



The Regional Municipality of Durham

Finance & Administration Committee Agenda

Council Chambers
Regional Headquarters Building
605 Rossland Road East, Whitby

Tuesday, September 10, 2019

9:30 AM

1. Declarations of Interest

2. Adoption of Minutes

- A) Finance & Administration Committee meeting – [June 11, 2019](#)

Pages 4 - 19

3. Statutory Public Meetings

There are no statutory public meetings

4. Delegations

- 4.1 Greg Milosh, Oshawa resident, re: planning and deliberations pertaining to the Region's 2020 Financial Budget

5. Presentations

There are no presentations

6. Administration

- 6.1 Correspondence

- 6.2 Reports

- A) Standardization to Microsoft Product Platform Suite for the period 2019-2024 (inclusive) ([2019-A-26](#))

20 - 23

- B) Municipal Lobbyist Registry and Gift Registry ([2019-A-27](#))

24 - 43

- C) Regional Headquarters Lower Level Boardroom (LL-C)
Audio/Video Equipment Water Damage Repair Complete
(2019-A-29) 44 - 45
- D) Durham York Energy Centre – Approval of the Negotiated
Resolution Between Covanta Durham York Renewable
Energy Limited Partnership (“Covanta”) and the Owners for
the 2017 Reconciliation (2019-A-30) 46 - 47

7. Finance

7.1 Correspondence

- A) Information Report #2019-INFO-43: 2018 Annual Investment
Report 48 - 52

**Pulled from June 28, 2019 Council Information Package
by Councillor Shaun Collier**

Recommendation: Receive for information

7.2 Reports

- A) Cancellation of Uncollectible General Accounts Receivable
(2019-F-30) 53 - 54
- B) Joint and Several Liability Reform (2019-F-31) 55 - 58
- C) Request for Deferral of Development Charges for Proposed
Industrial Facility in Clarington (2019-F-32) 59 - 64

8. Advisory Committee Resolutions

There are no advisory committee resolutions to be considered

9. Confidential Matters

9.1 Reports

- A) Confidential Report of the Commissioner of Corporate
Services – Litigation or Potential Litigation, including
matters before administrative tribunals, affecting the
Regional Corporation, with respect to an Update on
Ongoing Litigation Matters Against the Region
(2019-A-28)

Under Separate Cover

10. Other Business

11. Date of Next Meeting

Tuesday, October 8, 2019 at 9:30 AM

12. Adjournment

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The Regional Municipality of Durham

MINUTES

FINANCE & ADMINISTRATION COMMITTEE

Tuesday, June 11, 2019

A regular meeting of the Finance & Administration Committee was held on Tuesday, June 11, 2019 in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM

Present: Councillor Foster, Chair
Councillor Collier, Vice-Chair
Councillor Ashe
Councillor Drew attended the meeting at 9:31 AM
Councillor Leahy
Councillor Mulcahy attended the meeting at 9:33 AM
Councillor Nicholson
Regional Chair Henry

Also

Present: Councillor Wotten

Staff

Present: G. Asselin, Economic Analyst 2, Financial Planning, Finance Department
S. Austin, Director, Corporate Policy & Strategic Initiatives, Office of the CAO, attended for part of the meeting
D. Beaton, Commissioner of Corporate Services
B. Goodwin, Director, Financial Solutions and Business Development, Finance Department
J. Hunt, Director, Legal Services, Corporate Services – Legal
D. Nagy, Manager, Design, Construction & Asset Management, Works Department
S. Rashad, Systems Support Specialist, Corporate Services - IT
N. Taylor, Commissioner of Finance
L. Fleury, Legislative Officer, Corporate Services – Legislative Services

1. Declarations of Interest

There were no declarations of interest.

2. Adoption of Minutes

Moved by Regional Chair Henry, Seconded by Councillor Leahy,
(93) That the minutes of the regular Finance & Administration Committee meeting held on Tuesday, May 14, 2019, be adopted.

CARRIED

Moved by Regional Chair Henry, Seconded by Councillor Leahy,
(94) That the minutes of the Closed Finance & Administration Committee meeting held on May 14, 2019, be adopted.

CARRIED

3. Statutory Public Meetings

There were no statutory public meetings.

4. Delegations

4.1 Colin Thomson, Unit Leader, Pickering Auxiliary Rescue Association (PARA) re: 2018 Year in Review and 2019 Strategic Plan Report

Colin Thomson, Unit Leader, Pickering Auxiliary Rescue Association (PARA) was not able to attend the meeting, Clint Scott attended in his place. Jennifer McGuinty, Treasurer, PARA, was also in attendance.

Clint Scott advised that PARA has been operating for more than fifty-years in the Region and they are currently on their 4th vessel which has an estimated life-span of another 8 to 10 years.

Clint Scott provided a PowerPoint presentation, highlights of which included:

- 2018 Highlights
 - Operational Metrics
 - Key Performance Indicators
 - General Comments
- Historical Tasking (Mission) Summary
- 2019 – 2021 Strategic & Business Plan
 - Strengthen the organization
 - Develop our crews
 - Ensure Search and Rescue (SAR) readiness
 - Planning for the future

- Planning the Future – Goals
 - Community Awareness
 - Asset Management (including primary vessel replacement)
 - Succession Planning
 - Financial Strength

Moved by Regional Chair Henry, Seconded by Councillor Leahy,
(95) That Mr. Scott be granted a one-time two minute extension in order to finish his delegation.

CARRIED

Clint Scott continued with his PowerPoint presentation as follows:

- Call to Action
 - Maintain Financial Strength and Sustainability
 - Maintain and execute a viable Asset Management Strategy
 - Broaden SAR Partner engagement to other partners

Clint Scott responded to questions from the Committee members.

Moved by Councillor Ashe, Seconded by Councillor Collier,
(96) That the delegation from the Pickering Auxiliary Rescue Association (PARA) be received for information, with thanks.

CARRIED

5. Presentations

There were no presentations.

6. Administration

6.1 Correspondence

There were no communications to consider.

6.2 Reports

A) Appointment of New Members to the Durham Accessibility Advisory Committee (AAC) (2019-A-23)

Report #2019-A-23 from S. Austin, Director of Corporate Policy and Strategic Initiatives, was received.

Moved by Councillor Collier, Seconded by Councillor Leahy,
(97) That we recommend to Council:

- A) That the following people be appointed to the Durham Accessibility Advisory Committee (AAC):
- Ms. Rosanne Purnwasie – Community member;
 - Ms. Lori Schisler – Agency member; and
- B) That the successful nominees be advised of their appointment to the AAC for the remainder of the 2019 – 2022 term of Council.

CARRIED

- B) Proposed Agricultural Sector Climate Adaptation Strategy, “Growing Resilience: Durham Region Agricultural Sector Climate Adaptation Strategy” (2019-A-24)

Report #2019-A-24 from S. Austin, Director of Corporate Policy and Strategic Initiatives, was received.

Chair Foster suggested that a Gantt chart be prepared showing the objectives/deliverables of the strategy.

Moved by Councillor Leahy, Seconded by Councillor Drew,
(98) That we recommend to Council:

- A) That “Growing Resilience: Durham Region Agricultural Sector Climate Adaptation Strategy” dated April 2019 (Attachment #1 to Report #2019-A-24) be approved in principle;
- B) That the Durham Region Agricultural Sector Climate Adaptation Strategy be referred to local municipal councils for their review and approval in principle;
- C) That Regional Staff be directed to incorporate the relevant elements of the Durham Region Agricultural Sector Climate Adaptation Strategy into ongoing Regional initiatives (including the DCCAP, Durham Community Energy Plan, Regional Agricultural Strategy, Regional Broadband Strategy, Smart Cities initiatives, Source Protection, Official Plan etc.), as appropriate;
- D) That Regional Staff be authorized to further develop the objectives in the Durham Region Agricultural Sector Climate Adaptation Strategy and bring them forward to Council for individual approval to proceed with implementation; and,
- E) That a copy of Report #2019-A-24 and the attached Durham Region Agricultural Sector Climate Adaptation Strategy be shared electronically with stakeholders that participated over the course of the project.

CARRIED

7. Finance

N. Taylor introduced B. Goodwin, Director, Financial Solutions and Business Development.

7.1 Correspondence

There were no communications to consider.

7.2 Reports

A) 2019/2020 Annual Risk Management and Insurance Report (2019-F-21)

Report #2019-F-21 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry, (99) That we recommend to Council:

- A) That the Commissioner of Finance be authorized to enter into a contract of insurance with the Frank Cowan Company for insurance coverages related to the Durham Region Transit for the period July 1, 2019 to June 30, 2020 at an estimated cost of \$1,531,039 plus applicable taxes;
- B) That the Commissioner of Finance be authorized to enter into the contract of insurance with the Frank Cowan Company for non-pooled insurance coverages specific to Durham Region for the period July 1, 2019 to June 30, 2020 at an estimated cost of \$229,063 plus applicable taxes;
- C) That the Commissioner of Finance be authorized to retain consulting services for the continued implementation of a fulsome Enterprise Risk Management Framework at the Region of Durham at a cost not to exceed \$75,000 to be funded from the Region's Insurance Reserve Fund; and
- D) That the fundamentals of the Region's Risk Management Program continue to be supported in principle to ensure that the Region's assets are adequately protected and to ensure the financial stability of the Region.

CARRIED

B) Confirmation of the Region's Triple "A" Credit Rating Moody's Investors Service (2019-F-22)

Report #2019-F-22 from N. Taylor, Commissioner of Finance, was received.

N. Taylor responded to questions with respect to how long the Region has maintained a Triple "A" credit rating, the Region's practices around reserve funds, and the financial benefits of the Triple "A" rating.

Councillor Nicholson asked for the names of the other Canadian municipalities with a Triple "A" credit rating as referenced in the report. N. Taylor advised that she will provide Councillor Nicholson with the names.

Moved by Councillor Leahy, Seconded by Councillor Drew,
(100) That Report #2019-F-22 of the Commissioner of Finance be received for information.

