



The Regional Municipality of Durham

Finance & Administration Committee Agenda

Council Chambers
Regional Headquarters Building
605 Rossland Road East, Whitby

Tuesday, October 12, 2021

9:30 AM

Please note: In an effort to help mitigate the spread of COVID-19, and to generally comply with the directions from the Government of Ontario, it is requested in the strongest terms that Members participate in the meeting electronically. Regional Headquarters is closed to the public, all members of the public may [view the Committee meeting](#) via live streaming, instead of attending the meeting in person. If you wish to register as a delegate regarding an agenda item, you may register in advance of the meeting by noon on the day prior to the meeting by emailing delegations@durham.ca and will be provided with the details to delegate electronically.

1. Roll Call

2. Declarations of Interest

3. Adoption of Minutes

- A) Finance & Administration Committee meeting –
September 14, 2021

Pages 4 - 16

4. Statutory Public Meetings

There are no statutory public meetings

5. Delegations

There are no delegations

6. Presentations

- 6.1 Nancy Taylor, Commissioner of Finance, and Duane Ramkissoo, Manager, Investment Portfolio, re: Eligible Investments & Portfolio Update (2021-F-25) [Item 8.2 A)]

7. Administration

7.1 Correspondence

- A) Correspondence from the Township of Huron-Kinloss re: Resolution passed at their Council meeting held on September 8, 2021, in support of Northumberland County and the City of Toronto's resolution to include in Bill 177 Stronger Fairer Ontario Act

17 - 29

Pulled from September 24, 2021 Council Information Package by Councillor Collier

Recommendation: Receive for information

7.2 Reports

There are no Administration reports to be considered

8. Finance

8.1 Correspondence

- A) Correspondence from Northumberland County re: Resolution passed at their Council meeting held on September 15, 2021, in support of the City of Sarnia's resolution regarding Capital Gains Tax on Primary Residence

30 - 40

Pulled from September 24, 2021 Council Information Package by Councillor Collier

Recommendation: Receive for information

8.2 Reports

- A) Eligible Investments & Portfolio Update (2021-F-25)
- B) Authorization to Enter into Collection Agency Services Agreements for POA Defaulted Fines and General Accounts Receivables Under the Ontario Education Collaborative Marketplace (OECM) Master Agreement (2021-F-26)

41 - 64

65 - 68

9. Advisory Committee Resolutions

There are no advisory committee resolutions to be considered

10. Confidential Matters

10.1 Reports

- A) Confidential Report of the Commissioner of Corporate Services – Labour Relations/Employee Negotiations with respect to the Canadian Union of Public Employees (“CUPE”), Local 1764 and Local 1764-04 (2021-A-19)

Under Separate Cover

11. Other Business

12. Date of Next Meeting

Tuesday, November 9, 2021 at 9:30 AM

13. Adjournment

Notice regarding collection, use and disclosure of personal information:

Written information (either paper or electronic) that you send to Durham Regional Council or Committees, including home address, phone numbers and email addresses, will become part of the public record. This also includes oral submissions at meetings. If you have any questions about the collection of information, please contact the Regional Clerk/Director of Legislative Services.

The Regional Municipality of Durham

MINUTES

FINANCE & ADMINISTRATION COMMITTEE

Tuesday, September 14, 2021

A regular meeting of the Finance & Administration Committee was held on Tuesday, September 14, 2021 in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM. Electronic participation was offered for this meeting.

1. Roll Call

Present: Councillor Foster, Chair
Councillor Collier, Vice-Chair
Councillor Ashe
Councillor Drew
Councillor Leahy
Councillor Mulcahy
Councillor Nicholson
Regional Chair Henry
***all members of Committee participated electronically**

Also
Present: Councillor Grant
Councillor Highet
Councillor Pickles attended later in the meeting
Councillor Smith attended later in the meeting
Councillor Wotten

Staff
Present: S. Austin, Director, Strategic Initiatives
E. Baxter-Trahair, Chief Administrative Officer
D. Beaton, Commissioner of Corporate Services
B. Bridgeman, Commissioner of Planning & Economic Development
K. Chakravarthy, Chief Information Officer
S. Danos-Papaconstantinou, Commissioner of Social Services
J. Demanuele, Director of Business Services, Works Department
J. Dixon, Director, Business Affairs & Financial Management, Social Services Department
T. Fraser, Committee Clerk, Corporate Services – Legislative Services
A. Hector-Alexander, Director of Diversity, Equity, and Inclusion
W. Holmes, General Manager, DRT
L. Huinink, Director, Rapid Transit and Transit Oriented Development
J. Hunt, Regional Solicitor/Director of Legal Services, Corporate Services – Legal

R. Inacio, Systems Support Specialist, Corporate Services – IT
J. Kilgour, Director, DEMO
M. Laschuk, Director, Family Services, Social Services Department
N. Pincombe, Director, Business Planning & Budgets
A. Robins, Director, Housing Services, Social Services Department
M. Simpson, Director, Risk Management, Economic Studies and
Procurement
S. Siopis, Commissioner of Works
N. Taylor, Commissioner of Finance
L. Fleury, Legislative Officer and Deputy Clerk Pro Tem, Corporate Services
– Legislative Services

2. Declarations of Interest

There were no declarations of interest.

3. Adoption of Minutes

Moved by Councillor Ashe, Seconded by Councillor Mulcahy,
(58) That the minutes of the regular Finance & Administration Committee
meeting held on Tuesday, June 8, 2021, be adopted.
CARRIED

4. Statutory Public Meetings

There were no statutory public meetings.

5. Delegations

5.1 Lorrie Hagen, Executive Director, Marlene Grass, Founder and Director, and Serge Babin, Board Chair and parent, The Charles H. Best Diabetes Centre re: Building on the Best Expansion Campaign (2021-F-21) [Item 8.2 C)]

Lorrie Hagen, Marlene Grass, and Serge Babin, participating electronically, provided a PowerPoint presentation regarding The Charles H. Best Diabetes Centre Expansion Campaign. A copy of this presentation was distributed electronically to the Committee. Highlights of the presentation included:

- For more than 300,000 Canadians living with type 1 diabetes, each day brings multiple decisions and challenges to manage a life-threatening disease
- Incidence in Canada is growing at an estimated rate of 5.1% per year. This is higher than the global average.
- The reality is the Best Centre will need to double in size by 2027 to address demand
- Located in north Whitby, caring for patients from every corner of Durham, all ages and stages

- Type 1 diabetes is a life-threatening chronic illness requiring 24/7 attention and frequent education from professionals
- Canada's only centre (since 1989) dedicated to the underserved community of type 1 diabetes
- Why expand the Best Centre?
 - Our centre is located in the epicentre of Durham Region. Patients and families come from all 8 Durham municipalities.
 - Each year, we care for approximately 2,000 patients and conduct more than 20,000 interactions per year to support patients living with type 1 diabetes
 - The demand for our patient services has increased consistently. Average annual increase of approximately 15% over the last decade
 - Delivery of healthcare and mental health support with an interdisciplinary clinical team
- Building on the Best-Vision
 - New fully accessible main welcome area
 - Doubling patient education space and clinic capacity
 - New large group education and event room
- Campaign progress
 - Total raised to date is \$1.2 million
 - \$1.5 million Federal pledge letter of support
 - Formal request letters sent to Province for \$1.5 million

L. Hagen and S. Babin responded to questions from the Committee.

Moved by Councillor Collier, Seconded by Councillor Mulcahy,

(59) That the delegation regarding the Charles H. Best Diabetes Centre Expansion Campaign be referred to Item 8.2 C), Report #2021-F-21, and that the order of the agenda be altered to consider Report #2021-F-21 at this time.

