



## **COUNCIL MEETING AGENDA**

**Tuesday, May 5, 2020  
5:30 P.M.**

**Due to COVID-19 and the closure of the Civic Square  
All Electronic Meetings can be viewed at:**

**City of Welland website: <https://www.welland.ca/Council/LiveStream.asp>  
YourTV: The meeting will be aired on channel 700 on May 8, 2020 at 9:00 a.m.**

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- 1. COMMITTEE-OF-THE-WHOLE (IN-CAMERA) (5:25 p.m.)  
(See yellow tab)**
  - Proposed or pending acquisition or disposition of land by the municipality or local board;  
- *Lease updates.*
  
- 2. ARISE FROM COMMITTEE-OF-THE-WHOLE (IN-CAMERA) (5:30 p.m.)**
  
- 3. OPEN COUNCIL MEETING (5:30 p.m.)**
  - 3.1 NATIONAL ANTHEM**
  - 3.2 OPENING REMARKS**
  - 3.3 ADDITIONS/DELETIONS TO AGENDA**
  - 3.4 ADOPTION OF MINUTES**

Regular Council Meeting of April 21, 2020 (*Previously Distributed*).
  - 3.5 CALL UPON THE CITY CLERK TO REVIEW COMMITTEE-OF-THE-WHOLE ITEMS (IN-CAMERA) TO BE ADDED TO BLOCK**
  - 3.6 DISCLOSURES OF INTEREST**
  - 3.7 COUNCILLORS TO DETERMINE AGENDA ITEMS AND BY-LAWS TO BE REMOVED FROM BLOCK FOR DISCUSSION IN COMMITTEE-OF-THE-WHOLE (OPEN) (See pink tab)**
  
- 4. ORAL REPORTS AND DELEGATIONS**
  - 4.1 PRESENTATION**

**02-160 Harold Elston, Integrity Commissioner re: Council Complaint Reports.  
(Background Information included in Council members agenda).**



## **COUNCIL MEETING AGENDA – Page 2**

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- 
- 4.2 DELEGATION(S) (maximum 5/10/5 policy) - Nil
  - 4.3 AGENCIES, BOARDS, COMMISSIONS AND COMMITTEES REPORT(S) - Nil
  - 4.4 LEGISLATED PUBLIC HEARINGS/MEETINGS - Nil
  
  5. COMMITTEE-OF-THE-WHOLE (OPEN)  
(to discuss items removed from Agenda Block)
  
  6. BY-LAWS (SEE AGENDA INDEX)
  
  7. NOTICES OF MOTION
    - 7.1 Councillor matters discussed with staff for reporting purposes
    - 7.2 Notices of Motion (previously submitted for discussion) - Nil
    - 7.3 Call for Notices of Motion (for introduction at the next scheduled Council meeting)
  
  8. CORPORATION REPORTS
    - 8.1 Mayor's Report
    - 8.2 Chief Administrative Officer's Report
  
  9. CONFIRMATORY BY-LAW

A By-law to adopt, ratify and confirm proceedings of the Council of the Corporation of the City of Welland at its meeting held on the 5<sup>th</sup> day of May, 2020. Ref. No. 20-1
  
  10. ADJOURNMENT



## **COUNCIL MEETING AGENDA INDEX**

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Page No.

### **AGENDA BLOCK**

**1. BUSINESS ARISING FROM MINUTES, PREVIOUS MEETINGS AND OTHER ITEMS REFERRED FROM COUNCIL FOR DISCUSSION - Nil**

**2. COMMITTEE AND STAFF REPORTS**

- 1. Business Arising from Committee-of-the-Whole (closed)**
- 2. General Committee Report to Council - Nil**
- 3. Budget Review Committee Report to Council - Nil**
- 4. Staff Reports**

- |                |                               |                                                                                                                                                                                                                         |
|----------------|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1 - 3</b>   | <b><u>CLK-2020-13</u></b>     | Gen. Mgr., Corporate Services, Chief Financial Officer/Treasurer, S. Zorbas - Amendment to the 2020 Council Meeting Calendar. Ref. No. 20-29                                                                            |
| <b>4 - 6</b>   | <b><u>ENG-2020-01</u></b>     | Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick - Welland Hydro Easement Requests over City Lands on the East Side of Welland Market Square Parking Lot. Ref. No. 99-43 (See By-law 1)               |
| <b>7 - 10</b>  | <b><u>P&amp;B-2020-22</u></b> | Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick - Community Improvement Plan Incentive Applications - Quarterly Summary Report for First Quarter of 2020. Ref. No. 03-133/11-108                     |
| <b>11 - 13</b> | <b><u>P&amp;B-2020-23</u></b> | Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick - Layout, Establish and Open Portions of River Road and Downs Drive as part of the River/Downs Industrial Subdivision. Ref. No. 18-36 (See By-law 2) |



## COUNCIL MEETING AGENDA INDEX – Page 2

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### Page No.

- 14 - 25            **TRAF-2020-02** Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick - Update to Traffic and Parking By-law 89-2000 and Property Standards By-law 2009-108. Ref. No. 08-48/20-22 (See By-law 3)
- 26 - 29            **R&C-2020-02** Gen. Mgr., Economic Development, Recreation & Culture, D. Degazio - Award of RFP20-07, Inflatable Water Park. Ref. No. 99-99

### 3. NEW BUSINESS

- 30 - 41            1. Ann-Marie Norio, Regional Clerk, Region of Niagara re: Report PDS 19-2020 2019 End of Year Growth Report - Minute Item 9.2 CL 6-202, April 23, 2020. Ref. No. 20-40

**RECOMMENDATION:**

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from the Region of Niagara dated April 24, 2020 regarding Report PDS 19-2020 2019 End of Year Growth Report - Minute Item 9.2 CL 6-202, April 23, 2020.

- 42 - 52            2. Ann-Marie Norio, Regional Clerk, Region of Niagara re: Report PDS 13-2020 2019 Reserve Water and Wastewater Treatment Capacities - Minute Item 9.2 CL 6-2020, April 23, 2020. Ref. No. 20-72

**RECOMMENDATION:**

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from the Region of Niagara dated April 24, 2020 regarding Report PDS 13-2020 2019 Reserve Water and Wastewater Treatment Capacities - Minute Item 9.2 CL 6-2020, April 23, 2020.

- 53 - 63            3. Ann-Marie Norio, Regional Clerk, Region of Niagara re: Report CSD 8-2020 Optional Tax on Vacant Residential Units - Minute Item 9.2 CL 6-2020, April 23, 2020. Ref. No. 20-73

**RECOMMENDATION:**

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from the Region of Niagara dated April 24, 2020 regarding Report CSD 8-2020 Optional Tax on Vacant Residential Units - Minute Item 9.2 CL 6-2020, April 23, 2020.



## **COUNCIL MEETING AGENDA INDEX – Page 3**

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### **Page No.**

- 64 - 74**      4. Ann-Marie Norio, Regional Clerk, Region of Niagara re: Report CSD 30-2020 COVID-19 Preliminary Overview of Financial Impacts Minute Item 9.1.1 CL 6-2020, April 23, 2020. Ref. No. 20-64

#### **RECOMMENDATION:**


THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the correspondence from the Region of Niagara dated April 24, 2020 regarding Report CSD 30-2020 COVID-19 Preliminary Overview of financial Impacts Minute Item 9.1.1 CL 6-2020, April 23, 2020.

#### **4. BY-LAWS**

**MAY BE VIEWED IN THE CLERK'S DIVISION PRIOR TO THE MEETING IF DESIRED.**

1. A By-law to Grant an Easement over Part 1 Plan 59R-16676 to Welland Hydro-Electric System Corp. located on the west side of Market Square Parking Lot. Ref. No. 99-43 (See Report ENG-2020-01)
2. A By-law to Lay Out, Establish as Public Roadway Part 8 Plan 59R-16655 as River Road and Part 6 Plan 59R-16644 as Downs Drive. Ref. No. 18-36 (See Report P&B-2020-23)
3. A By-law to amend By-law 89-2000, being a By-law regulating Traffic and Parking within the City of Welland (Schedule "I" - Municipal/Private Property). Ref. No. 20-22 (See Report TRAF-2020-02)

**COUNCIL****CORPORATE SERVICES – CLERKS DIVISION**

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

REPORT CLK-2020-13  
MAY 5, 2020

**SUBJECT:** AMENDMENT TO THE 2020 COUNCIL MEETING CALENDAR

**AUTHOR:** TARA STEPHENS, CITY CLERK

**APPROVING G.M.:** STEVE ZORBAS, GENERAL MANAGER, CORPORATE SERVICES, CHIEF FINANCIAL OFFICER/TREASURER

**RECOMMENDATION:**

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report CLK-2020-13, regarding the amendment to the 2020 Council Meeting Calendar; and further THAT Welland City Council approves the amendment to reschedule the Welland Hydro Annual Shareholder Meeting to September 22, 2020.

**ORIGIN AND BACKGROUND:**

On September 17, 2019, Welland City Council approved the 2020 Meeting Calendar for Council. The next Welland Hydro Annual Shareholder Meeting is scheduled for June 23, 2020.

Due to the COVID-19 Pandemic, and the uncertainty of upcoming General Committee meetings, staff is recommending rescheduling the Welland Hydro Annual Shareholder Meeting to September 22, 2020.

**COMMENTS AND ANALYSIS:**

Staff have had discussions with the Welland Hydro Corporation and they are supportive of the date change.

**FINANCIAL CONSIDERATION:**

There are no financial implications.

**OTHER DEPARTMENT IMPLICATIONS:**

The Corporate Leadership Team has reviewed the amendment to the 2020 Council Meeting Calendar and support the update being proposed.

**SUMMARY AND CONCLUSION:**

The early planning of a meeting schedule enables staff and Council to organize their priorities for meetings and agendas. It is recommended that Council support this staff recommendation.

**ATTACHMENT:**

Appendix I – Amended Schedule of 2020 Meeting.

**"APPENDIX I"**  
**AMENDED 2020 SCHEDULE OF MEETINGS**

<i>Date</i>	<i>Meeting</i>
January 14, 2020	General Committee
January 21, 2020	Council
January 28, 2020	General Committee
February 4, 2020	Council
February 11, 2020	General Committee
February 18, 2020	Council
February 25, 2020	General Committee
March 3, 2020	Council
March 10, 2020	General Committee
March 24, 2020	General Committee
April 7, 2020	Council
April 21, 2020	Council
April 28, 2020	General Committee
May 5, 2020	Council
May 12, 2020	General Committee
May 19, 2020	Council
May 26, 2020	General Committee
June 2, 2020	Council
June 9, 2020	General Committee
June 16, 2020	Council
June 23, 2020	General Committee
July 7, 2020	Council
August 4, 2020	Council
September 1, 2020	Council
September 8, 2020	General Committee
September 15, 2020	Council
<b>*September 22, 2020</b>	<b>General Committee/Welland Hydro Annual Shareholder Meeting</b>
October 6, 2020	Council
October 13, 2020	General Committee
October 20, 2020	Council
October 27, 2020	General Committee
November 3, 2020	Council
November 10, 2020	General Committee
November 17, 2020	Council
November 24, 2020	General Committee
December 1, 2020	Council
December 8, 2020	General Committee
December 15, 2020	Council



**COUNCIL**  
**INFRASTRUCTURE AND DEVELOPMENT SERVICES**  
**ENGINEERING DIVISION**

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

99-43

**REPORT ENG-2020-01**  
**MAY 5, 2020**

**SUBJECT:** WELLAND HYDRO EASEMENT REQUESTS OVER CITY  
LANDS ON THE EAST SIDE OF WELLAND MARKET SQUARE  
PARKING LOT

**AUTHOR:** MATTHEW MAIN, A.Sc.T., E.I.T.  
ENGINEERING DESIGN SUPERVISOR

**APPROVING  
MANAGER:** SHERRI-MARIE MILLAR, P.ENG.  
MANAGER OF ENGINEERING

**APPROVING G.M.:** TRAVERS FITZPATRICK, GENERAL MANAGER,  
INFRASTRUCTURE AND DEVELOPMENT SERVICES

**RECOMMENDATIONS:**

1. THAT THE COUNCIL OF THE CITY OF WELLAND approves an Easement(s) to permit the crossing of City-owned land along the east side of Welland Market Square Parking Lot to the benefit of Welland Hydro-Electric System Corporation;
2. THAT Welland City Council directs Staff to prepare the necessary By-law(s) and documentation and also authorizes the Mayor and Clerk to execute same.

**ORIGIN AND BACKGROUND:**

Welland Hydro-Electric System Corporation (Welland Hydro) is requesting an easement on the east side of the Welland Market Square parking lot for underground infrastructure and a transformer that replaced overhead lines running through the Market area out to Hellems Avenue.

The required easement is illustrated on the attached Reference Plan as Appendix I.

**COMMENTS AND ANALYSIS:**

The easement is required for underground infrastructure and a transformer that is at the east most limit of the Market Square parking lot property. There are no current or future impacts on the parking lot due to the creation of this easement.

**FINANCIAL CONSIDERATION:**

There are no financial implications related to the contents of this Report.

**OTHER DEPARTMENT IMPLICATIONS:**

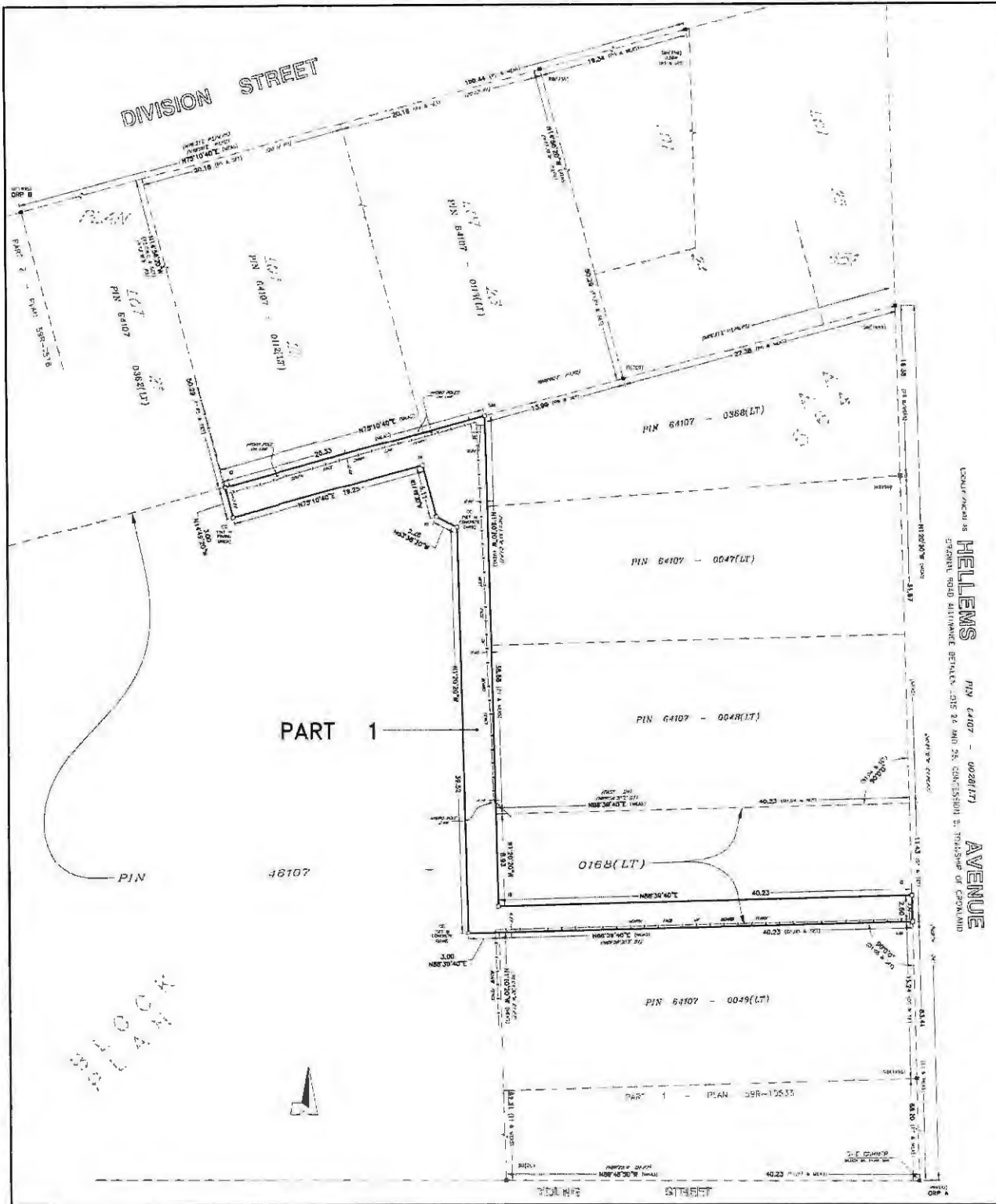
The Legal Division will be involved in the preparation of the required By-law and necessary documentation associated with the creation of the easement should Council approval be received.

**SUMMARY AND CONCLUSION:**

Based on the foregoing, Staff would recommend that Council approve the request from Welland Hydro for an easement for underground infrastructure and installation of a transformer.

**ATTACHMENTS:**

Appendix I - Reference Plan



1 REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT. PLAN 59R-16676 RECEIVED AND DEPOSITED

DATE: March 9, 2020 ON: April 9, 2020

*Donald C. Chambers*  
DONALD C. CHAMBERS, B. Sc., O.L.S.  
R. Lane  
REGISTRAR FOR LAND TITLES DIVISION OF NIAGARA SOUTH (59)

**SCHEDULE**

PART	BLOCK	PLAN	PIN
1	PART OF BLOCK AA	PLAN 564	PART OF PIN 64107-0168(LT)

PART 1 COMPRISES PART OF PIN 64107 0168(LT)

PLAN OF SURVEY OF  
PART OF BLOCK AA  
PLAN 564  
**CITY OF WELLAND**  
REGIONAL MUNICIPALITY OF NIAGARA  
SCALE 1 : 200

DONALD C. CHAMBERS  
ONTARIO LAND SURVEYOR

**METRIC NOTE**  
DISTANCES AND COORDINATES GIVEN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

**BEARING NOTE**  
BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (2013)

**DISTANCE NOTE**  
DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.999823.

**OBSERVED REFERENCE POINTS (ORP), UTM ZONE 17, NAD 83 (CSRS) (2010), CO-ORDINATES TO URBAN ACCURACY PER SEC. 14 (2) OF O.R.S.O. 216/10**

POINT ID	NORTHING	EASTING
ORP A	4781137.00	640928.41
ORP B	4781277.94	642718.22

CO-ORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

**LEGEND**

SYMBOL	DESCRIPTION
—	SURVEY MONUMENT FOUND
—	SURVEY MONUMENT SET
SR	STANDARD IRON BAR
SB	SHORT STANDARD IRON BAR
SB	ROD BAR
CP	CONCRETE PIN
RIB	ROUND IRON BAR
RP	ROUND IRON BAR
MP	METAL PIPE
ME	MEASURED
WT	WITNESS
OK	ORIGIN UNKNOWN
N/S/L/W	NORTH/SOUTH/EAST/WEST
PN	PROPERTY IDENTIFICATION NUMBER
P1	PLAN 521
P2	DEPOSITED PLAN 58R-7518
P3	PLAN OF SURVEY BY G. J. CLARKE, O.L.S., DATED OCTOBER 15, 1989; FILE 77-47
P4	PLAN OF SURVEY BY P. D. REITSMA, O.L.S., DATED SEPTEMBER 12, 1989; FILE 89-418
P5	PLAN OF SURVEY BY MATTHEWS AND CAMERON, O.L.S., DATED DECEMBER 15, 1989; FILE 89-372
P6	PLAN OF SURVEY BY S. J. CLARKE, O.L.S., DATED OCTOBER 24, 1978; FILE 77-47
P7	DEPOSITED PLAN 58R-10533
O1	INSTRUMENT No 8023133 - PIN 64107-0168(LT)
O2	INSTRUMENT No 80381217 - PIN 64107-0368(LT)
O3	INSTRUMENT No 80405788 - PIN 64107-0047(LT)
O4	INSTRUMENT No 80232788 - PIN 64107-0048(LT)
O5	INSTRUMENT No 80673336 - PIN 64107-0049(LT)
759	C. J. CLARKE, O.L.S.
799	R. H. PLUNK, O.L.S.
1485	P. D. REITSMA, O.L.S.
1654	P. D. REITSMA, O.L.S.

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

1) THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM;

2) THE SURVEY WAS COMPLETED ON THE 5th DAY OF MARCH, 2020.

March 9, 2020  
DATE: *Donald C. Chambers*  
DONALD C. CHAMBERS, B. Sc., O.L.S.

