effective Date	
Review by Date	

The following procedure outlines the annual Chief Administrative Officer (CAO) Performance Management process:

1. On an annual basis, the Director Human Resources (HR) initiates the Performance Appraisal process in consultation with Regional Chair (Chair)
 - Director HR initiates with Chair within the same timelines as the Non-Union Performance Management Program cycle.
 - Director HR and Chair prepare Performance Appraisal documents for approval by Chair, and then completion by CAO.
 - Director HR and Chair prepare CAO Performance Evaluation Survey to be distributed to all members of Council for completion.
 - Director HR and Chair assume accountability for process to begin CAO consultation and preparation for the annual performance appraisal process.
2. CAO is issued Performance Appraisal documents
 - CAO provided Performance Appraisal documents to complete first part of assessment process; completion of their self-assessment based on senior leader competencies, their annual objectives and development plan.
 - CAO submits completed Performance Appraisal documents to Regional Chair by required submission date.

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Performance Management</i>

Page 2 of 5

3. Regional Council invited to participate in CAO Performance Appraisal
 - Chair distributes CAO Performance Evaluation Survey to all members of Council.
 - Members of Council complete CAO Performance Evaluation Survey and return to Chair by required submission date.
4. Chair reviews all documentation to determine final rating, and creates Performance Appraisal report to Council.
 - Reviews Council feedback provided in CAO Performance Evaluation Survey that contain aggregated results and comments summary.
 - Reviews CAO submission of Performance Appraisal documents.
 - In consideration of the above, completes the Leader section of the CAO Performance Appraisal form
 - Provides feedback to CAO taking into account Council CAO Performance Evaluation survey, the CAO self-appraisal, and any additional Chair feedback.
 - Determines final performance rating.
5. CAO Performance Appraisal Report for submission to Council prepared by the Chair.
 - Report based on Council CAO Performance Evaluation survey, the CAO self-appraisal, and any additional Chair feedback.
 - Report structured to answer questions, such as:
 1. How well did the CAO's performance align with Council's Strategic Priorities.
 2. How well did CAO's performance align with annual objectives.
 3. What themes or key discussion points emerged?
 4. Is there a recommendation for performance development planning for next cycle?
 5. What is the final performance rating?
6. Regional Chair meets with the CAO to review CAO Performance Appraisal Report
 - Chair and CAO engage in feedback discussion, discuss any revisions of the Report for consideration by the Chair.
 - Once discussion(s) are complete, sign off by the CAO and Chair will then occur.
7. Chair report out to Council for Performance Appraisal approval.
 - Chair presents Report to Council, which will include Performance Rating.
8. Council approval of CAO Performance Rating and CAO compensation
 - Council approves Chair Report on CAO Performance, and the Rating

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Performance Management</i>

Page 3 of 5

- Any improvement to CAO compensation aligns with Non-Union Compensation Policy and Salary Administration Procedure, unless approved otherwise by Regional Council.
 - Amendment of CAO employment contract, if any, is subject to Council approval.
9. CAO with Chair completes next year Performance Objectives and Development Plan draft within the same timelines and utilizing all documents of the Non-Union Performance Management Program.
- CAO and Chair complete the Objective and any Development plan for coming year.
10. Council approves Objectives and Development Plan
- CAO Objectives and Development Plan for the performance year are approved.

Definitions

Regional Chair: Ensures the mandate of this XXX Procedure is fulfilled annually in accordance with the Non-Union Performance Management program. Includes, development and execution of annual performance management schedule, providing feedback to CAO; Objective and Development Plan setting for the performance year, as well as integrity and confidentiality requirements.

Chief Administrative Officer: Completing annual performance appraisal; engaging in all aspects of the performance management process as laid out in XXX Policy. Engaging in development of annual Objectives and Development Plan. Report(s) provided to Chair and Council as required.

Director, Human Resources: Responsible for facilitating with the Chair and CAO the Performance Management Program process and all associated tools used to support same. Sources and serves as primary point of contact for additional resources or supports such as Legal or Consultants. Provides guidance and advice to Chair, CAO, and Council as required, is required to attend all meetings with Council, and any other meetings on request of the Chair.

Regional Clerk: Ensures required governance related supports and advice to ensure effective completion of the process and provides agenda and meeting management functions. Attends all meetings of Council.

Performance Appraisal: is a key performance indicator of the effectiveness of the CAO's strategic management decisions and actions. This is executed through a standardized set of documents prepared by Human Resources as part of the Performance Management Program that allows for both the CAO and Chair to document performance. A performance assessment and rating are attached to the appraisal. This performance appraisal and rating are then aligned to the Non-Union

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Performance Management</i>

Compensation Policy and Salary Administration Procedure to determine any increase in annual compensation, or compensation as otherwise approved by Council.

Performance Appraisal process: Is the standardized and approved methodology used to ensure a quality, equitable performance process is conducted. It entails a standard timeline, series of steps and evaluation methodology and tools.

Performance Management Program: Is the complete set of documents, tools and instructions as well as pictorial workflow for the performance appraisal process. The program consists of performance appraisal documents; objective and development planning documents for the upcoming year; CAO competencies; instructions and workflow document as well as open appendices for any additional documentation deemed relevant by the CAO, Chair, or Council.

Competencies: Are the attitudes and behaviours required at a high level of performance for an individual to be successful in a role.

Council Performance Evaluation Survey: a qualitative and quantitative method based on a questionnaire to gather information and feedback on CAO impact and performance in the performance evaluation year.

CAO Performance Appraisal Report: A Report prepared by the Chair, which may include support of the Director HR, based on constructive feedback that summarizes findings from the assessment process as well as recommendations on a performance rating and performance objective and development planning.