CARRIED

8.2 Reports

C) Charles H. Best Diabetes Centre Community Investment Grant Request (2021-F-21)

Report #2021-F-21 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Ashe, Seconded by Councillor Mulcahy,

(60) That we recommend to Council:

- A) That a Community Investment Grant of \$340,125, representing 7.5 per cent of the \$4.535 million eligible capital budget, be approved, in principle, to Charles H. Best Diabetes Centre (Best Centre) for the capital expansion of their current facility in order to provide the necessary community support

needed for the project to obtain grant funding from senior levels of government;

- B) That the final approval, along with any disbursements of funds, be subject to the submission of final capital construction cost estimates and be conditional on both the proposed project remaining as detailed in their submission to the Region and the project receiving sufficient funding from other sources that will allow for project completion;
- C) That, subject to the satisfaction of approval conditions, a funding agreement be established between the Region of Durham and the Best Centre outlining the following terms and condition of payment:
 - Milestones to be achieved over the term of the agreement
 - Amount and timing of payment after milestone completion
 - Annual project reporting
 - Recognition of funding from the Region of Durham; and
- D) That the Regional Chair and Regional Clerk be authorized to execute the funding agreement.

CARRIED

6. Presentations

6.1 Nancy Taylor, Commissioner of Finance, and Nicole Pincombe, Director, Business Planning and Budgets, re: 2022 Regional Business Plans and Property Tax Supported Budget Guideline (2021-F-20) [Item 8.2 B)]

E. Baxter-Trahair, CAO, provided introductory remarks. She noted that the 2022 budget guideline was developed in consultation with all Regional departments, Durham Regional Police Service (DRPS) and Durham Region Transit (DRT), and through detailed review of 2022 to 2026 operating pressures and 2022 to 2031 capital priorities. She added that the Region provides services which are essential and the 2022 budget focusses on strategic priorities with limited new initiatives. She added that COVID-19 response and recovery, were taken into consideration when developing the guideline for 2022. She thanked departments and all agencies who participated for their hard work in developing the guideline and noted that the budget will be presented for approval in February.

N. Taylor and N. Pincombe provided a PowerPoint presentation outlining the details of the 2022 Regional Business Plans and Property Tax Supported Budget Guideline. Highlights of the presentation included:

- Purpose and Use of Guideline
- Economic Overview – Development Charges and Assessment Growth
- 2022 Budget Priorities
- 2022 Projected Base Budget Pressures

- 2022 Estimated COVID-19 Impacts
- 2022 Preliminary Provincial Funding Impacts
- Legislative and Regulatory Impacts
- Potential 2022 Initiatives in:
 - Environmental Sustainability
 - Community Vitality
 - Economic Prosperity
 - Social Investments
 - Service Excellence
- Community Investment Grant – Healthcare Funding
- Proposed 2022 Property Tax Guideline and Next Steps
- 2022 Business Plans and Budget – Preliminary Key Dates

Moved by Councillor Leahy, Seconded by Regional Chair Henry,
(61) That the order of the agenda be altered to consider Item 8.2 B), Report #2021-F-20 at this time.

CARRIED

8.2 Reports

B) 2022 Reginal Business Plans and Property Tax Supported Budget Guideline (2021-F-20)

Report #2021-F-20 from N. Taylor, Commissioner of Finance, was received.

Staff responded to questions with respect to the purchase of electric vehicles including which departments will be using them and when; the effect of provincial changes to the Ontario Senior's Dental Program; when the Province will clarify funding availability for 2022; the status and effect of MPAC reassessments on property owners; and when operating budgets will be provided for supportive housing programs.

An additional question was asked with respect to why the budget guideline is presented as a 2% overall tax impact, with an additional 0.25% for the Police Services Board, and an additional 0.25% for healthcare investments, rather than simply stated as a 2.5% overall tax impact. N. Taylor advised that it is presented in this way to delineate Council's priorities outside of the main budget envelope.

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

- A) That the following detailed direction and guidelines for the 2022 Business Plans and Budgets for the Durham Regional Police Services Board, Conservation Authorities, Regional Operations and other Outside Agencies be approved:

- i. The 2022 Property Tax Guideline not exceed an overall tax impact of 2.0 per cent compared to the 2021 approved budget with an additional 0.25 per cent dedicated to the Durham Regional Police Services Board to fund the incremental costs for year two of the body worn camera implementation and other strategic priorities of the Durham Regional Police Services Board and a further 0.25 per cent dedicated to fund future healthcare investments under the Region's Community Investment Grant Policy;
 - ii. The 2022 Business Plans and Budget for the Durham Regional Police Services Board not exceed \$230.67 million, an increase of 3.35 per cent compared to the 2021 approved budget plus an additional \$1.81 million to fund the incremental costs for year two of the body worn camera implementation (\$531,860) and other strategic priorities of the Durham Regional Police Services Board (\$1.28 million); and
 - iii. The 2022 Operating Budget for each Conservation Authority not exceed an increase of 2.5 per cent, plus or minus any current value assessment adjustments, and the 2022 Special Benefitting Programs Budget for each Conversation Authority not exceed an increase of 1.5 per cent, plus or minus any current value assessment adjustments, compared to the 2021 approved budget;
- B) That the preliminary timetable for the 2022 Regional Business Plans and Budgets be approved, as outlined in Attachment #2 to Report #2021-F-20 of the Commissioner of Finance, which includes the following key dates:
 - i. December 22, 2021 – final Regional Council approval of the 2022 Water Supply and Sanitary Sewerage Business Plans and Budgets;
 - ii. February 23, 2022 – final Regional Council approval of all 2022 Property Tax Supported Business Plans and Budgets; and
- C) That copies of Report #2021-F-20 be forwarded to the Durham Regional Police Services Board, Durham Region Transit Commissioner, Conservation Authorities, Durham Regional Local Housing Corporation, and other Outside Agencies to guide the development of detailed 2022 Business Plans and Budgets.

CARRIED

7. Administration

7.1 Correspondence

There were no communications to consider.

7.2 Reports

A) National Day for Truth and Reconciliation (2021-A-14)

Report #2021-A-14 from D. Beaton, Commissioner of Corporate Services, was received. D. Beaton responded to a question with respect to the Province's decision not to recognize the National Day for Truth and Reconciliation as a holiday and whether that impacts employees at the Region.

Moved by Councillor Mulcahy, Seconded by Councillor Leahy,
(63) That Report #2021-A-14 of the Commissioner of Corporate Services be received for information.

CARRIED

B) Appointment of the Regional Fire Coordinator and Deputy Fire Coordinator (2021-A-15)

Report #2021-A-15 from J. Kilgour, Director of Emergency Management, was received.