**CHAMBERS AND ASSOCIATES SURVEYING LTD**

12 THOROLD ROAD, SUITE 105  
WELLAND, ONTARIO L3C 3T2 (905) 735-7841 / 735-7844  
FAX (905) 735-7333  
www.chambers-surveying.com

DATE: DWT 86169-1\_UG DATE: 08169-1\_HP FILE NO: 08-109-1

APPENDIX I - REFERENCE PLAN

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

03-133  
11-108

**COUNCIL**

**INFRASTRUCTURE AND DEVELOPMENT SERVICES**

**REPORT P&B-2020-22  
MAY 5, 2020**

**SUBJECT: COMMUNITY IMPROVEMENT PLAN INCENTIVE  
APPLICATIONS – QUARTERLY SUMMARY REPORT  
FOR FIRST QUARTER OF 2020**

**AUTHOR: CHRISTINE ROSSETTO, B.A. (Hons.)  
PLANNING ASSISTANT**

**APPROVING SUPERVISOR: ROSE DI FELICE, M.Pl., M.Sc., MCIP, R.P.P.  
MANAGER OF POLICY PLANNING**

**APPROVING G.M.: TRAVERS FITZPATRICK  
GENERAL MANAGER,  
INFRASTRUCTURE AND DEVELOPMENT SERVICES**

**RECOMMENDATION:**

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report P&B-2020-22 being a quarterly summary Report of approved Community Improvement Plan Incentive Applications between January 1, 2020 and March 31, 2020.

**ORIGIN AND BACKGROUND:**

On July 19, 2016, Council delegated, by By-law, Community Improvement Plan (CIP) Incentive Grant Approvals to Staff and adopted procedures for the processing of the Applications subject to the Delegated Authority. This Report deals with the Incentive Applications that were approved in the first quarter of 2020.

**COMMENTS AND ANALYSIS:**

Six Community Improvement Plan Incentive Applications were approved in the first quarter of 2020. This includes four Applications within the Downtown and Health and Wellness Cluster Project Area and two Applications under the Brownfield CIP.

Supplementary information is also provided regarding Tax Increment Grants which have been approved by Council (under By-law 2016-104) and are associated with other incentives for proposals noted in the following Table which outlines the Grant

details for the four Applications approved under the Downtown and Health and Wellness Cluster CIP.

LOCATION, INCENTIVE PROGRAM AND TYPE OF WORK	ESTIMATED PROJECT COST OR FEES	MAXIMUM ELIGIBLE GRANT	CITY PORTION OF GRANT	REGIONAL PORTION OF GRANT
<b>22 and 28 Steel Street</b>				
Residential Grant Program – 4 units	\$320,765	\$35,943	\$17,971	\$17,971
Planning and Building Fees Grant Program -refund of fees	\$3,582	\$3,582	\$3,582	\$0
Tax Increment Grant Program - approved by Council January 21, 2020		\$36,911	\$20,450	\$16,461
<b>179 East Main Street</b>				
Building Improvement Grant Program – roof	\$41,800	\$10,891	\$5,446	\$5,445
<b>163 Division Street</b>				
All approved by Council February 4, 2020				
Building Improvement Grant Program – building work	\$107,000	\$12,500	\$6,250	\$6,250
Facade Improvement Grant Program – front and side facade		\$20,000	\$10,000	\$10,000

Residential Grant Program – create 2 dwelling units		\$30,000	\$15,000	\$15,000
Planning and Building Fees Grant Program -refund of fees		\$5,000	\$5,000	\$0
Tax Increment Grant Program		\$12,312	\$6,821	\$5,491
<b>139 East Main Street</b>				
Facade Improvement Grant Program – front and side façade	\$49,300	\$20,000	\$10,000	\$10,000
<b>TOTAL</b>	<b>\$522,447</b>	<b>\$187,139</b>	<b>\$100,520</b>	<b>\$86,618</b>

The following table outlines the Grant details for the two Applications approved under the Brownfield Environmental Study Grant Program.

LOCATION	ESTIMATED STUDY COST	MAXIMUM ELIGIBLE GRANT	CITY PORTION OF GRANT	REGIONAL PORTION OF GRANT
North side Downs Drive	\$13,945	\$6,972	\$3,486	\$3,486
53 Ontario Road	\$3,587	\$1,793	\$896	\$896
<b>TOTAL</b>	<b>\$17,532</b>	<b>\$8,765</b>	<b>\$4,382</b>	<b>\$4,382</b>

As per Council's request, the following information is included with respect to the Downtown and Health and Wellness Cluster CIP Programs in the first quarter of 2020:

- A total of 10 general and specific inquiries were received;
- A total of 2 pre-Application meetings were held by Staff;
- All Incentive Applications submitted were approved.

**FINANCIAL CONSIDERATION:**

The City's portion of the Grants for these Approvals, upon completion, will be covered with funds from the Incentives Program Fund.

**OTHER DEPARTMENT IMPLICATIONS:**

The Finance Division, upon completion of the approved works, will be involved with all financial aspects associated with the issuance of these Grants.

The Building Division will be involved with the issuance of the required Permits.

**SUMMARY AND CONCLUSION:**

Council delegated CIP Incentive Grant Approvals to Staff. As part of the approval procedures contained within the Delegation By-law, a Report outlining the Incentive Grant Applications that have been approved is to be prepared for Council's information on a quarterly basis. As noted in this Report, a total of six CIP Incentive Applications were approved in the first quarter of 2020.

**ATTACHMENTS:**

None.

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

**COUNCIL**

**INFRASTRUCTURE AND DEVELOPMENT SERVICES**

18-36

**REPORT P&B-2020-23  
MAY 5, 2020**

**SUBJECT: LAYOUT, ESTABLISH AND OPEN PORTIONS OF RIVER ROAD AND DOWNS DRIVE AS PART OF THE RIVER/DOWNS INDUSTRIAL SUBDIVISION**

**AUTHOUR: GRANT MUNDAY, B.A.A., MCIP, RPP**

**APPROVING G.M.: TRAVERS FITZPATRICK  
GENERAL MANAGER,  
INFRASTRUCTURE AND DEVELOPMENT SERVICES**

**RECOMMENDATIONS:**

1. THAT THE COUNCIL OF THE CITY OF WELLAND lay out, establish and open Part 8 on Plan 59R-16655 as part of River Road; and
2. THAT Welland City Council lays out, establishes and opens Part 6 on Plan 59R-16655 as part of Downs Drive; and further
3. THAT Welland City Council authorizes the Mayor and Clerk to sign the By-law(s) authorizing these changes.

**ORIGIN AND BACKGROUND:**

Staff have been working to finalize details with the River/Downs industrial subdivision. With reference to Appendix I, a Registered Reference Plan is now complete which allow the City to close on existing Purchase and Sale Agreements for lots in the subdivision. There is also a need to lay out, establish and open two parcels on the Reference Plan as part of Downs Drive and River Road.

**COMMENTS AND ANALYSIS:**

Staff are requesting that Council lay out, establish and open Part 8 on Plan 59R-16655 as part of River Road and Part 6 on Plan 59R-16655 as part of Downs Drive. Recognizing Part 8 as part of River Road will ensure that Part 1 on the Plan has legal access to River. Part 8 is being retained by the City to accommodate future road widening of River Road. Recongnizing Part 6 as part of Downs Drive relates to the turnaround bulb at east end of Downs Drive which was constructed as part of this industrial subdivision.



**FINANCIAL CONSIDERATION:**

The cost to register the By-law at the Land Registry Office is \$77.31. There no other financial implications related to the contents of this Report.

**OTHER DEPARTMENT IMPLICATIONS:**

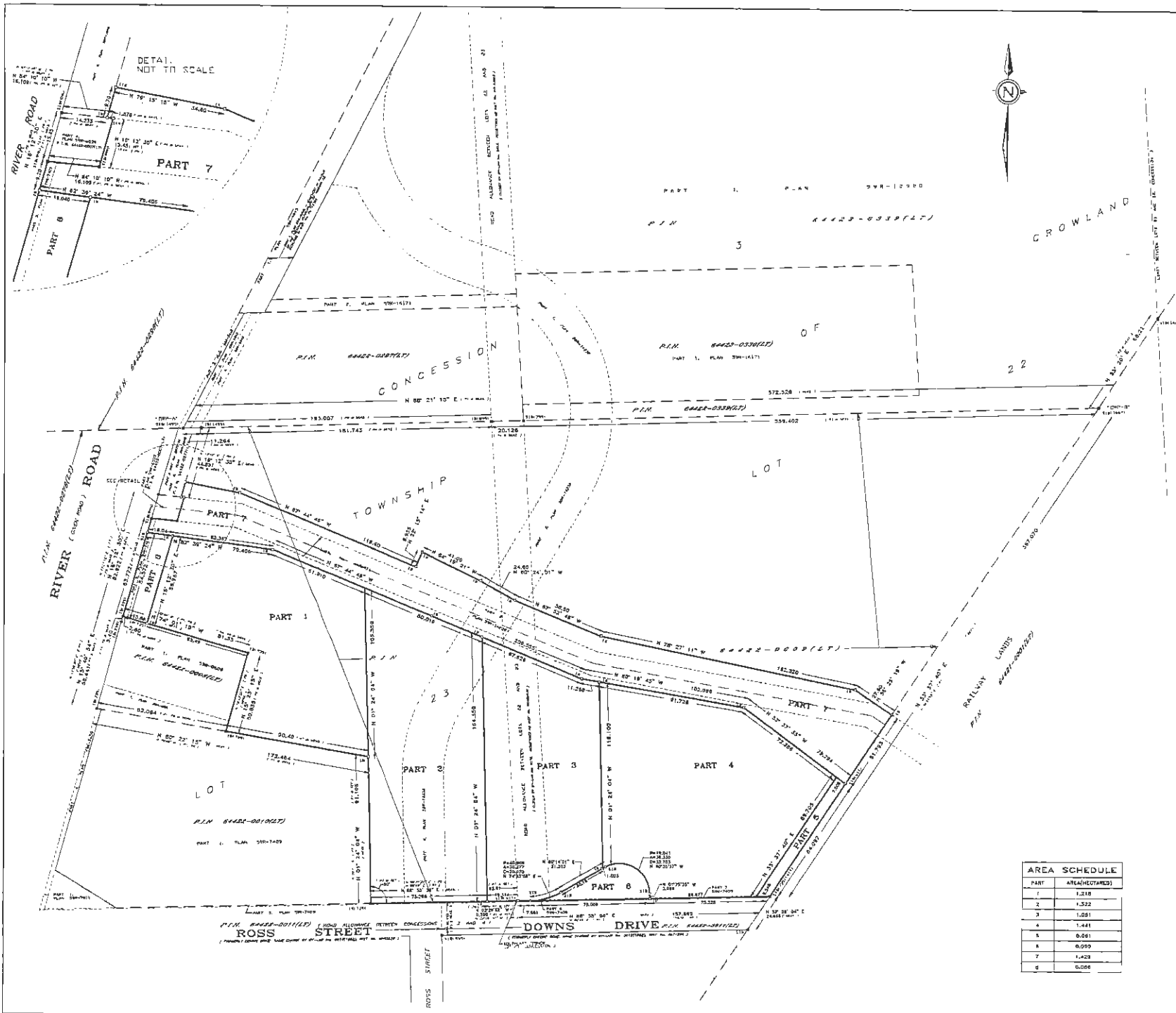
With regard to other Departments, there are no implications as a result of the contents of this Report.

**SUMMARY AND CONCLUSION:**

Staff have requested that Council lay out, establish and open Part 8 on Plan 59R-16655 as part of River Road and Part 6 on Plan 59R-16655 as part of Downs Drive. This is needed to ensure Part 1 on the Plan will have legal access to River Road and that the turnaround bulb at the end of Downs Drive is recognized as part of Downs Drive.

**ATTACHMENTS:**

Appendix I - Plan 59R-16655



PLAN 59 B-16655  
 DATE: March 13, 2020 DATE: March 13, 2020  
 P. SUDA O.L.S. R. MALESZYK  
 PROFESSIONAL SURVEYOR FOR THE PROVINCE OF ONTARIO (REG. NO. 123456)  
 PROFESSIONAL SURVEYOR FOR THE PROVINCE OF ONTARIO (REG. NO. 123456)

SCHEDULE			
NO.	DESCRIPTION	AREA (HECTARES)	REMARKS
1	PART OF 22		
2	PART OF 23		
3	PART OF 22		
4	PART OF 23		
5	PART OF 22		
6	PART OF 23		
7	PART OF 22		
8	PART OF 23		

PLAN OF SURVEY OF  
 PART OF LOTS 22 AND 23,  
 CONCESSION 3,  
 AND  
 PART OF THE ROAD ALLOWANCE  
 BETWEEN LOTS 22 AND 23  
 (CLOSED BY BY-LAW 2014)  
 GEOGRAPHIC TOWNSHIP OF CROWLAND  
 IN THE  
 CITY OF WELLAND  
 REGIONAL MUNICIPALITY OF NIAGARA  
 SCALE 1:1000  
 PLAN BY P. SUDA  
 P. SUDA O.L.S.

**BEARING NOTE:**  
 BEARINGS WERE TAKEN BY THE SURVEYOR FROM A MAGNETIC POINT AND AS SUCH, THE MAGNETIC DEVIATION WAS TAKEN INTO ACCOUNT. THE MAGNETIC DEVIATION AT THE DATE OF SURVEY WAS 13.00° WEST.

**DISTANCE NOTE:**  
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**COORDINATE SYSTEM:**  
 THE COORDINATE SYSTEM IS THE UTM SYSTEM, ZONE 18N, DATUM NAD 83.

INTEGRATION DATA	
DATE	13/03/2020
BY	P. SUDA
CHECKED BY	R. MALESZYK
DATE	13/03/2020

**NOTE:**  
 THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY. THE LOCAL AUTHORITY IS ADVISED THAT THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY.

**METRIC NOTE:**  
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AREA SCHEDULE	
PART	AREA (HECTARES)
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2	1.522
3	1.051
4	1.441
5	0.561
6	0.059
7	1.422
8	0.008

**SURVEYOR'S CERTIFICATE**


I, THE SURVEYOR, HEREBY CERTIFY THAT THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY. THE LOCAL AUTHORITY IS ADVISED THAT THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL AUTHORITY.

DATE: March 13, 2020

P. SUDA  
 P. SUDA O.L.S.  
 REGIONAL MUNICIPALITY OF NIAGARA

**SUDA & MALESZYK SURVEYING INC.**  
 20 EAST MAIN STREET, WELLSVILLE, ONTARIO, L2B 3P3  
 TEL: (905) 725-1001

**COUNCIL**  
**INFRASTRUCTURE AND DEVELOPMENT SERVICES**  
**TRAFFIC DIVISION**

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

08-48  
 REPORT TRAF-2020-02  
 MAY 5, 2020 20-22

**SUBJECT:** UPDATE TO TRAFFIC AND PARKING BY-LAW 89-2000  
 AND PROPERTY STANDARDS BY-LAW 2009-108

**AUTHOR:** MUHAMMAD ALI KHAN, M.A.Sc., P. ENG.  
 SUPERVISOR, TRAFFIC, PARKING & BY-LAWS

**APPROVING MANAGER:** SHERRI-MARIE MILLAR, P.ENG.  
 MANAGER, ENGINEERING SERVICES

**APPROVING G.M.:** TRAVERS FITZPATRICK, GENERAL MANAGER,  
 INFRASTRUCTURE AND DEVELOPMENT SERVICES

**RECOMMENDATIONS:**

1. THAT THE COUNCIL OF THE CITY OF WELLAND approves **REPORT TRAF-2020-02** Update to Traffic and Parking By-law 89-2000 and Property Standards By-law 2008-109; and further
2. THAT Welland City Council directs the City Clerk to amend Traffic and Parking By-law 89-2000 as follows:

ADD the following to Schedule "I" – MUNICIPAL/ PRIVATE PROPERTY:

SKETCH No.	LOCATION	COMMON NAME
No Sketch	383 KING STREET	PETRO CANADA
No Sketch	190 DIVISION STREET	FLETT BECCARIO
No Sketch	579 CLARE AVENUE	ROYAL TOWERS
No Sketch	152 THOROLD ROAD	DH WESTVIEW PROPERTIES LTD

DELETE the following from Schedule "V" – PARKING PROHIBITIONS (SPECIFIED PLACES, WITH SIGNS):

COLUMN 1 STREET	COLUMN 2 SIDE	COLUMN 3		COLUMN 4 PERIOD (TIMES/DAY)
		FROM	TO	
Pine Street	North Side	Niagara Street	Aqueduct Street	AT NO TIME

ADD the following to Schedule "V" – PARKING PROHIBITIONS (SPECIFIED PLACES, WITH SIGNS):

COLUMN 1 STREET	COLUMN 2 SIDE	COLUMN 3		COLUMN 4 PERIOD (TIMES/DAY)
		FROM	TO	
Pine Street	South Side	Niagara Street	Aqueduct Street	AT NO TIME

3. THAT Welland City Council directs the City Clerk to amend Property Standards By-law 2009-108 as follows:

DELETE Section 8.2.2. and replace with:

- 8.2.2. Yard storage/ parking of construction equipment, backhoes, skid steers, excavators, dump trucks, tractors, farm tractors and utility tractors is not permitted in a residential zone.

### **ORIGIN AND BACKGROUND:**

On this occasion, **SCHEDULE "I"** and **SCHEDULE "V"**, of the Traffic and Parking By-law will be affected and an amendment is proposed for **Section 8.2.2.** of the Property Standards By-law.

### **SCHEDULE "I" – Municipal/ Private Property**

An amendment is required to include the above noted properties to the City of Welland Municipal/ Private Property Schedule of By-law 89-2000:

This will allow Parking Enforcement Officers to enter onto private lands at the request of the property owner to issue a penalty notice and/ or remove unauthorized vehicles. Authorization letters have been attached as Appendix I, II, III, IV.

**SCHEDULE “V” – PARKING PROHIBITIONS (SPECIFIED PLACES, WITH SIGNS)**

An amendment is required to relocate the no parking signs from the North Side of Pine Street to the South Side of Pine Street. A public meeting was held to discuss the Pine Street Municipal Services Improvement Project. Majority of the residents on Pine Street are in favour of these changes.

**SECTION 8.2.2. – PROPERTY STANDARDS BY-LAW**

The proposed amendment is required to add clarity to the by-law regarding the types of vehicles prohibited in residential zones. Below is a comparison between the current section and the proposed amendment.

Current Section:

8.2.2. Yard storage/ parking of construction equipment, backhoes, excavators and dump trucks is not permitted in a residential zone.

Proposed Amendment:

8.2.2. Yard storage/ parking of construction equipment, backhoes, skid steers, excavators, dump trucks, tractors, farm tractors and utility tractors is not permitted in a residential zone.

This amendment is in response to complaints received by the public regarding skid steers and large tractors being parked in residential driveways. The amendment clearly established the types of vehicles prohibited in a residential zone.

**COMMENTS AND ANALYSIS:**

The proposed amendments to the Traffic and Parking By-law and Property Standards By-law are necessary to define the traffic and parking regulations on municipal and private property and the types of vehicles prohibited in residential zones within the City of Welland.

**FINANCIAL CONSIDERATION:**

As properties are added to the Municipal/ Private Property Schedule a slight increase to parking ticket revenue can be expected.

**OTHER DEPARTMENT IMPLICATIONS:**

Legal Services and the Clerks Department would be required to update the By-laws with the changes noted in this report.

**SUMMARY AND CONCLUSION:**

To ensure the appropriate regulations and wording of By-law 89-2000 and the Property Standards By-law, Staff recommends the modifications as outlined in this report.

The addition to the Municipal/ Private Property schedule are at the request of the property owners. Private property owners are experiencing difficulties with illegally parked vehicles on their property and the best solution to solve their problems would be to join our Traffic and Parking By-law and request enforcement when required.

Relocating the parking restrictions from the North Side of Pine Street to the South Side of Pine Street are a result of the comments and discussions at a public meeting. Majority (79%) of residents are in support of this change.

The proposed amendment to the Property Standards By-law is in response to complaints received by the public and clearly establishes the types of vehicle prohibited in a residential zone.

**ATTACHMENTS:**

Appendix I – Authorization Letter, 383 King Street  
Appendix II – Authorization Letter, 190 Division Street  
Appendix III – Authorization Letter, 579 Clare Avenue  
Appendix IV – Authorization Letter, 152 Thorold Road

**Appendix I**

**Empower group of Holdings (Canada) Corp O/A Petro Canada**

**83 King st Welland**

**L3B3K2**

Nov 12, 2019

The Corporation of the City of Welland

60 East Main Street – City Hall

Welland, ON L3B 3X4

Attention: James Cronshaw, MLEO(C)

Senior By-law Enforcement Officer

**Re: Authorization for Private Property Tagging and/or Towing**

383 KING ST, WELLAND L3B3K2

Empower group of Holdings (Canada) corp O/A Petro Canada are owners of (383 King st Welland ) and request the City of Welland to control unauthorized parking at the above noted address as per Traffic and Parking By-law 89-2000.

