
Subject: Moving Transit Forward – Initial Transition Activities and Next Steps

Report to: Regional Council

Report date: Thursday, March 24, 2022

Recommendations

1. That Regional Council **REQUEST** the local area municipalities submit their recommendations for representatives for the transitional Transit Commission Board, based on the criteria outlined in Report PW 15-2022, to the Regional Clerk no later than April 29, 2022; and
2. That the Linking Niagara Transit Committee **BE DISSOLVED** effective immediately, with thanks to the Members, having completed the mandate for which it was established.

Key Facts

- The purpose of this report is to provide an update regarding the work underway to implement the consolidation of region-wide transit, following the successful achievement of triple-majority approval in February 2022 (see Clerks Memorandum CWCD 2022-41); and initiate the process of securing nominations for the transitional Niagara Transit Commission Board from the local area municipalities (LAMs).
- A report will be brought forward at a Special Regional Council meeting on May 5, 2022 to seek Council approval to formally establish the Niagara Transit Commission as a Municipal Services Board (MSB) of the Region.
- In keeping with the Transit Governance Strategy outlined as part of the triple-majority process (PW 55-2021), LAMs will be asked to provide their recommended nominations for the transitional Niagara Transit Commission Board, for appointment by Regional Council to coincide with the establishment of the MSB.
- Given that the Linking Niagara Transit Committee (LNTC) has successfully completed its mandate to guide the development of and obtain approval for a recommended governance strategy for consolidation, and with the appointment of the new Commission Board imminent, it is appropriate for the LNTC to be dissolved forthwith.

Financial Considerations

There are no direct financial implications arising from the recommendations of this report.

The operating budget for transition activities associated with this report, including encumbrances and grant funding, is approximately \$3.1M. This is comprised of an operating consulting services budget of \$2.23M, additional \$0.5M in encumbered consulting budget from 2021, \$0.2M in dedicated internal staffing budget, and \$0.15M available to support the project from a successful application to the Province of Ontario's Audit and Accountability Fund. The transition to the new Commission will include a dedicated staff complement of 2 FTE's (Program Financial Specialist and GO Implementation Office Transportation Lead) plus additional Steering Committee and Working Group internal staff support.

Analysis

Achievement of Triple-Majority

In order for Niagara to realize the enormous benefits of a single transit system and move forward with the creation of a new Transit Commission, triple-majority approval was required to transfer the necessary legislative authority for the operation of transit to the Region under the *Municipal Act*.

This process formally commenced on November 25, 2021, when Niagara Region Council approved report PW 55-2021, adopting By-law No. 2021-96 providing "The Regional Municipality of Niagara...the exclusive authority to establish, operate and maintain a consolidated passenger transportation system for the Niagara Region." Following Regional Council approval, each of Niagara's twelve municipalities were asked to similarly support moving forward into consolidation.

With a strong majority of municipal Councils supporting consolidation, with a number of unanimous votes, the required criteria for triple-majority approval was achieved (see Council Weekly Correspondence Distribution CWCD 2022-41 February 18, 2022) and By-law 2021-96 came into effect on February 2, 2022.

The consolidation proposal put forward as part of the triple-majority process included a series of core financial, service, and governance strategies that had been developed and recommended by the CAO Governance Steering Committee (GSC) and

unanimously endorsed by LNTC. These recommendations reflected years of collaborative work, were based on two rounds of direct consultation with municipalities, and reflective of input from interested parties and the public.

City of Welland Resolution

At its meeting of December 9, 2021, Welland City Council adopted a resolution “THAT Welland City Council supports the future state of Inter Regional Transit and the consolidation of Welland, St. Catharines and Niagara Falls Transit Systems...” contingent on satisfactory responses to certain concerns they identified with the core strategies. This City’s resolution further requested that other LAMs present an amended resolution to their Councils supporting the City of Welland’s position. This resolution did not receive support from any other municipalities during the consideration of By-law No. 2021-96 enacting the triple majority. Positive progress is being made on the asset transfer agreement, with cooperation from all municipalities. Based on this outcome, a memo outlining this position and subsequent path forward sent to the City of Welland is attached as Appendix 1.

It is therefore on the basis of the strategies outlined in PW 55-2021 that the creation of the new Niagara Transit Commission and implementation of the consolidation of transit is underway, reflecting the strong support these proposals received through the triple-majority process.

