



# NOTICE

THE MAYOR HAS CALLED  
A SPECIAL MEETING OF COUNCIL  
AT 5:00 P.M.

***TUESDAY, JUNE 9, 2020***

IN THE COUNCIL CHAMBERS - CIVIC SQUARE  
TO DISCUSS THE FOLLOWING:

- PROPOSED OR PENDING ACQUISITION OR DISPOSITION OF LAND BY THE MUNICIPALITY OR LOCAL BOARD;  
- *Property matters.*

AND

IN OPEN SESSION  
IN COUNCIL CHAMBERS, CIVIC SQUARE  
TO CONSIDER ANY CORRESPONDENCE, REPORTS, AND BY-LAWS

*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>

  
Tara Stephens,  
City Clerk



## **SPECIAL COUNCIL MEETING AGENDA**

**Tuesday, June 9, 2020**

**7:00 p.m.**

**Due to COVID-19 and the closure of the Civic Square**

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1. **COMMITTEE-OF-THE-WHOLE (IN-CAMERA) (5:00 P.M.)  
(See yellow tab)**
  - Proposed or pending acquisition or disposition of land by the municipality or local board;
    - *Property Matters.*
  
2. **ARISE FROM COMMITTEE-OF-THE-WHOLE (IN-CAMERA)**
  
3. **OPEN SPECIAL COUNCIL MEETING FOLLOWING COMMITTEE-OF-THE-WHOLE (IN-CAMERA).**
  - 3.1 **CALL UPON THE CITY CLERK TO REVIEW COMMITTEE-OF-THE-WHOLE ITEMS (IN-CAMERA) TO BE ADDED TO BLOCK**
  
  - 3.2 **ADDITIONS/DELETIONS TO AGENDA**
  
  - 3.3 **DISCLOSURES OF INTEREST**
  
  - 3.4 **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. **COMMITTEE-OF-THE-WHOLE (OPEN)  
(to discuss items removed from Agenda Block)**
  
5. **BY-LAW (SEE AGENDA INDEX)**
  
6. **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 9<sup>th</sup> day of June, 2020.  
Ref. No. 20-1
  
7. **ADJOURNMENT**



**SPECIAL 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) - Nil**

**2. Staff Reports**

**1 - 4            ENG-2020-19    Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick  
- Museum HVAC Upgrades - Tender Award. Ref. No. 04-91  
(See By-law 1)**

**5 - 7            ENG-2020-20    Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick  
- 2020 Sidewalk Replacement - Award of Tender. Ref. No. 20-26  
(See By-law 2)**

**8 - 10          ENG-2020-21    Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick  
- Enbridge Gas Inc. Easement request to service New  
Development. Ref. No. 20-76 (See By-law 3)**

**11 - 15        TRAF-2020-03    Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick  
- Temporary Patios and Private Property. Ref. No. 20-64**

**16 - 20        P&B-2020-25    Gen. Mgr., Infrastructure and Development Services, T. Fitzpatrick  
- Delegation to Staff of Various Approvals under the Planning Act.  
Ref. No. 11-108 (See By-laws 4 and 5)**

**3. NEW BUSINESS - Nil**



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

**Tuesday, June 9, 2020  
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### **Page No.**

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

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

1. A By-law to authorize entering into contract with Refrigeration Energy Solutions Ltd. for the Museum HVAC Retrofit. Ref. No. 04-91  
(See Report ENG-2020-19)
2. A By-law to enter into contract with 1526957 Ontario Limited O/A CTC Contracting for the 2020 Sidewalk Construction and Replacement.  
Ref. No. 20-26  
(See Report ENG-2020-20)
3. A By-law to authorize granting of an easement to Enbridge Gas Inc. for gas pipeline servicing 439 King Street. Ref. No. 20-76  
(See Report ENG-2020-21)
4. A By-law to amend By-law 2011-3, being a By-law to constitute and appoint a Committee of Adjustment; to delegate the authority of Council to give consent to the Committee; and to set policies, procedures and conditions for its operation and to repeal all former By-laws. Ref. No. 11-108  
(See Report P&B-2020-25)
5. A By-law to amend By-law 2016-104, being a By-law to delegate various Planning and Community Improvement Incentive approvals to staff and to adopt certain procedures for the processing of planning applications subject to delegated authority. Ref. No. 11-108  
(See Report P&B-2020-25)

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

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

REPORT ENG-2020-19  
JUNE 9, 2020

04-91

**SUBJECT: MUSEUM HVAC UPGRADES – TENDER AWARD**

**AUTHOR: GAGE STEPHENS  
FACILITIES MAINTENANCE MANAGER**

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

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

**RECOMMENDATIONS:**

1. THAT Council accepts the tender of Refrigeration Energy Solutions Ltd. in the amount of \$163,573.00 (plus HST) being the lowest of five (5) proposals received for the Museum Heating Ventilation & Air Conditioning (HVAC) Retrofit;
2. THAT Council approves additional funding from Capital Surplus Reserve in the amount of \$118,000.00;
3. THAT Council directs staff to prepare the necessary by-law and documents to execute the project; and
4. THAT Council authorizes the Mayor and Clerk to execute all necessary documents to execute the project.