The following person(s) have been designated with signing privileges:

1. Mandeep Pandher- owner
2. Harjit Pandher- owner

A copy of this letter and identification will be produced each time a Parking Enforcement Officer arrives to enforce the offence of “Park on Private Property without the owner’s consent” or “Park on Private Property in contravention of Traffic and Parking By-law 89-2000”.

We understand that you require a “FORM 2” to be fully completed for each and every enforcement attendance by one of the above authorized person(s), who will call (905)735-1700 Ext. 2250 or 2113 for enforcement.

Signage is affixed to permanent post approximately 6’ high and are located on both sides of each entrance/exit of the property. The signs indicate:

Private Property Unauthorized vehicles will be


Tagged and/or towed at owner’s expense

City of Welland

By-law 89-2000

If further information is required, please call Mandeep or Harjit at 647-909-8900.

Sincerely,

Two handwritten signatures in black ink. The first signature is on the left, and the second is on the right, both appearing to be stylized initials or names.

Empower group of Holdings) Canada) corp. O/A Petro Canada

**Mandeep & Harjit Pandher-Owner**



## Appendix II

**FLETT  
BECCARIO**  
(Founded 1919)

Flett Beccario, Barristers & Solicitors  
Mailing: P. O. Box 340, Welland, ON L3B 5P9  
Courier: 190 Division Street, Welland, ON L3B 4A2

Tel: 905-732-4481  
Toll Free 1-866-473-5388

Reply to: **Anthony D'Amico**  
Tel No.: (905) 732-4481  
Fax No.: (905) 732-2020  
E-mail: [adamico@flettbeccario.com](mailto:adamico@flettbeccario.com)

November 14, 2019

### **AUTHORIZATION LETTER**

The Corporation of the City of Welland  
60 East Main Street – City Hall  
Welland, ON L3B 3X4  
Attention: James Cronshaw, MLEO(C)  
Senior By-law Enforcement Officer

**Re: Authorization for Private Property Tagging and/or Towing  
190 Division Street, Welland, Ontario L3B 5P9**

As the owner of 190 Division Street, I request the City of Welland to control unauthorized parking at the above noted address as per Traffic and Parking By-law 89-2000.

The following person(s) have been designated with signing privileges:

1. Anthony D'Amico
2. Carlo Gualtieri
3. Steve Talosi
4. Francine Holmes

A copy of this letter and identification will be produced each time a Parking Enforcement Officer arrives to enforce the offence of "Park on Private Property without the owners consent" or "Park on Private Property in contravention of Traffic and Parking By-law 89-2000".

We understand that you require a "FORM 2" to be fully completed for each and every enforcement attendance by one of the above authorized person(s), who will call (905)735-1700 Ext. 2250 or 2113 for enforcement.

Signage is affixed to permanent posts approximately 6' high and are located on both sides of each entrance/exit of the property. The signs indicate:

Private Property  
Unauthorized vehicles will be  
Tagged and/or towed  
At owner's expense  
City of Welland  
By-law 89-2000

If further information is required, please call Mr. D'Amico at 905-732-4481.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony D'Amico', with a horizontal line extending to the right.

**Anthony D'Amico**

**Appendix III**

AUTHORIZATION LETTER Parking  
Enforcement Unit as AGENTS

***March/03/2020***

The Corporation of the City of  
Welland 60 East Main Street – City  
Hall Welland, ON L3B 3X4

Attention: James Cronshaw, MLEO(C)  
Senior By-law Enforcement  
Officer

**Re: Authorization for Private Property Tagging and/or Towing  
*579 Clare Ave. Welland***

***MG Grand Property Management Inc*** are agents for the owners of ***579 Clare Ave. Welland, On L3C 3B7*** and request the City of Welland to control unauthorized parking at the above noted address as per Traffic and Parking By-law 89-2000.

The following person(s) have been designated with signing privileges: 1. Terry Tanguay 2. Tino Ligotti 3. Marzia Pizzoferrato

A copy of this letter and identification will be produced each time a Parking Enforcement Officer arrives to enforce the offence of "Park on Private Property without the owners consent" or "Park on Private Property in contravention of Traffic and Parking By-law 89-2000".

We understand that you require a "FORM 2" to be fully completed for each and every enforcement attendance by one of the above authorized person(s), who will call (905)735-1700 Ext. 2250 or 2113 for enforcement.

Signage is affixed to a permanent post approximately 6' high and are located on both sides of each entrance/exit of the property.

The signs indicate:

Private Property  
Unauthorized vehicles will  
be Tagged and/or towed At  
owner's expense City of  
Welland By-law 89-2000

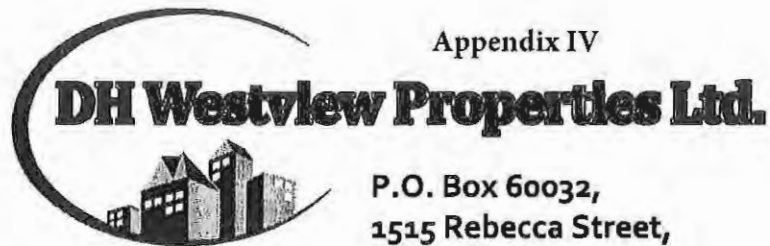
If further information is required, please call **Marzia** at **416-836-2161**.

Sincerely

,

**Marzia Pizzoferrato**

**Property Manager**



P.O. Box 60032,  
1515 Rebecca Street,  
Oakville, ON L6L 6R4

☎ (905) 582-8432 ☎ (905) 847-1900 ✉ dhw@dhwestview.com 🌐 www.dhwestview.com

January 16, 2020

The Corporation of the City of Welland  
60 East Main Street – City Hall  
Welland, ON L3B 3X4

Attention: James Cronshaw – Senior By-Law Enforcement Officer

Dear Mr. Cronshaw:

Re: Authorization for Private Property Tagging and/or Towing  
152 Thorold Road, Welland L3C 6N3

---

DH Westview Properties Ltd. are the owners and managers of the above referenced building. We hereby request the City of Welland to control unauthorized parking at the above noted address as per Traffic and Parking By-law 89-2000.

The following persons(s) have been designated with signing privileges:

1. Carolyn Palframan – Resident Manager or her husband Rick Palframan;
2. Chris McCloud – On Call Manager.

A copy of this letter and identification will be produced each time a Parking Enforcement Officer arrives to enforce the offence of "Park on Private Property without the owner's consent" or "Park on Private Property in contravention of Traffic and Parking By-law 89-2000".

We understand that you require a "FORM 2" to be fully completed for each and every enforcement attendance by one of the above authorized person(s), who will call (905) 735 1700 Ext. 2250 or 2113 for enforcement.

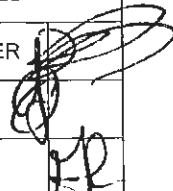
Proper signage is affixed to permanent posts located on both sides of the entrance/exit of the property as directed.

We look forward to receiving confirmation of your approval. Trusting this is all you require, however, should you have any further questions please feel free to call the office at (905) 582 8432.

Sincerely,

Lynn Arnold  
DH Westview Property Manager

**COUNCIL**  
**ECONOMIC DEVELOPMENT**  
**RECREATION AND CULTURE DIVISION**

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

99-99

**REPORT R&C-2020-02**  
**MAY 5, 2020**

**SUBJECT:**                   **AWARD OF RFP20-07, INFLATABLE WATER PARK**

**AUTHOR**                   **RICHARD DALTON, MANAGER, RECREATION & CULTURE DIVISION, ECONOMIC DEVELOPMENT**

**APPROVING G.M.:**       **DAN DEGAZIO, GENERAL MANAGER, ECONOMIC DEVELOPMENT, RECREATION & CULTURE**

**RECOMMENDATION:**

THAT THE COUNCIL OF THE CITY OF WELLAND approve the awarding of RFP20-07 to PT Watersports Inc.; and further THAT Welland City Council authorizes staff to enter into contract negotiations with PT Watersports Inc., pursuant to terms presented in RFP20-07.

**ORIGIN AND BACKGROUND:**

The Welland Recreational Waterway is a significant asset to the Welland community due to its beauty, pristine quality, and versatility for recreational uses; accordingly Welland Council has identified the Redevelopment of the Waterway as a strategic priority for the City.

In February 2020, Welland City Council directed staff to proceed with posting of an RFP to select a suitable vendor to establish an inflatable water park in Welland. Such parks are known to provide a healthy outdoor activity attraction and tend to be environmentally friendly as well as provide a positive impact on local tourism. All of these attributes support the placement of an inflatable water park attraction on the Recreational Waterway as a component of Council's strategic priority of Redevelopment.

In early 2020, two vendors presented to Council concept plans to open an inflatable water park in Welland however during the RFP process neither vendor elected to submit a proposal. A Non Bid Form was sent to both vendors to inquire as to why they did not participate in the process; at the time of writing this report no response has been received from either vendor (see Appendix I).

**COMMENTS AND ANALYSIS:**

RFP20-07 was issued in March; in reply to the posting there were six document takers and one submission was received. Staff has undertaken a detailed review of the sole proposal, from PT Watersports Inc., and recommend Council accepts the proposal since it meets or exceeds all of the stated criteria for selection.

The proposal details significant awareness of operational aspects key to operating a water park and which were key criteria for evaluation, as well as a financial plan that avoids impact to the City and offers reasonable pricing to the community:

- Location of new Water Park is adjacent to the Welland Community boathouse
- Proponent has indicated their operations will successfully coexist alongside existing activities at the Community Boat House, including Rowing
- Detailed understanding of safety requirements, including safe operating procedures, emergency response plans, safety equipment needs, mandatory life jackets to be worn by all who access water park; and lifeguard training requirements go beyond standard training to include Waterfront designation for all guards
- Commitment to use of high quality materials from a recognized brand of inflatable which meet ISO standards for safe public use
- Professional business case, highlighting all aspects of operation from seasonal installation, through peak traffic, to seasonal wrap-up.
- Financial plan which includes revenues to the City of Welland
- Admission to access the park will be set at \$22 for a 2hr pass and \$30 for daily pass

Additional strengths of the proposal include:

- PT Watersports Inc. plans to have the park open and operating by July, 2021
- Consideration for safe anchoring of inflatable water park system and use of certified installation crew by inflatable vendor
- Detailed site layout for shoreline operations which matches available space at the location, including ticketing kiosk, equipment storage, and lifejacket storage
- Commitment to keep free of litter and provide sufficient garbage and recycling receptacles
- Readiness to commence operations in June 2021



**FINANCIAL CONSIDERATION:**

The financial plan provided by PT Watersports Inc. includes remuneration to the City

No costs to the City are anticipated through approval of RFP20-07, all maintenance, installation, and operations costs are provided for by PT Watersports Inc.

**OTHER DEPARTMENT IMPLICATIONS:**

Support from the Legal Division will be required to complete an operating contract; oversight to contract implementation will be provided by the Economic Development, Recreation & Culture Division.

**SUMMARY AND CONCLUSION:**

Acceptance of PT Watersports Inc.'s submission to RFP20-07 and the establishment of a new Inflatable Water Park in Welland will create a family friendly new attraction within the City. This will be a significant step towards the redevelopment of the Recreational Waterway.

**ATTACHMENTS**

Appendix I Non Bid Form

29  
Appendix 1



## Non Bid Form

It is important to the City to receive a reply from as many Bidders as possible. There is no obligation to submit a bid or proposal, however, completion of this form will assist the City in determining the type of goods or services you are interested in for future opportunity.

### INSTRUCTIONS

If you were unable, or did not wish to bid on this opportunity, please complete the following portions of this form. State your reason for not bidding by checking the applicable space(s) or by explaining briefly in the space provided.

1	<b>We did not manufacture/supply this commodity/service</b>	
2	<b>We did not manufacture/supply to this specification</b>	
3	<b>Unable to quote competitively</b>	
4	<b>Cannot handle due to present work load</b>	
5	<b>Quantity/job too large</b>	
6	<b>Quantity/job too small</b>	
7	<b>Cannot meet delivery/completion requirements</b>	
8	<b>Licensing restrictions</b>	
9	<b>Agreements with distributors/dealers do not permit us to sell direct</b>	
10	<b>Not relevant to our business model</b>	

**Other reasons/additional comments:**

**Do you wish to bid on these goods/services in the future?**

**Firm Name:**

**Address:**

**Telephone No:**

**Name of Contact**

**Position:**

**Date:**

**Administration**

Office of the Regional Clerk

1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-4977

[www.niagararegion.ca](http://www.niagararegion.ca)

April 24, 2020

Council Session CL 6-2020, April 23, 2020

**DISTRIBUTION LIST****SENT ELECTRONICALLY**


**RE: Report PDS 19-2020 2019 End of Year Growth Report  
Minute Item 9.2 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report PDS 19-2020, dated April 23, 2020, respecting 2019 End of Year Growth Report, **BE RECEIVED** and **BE CIRCULATED** to the Local Area Municipalities, the Niagara Conservation Authority, Niagara Home Builders Association, Niagara Industrial Association, and the local Chambers of Commerce and School Boards.

A copy of Report PDS 19-2020 is attached for your information.

Yours truly,



Ann-Marie Norio  
Regional Clerk

CLK-C 2020-144

## Distribution List:

Local Area Municipalities

Niagara Peninsula Conservation Authority

Niagara Home Builders Association

Niagara Industrial Association

M. Balsom, President/CEO, Greater Niagara Chamber of Commerce

D. Fabiano, Executive Director, Niagara Falls Chamber of Commerce, Port Colborne/Wainfleet Chamber of Commerce, Welland/Pelham Chamber of Commerce

J. Thomson, Niagara-on-the-Lake Chamber of Commerce

Greater Fort Erie Chamber of Commerce

R. Shelley, Executive Director, Grimsby Chamber of Commerce

D. Potter, Executive Director, West Lincoln Chamber of Commerce

J. D'Amico, Chair, Niagara Board of Trade and Commerce  
S. Mabee, Niagara District School Board  
M. Ladouceur, Conseil scolaire Viamonde  
S. Whitwell, Niagara Catholic District School Board  
A. Aazouz, Conseil Scolaire de District Catholique Centre-Sud  
G. Bowie, Planner, Planning & Development Services  
R. Mostacci, Commissioner, Planning and Development Services  
N. Oakes, Executive Assistant to the Commissioner, Planning and Development Services

---

**Subject:** 2019 End Of Year Growth Report

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

---

### **Recommendations**

1. That Report PDS 19-2020 **BE RECEIVED** for information; and
2. That a copy of Report PDS 19-2020 **BE CIRCULATED** to the Local Area Municipalities, Niagara Peninsula Conservation Authority, Niagara Home Builders Association, Niagara Industrial Association, local Chambers of Commerce and School Boards.

### **Key Facts**

- The purpose of this report is to inform Planning and Economic Development Services Committee and Council about growth trends over the past 5 years.
- Niagara Region's population has increased by over 25,000 people since 2015, reaching an estimated total of 479,183 as of July 1, 2019.
- Housing Starts, Completions and Building Permits have all increased since 2015 and show a growing diversification of housing types being built.
- The average sale price of a home in Niagara Region increased 56% from 2015 to 2019, reaching \$444,500 in 2019.
- Over \$5 Billion in building permits were issued since 2015, with 2019 alone reaching nearly \$1.5 Billion.

### **Financial Considerations**

There are no direct financial implications associated with this report. Metrics in this report inform Niagara's financial strategies. Increased residential, commercial and industrial development in Niagara, combined with increasing property assessments, has a direct impact on revenues collected by the Region.

---

## Analysis

The Planning and Development Services department has been producing the annual growth report since 2017. Previous iterations of this report have focused on year-to-year trends throughout the Region. This report focuses on the past 5 years collectively to provide a more comprehensive analysis on growth metrics. This is possible since the Region has been collecting more detailed data over the past 5 years.

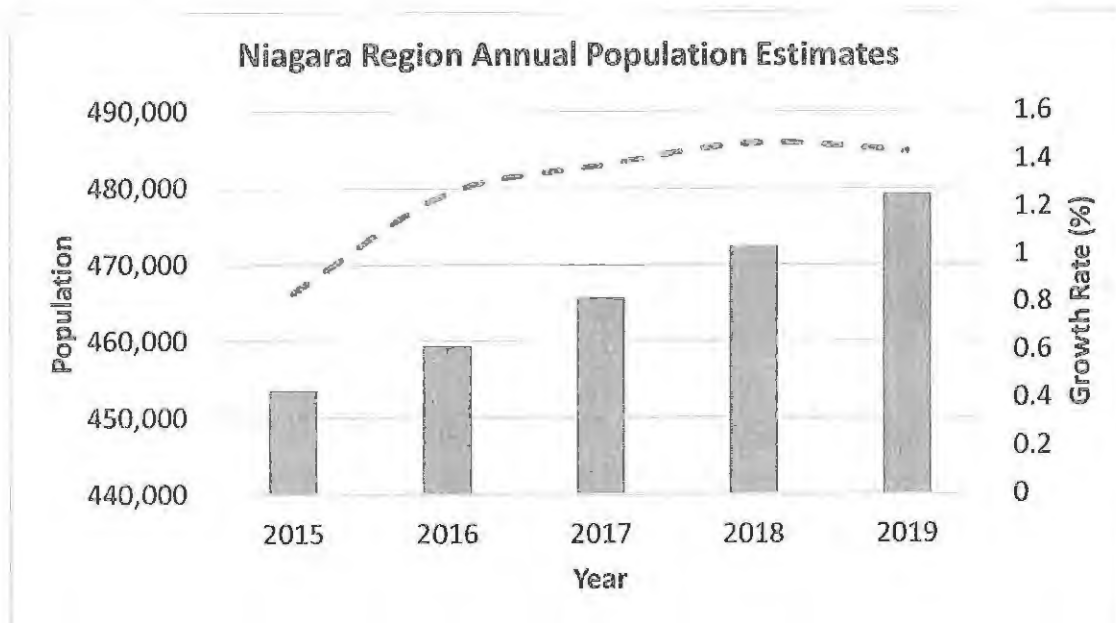
The Region has experienced significant growth across all areas set out in this report. This information is being presented as a means to update Regional Council on how growth has evolved over the last half decade and feeds directly into numerous Council Strategic Priorities.

## Population

### Pace of Population Growth

Both population and the pace of growth have increased significantly for Niagara since 2016. On average, the Region's population has increased by nearly 6,500 people per year since 2016, nearly double the pace of growth experienced previously between 2011 and 2016. Figure 1 provides a summary of population growth per year since 2015.

Figure 1: Niagara Region Annual Population Estimates



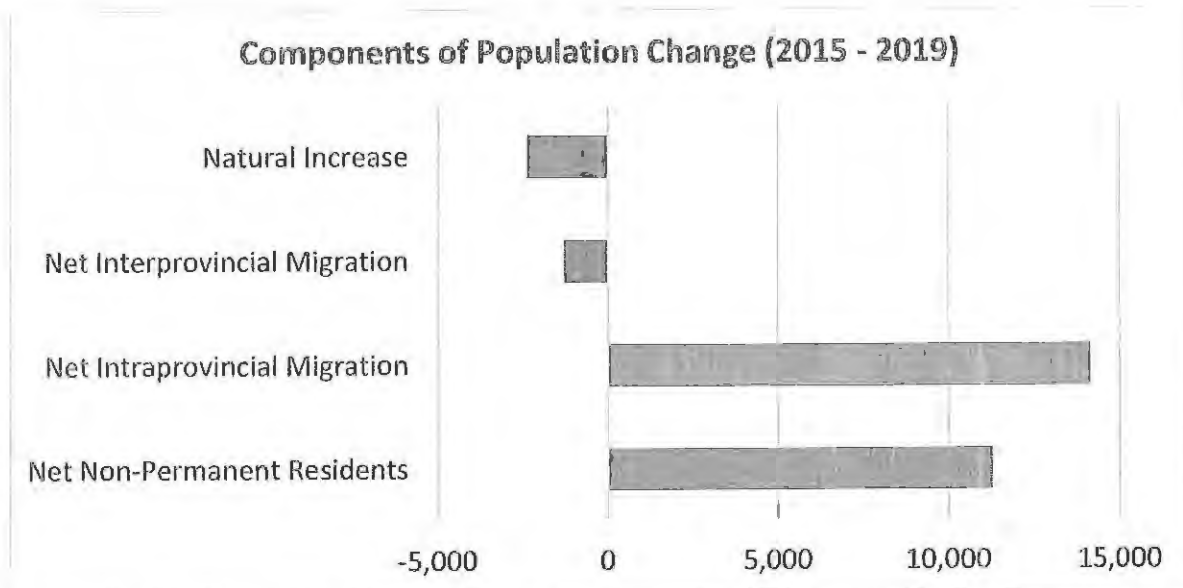
Source: Statistics Canada, Table 17-10-0140-01

While the pace of population growth may seem substantial, it is only within the last 5 years that the Niagara Region has started to match the pace contemplated in the Provincial population forecasts provided in *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019*. This is a noteworthy development as the Region must plan to achieve the forecasts set out in the *Growth Plan* and base infrastructure and development charges on the same forecasts.