Transit Commission Steering Committee (TCSC)

Governance Structure

To guide this transition, the Region has established the Transit Commission Steering Committee (TCSC).

The mandate of the TCSC is to support the creation of the new transit Commission, including its legal establishment, appointment of the transitional Board and senior leadership, and the transfer of personnel and assets, necessary for the Commission to assume operational responsibility for transit in Niagara on January 1, 2023.

The TCSC is Chaired by the Commissioner of Public Works and is comprised of extensive senior Regional staff (Commissioner and Director levels) from a diverse and strategic cross-section of the entire organization to support the successful establishment of the new Commission. The local area municipalities are also key

partners in this transition work. Active participation from LAM transit GMs and their senior staff, as well as LAM CAOs and legal counsel involved in the transfer of assets are assisting in guiding key deliverables outlined in the Transition Plan.

Resourcing

Significant internal Regional resources will be required to deliver the extensive scope of work for the transition to the Commission, including subject matter experts in areas such as finance, human resources, legal, information technology, and communications. The TCSC will be responsible for ensuring that sufficient corporate resources are allocated to the project and identifying the specific resources required to support the Transition Plan, including ensuring representation from other lines of business that will be impacted.

Successful transition will also require direct engagement with LAMs, in particular those who operate the independent transit systems that will form the basis for the new Commission. Areas of focus will include but not be limited to: negotiation of asset transfer agreements, human resources/labour relations, and the harmonization of operational policies and procedures.

Additional external resources have also been secured to support specific needs related to legal requirements and transit operations. External legal expertise has been secured with Dentons LLP who are supporting many aspects of the establishment of the Commission, along with leading and/or supporting and number of employee and labour relations considerations. Additionally, Eric Gillespie, retired former GM of both Grand River Transit in Waterloo Region and the St. Catharines Transit Commission, has been retained to lead the harmonization and implementation of transit operations, in close partnership with the LAM transit GMs.

These external resources are funded through the transition project budget as referenced in the Financial Considerations section and approved in the 2022 budget.

Progress to Date

With less than ten months to full transition and to ensure a successful hand off to the new Commission on January 1, 2023, accelerated and necessary work in support of the new Commission is well underway.

Leveraging provincial funding secured through the Audit and Accountability– Phase 3 program, KPMG has been retained to examine and develop a recommended shared services relationship between the Region and Commission. This assignment will look at best practices and comparator transit Commissions/municipalities (i.e. London, Ottawa, Edmonton, Durham) to examine reporting relationships, undertake financial analysis, and arrive at a preferred model. This KPMG work significantly advances the early work Regional staff undertook as presented in PW 9-2021 and will also take into account the tenets of the independent Commission model recommended in the *Niagara Transit Governance Study*. The results of KPMG’s work will be incorporated in the next report to Council outlining the recommended model for shared services to support the new Transit Commission. This will also provide insight into the extent of future and/or additional staff resources which may be required either by the new Commission or by the Region as part of the 2023 budget submission related to new FTEs to support transit.

As noted throughout this report, *Niagara Transit Commission* has been identified as an interim name as the MSB is established, in advance of the completion of a forthcoming branding strategy that will recommend a public-facing name for the transit service. That future brand will be subject to approval of the Commission Board and Regional Council.

Given the ambitious timeframe and to ensure an effective and seamless integration, staff are predicating some of the Commission’s underpinning systems (e.g. for financial reporting and human capital management) on platforms already in use by the Region and/or commonly used or preferred by many municipalities in Niagara to ensure ease of implementation, consistency and familiarity for the Commission (e.g. Peoplesoft).

As a result of extensive transitional activities in 2022, in addition to the assumption of operational control by the new Commission in January 2023, staff are proceeding on the basis that appointing the Public Advisory Committee post-municipal election would present a more strategic fit for the Board to successfully focus on transition activities, and to better align with the forthcoming municipal election cycle.

To ensure a broad cross-section of lessons learned, successful implementation practices, and insight into the relationship between transit commissions and their municipal/regional corporations, outreach beyond just the City of St. Catharines to other transit Commissions has also occurred with counterparts in Ottawa, London, Edmonton, and Durham to gather as much information as possible to compare and contrast best practices and successful policies and procedures.