1. Appendices

None

2. Document Control

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

Approval History

Approver(s)	Approved Date	Effective Date

<i>Procedure Category</i>	<i>Name of Procedure</i>
<i>Human Resources</i>	<i>Chief Administrative Officer – Performance Management</i>

Revision History

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

Subject: Citizen Appointments to Women's Advisory Committee

Report to: Corporate Services Committee

Report date: Wednesday, February 12, 2020

Recommendations

That the recommendation confirming the citizen appointments for the Women's Advisory Committee, contained in Confidential Appendix I to Report HR 02-2020, **BE APPROVED.**

Key Facts

- On September 19, 2019, Council endorsed the establishment of a Women's Advisory Committee.
- Subsequently on November 14, 2019 (CLK 15-2019), Council endorsed the Women's Advisory Committee Terms of Reference, which confirmed the composition of the committee to include up to 11 citizen members and four (4) Regional Councillors.
- Staff were committed to a selection process that was consistent with the approved Women's Advisory Committee Terms of Reference, which also included notifying the public in a manner consistent with other committees, including websites and social media channels, and collecting applications that included a series of relevant questions for interested citizens.
- This report outlines the process followed to make the recommended selections from the pool of interested candidates for appointment to the Women's Advisory Committee.

Financial Considerations

The financial implications relating to the appointment process of committee members include the use of administrative resources and staff time required to review applications for consideration and include the use of administrative resources and staff time required to prepare for and conduct meetings. These costs can be accommodated within the approved 2020 budget.

Analysis

In accordance with Council's direction, the Committee will undertake the following:

- Advocate for gender-based issue resolutions and opportunities related to Regional policies, priorities and decisions;
- Promote leadership development that empowers women in Niagara to fully participate in civic life;
- Research and provide information and resources about women's gender-based issues to Niagara.

To conduct the selection process, an application form to solicit interested citizens was posted on the Niagara Region website and communicated through social and print media. There was a three (3) week application period which ended on December 20, 2019 at 4pm. Sixty-two (62) applications in total were received during that time from interested citizens.

The applications were scored by a three person panel, made up of Human Resources staff, using a scoring matrix that directly correlated with the objectives of the Women's Advisory Committee. The matrix consisted of points being allotted with relevant weightings for expressed motivation to be on the Committee, previous board/committee experience, advocacy for gender based issues, demonstrated leadership, communication and research ability, experience with governance, and a demonstrated commitment to building community and mentorship. The panel individually scored each candidate. The top scoring candidates were reviewed collectively by the panel and through consensus scoring identified 11 qualified candidates, who also provide a diverse lens and skill set with which to deliver the Committee's objectives.

Based on the strong results of the scoring, staff are recommending the appointment of eleven (11) citizens to the Committee. The *Recommended Citizen Appointments to the Women's Advisory Committee* can be found in Confidential Appendix I of this report.

Alternatives Reviewed

N/A

Relationship to Council Strategic Priorities

This report aligns with Council's Strategic Priority of Sustainable and Engaging Government.

Other Pertinent Reports

- CLK 15-2019 Establishment of Women's Advisory Committee

Prepared by:

Linda Gigliotti
Associate Director Employee Services

Recommended by:

Franco Meffe
Director Human Resources

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was reviewed by Julie Smith, Human Resources Consultant; Ann-Marie Norio, Regional Clerk

Appendix

HR 02-2020 Confidential Appendix 1

– Recommended Citizen Appointments to the Women's Advisory Committee

Citizen Appointments to the Licensing Appeals Committee

Corporate Services Committee

February 12, 2020

Angelo Apfelbaum

Why Citizen Appointments?

- Original objectives of the Business Licensing Transition project included the creation of a Civilian Committee of Adjustment
- As the project moved forward, it was determined that this committee would be termed a Licensing Appeals Committee
- Reduces the risk of conflict of interest with elected officials where decisions can be made to impact business license holders
 - It is an inherent responsibility of an elected official to represent the interests of local businesses
- Council retains full authority over the Licensing Officer and Business Licensing by-laws

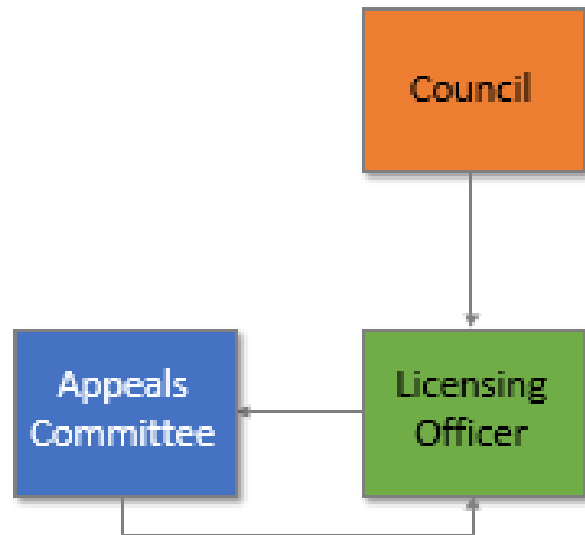
Eligibility for Appointment

- Background in law, academics, enforcement, and/or industry stakeholder
- Knowledge of the Municipal Act
- Ability to interpret legislation
- Proven analytical and decision making skills
- Experience in working on or with a committee, administrative tribunal, taskforce or similar regulatory hearings body

Reporting Structure for Decisions

Council:

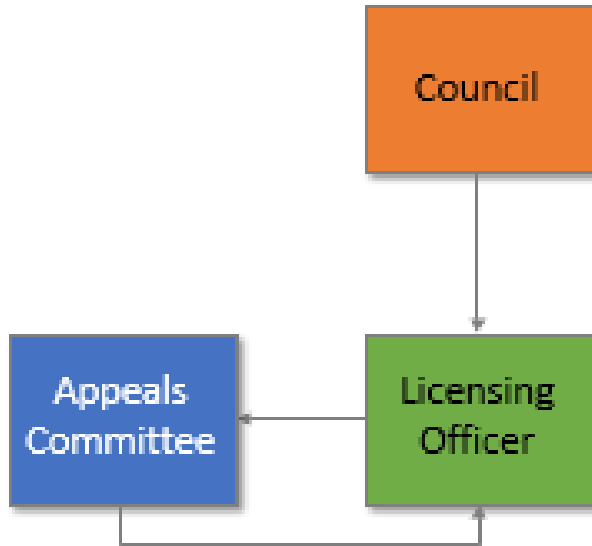
- Approve by-laws containing eligibility and compliance criteria for licenses in Niagara
- Delegate authority to the Licensing Officer
- Only Council can give direction to the Licensing Officer