#### Components of Population Growth

Niagara's population growth continues to be driven entirely by international and intraprovincial migration (highlighted in figure 2).

Figure 2: Components of Population Change (2015 - 2019)



Source: Statistics Canada, Table 17-10-0140-01

Ontario, in general, has seen a significant increase in international students over the past decade and municipalities with post-secondary institutions have received the greatest share of this growth. Since Niagara Region is home to Brock University and Niagara College, the Region has been able to capitalize on this influx.

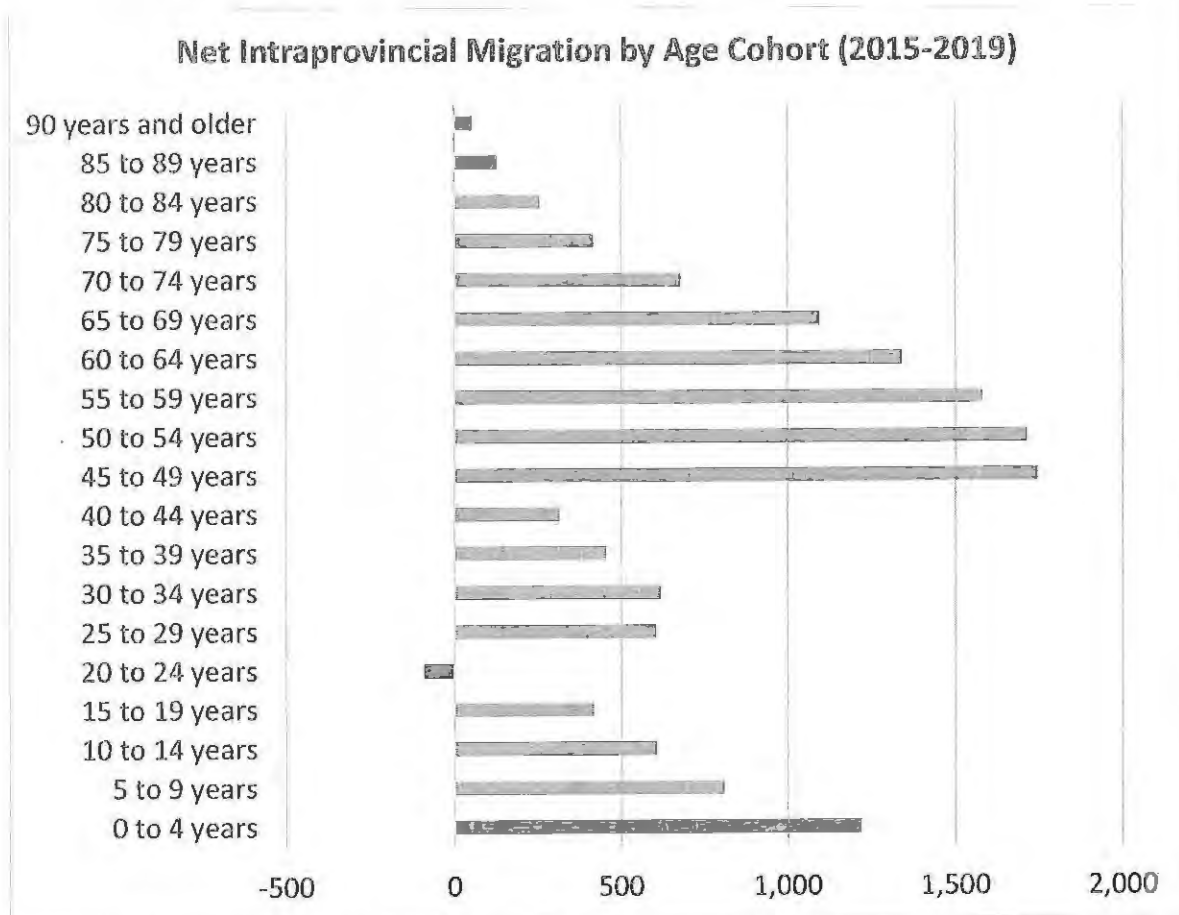
From an intraprovincial perspective, there has been an outflow of population from Toronto and Peel Region to more affordable regions in Ontario.<sup>1</sup>

Of the population growth Niagara received through intraprovincial migration, the vast majority have been above 44 years of age. As highlighted in PDS 21-2019, the influx of a population that is generally older than the Region's current median age of 45.6 will contribute to an already aging population. Figure 3 provides a breakdown of intraprovincial migration into Niagara Region by age cohort.

<sup>1</sup> Toronto CMA Losing Existing Population of All Ages to More Affordable Regions in Ontario (link): <https://www.rverson.ca/cur/Blog/blogentry46/>



Figure 3: Net Intraprovincial Migration by Age Cohort (2015 - 2019)



Source: Statistics Canada, Table 17-10-0140-01

### Housing Developments

Housing Starts have steadily risen over the last 5 years. In 2015, there were 1,911 starts; in 2019, there were 3,077 starts (a 61% increase). Within starts, we can also see a shifting dynamic in housing choice as single-detached housing has made up less than 50% of starts over the past 2 years.

A critical factor of meeting population forecasts in the *Growth Plan* and, importantly, achieving affordable housing targets, is Niagara's ability to offer a wider range of housing options for residents. Figure 4 provides an overview of housing starts per year by housing type.

Figure 4: Regional Housing Starts (2015 - 2019)



Source: CMHC, Housing Market Information Portal

Housing completions steadily increased from 2015 to 2018 before dropping over 50% in 2019. The decline in housing completions is linked to the changing mix of housing starts as apartment developments take considerable more time to complete than single-detached and row/townhouse developments. It is anticipated that housing completions rebound in 2020 as starts that are currently under construction are complete. Figure 5 provides an overview of housing completions between 2015 and 2019.

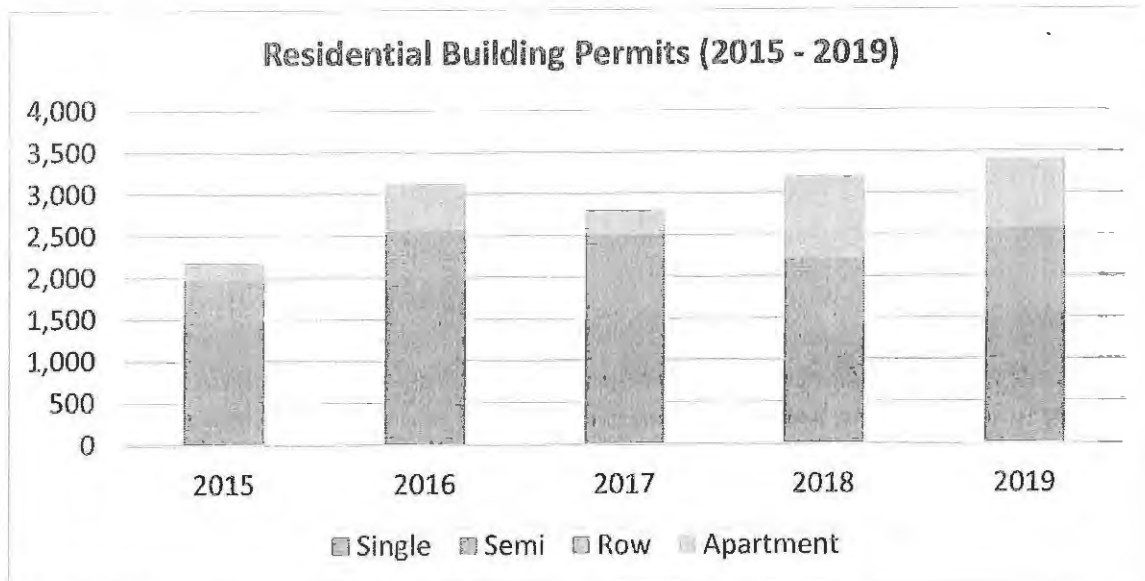
Figure 5: Regional Housing Completions (2015 - 2019)



Source: CMHC, Housing Market Information Portal

New housing units, issued by building permit, also grew consistently over the previous half decade, reaching 3,415 units in 2019. Figure 6 provides an overview of building permits (housing units) since 2015.

Figure 6: Residential Building Permits (2015 - 2019)

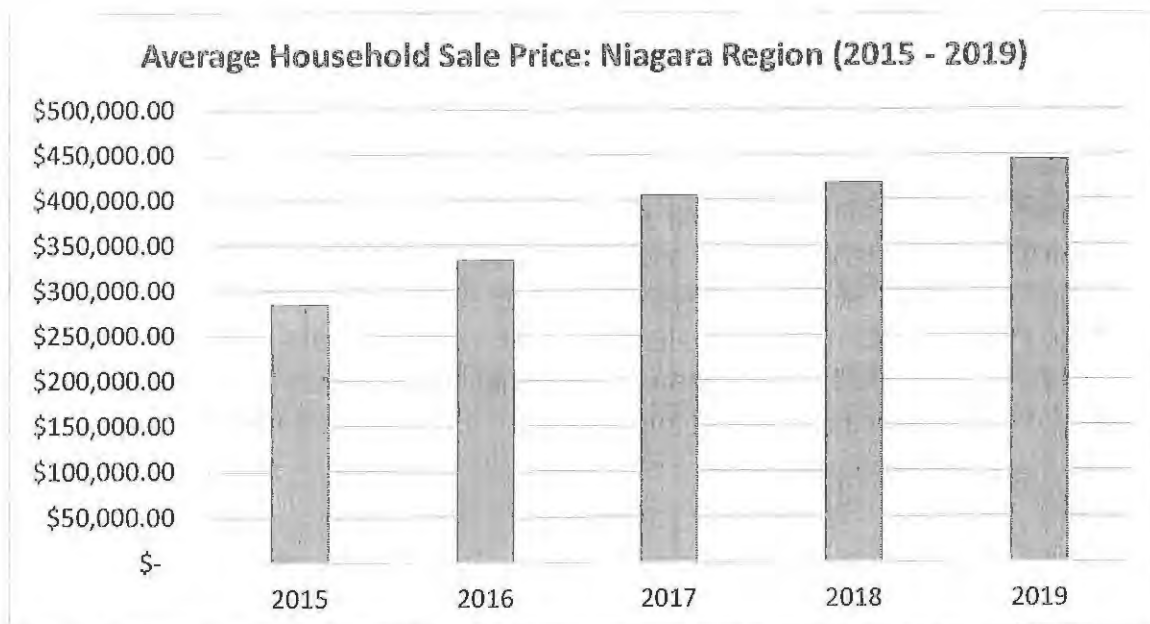


Source: Niagara Region Planning and Development Services

## Housing Market

The housing market in Niagara has been on the rise since 2015 with significant increases to average sale price in 2016 and 2017. Between 2015 and 2017, the average sale price of a home in Niagara increased nearly 40%, from \$284,000 to \$405,000. Average sale price has continued to increase in 2018 and 2019 but at a lower rate of 4% and 6% respectively. Overall, the average sale price for a home in Niagara increased 56% from 2015 to 2019.<sup>2</sup> Figure 7 provides a breakdown of average sale price by year.

Figure 7: Average Household Sale Price (2015 – 2019)



Source: Niagara Association of Realtors and Realtors Association of Hamilton-Burlington

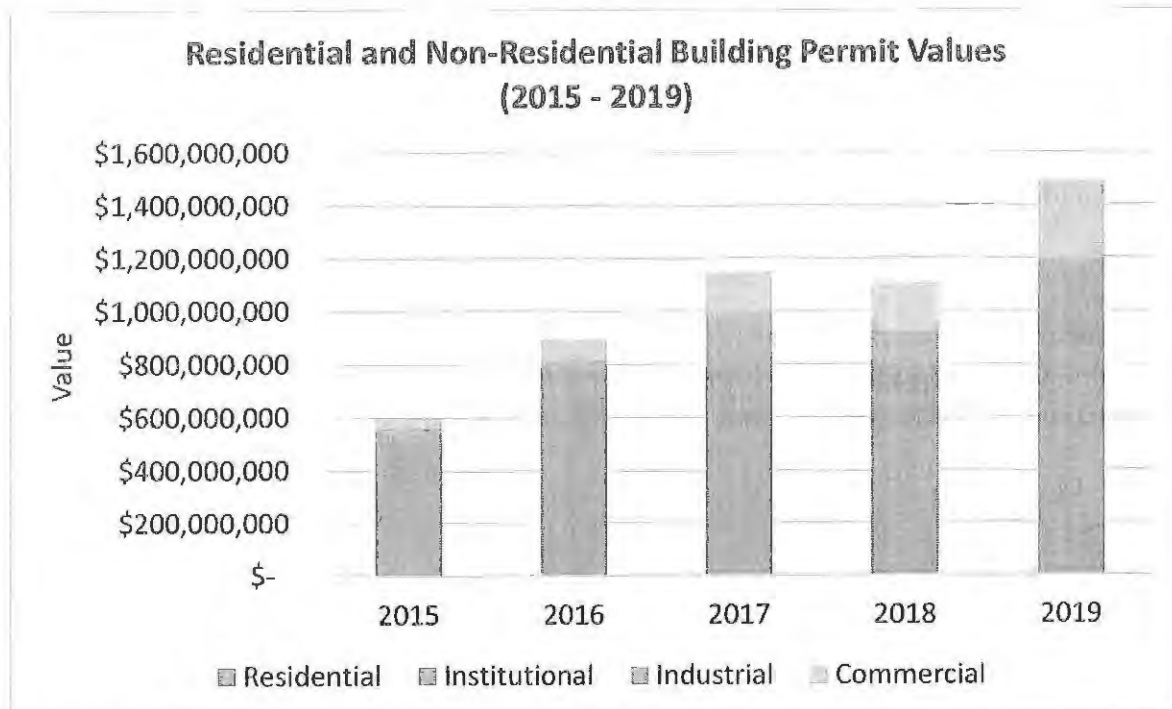
## Building Permit Values

Building permit values, just like population and housing development, increased over the past 5 years, growing from \$600 million in 2015 and reaching nearly \$1.5 billion in 2019. The increased diversity of permits is particularly notable; non-residential permits

<sup>2</sup> Average sale price for 2019 is based on the data from January 2019 to June 2019. In July 2019, the Niagara Association of Realtors changed how sale price is reported on their website, opting for an HPI Benchmark value rather than the previous reporting of average sale price.

grew from 15% in 2015 and 2016 to 30% in 2017, 2018 and 2019. The increased ratio of non-residential building permit values is more inline with the Region's Development Charges Background Study. Figure 8 provides an overview of building permit values from 2015 to 2019.

Figure 8: Residential and Non-Residential Building Permit Values (2015 - 2019)



Source: Statistics Canada Building Permit Values and Niagara Region Planning and Development Services

## Alternatives Reviewed

The scope and detail of annual growth reports will be revisited following the adoption of the forthcoming new Regional Official Plan. Future iterations of the report will provide additional metrics and commentary on the implementation of the Regional Official Plan and achievement of policy objectives and targets.

## Relationship to Council Strategic Priorities

- Supporting Businesses and Economic Growth

- This report discusses trends in population, housing and building permit values over the past 5 years. This information is important for Regional Council to have as they make decisions that impact the Regional economy.
- **Healthy and Vibrant Community**
  - This report highlights trends in housing sale prices that relate directly to housing affordability in Niagara.
- **Responsible Growth and Infrastructure Planning**
  - The population increase over the past 5 years will be a critical component in advancing Regional Transit and GO Rail Service. A greater population, as well as increased densities around proposed GO Station areas, will support development and provide greater use of the service.
  - Tracking and reporting upon residential and economic growth provides direction on maintaining existing infrastructure and assists in asset management.

### **Other Pertinent Reports**

- PDS 9-2017: Niagara Region Annual Growth Report
- PDS 25-2018: Niagara Region End of Year Growth Report 2017
- PDS 21-2019: Niagara Region End of Year Growth Report 2018

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**Prepared by:**  
Greg Bowie  
Planner  
Planning and Development Services

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**Recommended by:**  
Rino Mostacci, MCIP, RPP  
Commissioner  
Planning and Development Services

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**Submitted by:**  
Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was reviewed by Isaiah Banach, Manager of Long Range Planning.*

**Administration**

Office of the Regional Clerk

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April 24, 2020

Council Session CL 6-2020, April 23, 2020

**MINISTRY OF THE ENVIRONMENT, CONSERVATION AND PARKS  
LOCAL AREA MUNICIPALITIES****SENT ELECTRONICALLY****RE: Report PDS 13-2020 2019 Reserve Water and Wastewater Treatment  
Capacities  
Minute Item 9.2 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report PDS 13-2020, dated April 23, 2020, respecting 2019 Reserve Water and Wastewater Treatment Capacities, **BE RECEIVED** and **BE CIRCULATED** to the Ministry of the Environment, Conservation and Parks, and the Niagara Area Municipalities.

A copy of Report PDS 13-2020 is attached for your information.

Yours truly,

Ann-Marie Norio  
Regional Clerk

CLK-C 2020-143

cc: I. Stetic, Project Manager  
R. Mostacci, Commissioner, Planning & Development Services  
N. Oakes, Executive Assistant to the Commissioner, Planning & Development Services

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**Subject:** 2019 Reserve Water and Wastewater Treatment Capacities

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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## Recommendations

1. That this report **BE RECEIVED** for information; and
2. That a copy of this report **BE CIRCULATED** to the Ministry of the Environment, Conservation and Parks and Niagara Area Municipalities.

## Key Facts

- The purpose of this report is to inform Council of the reserve treatment capacities at Niagara's Water and Wastewater Treatment facilities. This reporting is required by the Ministry of Environment, Conservation and Parks (MECP).
- The data contained in this report assists in commenting on new development proposals and related servicing as well as planning for future treatment capacity.
- All of Niagara Water Treatment Plants (WTPs) and Wastewater Treatment Plants (WWTPs) are positioned to accept growth beyond the minimum 10 year horizon.

## Financial Considerations

This report provides Council with historical and projected treatment capacity and flow data. There are no direct financial implications in receiving this report.

The reserve treatment capacities at the water and wastewater (W&WW) facilities are considered in commenting on new development proposals and related servicing and, as a result, could result in a financial impact related to specific future applications.

## Analysis

The Infrastructure Planning and Development Engineering section of Planning and Development Services Department annually reports on an assessment of the average daily W&WW flows based on the previous five years, as recorded at our various facilities compared to MECP rated capacities for the facilities. Included in the analysis are the 10-year growth projections in accordance with Niagara 2041 (*How we Grow, Flow and Go*).

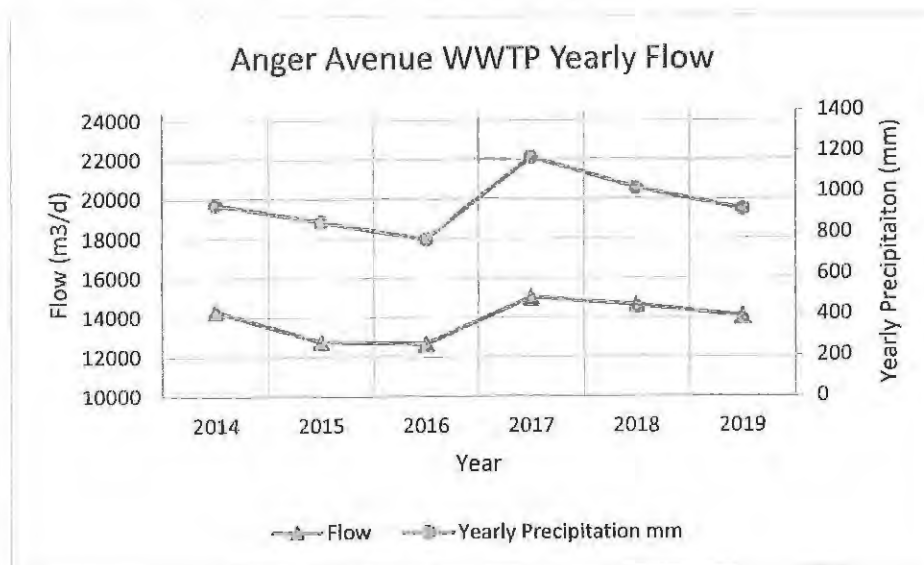


A key objective of this report is to highlight potential capacity constraints and allow sufficient lead time to plan for future capacity increases through the W&WW capital programs so that development may continue unencumbered. This is a 'desktop' exercise, which compares five-year (annual) average flows to the respective MECP Environmental Compliance Approval(s), formerly known as Certificate of Approval(s) for each facility, then incorporates 10-year growth forecasts into the calculation. Ongoing phasing and staging strategy works with our local municipal partners will further refine this assessment for understanding development capacity.