CARRIED

C) Final Recommendations Regarding Seaton Water Supply and Sanitary Sewerage Area Specific Development Charges (2019-F-23)

Report #2019-F-23 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry,
(101) That we recommend to Council:

- A) That pursuant to Section 10(1) of the Development Charges Act, 1997, the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charges Background Study dated April 9, 2019 be adopted (with the amended pages provided in Appendix #1 to Report #2019-F-23), including the forecasts of anticipated development, the underlying capital forecasts, the development charges calculations and policies contained in the Background Study, and further, that the approval of the capital forecasts in the Background Study indicate Regional Council's intention to ensure that such an increase in need for services will be met as required under paragraph 3 of Section 5(1) of the Development Charges Act, 1997 and Section 3 of Ontario Regulation 82/98;
- B) That the Seaton Residential Development Charges for Water Supply and Sanitary Sewerage as indicated in Table 1 below be imposed, effective July 1, 2019:

Table 1

Region of Durham			
Recommended Seaton Residential Development Charges			
\$ Per Dwelling Unit			
Service Category	Single Detached & Semi-Detached	Medium Density Multiples	Apartments
Sanitary Sewerage	\$	\$	\$
(i) Seaton Landowners Constructed Works	5,125	4,049	2,358
(ii) Regional Constructed Works	1,863	1,472	857
(iii) Regional Attribution	2,751	2,174	1,266
Subtotal – Sanitary Sewerage	9,739	7,695	4,481
Water Supply			
(i) Seaton Landowners Constructed Works	2,452	1,937	1,128
(ii) Regional Constructed Works	5,752	4,544	2,646
(iii) Regional Attribution	4,064	3,210	1,869
Subtotal – Water Supply	12,268	9,691	5,643
Total Development Charges	<u>\$22,007</u>	<u>\$17,386</u>	<u>\$10,124</u>

- C) That the Seaton Institutional Development Charges as indicated in Table 2 below be imposed, effective July 1, 2019:

Table 2

Region of Durham	
Recommended Seaton Institutional Development Charges	
\$ Per Square Foot Of Gross Floor Area	
Service Category	\$
Sanitary Sewerage	
(i) Seaton Landowners Constructed Works	0.52
(ii) Regional Constructed Works	0.19
(iii) Regional Attribution	0.63
Subtotal – Sanitary Sewerage	1.34
Water Supply	
(i) Seaton Landowners Constructed Works	0.09
(ii) Regional Constructed Works	0.20
(iii) Regional Attribution	0.44
Subtotal – Water Supply	0.73
Total Development Charges	<u>\$2.07</u>

- D) That the Seaton Non-Institutional Development Charges for each service as indicated in Table 3 below be imposed, effective July 1, 2019:

Table 3

Region of Durham	
Recommended Seaton Non-Institutional Development Charges	
\$ Per Square Foot Of Gross Floor Area	
Service Category	\$
Sanitary Sewerage	
(i) Seaton Landowners Constructed Works	1.49
(ii) Regional Constructed Works	0.55
(iii) Regional Attribution	1.84
Subtotal – Sanitary Sewerage	3.88
Water Supply	
(i) Seaton Landowners Constructed Works	0.25
(ii) Regional Constructed Works	0.57
(iii) Regional Attribution	1.26
Subtotal – Water Supply	2.08
Total Development Charges	<u>\$5.96</u>

- E) That the Seaton Prestige Employment Land Area Development Charges as indicated in Table 4 below be imposed, effective July 1, 2019:

Table 4

Region of Durham	
Recommended Seaton Prestige Employment Land Area	
Development Charges	
\$ Per Net Hectare	
Service Category	\$
Sanitary Sewerage	
(i) Seaton Landowners Constructed Works	72,380
(ii) Regional Constructed Works	26,489
(iii) Regional Attribution	87,796
Subtotal – Sanitary Sewerage	186,665
Water Supply	
(i) Seaton Landowners Constructed Works	12,114
(ii) Regional Constructed Works	27,474
(iii) Regional Attribution	60,559
Subtotal – Water Supply	100,147
Total Development Charges	<u>\$286,812</u>

- F) That the Development Charge policies for the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charges as contained in the proposed By-law (Appendix #4 to Report #2019-F-23), including those related to collection policy, indexing, the broadening of exemptions for secondary units and industrial expansions be approved;
- G) That the Seaton Well Interference Policy as provided in Appendix #2 to Report #2019-F-23 be adopted effective July 1, 2019;
- H) That any complete submission for the preparation of a subdivision agreement received by the Development Approvals Division of the Regional Works Department on or by June 30, 2019 be given the option of being processed under the policies and rates of the current Seaton Area Specific Development Charges By-Law #19-2013 or the proposed replacement by-law, where a complete submission requires all of the following to have been submitted to the Development Approvals Division in a form satisfactory to the Region:
- i) Ministry of the Environment, Conservation and Parks approval is received;
 - ii) Detailed cost estimate received;
 - iii) Three (3) copies of the proposed Final Plan (M-Plan) received;

- iv) Regional Planning approval of the Final Plan received;
- v) Three(3) copies of all proposed Reference Plans (R-Plans) received;
- vi) Three (3) copies of approved General Plan of Services received (signed by the Local Municipality and the Region); and
- vii) Regional Subdivision Agreement Information Checklist.

Subdivision agreements which have been processed according to By-Law #19-2013 must be executed within three months following the termination of By-Law #19-2013, otherwise they shall be deemed cancelled and will be replaced with a subdivision agreement processed according to the replacement by-law, where execution requires all of the following to have been submitted to the Regional Legal Department in a form satisfactory to the Region:

- i) signed Subdivision Agreement received, including all schedules;
 - ii) payments of fees identified in the agreement received;
 - iii) securities identified in the agreement received;
 - iv) prepayment of Development Charges for Sanitary Sewerage, Water Supply and Regional Roads received; and
 - v) Insurance Certificate received.
- I) That the existing complaint procedure as provided in Regional By-law #52-2014 continue for the purpose of conducting hearings, regarding complaints made under Section 20 of the Development Charges Act, 1997;
 - J) That Section 12(3) of the Development Charges Act, 1997 requires Regional Council to determine whether a further public meeting is necessary when changes are made to a proposed development charges by-law following a public meeting, and whereas changes were made (see Section 2.0) to the Seaton proposed development charge by-law following the public meeting on April 24, 2019, it is recommended that Regional Council resolve that a further public meeting is not necessary and therefore Council indicate that a second public meeting is not required prior to the passage of the recommended Seaton Development Charge By-law;
 - K) That the Director of Legal Services be instructed to finalize the proposed Seaton Development Charge By-law for presentation to Regional Council and passage;
 - L) That the Director of Legal Services be instructed to revise future development agreements and any by-law(s) relating thereto to reflect any changes required to implement the foregoing recommendations and that such revised by-law(s) be presented to Council for passage;
 - M) That the Regional Clerk be instructed to follow the notification provisions pursuant to the Development Charges Act, 1997; and
 - N) That the Treasurer be instructed to prepare the requisite development charge pamphlet pursuant to the Development Charges Act, 1997 and

related materials.

CARRIED

D) Annual Development Charges Reserve Fund Statement (2019-F-24)

Report #2019-F-24 from N. Taylor, Commissioner of Finance, was received.

N. Taylor responded to questions with respect to Section 59.1 of the Development Charges Act; the impacts of Bill 108; the differences between “soft” services and “hard” services; the return-on-investment for development charge reserves; and details around the deferral of development charge payments.

N. Taylor advised that a memo regarding the impacts of Bill 108 is being prepared and will be circulated to members of Council.

Chair Foster questioned whether charts could be included in these types of reports to illustrate the status of development charges and development charge reserves. N. Taylor advised that more fulsome details including trend lines and graphics can be provided in future decision reports on development charges.

Moved by Councillor Leahy, Seconded by Councillor Collier,
(102) That we recommend to Council:

That the balance of the Carruthers Creek Water Supply Area Specific Development Charge Reserve Fund (\$222,423) as shown in Schedule 6 of Report #2019-F-24 be transferred to the Regional Residential Water Supply Development Charge Reserve Fund, given that:

- i. All water supply infrastructure works required to serve the Carruthers Creek Service Area have been completed and no further costs will be incurred; and
- ii. The corresponding Carruthers Creek Water Supply Area Specific Development Charge By-law (#18-2013) expired on June 30, 2019 and was not renewed as all commitments under the front-ending agreement were completed.

CARRIED

E) 2019 Provincially Mandated Business Protection Program (Capping Program) and 2019 Provincial Education Tax Rates (2019-F-25)

Report #2019-F-25 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry,
(103) That we recommend to Council:

- A) That for the 2019 mandated Provincial Business Protection Program (Capping Program), the Region of Durham adopt the following municipal capping options, consistent with options selected for 2018, in an effort to expedite the achievement of full Current Value Assessment (CVA) level taxation in the non-residential property classes:

- i) Set the minimum annual increase at 10 per cent of total CVA level property taxation for properties that are provided protection;
 - ii) Set the maximum percentage increase in property taxation due to reassessment at 10 per cent of the previous year's taxes;
 - iii) Set the "billing" increase threshold at \$500, such that any capped property components whose taxation amount under the mandated Provincial Business Protection Program is within \$500 of its CVA level taxation be required to pay its full CVA property taxation amount;
 - iv) Permanently exclude any property components from the Capping Program if the property component was at CVA level taxation in 2018 or 2019 or moves from a "clawback" to a "capped" property in 2019;
 - v) Include any property components in the Capping Program if the property component moves from a "capped" to a "clawback" property in 2019;
 - vi) Exclude the 2016 reassessment related increases from the capping calculations; and
 - vii) Continue the phase-out of the Capping Program over four years (2018-2021) for the broad commercial and industrial property tax classes such that all properties within these property tax classes will achieve full CVA level taxation by 2021;
- B) That the cost of capping reassessment property tax increases, pursuant to the 2019 mandated Provincial Business Protection Program, be financed by withholding a portion of the reassessment related decreases owing to other properties within the corresponding broad property tax class; and
- C) That approval be granted for the requisite by-laws for the 2019 Provincial Business Protection Program.

CARRIED

F) Sole Source Purchase of Oracle PeopleSoft Enterprise ePerformance Software Module Including User Licenses & Support Services (2019-F-26)

Report #2019-F-26 from N. Taylor, Commissioner of Finance and D. Beaton, Commissioner of Corporate Services, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry,
(104) That we recommend to Council:

- A) That a sole source purchase of user licenses and support services for the PeopleSoft Enterprise ePerformance software module be negotiated with Oracle Canada ULC (Oracle) at an upset cost not to exceed \$325,000 and

annual support services costs of approximately \$40,000 beginning in year 2, to be funded from the 2019 approved project budget; and

- B) That the Commissioner of Finance be authorized to execute the necessary user licences and support services agreements/amendments.

CARRIED

G) Multi-Year Governance Agreement for Joint Procurements Facilitated by Metrolinx (2019-F-27)

Report #2019-F-27 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry, (105) That we recommend to Council:

- A) That Durham Region Transit (DRT) participate in joint competitive Request for Proposals (RFP) for the procurement of transit related vehicles, equipment, technologies, facilities and related supplies and services in conjunction with Metrolinx and other participating transit agencies in the province for a five-year period beginning in 2019 and ending 2024, with an option to renew until 2029;
- B) That to meet Metrolinx's requirements, the Deputy General Manager, Maintenance, or a designate, be DRT's representative in the process; and
- C) That the Commissioner of Finance be authorized to execute the necessary agreements.

CARRIED

H) Radio Communications System: One Year Extension of Contract with Metrolinx (2019-F-28)

Report #2019-F-28 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry,
(106) That we recommend to Council:

- A) That negotiation of a one-year extension from January 1, 2020 to December 31, 2020 to the existing contract with Metrolinx for Durham Region Transit (DRT) to continue to use Metrolinx's radio communication systems at an estimated annual operating cost of \$310,000 to be financed from DRT's 2020 annual Business Plans and Budgets; and
- B) That the Commissioner of Finance be authorized to execute the necessary agreements.

CARRIED

- I) Funding for Central East Division Chiller Replacement and Initial Funding for Regional Reporting Centre Structural Improvement (2019-F-29)

Report #2019-F-29 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Collier, Seconded by Regional Chair Henry,
(107) That we recommend to Council:

That \$750,000 approved property tax supported debenture financing be reallocated from the Durham Regional Police Service Operations Training Centre capital project to the following Durham Regional Police Service capital projects:

- i) \$684,000 to the Central East Division Chiller Replacement Project; and
- ii) \$66,000 to the Regional Reporting Centre Structural Improvement (with an estimated total cost of \$300,000).