Given the accelerated pace at which the transition is moving to ensure a successful operational hand off to the new Commission on Jan. 1, 2023, it has been necessary for Staff to leverage single-source assignments in compliance with the Procurement By-law, to enable appropriate, strategic and rapid onboarding of appropriate resources. For example, in the case of the shared services review being undertaken by KPMG, deadlines within the program delivery criteria required an accelerated path to ensure compliance with the reporting requirements, as well as to ensure integration of the outcomes in relation to other transition activities (i.e. establishment of the MSB). A competitive process was not possible given the pace at which information and resourcing is required to deliver the Commission transition by Jan. 1, 2023.

Establishment of Municipal Services Board (MSB)

Creating the Niagara Transit Commission will require the establishment of a new MSB of the Region, in accordance with Sections 196 to 198 of the *Municipal Act*, 2001, Council will be asked to consider and adopt a by-law that will create the new Board and formalize aspects of the relationship between the Commission and the Region at a special Council meeting being held on May 5, 2022. Key considerations will include:

- Formalizing the transitional Board and Advisory Committee structure;
- Establishment of the corporate and administrative services relationship between the Commission and Region;
- Setting requirements for procedural matters regarding meetings and a Code of Conduct/Integrity Commissioner in accordance with the Municipal Act, 2001 requirements for local boards;
- Outlining the Commission's requirements with respect to the Region's budget approval process;
- Establishing the requirement for specific policies such as disposition of land, hiring of employees, and procurement of goods and services as is mandatory under s. 270(2) of the *Municipal Act*, and
- Establishing the roles, responsibilities, and authority to be delegated to the Commission Board, the General Manager, and Auditor.

Appointment of Transitional Board Members

In anticipation of the establishment of the Commission as a MSB by Regional Council at its Special meeting being held on May 5, 2022, this report recommends that each LAM be asked to forward their nomination(s) for their elected official(s) for the transitional Niagara Transit Commission Board to the Regional Clerk, no later than April 29, 2022.

The LAM appointment recommendations will subsequently be brought forward to Regional Council for approval in parallel with the report establishing the new MSB. This will allow for the establishment of the MSB and appointment of the initial transitional Board members to occur simultaneously at the meeting on May 5, 2022.

In keeping with the Governance Strategy developed through the triple-majority process:

- Nominees must be an elected official, either a local or Regional Councillor; and
- Each municipality should forward the appropriate number of nominees in accordance with the 15 member board composition outlined in Report PW 55-2021 as follows:
 - (3) St. Catharines
 - (2) Niagara Falls
 - (1) All Other Municipalities

The transitional Niagara Transit Commission Board will have significant responsibility for the administration of the Commission, including the hiring of a General Manager, oversight of the transfer of personnel and assets from the current municipal transit providers, and the harmonization of service and policies. In selecting nominees, local area Councils may wish to consider candidates with particular expertise or background in areas related to these objectives, such as business, finance, strategic planning, or transit operations. As all transitional Board positions will be elected officials, it is recommended that while eligible for expense reimbursement such as mileage, Members serve without remuneration.

All transitional Commission Board Members will undergo mandatory orientation following appointment and prior to commencing their duties. The Orientation will include topics such as the role of Board and its relationship to the Region, diversity and equity, fiduciary duty, Code of Conduct, open meetings and other legislative requirements.

The term of the initial transitional Commission Board Members appointed by Regional Council in Q2 will end on January 31, 2023. This date has been recommended on the basis of ensuring continuity through the full transition and overlapping with the assumption of operations by the Commission on January 1, 2023.

Given the requirement that Board Members be elected officials, in the event that any of the Members appointed in Q2 lose their seat as a result of the 2022 Municipal Election their appointment will automatically be rescinded at that time. Board Members who are re-elected through the 2022 Municipal Election will complete the remainder of the term to January 31, 2023.

A subsequent round of nominations will occur through December 2022 and January 2023 for Regional Council to appoint new Board Members for a term starting February 1, 2023 and that will continue until the future permanent Board structure is put in place coinciding with the next Municipal election in 2026.

It is anticipated that the Public Advisory Committee for the Niagara Transit Commission would also be established following the 2022 Municipal Election.

As outlined in the Governance Strategy in PW 55-2021, the mandate of the Transitional Board structure will end with the establishment of a future permanent Board structure that will coincide with next municipal election cycle (2026). This will be informed by an external third-party review of the Transitional Board structure and governance that will revisit and make recommendations regarding the total Board size and representation complement. Regional Council will ultimately need to approve the recommended permanent Board structure.