This assessment does not reflect specific compliance, quality, sustainability, risk, or operational deficiencies at the treatment plants or trunk conveyance/transmission systems, which may affect the Region's ability to approve new development or permit servicing extensions.

For municipal wastewater treatment, weather is the key factor that results in peak wet weather flows, which impacts the collection and trunk sewers in both local and regional systems through "Rainfall Derived Inflow and Infiltration" (RDI&I). Even though, it is expected to record higher flows due to population growth, the annual average daily flows to the WWTPs are higher due to the wet weather flows entering the systems. Just for an example, Figure 1 illustrates a direct correlation of wastewater plant flows and yearly precipitation at Anger Avenue WWTP.

Figure 1: Correlation of Wastewater Flows with Precipitation



Wet weather flows can have substantial impact on available WWTP capacities and a direct impact on the limitations of available servicing capacity for future growth.

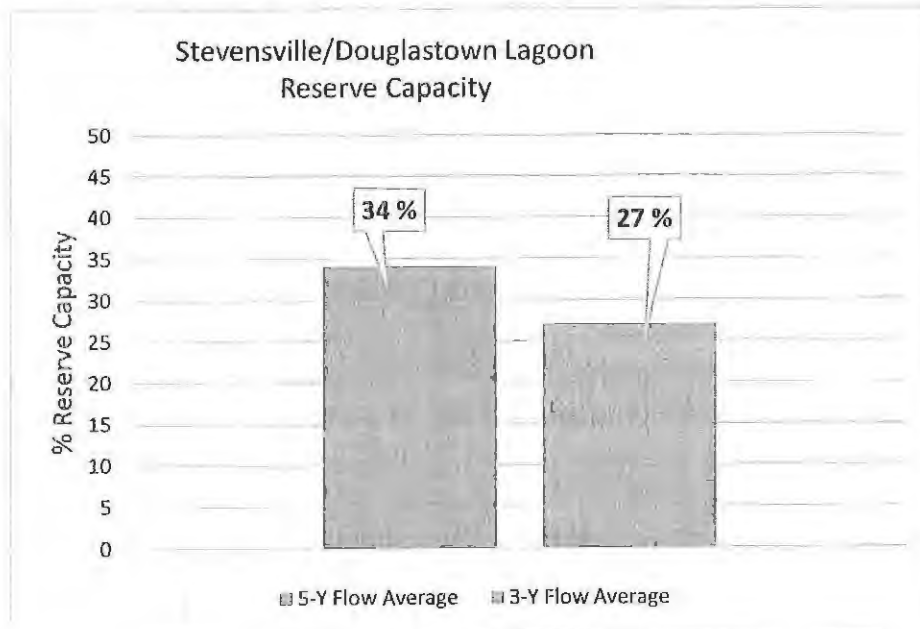
Appendix 1 and 2 provide the annual average daily flows and five year average from 2015 to 2019 for the water and wastewater treatment plants, respectively. Appendices 3 and 4 provide a summary of Niagara's six water treatment facilities and eleven wastewater treatment facilities presenting their respective reserve capacities.

It is worth noting that growth rates in recent years show a momentous increase compared to the previous trend in Niagara, which consequently may impact the way this 'desktop' exercise conducts the reserve capacity calculations.

Averaging daily flows over a five-year period versus a three-year period in calculations show a compelling difference in the resulting reserve capacities. This can create a skewed sense of a greater reserve capacity available for the future if the annual daily flows are averaged over longer period of time.

Figure 2 shows an example in a resulting reserve capacity difference for Stevensville/Douglastown Lagoon when flows are averaged over different time periods in calculations.

Figure 2: Reserve Capacity of Annual Flows Averaged over 5-Year and 3-Year



A potential change to incorporate the annual daily flows averaged over the last three-year period into the reserve capacities calculation instead of using the last five-year average presently will be discussed with the Municipal partners and the Ministry during 2020.

**At present, all of Niagara's WTPs and WWTPs are positioned to accept growth beyond the minimum 10-year period (Appendix 3 and Appendix 4).**

### **Wet Weather Management**

In order to accommodate the anticipated growth from Niagara 2041, the 2016 W&WW Master Servicing Plan (MSP) investigated capacity upgrades (upgrades to trunk sewers, pumping station capacities, etc.), upstream management (storage, peak shaving, diversion), and peak flow management (flow reduction, Inflow & infiltration (I&I) reduction projects) for every wastewater system. Based on this review, there are wet weather projects listed with identified areas for targeted I&I removal to offset the requirement to upgrade and expand more expensive infrastructure all the way to the WWTPs. It is crucial to achieve the I&I reductions in order to offset the capacity needs from growth, to protect the environment, and mitigate potential basement flooding.

The Region and Area Municipalities are continuing to work collaboratively to facilitate ongoing development throughout the region and provide the requisite servicing and capacity allocation in a responsible way to service the communities. In addition, the Region has been aiding Area Municipalities by funding the CSO Control program under the Wet Weather Management Program to support various I&I related projects and programs on the municipal side. This program has been reducing the impacts of I&I and has been a benefit to both, the Region and the Area Municipalities.

The Wet Weather Management team is working with the Development Industry including Public Works Officials, Building Officials, Developers, Consultants and Contractors to raise awareness on the wet weather management issues and potential upcoming changes to address this.

### **Alternatives Reviewed**

No alternatives were studied.

### **Relationship to Council Strategic Priorities**

The report aligns with Council's Priority of Responsible Growth and Infrastructure Planning by highlighting the reserve capacity available to growth at all Regional Water and Wastewater Treatment Facilities.

The report also provides MECP and local municipal partners operational summary and reserve capacity projections for Region's Water and Wastewater Treatment facilities.

### **Other Pertinent Reports**

- PDS 29-2019, August 7, 2019, 2018 Reserve Water and Wastewater Treatment Capacities
- PW 22-2017, May 30, 2017, 2016 Water and Wastewater Master Servicing Plan Update

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**Prepared by:**

Ilija Stetic, B.Sc., PMP  
Project Manager  
Planning and Economic Development

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**Recommended by:**

Rino Mostacci, MCIP, RPP  
Commissioner  
Planning and Economic Development

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**Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Phill Lambert, Director Planning and Development Services, John Brunet, AD Water Operations and Staff Development and Jason Oatley, Manager WW Quality & Compliance.*

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**Appendices**

Appendix 1	Annual Average Daily Flow 2015 to 2019 WTP	Page 6
Appendix 2	Annual Average Daily Flow 2015 to 2019 WWTP	Page 7
Appendix 3	Water Reserve Capacity Calculations for 2019	Page 8
Appendix 4	Wastewater Reserve Capacity Calculations for 2019	Page 9

## APPENDIX 1

**ANNUAL AVERAGE DAILY FLOW 2015 TO 2019  
WATER TREATMENT PLANTS**

Water Treatment Facility Location	Rated Capacity (m <sup>3</sup> /d)	Average Daily Flow (m <sup>3</sup> /d)	Average Daily Flow (m <sup>3</sup> /d)	Average Daily Flow (m <sup>3</sup> /d)	Average Daily Flow (m <sup>3</sup> /d)	Average Daily Flow (m <sup>3</sup> /d)	5 Year Average Daily Flow (m <sup>3</sup> /d)
		2015	2016	2017	2018	2019	2015 to 2019
Decew Falls WTP	227,300	53,723	54,903	54,321	56,090	53,303	54,468
Grimsby WTP	44,000	16,652	15,699	14,020	14,866	14,029	15,053
Niagara Falls WTP	145,584	45,186	47,350	45,192	44,780	43,400	45,182
Port Colborne WTP	36,000	8,908	7,719	8,735	8,864	7,282	8,302
Rosehill WTP	50,026	13,182	13,148	12,388	12,862	11,188	12,554
Welland WTP	65,000	20,164	21,858	21,590	22,538	22,579	21,746

Note 1: Welland WTP rated capacity changed from 102,300 m<sup>3</sup>/d to 65,000 m<sup>3</sup>/d due to Operational constraints.

## APPENDIX 2

**ANNUAL AVERAGE DAILY FLOW 2015 TO 2019  
WASTEWATER TREATMENT PLANTS**

	Rated	Average	Average	Average	Average	Average	5 year
	Capacity	Daily Flow	Daily Flow	Daily Flow	Daily Flow	Daily Flow	Average
Wastewater Treatment	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	(m <sup>3</sup> /d)	Daily Flow
Facility Location							(m <sup>3</sup> /d)
		2015	2016	2017	2018	2019	2015 to 2019
Anger Avenue WWTP	24,500	12,755	12,661	15,000	14,624	15,146	14,037
Baker Road WWTP	31,280	17,549	16,999	20,897	19,975	20,910	19,266
Crystal Beach WWTP	9,100	5,005	4,676	5,915	5,874	6,276	5,549
Niagara Falls WWTP	68,300	40,782	35,880	44,684	41,489	41,360	40,839
NOTL WWTP	8,000	3,911	4,021	4,561	4,687	5,237	4,483
Port Dalhousie WWTP	61,350	30,091	29,616	34,823	35,095	36,681	33,261
Port Weller WWTP	56,180	30,856	29,650	32,090	36,881	39,211	33,738
Queenston WWTP	500	234	278	234	198	213	231
Seaway WWTP	19,600	11,064	9,103	12,082	12,580	13,472	11,660
Stevensville/Douglastown Lagoon	2,289	1,192	1,314	1,635	1,670	1,729	1,508
Welland WWTP	54,550	32,164	29,728	35,407	34,643	37,137	33,816

APPENDIX 3

## Regional Water Treatment Facilities Reserve Capacity Calculation for 2019

Treatment Facility	Permit To Take Water (1) (ML/D)	Rated Treatment Capacity (ML/D)	Peaking Factor (2)	Theoretical Average Day Capacity (ML/D)	90% of Average Day Capacity (3) (ML/D)	5-Year Average Day Flow (ML/D)	% of Total Capacity Used	Reserve Treatment Capacity (Based on 90%) (ML/D)	Design Flow Rate (275 l/c/d)	Reserve Serviceable Population (Equivalents)	10-Year Forecast For Population (Residential & Employment)	Surplus Population Over 10-Year Projection
DeCew Falls WTP	227.0	227.3	1.496	151.9	136.7	54.5	36%	82.2	275	298,909	30,398	268,511
Grimsby WTP	44.0	44.0	1.587	27.7	24.9	15.1	54%	9.9	275	36,000	14,771	21,229
Niagara Falls WTP	145.5	145.5	1.577	92.3	83.1	45.2	49%	37.9	275	137,818	23,782	114,036
Port Colborne WTP	45.5	36.0	1.640	22.0	19.8	8.3	38%	11.5	275	41,818	1,552	40,266
Rosehill WTP	78.0	50.0	1.482	33.7	30.3	12.6	37%	17.8	275	64,727	6,375	58,352
Welland WTP	110.0	65.0	1.486	43.7	39.3	21.7	50%	17.6	275	64,000	12,292	51,708

(1) Original MOE approved quantity of raw water permitted (Permit To Take Water).

(2) The peaking factors used are based on an average of actual flow rates of maximum day versus average day flows over the past three years at each facility.

(3) Region's W&WW MSP (GM BluePlan, 2017) requires planning process for expansion when plant capacity exceeds 80%, and expansion should be completed when capacity exceeds 90%.



## APPENDIX 4

## Regional Wastewater Treatment Facilities Reserve Capacity Calculation for 2019

Treatment Facility	MOE Plant Rated Capacity (m <sup>3</sup> /day)	90 % of Plant Capacity (1) (m <sup>3</sup> /day)	5-Year Average Daily Flow (m <sup>3</sup> /day)	% of Total Capacity Used	Reserve Treatment Capacity (Based on 90%) (m <sup>3</sup> /day)	Design Flow Rate (4) (365 L/c/d)	Reserve Serviceable Population (Equivalents)	10-Year Forecast For Population (Residential & Employment)	Surplus Population Over 10-Year Projection
Anger Avenue (Fort Erie) WWTP	24,500	22,050	14,037	57%	8,013	365	21,953	4,277	17,676
Baker Road (Grimsby) WWTP	31,280	28,152	19,266	62%	8,886	365	24,346	16,791	7,555
Crystal Beach (Fort Erie) WWTP	9,100	8,190	5,549	61%	2,641	365	7,236	1,443	5,793
Niagara Falls WWTP	68,300	61,470	40,839	60%	20,631	365	56,523	19,980	36,543
NOTL WWTP	8,000	7,200	4,483	56%	2,717	365	7,443	2,644	4,799
Port Dalhousie (St. Catharines) WWTP	61,350	55,215	33,261	54%	21,954	365	60,148	15,005	45,143
Port Weller (St. Catharines) WWTP	56,180	50,562	33,738	60%	16,824	365	46,094	10,052	36,042
Queenston (NOTL) WWTP (3)	500	450	231	46%	219	365	599	99	500
Seaway (Port Colborne) WWTP	19,600	17,640	11,660	59%	5,980	365	16,383	1,622	14,761
Stevensville/Douglastown Lagoon	2,289	2,060	1,508	66%	552	365	1,512	795	717
Welland WWTP	54,550	49,095	33,816	62%	15,279	365	41,860	12,912	28,948

(1) Region's W&WW MSP (GM BluePlan, 2017) requires planning process for expansion when plant capacity exceeds 80%, and expansion should be completed when capacity exceeds 90%.

(2) The Niagara Falls WWTP assessment includes the sewage flows from the St. David's area of Niagara-on-the-Lake.

(3) The Queenston WWTP in Niagara-on-the-Lake has a unique capacity commitment of 226 m<sup>3</sup>/d for the following properties: Niagara Parks Commission (75 m<sup>3</sup>/d), Niagara Falls Bridge Commission (63 m<sup>3</sup>/d), Shalamar Campground (38 m<sup>3</sup>/d) and Ontario Power Generation (50 m<sup>3</sup>/d). Due to these commitments and limited UAB, limited residential growth is expected within the next 10 year period within the tributary area.

(4) Design Flow Rate incorporated 90 L/c/d of extraneous flow allowance

**Administration**

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April 24, 2020

Council Session CL 6-2020, April 23, 2020

**LOCAL AREA MUNICIPALITIES****SENT ELECTRONICALLY**

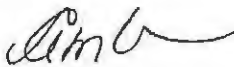
**RE: Report CSD 8-2020 Optional Tax on Vacant Residential Units  
Minute Item 9.2 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report CSD 8-2020, dated April 23, 2020, respecting Optional Tax on Vacant Residential Units, **BE RECEIVED** and **BE CIRCULATED** to the Local Area Municipalities.

A copy of Report CSD 8-2020 is attached for your information.

Yours truly,


 A handwritten signature in cursive script, appearing to read "Ann-Marie".

Ann-Marie Norio  
Regional Clerk

CLK-C 2020-142

cc: T. Harrison, Commissioner, Corporate Services  
H. Chamberlain, Director, Financial Management and Planning/Deputy Treasurer  
M. Murphy, Associate Director, Budget Planning & Strategy  
R. Fleming, Senior Revenue and Tax Analyst  
K. Beach, Executive Assistant to the Commissioner, Corporate Services

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**Subject:** Optional Tax on Vacant Residential Units

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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### **Recommendations**

1. That report CSD 8-2020 **BE RECEIVED** for information.
2. That a copy of Report CSD 8-2020 **BE CIRCULATED** to the Local Area Municipalities.

### **Key Facts**

- This report is to provide Regional Council with additional information regarding a St. Catharines City Council motion on implementing an optional tax on vacant residential units ("vacant homes tax").
- Only the units classified in the residential property class (primarily RT) are eligible for a vacant property tax under the Municipal Act.
- The intent of the vacant homes tax is to encourage owners of residential units to sell or rent out secondary residences.
- The vacant homes tax does not apply to vacant residential land (i.e., no structure) nor does it apply to properties that would be included in multi-residential or non-residential property tax classes.
- Region staff consulted Area Treasurers on the vacant homes tax as they are the tax billing authority and would have much of the information required to estimate vacant unit.
- Most Area Treasurers expressed concerns with internal capacity to implement the optional tax as it would require resources to estimate the number of units that would potentially be subject to the vacant homes tax.

### **Financial Considerations**

There are no direct financial implications of this report as it is for information only. If Council were to consider proceeding further with considering an optional vacant homes tax, it could not take effect until the 2021 taxation year at the earliest. If implemented any net revenue generated from the tax could be reinvested into affordable housing initiatives similar to the approach adopted by Vancouver and considered by Toronto.

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However, it should be noted that the cost of implementation and administration may exceed the projected revenue. At this time, there is not enough information to provide an accurate estimate of projected costs or revenue.

## Analysis

### **St. Catharines Motion Re: Vacant Homes Tax**

The Council of the City of St. Catharines, at its meeting held on August 12, 2019, passed the following motion:

*WHEREAS St. Catharines currently has a years-long waiting list for social housing, extremely low apartment vacancy rates, rising apartment costs, a need for more shelter spaces and transitional housing, and a residential real estate market that has seen house values grow exponentially in a short period of time; and*

*WHEREAS these factors combined have resulted in St. Catharines becoming an unaffordable place to live for many, particularly those on fixed incomes, social assistance and those who earn less than the living wage; and*

*WHEREAS jurisdictions such as British Columbia and Vancouver have successfully implemented vacant property taxes to not only collect more revenue for social housing projects, but also to encourage real estate speculators to rent out vacant homes; and*

*WHEREAS the Regional Municipality of Niagara has the authority to implement a vacant home tax in St. Catharines (and all other lower-tier municipalities within Niagara);*

*THEREFORE BE IT RESOLVED that the City of St. Catharines endorse the concept of a vacant home tax and vacant residential land tax and call upon the Niagara Region to investigate a vacant home tax that specifically:*

- Addresses vacant residential units in St. Catharines*
- Encourages turning empty St. Catharines homes into good housing for people*
- Raises revenue that will directly support affordable housing in St. Catharines*

---

*BE IT FURTHER RESOLVED that this resolution be circulated to the Office of the City Clerk at the Niagara Region, Niagara Region Housing, the local area municipalities and the City of St. Catharines City Treasurer / Director of Financial Management Services and the Director of Planning and Building Services. FORTHWITH*

The implementation of a vacant homes tax is an upper-tier decision, which is consistent with other areas of tax policy, and promotes a regional approach to the imposition of a tax on vacant residential units. Staff consulted with the Province and it should be noted that the legislation does not preclude the Region from implementing in select municipalities based on need in the individual communities.

### **Overview of Ontario Vacant Home Legislation**

In order to provide Council with background on the vacant homes tax, staff compiled information based on an analysis of existing legislation as well as information obtained from the Regional contact with Ontario's Ministry of Finance:

- The vacant homes tax can only be imposed once approved to do so via a Regulation of the Province.
- Once a municipality is designated by the Province for eligibility for implementing the tax, a by-law must be passed in the year to which it relates;
- The tax is to be based on the assessed value (as determined under the Assessment Act) of vacant residential units (similar to general property taxation).
- Eligible properties under the existing legislation are those that are classified in the residential property class only and excludes multi-residential and non-residential tax classes.
- A vacant homes tax by-law must satisfy the following criteria:
  - It must state the tax rate; and
  - It must state the conditions of vacancy that, if met, make a unit subject to the tax.
- A by-law may provide for such matters as Council considers appropriate, including,
  - Exemptions from the tax;
  - Rebates of tax;
  - Audit and inspection powers; and
  - Establishment and use of dispute resolution mechanisms.
- The Minister of Finance has the authority may make regulations prescribing such matters as the Minister considers necessary or desirable, including:

- Designating municipalities to which this the vacant homes tax could apply;
- Prescribing conditions and limits with respect to the imposition of a tax;
- Prescribing persons and entities who are not subject to a tax;
- Defining a “vacant unit”;
- Governing the collection of a tax;
- Governing dispute resolution.

To date, no municipality in Ontario has utilized the authority given by the Province to implement a vacant homes tax. The City of Toronto has been considering the need and ability to implement a vacant homes tax since 2017 but the results of the review have not been finalized.

### **Review of Other Municipalities**

Region staff have conducted a review of both the Vancouver and Toronto vacant homes tax reports and implementation plans. Both Vancouver and Toronto utilized aggregated/anonymized water and hydro meter data to estimate the quantity of vacant residential units in each city which has been presented below in Table 1. An estimate of vacant homes in Niagara has also been included in Table 1 based on information received from a few Area Municipalities as the Region does not have access to water and hydro billing data as both functions are completed by the Area Municipalities or the local electricity authorities. Due to privacy concerns, however, Vancouver was not able to utilize water or hydro data for the purposes of billing for the vacant homes tax. This limitation experienced by Vancouver would also be present in Niagara as well.