Licensing Officer:

- Provide industry governance through Council Approved by-laws using Council's delegated authority
- Responsible for defending decisions by providing evidence at the Licensing Appeals Committee
- Reports to Regional Council on the outcomes of all decisions made by the Licensing Appeals Committee

Reporting Structure for Decisions



Licensing Appeals Committee:

- Decide whether to uphold the decisions of the Region's Licensing Officer to;
 - Refuse to issue a license
 - Suspend a license
 - Revoke a license
 - Add conditions to a business license

Subject: Appointments to the Licensing Appeals Committee

Report to: Corporate Services Committee

Report date: Wednesday, February 12, 2020

Recommendations

1. That the recommendation contained in **Confidential Appendix 1** to Report CSD 4-2020 **REVISED**, **BE APPROVED** confirming the citizen appointments to the Licensing Appeals Committee; and
2. That the Licensing Appeals Committee Terms of Reference (Appendix 2 of Report CSD 4-2020 **REVISED**), **BE APPROVED**.

Key Facts

- The purpose of this report is to seek Council's approval to appoint citizen members to the Licensing Appeals Committee.
- On June 1, 2019 the Region took over licensing responsibilities from Niagara Regional Police, part of the on-boarding was to establish a Licensing Appeals Committee.
- Pursuant to the Business licensing by-laws No. 2018-75 and 2018-76 passed by Regional Council the "appeal tribunal" was defined as the all citizen tribunal appointed by Council to conduct hearings under the by-laws.
- Advertising for members of the Licensing Appeals Committee was done on Niagara Region's website and on social media with a final closing date of September 6, 2019.

Financial Considerations

Costs associated with the appointment process and the stipend for committee members are contained within the existing 2020 operating budget approved on December 12, 2019. Additional funding resources are not required.

Analysis

On June 1, 2019, business licensing responsibility was transferred from Niagara Regional Police to Niagara Region and the operation was on-boarded "as-is". The Niagara Regional Police Services Board would no longer be providing appeals review and the Region needed to establish their own appeals committee with defined terms of reference.

An advertisement calling for applications from interested citizens was placed on the Niagara Region website on June 10, 2019 with a closing date of July 5, 2019. Advertising was also placed on Facebook and LinkedIn from July 8, 2019 to September 6, 2019.

A total of 40 citizens submitted applications for the 7 available positions on the Licensing Appeals Committee. As part of the process applicants had to provide information in 4 areas of assessment:

- ***How their knowledge and skills would benefit the Committee***
- ***How their experience relates to the Committee***
- ***Why they are interested in working on the Committee***
- ***Their past experience in working with Committees***

The criteria established for the positions are:

- ***Background in law, academics, enforcement and/or industry stakeholder***
- ***Knowledge of the Municipal Act***
- ***Ability to interpret legislation***
- ***Proven analytical and decision making skills***
- ***Experience in working on or with a committee, administrative tribunal, task force or similar regulator hearings body***

Business Licensing and Clerks staff reviewed the submitted applications and their recommended appointments are included in ***Confidential Appendix 1*** to this report for consideration. ***Confidential Appendix 1 has been revised to include the bios of the recommended candidates.***

The citizen appointed Licensing Appeals Committee will only conduct hearings to decide whether or not to uphold the decision of the Licensing Officer with respect to the refusal, revocation, suspension or the addition of conditions on a business licence.

All decisions of the citizen appointed Licensing Appeals Committee shall be reported back to the Corporate Services Committee by the Region's Licensing Officer.

The Licensing Appeals Committee cannot make recommendations or provide direction to the Licensing Officer. Only the Corporate Services Committee or Regional Council may make recommendations or direct the Licensing Officer.

Alternatives Reviewed

Not Applicable

Relationship to Council Strategic Priorities

The Licensing Appeals Committee members will provide fact and evidence based decisions based on information presented to them at an appeal with respect to:

- Suspended Licences
- Revoked Licences
- Suspended Licences
- Conditions placed on a business licence

This Licensing Appeals Committee supports the following two Regional Council Strategic Priorities

- Healthy and Vibrant Community
- Sustainable and Engaging Government

Other Pertinent Reports

Not Applicable

Prepared by:

Angelo Apfelbaum
Manager, Business Licensing
Corporate Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Jeanette Bax, Business Improvement Program Manager and reviewed by Ann-Marie Norio, Regional Clerk.

Appendices

Confidential Appendix 1

Recommended Citizen Appointments to the Licensing Appeals Committee ***including Bios of recommended appointees*** (Distributed under separate cover to members of Council only)

Appendix 2 Terms of Reference Licensing Appeals Committee

Licensing Appeals Committee

Terms of Reference

1. PREAMBLE

The Licensing Appeals Committee is an all-citizens Committee appointed by Council to conduct hearings of appeals under The Regional Municipality of Niagara Business Licensing By-laws.

2. MANDATE

The Licensing Appeals Committee conducts hearings to decide whether or not to uphold the decision of the Licensing Officer with respect to the refusal, revocation, suspension, or the addition of conditions on a business licence.

3. MEMBERSHIP

3.1 Composition

The Committee shall be composed of a minimum of three (3) and a maximum of seven (7) members with membership preference given to those with backgrounds in law, academics, enforcement and/or industry stakeholders.