**ORIGIN AND BACKGROUND:**

The Carnegie Building was constructed as a public library in 1923 and is now home to the Welland Historical Museum. In 2006, this two-story building located at 140 King Street, was designated heritage status.

The original steam boiler heating system remains in use today and has well surpassed its design life. This equipment, has undergone countless repairs over the decades and requires significant, frequent and costly maintenance. The control system for these units have also failed, providing inefficient and unstable heating control.

In 2017, Hallex Engineering Ltd. was retained by the City to prepare design drawings for the museum building Heating Ventilation & Air Conditioning (HVAC) upgrades. Hazardous materials testing was subsequently completed within the facility in preparation of the proposed works to rule out the presence of asbestos-containing materials that may be affected during construction.

### **COMMENTS AND ANALYSIS:**

This project involves building HVAC upgrades, including:

- Removal of the existing steam boiler, distribution piping, heating coils and controls.
- Removal of the existing domestic hot water heating tank; and
- Removal of the ductless split air conditioning units.
- Supply and installation of forced air furnace, complete with humidification and air conditioning supplying heat and cooling to the program room (basement zone);
- Supply and installation of a high efficiency, power vented hot water heater designed to comply with current venting codes; and
- Supply and installation of a Roof Top Unit (RTU) complete with additional roof joist supports, to address second floor heating and cooling requirements.

Under normal facility operations, the installation of the RTU would require a two (2) week shutdown of the museum given the disruptive nature of the work. The Contractor will be expected to take advantage of the existing COVID-related museum closure to complete the project.

### **Procurement Process:**

An original Request for Proposal (RFP) for the HVAC works closed on August 6<sup>th</sup>, 2019. Three (3) bids were received and all were significantly over budget primarily due to the constraints related to scheduling 'winter' work.

It was determined that the municipality would be better served if the project was re-tendered for a 2020 spring/summer construction and include a proposed two (2) week museum closure to accommodate the works.

To that end, a second RFP was released on Biddingo.com, a major Canadian tendering website, on January 17, 2020. Fourteen firms downloaded plans and eight contractors attended the mandatory site meeting held on January 28, 2020.

Five (5) bids were received on closing day, February 27, 2020 including one (1) non-compliant submission, as illustrated in the following table.

CONTRACTOR	TOTAL BID (Excl. HST) (\$)
Refrigeration Energy Solutions Ltd.	\$163,573.00
Service Experts Heating & Air Conditioning	\$195,736.00
JTS Mechanical Systems Inc.	\$240,835.00
ES Fox Limited	\$254,442.00
Combined Air Mechanical Services	Non-Compliant

Of the four (4) compliant submissions received, the lowest bid was from Refrigeration Energy Solutions Ltd. of Waterdown, Ontario.

#### **FINANCIAL CONSIDERATION:**

The proposal price from the low bidder for the HVAC upgrades, engineering fees, hazardous materials testing, and approximately 1.76% for the City's HST share results in an ultimate project value of approximately \$205,035.88.

A breakdown of the funding structure for this project is shown in the following table inclusive of Net HST:

2016 CAPITAL BUDGET (10-449-16046) - \$100,000.00	AMOUNT (incl. City HST)
Hallex Engineering Ltd. - Design Engineer	\$9,641.00
OESN Environmental Asbestos Audits	\$2,585.00
Electrical Solutions Niagara Emergency Exit Sign Moves	\$858.00
Refrigeration Energy Solutions Ltd. - HVAC Replacement	\$166,451.88
Building Permit	\$500.00
Contingency (15%)	\$25,000.00
<b>Total Project Costs:</b>	\$205,035.88
2016 Remaining Budget:	\$87,818.79
<b>Funding Shortfall:</b>	\$117,217.09

The detailed design of the project assisted in identifying a more accurate cost of proposed construction (overall project), above the \$100,000.00 originally approved during the 2016 Capital Budget deliberations. Any additional delay in completing this project is expected to result in further increases of material and labour rates.

The project will require additional funding in the order of \$118,000.00 from Capital Surplus Reserve to complete.

**OTHER DEPARTMENT IMPLICATIONS:**

Contract administration for tendering, agreement, and contract payments have been and will be kept in compliance with the approved practices of the Finance, Clerks and Legal Divisions.

**SUMMARY AND CONCLUSION:**

Replacement of the Welland Historical Museum HVAC system is required to maintain operations at the facility. The current systems are well past their service life and require frequent and expensive maintenance. Staff recommends awarding the contract to Refrigeration Energy Solutions Ltd., of Waterdown, Ontario to undertake the replacement of the existing HVAC system at the museum.

**ATTACHMENTS:**

None



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

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

20-26

**REPORT ENG-2020-20**  
**JUNE 9, 2020**

**SUBJECT: 2020 SIDEWALK REPLACEMENT – AWARD OF TENDER**

**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 COUNCIL accepts the tender of **CTC Contracting** in the amount of **\$475,225.00** (plus HST) being the lowest of four (4) tenders received for the 2020 Sidewalk Replacement tender;
2. THAT Council directs staff to prepare the necessary by-law and documents to execute the project; and
3. THAT Council authorizes the Mayor and Clerk to execute all necessary documents to execute the project.