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

- A) That Scugog Fire Chief Mark Berney be appointed Regional Fire Coordinator effective August 1, 2021;
- B) That Pickering Deputy Fire Chief Stephen Boyd be re-appointed Deputy Regional Fire Coordinator, effective August 1, 2021; and
- C) That honoraria for these positions be provided as per the annual Regional budget.

CARRIED

C) Authorization to Extend the Agreement with CompuCom Canada for Provision of Desktop Computers and Monitors, Laptops, Tablets and Related Services (2021-A-16)

Report #2021-A-16 from D. Beaton, Commissioner of Corporate Services, was received. N. Taylor responded to a question with respect to purchasing initiatives being considered by the GTHA CAO's.

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

- A) That a single source extension to the agreement with CompuCom Canada Ltd. for the provision of Desktop Computers and Monitors, Laptops, Tablets and related services, for twelve (12) months from November 7, 2021 to November 7, 2022, at a total estimated cost of \$2,000,000 to be funded from

the Region's approved annual Business Plans and Budget, be approved on the same terms and conditions; and

- B) That the Commissioner of Finance be authorized to execute any related, required agreements and amendment agreements.

CARRIED

D) Extension of McAfee Security/Encryption Standardization (2021-A-17)

Report #2021-A-17 from D. Beaton, Commissioner of Corporate Services, was received.

Moved by Councillor Leahy, Seconded by Councillor Nicholson,
(66) That we recommend to Council:

That the McAfee suite of security products be approved as the corporate standard for the security and protection of the Region's information technology assets for a 3-year term in order to ensure uniformity within and across the Region's information technology assets.

CARRIED

E) Appointment of a Youth Member to the Durham Region Roundtable on Climate Change (DRRCC) (2021-A-18)

Report #2021-A-18 from E. Baxter-Trahair, Chief Administrative Officer, was received.

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

That Peter Cohen, member of Climate Justice Durham, be appointed to the Durham Region Roundtable on Climate Change (DRRCC) as a citizen at-large youth member.

CARRIED

8. Finance

8.1 Correspondence

A) Information Report #2021-INFO-90: 2020 Annual Investment Report

Moved by Regional Chair Henry, Seconded by Councillor Mulcahy,
(68) That Information Report #2021-INFO-90: 2020 Annual Investment Report, be received for information.

CARRIED

8.2 Reports

- A) The Issuance of Debentures on Behalf of the City of Pickering, the City of Oshawa, the Township of Uxbridge, and The Regional Municipality of Durham ("Region") (2021-F-19)

Report #2021-F-19 from N. Taylor, Commissioner of Finance, was received. Staff responded to a question with respect to changing interest rates.

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

- A) That the Commissioner of Finance be authorized to issue external debentures, in a total principal amount not to exceed \$80,935,000 on behalf of the City of Pickering, the Township of Uxbridge, and the Region over various terms, as set out below, with such terms not to exceed 20 years and at an average net yield not to exceed 5.00 per cent relating to the financing requirements as indicated below:

	<u>Amount</u> (Not to Exceed)	<u>Term</u> (Not to Exceed)
<u>City of Pickering</u>		
Construction of a New Fire Station and Headquarters on Zent Drive	\$8,978,000	20 Years
Chestnut Hill Developments Recreational Complex - Lobby & Core Area Renovations – Construction	\$5,600,000	20 Years
Fire Pumper Rescue Replacement Project	<u>\$990,000</u>	15 Years
Subtotal City of Pickering	<u>\$15,568,000</u>	
<u>Township of Uxbridge</u>		
Aerial Apparatus	<u>\$1,500,000</u>	10 Years
<u>The Regional Municipality of Durham</u>		
Durham Regional Police Services – Clarington Phase 2 Complex	\$63,867,000	10 Years
TOTAL EXTERNAL DEBENTURE REQUIREMENTS	<u>\$80,935,000</u>	

- B) That authorization be given to issue an internal debenture for and on behalf

of the City of Oshawa in an amount of \$2,442,000 on the basis that the City of Oshawa will purchase the Oshawa Debenture using reserve funds of the City of Oshawa as requested by the City;

- C) That the Commissioner of Finance be authorized to amend the proposed terms and conditions of the external debenture issue as deemed necessary by the Fiscal Agents in order to successfully market the issue to prospective investors on the basis that the Region may purchase all or part of the debentures; and

- D) That the Region be authorized to issue the external debentures through CDS Clearing and Depository Services Inc.'s "Book Entry Only" system.

CARRIED

- B) 2022 Reginal Business Plans and Property Tax Supported Budget Guideline (2021-F-20)
-

This matter was considered earlier in the meeting. [See Item 8.2 B) on pages 5 and 6.]

- C) Charles H. Best Diabetes Centre Community Investment Grant Request (2021-F-21)
-

This matter was considered earlier in the meeting. [See Item 8.2 C) on pages 3 and 4.]

- D) Public Process for the Proposed Amendments to Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law No. 38-2019 (2021-F-22)
-

Report #2021-F-22 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Ashe, Seconded by Councillor Leahy,
(70) That we recommend to Council:

- A) That the Statutory Public Meeting of Regional Council, as required by the Development Charges Act, 1997 be held on October 27, 2021 in the Regional Council Chambers, or virtually if required by public health guidelines, at the beginning of the regular Regional Council meeting to consider the proposed amendments to the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law No. 38-2019 in order to align this by-law with the changes to the Development Charges Act, 1997 and to update the capital cost estimates;
- B) That the proposed Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law Amendments and Background Study, as required by the Development Charges Act, 1997, be released to the

public at no charge upon request to the Regional Clerk's Department, commencing October 12, 2021;

- C) That staff be authorized to place appropriate notification in newspapers of sufficient general circulation in Durham Region and the Regional website setting forth the date, time, location and purpose of the Statutory Public Meeting and the date and contact for the release of the proposed Development Charge By-law amendment and Background Study;
- D) That the consulting firm of Watson & Associates Economists Ltd. and legal firm of WeirFoulds LLP be retained to assist staff with the preparation of the Development Charge Background Study and amending By-law at a cost of up to \$20,000, to be financed from the Seaton Area Specific Development Charges Reserve Fund (50% from the Water Supply ASDC and 50% from the Sanitary Sewer ASDC); and
- E) That the Commissioner of Finance be authorized to execute the necessary agreements.

CARRIED

- E) Authorization to Undertake a Comprehensive Review and Update of the Region's Transit Development Charge By-law (2021-F-23)

Report #2021-F-23 from N. Taylor, Commissioner of Finance, was received.

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

- A) That a comprehensive review and update of the Region's Regional Transit Development Charge By-law and related policies and the subsequent preparation of the new Development Charges By-law for consideration in the spring of 2022 as required by legislation, be undertaken;
- B) That the following outside consulting and legal services be retained, at an estimated cost not to exceed \$180,000, to provide the technical expertise with the preparation of the Regional Transit Development Charge By-law and Background Study as follows:
 - i. The consulting firm of Watson & Associates Economists Ltd. be retained to assist with the development of the Regional Transit Development Charge Background Study, including the residential and non-residential planning forecasts and policy framework;
 - ii. The legal firm of WeirFoulds LLP be retained to prepare the new Regional Transit Development Charge By-law, ensuring the new by-law complies with the requirements of the Development Charges Act; and

- iii. The consulting firm of HDR Inc. be retained to provide the technical expertise with the preparation of the ridership forecasts and capacity for all modes of transit, the planned level of service for the ten-year forecast period, and detailed service analysis necessary to support the Regional Transit Development Charge Study;

- C) That the cost of these external consulting and legal services expenditures, in the estimated amount of up to \$180,000, be financed as follows:

Development Charge Studies Reserve Fund	\$123,480	68.6%
Property Taxes	<u>56,520</u>	31.4%
Total	<u>\$180,000</u>	

With the property tax portion to be funded at the discretion of the Commissioner of Finance; and

- D) That the Commissioner of Finance be authorized to execute the necessary agreements.

