
Subject: Moving Transit Forward: Establishing the Niagara Transit Commission as a municipal service board and Update regarding the transfer of municipal transit assets to the Commission

Report to: Regional Council

Report date: Thursday, May 26, 2022

Recommendations

1. That Regional Council **APPROVES** the passage of a by-law to establish the Niagara Transit Commission (“NTC”) as a municipal service board of the Region, pursuant to section 196 of the *Municipal Act, 2001*, in accordance with the draft by-law attached as **Appendix “1”** to this report; including the provision of corporate and administrative services by staff to the NTC as set out in Schedule “B” of the draft by-law on a cost recovery basis; and the application of Regional policies and procedures to the NTC as set out in Schedule “A” to the draft by-law with such necessary amendments as may be required to give effect to this resolution;
2. That the Chief Administrative Officer (CAO) **BE AUTHORIZED** to negotiate and execute an appropriate service level agreement with the NTC for corporate and administrative support services provided to the NTC by Regional Staff on a cost recovery basis in a form satisfactory to the Director of Legal and Court Services;
3. That Regional Council **APPOINT** the members of the NTC Board as set out in **Appendix “2”** for a term from May 26, 2022, until their term on municipal or regional council ends or until January 31, 2023 whichever is earlier;
4. That Regional Council **APPROVES** the application of its Code of Conduct, as may be amended from time to time, to the members of the NTC Board with such necessary amendments as may be required to give effect to this resolution;
5. That Regional Council **APPOINTS** the Commissioner of Corporate Services/ Treasurer as an interim signing officer for NTC with delegated authority to execute such documents on behalf of NTC as may be required, in order to advance transitional activities required to implement regional transit consolidation until such time as NTC appoints its own signing officers;
6. That Staff **BE DIRECTED** to report back to Regional Council at its meeting of July 21, 2022 regarding the completion of the Municipal Transfer Agreements.

Key Facts

- The purpose of this report is to seek the required Council approval to progress the implementation of the consolidation of region-wide transit, following the successful achievement of triple-majority approval of By-law No. 2021-96 in February 2022; whereby the authority to provide region-wide public transit now rests solely with the Region, with operational responsibility effective January 1, 2023.
- Council approval is requested for the passage of a by-law (attached as **Appendix “1”**) to establish the Niagara Transit Commission (“NTC”) as a Municipal Services Board (“MSB”) of the Region, pursuant to section 196 of the *Municipal Act, 2001* (“Act”). To that end this report provides an overview of what a MSB is; the proposed authority being granted to NTC; and, its proposed relationship with the Region, including as it relates to the provision of corporate and administrative support services.
- To coincide with the establishment of the NTC; Council is also being asked to approve appointments to the Board based on nominations made by the local area municipalities in accordance with Report PW 15-2022 (attached as **Appendix “2”**).
- This report also provides updates regarding the progress of negotiations of the Municipal Transfer Agreements (“MTAs”), and related ancillary agreements, required to effect transfer of the transit-related assets, indebtedness, agreements and personnel from the Cities of St. Catharines, Niagara Falls and Welland and the Town of Fort Erie, as applicable. Negotiations have proceeded on the basis of the “term sheet” (attached as **Appendix “3”**) that was appended to Report PW 55-2021, and approved as part of the triple-majority process. There is a separate closed session report to provide legal advice for Council’s consideration regarding the outstanding MTA matters.
- Subject to Council’s consideration and approval of the recommendations herein, Staff will continue to undertake the necessary transitional activities to support regional transit consolidation; and will report back to Regional Council at its meeting of July 21, 2022 regarding the MTAs.

Financial Considerations

The estimated 2023 NTC budget as outlined in PW 55-2021 was \$48.6M. This represents the consolidated budget of local and regional transit services adjusted for inflation and capital funding. The share of the budget relating to the upload of local municipal service budget, inflation and capital funding was estimated to be \$32.2M,

which represents 7.6% of the 2022 levy. The Region's budget for transit will also be transferred to the NTC.

