



**MINUTES OF**  
**COUNCIL MEETING, OCTOBER 6, 2020**  
**CIVIC SQUARE, COUNCIL CHAMBERS**  
**60 EAST MAIN STREET**

Council met in and in open session at 7:17 p.m. on the above date and in Committee-of-the-Whole closed to the public at 8:29 p.m. and again in open session at 8:56 p.m.

His Worship Mayor Frank Campion in the Chair.

**Members Present Electronically:**

Councillors J. Chiocchio, T. DiMarco, B. Fokkens, B. Green, M.A. Grimaldi, J. Larouche,  
D. McLeod (in person), A. Moote, G. Speck, L. Spinosa, C. Richard and L. Van Vliet.

**Members of Staff and Others Present:**

Interim CAO/General Manager, Corporate Services, Chief Financial Officer/Treasurer, S. Zorbas  
City Clerk, T. Stephens  
General Manager, Infrastructure and Development Services, T. Fitzpatrick  
General Manager, Economic Development & Recreation & Culture, D. Degazio  
Acting Fire Chief, A. Eckhart  
Manager of Recreation & Culture, R. Dalton  
Manager of Public Works, V. Beaudoin  
Chief Building Official, J. Tosta (until 8:29 p.m.) and again at 9:15 p.m. - 9:58 p.m.  
Manager of Development Approvals, G. Munday

**THE FOLLOWING ITEM WAS ADDED:**

**20-34** Report CAO-2020-05: Members of Council - OMERS Contributions.

**PRESENTATION**

**20-4** Carol Nagy, Executive Director, Hospice Niagara addressed Council regarding a funding request for Residential Hospice Niagara Expansion, Welland location.

**(Councillor Spinosa disclosed an interest in this matter, and did not take part in the consideration and discussion of same, and refrained from voting thereon, as his business supports and participates in Hospice Niagara events).**

**PUBLIC MEETING PURSUANT TO CITY OF WELLAND BY-LAW 2013-127**

Peter Simcisko, Manager, Watson and Associates Economists Inc. spoke to the subject matter.

**05-120**

**20-38** Public Meeting to increase permit fees under Section 7 of the *Building Code Act*.

- No one spoke.

There being no speakers, the public meeting was concluded.

**2020 - 236**

**20-25** Moved by McLeod and Richard

THAT THE COUNCIL OF THE CITY OF WELLAND meet, with the Mayor as Chair, in Committee-of-the-Whole closed to the public at 8:29 p.m. to consider:

- Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; and
  - *Valbruna ASW Inc.*
- A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the complete position or interfered significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - *Lincoln Street dock Area - Future RFP.*

**CARRIED**

**2020 - 237**

**20-25** Moved by Green and Spinosa

THAT THE COUNCIL OF THE CITY OF WELLAND arise from its closed Committee-of-the-Whole meeting at 8:55 p.m. without report.

**CARRIED**

**2020 - 238**

**20-1** Moved by Larouche and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND hereby approves and adopts the minutes of the Regular Council Meeting of September 15, 2020 and Special Council Meetings of September 21 and 22, 2020, as circulated.

**CARRIED**

**2020 - 239**

**02-160**

Moved by Chiocchio and Fokkens

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report CLK-2020-18: Updates to the Outstanding Council Resolutions List; and further THAT Welland City Council approves removing all items included in "Appendix I" from the Outstanding Council Resolution List.

**YEAS:** Councillors McLeod, Spinosa, Van Vliet and Mayor Campion.

**NAYS:** Councillors Larouche, Green, Speck, Chiocchio, DiMarco, Richard, Grimaldi, Fokkens and Moote.

**LOST**

**2020 - 240**

**05-120**

**20-38**

Moved by Speck and Spinosa

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information Report P&B-2020-46: Development Engineering, Planning Division, Building Permits and Inspection Services Fee Review - Statutory Public Meeting.