Table 1: Estimated Vacant Residential Units

Municipality	Total Count of Units	Estimated Vacant Units	% of Total
Toronto	752,000	15,000-28,000	2-4%
Vancouver	225,000	10,000	4%
Niagara	177,000*	1,757**	1%

\* Estimated count of residential units only (exclude multi-residential)

\*\* 76% are seasonal residences (1,341 units)

It is important to note, that only four municipalities were able to provide estimates on vacant residential units. The total residential units in these four municipalities is approximately 75 thousand (42%) of the 177 thousand residential units in Niagara. One municipality stated that they did not have any vacant units that could be identified. Two municipalities estimated minimal vacant residential units. One municipality identified a

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significant number of vacant units which were primarily seasonal properties which were estimated to be vacant for approximately 6 months during offseason periods.

### **Other Implementation Considerations**

If a vacant homes tax was to be implemented, a framework would need to be developed with some of the below administrative requirements in mind:

- Public consultation and engagement approach and/or requirements prior to implementation;
- How would vacant homes be identified (mandatory declaration, self declaration, complaint based);
- Determining if the Region or Area Municipalities would administer the program (which would include billing, collections, appeals, etc.) – note that the Region does not currently have taxpayer billing capabilities;
- Determining the appropriate allocation of any net revenues or expense from the tax between Regional service areas/programs or between Region and Area Municipalities;
- Creating a complaint resolution process including audit or enforcement powers; and
- Determining an appropriate reporting approach to understand the effects (i.e., benefits or drawbacks) that the vacant homes tax will have on affordable housing.

### **Alternatives Reviewed**

No alternatives are being presented as this report is for information only. Should Council direct staff complete a more fulsome review (including additional engagement with the public and Area Municipalities) a future report to Council would be required.

### **Relationship to Council Strategic Priorities**

A vacant homes tax for Niagara may assist with retaining, protecting and increasing the supply of affordable housing stock to provide a broad range of housing to meet the needs of the community. This would only apply, however, if the vacant homes tax achieved the desired outcome of having property owners rent available units or in the event that revenues after administration costs were reallocated to affordable housing initiatives.

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**Other Pertinent Reports**

None.

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**Prepared by:**

Rob Fleming, MBA  
Senior Tax & Revenue Analyst  
Corporate Services

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**Recommended by:**

Todd Harrison, CPA, CMA  
Commissioner/Treasurer  
Corporate Services

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**Submitted by:**

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

*This report was prepared in consultation with Margaret Murphy, Associate Director, Budget Planning & Strategy, and reviewed by Helen Chamberlain, Director, Financial Management & Planning.*

**Appendices**

Appendix 1            City of St. Catharines Council Motion Re: Vacant Home Tax  
Appendix 2            Municipal Act – Optional Tax on Vacant Residential Units



August 26, 2019

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

Sent Via Email:  
[Ann-Marie.Norio@niagararegion.ca](mailto:Ann-Marie.Norio@niagararegion.ca)

**Re: Vacant Home Tax**

Dear Ms. Norio,

Please be advised that the Council of the City of St. Catharines, at its meeting held on August 12, 2019, passed the following motion:

WHEREAS St. Catharines currently has a years-long waiting list for social housing, extremely low apartment vacancy rates, rising apartment costs, a need for more shelter spaces and transitional housing, and a residential real estate market that has seen house values grow exponentially in a short period of time; and

WHEREAS these factors combined have resulted in St. Catharines becoming an unaffordable place to live for many, particularly those on fixed incomes, social assistance and those who earn less than the living wage; and

WHEREAS jurisdictions such as British Columbia and Vancouver have successfully implemented vacant property taxes to not only collect more revenue for social housing projects, but also to encourage real estate speculators to rent out vacant homes; and

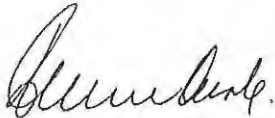
WHEREAS the Regional Municipality of Niagara has the authority to implement a vacant home tax in St. Catharines (and all other lower-tier municipalities within Niagara);

THEREFORE BE IT RESOLVED that the City of St. Catharines endorse the concept of a vacant home tax and vacant residential land tax and call upon the Niagara Region to investigate a vacant home tax that specifically:

- Addresses vacant residential units in St. Catharines
- Encourages turning empty St. Catharines homes into good housing for people
- Raises revenue that will directly support affordable housing in St. Catharines

BE IT FURTHER RESOLVED that this resolution be circulated to the Office of the City Clerk at the Niagara Region, Niagara Region Housing, the local area municipalities and the City of St. Catharines City Treasurer / Director of Financial Management Services and the Director of Planning and Building Services. FORTHWITH

If you have any questions, please contact the Office of the City Clerk at extension 1524.



Bonnie Nistico-Dunk, City Clerk  
Legal and Clerks Services, Office of the City Clerk  
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## PART IX.1 OPTIONAL TAX ON VACANT RESIDENTIAL UNITS

### Designated municipality

338.1 The Minister of Finance may, by regulation, designate municipalities to which this Part applies. 2017, c. 8, Sched. 19, s. 5.

### Section Amendments with date in force (d/m/y)

### Power to impose tax, vacant residential units

338.2 (1) In addition to taxes imposed under Part VIII, a designated municipality may, by by-law passed in the year to which it relates, impose a tax in the municipality on the assessed value, as determined under the *Assessment Act*, of vacant units that are classified in the residential property class and that are taxable under that Act for municipal purposes. 2017, c. 8, Sched. 19, s. 5.

### Requirements for by-law

(2) A by-law described in subsection (1) must satisfy the following criteria:

1. It must state the tax rate.
2. It must state the conditions of vacancy that, if met, make a unit subject to the tax. 2017, c. 8, Sched. 19, s. 5.

### Other contents of by-law

(3) A by-law described in subsection (1) may provide for such matters as the council of the municipality considers appropriate, including,

- (a) exemptions from the tax;
- (b) rebates of tax;
- (c) audit and inspection powers; and
- (d) except as otherwise provided for in the regulations, the establishment and use of dispute resolution mechanisms. 2017, c. 8, Sched. 19, s. 5.

### Section Amendments with date in force (d/m/y)

### Regulations re: power to impose tax

338.3 (1) The Minister of Finance may make regulations prescribing such matters as the Minister considers necessary or desirable in relation to this Part, including,

- (a) designating municipalities to which this Part applies;
- (b) prescribing conditions and limits with respect to the imposition of a tax under a by-law made under this Part;
- (c) prescribing persons and entities who are not subject to a tax imposed under this Part;
- (d) defining "vacant unit" for the purposes of this Part;
- (e) governing the collection of a tax imposed under this Part;
- (f) prescribing provisions of this Act that apply or do not apply for the purposes of this Part and providing for such modifications to those provisions as the Minister considers appropriate;
- (g) governing the manner for apportioning an assessment that is attributable to vacant units;
- (h) governing dispute resolution. 2017, c. 8, Sched. 19, s. 5.

### Same

(2) On the recommendation of the Minister of Finance, the Lieutenant Governor in Council may make regulations defining any word or expression used in this Part. 2017, c. 8, Sched. 19, s. 5.

**Retroactive**

(3) A regulation under this section may be retroactive to a date not earlier than January 1 of the year in which the regulation is made. 2017, c. 8, Sched. 19, s. 5.

**Conflicts**

(4) In the event of a conflict between a regulation made under this section and a provision of any Act or regulation, the regulation made under this section prevails. 2017, c. 8, Sched. 19, s. 5.

**Section Amendments with date in force (d/m/y)**

**Effect re: Part VIII**

338.4 This Part does not limit the authority of a municipality under Part VIII (Municipal Taxation). 2017, c. 8, Sched. 19, s. 5.

**Administration**

Office of the Regional Clerk

1815 Sir Isaac Brock Way, PO Box 1042, Thorold, ON L2V 4T7

Telephone: 905-685-4225 Toll-free: 1-800-263-7215 Fax: 905-687-4977

[www.niagararegion.ca](http://www.niagararegion.ca)

April 24, 2020

Council Session CL 6-2020, April 23, 2020

**DISTRIBUTION LIST****SENT ELECTRONICALLY**

**RE: Report CSD 30-2020 COVID-19 Preliminary Overview of Financial Impacts  
Minute Item 9.1.1 CL 6-2020, April 23, 2020**

Regional Council, at its meeting held on April 23, 2020, passed the following resolution:

That Report CSD 30-2020, dated April 23, 2020, respecting COVID-19 Preliminary Overview of Financial Impacts, **BE RECEIVED** and the following recommendations **BE APPROVED**:

1. That the Regional Chair **BE DIRECTED** to lobby provincial and federal levels of government for financial assistance to support Niagara Region's COVID-19 emergency response;
2. That Niagara Region **BE DIRECTED** to participate in efforts with other municipalities seeking financial support from senior levels of government for the financial impact of the COVID-19 pandemic; and
3. That the Regional Clerk **BE DIRECTED** to forward this report to local Members of Parliament, local Members of Provincial Parliament, the Federation of Canadian Municipalities, the Association of Municipalities Ontario and the Local Area Municipalities.

A copy of Report CSD 30-2020 is attached for your information.

Yours truly,



Ann-Marie Norio  
Regional Clerk  
CLK-C 2020-140

20-64

## Distribution List:

D. Allison, MP, Niagara West

C. Bittle, MP, St. Catharines

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S. Oosterhoff, MPP, Niagara West

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J. Burch, MPP, Niagara Centre

Federation of Canadian Municipalities

Association of Municipalities of Ontario

Local Area Municipalities

T. Harrison, Commissioner, Corporate Services

H. Chamberlain, Director, Financial Management and Planning/Deputy Treasurer

M. Steele, Associate Director, Reporting and Analysis

K. Beach, Executive Assistant to the Commissioner, Corporate Services

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**Subject:** COVID-19 Preliminary Overview of Financial Impacts

**Report to:** Regional Council

**Report date:** Thursday, April 23, 2020

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## Recommendations

1. That the Regional Chair **BE DIRECTED** to lobby provincial and federal levels of government for financial assistance to support Niagara Region's COVID-19 emergency response; and
2. That Niagara Region **BE DIRECTED** to participate in efforts with other municipalities seeking financial support from senior levels of government for the financial impact of the COVID-19 pandemic; and
3. That the Regional Clerk **BE DIRECTED** to forward this report to local MPs, local MPPs, the Federation of Canadian Municipalities and the Association of Municipalities Ontario.

## Key Facts

- The purpose of this report is to provide an early indication of the potential financial impacts of the COVID-19 outbreak on the Niagara Region. Estimates and assumptions in this report are fluid and changing on a weekly basis.
- Staff expect that a budget adjustment related to the changes in services, incremental cost and lost revenue associated with the COVID-19 emergency response will be required. At this time, full impacts are unknown and staff will bring back a proposed budget adjustment for Council approval when more clarity around funding sources and full cost is available.
- The Region's preliminary estimate of the net cost of COVID-19 pandemic before funding announcements up to June 30, 2020 is \$9.3 million.
- Incremental costs and lost revenue estimates total \$9.6 million and may be offset by identified cost savings and mitigations of \$5.7 million for a current net budget impact \$3.9 million. The remaining \$5.4 million cost relates to already budgeted resources unavailable to work or redeployed to directly support the emergency response.
- The Region has received confirmed funding announcement of \$4.2 million in specific areas. Review of the eligible cost criteria for this funding is underway and restrictions do apply. Staff are looking for ways to fully leverage this funding and it is expected to support some costs that occur after our June 30, 2020 cost projection above.

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## Financial Considerations

Given the amount of uncertainty around timelines and availability of funding sources, it is difficult at this time to quantify the full impact of individual items as well as the overall impact to the Region. That being said, staff are of the preliminary view that ultimately the pandemic will result in a 2020 operating shortfall at year-end. Discussions have commenced with respect to opportunities for cost savings across operating and capital budgets. In addition, there are certain actions that the Region could take to offset a shortfall including use of the Taxpayer Relief Reserve. Staff will provide updates to Council with respect to year-end projections and any action that may be required as more details become known.

As of December 31, 2019 the Taxpayer Relief Reserve balance was \$23.8 million which is 4.2% of gross budgeted expenditures excluding agency boards and commissions (our minimum reserve target per the reserve policy is 10% of gross budgeted operating expenses or \$56 million at December 31, 2019).

In addition, staff recommend exploring all opportunities for financial assistance from senior levels of government and will provide updates to Council on any actions being undertaken by Provincial and Federal governments as they are announced. The Province and Federal governments have delayed the release of their respective 2020/21 budgets.

## Analysis

Staff have been monitoring and assessing the potential financial impacts to the Region since the onset of the pandemic. Only two months after approving the 2020 Regional budget, a variety of operating expenditures and revenues are now expected to be impacted. While it is still too early to fully understand and quantify all of the potential impacts, some preliminary projections have been made.

To facilitate this analysis, projected costs and savings related to the pandemic have been made up to June 30, 2020

The Region has categorized impacts into 4 high-level categories

1. **Total costs supported by our approved base budget.** This category represents cost of resources unavailable to work or redeployed from their main work functions to directly support the emergency response. While the Region does have an established base budget to support these expenditures, it is important to note that the work these resources are performing during the emergency is not as originally contemplated in the base budget. This may result in delays in work plans and/or backlogs after the emergency is complete.



2. **Costs incremental to base budget.** This category represents all incremental costs over and above the approved 2020 base budget directly related to supporting the emergency.
3. **Lost revenue.** This category represents the loss of revenue that had been planned to fund the 2020 budget.
4. **Cost savings and mitigations.** This category represents identified cost savings the Region may expect to realize as a result of COVID-19 measures and managing the emergency.

The following is a summary of the financial impacts.

	Spent & Committed As of Date	Spent & committed	Projected to June 30	Total
Costs supported by our approved base budget				
EOC Dedicated Resources <sup>1</sup>	09-Apr	\$ 615,424	\$ 1,994,740	\$ 2,610,164
Lost Productivity – Staff Unable to Work <sup>2</sup>	04-Apr	443,137	1,831,633	2,274,770
Redeployed Resources <sup>3</sup>	04-Apr	86,149	356,083	442,232
<b>Total costs supported by our approved base budget</b>		<b>1,144,710</b>	<b>4,182,456</b>	<b>5,327,166</b>
Costs incremental to base budget				
Additional labour related costs <sup>4</sup>	04-Apr	748,294	3,092,949	3,841,243
Purchases made or committed <sup>5</sup>	09-Apr	1,770,942	2,104,081	3,875,023
<b>Total costs incremental to base budget</b>		<b>2,519,236</b>	<b>5,197,030</b>	<b>7,716,266</b>
<b>Lost Revenue <sup>6</sup></b>		<b>-</b>	<b>1,914,708</b>	<b>1,914,708</b>
<b>Cost savings/mitigations <sup>7</sup></b>		<b>-</b>	<b>(5,673,142)</b>	<b>(5,673,142)</b>
<b>Net cost impact before funding announcements</b>		<b>\$ 3,663,946</b>	<b>\$ 5,621,052</b>	<b>\$ 9,284,998</b>

<sup>1</sup> Assumes 100% of salary and benefit costs to any staff member fully activated in the Regional EOC, Public Health EOC, and EMS EOC.

<sup>2</sup> Staff unable to work due to self-isolation, needing to care for family members or being sick directly associated with COVID-19.

<sup>3</sup> Currently only quantified for resources redeployed to the public health call centre. Redeployment in other areas in the organization has started to occur and will be quantified in the future.

<sup>4</sup> Additional salary, benefits and overtime costs related to managing the emergency.

<sup>5</sup> Additional purchase commitments made to directly support the emergency (e.g. cleaning supplies and services, personal protective equipment, emergency shelter, screening, advertising).

<sup>6</sup> Estimated loss of expected revenue sources (e.g. rental income on owned units, transit fare revenue, business licensing revenue, development applications, parental fees, POA infraction revenue).

<sup>7</sup> Estimated cost savings and mitigations (e.g. gapping of vacant positions, reduced non-emergency repair work, travel costs, transit service costs, electricity, cancelled events).

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Impacts by department can be found in Appendix 2. Some of the more significant incremental costs and lost revenue items included in the estimate are outlined below:

- **Niagara Regional Transit:** fare revenue reduction due to reduced ridership and cancellation of Niagara College on-campus spring/summer classes;
- **POA Court:** Reduced POA revenue due to lower ticket volumes and court closure, with some related expenditure savings offsets;
- **Public Health:** Increased staffing and overtime, supplies (including personal protective equipment) and cleaning costs; additional staff to support higher call volumes;
- **Paramedic Services:** Increased staffing, overtime, supplies (including personal protective equipment), and cleaning;
- **Housing:** Increased cleaning costs in common spaces; lower tenant income levels would result in higher rent subsidies at community housing units and lower rent payments at NRH units;
- **Homelessness programs:** Increased costs to support homelessness agencies, housing allowances and expenses relating to the rent, staffing, cleaning, personal protective equipment and food for a self-isolation center;
- **Children's Services:** Loss of parent fee revenue due to closure of regionally operated child care centres;
- **Seniors' Services:** Increased cleaning, staffing, security and personal protective equipment costs; and
- **Technology Services:** Additional costs relating to increased licenses to ensure sufficient capacity for staff working remotely.

Other estimated savings across multiple services and departments include:

- **Labour related savings:** not filling non-essential vacant positions.
- **Fuel:** Short/medium term savings due to significant drop in world oil and local fuel prices.
- **Niagara Regional Transit/Niagara Specialized Transit:** reduction in daily service schedules resulting from decreased demand will result in significant savings;

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- **Non-emergency maintenance work:** limiting work at NRH owned units to emergencies and move-outs;
  - **Operational savings:** reduced travel, meeting expenses, and conferences due to travel restrictions and cancelled events.

COVID-19 is causing an unprecedented amount of uncertainty and volatility in financial markets. Federal governments around the world are responding through both monetary policy (e.g. through the lowering of interest rates) and fiscal policy (e.g. by introducing spending and tax relief measures for residents and businesses). The impact of these measures is not yet known and as a result there is the possibility of major longer term impacts depending on the duration and severity of the pause in economic activity. The following items have been identified as potential costs or loss revenues, but have not been quantified in the analysis above due to uncertainty around them.

- **Cost of borrowing:** a lower cost of borrowing for planned 2020 debenture issues would lower the amount of debt servicing costs required in the 2021 budget;
- **Investment returns:** a lower investment rate would impact 2020 interest income and interest allocations to reserves. Also any cash flow challenges experienced as identified and discussed in CSD 31-2020 could further reduce interest income;
- **Property taxes:** the economic disruption could lead to a material increase in tax write-offs and lower net assessment growth for 2020 and into 2021;
- **Building Activity:** if construction activity is materially reduced, there would be a lower amount of supplementary taxes collected and lower assessment growth during the year and in future years. This would also lead to a reduced level of development charge collections, potentially impacting the Region's ability to fund growth-related capital projects, and potentially a reduction in development charge exemption costs;
- **Additional support to housing providers:** the economic disruption could lead to housing providers seeking additional support from NRH;
- **Recycling end markets:** the economic disruption could lead to volatility in prices for the sale of recyclables in waste management; and
- **Provincial gas tax:** the economic disruption could impact Niagara Regions gas tax allocation in 2021 and 2022 if we experience a greater decrease in ridership relative to other municipalities or if the total provincial gas tax collected declines due to less gas purchases.

In addition to the above, the Region is currently reviewing all capital projects and determining if any project deferrals are appropriate. It is important to note that deferring capital projects does not result in direct savings that could be used to mitigate the current COVID-19 financial impacts. Most capital projects are funded from previous contributions to reserves or debt issuance. The deferral of capital projects will strengthen the Region's cash flow position as further discussed in CSD 31-2020.

### Funding announcements

The Region has also received announcements for three confirmed funding sources identified below. Review of the eligible cost criteria with this funding is underway and restrictions do apply. The team is looking for ways to fully leverage this funding and it is expected to support some costs that occur after our June 30, 2020 cost projection period identified above.

Description	Funding Agency	Amount
Community Homelessness Prevention Initiative *	Ministry of Municipal Affairs and Housing	\$2,408,100
Reaching Home Funding *	Employment and Social Development Canada	1,253,271
Long-term Care Emergency Funding	Ministry of Long-term Care	600,000
		<u>\$4,261,371</u>

\* Incremental funding to cover full fiscal year of April 1, 2020 to March 31, 2021

While no formal funding announcements have been made, the Province has indicated that it plans to work with municipalities to support Children's Service operations to minimize shortfalls.

Ontario Works also expects to see a substantial increase in subsidy claim payments to Ontario Works clients based on Provincial announcements. This increase will be directly offset by additional funding from the Province.

Additionally the Province has announced it plans to defer further reductions to the public health funding formula in 2021.

### Budget Implications

As previously mentioned the full magnitude of the financial implications for the COVID-19 emergency on the Niagara Region's 2020 budget is not yet known. With that said, staff do expect the impact will require a gross budget adjustment that will exceed \$1 million requiring Council approval.

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In order to avoid multiple adjustments and approvals, staff recommend that a budget adjustment will be completed once impacts, including funding announcements, are more clearly understood.