The estimated 2023 NTC budget was based on the consolidation of the 2020 local area municipality (LAM) budgets. As NTC service levels are intended to maintain current service levels, the 2020 budgets served as reasonable proxy for the cost of a consolidated service; however an in depth analysis of these budgets was not prepared at that time. Additionally operations and capital projects have continued since that financial analysis was completed and the development of the MSB and MTAs has identified several items that may impact the estimated 2023 NTC budget. A detailed 2023 budget of the NTC will be prepared using information assembled in the ongoing data collection phase and based on organizational structure decisions to be made. Staff will more accurately identify any impact on budgets once potential duplication and opportunities for efficiency are assessed in more detail.

As per Report PW 55-2021, existing local transit assets at June 30, 2022, including but not limited to bus fleet, service vehicles, equipment, and transit service facilities will transfer to the NTC at no cost for the exclusive use of transit service delivery. These assets will be included in LAM specific appendices attached to the MTA agreement. In addition any remaining debt outstanding on these assets will also transfer to the Region which is not anticipated to have any material impact on the Region's estimated Annual Repayment Limit of 8.34% as the debt for transit as a percentage of transit taxation is very small.

In addition some LAMs may transfer inventory and prepaid expenses to the NTC. Those that have been paid for by the LAMs and to the extent not yet expensed to their 2022 budget will require a financial reconciliation but are not likely to impact 2023 budget as they would be reflective of the costs involved in normal operations and included in estimated budgets. LAMs that have operating and capital reserves either established through allocations funded in prior year budgets, from development charges or federal/provincial funding (i.e. Provincial Gas Tax (PGT), Investing in Canada Infrastructure Program (ICIP), etc.) collected in prior years will also be transferred to the NTC to be utilized for the transit purposes intended.

The MTA principles, included in the "term sheet" attached as **Appendix "3"** had envisioned that the LAMs would continue to manage projects "in flight" and transfer transit assets to the NTC upon completion. Upon further analysis much complexity was identified with these projects such that Staff is recommending that these projects be considered in the following three categories:

1. Projects that will be completed by the LAM and a completed Pending Asset will be transferred to the NTC upon completion. An issue flagged for these is the potential incremental operating costs (maintenance, fuel, debt servicing etc.) in particular on growth projects that were not anticipated in the 2020 budget upon which the financial model for the triple majority was prepared.
2. Projects that will remain the full responsibility of the LAM and the completed asset will not transfer to the NTC as it is not for NTC-related assets.
3. Projects that require additional analysis but the expectation is that for the most part upon completion the NTC will likely assume the assets. Staff recognize these proposed assets are of some value to the NTC, funding agreements and arrangements are beneficial to the NTC and there is potential that some of the projects in this category that have not yet commenced could be transferred to NTC for execution. However the following issues still require resolution to assess funding (and business) implications (and as such the MTA will be updated to reflect the need for ongoing discussion; a new schedule to capture all projects in this category, and agreement to be reached by the parties by December 31, 2022):
 - i. Criticality of project to maintaining existing service levels;
 - ii. Customer experience/operational benefits that may be achieved if the execution of the project is assumed by the Commission;
 - iii. Reconciliation of capital budget funding sources to and from the LAM (i.e. PGT, Development Charges (DCs), ICIP);
 - iv. Possible substitution of reserve or other funding in lieu of debt that may have been approved for the projects;
 - v. Staffing resources available to oversee the project execution;
 - vi. Operating budget implications outstanding which may require projects to be re-prioritized in the capital forecast to align with financial capacity;
 - vii. Active and planned procurements;
 - viii. Transfer of legal agreements for funding from upper levels of government; specifically ICIP (and any associated deadlines for project completion).

Potential 2023 base budget considerations identified at this time total \$1.8 M (0.42% of 2022 levy) which includes increased debt servicing costs, 2022 service enhancement, declining fare revenues etc. Further details will be reported to Council in the July report and as part of the 2023 budget.

The 2022 Operating Budget includes \$2.7M to support transitional costs to the NTC. As of May 10, 2022, \$790,000 has been expended or committed. Staff anticipate that there will be adequate budget to support transition inclusive of additional one-time costs estimated at \$1.5M (e.g. HR system configuration, 2022 corporate supports).