In addition, members should have knowledge and understanding of the *Municipal Act* and interpretation of legislation, proven analytical and decision-making skills, and experience working on a committee, administrative tribunal, task force or similar setting.

The Committee shall not include any individual who is a current business licence holder.

When an appeal has been filed only three (3) of the seven (7) members of the Committee shall comprise the Committee for the purposes of reviewing and considering the appeal.

The Clerk shall determine the selection of the three (3) sitting members of the Committee from the pool of members based on availability.

3.2 Term

The term of the Committee shall be concurrent with the term of Council.

3.3 Privacy

The meetings of the Licensing Appeals Committee are public. Members should be aware that their names will be in the public realm and a list of membership may be provided when requested. Member information, other than name or

municipality, will be kept confidential in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.

4. COMMITTEE CHAIR

The Committee members shall select a Chair from amongst its three (3) sitting members at the first meeting.

5. STAFF SUPPORT

Clerk's Office staff will provide administrative support to the Committee.

6. COMPENSATION

Members shall receive an honorarium of \$50.00 for meetings held to consider licence appeal applications. Members will be paid mileage from their place of residence to the meeting location for any other meetings.

7. MEETINGS

The Appeals Committee shall conduct its meetings on an as-required basis and in public.

The Committee shall conduct its meetings in accordance with the Rules of Practice and Procedure for the Licensing Appeals Committee and the *Statutory Powers Procedures Act*, with modifications as deemed necessary.

8. CONFLICTS

Committee members shall comply with the *Municipal Conflict of Interest Act* and shall disclose a pecuniary interest in advance of any meeting, where possible or absent him/herself from meetings for the duration of the consideration of the appeal, discussion and voting with respect to the matter.

In the event a member discloses a pecuniary interest respecting the appeal in advance of the meeting, the Clerk shall select another member to replace him/her on the Committee.

9. PRACTICES AND PROCEDURES

The Clerk shall establish administrative practices and procedures for the Committee.

Subject: Disposition Strategy for Lands Previously Declared Surplus

Report to: Corporate Services Committee

Report date: Wednesday, February 12, 2020

Recommendations

That Report CSD 13-2020 **BE RECEIVED** for information.

Key Facts

- This report informs Council on the current status of the 22.26 acres of vacant Niagara Region owned industrial lands located at 401A Lakeshore Road and 14 Broadway Avenue in St. Catharines which were declared surplus in the October 18, 2017 Report CSD 66-2017 (Appendix '1')
- The Lands identified in Appendix 1 are three individual parcels under the following PIN's which are currently zoned as E2 – General Employment.
 - Parcel 'A' – PIN #463010393 (18.472 ac)
 - Parcel 'B' - PIN# 463010391 (1.84 ac)
 - Parcel 'C' - PIN # 463010210 (1.95 ac)
- Council authorized Staff to proceed with the disposal of the property in accordance with both report CSD 66-2017 (Appendix '1') and Planning and Economic Development Committee Confidential Report ED 13-2017 the latter of which also considered the sale of a portion (10.75 acres) of Parcel 'A' to a named Development Proponent. (Confidential Memo CSC-C 3-2020 – Appendix '1')
- Despite the concerted effort of Regional Staff to facilitate the sale of this portion of parcel 'A', an Agreement of Purchase and Sale was never finalized due to the unresponsiveness of named Development Proponent and as such, the sale of this portion of the Lands is no longer a viable alternative.
- With due consideration of alternative options for the disposal or retention of the Lands, Staff will proceed with the disposal in accordance with Disposal of Land By-law 26-2011 Section 23(d) which seeks to engage "a Real Estate Multiple Listing Service where the Land will be listed with a local Real Estate Board or Broker."
- In a separate unrelated matter pertaining to the properties, on November 11, 2019 Niagara Region was contacted by the Ministry of Economic Development Job Creation and Trade's FDI Services Branch with a confidential Request for Information and

these lands have been identified to the Province for Foreign Direct Investment (FDI) opportunity. (ref: Alternative Section)

Financial Considerations

The Finance Section (32 and 33) of the Disposal of Land By-law 26-2011 requires that once the land is no longer being utilized for the purpose for which it was acquired, the Land will be declared surplus, sold or otherwise utilized by the Region.

The Appraisal Section (9) of the Disposition of Land By-law requires that where the surplus Land has an estimated Market Value in excess of \$50,000, at least one independent appraisal of the Market Value shall be obtained. On July 27, 2019, Niagara Region received Antec Appraisal Group's appraisal of the vacant Niagara Regional industrial land located at 401A Lakeshore Road and 14 Broadway Avenue in St. Catharines. Fair Market Value based on highest and best use are depicted in Table 1.

FAIR MARKET VALUE (Table 1)

Parcel	PIN	Acreage	Fair Market Value
A	463010393	18.472	\$2,760,000
B	463010391	1.84	\$460,000
C	463010210	1.95	\$490,000
Total appraised value of all parcels			\$3,710,000

The dispositioning (sale) of the subject property by Niagara Region in accordance with By-law 26-2011 could generate revenue, at aforementioned Fair Market Rates.

Table 2 depicts the costs incurred by Niagara Region in 2017 which were directly related to facilitating the due diligence requirements associated with the portion (10.75 acres) of Parcel 'A' to a named Development Proponent. While Staff acknowledge and endorse these measures and their associated costs on any property being considered for disposal, it should be noted that these expenses came at the request of the Named Development Proponent during their initial discussions with Regional Staff. Regrettably, given the time which has passed coupled with the sale never being completed; the reports produced are now stale dated and their costs are essentially non-recoverable.