CARRIED

- F) Financing Update for 2021 Approved Investing in Canada Infrastructure Program (ICIP) – Public Transit Stream Projects (2021-F-24)

Report #2021-F-24 from N. Taylor, Commissioner of Finance, was received.

Moved by Councillor Mulcahy, Seconded by Councillor Ashe,
(72) That we recommend to Council:

That the following updated gross costs and financing for 2021 Highway 2 Bus Rapid Transit be approved:

		Financing				
		ICIP Grant	Roads Residential	Roads Commercial	Regional Roads	Transit Capital
	Gross Cost	Funding	Development Charges	Development Charges	Reserve	Reserve
Pickering Median BRT						
Property	11,700,000	-	7,616,700	870,480	2,393,820	819,000
Design/Utility/Construction	8,250,000	6,049,725	1,432,379	163,700	450,176	154,020
Subtotal	19,950,000	6,049,725	9,049,079	1,034,180	2,843,996	973,020
Ajax/Whitby/Oshawa BRT						
Property	9,000,000	-	3,769,150	430,760	1,184,590	3,615,500
Design/Utility/Construction	4,000,000	2,933,200	432,001	49,372	135,772	449,655
Subtotal	13,000,000	2,933,200	4,201,151	480,132	1,320,362	4,065,155
Total	32,950,000	8,982,925	13,250,230	1,514,312	4,164,358	5,038,175

CARRIED

9. Advisory Committee Resolutions

There were no advisory committee resolutions to be considered.

10. Confidential Matters

There were no confidential matters to be considered.

11. Other Business

There was no other business to be considered.

12. Date of Next Meeting

The next regularly scheduled Finance & Administration Committee meeting will be held on Tuesday, October 12, 2021 at 9:30 AM in Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby.

13. Adjournment

Moved by Councillor Nicholson, Seconded by Councillor Leahy,
(73) That the meeting be adjourned.

CARRIED

The meeting adjourned at 10:46 AM

Respectfully submitted,

A. Foster, Chair

L. Fleury, Legislative Officer



The Corporation of the Township of Huron-Kinloss

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N0G2R0

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Ministry of the Attorney General
McMurtry-Scott Building
720 Bay Street, 11th floor
Toronto, Ontario
M7A 2S9

September 21, 2021

Via Email attorneygeneral@ontario.ca

Re: Copy of Resolution #651

Motion No.: 651

Moved by: Don Murray Seconded by: Lillian Abbott


THAT the Township of Huron-Kinloss Committee of the Whole hereby supports Northumberland County and the City of Toronto in their plea to include in Bill 177 Stronger Fairer Ontario Act and take immediate action to streamline and modernize this section of the legislation by making it easier and more convenient for the public and prosecutors to engage in resolution discussions and by making it more effective and efficient to administer early resolution proceedings for Part I and Part II offences in the Provincial Offences Court AND directs staff to distribute as they see fit

Carried

Sincerely,

Kelly Lush
Deputy Clerk

c.c all Ontario Municipalities

 Corporate Services Department Legislative Services Division	
Date & Time Received:	September 22, 2021 8:16 am
Original To:	CIP
Copies To:	
Take Appropriate Action	<input type="checkbox"/> File <input type="checkbox"/>
Notes/Comments:	

Finance & Audit Committee Resolution

Committee Meeting Date: July 6, 2021
Agenda Item: 9b
Resolution Number: 2021-07-06-465
Moved by: R. Crake
Seconded by: W. Cane
Council Meeting Date: July 21, 2021

"That the Finance and Audit Committee, having considered Report 2021-115, 'Municipal Court Managers' Association / POA Advocacy' recommend that County Council request the Attorney General of Ontario to halt the proclamation of the Early Resolution reforms included in Bill 177 Stronger Fairer Ontario Act and take immediate action to streamline and modernize this section of the legislation by making it easier and more convenient for the public and prosecutors to engage in resolution discussions, and by making it more effective and efficient to administer early resolution proceedings for Part I and Part II offences in the Provincial Offences Court; and

Further That the Committee recommend that County Council request the Attorney General of Ontario to enact changes to the Provincial Offences Act and any related regulations to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings commenced under Part I or Part II of the POA, and to permit the Clerk of the Court to register the court outcome immediately upon receipt of the written agreement without requiring an appearance before a justice of the peace; and

Further That the Committee recommend that County Council request the Ministry of Transportation in consultation with Municipalities consider suspending (temporarily) the imposition of demerit points for persons who pay their ticket in cases where they have no previous relevant convictions; and

Further That the Committee recommend that County Council direct staff to forward a copy of this resolution to the Ministry of the Attorney General, MPP David Piccini (Northumberland – Peterborough South), and all Ontario municipalities."

Carried 
Committee Chair's Signature

Defeated _____
Committee Chair's Signature

Deferred _____
Committee Chair's Signature

Council Resolution

Moved By J. Henderson

Seconded By S. Arthur

Agenda
Item 10

Resolution Number
2021-07-21-491

Council Date: July 21, 2021

"**That** County Council adopt all recommendations from the five Standing Committees, as contained within the Committees' Minutes (July 5, 6, 7, 2021 meetings), with the exception of any items identified by Members, which Council has/will consider separately, including Item 9f of this agenda, the 'Thompson Bridge Closure'."

Recorded Vote
Requested by _____
Councillor's Name

Deferred _____
Warden's Signature

Carried  _____
Warden's Signature

Defeated _____
Warden's Signature

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Report 2021-115

Report Title: Municipal Court Managers' Association / POA Advocacy

Committee Name: Finance and Audit Committee

Committee Meeting Date: July 3, 2021

Prepared by: Randy Horne, Court Services Manager

Reviewed by: Glenn Dees, Director of Finance/Treasurer

Approved by: Jennifer Moore, CAO

Council Meeting Date: July 21, 2021

Strategic Plan Priorities: Leadership in Change

Recommendation

“That the Finance and Audit Committee, having considered Report 2021-115, ‘Municipal Court Managers’ Association / POA Advocacy’ recommend that County Council request the Attorney General of Ontario to halt the proclamation of the Early Resolution reforms included in Bill 177 Stronger Fairer Ontario Act and take immediate action to streamline and modernize this section of the legislation by making it easier and more convenient for the public and prosecutors to engage in resolution discussions and by making it more effective and efficient to administer early resolution proceedings for Part I and Part II offences in the Provincial Offences Court; and

Further That the Committee recommend that County Council request the Attorney General of Ontario to enact changes to the Provincial Offences Act and any related regulations to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings commenced under Part I or Part II of the POA and to permit the Clerk of the Court to register the court outcome immediately upon receipt of the written agreement without requiring an appearance before a justice of the peace; and

Further That the Committee recommend that County Council request the Ministry of Transportation in consultation with Municipalities consider suspending (temporarily) the imposition of demerit points for persons who pay their ticket in cases where they have no previous relevant convictions; and

Further That the Committee recommend that County Council direct staff to forward a copy of this resolution to the Ministry of the Attorney General, MPP David Piccini (Northumberland – Peterborough South), and all Ontario municipalities.”