**ORIGIN AND BACKGROUND:**

As part of ongoing maintenance in accordance with the City's obligation under Ontario Regulation 239/02 - Minimum Maintenance Standards for Municipal Highways (part of the *Municipal Act 2001*), City staff completed a citywide inspection of sidewalks and trails in 2019. Any defects requiring immediate attention were sent to Public Works staff to repair and make safe. The remaining recorded defects were used to prioritize sidewalk repairs.

Approximately 1,200m of sidewalk is proposed to be removed and replaced as part of this contract including 22 sidewalk ramps.

**COMMENTS AND ANALYSIS:**

The tender for the works was released on Friday May 15, 2020 and was publicly advertised and listed with the Niagara Construction Association, and as well, posted with a major Canadian tendering website for two (2) weeks.

Four (4) tenders were received on closing day, Monday June 1, 2020. Submissions have been reviewed for accuracy and all have been found to be in compliance with City of Welland tender requirements and the provisions of the current Purchasing Policy.

The summary of all the tenders received, excluding taxes, is as shown in the following table:

<b>CONTRACTOR NAME &amp; ADDRESS</b>	<b>TENDER PRICE (excl. HST)</b>
<b>1526957 Ontario Limited (O/A CTC Contracting)</b> 272 Vigar Drive, Welland, ON L3B 0E2	<b>\$475,225.00</b>
<b>Falcon Road Services Inc.</b> 28 Robinson Road North #202, Grimsby, ON L3M 3C9	<b>\$510,896.40</b>
<b>Neptune Security Services Inc.</b> 6-2400 Dundas St. W., Mississauga, ON L5K 2R8	<b>\$543,250.00</b>
<b>Steed and Evans Limited</b> 300 Ament Line, St Jacobs, ON N0B 2N0	<b>\$560,000.00</b>

CTC Contracting, the low tenderer, is an established company having successfully completed past projects within the City and across the Niagara Region. Staff considers the firm's performance to be satisfactory in accordance with our specifications and standards and therefore recommends that CTC Contracting be awarded the contract.

#### **FINANCIAL CONSIDERATION:**

The tender price from the low bidder plus 1.76% for the City's share of the HST and 2% for material testing, results in an ultimate project value of approximately \$500,000.00.

A breakdown of the funding structure for this project is shown below in the following table:

<b>2019 Capital Budget</b>	<b>Amount</b>
Sidewalk - Condition Related Replacements (10-316-20605)	\$570,000.00
<b>Total Funding</b>	<b>\$570,000.00</b>

The ultimate tender value of \$500,000.00 is less than the allocated combined budgeted amount of \$570,000.00. Additional sidewalk replacement locations will be added to the contract to maximize the available funding of \$570,000.00.

#### **OTHER DEPARTMENT IMPLICATIONS:**

Contract administration for tendering, agreement, and contract payments have been and will be kept in compliance with the agreed practices of the Finance, Clerks and Legal departments.

#### **SUMMARY AND CONCLUSION:**

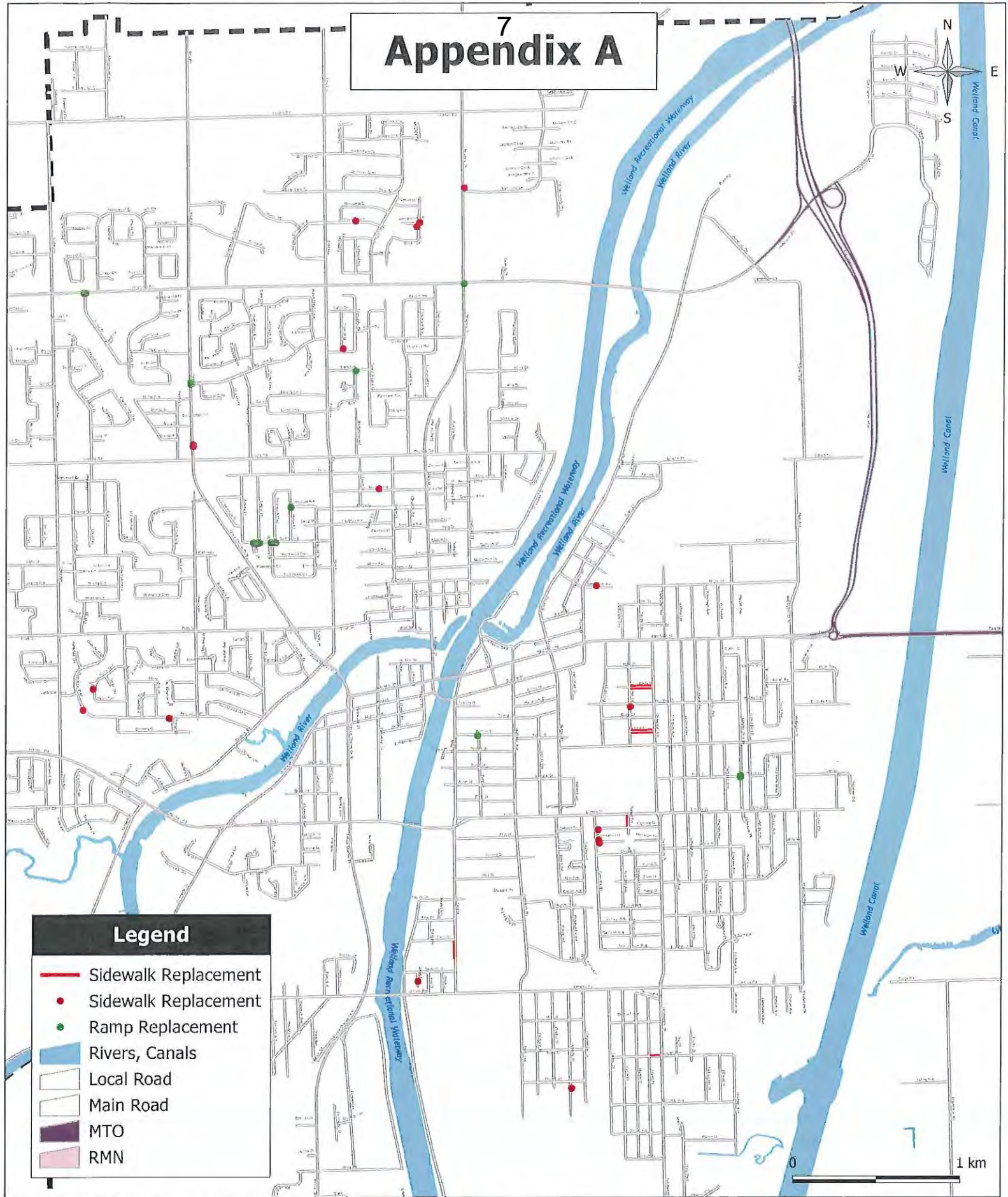
Sidewalks are a vital piece of infrastructure that are used everyday by residents throughout the City. The City has a statutory obligation to perform continual maintenance and replacement of deteriorated sidewalk within the City's sidewalk network.