REGIONAL EXPENSES INCURRED SINCE 2017 (Table 2)

Time	Expense	Cost
July 2017	Appraisal Report	\$9,100.00
November 2017	Due Diligence	\$35,137.00
November 2017	GPR Investigation	\$3,413.00
April 2019	R-Plan preparation	\$3,000.00
Aug 2019	Appraisal Report	\$3,800.00
Total Expenses Incurred Since 2017		\$54,450.00

The Finance Section (35) of the Disposition of Land By-law requires that in any instance where the Land is being sold; pursuant to the execution of any ensuing Agreement for Purchase and Sale (APS) and the closing date for the sale, the net proceeds less of costs associated with the disposal of the Surplus Property shall be credited to the designated capital reserve account.

Analysis

The Lands as further described in Report CSD 66-2017 (Appendix '1'), consists of three Vacant Industrial parcels totalling approximately 22.26 acres which are currently zoned as E2-General Employment. The report also provides additional context of any encumbrances which are currently in effect on the property including a .296 acre area easement being granted in favour of St. Lawrence Seaway Commission

On Oct 18, 2017, Council ratified a motion declaring this property surplus and authorized Staff to proceed with its disposal in accordance with both report CSD 66-2017 (Appendix '1') and Planning and Economic Development Committee Confidential Report ED 13-2017 the latter of which also considered the sale of a portion (10.75 acres) of Parcel 'A' to a named Development Proponent. (Confidential Memo CSC-C 3-2020 – Appendix '1')

Staff (with Council approval – recommendation #3 of CSD 66-2017) were also provided the autonomy to undertake a divestiture approach to the public that considered factors other than price, specifically the sale process should consider economic development factors such as employment and investment.

Pursuant to Council ratification, Niagara Region scheduled and participated in multiple meetings with the named Development Proponent, however an Agreement of Purchase and Sale was never finalized due to their unresponsiveness. On March 29, 2019, Niagara Region issued correspondence requesting that the named Development Proponent provide written affirmation of their intention to acquire that portion of the property by no later than April 26, 2019. On June 21, 2019 Niagara Region issued a 2nd notification to the named Development Proponent advising that to date, Niagara Region had not

received any such written correspondence confirming their intention to acquire the property. As stated in the March 29th letter, Niagara Region would now move forward with consideration of alternative options for the disposal or retention of the properties at 401A Lakeshore Road and that the disposition of Lands would be undertaken in accordance with the Region's Disposal of Land By-law 26-2011.

Staff are providing this report both to inform Council that the proposed sale of a Portion (10.75 acres) of Parcel 'A' to a named Development Proponent is no longer a viable alternative and to outline the Disposition Strategy which will be followed going forward. In accordance with the Method of Sale Section (23) of the Disposition of Land By-law 26-2011, the Director, Procurement & Strategic Acquisitions (Manager) has determined that the most appropriate method for the sale of surplus property by way of engaging a Real Estate Multiple Listing Service to list the land with local Real Estate Board or Broker {Section 23(d)}. Staff intend to proceed with an open and formal procurement process to solicit bids from Realty Services Providers culminating in an award to Lowest Commissioned compliant bid Real Estate Broker who will be contractually engaged via a listing agreement to undertake and oversee the marketing and facilitation of the sale of all subject lands.

Noting that the Commissioner of Corporate Services has been authorized to negotiate the terms and execute Agreements of Purchase and Sale, conditional upon final approval by Regional Council; and Staff will report back to Corporate Services Committee and Council for approval of the sale, once an acceptable Agreement of Purchase of Sale has been received for the Surplus Property.

Alternatives Reviewed

With reference to recommendation #3 of CSD 66-2017 Council provided Staff with the autonomy to undertake a divestiture approach to the public that considered factors other than price, specifically that the sale process should consider economic development factors such as employment and investment.

Additionally with reference to the Financial Feasibility and Maximum Profitability sections of the appraisal which stated:

- "The subject has significant road frontage and could easily be subdivided into smaller parcels via a Plan of Subdivision."
- "The parcel at 401A Lakeshore Road could easily be divided into multiple 1 to 3 acre parcels."
- "Based on the previous criteria, the maximum return to the land would be generated by developing the properties with industrial use."
- The appraisal report identifies the maximum return to the land would be generated by developing the properties with an industrial use."

Niagara Region could (with Council approval) endeavour to undertaking a formal procurement process to solicit bids from potential Development Proponents who could would solicit market interest in potentially maximize the value of the land and long term benefits of employment and economic development.

On November 11, 2018 the Niagara Region was contacted by the Ministry of Economic Development Job Creation and Trade's FDI Services Branch with a confidential Request for Information. (Confidential Memo CSC-C 3-2020 – Appendix '2') The FDI Services Branch had been contacted by a foreign company that that was in the initial phases of the site selection process to find a suitable site for a bio manufacturing investment. Niagara Economic Development was requested to share the site selection criteria with the local area municipalities and other community partners in order to generate a shortlist of properties that would be provided to the FDI Services Branch. At this time Niagara Economic Development was informed that Niagara was in competition with other jurisdictions across Canada and the United States.

During the site review process the Regionally-owned property located 401A Lakeshore Road was identified as meeting the Ministry's requested criteria. After a meeting with Corporate Services it was determined that Niagara Economic Development would submit 401A Lakeshore, along with other short-listed properties, in response to the Ministry's RFI request. This process will help staff have a better understanding of what investors are looking for in terms of employment lands and the processes required to successfully divest the property.

Relationship to Council Strategic Priorities

While Procurement & Strategic Acquisitions and its related activities align with many of Council's 2019-2022 Strategic Priorities, this Report best aligns with Sustainable and Engaging Government, specifically objective 4.1: High Quality, Efficient and Coordinate Core Services which promote an organizational culture that values continuous improvement, collaboration, and innovation.