**(Councilor McLeod disclosed an interest in this matter, and did not take part in the consideration and discussion of same, and refrained from voting thereon, as his employer is subject to the fees discussed in the report).**

**CARRIED**

**2020 - 241**

**16-61**

Moved by Chiocchio and Green

THAT THE COUNCIL OF THE CITY OF WELLAND approves the amendment to the composition of the Human Resources Committee to include all members of Council; and further THAT Welland City Council approves that all confidential Human Resource matters will be presented to Council as a whole; and further THAT Welland City Council approves that policies relating to standard operating procedures, with no financial impact, shall be reviewed and approved by the Executive Committee; and further THAT Welland City Council approves that all positions approved in the budget that become vacant, can be filled at the discretion of the Executive Committee, and in accordance with the Hiring Policy; and further THAT Welland City Council approves that educational workshops with members of Council and the Executive Committee shall occur quarterly.

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**16-61**

Moved by Spinosa and Van Vliet

THAT Welland City Council request to call the question regarding Report CAO-2020-04: Human Resources Committee.

**YEAS:** Councillors Larouche, Green, Speck, DiMarco, Richard, Grimaldi, Spinosa, Moote, Van Vliet and Mayor Campion.

**NAYS:** Councillors Chiocchio, McLeod and Fokkens.

**CARRIED**

**FOLLOWING THE VOTE TO CALL THE QUESTION, THE MAIN MOTION WAS PUT AND .....**

**YEAS:** Councillors Larouche, McLeod, Grimaldi, Spinosa, Moote, Van Vliet and Mayor Campion.

**NAYS:** Councillors Green, Speck, Chiocchio, DiMarco, Richard and Fokkens.

**CARRIED**

**2020 - 242****18-36** Moved by Chiocchio and McLeod

THAT THE COUNCIL OF THE CITY OF WELLAND approves the application for the City of Welland Niagara Gateway Economic Zone and Centre Community Improvement Plan Incentive Program for the property known municipally as 100 Downs Drive in the City of Welland for the Tax Increment Based Rebate Program in the estimated amount of \$357,855.94 over ten (10) years and rebate of the Site Plan Control Application Fee of \$2,401.00; and further

THAT Welland City Council directs staff to prepare the required By-law(s) and agreement(s); and further  
THAT Welland City Council authorizes the Mayor and City Clerk to execute any documentation required to satisfy the conditions related to participation in the Tax Increment Based Rebate Program.

**CARRIED****2020 - 243****20-4** Moved by Richard and Van Vliet

THAT THE COUNCIL OF THE CITY OF WELLAND receives for information the presentation by Carol Nagy, Executive Director, Hospice Niagara regarding funding request for Residential Hospice Niagara Expansion, Welland location; and further

That Welland City Council forward the request for funding to the Budget Review Committee for consideration.

**(Councillor Spinosa disclosed an interest in this matter, and did not take Part in the consideration and discussion of same, and refrained from voting thereon, as his business supports and participates in Hospice Niagara events).**

**CARRIED****2020 - 244****20-34** Moved by Larouche and Spinosa

THAT THE COUNCIL OF THE CITY OF WELLAND approves an amendment to By-Law 2001-1 To Authorize Participation in the Ontario Municipal Employees Retirement System (OMERS) in respect of its Head of Council and Councillors to include a Head of Council, or Councillor who is receiving an OMERS pension, or is otherwise ineligible to participate in the OMERS pension plan, may elect to have the equivalent of the employer's contributions be remitted to a Registered Retirement Savings Plan (RRSP), or Tax Free Savings Account (TFSA), if they meet the requirements to do so.

**CARRIED****2020 - 245****20-93** Moved by Chiocchio and McLeod

1. THAT THE COUNCIL OF THE CITY OF WELLAND adopts Official Plan Amendment No. 28 to designate the lands described as Part of Lot 1, Concession 13, former Town of Pelham, Parts 1 and 2 on 59R-15268, City of Welland, municipally known as 395 and 401 South Pelham Road as Medium Density Residential and Core Natural Heritage ; and further

2. THAT Welland City Council approve Zoning By-law Amendment to Zoning By-law 2017-117 for lands described as Part of Lot 1, Concession 13, former Town of Pelham, Parts 1 and 2 on 59R-15268, City of Welland, municipally known as 395 and 401 South Pelham Road to zone the lands as Site Specific Residential Multiple – RM and Environmental Protection Overlay; and further

3. THAT Welland City Council approves application for Draft Plan of Vacant Land Condominium for lands described as Part of Lot 1, Concession 13, former Town of Pelham, Parts 1 and 2 on 59R-15268, City of Welland, municipally known as 395 and 401 South Pelham Road for the development of the site with 35 condominium townhouse dwellings, subject to the following conditions:

1. That the Owner enter into a Site Plan Agreement with the City of Welland.
2. That the Owner enter into a Condominium Assumption agreement with the City.
3. That no grading or on-site works commence prior to the registration of a site plan agreement on the property.
4. That all necessary easements required for utility purposes be granted to the appropriate Authority, free and clear of all encumbrances.
5. That the Owner pay 5% cash-in-lieu of parkland dedication in accordance with City policy, or in accordance with any subsequent community benefits charges.