Staff recommends awarding CTC Contracting the 2020 Sidewalk Replacement contract.

#### **ATTACHMENTS:**

Appendix A – 2020 Sidewalk Replacement – Location Plan

# 7 Appendix A



## Legend

-  Sidewalk Replacement
-  Sidewalk Replacement
-  Ramp Replacement
-  Rivers, Canals
-  Local Road
-  Main Road
-  MTO
-  RMN

The Corporation of  
The City of Welland

## 2020 Sidewalk Replacement Location Plan

Infrastructure and  
Development Services  
Engineering Division

The information contained in this map may represent unintended errors or omissions of fact and the City of Welland (the City) makes no representations or warranties, express or implied, as to the accuracy or completeness of the data and all information should be verified independently. This map is not a legal plan of survey. Depictions of property lines and other features are provided for schematic purposes and should be used for reference only. No part of these drawings, or information, or hard copies made from them may be reproduced or distributed in any form without written permission from the City. Copyright © 2020 The Corporation of the City of Welland and its suppliers.

DATE: 2020-06-02

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

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

REPORT ENG-2020-21  
JUNE 9, 2020

20-76

**SUBJECT: ENBRIDGE GAS INC. EASEMENT REQUEST TO SERVICE NEW DEVELOPMENT**

**AUTHOR: 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 grant an easement to the benefit of Enbridge Gas Inc. for gas servicing across City owned property;
2. THAT Welland City Council directs staff to prepare the necessary by-law(s) and documentation; and
3. THAT Welland City Council authorizes the Mayor and Clerk to execute all documents necessary to grant the easement.

**ORIGIN AND BACKGROUND:**

Enbridge Gas Inc. requires an easement across City owned property to facilitate the installation of a four (4) inch gas main required to service the new seniors residence under construction at 439 King Street. The new gas header will be fed from King Street and directed westerly to the new development. A future service from this gas header, directed to the north, will serve a restaurant proposed at 153 Lincoln Street.

**COMMENTS AND ANALYSIS:**

The Enbridge Gas Inc. easement will cross the City property that accommodates the Wellness Complex parking lot as seen in the attached sketch. The gas main will be installed by trenchless methods under the lot where technically feasible. Where open-cut trenching cannot be avoided, due to conflicts with other utilities, the asphalt will be restored to existing condition. To date, this parking lot has been constructed to base asphalt only.

All utility cuts will be covered once top lift asphalt over the parking lot, is completed. Therefore, granting of the Enbridge Gas Inc. easement as requested is not expected to negatively impact the City's property.