Analysis

Background

Further to Report PW 15-2022, this report seeks Council approval to implement next steps to advance bringing regional transit consolidation to fruition; more particularly the establishment of the Niagara Transit Commission (NTC); and, the appointment of board members. The report also provides an update regarding the negotiation of Municipal Transfer Agreements (and required ancillary agreements and documents) to equip the NTC with required transit assets to successfully commence operations on January 1, 2023.

In progressing the deliverables detailed in this report Staff continue to be guided by, and seek alignment with, the “term sheet” that was appended to Report PW 55-2021, and approved as part of the triple-majority process, that outlined a series of foundational financial, service, and governance strategies that had been developed and recommended by the CAO Governance Steering Committee and endorsed by the Linking Niagara Transit Committee to support regional transit consolidation (attached as **Appendix “3”** to this report for reference purposes).

As noted in previous reports, external legal counsel, Dentons, have been retained to provide legal advice and support for all legal aspects of the transit consolidation.

What is a Municipal Service Board (MSB)?

This section is intended to serve as an overview regarding MSBs for purposes of providing Council with some context regarding some of the requirements proposed for inclusion in the MSB by-law to establish the NTC and the recommendations of this report.

A MSB is created by by-law pursuant to section 196 of the Act. The Region is responsible for naming the MSB, appointing its board of directors, and determining its mandate and reporting relationship to the Region as set out in the by-law authorizing its establishment.

Although not a corporation; a MSB is a “body corporate”, which in effect means that it can contract and sue and be sued in its own name. In this way, establishing the Commission as a MSB serves the intended purpose of providing a level of independence to the Commission that is greater than being a municipal department.

A MSB is also an “agent” of the municipality in accordance with section 197(2) of the Act; which can have legal ramifications. Usually an agent can bind a principal and usually the principal is vicariously liable; which is why it is important to define the authority given to agents like the MSB. Importantly, a MSB only has the powers and duties delegated to it by the Region in accordance with section 198 of the Act. It is responsible and accountable to the Region and must report to the Region, as determined by the Region.

MSBs are also “local boards” pursuant to section 197(3) of the Act; which means that there are certain requirements under the Act that also need to be addressed, including:

- the open meeting rules will apply to the Board- same as Council (section 239 of the Act); as a result the Board must enact a procedure by-law; have formal agendas and minutes; and provide public notice of its meetings;
- the Board is required to adopt certain policies as prescribed by the Act (section 270(2)); for example: sale and disposition of land; hiring of employees; and the procurement of goods and services;
- the Board requires a Code of Conduct and Integrity Commissioner;
- the *Municipal Conflict of Interest Act* will apply to board members; and
- *Municipal Freedom of Information and Protection of Privacy Act* (“MFIPPA”) applies to its records.

It is also important to note that the Board of Directors owes a fiduciary duty and a duty of care to act in the interest of the MSB. Fiduciary duty means that the Board members will be required to:

- Act honestly and in good faith with a view to the best interests of the MSB, rather than any municipality;
- Exercise the care, diligence and skill expected of a “reasonably prudent person” in comparable circumstances;
- Manage the assets of the MSB to best realize its objectives as defined by by-law by the Region;

- Maintain confidentiality of information acquired as a result of position on the Board; and,
- Avoid conflicts of interest, interpreted broadly (i.e. common law definition of conflict is much broader than pecuniary interest per *Municipal Conflict of Interest Act*).

Niagara Transit Commission and its Relationship to the Region

The proposed MSB By-law was prepared with reference to constituting by-laws of other transit authorities including Durham, London, and Ottawa; and is the product of collaboration among a cross-departmental working group comprised of staff from all Corporate Services divisions; Human Resources; Clerks; Corporate Strategy and Innovation; the GO Implementation Office; and with input from the Region's external transit consultant.