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**2020 - 245****20-93...cont'd.**

6. That the owner dedicates Block 38 to the City of Welland, free and clear of all encumbrances.
7. That the following clause be included in the Site Plan Agreement and inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit:  
 "Due to the proximity of the Municipal Sewage Pumping Station, Purchasers/Tenants are advised that periodic emissions of unpleasant odours and noise from the normal or emergency operations of this facility, for an unspecified duration, may occur and may adversely affect the residents of this development."
8. That prior to final registration of the plan, the applicant shall submit a conceptual site plan with building elevations and a streetscape/landscape plan for the section along the Regional Road as well as an addendum to the Planning Justification Report or alternatively a separate Urban Design letter to address issues of compatibility and transition to the satisfaction of the Niagara Region.
9. That the Site Plan Agreement between the owner and the City contain appropriate provisions whereby the owner agrees to implement the approved building elevations and streetscape/landscape plan for the section along the Regional Road to the satisfaction of the Niagara Region.
10. That the following clauses shall be included in the Site Plan Agreement between the owners and the City of Welland:

*"Should deeply buried archaeological remains/resources be found on the property during construction activities, all activities impacting archaeological resources must cease immediately, notify the Archaeology Programs Unit of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-212-8886) and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.*

*In the event that human remains are encountered during construction, all activities must cease immediately and the local police as well as the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources MHSTCI should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act."*

11. That the Site Plan Agreement contain wording wherein the owner agrees to implement the mitigation measures and recommendations found on Page 10 of the EIS Update (prepared by Myler Ecological Consulting, dated April 2020), including, but not limited to:

- a. That prior to site alteration and construction, tree protective fencing and silt fencing be placed at the limit of development.
- b. That a 1.5m high permanent chain link fence will be installed at the limit of development. The location of the fence and installation details should be identified in final plans. In addition, a "no gate" bylaw should be implemented to reduce human encroachment and limit the movement of pets into the adjacent natural area.
- c. That tree and vegetation removal shall be completed between October 1<sup>st</sup> and March 15<sup>th</sup>, outside both breeding bird nesting season in accordance with the federal *Migratory Birds Convention Act* and the summer bat active period.
- d. That no construction materials or equipment be located, even on a temporary basis, within the buffers of the PSW.
- e. That all proposed outdoor lighting shall be downward facing and shielded to prevent light spillage into the surrounding natural areas, where possible.

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**2020 - 245****20-93...con'td.**

12. That detailed sedimentation and erosion control plans be prepared for review and approval by the Region. All sediment and erosion control measures shall be maintained in good condition for the duration of construction until all disturbed surfaces have been stabilized. Muddy water shall not be allowed to leave the site.

13. That a Grading Plan be provided to the satisfaction of the Niagara Region, that demonstrates that existing overland flow patterns are maintained and that no grading within the PSW, Significant Woodland and/or their buffers will occur.

14. That a comprehensive Restoration Planting Plan be prepared, to identify and illustrate the location of additional native trees, shrubs, and/or groundcover to be planted within the Woodland Restoration Area and the PSW buffer area at the northern 1/3 of the site, as appropriate.

15. A Tree Saving Plan be submitted to the Niagara Region for review and approval as required under Regional Official Plan Policy 7.B.1.19. The Tree Savings Plan shall generally be prepared in accordance with Section 1.36 of the Region of Niagara Tree and Forest Conservation By-law, or its' successor.

16. That the PSW, Significant Woodland, and buffers be Zoned Environmental Protection (EP) or similar zoning which achieves the same level of protection.

17. Prior to any construction taking place within the Regional Road Allowance, the owner shall obtain a Regional Construction Encroachment and/or Entrance Permit. Applications must be made through the Permits Section of the Niagara Region Public Works Department (Transportation Services Division).