**FINANCIAL CONSIDERATION:**

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

**OTHER DEPARTMENT IMPLICATIONS:**

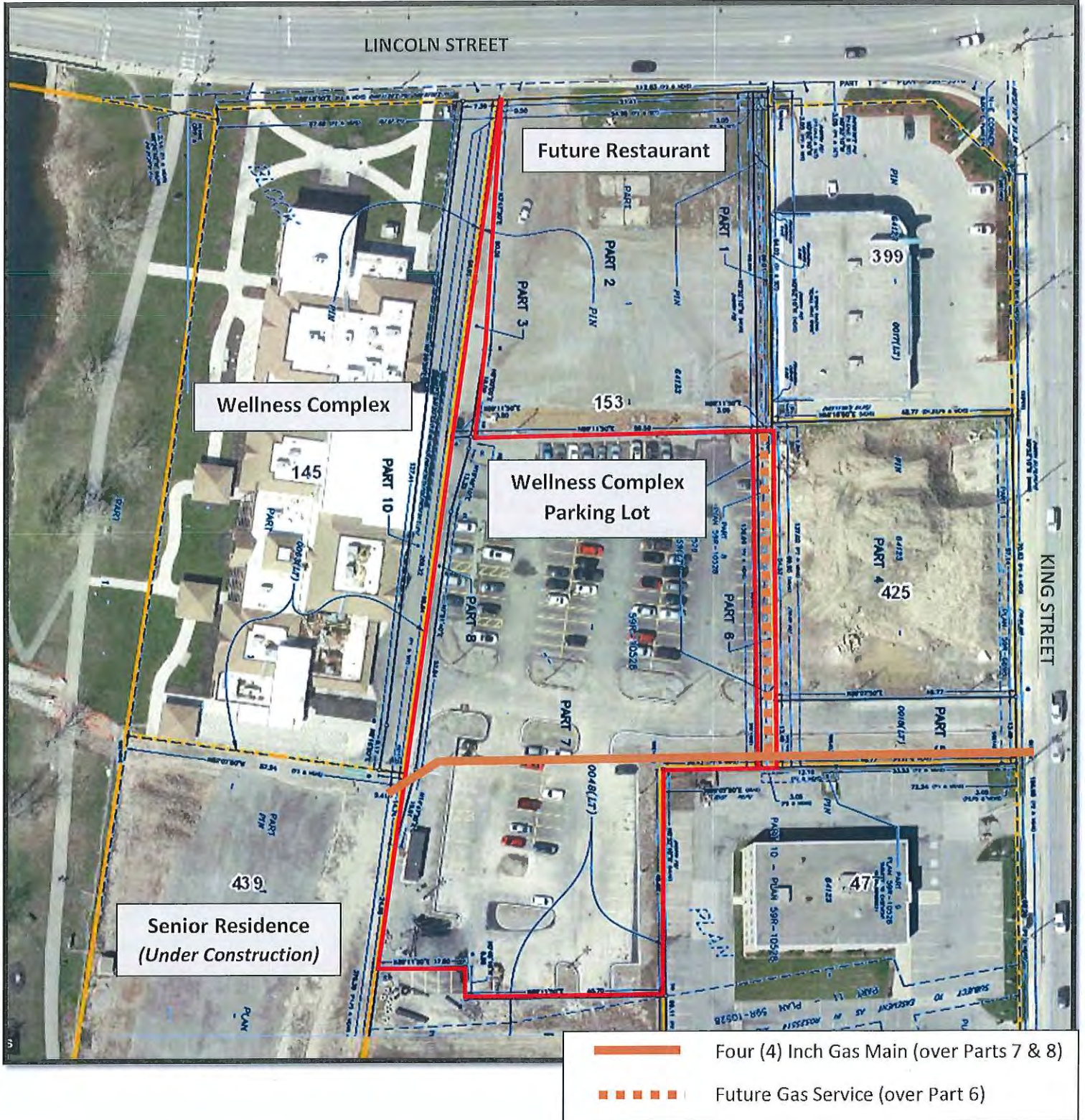
The Legal Division will be involved in the preparation of the required By-law and necessary documentation associated with the creation of the easement should Council approval be received.

**SUMMARY AND CONCLUSION:**



Based on the foregoing, Staff recommend that Council approve the request from Enbridge Gas Inc. for an easement across City owned lands intended to accommodate a four (4) inch gas header, installed to service new development.

**ATTACHMENTS:**

Appendix I – Proposed Easement Plan



**SPECIAL COUNCIL**  
**INFRASTRUCTURE AND DEVELOPMENT SERVICES**  
**TRAFFIC/PLANNING DIVISION**

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

REPORT TRAF-2020-03  
JUNE 09, 2020

20-64

**SUBJECT: TEMPORARY PATIOS ON PRIVATE PROPERTY**

**AUTHOR: GRANT MUNDAY, B.B.A; MCIP; RPP  
MANAGER DEVELOPMENT APPROVALS**

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

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

**RECOMMENDATIONS:**

1. THAT THE COUNCIL OF THE CITY OF WELLAND approves **REPORT TRAF-2020-03** Temporary Patios on private property ; and further
2. THAT Council waive Road occupancy permit fees for businesses for the 2020 calendar year related to patio installation; and further
3. THAT Council sets the cash-in-lieu of parking requirement for outdoor patios at \$0 per parking space for the remainder of 2020 and that an applicant will be required to enter into an agreement with the City; and further
4. THAT Council authorizes the General Manger of Infrastructure and Development Services or designate to sign these cash-in-lieu of parkland agreements; and further
5. THAT Council waive Site Plan Exemption Fees for outdoor patios for restaurants and places of assembly.

**ORIGIN AND BACKGROUND:**

At the June 02, 2020 Council meeting, Council passed the following motion:

WHEREAS the eventual reopening of eat-in restaurants will require some form of social distancing; and further

WHEREAS restaurants have been under tremendous financial strain during the COVID-19 pandemic.

NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE CITY WELLAND directs staff to report back on how we can temporarily allow outdoor serving space and patios for restaurants to maintain social distancing between tables during the reopening phases post pandemic.

The City of Welland recognizes that COVID-19 has impacted local businesses including restaurants. To this end, the City wants to work with local restaurants on ideas and initiatives that will assist them for when the province allows them to re-open. Some restaurants are looking to expand or create outside patio areas to accommodate additional patrons and allow for adequate physical distancing between tables in their restaurants. City staff are committed to working together in a coordinated way through a streamlined review process.

#### **COMMENTS AND ANALYSIS:**

##### *Outdoor Patios on Private Property:*

Outdoor patios on Private Property are regulated by Zoning By-law 2017-117. They are permitted accessory to a place of assembly or restaurant, subject to the minimum yards for the Zone in which it is located. The following additional regulations apply:

- a) Patios are not permitted in any yard abutting a Residential or Institutional Zone;
- b) Patios are not permitted on a balcony on any lot abutting a Residential or Institutional Zone;
- c) Patios shall not be considered as gross floor area when calculating gross floor area for the use it serves; and
- d) Patios shall not be permitted on a lot in any Industrial Zone abutting a lot in any Residential or Institutional Zone.

In some cases, meeting the above noted Zoning By-law requirements may not be possible without obtaining a Minor Variance or Zoning By-law Amendment. These processes take a minimum of 60 to 90 days respectively. For some of those cases, another option could be to convert existing parking spaces to temporary outdoor patio areas provided the chosen location could meet the above noted criteria and without these spaces available, they could still meet the minimum parking requirements.



In cases where they could not meet the minimum parking requirement there is the option under section 6.1.5 of the Zoning By-law to provide cash-in-lieu of parking requirements. Normally, this amount would be the amount that it would cost for the City to construct a replacement parking spaces elsewhere. There is no specific City policy governing the amount to be paid and this Section of the Zoning By-law is rarely used.

Staff are recommending that Council temporarily impose a \$0 cash-in-lieu of parking amount till the end of 2020 for outdoor patios. In these cases, Staff will prepare a temporary agreement which would allow restaurants and places of assembly to temporarily convert parking spaces with a cash-in-lieu amount of \$0 per space. At the end of 2020 this agreement will expire and the Owner will need to remove the patio. Owners will always have the option to Apply for a Minor Variance or Zoning By-law Amendment if they wish to keep the outdoor patio for the long-term.

In all cases, Outdoors patios must still comply with Building and Fire Code, Alcohol and Gaming Commission of Ontario requirements where applicable. Also, the province's emergency orders remain in effect until June 30, 2020 and therefore are not permitted to re-open until the province provides further guidance. Owners wishing to install an outdoor patio will need to submit a proposed site plan to the City showing the subject lands, site layout and proposed location of the outdoor patio. This will allow staff to determine Zoning By-law compliance and building and fire code requirements.

Staff are also recommending that Council waive any Site Plan Exemption Fee for an outdoor patio for the remainder of 2020 should one be required. Site Plan Approval and Exemption are delegated for approval to the General Manager of Infrastructure and Development Services or their designate.

*Sidewalk and Parking spot Patios in the City:*

In December 2018, City Council approved guidelines for Sidewalk and Parking spot Patios in the City.

Below is a summary of the recommended guidelines under which Sidewalk and On-Street Patios are permitted in the City:

1. Permitted only on streets with existing on-street parking
2. Permitted only on sites that have inadequate space to construct a conventional sidewalk patio while maintaining a minimum 1.5 meter (5.0 ft.) wide clear path
3. For maintenance reasons, patios are only permitted on a seasonable basis between April 15 to last Friday of September
4. The On-Street Patio shall comply with all requirements of *Accessibility for Ontarians with Disabilities Act, 2005 (AODA)*; and,

5. Applicant must submit a Road Occupancy Permit (Fee \$150), including the required Certificate of Insurance, a drawing of the proposed location, a letter from businesses that are adjacent neighbours that support the proposal,
6. On-Street Patios in parking stalls on Regional Roads are approved/reviewed by Regional staff. City Staff will work closely with Regional staff in expediting approvals.

*Waiving of Fee for Patio Installation:*

Due to impacts experienced by the global response to the COVID-19, pandemic restaurants have been limited to delivery and take out services only since the middle of March 2020. As restrictions on restaurant operations ease in the coming months, the operational aspects of restaurants are anticipated to be impacted by safety measures required to address such matters as physical distancing in a restaurant setting. It is anticipated this will result in a reduced patron capacity for restaurants.

With provincial restrictions lifting and in an effort to assist businesses recovering from the economic effects of COVID-19, staff recommend that Council consider waiving the \$150.00 Road Occupancy Permit Fee for applicants interested in installing sidewalk/on street parking spot patios.

**FINANCIAL CONSIDERATION:**

The loss of revenue from Road occupancy permits for patios and Site Plan Exemption Applications is unknown at this time and will be dependent on the volume of applications. The loss of revenue from cash-in-lieu parking will be negligible as this will only be a temporary.