The following provides a brief overview of the proposed by-law attached as **Appendix "1"**:

- Article 2 Establishes the NTC as a MSB and local board of the Region
- Article 3 Outlines the purposes of NTC and its general mandate
- Article 4 Addresses governance matters; including board composition appointment and the requirement for a governance review to be undertaken prior to the 2026 election (in accordance with the "term sheet")
- Article 5 Outlines requirements related to Commission meetings and records; including addressing compliance with open meeting requirements, the requirement to adopt a procedural by-law and the role of the Clerk including as it relates to MFIPPA
- Article 6 Establishes the scope of responsibilities and authority delegated by Council to the Commission with respect to the control and management of the regional transit system, subject to certain restrictions (e.g. head office required to be in Niagara, Commission required to ensure compliance with "term sheet" commitments regarding service)
- Article 7 Provides requirements for budgetary matters and business planning reporting to Regional Council for approval
- Article 8 Provides that the Region's auditor shall serve as the auditor for the Commission
- Article 8 outlines responsibilities of the General Manager to be appointed by the Commission

For Council's reference, the below serves as a high level synopsis of the delineation of responsibility between the Region and NTC within the proposed by-law:

Region Responsibility:

- Approval of name of NTC (including any future operating names or brands)
- Appointment of members of the Board and Public Advisory Committee
- Approval of governance structure
- Board mandatory orientation
- Approval of Board remuneration
- Approval of annual budget, business plans, quarterly financial reporting
- Approval of transit fees and charges (via the annual budget process)
- Approval of acquisition or disposition of land and contracts over 20 years
- Ownership of transit (capital) facilities
- Negotiation and approval of MTAs and ancillary agreements as required to effect the transfer of transit assets, personnel and agreements as required for regional transit consolidation
- Provision of certain corporate and administrative services (on a cost-recovery basis) and related policies and procedures

Commission Responsibility:

- Delivery of regional transit, including establishment of service levels; subject to the commitment to continue to utilize existing fleet vehicles transferred to the NTC from a local area municipality exclusively within that municipality for the remainder of their useful life; and the commitment to maintain existing local service levels in each municipality (defined as a minimum of the budgeted 2020 local service hours) for a minimum of 7 years or unless otherwise consented to by the municipality; both of which were included in the "term sheet" supported by the local area municipalities as part of the triple majority process (attached as **Appendix "3"** for reference)
- Appoint Chair and Vice Chair
- Adopt Procedural By-law for meetings
- Appoint General Manager and establish organizational structure for the Commission
- Establish a head office (subject to the requirement that it be located within the region)
- Develop annual and long term plans for improving transit
- Manage NTC assets and workforce

- Establish Committees including terms of reference and process for input for the Public Advisory Committee
- Establish operational by-laws, policies procedure and guidelines respecting operation and use of the transit system
- Provision of certain corporate and administrative services and development of related policies and procedures

One of the key considerations in determining the relationship between the Region and the NTC that needed to be addressed within the by-law is the nature and extent of any shared services to be provided by the Region. To this end, as noted in Report PW 15-2022, KPMG was retained, utilizing provincial funding secured through the Audit and Accountability – Phase 3 program, to examine and develop a recommended shared services relationship between the Region and Commission. This assignment considered best practices and comparator transit commissions (i.e. London, Ottawa, Edmonton, Durham) to examine reporting relationships, undertake financial analysis, and arrive at a preferred model. Based on this analysis, KPMG have also proposed an initial staffing organization structure that is intended to be submitted to the Commission for consideration to support accelerated decision-making. Recognizing the sensitivity of considerations regarding the future staffing arrangements, and related implications for current LAM transit employees, which are part of the ongoing discussions related to the Municipal Transfer Agreement as canvassed below; at this time the report produced by KPMG is being provided as a confidential appendix to the separate closed session report being provided to Council. The KPMG report will be released to the public at a later date, once the outstanding matters have been resolved.

The by-law attached as **Appendix “1”** (and most notably in schedules A, B, C) reflects that the Commission should have responsibility and independence with respect to those services that are considered to be specific to the delivery of transit services (e.g. fleet maintenance); and the Region should have responsibility for those services that are common to the Region and are more cost efficient to deliver through a shared services model (e.g. accounts payable processing); thereby allowing the Commission to leverage the benefits and efficiencies of reliance on established corporate and administrative services and systems for foundational support; whilst recognizing the independence of the Commission in allowing appropriate autonomy for the provision of services more unique/core to transit.