CARRIED

8. Advisory Committee Resolutions

8.1 Accessibility Advisory Committee

- A) Appointment to the Transit Advisory Committee (TAC)

Moved by Regional Chair Henry, Seconded by Councillor Mulcahy,
(108) That we recommend to Council:

That Mike Roche be appointed as the Accessibility Advisory Committee representative to the Transit Advisory Committee.

CARRIED

9. Confidential Matters

There were no confidential matters to be considered.

10. Other Business

There was no other business to be considered.

11. Date of Next Meeting

The next regularly scheduled Finance & Administration Committee meeting will be held on Tuesday, September 10, 2019 at 9:30 AM in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby.

12. Adjournment

Moved by Councillor Nicholson, Seconded by Councillor Collier,
(109) That the meeting be adjourned.

CARRIED

The meeting adjourned at 10:07 AM

Respectfully submitted,

A. Foster, Chair

L. Fleury, Legislative Officer

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2126



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: [#2019-A-26](#)
Date: September 10, 2019

Subject:

Standardization to Microsoft Product Platform Suite for the period 2019–2024 (inclusive).

Recommendation:

That the Finance & Administration Committee recommends to Regional Council:

- A) That the Microsoft 365 platform be recognized as the standard business productivity solution for the Regional Municipality of Durham, for a 5-year term, until October 2024;
- B) That the Regional Municipality of Durham standardize on business productivity tools, as purchased through the Microsoft Enterprise Licensing Agreement from Microsoft Canada Inc., for a 5-year term, until October 2024;
- C) That Microsoft Unified Support Services be the standard approach for the acquisition of training, development and problem resolution for the Microsoft platform, for a 5-year term, until October 2024;
- D) That the negotiation of all related agreements with Microsoft Canada Inc., including the Enterprise Licensing Agreement and Unified Support Services, and any changes to these agreements including the annual true-up process and subscription model changes be authorized. These are funded through operational budgets and total \$1,800,000 per year; and
- E) That the Commissioner of Finance be authorized to sign agreements in a form satisfactory to the Director of Legal Services.

Report:**1. Background**

- 1.1 Microsoft Canada Inc is the core provider of business productivity solutions to the Region with staff using the Microsoft platform to manage daily tasks, using traditional applications including Exchange, Outlook, Word, PowerPoint and Excel.
- 1.2 The underlying technology infrastructure of the Region relies on Microsoft products as a foundation, including the Windows Server platforms, Windows 10 operating system, Active Directory Domain Services to manage the authentication of users and devices, SQL Server as a database management tool and SharePoint for collaboration.
- 1.3 The Region is currently licensed for the use of the Microsoft 365 Suite of products, through an Enterprise Licensing Agreement, which is due to be renewed in October 2021 and is annually updated through a true-up and change process to reflect the actual number of licenses required based on staffing levels.
- 1.4 In May 2018, through report 2018-COW-105, the Region entered into an agreement with Microsoft Canada Inc, to provide Microsoft Unified Support (formerly known as Microsoft Premier Support) and renewed for a further year in May 2019. This service enhances the knowledge and experience of Corporate Services – Information Technology (CS-IT) staff through the provision of 24x7 problem resolution support, proactive assistance, reactive support and training. In addition to the Region utilizing this service, Durham Regional Police Service, the Municipality of Clarington, and the Township of Brock are also affiliated to the Region's agreement, paying for their costs associated to these services. This agreement is due to be renewed in June 2020.
- 1.5 Corporate Services – Information Technology has previously standardized on technology platforms, allowing the Department to ensure consistency in the computing environment and manage a streamlined technology architecture:
 - a. Adobe – Originally in 2013 through report 2013-A-46 and again in 2017 through report 2017-COW-92, the Region standardized Adobe as the corporate standard for the creation of accessible PDF documents. All eight local Municipalities have participated in the resultant contract.
 - b. McAfee – In 2016 through report 2016-COW-29, the Region standardized on the McAfee Security/Encryption and Endpoint protection as the corporate standard for the cyber-protection of the Regions infrastructure.

2. Justifications for Microsoft Standardization for Business Productivity Tools

- 2.1 Through the Microsoft Enterprise Licensing Agreement, the Region is licensed for traditional desktop tools, including Outlook, Word, PowerPoint and Excel. These tools are the core productivity tools provided to staff and are the natural choice due to their continued use, interoperability and the expertise, skills and experience of the Corporate Services – Information Technology Team.
- 2.2 Over the years, software vendors have changed their model of allocating licenses. The traditional core tools that the Region uses from Microsoft are now bundled into subscriptions which offer more productivity tools to The Region's staff through the inclusion of applications such as Teams, SharePoint, Planner Visio, Project and enhanced security. As such, it is proposed that the Microsoft 365 suite be approved as the Region's standard.
- 2.3 To support the Corporate Services – Information Technology Team, the Region has entered into an agreement with Microsoft Canada Inc. to provide Microsoft Unified Support. This support ensures we resolve problems quickly and continue to grow as a Microsoft user. It is proposed that we continue with this relationship and standardize on Unified Support as our core Microsoft support mechanism as this Service offering meets our requirements.

3. Financial Implications

- 3.1 The acquisition of product software licences and support is included in the annual operating budget of the Corporate Services – Information Technology division as approved by Regional Council. These are funded through operational budgets and total \$1,800,000 per year.
- 3.2 Standardizing on the Microsoft Product Platform Suite does not preclude conducting a competitive process by the Region for acquisition of the licenses, software, products and support services, as there are a number of Value-Added Resellers (VARs) who offer the licensing. Where it's deemed to be in the best interests of the Region from a financial standpoint, the Region may enter into direct contract negotiation and agreement with Microsoft.

4. Conclusion

That the Finance & Administration Committee recommends to Regional Council:

- 4.1 That the Microsoft 365 platform be recognized as the standard business productivity solution for the Regional Municipality of Durham, for a 5-year term, until October 2024;
- 4.2 That the Regional Municipality of Durham standardize on business productivity tools, as purchased through the Microsoft Enterprise Licensing Agreement from Microsoft Canada Inc., for a 5-year term, until October 2024;

- 4.3 That Microsoft Unified Support Services be the standard approach for the acquisition of training, development and problem resolution for the Microsoft platform, for a 5-year term, until October 2024;
- 4.4 That the negotiation of all related agreements with Microsoft Canada Inc., including the Enterprise Licensing Agreement and Unified Support Services, and any changes to these agreements including the annual true-up process and subscription model changes be authorized. These are funded through operational budgets and total \$3,000,000 per year; and
- 4.5 That the Commissioner of Finance be authorized to sign agreements in a form satisfactory to the Director of Legal Services.

Respectfully submitted,

Original signed by

D. Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

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The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: [#2019-A-27](#)
Date: September 10, 2019

Subject:

Municipal Lobbyist Registry and Gift Registry

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

That this report be received for information.

Report:

1. Purpose

1.1 To provide information on the range of options available for a lobbyist registry in response to direction given at the February 12, 2019 Finance & Administration Committee meeting and to provide commentary regarding a gift registry.

2. Background

2.1 In June 2016, the Finance and Administration Committee received a report with respect to lobbyist registries: Report #2016-A-21 re Lobbyist Registrar, Lobbyist Registry and Lobbyist Code of Conduct as it related to Bill 8 – Public Sector and MPP Accountability and Transparency Act, 2014. That report is attached for the Committee's information. At that time, no recommendation was made concerning the development or implementation of a Lobbyist Registry for Durham in light of the accountability measures that were pending implementation including the appointment of an Ombudsman and Integrity Commissioner, and the development of a Council Code of Conduct.

2.2 At the February 12, 2019 Finance & Administration Committee meeting, a motion was passed requesting that staff prepare a report on the subject of a lobbyist registry.

3. Legislative Environment

3.1 Section 223.9(1) of the Municipal Act allows for a municipality to “establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders”. Section 223.11(1) of the Act also permits a municipality “to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry and the system of registration”.

4. Lobbyist Registry 101

4.1 A lobbyist registry provides a mechanism for public disclosure of lobbying activities. It is a tool that may lead to greater accountability and transparency for local government by allowing public office holders and members of the public to know who is attempting to influence local government.

4.2 A Lobbyist is someone who communicates on behalf of an organization, client, their employer or a business, with a Member of Council or a local board, a municipal employee or other municipal public office holder, in an attempt to influence a decision of the Municipality, or Council, or of a Committee of Council or local board. An individual acting without compensation, or expectation of compensation, on their own behalf, is not typically considered a lobbyist, however this would need to be clearly defined if the Region were to move towards a Lobbyist Registry.

4.3 A Lobbyist Registrar regulates lobbying activity by overseeing public disclosure of lobbying activity and ensuring adherence to a Lobbyist Code of Conduct. The Registrar may also enforce the by-law; review, verify and approve registrations and deliver information and training materials.

4.4 Lobbyist registry considerations include:

a. Identifying who would be the Registrar:

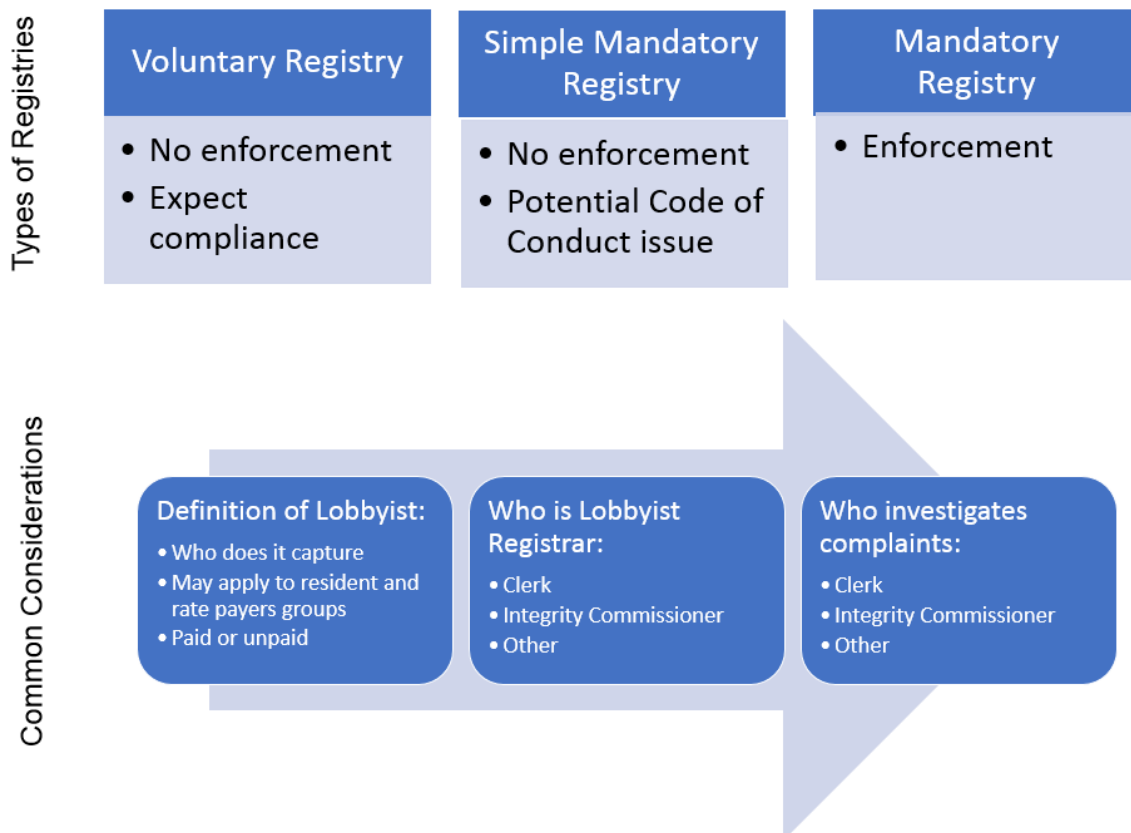
- Clerk
- Integrity Commissioner
- Other

b. A process for registering:

- Submit registrations to Clerk who will post online
- Lobbyists register themselves online
- Submit registrations to a Registrar for review and approval prior to posting online

- c. Developing a process for reporting on lobbying activities after registering:
 - Annual reports
 - Ongoing, at least monthly, reporting
 - Lobbyists file “returns” after a meeting or with some regular timing
- d. Creating and maintaining a web page with a searchable online registry:
 - Lobbyists registered
 - Issues registered
 - Activity following registration
- e. Developing a Code of Conduct for lobbyists and a Registry By-law
 - Defining what a lobbyist is and what constitutes lobbying activity
 - Prohibit lobbyists from providing gifts, trips, favours etc.
 - Prohibit communication in respect of the procurement process
 - Establishment of Offences and penalties for by-law contraventions
 - Disclosure requirements
 - Determining who will enforce the by-law

5. Potential Options for a Lobbyist Registry



5.1 Should Council decide that they would like to implement a lobbyist registry, there are several possible options:

a. Voluntary Registry – No Enforcement:

- Develop a voluntary registry with no formal enforcement wherein lobbyists may choose to register with the Clerk who then posts the registrations online
- There is no complaint mechanism

b. Mandatory Registry – Self Enforcement:

- Develop a mandatory registry with no formal enforcement wherein anyone who wishes to undertake “lobbying” activities must register with the Clerk who then posts the registries online
- Council members are responsible for enforcement i.e. the onus is on the member of Council not to meet with someone they consider to be a lobbyist, unless that individual has registered as a lobbyist
- Amend the Code of Conduct so that any interactions with un-registered lobbyists or acceptance of gifts from lobbyists can be breaches of the Code
- Any complaints regarding lobbying activity are reported to the Integrity Commissioner

c. Mandatory Registry – With Enforcement:

- Develop a mandatory registry with formal enforcement
- Develop a Code of Conduct for Lobbyists
- Amend the Code of Conduct for Council to codify appropriate interactions with lobbyists
- A complaint regime is developed wherein individuals may file a complaint with the Registrar (could be the Integrity Commissioner) if they believe that a lobbyist is not following the Lobbyist Code of Conduct
- A By-law is enacted and offences and penalties for by-law contraventions are established

6. Gift Registry

6.1 Another matter that Council may wish to consider is the establishment of a gift registry. A gift registry would require amendments to the Code of Conduct and could be implemented without the need for a lobbyist registry.

6.2 At present, the Region’s Code of Conduct for members of Council and local boards does not include a gift registry. Four of the eight area municipalities have a gift registry as part of their code including Clarington, Pickering, Oshawa and Scugog.

6.3 In January 2019 the Region along with the local area municipalities asked the Region's Integrity Commissioner to make recommendations with respect to what could be included in a gift registry and suggested dollar value limits. The Integrity Commissioner suggested revisions to the Code of Conduct to incorporate a gift registry, without considering a lobbyist registry, were as follows:

- A Member shall not accept a Gift or Benefit of value greater than \$500 and shall not accept from a single source during a 12-month period Gifts and/Benefits of total value greater than \$500.
- A Member who receives a Gift or Benefit of value greater than \$200 or receives from a single source during a 12-month period Gifts and/Benefits of total value greater than \$200 shall within 30 days of receipt file a Disclosure Statement with the Clerk.
- Every Disclosure Statement shall be made a public record and posted on the Municipality's website.
- A Member may not accept any Gift or Benefit from a Lobbyist.
- The following remedies may be recommended in a report on a complaint that relates to a Gift or Benefit: return the Gift or Benefit, reimburse the donor for the value of the Gift or Benefit, forfeit the Gift or Benefit to the Municipality, and remit to the Municipality the value of a Gift or Benefit already consumed.

6.4 A further suggestion from the Integrity Commissioner was to add the following clause to the Gifts & Benefits section of the Code:

"Despite paragraph 3 (exceptions), a Member may not accept any Gift or Benefit from a Lobbyist.

'Lobbyist' means any individual, except an individual acting without compensation or expectation of compensation and an individual acting on the individual's own behalf, who communicates with a Member in an attempt to influence a decision (including a future decision) of the Municipality, or Council, or of a Committee of Council.

'Lobbyist' also includes an entity that engages or employs a Lobbyist."

6.5 If Council decided to implement a gift registry, staff could report back with options for Council's consideration including what items to declare, dollar value limits for declarations, procedures for disclosure, penalties for not disclosing, and publication of disclosures.

7. Municipalities with Lobbyist Registries

7.1 At this time, municipalities in Ontario which have developed Lobbyist Registries include, but are not limited to:

- Hamilton
- Brampton
- Vaughan
- Peel
- Toronto
- Ottawa

8. Lobbyist Registry Statistics

8.1 The City of Hamilton's Lobbyist Registry By-law came into force on August 1, 2015. A report from June 7, 2017 stated that 86 lobbyists had registered since the launch of the registry on 134 subject matters and there had been no complaints filed under the By-law. There are approximately 70 active lobbyists at present.

8.2 The City of Brampton established its current registry as of January 1, 2016 and has had roughly 484 entries.

8.3 In June 2016, the City of Vaughan established a voluntary lobbyist registry by-law which was effective on January 1, 2017. In a report dated June 27, 2017 a mandatory registry was recommended, and an update was provided on the voluntary registry. According to the report there were 13 lobbyists who had registered, and 41 issues were registered under the voluntary registry. They predicted an upsurge once the registry was made mandatory.

8.4 The Region of Peel established a registry in 2017. The registry has had approximately 120 entries.

8.5 The City of Toronto established their lobbyist registry in 2007. A recent City of Toronto annual report on the registry states that in 2017, 12 new assessments were conducted and 7 new inquiries were opened. Three of the inquiries were completed and substantiated as breaches of the lobbying by-law, one resulted in a report to Council.

8.6 In the City of Ottawa there were 552 lobbyists who registered during their first year with a mandatory registry and approximately 300 new lobbyists for the following three years.

9. Financial Implications

9.1 At this point it is hard to determine what the financial implications would be to implement a lobbyist registry in Durham Region. Should Council direct staff to implement a registry, the options chosen for the registry would largely determine the cost. Depending on whether software would need to be purchased or developed for an online registry and whether a dedicated Registrar would need to be retained, or the function is added to the role of the Integrity Commissioner, could make a significant budgetary impact.

9.2 In addition to the costs to establish a registry, there are costs to maintain and enforce the registry, potentially including annual remuneration to the Registrar and any additional costs associated with by-law enforcement.

9.3 Costs vary significantly:

- In a 2017 report, the City of Vaughan estimated a budget of \$250,000 annually which included the appointment of a Lobbyist Registrar and administrative staff, and maintenance and enhancement of the Lobbyist Registry website.
- In 2017 the City of Toronto approved a budget of \$1,154,000 for the Office of the Lobbyist Registrar operating budget.
- The Region of Peel established a registry in 2017 with an approximate cost of \$30,000 to implement.
- In a 2016 report, the City of Caledon estimated initial costs to implement a registry ranging from \$50,000 to \$100,000 and potential annual costs based on research of Ontario municipalities with active registries ranging from \$55,000 to \$130,000.

10. Conclusion

10.1 At this time, it is unclear whether interest exists for a Lobbyist Registry for Durham Region.

10.2 Should Council direct that a Lobbyist Registry be developed, staff will report back with a detailed budget, implementation and communication plan for each of the options outlined: Voluntary, Mandatory, and Mandatory with Enforcement.

10.3 Should Council decide not to implement a lobbyist registry, but would like to implement a Gift Registry, then the Code of Conduct could be amended to include a Gift Registry and add a definition for "Lobbying". Upon Council direction to staff, a report would be prepared with options for Council's consideration including what

types of items to declare, dollar value limits for declarations, procedures for disclosure, penalties for not disclosing, and the publication of disclosures. The report would also include recommendations for the corresponding amendments to the Code of Conduct.

11. Attachments

Attachment #1: Report #2016-A-21

Prepared by: Leigh Fleury, Legislative Officer, at 905-668-7711, extension 2020.

Respectfully submitted,

Original signed by

D. Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Matthew L. Gaskell, Commissioner of Corporate Services
Report: #2016-A-21
Date: June 21, 2016

Subject: Lobbyist Registrar, Lobbyist Registry and Lobbyist Code of Conduct

Bill 8 - Public Sector and MPP Accountability and Transparency Act, 2014

Recommendations:

THAT this report be received for information

Report

1. Purpose

1.1 This report is in response to Finance and Administration Committee's direction at the December 8th, 2015 meeting to investigate and report to Council on the necessity of a Lobbyist Registry for the Region of Durham.

2. Background

- 2.1 The Provincial Government amended the *Municipal Act, 2001* (the "Act"), effective January 1, 2007, to add Part V.1, entitled 'Accountability and Transparency', which signalled the Province's expectation for greater openness, transparency and accountability in local government.
- 2.2 The provisions of Part V.1 of the *Act* gave municipal councils the permissive authority to implement a number of accountability measures, one of which is a registry for the registration of those individuals who lobby public office holders.
- 2.3 The concept of a municipal Lobbyist Registry had its genesis in the 2005 report of Madam Justice Bellamy in the Toronto Computer Leasing Inquiry. Justice Bellamy's report recommended the appointment of a Lobbyist Registrar as well as an Integrity Commissioner for Toronto.
- 2.4 Regional staff have investigated the use, merits and feasibility of a Lobbyist Registry for the Region of Durham. At this point, it is not believed that a Lobbyist Registry is required for the Region of Durham as it would be a redundancy in light of existing policy measures, existing Regional by-laws and soon to be

implemented accountability officers with the Municipal Ombudsman and Integrity Commissioner and impending Council Code of Conduct.

3. Lobbyist Registry and the *Municipal Act, 2001* (the “Act”)

3.1 Sections 223.9 - 223.12 of the *Act* permit municipalities to establish a Lobbyist Registry and to appoint a Lobbyist Registrar.