18. That the owner dedicates two 4.5 metre x 4.5 metre daylighting triangle at each side of Regional Road 36 and the internal driveway.

19. That the owner agrees, through the Condominium Agreement with the City, to pay for the required road upgrades for Regional Road 36 (South Pelham Road) such as curbing, drainage, bike lanes, sidewalk, and lighting to the satisfaction of the Niagara Region.

20. That Niagara Region will require detailed engineering plans be submitted for review and approval for the proposed urbanization of Regional Road 36 (South Pelham Road).

21. That the owner/developer ensure that all streets and development blocks can provide an access in accordance with Niagara Region's Corporate Policy and By-laws relating to the curbside collection of waste and recycling.

22. That the owner/developer shall comply with the Niagara Region's Corporate Policy for Waste Collection and complete the Application of Commencement of Collection and Indemnity Agreement.

23. If Regional Waste Collection cannot be provided, the Site Plan Agreement between the owner and the City contain provisions that the owner shall provide a written undertaking to the Niagara Region Planning and Development Services Department acknowledging that because the site design does not meet Region Waste Policy, garbage/recycling pick-up for the development will not be provided by the Region. Further, the following warning clause shall be included in the Site Plan Agreement and inserted in all Agreements of Purchase and Sale or Lease for each dwelling Unit:

*"Purchasers/Tenants are advised that due to the site layout, garbage/recycling pick-up for the development will be provided by the Condominium Corporation through a private contractor and not the Region."*

24. That in order to accommodate Regional Waste Collection Service, waste collection pads are required to be provided by the applicant for the units 1-4, 11-18, and 30-33. The waste collection pads shall be in accordance with the Niagara Region's Corporate Waste Collection Policy.

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**20-93...cont'd.**

25. That the following warning be included in the Site Plan Agreement and inserted in all offers and Agreements of Purchase and Sale or lease for units 3-4, 12-16 and 28-31:

*“That in order to accommodate Regional Waste Collection service, waste collection pads are required to be provided by the applicant for units 3-4, 12-16, and 28-31. The waste collection pads shall be in accordance to the details outlined in the Niagara Region’s corporate waste collection policy.”*

26. That the owner shall submit a written acknowledgement to the Niagara Region Planning and Development Services Division, stating that draft approval of this condominium does not include a commitment of servicing allocation by the Regional Municipality of Niagara as this servicing allocation will be assigned at the time of registration and any pre-servicing will be at the sole risk and responsibility of the owner.

27. That the owner shall submit a written undertaking to the Niagara Region Planning and Development Services Division, stating that all offers and Agreements of Purchase and Sale, which may be negotiated prior to registration of this condominium shall contain a clause indicating that servicing allocation for this condominium will not be assigned until the plan is registered, and a similar clause be inserted in the Site Plan Agreement between the owner and the City of Welland.

28. That prior to final approval for registration of this Plan of Condominium, the owner shall submit design drawings (with calculations) for any new municipal sanitary and storm sewers required to service this development and obtain the necessary ministry of the Environment Compliance Approval under the Transfer of Review Program.

29. That the Site Plan Agreement between the owner and the City contain a provision whereby the owner agrees to obtain a certificate from an Ontario Land Surveyor stating that all existing and new survey evidence is in place at the completion of the development.

30. That the following clause be included in the Site Plan Agreement and inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit:

- a. *“Purchasers/Tenants are advised that this property has frontage on a roadway designated as being within the Regional Niagara Bicycle Network Plan. If the bicycle route is currently not established and identified with signage, it is the intent of the Regional Municipality of Niagara to make provisions for doing so and this may involve additional pavement width, elimination of on-street parking, etc., if required on this street section.”*

31. That prior to approval of the final plan or any on-site grading, the owner shall submit a detailed stormwater management plan for the condominium and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the Niagara Region for review and approval:

- a. Detailed lot grading, servicing, and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
- b. Detailed erosion and sedimentation control plans;
- c. Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the condominium) planned to be serviced by the stormwater management facility.

32. That the Site Plan Agreement between the owner and the City contain provisions whereby the owner agrees to implement the approved plan(s).

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33. That the PSW and buffer be zoned Environmental Protection or an equivalent category that provides an appropriate level of protection, to the satisfaction of the NPCA.