Council should be aware that additional Regional Staff resources will be required to provide the identified corporate and administrative support to NTC which will be included for Council’s consideration as part of 2023 budget process. This report

includes a recommendation to allow the CAO to negotiate and execute an appropriate service level agreement with the NTC for corporate and administrative support services provided to the NTC by Regional Staff on a cost recovery basis in a form satisfactory to the Director of Legal and Court Services.

Appointment of NTC Board Members

In accordance with Council approval of Report PW 15-2022, correspondence was issued to the local area municipalities requesting their nominations for appointments to the transitional NTC Board (in accordance with the criteria identified in Report PW 15-2022). The recommendations received from the local area municipalities are attached to this report as **Appendix “2”** for the consideration and approval of Council. Staff have included a recommendation in the report that those individuals listed in Appendix 2 be appointed to the NTC Board in order for appointment of the Board to coincide with the establishment of the NTC as a MSB.

The term of the initial transitional Commission Board Members appointed by Regional Council will end on January 31, 2023. This date was selected, as noted in Report PW 15-2022, to afford some continuity through the full transition and overlapping with the assumption of operations by the Commission on January 1, 2023.

Given the requirement that the transitional Board Members be elected officials, in the event that any of the Members appointed are not re-elected 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. Following the 2022 municipal election, Council will again undertake the appointment process for NTC Board members based on the recommendations of local area municipalities, to hold office until the end of the municipal or regional council term in 2026, as applicable, or until their successors are appointed.

As outlined in the Governance Strategy in Report 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 obligatory external third-party review of the Transitional Board structure and governance that will revisit and make recommendations regarding the total Board size, term and representation complement. The Commission is required, as noted in the proposed MSB By-law, to report to Regional Council by no later than January 2026 to seek approval of the recommended permanent Board structure.

Once appointed, the Board members are required to attend a mandatory orientation session provided by the Region tentatively scheduled for June 22, 2022, prior to their first Board meeting which is tentatively scheduled for June 28, 2022. The NTC will appoint its Chair and Vice-Chair at its first Board meeting.

Staff are making arrangements to secure appropriate directors and officers' liability insurance coverage to be in place for Board members once appointed in advance of their first meeting.

Overview of Municipal Transfer Agreements, Ancillary Agreements and Current Status

A Municipal Transfer Agreement (MTA) will be entered into on a joint basis between the Region, the Cities of St. Catharines, Niagara Falls, Welland and the NTC; to govern how current municipal transit personnel, contracts, assets and any related indebtedness, will transfer to the Region and/or Commission to support the assumption of operations on January 1, 2023, which is in the process of being negotiated on the basis of the "term sheet" attached as **Appendix "3"**. The MTA will contain schedules for each municipality that describe the assets to be transferred and many standard commercial terms related to the condition of the assets, any assets that are excluded, and provision to make any required adjustments after closing.

As part of the MTA, it is proposed that all existing transit related assets will be transferred to NTC, with the exception of the transit facility buildings themselves which will be transferred to the Region; and reserves which will be segregated and dedicated to transit but held by the Region. In addition, debt related to the assets transferred to the NTC/Region will be transferred to the Region, as negotiated between the parties. This approach was a product of direction of the Transit Steering Committee as it is reflective of the financial relationship between the NTC and the Region and is in general alignment with the approach taken with respect to the Region's other agencies, boards and commissions, such as NRPS.