3.2 These provisions are permissive and allow a municipality to decide whether or not to have a Lobbyist Registry. If the decision is made to do so, then the municipality can tailor its Lobbyist Registry to suit its needs so long as it complies with the general requirements set forth in the *Act*. The three basic requirements that must be considered when developing a Lobbyist Registry are:

- a. Determine the mandate of the Lobbyist Registry;
- b. Define the activities considered as lobbying and which activities are deemed exempt from the obligation to report to the registry; and
- c. Decide who is considered a lobbyist and establish which activities and persons are exempt from the requirement to provide information to the Lobbyist Registry.

3.3 In addition, the *Act* permits municipalities to consider the following four items:

- a. The development of a lobbyist code of conduct to govern interaction with lobbyists;
- b. The appointment of a Lobbyist Registrar to perform in an independent manner the functions assigned by the municipality with respect to the Lobbyist Registry;
- c. Development of conditions for registration, renewals of registration, and prohibiting or restricting certain persons from registering as lobbyists; and
- d. Prohibiting persons from receiving payment which is contingent upon successful lobbying activities.

4. What Is Lobbying?

4.1 The concept of lobbying does not have a universal definition. Section 223(9) of the *Act* permits a municipal council to define what it means to “lobby” a public office holder. Obviously establishing a definition of “lobby” is an essential requirement and requires a determination of the types of activities which are intended to be caught.

4.2 A review of the definition of “lobby” and “lobbying” from various lobbyist registries, suggests a common view that lobbying is any communication with a public office holder about the following six things:

- a. a by-law, bill or resolution that requires a decision by Council, a committee or other decision-maker acting under municipal authority;
- b. the development, approval or termination of policies or programs;
- c. the purchase of goods and services, construction procurement, and the

- d. awarding of contracts;
 - d. applications for planning approval, permits, service, grants and other licences or permissions;
 - e. the award of financial contributions, grants or other financial benefits;
 - f. the transfer from the Region of any interest in or asset of an institution, enterprise or business.
- 4.3 Reviewing both federal and provincial legislation pertaining to the regulation of lobbying indicates general consensus that the following four activities **do not** constitute lobbying:
- a. communication in the course of public processes;
 - b. communications related to a bid or proposal that are permitted by procurement policies;
 - c. providing information in response to a request from a public office holder; and
 - d. casual conversations with public office holders at events as long as the discussion does not materially advance a matter that is covered by a lobbying definition.
- 4.4 For additional details concerning the particulars of federal and provincial Lobbyist Registry schemes, please refer to Schedule "A" attached hereto.
- 5. Who is a Lobbyist?**
- 5.1 In addition to defining what it is to lobby, a municipality contemplating implementing a Lobbyist Registry must also further define who is a lobbyist. It is not sufficient to say that a lobbyist is anyone engaged in the activity of lobbying as typically governments recognize certain exceptions to the general requirement to register.
- 5.2 There are several categories of lobbyists which are recognized at all levels of government. These are set forth below.
- 5.3 Under the Federal *Lobbyist Act*, there are three categories of lobbyists:
- a. **consultant lobbyists** A person who is hired to communicate on behalf of a client. This individual may be a professional lobbyist but could also be any individual who, in the course of his or her work for a client, communicates with or arranges meetings with a public office holder;
 - b. **in-house lobbyists (corporations)** A person who works for compensation in an entity that operates for profit; and
 - c. **in-house lobbyists (organizations)** A person who works for compensation in a non-profit entity.

- 5.4 The Provincial *Lobbyist Registration Act, 1998*, categorizes three similar categories of lobbyists:
- a. consultant lobbyists;
 - b. in-house lobbyists (persons and partnerships); and
 - c. in-house lobbyists (organizations).
- 5.5 The City of Toronto's By-law defines three types of lobbyists:
- a. **consultant lobbyist** is someone who — for payment — lobbies on behalf of a client (another individual, company, partnership or organization). Additionally, if the consultant lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying;
 - b. **in-house lobbyist** is an employee, partner or sole proprietor who lobbies on behalf of their own employer, business or organization; and
 - c. **voluntary lobbyist** is someone who — without payment — lobbies, or causes someone else to lobby, on behalf of a business or organization. Additionally, if the voluntary unpaid lobbyist arranges a meeting between a public office holder and a third party, that is lobbying.
- 5.6 Regional Council would need to consider carefully how it wished to define and categorize different types of lobbyists who are engaged in lobbying activities should it choose to pursue the creation of a Lobbyist Registry. Considerable thought would need to be given to such categorizations as an overly broad definition could inhibit of public engagement and open debate about issues of public interest.

6. Typical Elements of a Lobbyist Registry

- 6.1 As indicated above, the specific requirements for a municipal Lobbyist Registry must be determined by the municipal council.
- 6.2 Nine typical requirements include:
- a. Lobbyists must register before lobbying and report activities after they lobby;
 - b. Lobbyists must comply with relevant by-law. Breaching the by-law is a Provincial Offence;
 - c. Members of Council must report illegal conduct by lobbyists to the Registrar;
 - d. Code of Conduct for lobbyists can accompany a Lobbyist Registry;
 - e. Lobbyist must disclose on whose behalf they are lobbying;
 - f. Lobbyists cannot communicate about a procurement process, give gifts, meals or entertainment or put an office holder in a conflict of interest;
 - g. Lobbyists are required to disclose certain information within specified time limits;
 - h. Information collected is a matter of public record; and
 - i. To protect sensitivity of some commercial information, parameters can be

created in the Lobbyist Registry to allow for information to be kept confidential for a fixed period of time.

7. Lobbyist Code of Conduct

- 7.1 Lobbyist codes of conduct often accompany lobbyist registries and provide ethical rules to govern lobbyists. A lobbyist code underpins the Registry and sets out the requirements for contact between third-party lobbyists and municipal representatives; indicates what will be publicly available on the Registry; and, outlines the conditions for successful registration of lobbyists. See Schedule “B” for an example of a Lobbyist Code of Conduct.

8. Lobbyist Registrar: Who Is It and What Do They Do?

- 8.1 Part V.1 of the *Act* also permits municipalities to appoint a Lobbyist Registrar to oversee its Lobbyist Registry, if desired.
- 8.2 A Lobbyist Registrar is independent person or body that performs duties as assigned by Council related to the overseeing and administration of a Lobbyist Registry.
- 8.3 Seven typical duties include:
- a. to establish and maintain a registry of lobbyists in which a record of all returns and other documents filed with the Lobbyist Registrar are kept;
 - b. may verify the information contained in any filing or other document filed under the Lobbyist Registry;
 - c. may refuse to accept a filing or other document that does not comply with the requirements of the Lobbyist Registry or that contains information not required to be provided or disclosed;
 - d. may remove a filing from the Lobbyist Registry if the person who filed it does not comply with their duty to provide clarifying information or fails to give the Lobbyist Registrar any requested information relating to the return within a specified period;
 - e. may issue interpretation bulletins and advisory opinions with respect to the enforcement, interpretation, or application of the by-law to Council, including updates to the Lobbyist Code of Conduct;
 - f. investigate and report to Council on such investigations and make recommendations to Council on punitive measures related to lobbyists violating the Lobbyist Code of Conduct or other applicable Regional policies; and
 - g. such other duties and parameters to the position that Council may assign to the Lobbyist Registrar.
- 8.4 Any report from a Lobbyist Registrar regarding an inquiry, must be made public.

9. Municipal Examples

- 9.1 In Ontario, only a handful of municipalities have implemented a Lobbyist Registry. The Cities of Toronto, Ottawa and Brampton have developed lobbyist registries with Lobbyist Registrars to whom duties have been assigned by their respective Councils. The City of Hamilton has a Lobbyist Registry and recently appointed a Lobbyist Registrar to administer it. The City of Vaughn voted earlier this year to commence the process of developing a Lobbyist Registry and to begin the process of considering whether a Lobbyist Registrar is required.

10. Experiences of Municipalities with Lobbyist Registries and Improvements

- 10.1 Inquiries were made to those municipalities for observations related to the operation of their lobbyist Registries.
- 10.2 A common theme heard from the municipalities was regarding the need to constantly monitor the Lobbyist Registry system to ensure that legitimate third party communications with the public was not being suppressed.
- 10.3 As a result, it is necessary to make it a clear responsibility of the Lobbyist Registrar, or the municipal clerk where there is no Registrar to also identify trends where third party public communication is being captured that is not lobbying. Thus, as a part of their duties, Lobbyist Registrars typically produce annual reports noting such trends, summarizing complaints or violations, and proposing amendments to the Registry, in order to avoid such unintended affects.

11. Need for Lobbyist Registry at the Region of Durham?

- 11.1 The purpose of a Lobbyist Registry is to provide citizens with a tool that enhances open, accountable and transparent government.
- 11.2 At its most basic level and function, a Lobbyist Registry can be helpful in that it records and regulates communications between public office holders and those engaged in lobbying activities of any sort.
- 11.3 However, the Region of Durham already has in place, or is subject to, a variety of structures, policies and laws which address concerns regarding contracting and relations with third parties. (for examples see the Purchasing by-law, Conflict of Interest policy, Staff Code of Conduct, the Code of Ethics Policy, and the *Municipal Conflict of Interest Act*, the Councillors' Declaration of Office).
- 11.4 Additionally, Regional Council has endorsed the implementation of several new accountability measures including a municipal Ombudsman, a Council of Conduct for Council and an Integrity Commissioner.
- 11.5 In light of the existing legislation, current Regional policies and by-laws and soon to be appointed accountability officers (Ombudsman and Integrity Commissioner), it is felt that a Lobbyist Registry and Registrar is not required at

this time. Creating multiple structures to address similar issues and concerns is duplicative and inefficient. Caution must always be exercised in order to not needlessly create procedural structures or “over-regulate”, when doing so may impede the ability of elected officials to carry out their duties, and prevent citizens from engaging in open debate of local issues.

- 11.6 Regional staff have taken the approach to provide as much information in this Report as possible to enlighten Regional Council on lobbyist registries and the function of a Lobbyist Registrar. On the basis of the staff review, it appears premature at this time to consider the development of a Lobbyist Registry in the face of the existing and soon to be implemented accountability measures. As such, no recommendation is being made at this time concerning the development or implementation of a Lobbyist Registry for the Region of Durham.

12. Conclusion

- 12.1 That Regional Council receive for information the findings of Regional staff regarding the establishment of a Lobbyist Registry and having a Lobbyist Registrar to run a Lobbyist Registry.

13. Attachments

Attachment #1 - Schedule “A”: Facts Regarding Lobbyist Registries at the Federal and Provincial Level

Attachment #2 - Schedule “B”: Sample Lobbyist Code of Conduct

Respectfully submitted,

M. Gaskell
Commissioner of Corporate Services

Schedule "A"

Facts Regarding Lobbyist Registries at the Federal and Provincial Level

Under Federal legislation, not all lobbying activity requires registration under the Federal Lobbying Act:

- (a) Corporations and not-for-profit organizations may conduct some lobbying activities and not be required to file a registration if the cumulative lobbying activities of all employees do not constitute 20% or more of one person's duties over a period of a month;
- (b) Volunteers are not required to register as they are not paid to communicate with public office holders;
- (c) Citizens may communicate with government officials and their local area representatives on their own behalf without being required to register;
- (d) Certain communications with public office holders, such as a request for information, the interpretation of a Canadian law, and an oral or a written submission to a parliamentary committee, do not require a registration;
- (e) Certain individuals, such as members of other levels of government, members of an aboriginal government or band council, and diplomatic officials, are exempted from registration.