Purpose

Immediate regulatory and legislative changes are critical to delivering services to the public by putting in place the most modern, efficient, and effective justice system attainable.

The proposed Early Resolution reforms in Bill 177 Stronger, Fairer Ontario Act do not fully support the objectives of the Ministry of the Attorney General pertaining to creating a modernized and efficient justice system. These changes create procedural barriers that prevent reasonable and effective access to court procedures by replacing a simplified process currently in place with a complex lengthy process.

Background

Northumberland County is not currently opted into the formal Early Resolution process as provided for in the Provincial Offences Act (POA). Early Resolution discussions occur informally, scheduled with the Prosecution Team for all defendants (or their agents) who indicate option 3 (Trial) in response to a Part I (or Part II) charge.

The existing Early Resolution legislation (formal process) provides persons charged with minor offences under Part I (or Part II) of the POA with an option to meet with the prosecutor to resolve matters without the necessity of a trial proceeding. The informal early resolution regime has largely been successful in Northumberland County; providing timely access to justice and being the first POA proceedings to resume during the COVID -19 emergency. The number of Part I matters processed through the early resolution option is approximately 25% of all new charges filed annually and the resolution rate (pre-Trial) is approximately 90%. Approximately 20% of charges Fail to Respond and are convicted in absentia, while 55% of charge fines are paid without a Resolution Meeting or Trial.

The level of public participation in exercising an Early Resolution option in Northumberland County is a clear indication that whether opted into the formal Early Resolution process, or not, the rules under the existing Early Resolution section of the POA are easy for the public to understand and provides access to the justice system for minor offences.

Consultations

The Municipal Court Managers Association (MCMA) has conducted a detailed review of the impact the proposed changes will have on administrative processes and resources. The Bill

177 changes to the formal Early Resolution section of the POA will increase processing steps from the existing 15 administrative processes to over 70 processes. This represents an increase in processes of over 400%. Although Northumberland County has digitized and modernized administrative processes to permit the defendant to file their request digitally, the POA court remains dependent upon the Province's antiquated adjudicative case management system (ICON). Given the lack of a modern adjudicative case management system, the impact of the additional and complex legislative processes under the proposed changes to the Early Resolution section of the POA would likely require additional full time Court Clerks to administer the proposed lengthy and complex early resolution process, should Northumberland County choose to opt into the formal Early Resolution process to take advantage of proposed efficiencies in the legislation.

Simplifying the POA to provide for a more efficient, effective justice system with more convenience and proportionate options to the public for minor offences under Part I of the POA, should not require an increase in processes. Permitting any (formal or informal) early resolution meeting to be held in writing and permitting the filing of written agreements between the prosecutor and defendant to be registered administratively as a court outcome by the Court Clerk immediately provides an accessible streamlined efficient and modern court system to the public.

Legislative Authority/Risk Considerations

The current legislative framework for formal (opted-in) Early Resolution consists of one (1) section with 27 subsections or paragraphs supported by approximately 15 administrative processes. This legislative framework permits a defendant to request a meeting with the prosecutor, request a change to the appointment date once, attend a meeting with the prosecutor and have the outcome of the early resolution meeting recorded by the court on the same day as the meeting.

The proposed changes to the Early Resolution section of the POA under Bill 177 creates a more complex legislative framework for formal Early Resolution process, with five (5) sections and 43 subsections, paragraphs or subparagraphs. This represents an approximate 60% increase to the number of rules.

Discussion/Options

Operational pressures that existed prior to the pandemic have become more pronounced and need to be met with legislative reforms to enable timely recovery of Provincial Offences Courts

POA Courts has long advocated for legislative reforms streamlining and modernizing Provincial Offences Courts in support of equitable and timely access to justice. Immediate regulatory and legislative changes are critical to delivering services to the public by putting in place the most modern, efficient, and effective justice system attainable. The attached MCMA request seeks to align and validate the POA courts position on the following legislative barriers:

1. Halting the proclamation of the Early Resolution reforms included in Bill 177 and requesting to take immediate action to streamline and modernize this section of the

legislation. Under the proposed amendment, complex time periods and rules will be introduced including a redundant abandonment period, and delay in recoding of court outcomes which will result in multiple defendant appearances.

2. Enact changes to the *Provincial Offences Act* and any related regulations to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing. By so conserving court time and judicial resources.
3. Ministry of Transportation in consultation with municipalities consider suspending (temporarily) the imposition of demerit points for persons who pay their ticket in cases where they have no previous relevant convictions.

Throughout 2020, three separate orders were issued by the Ontario Court of Justice and the Province adjourning all court matters, suspending all *Provincial Offences Act* timelines and later extending these timelines into 2021.

The Chief Justice of Ontario and the Province of Ontario issued separate emergency orders in response to the pandemic throughout 2020 directly impacting Court Services operations.

A set of orders issued by the Chief Justice of Ontario and the Province built on each other and affected the legislative timelines under the *Provincial Offences Act*, meaning that the typical timeframe to respond to a ticket or other court matters governed by the *Provincial Offences Act* no longer applied. The orders extended timelines from March 16, 2020 through to and including February 26, 2021.

Simultaneously, the Chief Justice of Ontario also issued a set of orders that adjourned all court matters from March 16, 2020 until January 25, 2021. This resulted in postponing of over 2,000 trial matters until 2021, at the earliest. As part of court recovery, the Chief Justice advised Provincial Offence Courts that non-trial matters could go ahead by audio hearings by September 28, 2020 and that the resumption of remote trials could go forward as early as January 25, 2021, dependent on local judicial approval and court readiness. In-person trials would continue to be adjourned until the court schedule is approved by the Regional Senior Justice of the Peace, and all health and safety measures have been implemented.

The recovery of Provincial Offence courts was impeded by lack of timely direction from the Province concerning the resumption of services. While the provincial objective was to provide a consistent approach to the resumption of Provincial Offences Courts, priority was given to resuming Criminal Court operations. This often resulted in changing timelines and direction. Coupled with the existing issue of limited judicial resources which was intensified throughout the pandemic, Court Services could not effectively respond to the growing volume of pending cases which directly impacted the public's access to justice.

Bill 177 aims to modernize and streamline the Provincial Offences Courts

Legislative amendments to the *Provincial Offences Act* were passed by the Ontario Legislature in December 2017 under Schedule 35 of Bill 177 *Stronger, Fairer Ontario Act*. These amendments include reforming of the Early Resolution process, improving the collection of default fines, and expanding the powers of the clerk of the court. However, the proposed Early

Resolution reforms came short as they do not fully support the objectives of the Ministry of the Attorney General pertaining to creating a modernized and efficient justice system.

In December 2019, the Ministry of the Attorney General advised that it intends to implement Bill 177 amendments through a phased approach. To date the Attorney General has only proclaimed and implemented section 48.1 allowing for use of certified evidence for all Part I proceedings. The rest of Bill 177 amendments are scheduled to be proclaimed later in 2021.