Some positive progress has been made between the parties in sharing information and negotiating language to advance the completion of the MTA based on the approved principles in the "term sheet". Some further refinements are required to provide greater clarity and certainty for the parties to support a smooth transition given the "closing" of the transfer on December 31, 2022; and the need to ensure operational continuity once the NTC assumes responsibility for service delivery as of January 1, 2023. For example, the financial terms of the MTA are being developed to capture an appropriate

reconciliation process to address the fact that payments made for the 2022 and 2023 fiscal year's may not align with the December 31 closing date. (e.g. payroll periods that straddle the December 31/January 1 transfer). There are also ongoing discussions between the parties related to pending assets arising from projects "in flight" and the transfer of employees, and the unfunded liabilities related to employees (that are further canvassed below) that need to be further negotiated and appropriately reflected in the MTA prior to bringing it forward for Council approval.

In addition there are a number of ancillary agreements required for the delivery of transit that the NTC will need to enter into on an individual basis with each of the municipalities that are in the process of being negotiated, including:

- License agreements for access to municipal lands for bus stops and bus shelters;
- Lease agreements for the lands the transit facilities are located upon (given the "term sheet" principle that the lands themselves will not transfer to the NTC but will remain under ownership of the respective municipalities);
- Agreements to reflect shared municipal/NTC use of certain facilities;
- Service agreement related to WEGO (recognizing that the responsibility for the delivery of WEGO and related assets are remaining with the City of Niagara Falls as per the "term sheet"; but NTC will provide transit operators on the basis of an hourly fee to support service delivery);
- Assignment of existing leases with third parties who own certain transit facilities;
- Assignment agreements related to material contracts to be transferred;
- Any licenses/transfers related to intellectual property.

Capital Projects "in flight"

In engaging with the Cities of St. Catharines, Niagara Falls and Welland to prepare the schedules to the MTA to address the particular assets proposed for transfer to NTC; it became evident that there are a significant number of transit projects "in flight" (namely new projects that are scheduled to be commenced in 2022 or active projects underway in 2022; that either may or may not be completed in 2022) that are variable in terms of their scale and complexity (e.g. matters ranging from major capital improvements to procurements for the acquisition of buses), and that encompass different external and municipal funding sources (ICIP, reserves, DCs, PGT, debentures, etc.). In this regard the "term sheet" provides that "any ongoing or in-progress capital improvement or acquisition projects will remain the responsibility of the municipality until completed and the asset transferred to the Commission only upon completion at zero cost". However,

both Regional and municipal Staff have identified that in some instances there may be merit to the NTC assuming responsibility for execution of certain projects that have not yet been commenced at the outset (e.g. new projects related to fare payment technology) in order to accelerate the ability of the Commission to realize the operational benefits of consolidation to achieve more unified experience for the customer. Therefore, Staff recognized that there is not a “one size fits all” approach, but rather these projects require review on an individual basis and further discussion with the local area municipalities to determine the timing, approach and necessity of potential assumption of these projects or pending assets, with consideration of principles such as:

- Criticality of the project to maintaining existing service levels (vs. service enhancement that may be out of scope of what was previously contemplated)
- Funding source/financial strategy, including operating budget implications and ability to transfer related provincial funding agreements;
- Capacity of the Commission to take on/execute the project (if that is contemplated), including as it relates to any deadlines imposed through Provincial or Federal funding agreements;
- Procurement implications; and
- Customer experience/operational benefits that may be achieved if the project is assumed by the Commission.

In this regard, Staff note that one of the projects “in flight” is a capital project (estimated \$15M, supported by approx. \$11M ICIP funding) being undertaken by the City of Welland to undertake substantial renovations to its transit facility, which is scheduled to be commenced in 2022. Recognizing the operational criticality of this facility to the NTC in terms of maintaining service levels for the City, Staff have been seeking further information and clarity from the City as to its proposal for completion and transfer of this asset, guided by the “term sheet” and principles noted above.

In the event that review of projects “in flight” is not completed (or consensus on treatment of such projects is not reached) by the time of July 21 report to Council, an option that may be considered at that time, rather than further delaying the completion of the MTA, is to incorporate the above principles within the MTA, and allow the parties to enter into a subsequent agreement (or amendment to the MTA schedules), to deal with the characterization of the specific projects “in flight”, with a deadline of December 31, 2022 for completion given the need for operational certainty when NTC commences service delivery on January 1, 2023 (failing which the assets/projects will not transfer and will remain with the LAMS). Legal considerations regarding the projects “in flight”

are included in the separate confidential memo being provided for the consideration of Council in closed session.