34. That the Developer submit to the Niagara Peninsula Conservation Authority for review and approval, detailed grading and construction sediment and erosion control plans.

35. That limit of work fencing be shown on the grading plan along the limit of developable area and that no grading occur beyond this point, to the NPCA's satisfaction. Limit of work fencing must be maintained during the development process and all silt fencing shall be removed once work is completed and all exposed soils are re-vegetated or otherwise stabilized.

36. That the Developer provide a 1.5 metre high chain link fence along the limit of developable area, to the satisfaction of the Niagara Peninsula Conservation Authority.

37. That the developer obtain a Work Permit from the Niagara Peninsula Conservation Authority for the proposed wetland buffer restoration/enhancement work. In support of the Work Permit application, the following information will be required:

- a. A planting plan providing details about species, planting densities, and locations.
- b. Any other information as may be determined at the time a Work Permit application is submitted to the Niagara Peninsula Conservation Authority.

38. Include on all offers of purchase and sale, a statement that advises the prospective purchaser:

- a. that the home/business mail delivery will be from a designated Centralized Mail Box.
- b. that the developers/owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

39. The owner further agrees to:

- a. work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
- b. install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes.
- c. identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
- d. determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

40. That prior to granting approval for the Final Plan of Subdivision, City of Welland Planning Division will require written notice from the following upon their respective Conditions of Draft Plan Approval have been met satisfactorily:

Region of Niagara Conditions: 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32

Canada Post Conditions: 38, 39

Niagara Peninsula Conservation Authority: 33, 34, 35, 36, 37

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41. That if Final Approval is not given to this Plan within three (3) years of the approval date, and no extensions have been granted, Draft Approval shall lapse. If the Owner wishes to request extension of Draft Plan Approval, a written request with reasons why the extension is required and the applicable application fee, must be received by the City prior to the lapsing date; and

4. THAT Welland City Council authorizes the Mayor and Clerk to sign the Draft Approval and Final Approval Plans and agreements once all conditions have been satisfied.

**CARRIED****2020 - 246****20-94**

Moved by Van Vliet and Richard

1. THAT THE COUNCIL OF THE CITY OF WELLAND adopts Official Plan Amendment No. 25 to designate the lands described as being on the north side of Forks Road, east of the railway tracks, south of the Townline Tunnel and west of the Welland Shipping Canal, more specifically described as being Part of Lots 20, 21, 22, and 23, Part of Road Allowance between Lots 20 and 21 and Lots 22 and 23, Concession 5, geographic Township of Humberstone, City of Welland, municipally known as 401 Canal Bank Street, as Special Exception Low Density Residential and Parks, Open Space, and Recreation; and,

2. THAT Welland City Council approves Zoning By-law Amendment to Zoning By-law 2017-117 for lands on the north side of Forks Road, east of the railway tracks, south of the Townline Tunnel and west of the Welland Shipping Canal, more specifically described as being Part of Lots 20, 21, 22, and 23, Part of Road Allowance between Lots 20 and 21 and Lots 22 and 23, Concession 5, geographic Township of Humberstone, City of Welland, municipally known as 401 Canal Bank Street from Site Specific Residential Low Density 2 – RL2-58, Community Open Space – O2, and Neighbourhood Open Space – O1 to Site Specific Residential Low Density 2 – RL2 and Neighbourhood Open Space – O1, and a Holding Site Specific Residential Low Density 2 – RL2; and further

3. THAT no additional meetings under the Planning Act are required as the amendments to the original application are minor, in accordance with Section 34(17) of the Planning Act; and further

4. THAT Welland City Council approves Redline Revision to Draft Plan of Subdivision for lands described as being on the north side of Forks Road, east of the railway tracks, south of the Townline Tunnel and west of the Welland Shipping Canal, more specifically described as being Part of Lots 20, 21, 22, and 23, Part of Road Allowance between Lots 20 and 21 and Lots 22 and 23, Concession 5, geographic Township of Humberstone, City of Welland, municipally known as 401 Canal Bank Street, for the development of the site with a mix of single-detached, semi-detached, and townhouse dwellings, not to exceed 1405 residential lots, subject to the following conditions which will replace conditions (a)-(ii) (inclusive) of the original Draft Plan of Subdivision Approval:

1. That the owner enter into a Subdivision Agreement with the City of Welland to be registered on title.
2. That no construction work shall commence on site until such time as the Subdivision Agreement has been entered into, all financial security is in place and the Plan and all documentation has been registered on Title.
3. That no grading work shall commence on site until such time as the Subdivision Agreement or a Site Alteration Permit has been entered into, and any financial securities are in place.
4. That all necessary Easements required for utility and servicing purposes be granted to the appropriate Authority free of all encumbrances.
5. That any required 0.3 metre reserve(s) be transferred to the City of Welland, free of all encumbrances, for phasing, development, and access control purposes.
6. That Blocks 123, 124, and 125 be dedicated to the City free and clear of all encumbrances for parkland purposes.
7. That Blocks 128, 129, 130, 131, 132, 133, 134, and 135 be dedicated to the City free and clear of all encumbrances for walkway and open space purposes.

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8. That the Owner be responsible for the costs of constructing a walking path through Blocks 128, 129, 130, 131, 132, 133, and 134 to the satisfaction of the City.
9. That the Owner dedicate to the City, free and clear of all encumbrances, Block 127 for stormwater management purposes, upon the construction, including any landscaping, to the satisfaction of the City.
10. That the Owner shall provide a one (1) year maintenance period for the Stormwater Management Facility after assumption by the City. Prior to assumption, the Owner shall be responsible for clearing all sedimentation from the Stormwater Management Facility, and all maintenance.
11. That the Owner shall agree, in the Subdivision Agreement, to implement the recommendations and/or mitigating measures respecting the proposed development resulting from all conditions to the satisfaction of the City of Welland and the required agencies.
12. The City may request a review of any study in relation to the impacts to the City of Welland Water and Sewer system through their model, the cost of which shall be borne by the Owner.
13. That the Owner provide a detailed landscaping plan for the Stormwater Management block for review and approval by the City of Welland prior to registration of Phase 1 of the Plan of Subdivision. Such design is to incorporate passive open space and native plantings, where appropriate.
14. That the Owner will be responsible for the costs of any required upgrades to water, sanitary, and storm sewers along Forks Road (from the intersection with Kingsway east to their property) as required to service the development.
15. That the Owner will be responsible for upgrading Forks Road to a two-lane urban cross-section, including sidewalks and streetlighting within the existing Forks Road right of way from the intersection with Kingsway east to their property.
16. That the Owner shall provide a Geotechnical Investigation Study, prepared by a qualified Geotechnical Firm, to the satisfaction of the City, which must make recommendations on the use of this site for the construction of houses/buildings.
17. That the Owner shall submit an updated Traffic Impact Study to the satisfaction of the City, prior to the registration of any phases beyond Phase 1.
18. That the Owner pay \$300 per lot for the planting of trees at the time of registration, or the current Tree Planting Fee in place at the time of Registration.
19. That following completion of any site remediation, the owner shall file a Record of Site Condition (RSC) on the Ministry of the Environment, Conservation and Parks (Brownfields) Environmental Site Registry in accordance with Ontario Regulation 153/04, as amended, and that the owner provide the Niagara Region and the City with copies of the Environmental Site Assessment and site remediation reports as well as a copy of the Ministry of the Environment's written acknowledgement of the filing of the RSC.