**OTHER DEPARTMENT IMPLICATIONS:**

N/A

**SUMMARY AND CONCLUSION:**

Extending or creating patios where feasible, will allow businesses the opportunity to increase their restaurant or retail space to ensure physical distancing. Since cash flow is a concern for most businesses at this time, staff are recommending waiving the following fees:

- road occupancy permit fee for patios of \$150 for the 2020 calendar year,
- cash-in-lieu of parking for outdoor patios,
- Site Plan Exemption fee of \$758.00 for outdoor patios

City staff will work closely with BIA's and Regional staff in ensuring that applications for Patios are reviewed and approved in timely manner.

**ATTACHMENTS:**

**NONE**

APPROVALS	
GENERAL MANAGER	
CFO	
CAO	

COUNCILINFRASTRUCTURE AND DEVELOPMENT SERVICES

REPORT P&B-2020-25  
JUNE 9, 2020

**SUBJECT: DELGATION TO STAFF OF VARIOUS APPROVALS  
UNDER THE PLANNING ACT**

**AUTHOR: GRANT MUNDAY, B.A.A., MCIP, RPP  
MANAGER OF DEVELOPMENT APPROVALS**

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

RECOMMENDATION:

THAT THE COUNCIL OF THE CITY OF WELLAND approves the amendments to By-law 2016-104, being a By-law to delegate various planning and community improvement approvals to staff and adopt certain procedures for the processing of planning applications subject to delegated authority; and further

THAT Welland City Council approves the amendments to By-law 2011-3 being a By-law to constitute and appoint a Committee of Adjustment; to delegate the authority of Council to give consent to the Committee; and to set policies, procedures and conditions for its operation and to repeal all former By-laws

THAT Welland City Council authorizes Staff to prepare the necessary By-laws.

ORIGIN AND BACKGROUND:

Planning Staff are constantly reviewing the City's approval processes under the Planning Act in order to ensure that they are delivered efficiently and effectively. This includes but is not limited to consideration of the following:

- That City Policies and By-laws are being appropriately implemented;
- The services are being delivered in a timely manner;
- The services are delivered in a cost effective way;
- The services promote economic development and
- The services offer value added benefits to the City and Stakeholders.

Through this continual improvement exercise Staff have identified the following development approval areas that need improvement at this time:

1. Applications for Subdivision/Condominium
2. Applications for Part Lot Control Exemption

11-108

3. Applications for Consent
4. Applications for Tax Increment Grants (TIG) and Tax Assistance Program (TAP under the City's Community Improvement Plans

### **COMMENTS AND ANALYSIS:**

Below Staff have provided comments on each of the areas of concern, the reasons and a proposed solution.

#### **1. Applications for Subdivision/Condominium**

Council currently has the responsibility of approving Draft Plans of Subdivision and Condominium. As part of its approval process, Council, considering Staff's recommendations, gives approval to a Draft Plan of Subdivision or Condominium subject to various conditions of approval. Final Approval of a Plan of Subdivision including the signing of approved draft plans of subdivision, changes to conditions of draft approval including the draft plan layout and final approval have been delegated to the GM under By-law 2016-104.

#### **Area of concern:**

There have been a few recent Subdivision and Condominium Applications that have been refused by Council but meet Provincial Policy, the City's Zoning By-law, Official Plan, Municipal Standards and had a favourable staff report recommending approval of changes to these documents. This has had the following impacts:

- Financial loss (legal fees, staff time) to the City due to having LPAT hearings for Council Decisions that have no planning merit.
- Potential negative impacts on the City's reputation due to mixed messaging regarding to economic development and good planning.
- Lack of clarity for all stakeholders in the Approval process.
- Lengthy Approval processes due to deferral(s) by Council with no real valid reasons.

#### **Recommended Solution:**

Staff are recommending that By-law 2016-104 be amended to include further delegation of approval as follows:

- Delegating approval of Draft Plan Approval for Plans of Subdivision and Condominium or exemption to the GM where there are no associated Official Plan Amendment and or Zoning By-law Amendment needed for the proposed draft plan to conform.
- Clarifying that various other approvals associated to Application for Plans of Condominium are delegated to the GM, the same of which are already delegated for Plans of Subdivision.

The proposed amended By-law would provide for Council to retain authority in several instances, namely if Staff refers the matter to Council; if the Owner, in writing, requests that Final approval be referred to Council; or if a Member of Council, through a successful Notice of Motion, has the matter referred to Council. Council would still retain approval authority over Official Plan and Zoning By-law Amendments. The GM could not issue approval for a Subdivision or Condominium where it does not meet these documents.

A Statutory Public Meeting would still be held for a Draft Plan of Subdivision or a Draft Plan of Vacant Land Condominium despite the final decision being delegated to the GM. There would be no public meeting required for a Draft Plan of Standard Condominium as per Ontario Regulation 544/06. Regardless, the Planning Act does not permit the general public to appeal to the LPAT a decision for a Draft Plan of Subdivision or Condominium or exemption thereto. Appeals are limited to the applicant, a public body who raised concerns prior to making a decision, the Minister of Municipal Affairs and Housing and the Municipality.