Should a funding shortfall materialize after all additional funding and cost mitigation strategies have been exhausted, Council could consider:

- An in-year budget amendment in accordance with the Budget Control Bylaw to draw on the Taxpayer Relief Reserve. This would require giving public notice.
- Making a recommendation through the year-end transfer report as per the Operating Surplus/Deficit Policy.

The decision on which approach would be recommended by staff will depend on the timing and magnitude of the required adjustment. Staff hope to be able to more fully outline the potential adjustment with the completion of the Q2 financial update report.

Staff will continue to provide Council with financial impact information in the weekly COVID-19 memo and will report back with a formal report outlining the budget adjustment prior to its completion.

### **Procurement Process**

The Region has leveraged its existing Procurement By-law where appropriate to secure goods and services that are critical to our response to COVID-19. These purchases have utilized the special circumstance provision, which provides for both:

- an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public
- an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9, as amended, or any successor legislation thereto

At the time of writing this report, the Region has executed 12 special circumstance purchases over \$10,000 for a total value of \$1.3 million. These purchases consist mainly of personal protective equipment, cleaning supplies/services, emergency shelter, and screening services. Staff will continue to rely on the special circumstance provisions in the procurement by-law on an as-required basis and report back to Council as needed.

### **Alternatives Reviewed**

Staff are working with both the area municipality treasurers within Niagara Region and with colleagues across the province (through the Ontario Regional and Single-Tier Treasurers group) to share ideas and strategies to respond to the financial and operational impacts of this pandemic.

Staff will also work with Standard and Poor's (who provide the Region's credit rating) to discuss potential implications on the ratings of the municipal sector as a whole across the country.

### **Relationship to Council Strategic Priorities**

Supporting the COVID-19 emergency response directly supports Council's strategic priority of a Healthy and Vibrant Community.

### **Other Pertinent Reports**

CSD-31 2020 Concessions to Local Area Municipalities regarding Taxes and Water Wastewater Billings

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**Prepared by:**

Melanie Steele, MBA CPA CA  
Associate Director, Reporting & Analysis  
Corporate Services

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**Recommended by:**

Todd Harrison, CPA, CMA  
Commissioner/Treasurer  
Corporate Services

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**Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with regional departments and EOC members, and reviewed by Helen Chamberlain, Director, Financial Management & Planning/Deputy Treasurer.*

### **Appendices**

Appendix 1            COVID-19 Financial Impact by Department

### Appendix 1 - COVID-19 Financial Impact by Department

	Total costs supported by our approved base budget	Total costs incremental to base budget	Lost Revenue	Cost savings & mitigations	Net cost/(savings) impact before funding announcements
Corporate Administration	\$ 395,761	\$ 134,827	\$ -	\$ (199,943)	\$ 330,645
Corporate Services	466,285	389,735	166,900	(517,785)	505,135
Court Services	36,970	3,431	196,875	(103,914)	133,362
Planning	87,909	8,055	120,000	(109,207)	106,757
Niagara Regional Housing	-	86,055	600,000	(844,065)	(158,010)
Niagara Regional Police Service *	71,674	110,471	-	-	182,145
Transportation	177,362	92,361	604,933	(3,249,355)	(2,374,699)
<b>Public Health</b>					-
Public Health	1,405,563	1,371,691	-	-	2,777,254
Emergency Medical Services	1,384,672	1,419,631	26,000	(62,000)	2,768,303
<b>Sub-total Public Health</b>	<b>2,790,235</b>	<b>2,791,322</b>	<b>26,000</b>	<b>(62,000)</b>	<b>5,545,557</b>
<b>Community Services</b>					-
Childrens Services	133,360	79,939	200,000	-	413,299
Seniors Services	783,506	2,707,961	-	-	3,491,467
Social Assistance & Employment Opportuniti	126,836	5,453	-	-	132,289
Homelessness Services	18,099	1,142,788	-	-	1,160,887
<b>Sub-total Community Services</b>	<b>1,061,801</b>	<b>3,936,141</b>	<b>200,000</b>	<b>-</b>	<b>5,197,942</b>
<b>Total Levy Supported</b>	<b>5,087,997</b>	<b>7,552,398</b>	<b>1,914,708</b>	<b>(5,086,269)</b>	<b>9,468,834</b>
<b>Waste Management</b>					-
Waste Management	211,669	105,429	-	(63,890)	253,208
Water/Wastewater	27,500	58,439	-	(522,983)	(437,044)
<b>Total Rate Supported</b>	<b>239,169</b>	<b>163,868</b>	<b>-</b>	<b>(586,873)</b>	<b>(183,836)</b>
<b>Total</b>	<b>\$ 5,327,166</b>	<b>\$ 7,716,266</b>	<b>\$ 1,914,708</b>	<b>\$ (5,673,142)</b>	<b>\$ 9,284,998</b>

\*NRPS are preparing their own analysis of financial impacts they will be sharing with their board. The only costs included in the analysis above are those the Region is aware of as they are purchase order commitments or actual costs recorded in our financial system or members participating in our EOC.

*Background Material*

*To*

*Council Members'*

*Agenda*



## CITY OF WELLAND

IN THE MATTER OF A COMPLAINT against Councillor Lucas Spinosa, dated May 9, 2019, under section 223.4 and 223.4.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "**Act**"), the *Municipal Conflict of Interest Act*, a R.S.O. 1990, c. M.50 (the "**MCIA**"), and Policy Number HUM-001-0031 of the Corporation of the City of Welland, being a Policy to establish the Code of Conduct for Members of Council.

### OVERVIEW

1. On February 5, 2013, the City of Welland (the "**City**") approved Policy Number HUM-001-0031, establishing a Code of Conduct for Members of Council (the "**Code**"). The purpose of the Code is to ensure that the Members of Council share a common basis for acceptable conduct. The Code is not intended to replace personal ethics.
2. On or about October 4, 2016, I was appointed as the City's Integrity Commissioner. Pursuant to section 223.3(1) of the Act, I have exercised my powers of delegation and thereby had the assistance of my associate, Matt Hodgson, in drafting this report.
3. Effective March 1, 2019, under section 223.4.1 of the Act, an Integrity Commissioner can investigate a complaint from an elector or a person demonstrably acting in the public interest concerning an alleged contravention of MCIA rules that apply to Members of Councils or Local Boards.
4. Lucas Spinosa ("**L.S.**") was elected to Welland City Council as the representative of Ward 3 in December of 2018. He is also the owner, since 2015, of The Black Sheep Lounge ("**The Black Sheep**"), a café located on 64 Niagara Street in Welland. His LinkedIn profile states that he attended Niagara College for Media and Design from 2012 to 2013.
5. I received one complaint, on May 9, 2019, alleging that, because The Black Sheep has either hosted, sponsored, or catered past events for the Welland Public Library (the "**Library**"), L.S. breached the MCIA and the Code in respect of his vote in council, on February 19, 2019, against a motion to reduce funding for the Library.
6. In accordance with section 223.4(5) of the Act, Article XVI of the Code authorizes Council to impose either of two penalties on a Member of Council following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the Code:

- i. A reprimand; or
- ii. Suspension of the remuneration paid to the Member of Council in respect of his or her services as a Member of Council or local board, as the case may be, for a period of up to 90 days

7. Under the Code, the Integrity Commissioner may also recommend that Council or a local board take the following actions:

- i. Removal from membership on a Committee or local board;
- ii. Removal as Chair of a Committee or local board;
- iii. Repayment or reimbursement of moneys received;
- iv. Return of property or reimbursement of its value; and
- v. A request for an apology to Council, the complainant or both.

8. Under section 223.4(15) of the Act, upon completion of my inquiry, if I consider it appropriate, I may apply to a judge under section 8 of the MCIA for a determination as to whether the member has contravened section 5, 5.1, or 5.2 of that Act. Under section 9(1) of the MCIA, a determination by a judge that the Member has contravened that Act could result in significant penalty, including the removal of the Member from his or her seat on council, and disqualification for a period of up to seven years.

9. The question at the heart of this inquiry is: Did Councillor Spinosa contravene the MCIA and the Code when he voted against the removal of Library funding at the February 19, 2019 meeting of Council?

10. For the reasons set out below, I have concluded that L.S. breached sections 5 and 5.1 of the MCIA and the Code.

## **THE COMPLAINT**

11. The complaint against L.S. was received on May 9, 2019. It consists of four allegations relating to The Black Sheep's involvement with Library events and a matter voted on in Council respecting the removal of Library funding. The specific incidents are listed as follows:

- i. Several events organized by the Library and advertised in the Library's winter and spring program guides, have been held, or were scheduled to be held, at The Black Sheep, including meetings of a book club on January 9, February 13, March 13, April 10, May 8, and June 12 of 2019. The Library provides participants with a complimentary beverage at book club events.
- ii. On February 16, 2019, the Black Sheep provided catering services to an event held by the Library at the Wellness Complex, a venue owned by the City;
- iii. On February 19, 2019, at a meeting of council, L.S. voted against a motion to remove some \$36,458.00 of funding from the Library;
- iv. On March 9, 2019, the Black Sheep advertised at, and provided coffee for an event held by MPP Jeff Burch at City Hall.

12. The focus of the complaint, and my subsequent investigation, was on whether The Black Sheep's sponsorship, hosting, or catering of events held by the Library, required L.S. to disclose a pecuniary interest and abstain from discussion or voting on Library matters. And, in particular, whether L.S.' vote on February 19, 2019, in respect of the removal of Library funding constitutes either a violation of the MCIA and/or the Code.

## **THE RESPONSE**

13. On May 31, 2019, I provided L.S. with notice of the complaint against him, which set out the specific allegations noted above. I further requested that L.S. provide me with a written response to the complaint within 14 days of receiving the notice, which would be provided to the Complainant, for reply.

14. On August 28, 2019, I received a written response to the complaint from L.S. The response provides that, in addition to events held for the Library, The Black Sheep has, since 2015, also catered events for the Welland Historical Museum and Civic Square. The response further states that, upon being elected, out of concern that his business dealings may create a conflict of interest, L.S. informed "staff, elected officials and other professionals" of his business' participation in events held at city venues and was advised that if a conflict of interest was declared during relevant agenda items, that it would be business as usual." L.S. claims to have declared such conflicts of interest on multiple occasions.

15. In L.S.' view, he did not use his position as an elected official to benefit himself as he has been working with City venues for years prior to "even the prospect of running for office." Moreover, L.S. contends that he has been serving Welland as a volunteer and community advocate for some time, without material gain, and was being unduly targeted by the complaint against him.

## **DISCUSSION AND FINDINGS**

### *Preliminary Jurisdictional Issue – Timing and Content of Complaint*

16. Under section 223.4.1(4) of the Act, an application to the Integrity Commissioner to conduct an inquiry in respect of an alleged violation of the MCI Act *may only be made within six weeks after the applicant became aware of the alleged contravention*. Once the applicant believes that the MCI Act has been contravened, the six-week limitation period starts to run, even if the applicant later acquires facts to support that belief.<sup>1</sup>

17. Furthermore, the content of an application to the Integrity Commissioner under section 223.4.1 must be set out in prescribed form. Section 223.4.1(6) provides as follows:

#### ***Content of application***

*(6) An application shall set out the reasons for believing that the member has contravened section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act and include a statutory declaration attesting to the fact that the applicant became aware of the contravention not more than six weeks before the date of the application or, in the case where an applicant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection (5), a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention during that period of time.*

18. In a similar vein, the Code also places restrictions on the timing of complaints. Article XVIII of the Code provides that: *Complaints must be submitted within six weeks of the matter becoming known to the individual and no more than six months after the alleged violation occurring.*

19. In respect of the timing of this complaint, the date when the Complainant became aware of the alleged contravention of the MCI Act was not evident from the content of the formal complaint,

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<sup>1</sup> *Hervey v. Morris*, 2013 ONSC 956 at para 60-61.

as received. I therefore inquired when the Complainant first became aware that L.S. failed to disclose an alleged pecuniary interest at the vote in Council on February 19, 2019. I was initially advised that the Complainant was made aware of the Council Member catering an event for the Library, held on February 15 and 16, in April, and was made aware of winter book clubs being held at The Back Sheep also in April, and of spring book clubs being held there in May. However, the formal complaint references an unspecified date in March where the Complainant was made aware of a Library event that was catered by The Black Sheep. The relevant portion of the formal complaint reads as follows:

*I was made aware in March by a citizen of an event that the Councillor provided catering services to. The resident attended on February 16. The event was held by the Welland Library at the city owned Wellness Complex. Services were paid to the Councillor for this event*

20. In my view, the factual basis for the Complainant to believe a contravention of the MCI Act may have occurred were made clear as of that unspecified date in March 2019. The relevant portion of the complaint alludes to the fact that services were paid to L.S. for the catering of the event which occurred before the vote in council on February 19<sup>th</sup>. Thus, the Complainant has clearly implied that, as a result of L.S. receiving payment for catering services, L.S. allegedly had a pecuniary interest in municipal affairs relating to the Library.

21. When asked to further specify the date in March when the Complainant was informed of the Library event held at the Wellness Complex for which services were paid to the councillor, I was advised that, according to the Complainant's calendar, March 24, 2019, "may have been the date."

22. I then requested that the Complainant include, as part of their complaint, a statutory declaration attesting to the fact that the Complainant became aware of the contravention not more than six weeks before the date of the complaint, so as to comply with the prescribed content for an application under section 223.4.1(6) of the Act. On October 31, 2019, I received the Complainant's statutory declaration, which provided that he became aware of the Member's alleged contravention of the MCI Act on March 31, 2019.

23. In light of the apparent inconsistency in respect of the date in March when the Complainant was advised of the event that L.S. catered, I requested that the Complainant explain why that date had changed from March 24<sup>th</sup> to March 31<sup>st</sup>. The Complainant advised me that,

because it was a verbal discussion with the citizen, it was challenging to be certain of its timing. The Complainant further advised that, before completing the declaration, and upon further reflection and review of their weekend schedule in March, "in great detail," March 31, 2019 was in fact the date they became aware of the Member's alleged contravention of the MCIA.

24. Pursuant to section 223.4.1(4) of the Act, a complaint or application in respect of an alleged violation of the MCIA must be received *within six weeks after the applicant became aware of the alleged contravention*. Given that the Complainant attests to first having knowledge of the alleged contravention on March 31<sup>st</sup>, the complaint against L.S. must have been received by May 12, 2019, in order for me to be conferred jurisdiction to conduct an inquiry under the Act. As noted, I received the formal complaint against L.S. on May 9, 2019. I accept that the Complainant, having sworn under oath to the date they became aware of the alleged contravention, has satisfied the timing condition. Accordingly, I have conducted my inquiry into whether L.S. contravened the MCIA on that basis.

#### *The MCIA*

##### Purpose of the MCIA

25. The purpose of the MCIA is to prohibit Members of Councils and local boards from engaging in the decision-making process in respect to matters in which they have a pecuniary interest. As stated by the Divisional Court for Ontario in the seminal case of *Re Moll and Fischer*,<sup>2</sup>

*"This enactment, like all conflict of interest rules, is based on the moral principle, long embodied in our jurisprudence, that no man can serve two masters. It recognizes the fact that the judgement of even the most well-meaning men and women may be impaired when their personal financial interests are affected. Public office is a trust conferred by public authority for public purpose. And the Act, by its broad proscription, enjoins holders of public offices within its ambit from any participation in matters in which their economic self-interest may be in conflict with their public duty. The public's confidence in its elected representatives demands no less."*

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<sup>2</sup> (1979) 23 O.R. (2d) 609 (Div Ct)

26. The MCI A sets out four fundamental principles bearing on the responsibilities of members of municipal councils and local boards to avoid conflicts of interest.<sup>3</sup> These are provided as follows:

- I. *The importance of integrity, independence and accountability in local government decision-making.*
- II. *The importance of certainty in reconciling the public duties and pecuniary interests of members.*
- III. *Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.*
- IV. *There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise*

27. At its heart, the MCI A is not about acting dishonestly or for personal gain; rather it "concerns transparency and the certainty that decisions are made by people who will not be influenced by any personal pecuniary interest in the matter at hand."<sup>4</sup> In short, the MCI A seeks to ensure the integrity of municipal governance.

#### Statutory Duties of a Member

28. Sections 5, 5.1 and 5.2 of the MCI A set out the duties of a member of council where one has a pecuniary interest, either direct or indirect, in any matter. The relevant sections provide as follows:

#### ***When present at meeting at which matter considered***

*5(1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,*

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<sup>3</sup> See MCI A, s 1.1.

<sup>4</sup> *Tuchenhagen v. Mondoux*, [2011] O.J. No. 4801 at para 25 (Div Ct), aff'd 2012 ONCA 567 [Tuchenhagen].

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;*
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and*
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.*

**Written statement re disclosure**

*5.1 At a meeting at which a member discloses an interest under section 5, or as soon as possible afterwards, the member shall file a written statement of the interest and its general nature with the clerk of the municipality or the secretary of the committee or local board, as the case may be.*

**Influence**

*5.2(1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter.*

29. Put concisely, when a member believes that he or she has a pecuniary interest under the MCI, and is unable to find an appropriate exemption to redress the matter,<sup>5</sup> he or she must disclose the interest, file a written statement, and refrain from participating in any discussion of, or vote on any question in respect of the matter.

*Did L.S. Breach the MCI?*

30. To decide whether L.S. contravened the MCI when, on February 19, 2019, he voted at a meeting of council against a motion to remove funding from the Library, I must first determine whether L.S. had a pecuniary interest in that matter.

31. Although a "pecuniary interest" is not a defined term in the MCI, Ontario courts have restricted its meaning to a financial, monetary, or economic interest.<sup>6</sup> The question that must be

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<sup>5</sup> Section 4 of the MICA provides various exceptions to the application of sections 5 and 5.2.

<sup>6</sup> See e.g. *Ferri v. Ontario (Attorney General)*, 2015 ONCA 683 at para 9 and cases cited therein [*Ferri*]



asked is “Does the matter to be voted upon have a potential to affect the pecuniary interest of the municipal councillor?”<sup>7</sup>

32. The specific matter at issue at the February 19, 2019 meeting of Council was a motion to remove an additional operating grant from the Library Seaway Mall location in the amount of \$36,458.00. I find that L.S. had a direct pecuniary interest in that matter and should have disclosed his interest and refrained from casting his vote in Council. In my view, the pecuniary interest of the Member is definable and real with the potential to affect his interests.<sup>8</sup>

33. Records obtained in the course of my investigation reveal that The Black Sheep has received payment for catering or hosting Library events several times between April 2018 and February 2019.<sup>9</sup> One of those payments was made to the café on February 15, 2019 for catering the event held at the Wellness Complex on February 15<sup>th</sup> and 16<sup>th</sup>.

34. The records also indicate that payments issued to The Black Sheep are derived from the Library's operating budget, referenced to both “programming” and “city promotion”, as provided in the Welland Public Library Operating Budget.

35. As further revealed through my inquiry with City staff, the Library's Operating Budget consists of one budget for all three of its locations, with funds allocated to respective locations on an as-needed basis, so as to balance revenues with expenditures. Moreover, and of significance, is the fact that the “additional operating grant for the Library Seaway Mall location” is not appropriated specifically to that location, nor for any particular purpose, but rather is subsumed into the Library's overall operational budget.

36. As payments to The Black Sheep are considered part of the Library's general operating costs, and because L.S. cast his vote on the issue of the removal of funds from the Library's general operating budget, he voted on a matter before Council in which he had a clear pecuniary interest; the vote concerned the amount of funding available to the Library, the extent of which creates the potential for gain or loss to his business.

37. On its face, The Black Sheep receives an economic benefit, or the opportunity to benefit financially, when it hosts, caters, or sponsors various Library events. Thus, the decision to either

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<sup>7</sup> *Tuchenhagen, supra* at para 32 citing to *Greene v. Borins* (1985), 50 O.R. (2d) 513 [*Greene*].

<sup>8</sup> *Rivett v Baird et al*, 2018 ONSC 352 at para 51.

<sup>9</sup> The records received indicate 7 payments related to distinct events were issued to The Black Sheep from the Library over this time period.

hold or reduce Library funding may diminish, or improve, opportunities for the Member's business to receive economic benefit from its involvement with Library events.