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**20-94**

20. That the subdivision agreement between the owner and the City contain provisions whereby the owner agrees to implement the approved mitigation measures as outlined in *Land Use Compatibility-Air Quality Assessment* prepared by SLR Consulting Canada Ltd. (dated March 2020).
21. That the following warning clause be included in the Subdivision Agreement and inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit:
- “the lands in the plan of subdivision may be exposed to reduced air quality and/or odour, dust or vibration impacts from nearby industrial operations that may interfere with some activities of the owners/tenants who occupy these lands.”*
22. That the subdivision agreement between the owner and the City contain provisions whereby the owner agrees to implement the approved noise mitigation measures as outlined in the *Noise and Vibration Feasibility Study* prepared by HGC Engineering (dated May 14, 2020).
23. That the owner submit a detailed noise study prior to final registration of Phase 3 of the subdivision.
24. That the City of Welland formally consent to apply a Class 4 designation on the subject lands for the purpose of Noise Mitigation.
25. That the adjacent landowners be notified that the proposed development (a new noise-sensitive use) will be subject to the Class 4 Noise Criteria outlined in the Provincial NPC-300 Environmental Noise Guidelines.
26. That the Subdivision Agreement contains provisions whereby the owner agrees to provide confirmation from the respective Consultants/Agencies as to the final design of the berm/noise barrier as a required form of mitigation as outlined in the supporting studies.
27. That the following clauses shall be included in the Subdivision Agreement between the owners and the City of Welland:
- “Should previously undocumented archaeological resources be discovered on the property during construction activities, construction and alteration of the site shall immediately cease and the owner shall notify the Ministry of Heritage, Sport, Culture, and Tourism Industries in London (519-675-6898) and engage a licensed consulting archaeologist to carry out archaeological fieldwork in compliance with Section 48(1) of the Ontario Heritage Act”.*
- “As on virtually any property in southern Ontario, it is possible that Aboriginal or Euro-Canadian burials could be present within the development area. In the event that human remains are encountered during construction activities, construction shall immediately cease and the proponent shall notify the Niagara Regional Police, the local coroner, the Ministry of Heritage, Sport, Culture, and Tourism Industries (London office), and the Registrar, Cemeteries Regulation Unit of the Ontario Ministry of Consumer Services in Toronto (416-326-8392).*
28. That the owner provides a written acknowledgement to the Niagara Region Planning and Development Services Department stating that draft approval of this subdivision does not include a commitment of servicing allocation by the Niagara Region as servicing allocation will not be assigned until the plan is registered and that any pre-servicing will be at the sole risk and responsibility of the owner.

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**20-94**

29. That the owner provides a written undertaking to the Niagara Region Planning and Development Services Department stating that all Offers and Agreements of Purchase and Sale or Lease, which may be negotiated prior to registration of this subdivision, shall contain a clause indicating that servicing allocation for the subdivision will not be assigned until the plan is registered, and a similar clause be inserted in the Subdivision Agreement between the owner and the City.
30. That prior to final approval for registration of this plan of subdivision, the owner shall submit the design drawings (with calculations) for any proposed municipal sanitary and storm drainage systems required to service this development and obtain Ministry of Environment, Conservation, and Parks, Environment Compliance Approval under the Transfer of Review Program.
31. That prior to approval of the final plan or any on-site grading, the owner shall submit a detailed stormwater management plan for the subdivision and the following plans designed and sealed by a qualified professional engineer in accordance with the Ministry of the Environment Climate Change documents entitled Stormwater Management Planning and Design Manual, March 2003 and Stormwater Quality Guidelines for New Development, May 1991, or their successors to the Niagara Region Planning and Development Services Department for review and approval:
- a. Detailed lot grading, servicing and drainage plans, noting both existing and proposed grades and the means whereby overland flows will be accommodated across the site;
  - b. Detailed erosion and sedimentation control plans;
  - c. Detailed phasing of construction of the stormwater management facility to coincide with phasing of development of residential lands (internal and external to the subdivision) planned to be serviced by the stormwater management facility.
32. That the Subdivision Agreement between the owner and the City contain provisions whereby the owner agrees to implement the approved plan(s) required in accordance with the Condition above.
33. That the owner/developer ensure, throughout all phases of the development, that all streets and development blocks can provide an access in accordance with the Niagara Region's Corporate Policy and By-laws relating to the curbside collection of waste and recycling. Where a through street is not maintained, the owner/developer shall provide a revised draft plan to show an appropriate temporary turnaround to permit Regional waste collection services.
34. That the owner/developer shall comply with Niagara Region's Corporate Policy for Waste Collection.
35. That the owner shall include in all offers of purchase and sale, a statement that advises the prospective purchaser:
- a. That the home/business mail delivery will be from a designated Centralized Mail Box.
  - b. That the developer/owner be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

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36. The owner further agrees to:

- a. Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
- b. Install concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes.
- c. Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
- d. Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Box locations.

37. Safety setback of habitable buildings from the railway rights-of-way to be a minimum of 15 metres in conjunction with a safety berm. The safety berm shall be adjoining and parallel to the railway rights-of-way with returns at the ends, 2.0 metres above grade at the property line, with side slopes not steeper than 2.5 to 1.

38. The Owner shall engage a consultant to undertake an analysis of noise. At a minimum, a noise attenuation barrier shall be adjoining and parallel to the railway rights-of-way, having returns at the ends, and a minimum total height of 4.0 metres above top-of-rail. Acoustic fence to be constructed without any openings and of a durable material weighing not less than 20 kg. per square metre of surface area. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.

39. Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 metres of the railway rights-of-way will be impacted by the vibration conditions in excess of 0.14 mm/sc RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz,  $\pm 3$  dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.

40. The Owner shall install and maintain a chain link fence of minimum 1.83 metre height along the mutual property line with CN Rail.

41. The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have any rights-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."

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42. Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from the railway and be substantiated by a drainage report to the satisfaction of the Railway.
43. The Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the safety berm, fencing and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN.
44. The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.
45. Provide any and all necessary easements to Welland Hydro at the sole cost of the Owner.
46. That prior to granting approval for the Final Plan of Subdivision, City of Welland Planning Division will require written notice from the following upon their respective Conditions of Draft Plan Approval have been met satisfactorily:
- Region of Niagara Conditions: 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34
- Canada Post Conditions: 35, 36
- CN Rail/GIO Rail: 37, 38, 39 40, 41, 42, 43, 44
- Welland Hydro: 45.

**CARRIED****2020 - 247****20-97**

Moved by Chiocchio and Van Vliet

1. THAT THE COUNCIL OF THE CITY OF WELLAND approves an application for Temporary Use By-law for lands described as being on the east side of Canal Bank Street, south of Highway 58A, west of the Welland Shipping Canal, and north of Forks Road, more specifically described as Part of Lots 21, 22, 23, Concession 5, former Township of Humberstone, part of the Road Allowance between Lots 22 and 23, Concession 5 (closed), Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 on 59R-15225, City of Welland, municipally known as 475, 555, 635 Canal Bank Street for a maximum of three (3) years; and further
2. THAT Welland City Council authorizes the Mayor and Clerk to enter into a Temporary Use Agreement with the Owners to ensure that the model homes and sales office are removed upon the expiration of the Temporary Use By-law.

**(Councillors Fokkens and DiMarco asked to be recorded as opposed to this resolution)**

**CARRIED****2020 - 248****02-160**

Moved by Green and Spinosa

THAT THE COUNCIL OF THE CITY OF WELLAND extends the curfew by 30 minutes.

**YEAS:** Councillors Larouche, Green, Speck, McLeod, Spinosa, Van Vliet and Mayor Campion.

**NAYS:** Councillors Chiocchio, DiMarco, Richard, Grimaldi, Fokkens and Moote.

**CARRIED**

**BY-LAWS**

Moved by Chiocchio and Van Vliet

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-laws, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

**20-97**

BYL 2020 - 109

A Temporary Use By-law to City of Welland Zoning By-law 2017-117 (555 Canal Bank Developments GP Inc. - File 2020-07) 475, 555, 635 Canal Bank Street.

**20-94**

BYL 2020 - 110

A By-law to amend City of Welland Zoning By-law 2017-117 (555 Canal Bank Developments GP Inc., - File 2020-01) 401 Canal Bank Street.

**20-94**

BYL 2020 - 111

A By-law to authorize the adoption of Official Plan Amendment No. 25.

**18-36**

BYL 2020 - 112

A By-law to authorize execution of an agreement for Tax Increment Grant Program (Community Improvement Plan) and Rebate of the Site Plan Control Exemption Fee for 100 Downs Drive (File No. CIP 2020-01).

**20-93**

BYL 2020 - 113

A By-law to amend City of Welland Zoning By-law 2017-117 (ROWT Inc. - File 2020-06) 395 and 401 South Pelham Road.

**20-93**

BYL 2020 - 114

A By-law to authorize the adoption of Official Plan Amendment No. 28.

**CARRIED**

Moved by McLeod and Grimaldi

THAT THE COUNCIL OF THE CITY OF WELLAND having given due consideration to the following By-law, as reproduced in this evening's Council Agenda, now read a first, second and third time and pass same, and authorize the Mayor and Clerk to sign and seal same.

**20-1**

BYL 2020 - 115

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 6<sup>th</sup> day of October, 2020.

**(Councillor Spinosa asked to be recorded as opposed to this resolution)**

**CARRIED**

Council adjourned at 10:51 p.m.

These Minutes to be approved and adopted by Motion of Council this 20<sup>th</sup> day of October, 2020.

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**MAYOR**

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**CITY CLERK**