## **2. Applications for Part Lot Control Exemption**

Section 50(5) of the Planning Act states that where land is within a Plan of Subdivision no person shall convey a part of a lot or block. Section 50(7) allows for Council, by By-law, to provide an exemption to Part Lot Control. This is often done where lots or blocks are being developed for semi-detached or street townhouse purposes. Staff currently prepare a Report to Council, together with the requisite By-law, recommending that Part Lot Control Exemption be authorized. Generally these By-laws have a set time period of five (5) years. This allows the Builder to sell individual dwelling units without going through another process such as Consent to Sever.

### **Area of Concern:**

The preparation of a Staff report for the purposes of an Application for Part Lot Control takes up valuable time and resources of Staff and these requests will increase over time. While the Part Lot Control Exemption By-law must be approved by Council, it could be approved without a Staff report.

### **Recommended Solution:**

Staff are recommending that By-law 2016-104 be amended such that approval of Applications for Part Lot Control Exemption be delegated to the GM and that the By-law be included on a Council Agenda without a Staff Report.

## **3. Applications for Consent**

Currently the authority for considering all Consents (ie. land severances, lot additions, easements and rights-of-way, and validation of title) is delegated by Council to the Committee of Adjustment following the requirements of the Planning Act for processing the applications.

### **Area of Concern:**

There have been a number of consents that have been refused by the Committee of Adjustment (COA) where the application met the applicable Zoning By-law provisions and Official Plan policies and have a favorable Staff report recommending approval.

This has had the following impacts:

- Financial loss (legal fees, staff time) to the City due to having LPAT hearings for COA Decisions that have no planning merit.
- Potential negative impacts on the City's reputation due to mixed messaging regarding economic development and good planning.
- Lack of clarity for all stakeholders in the Approval process.
- Lengthy Approval processes due to deferral(s) by COA with no real valid reasons.

**Recommended Solution:**

Staff are recommending that By-law 2011-3 be amended to delegate of approval to the GM as follows:

- Delegating approval of Applications for Consent where there are no related minor variances to the GM.

The Planning Act does not require the City to hold a public meeting for an Application for Consent. The City is only required to make the necessary information available for viewing. We have a number of ways to make the necessary information available including the City's Website and Your Channel. If people have concerns they can submit them in writing. Ultimately these consents meet and fulfill the intent and purpose of the City's Zoning By-law and Official Plan.

The COA would still retain approval over consents where minor variances are required and individual minor variance applications. These would still have associated public meetings. Applicants, the City, Agencies, the Minister of Municipal Affairs and Housing and persons would still have the ability to appeal a decision of the GM or CAO within 20 days of giving notice of decision for consents and within 20 days of the decision for a minor variance or permission.

#### **4. Application for Tax Increment Grants (TIG) and Tax Assistance Program (TAP) under the City's Community Improvement Plans (CIP)**

Currently a number of approvals under the City's three CIP programs are delegated to Staff for approval with the exception of TIGs and TAPs. There are also limitations on staff delegated approval where the Grant request would exceed a gross value of \$75,000.00; where the Grant request exceeds the amount budgeted for the current year, or where a member of Council makes a successful Notice of Motion through Council that the Application for Incentive Programs be referred to Council.

**Area of Concern:**

The items that require approval by Council require Staff resources to prepare a recommendation report. Staff does not recommend approval of applications that do not meet the requirements of the applicable CIP. There is a possibility that Council could refuse an application for an application that meets these requirements. This would create the potential to decrease investor confidence in the City's CIP programs and impact future development opportunities. Also bringing a Report to Council extends the approval process whereas investors are seeking expedited approvals so that they may start their project rather than waiting for approvals from City Council.

**Recommended Solution:**

Staff are recommending that By-law 2016-104 be amended to include further delegation of approval to the GM for CIPs as follows:

- Delegating approval of TAPs and TIGs for the City's three CIPs; and
- Replacing the current \$75,000.00 delegated approval authority cap and replacing it with yearly budgeted amount for the current year.

The further delegation of authority for CIP programs will ensure that all the programs under the City's CIP run efficiently and ensure that investor confidence in these programs is retained. It will also reduce the administrative costs by eliminating the need for detailed staff reports which essentially reiterate the programs requirements

**FINANCIAL CONSIDERATION:**

There are no direct financial considerations related to this Report; however, there should be savings in time for Staff and Council at meetings. There will savings achieved by reducing the number LPAT appeals for Plans of Subdivision, Plan of Condominium and consents.

**OTHER DEPARTMENT IMPLICATIONS:**

There will be no implications for other Departments.

**SUMMARY AND CONCLUSION:**

Planning Staff are constantly reviewing the City's approval processes under the Planning Act in order to ensure that they are delivered efficiently and effectively. Staff have identified the following development approval areas that need improvement at this time including Applications for Subdivision/Condominium; Applications for Part Lot Control Exemption, Applications for Consent and Applications for TIGs and TAPs. Staff are recommending further delegation of approval to these Application processes. The further delegation of authority will ensure the following:

- That City Policies and By-laws are being appropriately implemented;
- The services are being delivered in a timely manner;
- The services are delivered in a cost effective way;
- The services promote economic development;
- The services offer value added benefits to the City and Stakeholders; and
- Maintains the ability to continue to move compliant development applications through the approval process during pandemics like COVID-19.

**ATTACHMENTS:**

None