Municipal Transfer Agreement

The MTA will govern how current municipal transit personnel, contracts and assets will transfer to the Region and/or Commission to support the assumption of operations on January 1, 2023.

Staff have initiated the negotiation of the MTA in accordance with the terms outlined in Report PW 55-2021; specifically the principles outlined in Appendix 3. This subset of work is consistent with the principles agreed to by the CAO GSC, unanimously endorsed by the LNTC, and which received triple majority approval. At this point, there is consensus among the LAMS to proceed on the basis of a single agreement that all parties will sign; with any specific or unique needs of municipalities to be addressed under defined schedules to the agreement.

Subject to the successful conclusion of negotiations, staff are working towards seeking Regional Council approval for the finalized MTA as part of the forthcoming report seeking establishment of the MSB; or at the very least, staff will seek Council's authority to conclude the process based on defined delegated authority at that time.

A comprehensive Human Resources Implementation Plan has been prepared which includes all matters associated with the transfer of municipal transit Union and Non-Union personnel. Discussions with the Amalgamated Transit Union (ATU) Locals (who represent all unionized transit employees in Niagara Falls, St. Catharines, and Welland)

are a key part of the Transition Plan; and as such, are planned to commence in the March/April timeframe.

Conclusion of Linking Niagara Transit Committee

The LNTC was established in 2017 following the unanimous municipal triple-majority approval to proceed with the creation of a new governance model for a consolidated transit system. Its primary mandate was to develop and advance a recommended consolidated governance model for Niagara, as well as in the interim, harmonize the operations and policies of the existing transit systems.

A significant number of interim milestones and successes have been achieved by the LNTC and are summarized in Appendix 2. With the development of a recommended governance strategy and the successful attainment of triple-majority approval for consolidation based on LNTC's unanimous recommendation, LNTC's mandate has now been successfully achieved.

It is therefore recommended that the LNTC be dissolved forthwith, with sincere thanks to its members and leadership of its Chair and Vice-Chair, as primary responsibility for transit decisions in Niagara will shift to the transitional Niagara Transit Commission Board once established and appointed.

Next Steps

The next significant milestone in the transition to the new Commission will be the report that Regional Council will consider on May 5, 2022 that will make recommendations for Council's consideration respecting:

- Enactment of a by-law to establish the Commission as a MSB of the Region, including confirming Regional policies to be adopted.
- Establish remuneration policies for the Board;
- Establish corporate and administrative services relationship between the Commission and Region.
- Bring forward the LAMs' transitional Board member nominations for appointment by Regional Council; and
- Seek Regional Council approval of the MTA, subject to successful completion of the negotiations and/or seek delegated authority to complete.

With the Commission Board established, focus in the next phase of transition activities will include the hiring of a General Manager and senior leadership team, development and approval of Commission policies, facilitating the transfer of assets and personnel to the Commission on the basis of the MTAs, and a branding strategy – all in support of assumption of service by the Commission on January 1, 2023.

Alternatives Reviewed

Consideration was given to not appointing Board members to coincide with the establishment of the Municipal Services Board, however this was not recommended given the need for an accelerated pace of transition and having the Board in place at the earliest opportunity to advance future operational decisions.

The alternative of not dissolving the Linking Niagara Transit Committee was also considered, but not recommended as the mandate of LNTC as defined in its Terms of Reference has been achieved and given that the Commission Board will now provide strategic direction to the transition.

Relationship to Council Strategic Priorities

The consolidation of transit services across Niagara into a new Transit Commission directly aligns with the Council Strategic Priority: Responsible Growth and Infrastructure Planning (Objective 3.1) through advancing regional transit and facilitating the movement of people and goods.

Other Pertinent Reports

PW 55-2021	Moving Transit Forward in Niagara: Creation of a Consolidated Transit Commission
LNTC-C 5-2021	Niagara Transit Governance – Phase 2 Consultation Results and Triple-Majority Initiation
LNTC-C 4-2020	Niagara Region Transit Governance Study
CAO 8-2017	Niagara Region’s Transit Service Delivery and Governance Strategy

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Appendices

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| Appendix 1 | City of Welland Response – Triple-Majority Achieved |
| Appendix 2 | Linking Niagara Transit Committee - Achievements |