At the Provincial level, the *Lobbyists Registration Act, 1998* does not require registration with the Lobbyist Registry as it pertains to the following activities:

- (a) Submissions to legislative committees that are a matter of public record;
- (b) Submissions made with respect to the enforcement, interpretation, or application of any act, policy, program, directive, or guideline;
- (c) Submissions made in direct response to written requests for advice or comment from a public office holder; and
- (d) Routine constituency communications.

Genesis of the Lobbyist Registry at the Federal and Provincial Level

Lobbying at the federal level was first governed by the Lobbyists Registration Act. It came into force in 1989 and established a registration system intended to foster the public's right to know and to be informed regarding who was trying to influence government policy in Canada. In 2008, following substantive amendments brought about by the Federal Accountability Act in 2006, the Act was renamed the Lobbying Act because the Act now seeks to regulate the activities of lobbyists rather than simply monitor them by means of a registration system. Currently, more than 5,000 lobbyists

are registered to lobby federal public offices.

A lobbyist was initially defined as anyone who receives payment to represent a third party in arranging meetings with public office holders or in communications with them concerning the formulation and modification of legislation and regulations, policy development, the awarding of grants or contributions, and the awarding of contracts. Definition has been expanded to include some instances of lobbying activity by unpaid advocates.

At the Provincial level, Lobbyist Registries are governed by the Provincial *Lobbyists Registration Act, 1998*. This Act appoints the Integrity Commissioner as the Lobbyist Registrar; the Commissioner has the authority to delegate the day-to-day operation of the lobbyists system. More information is provided below on the duties of the Lobbyist Registrar at the Provincial level.

At the Provincial level the Lobbyist Registrar has been assigned the following five duties in accordance to the Provincial Lobbyist Registration Act, 1998:

- (a) Clarifying information on a registration form or other submitted documents;
- (b) Identifying omissions and inconsistencies and communicating with the lobbyist to ensure correction, or to request supplementary information. The requested information must be provided to the Lobbyist Registrar within 30 days.
- (c) Providing advice and information about the registration system to lobbyists, public office holders, the public, and other groups, e.g. media.
- (d) Removing a registration from the registry when the consultant lobbyist has failed to confirm that the registration is still valid.
- (e) Removing a registration from the registry when the consultant lobbyist or in-house commercial lobbyist has terminated the registered activities and not removed the registration from the Lobbyist Registry.

Additional Facts on Lobbying

Lobbying, when conducted appropriately, is a legitimate activity through which individuals and groups can educate government about their issues and objectives, and thus influence public policy and program decisions. Volunteers with not-for-profit or grass-roots organizations sometimes undertake lobbying.

Lobbying is also conducted by paid professionals, when organizations (whether commercial or non-profit) hire them as consultants or employees to bring a particular message to key decision-makers. It is the latter activity, paid lobbying, that government is regulating. Open and transparent registering and recording of paid lobbying activities ensures that public office holders and the general public know who is working to influence government decision making and the public policy decisions they are attempting to influence.

Registration of paid lobbyists provides a public record of who is seeking to influence public policy, and by what means. The objective of a Lobbyist Registry is to ensure that the general public and public office holders know who is paid to attempt to influence government decisions.

City of Toronto Exemptions to Lobbying Legislation

- (a) Municipal, Provincial, and Federal governments
- (b) First Nations Councils
- (c) Foreign Governments
- (d) School Boards
- (e) Not-for-profit community service organizations
- (f) A constituent communicating with a Public Office Holder on a personal matter or on general neighbourhood or public policy issues unless it concerns a proposal or decision for the specific benefit of the constituent

Schedule "B"**Sample Lobbyist Code of Conduct**

Lobbyists are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this Code of Conduct when lobbying public office holders. PREAMBLE

The Lobbyist Code of Conduct is based on four principles:

- Free and open access to government is an important matter of public interest;
- Lobbying public office holders is a legitimate activity;
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities; and
- A system for the registration of paid lobbyists should not impede free and open access to government.

1. HONESTY

Lobbyists shall conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

2. OPENNESS

Lobbyists shall, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

3. DISCLOSURE OF IDENTITY AND PURPOSE

(1) Lobbyists communicating with a public office holder shall disclose the identity of the individual or organization on whose behalf they are acting, as well as the reasons for the communication.

(2) Lobbyists shall register the subject matter of all communication with public office holders that constitutes lobbying under the Lobbyist Registry By-law.

4. INFORMATION AND CONFIDENTIALITY

(1) Lobbyists shall inform their client, employer or organization of the obligations under the Lobbyist Registry By-law and their obligation to adhere to the Lobbyists' Code of Conduct.

(2) Lobbyists shall provide information that is accurate and factual to public office holders.

(3) Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

(4) Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

(5) Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

5. COMPETING INTERESTS

(1) Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.

(2) Lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

(3) Lobbyists shall not lobby public office holders on a subject matter for which they also provide advice to the Region.

6. IMPROPER INFLUENCE

(1) Lobbyists shall avoid both the deed and the appearance of impropriety.

(2) Lobbyists shall not knowingly place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.

(3) Lobbyists with active lobbying registrations, their registered clients or their employees shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff.



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: [#2019-A-29](#)
Date: September 10, 2019

Subject:

Regional Headquarters Lower Level Boardroom (LL-C) Audio/Video Equipment Water Damage Repair Complete

Recommendation:

That the Finance and Administration Committee and Regional Council receive this report for information.

Report:

1. Purpose

1.1 The purpose of this report is to inform the Finance and Administration Committee and Regional Council that subject to section 11.0 Emergency Repairs of the Purchasing By-Law 68-2000 (As Amended) the repairs to the Audio/Video Equipment in the Lower Level Boardroom (LL-C) of Regional Headquarters has been completed as of August 2, 2019.

2. Background

2.1 The Lower Level Boardroom (LL-C) at Regional Headquarters is equipped with recording and web streaming capabilities for presentations, public events and meetings that are held in the LL-C that can be web-streamed.

2.2 The recording and streaming equipment in the Lower Level Boardroom (LL-C) at Regional Headquarters was damaged by water from an over-the-ceiling pipe burst on January 31, 2019.

2.3 After the incident, in compliance with the Region's purchasing by-law, the Commissioner of the Corporate Services declared an emergency and advised the Purchasing Manager accordingly. The emergency was validated as the resultant flood destroyed all the equipment in LL-C causing all standing committee and adhoc meetings to be moved from LL-C until this repair was complete.

3. Financial Implications

3.1 The Region's Purchasing By-law, Article 11.0, allows emergency purchases and requires that for expenditures exceeding \$25,000 a joint report by 'the designated official' and the appropriate department head to be submitted to the appropriate standing committee and Council, no later than 60 days following the completion of emergency work.

3.2 Purchasing procedure # 16.18 for Emergency Purchases requires that requests for emergency purchases greater than \$25,000, validated by the department head, be referred to the Purchasing Manager for determination.

4. Current Status

4.1 Repairs have been completed and the room has returned to normal operation for meetings scheduled August 5, 2019 and thereafter.

4.2 The repairs were completed at a cost of \$140,191 which was funded from the insurance claim for the bust pipe event from January 31, 2019.

Respectfully submitted,

Original signed by

Don Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Corporate Services
Report: [#2019-A-30](#)
Date: September 10, 2019

Subject:

Durham York Energy Centre – Approval of the Negotiated Resolution Between Covanta Durham York Renewable Energy Limited Partnership (“Covanta”) and the Owners for the 2017 Reconciliation

Recommendations:

That the Finance and Administration Committee recommends to Regional Council:

- A) That the proposed resolution provided for in the attached confidential memorandum from the Director of Legal Services dated August 13, 2019, be approved by Regional Council;
 - B) That Regional staff be directed to execute such documents and carry out such tasks as may be required to implement the terms of the resolution; and
 - C) That should Council approval of Recommendations A) to B) of this report not be received, that staff be authorized to utilise the dispute resolution provisions of the Project Agreement, including binding Arbitration.
-

Report:

1. Purpose

- 1.1 The purpose of this report is to obtain Regional Council's approval of a negotiated settlement between Covanta and Owners over various disputes which arose surrounding the 2017 reconciliation process.

2. Background

- 2.1 Pursuant to a letter dated November 30, 2018, Covanta filed a Notice of Dispute including, but not limited to, the calculation of the Performance Liquidated Damages for the 2017 contract year (the “2017 Dispute”).

- 2.2 In response, the DYEC Management Committee approved a three-step process under the Dispute Resolution provisions of the Project Agreement whereby Covanta would present their arguments at the first step, the Owners would then have the opportunity to present their positions on the disputed items, followed finally by a meeting of the commissioners and representatives of Covanta to negotiate a resolution.
- 2.3 Covanta presented their position to the owners on January 29, 2019. The Owner's presented their positions to Covanta on June 4, 2019 and the negotiations took place on July 31, 2019.
- 2.4 Pursuant to article 28.3.1 of the Project Agreement, the parties must keep confidential all matters arising directly or indirectly from the dispute which is why the balance of the information in respect of this report is contained in the attached confidential memorandum.

3. Conclusion

- 3.1 It is recommended that the Finance and Administration Committee recommend to Regional Council the approval of the negotiated settlement between Covanta and the Owners as described in the attached confidential memorandum and approve the minutes of settlement attached thereto.

4. Attachments

Confidential Attachment #1: Confidential memorandum from the Director of Legal Services dated September 10, 2019.

Respectfully submitted,

Original signed by

D. Beaton, BCom, M.P.A.
Commissioner of Corporate Services

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Information Report

From: Commissioner of Finance
Report: #2019-INFO-43
Date: June 28, 2019

Subject:

2018 Annual Investment Report

Recommendation:

Receive for information

Report:

1. Purpose

- 1.1 In accordance with the *Municipal Act, 2001, Ontario Regulation 438/97*, and the Region's "Statement of Investment Policy and Goals", the Treasurer is required to report annually on the Region's investment portfolio following the end of each fiscal year, generally to report on performance of the portfolio and its conformity with investment policies and goals.
- 1.2 This report summarizes the performance for the investment portfolio for 2018 and provides the required statement of the Treasurer.

2. Background

- 2.1 The Region's Statement of Investment Policy and Goals sets a low risk tolerance level and the overall investing approach emphasizes security of principal while maintaining liquidity. The policy permits investment in a variety of securities that meet the high credit ratings thresholds established in the policy.
- 2.2 This conservative approach to investing shields the Region from losses associated with periods of economic decline and ensures that sufficient funds are available to meet financial obligations as they come due.
- 2.3 The investment landscape continues to be characterized by low returns as central banks are still maintaining relatively low interest rates, despite a slight increase in 2018. The performance of the Region's investment portfolio is reflective of the continued low interest rates available in the investment marketplace.