Bill 177 reforms to the legislated Early Resolution process will prevent reasonable and effective access to court procedures by creating a complex and lengthy process

Early Resolution is an optional program Provincial Offences Courts can offer allowing defendants who opt to dispute their charges to request a meeting with a prosecutor to resolve the charges prior to a trial.

Under the proposed amendment, when a defendant attends a meeting with the prosecutor, the outcome is not recorded by the court immediately and there is a myriad of rules to navigate that result in a court outcome. For example, depending on the agreement, a defendant may have to appear before a Justice of the Peace to register the agreement and there are potential additional appearances required by the defendant and the prosecutor before an outcome is registered by the court. In addition, there are multiple complex time periods and myriad of rules including a redundant abandonment period before an outcome is registered. The inclusion of a proposed abandonment period is redundant as fairness and administrative of justice principles already exist in other sections of the *Provincial Offences Act* including the right to appeal a conviction or a sentence. The complexity of the numerous additional rules will not be easily understood by the public and will hinder access to justice.

Early Resolution process could aid in municipal Provincial Offences Court recovery if the section amendments were edited to make it easy and more convenient for the public and prosecutors to engage in resolution discussions. Northumberland County Court Services would reconsider offering a formal Early Resolution option if the Ministry of the Attorney General were to make it more effective and efficient to administer Early Resolution proceedings.

Closure of courts due to the pandemic resulted in a decrease in fine payments and increased pending caseload

The extension of *Provincial Offences Act* timelines, along with the continued closure of court hearings impacted many of Court Services operational drivers. While court front counters were reopened in 2020 to provide essential administrative services, the ability to process charges and to address pending caseload was greatly impeded.

In turn, court revenue was impacted by operational instabilities such as, extension of the requirement to pay and defaulting of a fine. It is important to note that this is considered a deferred revenue as all outstanding fines are debt to the Crown owed in perpetuity and never forgiven. The ability to collect on debt diminishes the older a fine becomes.

There is an understanding that defendants request trials to seek resolutions that reduce demerit points. If demerit points were suspended for a period for those acknowledging their guilt and

paying the ticket, it may encourage defendants to pay their traffic ticket, thus reducing trial requests and pressures faced by trial courts. Details such as the time period for offences to which this would apply, what to do if a person receives multiple tickets, as well as determining whether a person without any convictions within 3 or 5 years of payment is to be treated as a first offender could be determined by the ministry.

Financial Impact

The recommendations contained in this report have no financial impact.

Member Municipality Impacts

Legislative change allowing any (formal or informal) early Resolution Meeting to be held in writing and permitting the filing of written agreements between the prosecutor and defendant to be registered administratively as a court outcome by the Court Clerk would benefit Member Municipalities in their Part II/Bi-Law proceedings in alignment with County Part I and II Early Resolution Proceedings.

Conclusion/Outcomes

In response to a the MCMA request for Joint Advocacy on behalf of all Ontario Municipal POA Courts, staff request that the Committee recommends that County Council pass a resolution in support for the listed MCMA recommendations.

Attachments

1. Letter: MCMA Request for Joint Advocacy



Municipal Court Managers' Association of Ontario

c/o Seat of the President
Regional Municipality of York
17150 Yonge St
Newmarket ON L3Y 8V3

May 6, 2021

Dear Members,

Re: POA Streamlining and Modernization

In response to the increased pressures resulting from COVID 19, MCMA is seeking the support of POA Courts to actively lobby the Province for immediate regulatory and legislative changes. As you know, our ability to respond to Increasing caseload and declining fine revenue is limited. These proposed changes will enable flexibility for municipalities to respond to local pressures.

It is important that we leverage this opportunity to create a modern, efficient, and sustainable justice system that meets the needs of court users. The proposed changes include:

1. Halting the proclamation of the Early Resolution reforms included in Bill 177 Stronger Fairer Ontario Act and take immediate action to streamline and modernize this section of the legislation.
2. Enacting changes to the Provincial Offences Act and any related regulations to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings.
3. Requesting the Ministry of Transportation in consultation with Municipalities, consider suspending the imposition of demerit points for persons who pay their ticket in cases where they have no previous relevant convictions.
4. Make regulatory changes to allow for camera-based offences to be administered through the administrative monetary penalties.

The MCMA board has prepared some templated documents to assist in your efforts. Attached you will find: Draft Council Resolution, draft council report for ER Courts and some key messages to support discussion. We understand that support for one or all may vary depending on individual priorities and appreciate your consideration.

Should you have any questions or would like to discuss further please feel free to reach out to any member of the MCMA board.

Lisa Brooks
MCMA President

"Excellence in Court Administration"

City Clerk's Office

Secretariat
Marilyn Toft
Council Secretariat Support
City Hall, 12th Floor, West
100 Queen Street West
Toronto, Ontario M5H 2N2

Tel: 416-392-7032
Fax: 416-392-2980
e-mail: Marilyn.Toft@toronto.ca
web: www.toronto.ca

In reply please quote:
Ref.: 21-GL23.3

RECEIVED

AUG - 3 2021

TOWNSHIP OF HURON-KINLOSS

June 24, 2021

ONTARIO MUNICIPAL AND REGIONAL COUNCILS:

**Subject: General Government and Licensing Committee Item 23.3
Report on Bill 177 Stronger Fairer Ontario Act Changes to Provincial
Offences Act (Ward All)**

City Council on June 8 and 9, 2021, adopted the following resolution and has circulated it to all Municipal City Councils and Regional Councils in Ontario for support:

1. City Council request the Attorney General of Ontario to halt the proclamation of the Early Resolution reforms included in Bill 177, Stronger, Fairer Ontario Act.
2. City Council request the Attorney General of Ontario to review the Early Resolution provisions of the Provincial Offences Act and take action to streamline and modernize this section with a view to making it easier for the public and prosecutors to engage in resolution discussions, and to administer early resolution proceedings in Provincial Offences Court.
3. City Council request the Attorney General of Ontario to enact changes to the Provincial Offences Act and any related regulations, to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings commenced under Part I of the Provincial Offences Act and to permit the Clerk of the Court to register the court outcome immediately upon receipt of the written agreement without requiring an appearance before a Justice of the Peace.

A handwritten signature in black ink, appearing to be "M. Toft".

for City Clerk

M. Toft/wg

Attachment

c. City Manager

General Government and Licensing Committee

GL23.3		Adopted on Consent		Ward: All
--------	--	-----------------------	--	-----------

Report on Bill 177 Stronger Fairer Ontario Act Changes to Provincial Offences Act

City Council Decision

City Council on June 8 and 9, 2021, adopted the following:

1. City Council request the Attorney General of Ontario to halt the proclamation of the Early Resolution reforms included in Bill 177, Stronger, Fairer Ontario Act.
2. City Council request the Attorney General of Ontario to review the Early Resolution provisions of the Provincial Offences Act and take action to streamline and modernize this section with a view to making it easier for the public and prosecutors to engage in resolution discussions, and to administer early resolution proceedings in Provincial Offences Court.
3. City Council request the Attorney General of Ontario to enact changes to the Provincial Offences Act and any related regulations, to permit the prosecutor and defendant or legal representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings commenced under Part I of the Provincial Offences Act and to permit the Clerk of the Court to register the court outcome immediately upon receipt of the written agreement without requiring an appearance before a Justice of the Peace.
4. City Council direct that this resolution be circulated to the all Municipal City Councils and Regional Councils in Ontario for support.