Other Pertinent Reports

- Corporate Services Committee Report CSD 66-2017
- Confidential Planning and Economic Development Committee Report ED 13-2017
- Confidential Memo CSC-C 3-2020

Prepared by:

Bart Menage, CSCMP, CRM
Director, Procurement & SA
Corporate Services

Recommended by:

Todd, Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Acting, Chief Administrative Officer

*This report was prepared in consultation with Frank Fucile, Real Estate Officer and
Ken Scholtens, Manager, Business Development & Expedited Services*

Appendices

Appendix 1

CSD 66-2017 Proposed Disposition of Land
in the City of St. Catharines

Page 7

Subject: CSD 66-2017 - Proposed Disposition of Lands in the City of St. Catharines

Report to: Corporate Services Committee

Report date: Wednesday, October 18, 2017

Recommendations

1. That the Regional owned lands legally described as Lots 31, 32 & 34, Corporation Plan 5 more particularly described as Part 6 on Reference plan 30R-7563 in the City of St. Catharines (the “Surplus Property”) and shown on Appendix ‘I’ attached hereto, **BE DECLARED** surplus to the Region’s needs;
2. That staff **BE AUTHORIZED** to proceed with the disposal of the Surplus Property in accordance with the Region’s Disposal of Land By-law 26-2011;
3. Council **APPROVES** that staff undertake a divestiture approach to the public that considers factors other than price, specifically the sales process should consider economic development factors such as employment and investment.
4. That staff **BE AUTHORIZED** to create a development plan for the property to ensure that the property can attract further investment in order to maximize economic development.
5. That the Acting Commissioner of Enterprise Resource Management Services **BE AUTHORIZED** to negotiate the terms and execute Agreements of Purchase and Sale, conditional upon final approval by Regional Council; and
6. That staff **BE DIRECTED** to report back to Corporate Services Committee and Council for approval of the sale, once an acceptable Agreement of Purchase and Sale has been received for the Surplus Property.

Key Facts

- The subject land shown on Appendix ‘I’ are three parcels of land which total approximately 22.26 acres and are currently zoned E2 – General Employment. The land was initially acquired in 2003 & 2005 for the intended use of wastewater treatment facility. The lands are identified as three individual properties under the following PIN’s;

- Parcel 'A' – 463010393 (18.472 ac)
 - Parcel 'B' - 463010391 (1.84 ac)
 - Parcel 'C' - 463010210 (1.95 ac)
7. The land represents a significant portion of the City of St. Catharines remaining developable employment land.
8. The property is subject to a previously Council approved sale of approximately 10.75 acres. This previous instruction was outlined in the Planning and Economic Development Committee Confidential report ED 13-2017.
- The severance of would therefore be considered and disposed of as described;
 - 10.75 acres to be disposed of as per the Planning and Economic Development Committee Confidential report ED 13-2017. The exact nature and location of this land is currently still subject to negotiation.
 - 7.72 acres to be declared surplus and disposed of in accordance with the Region's Disposal of Land By-law 26-2011,
 - The actual location of the severance on Parcel 'A' will be in accordance to allow existing facilities (Water/Waste Water) within the area of Seaway Haulage Road to service the subject lands after severance has occurred.
 - The whole of Parcel 'A' is currently under a lease agreement – File (08) L.04.087 with Meyers Fruit Farms Inc.
 - The current lease term is March 1, 2016 to February 28, 2021
 - The annual compensation is \$5,720+HST
 - Section 12.2 (Rights to Termination) – “...the Landlord or the Tenant may terminate this lease without cause by giving six (6) months written notice of such termination to the other.”
 - Staff will provide appropriate notice to the tenant prior to the sales process, and will work with the tenant to assist in mitigation efforts.
 - Parcel 'B' (14 Broadway Ave) is currently vacant land
 - Parcel 'C' is currently vacant land.
 - This report is seeking approval to declare all of the property surplus and dispose of the Surplus Property, all in accordance with the Region's Disposal of Surplus Land By-law 26-2011. As noted a portion of the land was directed to be disposed previously by Council.
 - Staff have circulated the property to departments of the region and no internal requirement was identified.
 - Staff have also circulated the property to Boards and Agencies, the City of St. Catharines, School Boards and the Provincial and Federal governments and no interest has been expressed;

Financial Considerations

- In accordance with the Region's Disposal of Land By-law 26-2011 (section 9), the subject lands have undergone a Fair Market Value Appraisal to determine the highest and best use of the property.
- The costs associated with the disposal of the Surplus Property will be offset by the proceeds of the sale of the property. The lands have been appraised by D.J. Penwarden Appraisals Ltd., and the Fair Market Value are identified as;
 - Parcel 'A' – 463010393 (18.472 ac) = \$2,450,000 (\$132,633/acre)
 - Parcel 'B' - 463010391 (1.84 ac) = \$ 455,000 (\$247,956/acre)
 - Parcel 'C' - 463010210 (1.95 ac) = \$ 490,000 (\$251,540/acre)
- The above appraisal had some scope limitations, as more investigation is made into the land and its conditions certain aspects of the valuation may require adjustment.
- A portion of Parcel 'A' to be considered and disposed of in accordance with Planning and Economic Development Committee Confidential Report ED 13-2017.
- The sale and disposition of all remaining subject lands will be in accordance with section 23 of the Region's Disposal of Land By-law 26-2011 to determine the most appropriate method of Sale of surplus Land to the public.
- With the approval of Council as required by section 21 of the Region's Disposal of Land By-law 26-2011, staff will undertake a process that will consider net proceeds along with economic development criteria.

The Net Sales Proceeds will be credited to Surplus Properties.

Analysis

The Surplus Property consists of three Vacant Industrial land properties further identified in Appendix 'I'. The three parcels of land total approximately 22.26 acres and are currently zoned E2 – General Employment. In accordance with the Region's Disposal of Land By-law 26-2011, the subject lands have undergone a Fair Market Value Appraisal to determine the highest and best use of the property.

Planning and Economic Development Committee Confidential Report ED 13-2017 outlines a proposed investment for 10.75 acres of Parcel 'A'.

The sale and disposition of all remaining subject lands will be in accordance with section 23 of the Region's Disposal of Land By-law 26-2011 which will allow the Region to maximize the value of the land and long term benefits of employment and economic development.