3. Performance of the Investment Portfolio

Investment Returns

- 3.1 The approved Statement of Investment Policy and Goals specifically recognizes the Region's role as custodian of taxpayer's money, with safeguarding of funds being of paramount importance. The policy also recognizes that trade-offs among investment objectives will occur in order to emphasize security of principal, provide overall liquidity, and, at the same time, maximize investment returns. While investment return is an important measure of the performance of the portfolio, it is a measure that reflects the investment objectives as well as market conditions.
- 3.2 With the slight increase in interest rates in 2018, the Region's investment returns are higher than those obtained in the prior year. For 2018, the return on the portfolio averaged 2.02% (2017 – 1.81%).
- 3.3 Treasury bills (T-Bills) are used as a benchmark since they normally yield higher returns than typical savings accounts and term deposits while still preserving a low risk tolerance. T-bills are the most liquid component of the domestic money market. The Region's average rate of return of 2.02% compared favourably to the average yield on one year Government of Canada T-Bills of 1.82% for 2018 (1.81% versus 1.00% for 2017).
- 3.4 The rate of return for the short term investments averaged 2.07% (2017 – 1.96%) for investments with a remaining term of less than 6 months and 2.28% (2017 – 2.15%) for investments with remaining terms of 6 months to 1 year. The rate of return for investments with remaining terms greater than 1 year up to 5 years averaged 2.52% (2017 – 2.24%). The rate of return for investments with remaining terms greater than 5 years up to 10 years averaged 4.75% (none for 2017). The rate of return for investments with remaining terms greater than 10 years up to 20 years averaged 4.26% (2017 – 4.34%).

Investment Terms

- 3.5 The Statement of Investment Policy and Goals also provides guidelines for the stratification of the Region's portfolio over investment terms ranging from less than six months up to twenty years.
- 3.6 At year end, 69% (2017 – 65%) of the value of the portfolio was invested in securities maturing in one year or less, 30% (2017 – 34%) of the portfolio was maturing within one to five years and the remaining 1% (2017 – 1%) had maturities due beyond five years.
- 3.7 The liquidity guideline ensures ready access to cash in order to meet the financial obligations of the Region as they come due and suggests a minimum of 50% of the Region's investments should have a term of one year or less. The value of the investment portfolio was well above this minimum target at the end of 2018, in part due to the lack of securities with longer maturities and suitable rates of return.

- 3.8 Investment of a portion of the portfolio over the longer terms permitted under the policy recognizes that the full value of the investment portfolio is not required in order to satisfy current obligations of the Region.
- 3.9 An additional term-related objective of the policy is to hold all investments until maturity, unless cash flow is required for operational purposes. In 2018, all investments were held until maturity.

Investment Portfolio Composition

- 3.10 The Investment Policy provides general guidelines for the minimum and maximum investment targets by type of financial instrument and by issuers, as well as minimum credit ratings for products. The portfolio composition at any one point in time tends to reflect the availability of secure investments at rates of return that exceed those being received on surplus operating cash balances.
- 3.11 Although it is permissible under the policy to invest in securities with higher risk, the decision to invest in lower risk investments has shielded the Region from investment losses. The composition of the Region's investment portfolio reflects the low risk tolerance and conservative investment approach to ensure the security of principal. The composition of the investment portfolio at year end by type of financial institution or instrument is shown in the following table:

Investment Portfolio Composition

Financial Institution / Instrument	Guidelines		Actual at Dec 31/18 %
	Target Minimum %	Target Maximum %	
Government of Canada (incl. T-bills)	25	100	0
Provincial Governments	15	50	3
Large Urban Municipal Debentures	0	25	6
Schedule 1 Banks (GIC's, bonds and high interest accounts)	0	50	91

- 3.12 For the past several years, Canadian interest rates have been very low. As the result of this, investing in bank paper and high interest accounts have continued to be the main investment vehicles for the Region.
- 3.13 The Investment Policy also permits the Region to invest in its own debt issuances, with the requirement to report such investments in each annual investment report. The following table shows the Region of Durham debentures held in the investment portfolio as at December 31, 2018:

Investment in Own Debt Issues

Broker	Coupon Rate	Maturity Amount	Issue Date	Purchase Date	Maturity Date
RBC	4.588%	\$7,337,802*	Oct. 6/05	Feb. 14/11	Oct. 6/28
RBC	4.15%	\$1,538,000	Oct. 16/13	Oct. 16/13	Oct. 16/29
RBC	4.20%	\$1,602,000	Oct. 16/13	Oct. 16/13	Oct. 16/30
RBC	4.25%	\$1,669,000	Oct. 16/13	Oct. 16/13	Oct. 16/31
RBC	4.30%	\$1,740,000	Oct. 16/13	Oct. 16/13	Oct. 16/32
RBC	4.30%	\$1,814,000	Oct. 16/13	Oct. 16/13	Oct. 16/33

*Amortizing bond – amount will reduce over the term

3.14 The portfolio composition by type of investment at year end is summarized in the following table:

Portfolio Composition

Type of Investment	\$ ('000's)	Yield % Range	Maturity Dates
Bonds / Coupons / Deposit Notes / GICs			
Provinces	69,712	2.66 – 3.22	2019 - 2022
Municipalities	131,730	1.33 – 4.75	2019 - 2033
Schedule 1 Banks	1,357,300	1.60 – 3.24	2019 - 2020
High Interest Accounts	619,908	2.45	2019

4. Compliance with Investment Policies and Goals

- 4.1 Internal controls established by Finance Department staff are an integral component in ensuring that all investment transactions are made in accordance with the Region's Statement of Investment Policies and Goals.
- 4.2 The controls include those outlined in the policy as well as the ethics and conflict of interest guidelines. In addition, the Region's investments are reviewed annually by the external auditors.

5. Conclusion

- 5.1 The Region continues to invest in a diversified basket of high credit rated securities that meet the minimum credit rating criteria defined in the policy and deliver a suitable rate of return. Durham Region's investment portfolio composition is in compliance with the Council approved Statement of Investment Policies and Goals.
- 5.2 In my opinion, all investment transactions for 2018 continue to conform to the Region's investment policies and goals as adopted by Regional Council, reflecting a low risk tolerance and overall conservative investing approach to emphasize the security of principal, while maintaining ample liquidity.

Respectfully submitted,

Original Signed By

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2019-F-30
Date: September 10, 2019

Subject:

Cancellation of Uncollectible General Accounts Receivable

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

A) Approve the cancellation of the following uncollectible accounts under \$10,000:

- i) Thirty-one Child Care receivable accounts totalling \$30,571.08;
- ii) Seventy-one general receivable accounts totalling \$54,355.19; and,

B) Recommend to Regional Council that one uncollectible account in the amount of \$25,852.75 be approved for write-off.

Report:

1. Purpose

1.1 The purpose of this report is to request approval for the write-off of certain uncollectible general receivable accounts.

2. Background

2.1 The General Accounts Receivable section of the Finance Department currently bills over \$91 million annually for services provided by various Regional Departments. There are a number of the general receivable accounts with balances owing but which are deemed uncollectible, despite extensive collection efforts.

2.2 The policy for cancellation of such accounts requires the approval of the Finance and Administration Committee for individual accounts up to \$10,000 and the approval of Regional Council for individual accounts over \$10,000.

3. Accounts recommended for write-off

- 3.1 At this time, staff recommends the write-off of thirty-one (31) child care accounts totaling \$30,571.08 and seventy (72) general receivable accounts totaling \$80,207.94, which includes one (1) individual account in excess of \$10,000, totaling \$25,852.75. The amounts recommended for write-off represent 2.43 per cent of child care billings and 0.06 per cent for general receivables, or 0.12 per cent of total billed revenues. Note that there was no write-off of uncollectible general accounts receivable in 2018, so the totals represent a two-year period for write-offs.
- 3.2 Many of the general receivable accounts recommended for write-off are uncollectible billings associated with repairs to Regional property due to traffic accident damage, watermain damage, or the residual balance on the account after legal and insurance company settlements. The remainder of the write-offs are generally for customers who cannot be located. The accounts with legal action have been reviewed and approved for cancellation by the Corporates Services – Legal Services Division where necessary.
- 3.3 Although we are recommending the cancellation of these general accounts receivable at this time, many of the accounts are registered with a collection agency for future action if appropriate.

4. Conclusion

- 4.1 It is respectfully requested that the Finance and Administration Committee approve and recommend for cancellation these general receivable accounts totaling \$110,779.02, comprised of \$30,571.08 of child care accounts and \$80,207.94 of general receivable accounts.

Respectfully submitted,

Original Signed by Nancy Taylor

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed by Elaine C. Baxter Trahair

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Report

To: Finance and Administration Committee
From: Commissioner of Finance
Report: #2019-F-31
Date: September 10, 2019

Subject:

Joint and Several Liability Reform

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That this report be received and forwarded with consultation information to the Attorney General offices as the Region of Durham's submission to the Government of Ontario's consultation process to seek joint and several liability reform in Ontario.
 - B) That a copy of this report be forwarded to AMO, all local Durham MPP's and all local municipalities.
-

Report:

1. Purpose

1.1 The purpose of this report is to provide information to the Finance and Administration Committee and Regional Council regarding the current municipal liability insurance situation in Ontario.

1.2 This report also represents the Region of Durham's submission along with requested additional information to the Attorney General offices to participate in the government's consultation process to seek joint and several liability reform in Ontario.

2. Municipal Insurance in the Province of Ontario

2.1 The Ontario Negligence Act legislates a legal concept called "joint and several liability" between parties found to have had liability assessed. This means that any defendant found liable in a legal proceeding may be forced to pay up to 100% of the damages sustained by the plaintiff (subject of course to any findings of

- contributory negligence on the part of the plaintiff) regardless of their degree of fault.
- 2.2 If a defendant does not have sufficient funds to pay its assessed portion of a judgement, the legislation permits the plaintiff to collect from any other defendant found liable with the ability to pay, leaving that defendant to try to collect from its non-paying co-defendant.
 - 2.3 It follows that a defendant with “deep pockets”, such as a municipality, need only be found 1% liable in order to face exposure to payment of 100% of the entire judgement.
 - 2.4 In general, joint and several liability reform in Canada lags far behind the reforms seen in Australia and in the United States where joint and several has been limited or substantially limited.
 - 2.5 In Canada, all common law jurisdictions, save for British Columbia and Saskatchewan hold co-defendants fully jointly and severally liable. British Columbia and Saskatchewan have successfully implemented other systems of legislative reforms with respect to joint and several liabilities.
 - 2.6 In 2005, the government of Saskatchewan amended the Province’s *Contributory Negligence Act* in order to modify its system of joint and several liability. This included incorporating a reallocation provision. Any uncollectible contributions of a defendant are apportioned to the remaining parties at fault, proportionate to their degree of fault. In British Columbia, co-defendants are jointly and severally liable unless the plaintiff contributed to the loss. If the plaintiff is contributorily negligent, the defendants are then only severally (or individually) liable.
 - 2.7 With regards to the claims experience in Durham, the Region is most often exposed to the effects of joint and several liability arising from motor vehicle accidents alleging road design problems and/or alleging improper winter maintenance. Essentially, municipalities are exposed in any litigation where it is a co-defendant and the main target defendant either has no insurance policy or assets to respond to pay the plaintiff’s claim. As such, joint and several liability has a dramatic effect on municipal insurance premiums as it escalates the cost of claims.
 - 2.8 Throughout the Province of Ontario, municipal liability insurance premiums, deductibles and claim settlements have been substantially increasing in the past few years.
 - 2.9 Furthermore, joint and several liability also means that not only must a municipality be conscious of its own liability exposure, it must also be concerned about the varying liability exposures of other defendants involved, particularly as it relates to what insurance coverage those other defendants have available.