Committee Recommendations

The General Government and Licensing Committee recommend that:

1. City Council request the Attorney General of Ontario to halt the proclamation of the Early Resolution reforms included in Bill 177, Stronger, Fairer Ontario Act.
2. City Council request the Attorney General of Ontario to review the Early Resolution provisions of the Provincial Offences Act and take action to streamline and modernize this section with a view to making it easier for the public and prosecutors to engage in resolution discussions, and to administer early resolution proceedings in Provincial Offences Court.
3. City Council request the Attorney General of Ontario to enact changes to the Provincial Offences Act and any related regulations, to permit the prosecutor and defendant or legal

representative to agree, at any stage of a proceeding, to a resolution in writing for proceedings commenced under Part I of the Provincial Offences Act and to permit the Clerk of the Court to register the court outcome immediately upon receipt of the written agreement without requiring an appearance before a Justice of the Peace.

4. City Council direct that this resolution be circulated to the all Municipal City Councils and Regional Councils in Ontario for support.

Origin

(May 7, 2021) Report from the City Solicitor and the Director, Court Services

Summary

This report responds to the changes to the Provincial Offences Act under Bill 177 Stronger, Fairer Ontario Act for City Council to review and consider taking action on the staff recommendations contained herein.

Background Information (Committee)

(May 7, 2021) Report from the City Solicitor and the Director, Court Services on Report on Bill 177 Stronger Fairer Ontario Act Changes to Provincial Offences Act

(<http://www.toronto.ca/legdocs/mmis/2021/ql/bqrd/backgroundfile-166871.pdf>)

Attachment 1 - Bill 177 Changes to section 5.1 of Provincial Offences Act as enacted and not proclaimed

(<http://www.toronto.ca/legdocs/mmis/2021/ql/bqrd/backgroundfile-166872.pdf>)

Finance & Audit Committee Resolution

Committee Meeting Date: August 31, 2021


Agenda Item: 6.g

Resolution Number: 2021-08-31- S89

Moved by: R. Crate

Seconded by: B. OStrander

Council Meeting Date: September 15, 2021

 Corporate Services Department Legislative Services Division	
Date & Time Received:	September 22, 2021 8:21 am
Original To:	CIP
Copies To:	
Take Appropriate Action <input type="checkbox"/> File <input type="checkbox"/>	
Notes/Comments:	

"That the Finance and Audit, having previously supported the resolution from the City of Sarnia regarding 'Capital Gains Tax on Primary Residence', recommend that the correspondence from the Town of Niagara Lake, Town of LaSalle, Town of Greater Napanee, and the Municipality of Shuniah be received for information; and

Further That the Committee recommend that County Council support the correspondence items regarding this issue; and

Further That the Committee recommend that County Council direct staff to forward a copy of this resolution to the Right Honourable Justin Trudeau, Prime Minister of Canada, the Honourable Doug Ford, Premier of Ontario, MP Phillip Lawrence (Northumberland-Peterborough South), the Honourable David Piccini (Northumberland-Peterborough South), and all Ontario Municipalities."

Carried 
Committee Chair's Signature

Defeated _____
Committee Chair's Signature

Deferred _____
Committee Chair's Signature

Council Resolution

Moved By J. Henderson

Seconded By B. Ostrander

Agenda
Item 10.

Resolution Number
2021-09-15-627

Council Date: September 15, 2021

"That County Council adopt all recommendations from the six Standing Committees, as contained within the Committees' Minutes (August 30, 31, and September 1, 2021 meetings), with the exception of the items noted within the agenda which require separate discussion, and, any items identified by Members which require separate discussion."

Recorded Vote
Requested by

Councillor's Name

Deferred

Warden's Signature

Carried

Warden's Signature

Defeated

Warden's Signature

June 24, 2021

SENT ELECTRONICALLY

Town of Fort Erie
1 Municipal Centre Drive
Fort Erie ON, L2A 2S6

Attention: Carol Scholfield, Dip.M.A., Manager
Legislative Services/Clerk

Dear Ms. Schofield:

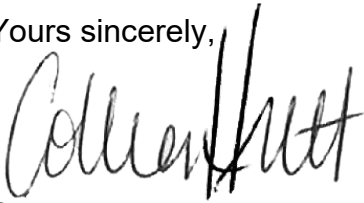
RE: Capital Gain Tax on Primary Residence

Please be advised the Council of The Corporation of The Town of Niagara-on-the Lake, at its regular meeting held on June 21, 2021 approved the following resolution:

BE IT RESOLVED that Council endorse the correspondence from the Town of Fort Erie for the resolution regarding Capital Gains Tax on Primary Residence dated June 1, 2021.

If you have any questions or require further information, please contact our office at 905-468-3266.

Yours sincerely,



Colleen Hutt
Acting Town Clerk



Community Services

Legislative Services

June 1, 2021
File #120203

The Right Honourable Justin Trudeau
Prime Minister
House of Commons
Ottawa, ON K1A 0A6
Justin.trudeau@parl.gc.ca

The Honourable Doug Ford
Premier of Ontario
Legislative Building, Queen's Park
Toronto, ON M7A 1A1
premier@ontario.ca

Honourable and Dear Sirs:

Re: Capital Gains Tax on Primary Residence

The Municipal Council of the Town of Fort Erie at its meeting of May 31, 2021 passed the following resolution:

Whereas primary residences are currently exempt from a capital gains tax, and

Whereas currently secondary and additional non-primary properties are subject to capital gains, and

Whereas the Federal Government is currently looking into a primary residence capital gains tax as they have recognized that affordable housing has become a serious issue in Canada, and

Whereas smaller communities including the Town of Fort Erie are seeing unprecedented higher selling prices that are outpacing prices in larger cities, and

Whereas many hard-working Canadians who have only a primary residence with no additional non-primary homes count on their home equity as financial aid to apply to upsizing or downsizing their home depending on their personal situation, and

Whereas a change in taxation to primary residences would be a significant financial blow to Canadians and would create an unfair, two-tiered taxation which could lead to depleted savings, inter-generational disparities, disparities among diverse groups such as seniors who may have a significant portion of their savings vested in their primary residence, as well as, reducing the ability of home ownership thereby a further, higher need for rentals, and

Whereas the Federal government could look at other means to slow down the rapidly escalating housing costs to improve housing affordability;

...2

Mailing Address:

The Corporation of the Town of Fort Erie
1 Municipal Centre Drive, Fort Erie ON L2A 2S6

Office Hours 8:30 a.m. to 5:00 p.m. Phone: (905) 871-1600 FAX: (905) 871-4022

Web-site: www.forterie.ca

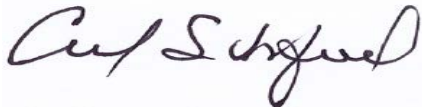
Now therefore be it resolved,

That: The Federal Government cease further consideration of eliminating capital gains tax exemptions on primary residences, and further

That: A copy of this resolution be circulated to The Right Honourable Justin Trudeau, The Honourable Doug Ford, Premier of Ontario, All Members of Parliament, All Members of Provincial Parliament, The Regional Municipality of Niagara, and all Municipalities, for their support.