38. Even if L.S. had voted in favor of the removal of Library funding, his vote on the matter would still have contravened the MCI.A. The aim of the statute is to prohibit *any vote* by one who has a pecuniary interest in the matter to be considered and voted upon. It is only by strict observance of this prohibition that public confidence will be maintained.<sup>10</sup>

39. Nor is there a need to find corruption on the part of a Member or actual loss on the part of the Council or board. "As long as a member fails to honour the standard of conduct prescribed by the statute, regardless of his good faith or the propriety of his motive, he is in contravention of the statute."<sup>11</sup>

40. Exceptions to the terms of section 5 of the MCI.A are set out in section 4 and I have considered the provisions of section 4(k) in my inquiry. Although the Court of Appeal for Ontario has held that "a pecuniary interest sufficient to trigger the provisions of the MCI.A is not to be narrowly confined," the Court of Appeal has also found,

*that "pecuniary interest" must not be construed so broadly that it captures almost any financial or economic interest such that it risks needlessly disqualifying municipal councillors, and others captured under the ambit of the MCI.A, from participating in local matters of importance to their constituents. Section 4(k) of the MCI.A operates to respond to this concern and ameliorate the potentially harsh effects of a broad definition of pecuniary interest by ensuring that pecuniary interests that are truly remote or insignificant are not caught under s. 5.<sup>12</sup>*

41. Thus, even if an interest is found to exist, section 4(k) of the MCI.A provides that section 5 does not apply to a pecuniary interest in any matter that a member may have if that interest is so *remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.*

42. The test to be applied under section 4(k) asks, "would a reasonable elector, being apprised of all the circumstances, be more likely than not to regard the interest of the councillor as likely to

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<sup>10</sup> See e.g. *Greene v. Borins*, *supra*, p 269-70.

<sup>11</sup> *Moll v. Fisher*, *supra*.

<sup>12</sup> *Ferri*, *supra* at para 10

influence that councillor's action and decision on the question?"<sup>13</sup> The test requires consideration of *all* the circumstances, including whether good faith and motive are relevant to the question of whether a pecuniary interest is likely to influence the councillor.<sup>14</sup>

43. Although I have no reason to doubt the sincerity of L.S.' belief that he "will never be influenced by a personal or business endeavor" while conducting the affairs of Council, it bears repeating that the underlying purpose of the MCIA is to ensure public trust and certainty in the actions and decisions of those we elect to govern. Its purpose is not to parse the intentional state of councillors to ensure that when they conduct municipal business, their motives are pure. Even though L.S. may have acted in good faith in omitting to declare his interest, the "reasonable elector" may view the situation differently. Thus, in my view, the Councillor's motivation, though a relevant consideration, must be balanced against other relevant factors.

44. First, it is worth re-iterating that The Black Sheep receives payment for its services from the Library's operating budget; the question voted on in Council was whether to remove funding from that budget. Thus, it is difficult to view the Member's interest as being "truly remote."

45. Other relevant considerations include the fact that The Black Sheep was either hosting or catering events for the Library in close proximity to the February 19<sup>th</sup> vote in Council. As noted, the Councillor's business catered a Library event at the Wellness Centre on February 15<sup>th</sup> and 16<sup>th</sup>. Payment was issued to The Black Sheep for this event on February 15<sup>th</sup> – four days prior to the vote in Council. The café also hosted a Library Book club on January 9<sup>th</sup>, and had others scheduled in coming months. Therefore, the member ought to have been aware, at a minimum, of the potential for a conflict to exist.

46. Furthermore, L.S. had declared conflicts of interest on previous matters before Council where he believed he had a pecuniary interest in the matter as a result of his café. He had done so on two occasions prior to the February 19, 2019 vote,<sup>15</sup> and was aware of his obligation to disclose an interest under the MCIA.

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<sup>13</sup> *Ibid* at para 16

<sup>14</sup> *Ibid* at para 17.

<sup>15</sup> See Minutes of Council, January 15, 2019, and February 5, 2019, available online at <https://www.welland.ca/Council/AgendasMinutes.asp>

47. Moreover, the Councillor's vote had material consequence. Had L.S. abstained from voting, the motion would have passed and the additional operating grant for the Library would have been removed.

48. In my view, a reasonable elector apprised of all these circumstances would have been more likely than not to regard the interest of the Councillor to influence his decision to vote on the question of the removal of library funding. Put simply, L.S. failed to satisfy his statutory duties in this case and must be held accountable for his omission.

49. It is an express principle of the MCIA that "members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny."<sup>16</sup> This expectation requires members to be familiar with their obligations under the legislation, and consider, with respect to every vote, the possibility of contravening the MCIA when a pecuniary interest in a matter, however slight, is not declared.

50. I also find that none of the other exceptions listed under section 4 of the MCIA apply so as to exempt L.S from the requirements of section 5. In particular, his pecuniary interest is not one in common with electors generally. Rather, the pecuniary interest of L.S. is direct, proximate, and particular to him as owner of The Black Sheep.

51. Accordingly, I find that on February 19, 2019, L.S. contravened sections 5 and 5.1 of the MCIA when, during a meeting of Council, he failed to disclose his pecuniary interest in the matter and cast his vote in respect of the removal of funding from the Library.

*Did L.S. Breach the Code?*

52. The Code itself does not contain a specific article or section establishing the duties of members in relation to conflicts of interest. However, one of its key underlying principles is that: *Members shall perform their functions with integrity, accountability, and transparency, avoiding the improper use of the influence of their office, and conflicts of interest, both real and apparent;*

53. Furthermore, Article I of the Code, entitled *Statutory Provisions Regarding Conduct*, provides that the Code operates along with, and as a supplement to, the existing statutes governing the conduct of members, including, the MCIA. The Code also imports defined terms

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<sup>16</sup> MCIA, s 1.1. (emphasis added).

from the MCIA,<sup>17</sup> and makes additional reference to compliance with its terms as constituting a standard of conduct.<sup>18</sup> In my view, this implies that, with respect to standards of conduct that govern members with conflicts of interest, the MCIA is incorporated by reference into the Code. Thus, a member who has failed to disclose a pecuniary interest in a matter, and thereby violated the MCIA, will, in this particular respect, also violate the Code. Accordingly, by virtue of my finding that L.S. has contravened the MCIA, I find that he has similarly breached the Code.

54. The complaint also alleges that L.S. was in breach of Articles VIII and XII of the Code, which provide as follows:

***VIII. Use of Municipal Property, Services and Other Resources***

*No Member shall use for personal purposes, or permit the use of, City property, facilities, equipment, supplies, services, staff or other resources (for example, City-owned materials, websites, Council transportation delivery services and Members of Council expense budgets) for activities other than the business of the City.*

***XII. Business Relations***

*No Member shall act as a paid agent before Council, its committees, or any agency, board or commission of the City, except in compliance with the terms of the Municipal Conflict of Interest Act.*

55. Article VIII of the Code prohibits the use of municipal property for a member's personal purpose, or for activities other than those relating to the business of the City. While it is true that L.S. has received payment for catering events held on municipal property and, thus, it may be said that he used City property for a personal purpose, his purpose was merely incidental. The predominant purpose of the event, and the primary use to which the property was put – a Library event – clearly relates to municipal affairs. Accordingly, I find that L.S. did not breach Article VIII of the Code. The fault of the member in this case lies not in receiving payment for his service, but for not disclosing his pecuniary interest when the matter respecting the Library came before Council in February 2019.

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<sup>17</sup> See, The Code, Article II: *The terms "child", "parent", and "spouse" have the same meanings as in the Municipal Conflict of Interest Act,*

<sup>18</sup> *Ibid*, Article XII

56. I also find that L.S. did not breach Article XII of the Code. L.S. has not acted as a "paid agent" before Council, its committees, or any agency, board or commission of the City. A "paid agent" is a person who charges or receives a fee to formally represent a person or business in a matter before council or committee. Councillor L.S. is the proprietor of a business who has received payment for services related to Library events, but his conduct cannot be characterized as that of paid agent, acting as a representative of his business, or himself, in a specific matter brought before council or committee. Thus, L.S. did not breach Article XII of the Code.

## **CONCLUSIONS AND RECOMMENDATIONS**

57. I conclude that L.S. has violated both the MCIA and the Code in failing to disclose his pecuniary interest and voting on the matter concerning the removal of Library funding at a meeting of Council in February 2019.

58. Given this finding, I must now decide whether to make an application to a judge for a ruling on the question of whether L.S. has contravened the MCIA.

59. Section 8(1) of the MCIA provides that an elector, an Integrity Commissioner or a person demonstrably acting in the public interest may apply to a judge for a determination of the question of whether a Member has contravened section 5, 5.1 or 5.2 of the MCIA. Moreover, by virtue of section 8(4) of the statute, a Commissioner may make such application more than six weeks after becoming aware of the alleged contravention, if the Commissioner has conducted an inquiry under section 223.4.1 of the Act.

60. Pursuant to section 223.4.1(16) of the Act, I have advised the applicant that, for the following reasons, I will not be making an application to a judge.

61. Assuming for the moment that both the MCIA and the Act regard a Commissioner as being equally as capable as a judge of making a correct determination of whether the Member was in breach of the MCIA, in my view, the important distinction between the two is in the powers afforded to each to sanction the Member.

62. A Commissioner makes only a recommendation to Council and it can only be for a reprimand or, at most, a docking of the Member's pay for 90 days. On the other hand, under section 9(1) of the MCIA, if a judge determines that the member or former member contravened section 5, 5.1 or 5.2, the judge may do any or all of the following:

- a) Reprimand the member or former member.
- b) Suspend the remuneration paid to the member for a period of up to 90 days.
- c) Declare the member's seat vacant.
- d) Disqualify the member or former member from being a member during a period of not more than seven years after the date of the order.
- e) If the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, if the party's identity is not readily ascertainable, to the municipality or local board, as the case may be.

63. The determination as to whether or not I should be applying to a judge is, to me, a function of the severity of the breach and the adequacy of the remedies available to me to address it. Applying this test to the case before me, I must consider whether Councillor Spinosa's breach is such that a recommendation of a reprimand, or a suspension of his pay, will be sufficient to maintain the public trust in him as a member of Council, or whether the breach is so egregious that his seat ought to be vacated and he be required to make restitution to the municipality.

64. In making this determination, I am guided by the matters a judge may consider in exercising her or his discretion as to the appropriate sanction, under section 9(2) of the MCIA:

- a) Did the member take reasonable measures to prevent the contravention;
- b) Did the member disclose the pecuniary interest and all relevant facts known to him or her to an Integrity Commissioner in a request for advice from the Commissioner and act in accordance with the advice; or
- c) Did the Member commit the contravention through inadvertence or by reason of an error in judgment made in good faith?

65. Not being aware of any measures taken by the Member to prevent the contravention and, although the Member and I have discussed his interest and many of the relevant facts known to him, not having provided advice to Councillor Spinosa, I am left to consider whether he committed the contravention through "inadvertence" or by reason of an "error in judgment made in good faith".

66. Inadvertence applies where the breach can be linked to an oversight of fact or law that was not recklessly committed or the result of wilfully blind conduct. It can also include inattention and carelessness.<sup>19</sup> Applying this test, I do not view the Member's decision to vote on the matter to have occurred through his inadvertence or carelessness. Given the Member's history of declaring conflicts in matters involving his business, at the time of the February 19<sup>th</sup> meeting of Council, L.S. knew of his statutory obligations to disclose a pecuniary interest yet omitted to do so.

67. Rather, I believe his conduct in voting on the matter occurred through an error in judgment made in good faith. As the Ontario Superior Court of Justice said in *Davidson v. Christopher*, in order to obtain the benefit of this saving provision, the Councillor must show that he proceeded with "good faith as to that error of judgment. He or she must be honest, forthright and open, acting in complete good faith. The courts do not require perfection of conduct. However, good intentions and a complete lack of deceit and collusion are required".<sup>20</sup>

68. In my view, Councillor Spinosa's conduct, while not perfect, was with all good intentions and a complete lack of deceit and collusion.

69. I am also aware of the Councillor's recent willingness to declare conflicts of interest in matters concerning the Library and the use of The Black Sheep as a host venue for city events,<sup>21</sup> and believe this to demonstrate contrition on his behalf.

70. Coming to the conclusion as I have that Councillor Spinosa committed the breach through an error in judgment made in good faith, I do not believe that any of the more significant sanctions available to a judge are needed and, accordingly, I will not be making an application to a judge.

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<sup>19</sup> *Adamiak v. Callaghan*, 2014 ONSC 6656 at para 67.

<sup>20</sup> *Davidson v. Christopher*, 2017 ONSC 4047 at para 31.

<sup>21</sup> See See Minutes of Council, September 3<sup>rd</sup>, and 17<sup>th</sup> 2019, available online at <https://www.welland.ca/Council/AgendasMinutes.asp>




71. I recommend that, as a reprimand, Council direct Councillor Spinosa to issue an apology for his conduct to his colleagues on Council and to the citizens of Welland.

All of which is respectfully submitted, this 18<sup>th</sup> day of November 2019.

A handwritten signature in black ink, appearing to read 'Harold G. Elston', followed by a long horizontal line extending to the right.

Harold G. Elston

A handwritten signature in black ink, appearing to read 'Matthew J. Hodgson', followed by a long horizontal line extending to the right.

Matthew J. Hodgson

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**CITY OF WELLAND INTEGRITY COMMISSIONER, H.G. ELSTON**

Citation: Moote v. DiMarco  
Date: May 1, 2020

**REPORT ON THE MATTER OF A COMPLAINT AGAINST COUNCILLOR DIMARCO  
BY COUNCILLOR MOOTE**

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Municipal Integrity Commissioners provide reports on the results of their inquiries to their respective municipal Councils. Where a finding is made that the Member was in breach of the Code of Conduct, the Commissioner will make a recommendation as to the imposition of a penalty, or other remedial action, to the municipal Council. Reference should be made to the minutes of the municipal Council meeting at which the Commissioner's report was presented to obtain information about Council's consideration of and action on each report. When possible, a link to the relevant municipal council minutes is provided.

[Link to Council Decision]

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## BACKGROUND

1. The City of Welland (the “City”) approved Policy Number HUM-001-0031, establishing a Code of Conduct for Members of Council, on February 5, 2013, revising it on January 17, 2017 (the “Code”). The purpose of the Code is to ensure that the Members of Council share a common basis for acceptable conduct. On or about October 4, 2016, I was appointed as the City’s Integrity Commissioner, pursuant to section 223.3(1) of the *Municipal Act, 2001*, R.S.O. 2001, c. 25 (the “Act”).

2. This report presents my findings and recommendations to Council, following my inquiry into a complaint made to me on January 28, 2020 by Councillor Adam Moote (the “Complaint”), alleging that he was the target of bullying and intimidation by Councillor Tony DiMarco, during a break in a meeting of Council on December 17, 2019 (the “meeting”).

## FACTS AND DISCUSSION

3. At the meeting, Council was debating the merits of passing an Interim Control By-law (“ICBL”). Under the *Planning Act*, R.S.O. 1990, c. P.13, as amended, the passing of an ICBL does not require notice to the public or a public hearing. The purpose of allowing an ICBL to be passed in the absence of notice is so that Council can act quickly to hit pause on development in the City or parts of it, to allow time to study an identified planning problem and develop new planning rules to address the problem. ICBLs are often a response to proposed development projects, which have set off alarm bells in the community. As such, they can be divisive and inspire heated debate.

4. As it turns out, the public became aware that a motion to approve the ICBL was to be heard at the meeting, and the hall was full. For the most part, the debate in the Council Chambers was measured and respectful. The same cannot be said, however, as the debate carried over into Council’s ante room, during a break in the proceedings.

5. After a little more than an hour of discussion about the ICBL, Council voted to approve it. As I understand it, Councillor DiMarco voted in favour of the by-law and Councillor Moote voted against it, setting the stage for their encounter in the ante room. Mayor Champion then called for a two-minute recess. Most members left the Council table

and retired to the ante room for refreshments. It was during this break that the events leading to the Complaint took place.

6. Councillor Moote explains his encounter with Councillor DiMarco, as follows:

*At approximately 9:25 pm on December 17<sup>th</sup>, 2019; just after the Mayor called a recess to the meeting, I adjourned to the ante room to get a refreshment. As I stood next to Councillor Chiochio I was backed against the wall by Councillor DiMarco who said to me that this "... needs to stop ... I asked what he meant again, and he responded by saying "the way you vote". I responded that I'm entitled to speak on issues just the same as he is. At this point Councillor DiMarco began to get agitated and aggressive repeating that my opinions weren't valid. I repeated that I was elected the same as he [was] and I am just as entitled to speak to any item at our Council table. I told Councillor DiMarco that I will not be bullied into submission and that he can't speak to me like that. At this point Councillor DiMarco's aggression grew and he attempted to physically grab me. Councillor DiMarco was restrained from this by [several persons].*

7. I provided the details of the Complaint to Councillor DiMarco and received a written reply from him on April 4, 2020. Councillor DiMarco told me that he did not back Councillor Moote against the wall, but that he was attempting to reach into a crowd that had formed around the counter where the drinks were and, as he turned towards the wall to leave, Councillor Moote was standing face-to-face with him, inches apart, because of the crowd. He acknowledges that he "mentioned something about his voting, but truthfully cannot recall how the conversation went".

8. Councillor DiMarco maintains that he was not agitated, nor was he aggressive towards Councillor Moote. He claims he did not attempt to grab Councillor Moote. According to Councillor DiMarco, Councillor Moote became agitated, red-faced and in a louder-than-normal voice said, "go and sit down". At that point, a member of staff lightly pushed him towards the door.

9. I spoke with Councillor Moote on April 9, 2020, to present to him Councillor DiMarco's response and to hear directly from him. Councillor Moote denies that there was a crowd in the room and rejects this as an excuse for the close encounter with Councillor DiMarco.

10. Councillor Moote felt trapped, threatened and intimidated. He maintains his allegation that Councillor DiMarco was trying to grab him and felt that the other witnesses could confirm this fact. Councillor Moote admits that he was agitated and that he probably did tell Councillor DiMarco to "go on and sit down".

11. I next had a lengthy discussion with Councillor DiMarco. In his view, the incident has been built-up into something bigger than it really was. He was simply trying to reach around Councillor Moote to grab a pop. He acknowledges speaking to him, but says he just said, "you've got to watch how you vote out there". At the same time, he complains that Councillor Moote has glared at him during meetings and has spoken to him in a condescending tone of voice.

12. There were several witnesses in the ante room and, after speaking with them, I accept Councillor Moote's description of what happened. In particular, I do not accept Councillor DiMarco's recollection that he was simply reaching for a pop. According to one witness, he already had a pop in his hand as he moved towards Councillor Moote, evidenced by the fact that he spilled the pop on the witness, as he reached towards Councillor Moote.

13. Although the incident was over in only a few seconds, it is clear to me that Councillor DiMarco initiated contact with Councillor Moote and that he was very agitated, even enraged, by some accounts. More than one witness remarked to me that Councillor DiMarco is a large man and can be intimidating. During the exchange of words between Moote and DiMarco, one witness became sandwiched between the Councillors, with two others joining the fray to physically restrain Councillor DiMarco.

## **THE CODE**

14. Councillor DiMarco's conduct is to be measured against the provisions of Article XI of the Code, which prescribes the prohibition against "Discreditable Conduct". It says:

As a representative of the City, every Member has the duty and responsibility to treat members of the public, one another and staff, appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

A Member shall not use indecent, abusive, or insulting words or expressions toward any other Member, any member of staff, or any member of the public. A Member shall not speak in a manner that is discriminatory to any individual based on that person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status, or disability.

During Council and Standing Committee meetings, Members shall conduct themselves with decorum and in accordance with the City's Procedural By-law.

## **FINDING AND RECOMMENDATION**

15. Having found that Councillor DiMarco was in an agitated state and behaved in a physically aggressive and threatening way towards Councillor Moote, it is plain to me that his conduct in the ante room on the night of December 17, 2020 falls well short of the standard expected of Members of Council. His conduct can only be described as bullying and an attempt to intimidate a fellow councillor. It is made all the more egregious because his motivation for his approach was his objection to how Councillor Moote had voted on the ICBL. I find that on December 17, 2019, Councillor DiMarco did, indeed, violate Article XI of the Code.

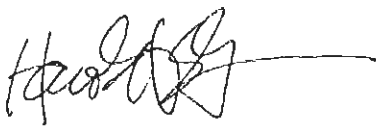
16. In accordance with section 223.4(5) of the Act, Article XVI of the Code authorizes Council to impose either of two penalties on a Member of Council, following a report by the Integrity Commissioner that, in my opinion, there has been a violation of the Code:

- i. A reprimand; or
  - ii. Suspension of the remuneration paid to the Member of Council in respect of his or her services as a Member of Council or local board, as the case may be, for a period of up to 90 days
17. Under the Code, I may also recommend that Council take the following actions:
- i. Removal from membership on a Committee or local board;
  - ii. Removal as Chair of a Committee or local board;
  - iii. Repayment or reimbursement of moneys received;
  - iv. Return of property or reimbursement of its value; and
  - v. A request for an apology to Council, the complainant or both.

18. My recommendation is that Councillor DiMarco be reprimanded, have his remuneration suspended for 30 days, and be asked to apologize to Councillor Moote and all of Council.

19. I recognize that I am recommending a penalty that is well along the range available to me, but do so not only because I believe Councillor DiMarco's actions were wrong and deserving of sanction, but also because it is important that Council send a clear message to Members that any attempt to intimidate a Member on the basis of how she or he votes, will not be condoned by the Council of the City of Welland.

All of which is respectfully submitted this 1<sup>st</sup> day of May 2020.



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H. G. Elston  
Integrity Commissioner for the  
City of Welland