3. History of Joint & Several Liability Reform in Ontario

- 3.1 The Region has participated with DMIP Pool members on several initiatives to solicit meaningful change to joint and several liability for municipalities and relieve this unfair burden.
- 3.2 In 2014, the Ontario government (Attorney General's Office) was considering the Saskatchewan model of proportionate joint and several liability. Unfortunately, the Ontario Provincial election resulted in a newly appointed Attorney General and the proposal was abandoned.
- 3.3 Early in 2019, at the ROMA conference in February, the Premier announced a provincial commitment to look at the issue of joint and several liability.
- 3.4 Since this announcement, the Association of Municipalities of Ontario (AMO) has created a Joint and Several Task force. Durham Region is a member of this task force and has been reviewing the current unfair situation where municipalities are artificially responsible for more than their share of liability simply because one of the other at fault parties are incapable of paying their share of Court determined award.
- 3.5 In July 2019, the Ministry of the Attorney General sought input from municipalities on evidence-led information in the policy development process. The first phase of the process is the collection of background technical information. The second phase of the municipal consultation process will involve formal discussions early this fall among elected officials about the evidence and potential policy solutions.
- 3.6 This report represents the Region's submission to the first phase and will include attachments pertaining to the technical information the province has requested a response by Friday, September 27, 2019.

4. Conclusion

- 4.1 Ontario's joint and several liability rule is squarely based on outdated underlying assumptions. For that reason alone, this concept of law requires serious scrutiny based on contemporary social, moral and economic values.
- 4.2 The best solution for municipalities is to adopt a system with no joint and several liability, where each defendant is responsible for their own negligence.
- 4.3 However, if the belief continues that change will result in a plaintiff not being adequately or fully compensated then the previous Saskatchewan model of proportionate joint and several liability should be adopted by the Province of Ontario.
- 4.4 Public policy reasons for the modification of some form of joint and several liabilities into the law is a positive development for municipalities and a step in the right direction.

Respectfully submitted,

Original Signed by Nancy Taylor

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed by Elaine C. Baxter-Trahair

Elaine C. Baxter-Trahair
Chief Administrative Officer



The Regional Municipality of Durham Report

To: Finance & Administration Committee
From: Commissioner of Finance
Report: [#2019-F-32](#)
Date: September 10, 2019

Subject:

Request for Deferral of Development Charges for Proposed Industrial Facility in Clarington

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That the request from Cannapiece Group Inc. to defer the payment of development charges on the proposed industrial facility in Clarington be denied and the development charges be collected at the issuance of building permit in accordance with the current development charge by-laws;
-

Report:

1. Purpose

- 1.1 The purpose of this report is to seek endorsement of the application of the Regional Development Charge By-law and thus that the request for deferral of development charges to the proponent, Cannapiece Group Inc. (Cannapiece), be denied.

2. Background

- 2.1 Pursuant to section 27 of the *Development Charges Act, 1997*, a municipality can enter into a deferral agreement for development charges:

27 (1) A municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable.

(2) The total amount of a development charge payable under an agreement under this section is the amount of the development charge that would be determined under the by-law on the day specified in the agreement or, if no such day is specified, at the earlier of,

(a) the time the development charge or any part of it is payable under the agreement;

(b) the time the development charge would have been payable in the absence of the agreement.

(3) An agreement under this section may allow the municipality to charge interest, at a rate stipulated in the agreement, on that part of the development charge paid after it would otherwise be payable.

2.2 Pursuant to section 20(5) of the Regional Development Charges By-law #28-2018, Regional Council may enter into deferral agreements pursuant to *Development Charges Act, 1997*:

. . . Council may from time to time, and at any time, may enter into agreements in accordance with section 27 of the Act which provide for all or any part of a development charge to be paid before or after it would otherwise be payable.

2.3 In 2018, Regional Council approved: (i) a policy for development charge deferral agreements for developments in areas that are designated for municipal water and sanitary servicing but where services have not yet been provided, and (ii) development charge deferrals for affordable housing units, at the discretion of the Commissioner of Finance, for up to eighteen months from the date of the first building permit issuance.

2.4 The only existing policy for development charge deferrals for industrial developments relates to the case where an area is designated for municipal water supply and sanitary sewer service but where services have not yet been provided. Historically, the Region has not entered into deferral agreements for development charges with the exception for non-profit housing projects, where the payment of development charges was deferred from building permit issuance to occupancy to assist with the cash flow for these organizations.

2.5 Bill 108, *More Homes, More Choices Act, 2019*, which received royal assent on June 6, 2019, includes amendments to the *Development Charges Act, 1997*. The amendments will require that development charges for industrial developments be paid in annual instalments over five years. At the time of writing of this report, Bill 108 had received Royal Assent, but clarity of date of application of various components is being researched. A verbal update will be provided to the Finance and Administration Committee to address implications to this report. The requirement for annual instalments will not apply where there is a deferral agreement.

3. Cannapiece Request for Deferral of Development Charges

3.1 Cannapiece is in the business of processing and extraction of cannabis products. CannaPiece is seeking a license from Health Canada for the extraction of cannabis products for medical purposes.

3.2 Cannapiece is constructing a facility in Clarington comprised of 172 micro-units.

The Cannapiece's proposed Clarington facility is an industrial use for the purposes of the Regional Development Charges By-law #28-2018.

- 3.3 In Phase 1, Cannapiece will construct approximately 208,000 square feet of industrial space. This will be expanded in two phases to a total space of 628,000 square feet. The original phase will attract approximately \$2.18M in Regional development charges and \$500,000 in local development charges for the Municipality of Clarington.
- 3.4 Cannapiece has requested a deferral of the development charges for the proposed Clarington facility (which are due at building permit issuance) to allow it to proceed to construction to a point where revenues from clients are anticipated and debt financing is more readily available as follows:
 - a. Defer collection of the Regional Development Charges for up to one year, or as a minimum for six months; or alternatively
 - b. Defer collection until award of occupancy permit.
- 3.5 A copy of the request from Cannapiece including a more detailed explanation of the rationale for the deferral is found in Attachment #1.
- 3.6 Cannapiece is receiving partial industrial exemptions under the existing Municipality of Clarington development charges by-law. They will also address recent implications of Bill 108.
- 3.7 The Cannapiece facility in Pickering currently employs approximately 30 people, with the potential for 300 jobs if the facility operates at capacity. The proposed facility in Clarington will create approximately 700 new jobs.

4. Financial Impact

- 4.1 Regional Development charges for non-residential developments are due at building permit issuance in order to ensure the funds are available to the Region to construct the necessary infrastructure needed to support future development. Deferral of the \$2.18M in development charges would have a financial impact on the Region as these funds would not be available to support the 2020 capital program.
- 4.2 As well, there are equity concerns as a number of developers in 2019 have paid industrial development charges in accordance with the Region's development charge by-laws and did not receive the benefit of a development charge deferral. Some of these developers may have faced similar start up cash flow challenges as Cannapiece.
- 4.3 As mentioned previously in the report, Bill 108 has received royal assent which includes amendments to the Development Charges Act, 1997, which when in force, will have a negative impact on the Region's development charge cash flow. Development charges for all non-residential development and rental housing will be paid in equal installments over five years as opposed to the entire amount at building permit issuance. Development charges for not-for-profit housing

developments will be paid over twenty years. As well, development charge rates will be frozen at the time of site plan or zoning application. The Act received Royal Assent June 21, 2019. Applicability of certain sections are under review by staff. Given the need to develop an equitable approach to deferrals as part of the Regional DC By-law update required to reflect Bill 108, it is recommended that the Region deny the request by Cannapiece to defer the payment of development charges. A verbal update will be provided based on the review of recent announcements on Bill 108.

- 4.4 As referenced in Report 2019-INFO-64, The Consolidated Budget Status Report to June 30, 2019 and Full Year Forecast, Development Charge Receipts are trending low for 2019 to date.

5. Conclusion

- 5.1 In addition to the foregoing, Staff are continuing to work with Cannapiece Group Inc. to determine if all or part of the proposed facility in Clarington falls within the definition of “agricultural use”, as that term is defined in the Regional Development Charge By-law. The Regional Development Charges By-law does not impose development charges against “agricultural uses”, as defined.
- 5.2 Staff are recommending that the request from Cannapiece Group Inc. to defer the payment of development charges on the proposed industrial facility in Clarington be denied and the development charges be collected at the issuance of building permit in accordance with the current development charge by-laws.

This report has been prepared with the assistance of the Works and Legal Departments.

6. Attachments

Attachment #1: Cannapiece Letter dated August 27, 2019

Respectfully submitted,

Original Signed by Nancy Taylor

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed by Elaine C. Baxter-Trahair

Elaine C. Baxter-Trahair
Chief Administrative Officer



CANNAPIECE

To: The Regional Municipality of Durham
Finance Department
Ms. Nancy Taylor, BBA, CPA, CA
Commissioner of Finance and Treasurer
Region of Durham

August 27, 2019

Re: **Development Charges for Cannapiece/Canadian Craft Growers in Clarington**
Address: 580 Lake road, Bowmanville, Ontario

Dear Nancy,

We would first like to thank you and your staff for your time and assistance on this matter thus far. As agreed upon in our meeting Aug 23, 2019, we respectfully request one of the following options be accepted for development charges of \$2.05M:

Option 1: The Region of Durham defer collection of the Regional Development Charges for up to one year, or as minimum for six months, under section 27 subsection 1 of the DC Act.

Option 2: The Region of Durham defer current collection and determine the official collection date be the Occupancy Permit award date. This option will give the region the security of only allowing for operations to begin upon payment of all charges.

As discussed, we are building a 628,000 sq ft pharmaceutical grade medicinal cannabis facility in Clarington. The building will be in three identical phases. We will be creating approximately 700 new jobs and will become the largest private sector employer in Clarington and one of the largest private sector employers in Durham Region.

Our 150,000 sq ft facility in Pickering, of which 50,000 sq ft will be operational in September 2019, will create up to 300 new jobs when completed. This facility will house one of the largest capacity extraction operations in Canada which will soon allow us to begin generating revenue.

Based on our plans for a long-standing partnership with The Durham Region and the creation of over 1,000 new jobs, We offer the Region the security order option 2 that of not being able to occupy or run our facility under our regulator – the Minister of Health, until we have received the final occupancy permit. Cannapiece will also offer applicable DC payments in our subsequent phases despite any Provincial legislation that may allow for deferral, thereby guaranteeing DC revenue from our project.

Once again, we would like to Thank you for your time and emphasize that our project and the creation of these jobs cannot proceed without your help and support. The Clarington Cannabis hub will be anchored by our facility and is



T: 1(844) 447-6922
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Info@cannapiece.ca
www.cannapiece.ca



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relying on us to bring additional resources to the region, including but not limited to the natural gas requirements and other enhanced services.

Your interpretation of the collection of the DC's will ensure this sector and our job infusion in Clarington and Durham stays in Durham.

Respectfully Submitted,

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