Transfer of employees, and related unfunded liabilities

Discussions with the Amalgamated Transit Union (ATU) Locals (who represent all unionized transit employees in Niagara Falls, St. Catharines, and Welland) are progressing positively with respect to the transfer of union employees to the NTC, which will be undertaken in accordance with the *Public Sector Labour Relations Transition Act, 1997*, and as contemplated in the “term sheet”.

As it relates to the potential transfer of non-union employees to the NTC, the “term sheet” identified that non-union employees would not automatically transfer to the NTC, but rather would be either directly offered positions with the NTC in certain instances or have the opportunity to compete for roles within the NTC. In discussion with the LAMs on this issue, and the related potential transfer of unfunded employee liabilities (such as vacation, employee benefits, severance), it is evident that there is a lack of alignment in the interpretation and application of the “term sheet” principles to the MTA that requires further Council direction in order to move forward. To assist Council in this regard there is a confidential report to accompany this report that includes legal advice on this issue for the consideration of Council in closed session.

Separate MTA and ancillary licence agreement with the Town of Fort Erie

Staff have also been engaged in discussions with the Town of Fort Erie to develop an MTA with the Region and the NTC for the transfer of the Town’s transit related assets and contracts and any ancillary agreements required (primarily a licence agreement related to bus shelters/bus stops). While the assets to be transferred are not as substantial, the nature of the transfer warrants an agreement that reflects much of the same terms and conditions as the MTA with the other local area municipalities for consistency and to support a smooth transition upon closing on December 31, 2022. The key difference is that Fort Erie does not have employees to be transferred. The parties are working together collaboratively to finalize the necessary documents.

Appointment of Interim Signing officer for NTC

Recognizing that the NTC will not immediately have an organizational structure and signing officers in place; the report also includes a recommendation that the Commissioner of Corporate Services/Regional Treasurer be appointed by Council as an

interim signing officer for NTC in order to allow the advancement of transitional activities required to implement regional transit consolidation until such time as NTC appoints its own signing officers.

Alternatives Reviewed

With the completion of triple majority process, the authority for the operation of public transit now rests solely with the Region; therefore the nature of the alternatives that could be considered by Council are limited to the manner in which it provides this service. In addition, given that the recommendations of this report are based on implementation of the “term sheet” that was appended to Report PW 55-2021, and approved as part of the triple-majority process, Council should be aware of the risk of departing from the “term sheet”, which is not recommended by Staff.

For example, the Commission could be established as a department of the Region, rather than a separate municipal services board - but that would be contrary to terms for transit consolidation supported by the local area municipalities through the triple majority process.

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 15-2022 Moving Transit Forward – Initial Transition Activities and Next Steps

PW 55-2021 Moving Transit Forward in Niagara: Creation of a Consolidated Transit Commission

PW 9-2021 Niagara Transit Governance Study- Niagara Region Considerations

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

Prepared by:

Donna Gibbs
Director Legal Services
Corporate Services

Recommended by:

Todd Harrison, CPA, CMA
Commissioner Corporate
Services/Treasurer

Recommended by:

Bruce Zvaniga
Acting Commissioner, Public Works

Submitted by:

Ron Tripp, P.Eng.
Chief Administrative Officer

This report was prepared in consultation with Helen Chamberlain, Director, Financial Management and Planning, Franco Meffe, Director, Human Resources, Matt Robinson, Director, GO Implementation Office, external legal counsel Mary Ellen Bench of Dentons Canada LLP and reviewed by Bart Menage, Director, Procurement and Strategic Acquisitions and Ann-Marie Norio, Regional Clerk.

Appendices

- | | |
|------------|--|
| Appendix 1 | Proposed By-law to establish the Niagara Transit Commission as a Municipal Service Board of the Region |
| Appendix 2 | Local Area Municipalities' Nominations for NTC Board |
| Appendix 3 | Term Sheet (previously appended to report PW 55-2021 as Appendix 3) |