During the circulation process in accordance with the Region's Disposal of Land By-law 26-2011 no interest was expressed in the purchase of Surplus lands from the Provincial or Federal governments, however the St. Lawrence Seaway will be granted an Easement for an existing Dry Dock Discharge Culvert which occupies the south west portion of Parcel 'A' (Appendix '2'). The encumbrance could pose land development concerns pending an encroachment agreement from SLS to the property owner and/or any further site plan requirements from the City of St. Catharines. Parcel 'A' (Appendix '2') is also currently encumbered by an easement registered for Gas in 1960.

No interest was expressed in the Surplus lands from the Public and/or Service Users

Notice of the Region's intent to declare the property as Surplus Land and the intention to dispose of the Surplus Land will have been posted on the Region's website no less than 14 days prior to the meeting in which the Corporate Services Committee considers this report.

It is proposed that the lands be declared surplus by the Region and disposed of in accordance with the Region's Disposal of Land By-law 26-2011.

Due to the size and nature of the property and the previous direction to sell 10.75 acres, staff is required to undertake a plan in order to ensure that the property as a whole can be properly serviced and developed. Initial review has identified certain limitations related to water, sewer, and gas servicing.

Staff will report back to Corporate Services Committee and Council for approval of the sale, once an acceptable Agreement of Purchase of Sale has been received for the Surplus Property.

Alternatives Reviewed

The alternative of not declaring the property surplus would not align with the strategic goals of encouraging investment and growth in the Region.

Relationship to Council Strategic Priorities

This supports Council's strategic priority of "Investment, Innovation and Entrepreneurship".

Other Pertinent Reports

Planning and Economic Development Committee Report ED 13-2017

Prepared by:

Bart Menage
Director, Procurement & Strategic
Acquisitions
Enterprise Resource Management
Services

Recommended by:

Jason Burgess
Acting Commissioner of Enterprise
Resource Management Services
Enterprise Resource Management
Services

Submitted by:

Carmelo D'Angelo, BSc, MPA
Chief Administrative Officer

This report was prepared in consultation with Frank Fucile, Real Estate Officer.

Appendices

Appendix I – Surplus Property
Appendix 2 – Property Encumbrances

Appendix 'I' – Surplus Property



Appendix '2' – Property Encumbrances



- Approximate location of the St. Lawrence Seaway Dry Dock Discharge Culvert
- Approximate dimensions:
 - Width (2.44m) x Height (2.9m) chamber
 - Depth (approximately 40' - to be verified by survey)
- SLS has verified this culvert is active and is an important part of the dry dock operations
- Culvert chamber is pending survey to determine actual location on Parcel 'A'

- Property location subject to Gas Easement from 1960

MEMORANDUM

CSC-C 4-2020

**Subject: Update on Recommendations from Report CAO 17-2019 –
Recommendations from the Ontario Ombudsman Report “Inside Job” November
2019**

Date: February 12, 2020

To: Corporate Services Committee

**From: Franco Meffe, Director, Human Resources, and Ann-Marie Norio, Regional
Clerk**

At its special meeting held on December 5, 2019, Regional Council approved the recommendations from Report CAO 17-2019 respecting Recommendations from the Ontario Ombudsman Report “Inside Job” November 2019. Some of those recommendations directed staff to provide information at the Corporate Services Committee meeting being held on February 12, 2020.

This memo provides an update on those items for Committee’s information.

Recommendation 2:

*That staff **BE DIRECTED** to prepare a policy respecting employee code of conduct or ethics that includes for the protection of confidential information, pursuant to Recommendation 1 of the Ombudsman’s Report for the Corporate Services Committee meeting being held on February 12, 2020.*

Staff are undertaking revisions to the current Code of Ethics/Conflict of Interest Policy. At its meeting held on December 12, 2019, Regional Council approved a motion directing staff to prepare a Whistleblower Policy to be considered by the Corporate Services Committee. Given that these two policies will closely align, they will both be brought forward for consideration at the Corporate Services Committee meeting being held on March 11, 2020. As part of its review, staff have reached out to other municipalities to obtain best practices concerning both policies.

Recommendation 3:

*That staff **BE DIRECTED** to include clauses in all employment contracts respecting the protection of confidential information pursuant to Recommendation 2 of the Ombudsman’s Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020.*

Staff are undertaking work to include clauses in all employment contracts respecting the protection of confidential information, including seeking advice of external legal counsel concerning the inclusion of such wording in all union and non-union contracts of employment.

Recommendation 4:

*That staff **BE DIRECTED** to ensure specific confidentiality agreements are signed at the start of a hiring process by all officials and staff with access to confidential hiring process information pursuant to Recommendation 3 of the Ombudsman's Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020.*

At its special meeting held on January 23, 2020, Council considered Report HR 01-2020 – Chief Administrative Officer (CAO) Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures. Council subsequently referred the report to the Corporate Services Committee meeting being held on February 12, 2020 to allow staff to provide additional options. This report addresses the confidentiality agreements with respect to a CAO hiring process. Staff are currently investigating options to ensure compliance with this Ombudsman Recommendation.

Recommendation 6:

*That staff **BE DIRECTED** to review and update the Employment and Staffing Policy (C-HR-010) to ensure it contains provisions to clarify that employees should not engage in any behaviour that provides an unfair advantage to a candidate during a hiring process including assisting candidates by providing inside information such as interview questions and suggested answers pursuant to Recommendation 6 of the Ombudsman's Report for the Corporate Services Committee meeting being held on February 12, 2020.*

Staff are currently reviewing the Employment and Staffing Policy to include provisions related to employees engaging in behaviour that provides an unfair advantage to a candidate during a hiring process. As part of its review, staff have reached out to other municipalities to obtain best practices. An updated policy will be provided to the Corporate Services Committee at its meeting being held on March 11, 2020.

