
Subject: Progress Report respecting Implementation of Recommendations from the Ontario Ombudsman Report “Press Pause”

Report to: Regional Council

Report date: Thursday, January 17, 2019

Recommendations

1. That this report **BE RECEIVED** for information; and
2. That Report CLK 01-2019 **BE CIRCULATED** to the Ontario Ombudsman for their information.

Key Facts

- The purpose of this report is to provide an update respecting the implementation of the recommendations from the Ontario Ombudsman report “Press Pause”.
- One of the recommendations was for Niagara Region to report publicly and to the Ombudsman on the progress undertaken with respect to the recommendations put forward with respect to the investigation related to the Regional Council meeting held on December 7, 2017.

Financial Considerations

There are no financial considerations associated with this report.

Analysis

At its Special meeting held on July 26, 2018, Regional Council passed the following resolution with respect to the Ombudsman Report “Press Pause”:

*That Report CLK 01-2018, dated July 26, 2018, respecting Recommendations from the Ontario Ombudsman Report, **BE RECEIVED** and the following recommendations **BE APPROVED**:*

*1. That the Ontario Ombudsman report (dated July 2018) respecting the investigation into the Regional Council meeting held on December 7, 2017, **BE RECEIVED**;*

*2. That Council **DIRECT** the Chair and CAO to provide a frank and full written apology based on their actions and the actions of Council pursuant to Recommendations 1 and 2 of the Ombudsman Report;*

3. That in accordance with section 239.2(12) of the *Municipal Act*, that staff **BE DIRECTED** to implement Recommendations 8, 10 and 13 of the *Ombudsman Report*;

4. That in accordance with section 239.2(12) of the *Municipal Act*, that staff **BE DIRECTED** to provide a report regarding the implementation of Recommendations 9, 11 and 12 for Council's consideration at the *Regional Council meeting being held on September 13, 2018*; and

5. That staff **BE DIRECTED** to provide a report respecting the implementation of the balance of the Recommendations outlined in the *Ombudsman report to Regional Council*.

To address concerns identified in the investigation, the Ontario Ombudsman made a number of recommendations. The recommendations have been identified along with the corresponding action taken with respect to the recommendation.

Recommendations:

1. The Regional Municipality of Niagara should provide a full and frank public apology to the journalist for acting unreasonably and without legal justification, and for infringing his *Charter* rights, when it seized his personal property and expelled him from a council meeting and municipal property on December 7, 2017.

Action Taken:

At the Regional Council meeting of July 26, 2018 the Regional Chair issued a public apology and as part of the recommendation of Regional Council (noted above) a frank and full written apology was provided to both Mr. Sawchuk and Mr. Haskell by the Regional Chair and Chief Administrative Officer on August 2, 2018.

2. The Regional Municipality of Niagara should publicly apologize to the citizen blogger for rushing to judgement and failing to follow a fair and reasonable process when it expelled him from a council meeting and seized his personal property.

Action Taken:

See above.

3. The Regional Municipality of Niagara should clarify its intent with respect to the authority of staff to seize personal property in its procedure by-law and policies,

with reference to the rights protected by the *Canadian Charter of Rights and Freedoms*.

Action Taken:

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

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

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

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

Action Taken:

Policy C-RC-007 does reference “disruptive behaviour” and “improper conduct” and the Procedural By-law (section 9.5) references expulsion for “improper conduct” and policy C-A-025 Managing Public Spaces in a Safe and Welcoming Environment. This policy will be referred to the Procedural By-law Review Committee for further examination.

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

Action Taken:

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

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

Action Taken:

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

7. The Regional Municipality of Niagara should set out in writing its expectations and processes regarding the exercise of its authority under the *Trespass to Property Act*, either as a standalone policy or part of a broader policy respecting unreasonable or improper conduct.

Action Taken:

This item will be further examined by the Security Taskforce.

8. The Regional Municipality of Niagara should ensure that any resolution to close a meeting state the exceptions relied upon and a general description of the subject matter to be discussed in closed session.

Action Taken:

When a meeting is required to be closed to the public, Clerk's staff ensure that the resolution to close the meeting is shown on the display screens in the Council and that both the exception relied on to close the meeting as well as a description of the subject matter is included and recorded in the minutes accordingly.

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

Action Taken:

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

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

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

10. The Regional Municipality of Niagara should make audio or video recordings of all closed session meetings of council, its local boards, and committees of either.

Action Taken:

In accordance with Council's resolution of July 26, 2018, audio recordings of all closed session meetings of council and committees is being undertaken. Staff are continuing to work on addressing the intricacies of the closed session recordings such as retention periods for the recordings etc and will seek Council approval for any required policy or by-law changes.

11. The Regional Municipality of Niagara should update its procedural by-law to reflect the open meeting provisions in the *Municipal Act, 2001*.

Action Taken:

The Procedural By-law has been updated to reflect the exceptions for which a meeting or part of a meeting may be closed to the public in accordance with the *Municipal Act, 2001*.

12. The Regional Municipality of Niagara should develop a procedure respecting the public access to municipal property during meetings, including after-hours meetings, and provide for records to be kept of when the doors to regional headquarters are locked and unlocked.

Action Taken:

A security taskforce has been implemented to develop policies and procedures related to public access to municipal property which will include during meetings. In the interim direction has been provided to staff to keep the Campbell West doors open until the conclusion of meetings. A formal procedure is currently being developed by the Security Taskforce.

13. The Regional Municipality of Niagara should train its staff on the procedures for locking doors and ensuring public access during meetings.

Action Taken:

Facilities staff have been advised of the importance of ensuring public access during after hours meetings and staff have been specifically directed to keep the Campbell West doors open until the conclusion of meetings. Once formal policies and procedures have been developed and approved, the appropriate staff will be advised to ensure compliance. Once formal policies and procedures have been

developed and approved, the appropriate staff will be advised to ensure compliance.

14. The Regional Municipality of Niagara should report publicly, and to my Office in six months' time on its progress in implementing my recommendations, and at six-month intervals thereafter until such time as I am satisfied that adequate steps have been taken to address them.

Action Taken:

This report satisfies the request of the Ombudsman Office to report publicly on the progress undertaken to date with respect to the recommendations made and will be sent to them in accordance with the report recommendation.

Alternatives Reviewed

No alternatives were reviewed.

Relationship to Council Strategic Priorities

The reason for the report is at the request of the Ombudsman Office.

Other Pertinent Reports

CAO 5-2018	Corporate Policy Framework – Improving the Business of Council
CAO 13-2018	Update on CAO 05-2018 – Improving the Business of Council
CAO 13-2018	REVISED - Update on CAO 05-2018 – Improving the Business of Council
CLK 01-2018	Recommendations from the Ontario Ombudsman Report
GM 20-2018	Update on the Implementation of Recommendations from the Ombudsman Report "Press Pause" respecting the Regional Council meeting held on December 7, 2017

Prepared and Recommended by:

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Submitted by:

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Appendices

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