Respectfully submitted and signed by

Franco Meffe
Director, Human Resources

Ann-Marie Norio
Regional Clerk

Subject: Recommendations from the Ontario Ombudsman Report “Inside Job”
November 2019

Report to: Regional Council

Report date: Thursday, December 5, 2019

Recommendations

1. That Regional Council **CONFIRMS** their agreement with the recommendations of the Ontario Ombudsman Report “Inside Job” (dated November 2019) respecting the investigation into matters relating to the Regional Municipality of Niagara’s hiring of its Chief Administrative Officer, and its administration of his contract;
2. That staff **BE DIRECTED** to prepare a policy respecting employee code of conduct or ethics that includes for the protection of confidential information, pursuant to Recommendation 1 of the Ombudsman’s Report for the Corporate Services Committee meeting being held on February 12, 2020;
3. That staff **BE DIRECTED** to include clauses in all employment contracts respecting the protection of confidential information pursuant to Recommendation 2 of the Ombudsman’s Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020;
4. That staff **BE DIRECTED** to ensure specific confidentiality agreements are signed at the start of a hiring process by all officials and staff with access to confidential hiring process information pursuant to Recommendation 3 of the Ombudsman’s Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020;
5. That staff **BE DIRECTED** to prepare a draft Terms of Reference for a Chief Administrative Officer Recruitment Committee taking into consideration Recommendation 4 of the Ombudsman’s Report for the Regional Council meeting held on January 23, 2020;
6. That staff **BE DIRECTED** to review and update the Employment and Staffing Policy (C-HR-010) to ensure it contains provisions to clarify that employees should not engage in any behaviour that provides an unfair advantage to a candidate during a hiring process including assisting candidates by providing inside information such as interview questions and suggested answers pursuant to Recommendation 6 of the Ombudsman’s Report for the Corporate Services Committee meeting being held on February 12, 2020;

7. That staff **BE DIRECTED** to prepare a policy respecting the hiring process for a Chief Administrative Officer including the appropriate roles of staff and their accountability to Council or a committee of Council charged with the hiring, pursuant to Recommendation 9 of the Ombudsman's Report for the Regional Council meeting held on January 23, 2020;
8. That staff **BE DIRECTED** to prepare a by-law setting the parameters of the relationship between Council and the Chief Administrative Officer including the role of Council with respect to amending the Chief Administrative Officer's contract and salary, pursuant to Recommendation 11 of the Ombudsman's Report for the Regional Council meeting held on January 23, 2020;
9. That staff **BE DIRECTED** to prepare a policy governing the process for Chief Administrative Officer performance appraisals pursuant to Recommendation 13 of the Ombudsman's Report for the Regional Council meeting held on January 23, 2020;
10. That staff **BE DIRECTED** to report to Regional Council regarding the implementation of Recommendations 4 (as it relates to recruitment committees apart from the CAO) 5, 7, 8, 10, 12, 14 and 15 for the Regional Council meeting being held on February 20, 2020; and
11. That Staff **BE DIRECTED** to report to Regional Council in six months' time on progress in implementing the recommendations of the Ontario Ombudsman Report "Inside Job" in accordance with Recommendation 16 of the Ombudsman's Report.

Key Facts

- The purpose of this report is to seek Council's approval for staff to take the necessary steps to implement the 15 recommendations provided in the Ontario Ombudsman Report "Inside Job" dated November 2019, and proposed timelines.
- Niagara Region currently has policies and practices related to some of the recommendations; however, staff are committed to reviewing and updating these items to ensure the Ombudsman's recommendations are satisfied.

Financial Considerations

The recommendations contained within the Ombudsman Report are primarily policy focused and do not have any direct financial implications apart from staff time to undertake the work.

Analysis

On November 29, 2019, the Ontario Ombudsman released his report titled “Inside Job” (attached as Appendix 1) respecting the investigation he conducted regarding the process Niagara Region undertook in the hiring of its Chief Administrative Officer (CAO); the administration of the CAO’s contract, including any extension and amendment; and Niagara Region’s response to concerns about the CAO’s hiring, including the municipal ombudsman’s investigation and the external governance auditor.

The Ombudsman put forward 15 recommendations within the report to address the issues that were identified as part of his investigation (and a 16th recommendation requiring Niagara Region to report back at six month intervals on progress in implementation of the recommendations).

Niagara Region currently has some policies in place that are relevant to some of the recommendations such as: Code of Ethics/Conflict of Interest, Accountability and Transparency, Delegation of Powers and Duties, Execution of Documents By-law, Records and Information Management Policy, Employment and Staffing Policy, and Information Access and Privacy Protection Policy. Staff will ensure, in light of the Ombudsman’s recommendations, that those policies are strengthened, supplemented and supported by training for consistent application.

In accordance with the recommendations of this report, staff will review what is currently in place and research best practices to ensure that new/updated policies, by-laws and practices are put in place, subject to Council approval, that satisfy the recommendations of the Ombudsman..

Pending the completion of the Provincial governance review and the Ombudsman’s Report into the 2016 CAO hiring process, the recruitment of a permanent CAO has been held in abeyance. Given that both of those matters have now been concluded Staff have proposed an expedited timeline to provide the policies and by-laws that the Ombudsman recommended be implemented that relate specifically to the CAO recruitment/role in order to allow those policies and by-laws to be approved by Council prior to a CAO recruitment process being initiated.

Alternatives Reviewed

No alternatives were reviewed.

Relationship to Council Strategic Priorities

This report is based on the recommendations of the Ontario Ombudsman; however, the implementation of policies and procedures aligns with Council's Strategic Priority of Sustainable and Engaging Government.

Other Pertinent Reports

There are no other pertinent reports.

Prepared and Recommended by:

Ann-Marie Norio
Regional Clerk
Administration

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services, and Franco Meffe, Acting Director, Human Resources.

Appendices

Appendix 1 Ontario Ombudsman Report "Inside Job"

Page 5