Thank you for your attention to this matter.

Yours very truly,



Carol Schofield, Dipl.M.A.
Manager, Legislative Services/Clerk

cschofield@forterie.ca

CS:dlk

c.c. All Members of Parliament
All Members of Provincial Parliament
The Regional Municipality of Niagara
Ontario Municipalities



Corporation of the Town of LaSalle

5950 Malden Road, LaSalle, Ontario N9H 1S4
Phone: 519-969-7770 Fax: 519-969-4029 www.lasalle.ca

July 20, 2021

The Right Honourable Justin Trudeau
Prime Minister
House of Commons
Ottawa, ON K1A 0A6
justin.trudeau@parl.gc.ca

The Honourable Doug Ford
Premier of Ontario
Legislative Building, Queens Park
Toronto, ON M7A 1A1
premier@ontario.ca

RE: Fort Erie Resolution Regarding Capital Gains Tax on Primary Residence

Honourable and Dear Sirs:

At the July 13, 2021 Regular Meeting of Council, Town of LaSalle Council gave consideration to correspondence received from the Town of Fort Erie, dated June 1, 2021, regarding Capital Gains Tax on Primary Residence.

At the Meeting, the following motion was passed:

That correspondence received from Fort Erie dated June 1, 2021 regarding Capital Gains on Primary Residence be received; and endorsed.

Correspondence received from the Town of Fort Erie is attached for your convenience.

Yours truly,

Linda Jean
Deputy Clerk
Town of LaSalle
ljean@lasalle.ca

cc. All Members of Parliament
All Members of Provincial Parliament
The Town of Fort Erie
Ontario Municipalities



July 7, 2021

The Right Honourable Justin Trudeau
Prime Minister
House of Commons
Ottawa, ON K1A 0A6
justin.trudeau@parl.gc.ca

The Honourable Doug Ford
Premier of Ontario
Legislative Building, Queen's Park
Toronto, ON M7A 1A1
premier@ontario.ca

Honourable and Dear Sirs:

Re: Correspondence received from the Town of Fort Erie regarding Capital Gains tax on Primary Residence

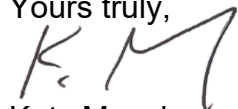
Please be advised that at the meeting held on June 22, 2021, the Council of the Town of Greater Napanee adopted the following resolution of support:

RESOLUTION #321/21: Pinnell/Norrie

That the correspondence from the Township of Scugog be received;
And further, That Council provide a letter of support to the Town of Fort Erie regarding Capital Gains Tax on Primary Residence. CARRIED.

Thank you for your attention in this matter.

Yours truly,



Katy Macpherson
Legal Services Coordinator

Encl.

cc: All Ontario Municipalities



June 10, 2021

The Right Honourable Justin Trudeau
Prime Minister
House of Commons
Ottawa, ON K1A 0A6
Sent via email to: Justin.trudeau@parl.gc.ca

The Honourable Doug Ford
Premier of Ontario
Legislative Building, Queen's Park
Toronto, ON M7A 1A1
premier@ontario.ca

Re: Correspondence received from the Town of Fort Erie regarding Capital Gains tax on Primary Residence

Honourable and Dear Sirs:

At the last regular General Purpose and Administration Committee meeting of the Township of Scugog held June 7, 2021, the Committee received and endorsed correspondence from the Town of Fort Erie dated June 1, 2021 with respect to Capital Gains Tax on Primary Residence. Attached please find a copy of the Town of Fort Erie's correspondence dated June 1, 2021.

Please be advised that Committee approved the following recommendation:

"THAT the correspondence received from the Town of Fort Erie regarding Capital Gains Tax on Primary Residence, be endorsed."

Please note that all recommendations made by the Committee are subject to ratification at the next Council meeting of the Township of Scugog, scheduled to take place on June 28, 2021.

Should you have any concerns, please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in black ink that reads "Becky Jamieson".

Becky Jamieson
Director of Corporate Services/Municipal Clerk
Encl.

cc: Carol Schofield, Dipl.M.A. Manager, Town of Fort Erie, Manager, Legislative
Services/Clerk
All Members of Parliament
All Members of Provincial Parliament
The Regional Municipality of Niagara
Ontario Municipalities

July 19, 2021

The Right Honourable Justin Trudeau
Prime Minister
House of Commons
Ottawa, ON, K1A 0A6
Justin.trudeau@parl.gc.ca

The Honourable Doug Ford
Premier of Ontario
Legislative Building, Queen's Park
Toronto, ON M7A 1A1
premier@ontario.ca

Dear Prime Minister Trudeau and Premier Ford,

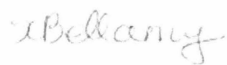
RE: Support Resolution – Capital Gains Tax on Primary Residence

Please be advised that, at its meeting on July 14, 2021, the Council of the Municipality of Shuniah resolved as follows:

That correspondence from the Town of Fort Erie regarding Capital Gains Tax on Primary Residence, be supported.

A copy of the above noted resolution is enclosed for your reference and consideration. We kindly request your support and endorsement for the Capital Gains Tax on Primary Residence.

Yours truly,



Kerry Bellamy
Clerk

Cc: All members of Parliament
All members of Provincial Parliament
The Regional Municipality of Niagara
Ontario Municipalities



COUNCIL RESOLUTION

Resolution No.: 244-21

Date: Jul 14, 2021

Moved By: ~~Ron Giardetti~~ Don Smith Donna Blunt

Seconded By: Meghan Chomut

THAT Council hereby receives the following correspondence

- a. Board of Health minutes for meetings held May 19, 2021
- b. City of Port Colborne Resolution – Capital Gains Tax on Primary Residence
- c. Elimination of LPAT Resolution 2021-0115
- d. Letter from Premier Ford et al Re: Land Transfer Tax
- e. Letter to Prime Minister Trudeau re Capital Gains Tax Exemptions on Primary Residences
- f. LRCA comments on ERO Posting 019-2986, June 23, 2021
- g. Updating Environmental Assessment Requirements for Transmission Lines
- h. TBDSSAB Board Meeting Regular Session Minutes May 20, 2021
- i. Resolution 21-111 Scott Aitchison, MP Parry Sound Muskoka Support for 988 Crisis Line
- j. CP Remedial Program Notification
- k. Mississauga's Resolution
- l. TC Energy Investigation Expense Dig Notification
- m. Township of Scugog Correspondence re: Williams Point Road and Beacock Road School Bus Turnarounds

and the same be filed at the Clerk's Office.

☒ **Carried**

☐ **Defeated**

☐ **Amended**

☐ **Deferred**

Wendy Landry

Signature

Municipality of Shuniah, 420 Leslie Avenue, Thunder Bay, Ontario, P7A 1X8



The Regional Municipality of Durham Information Report

From: Commissioner of Finance
Report: #2021-F-25
Date: October 12, 2021

Subject:

Eligible Investments & Portfolio Update

Recommendation:

Receive for information

Report:

1. Purpose

- 1.1 This report is a first in a series to update Committee on current and future activities pertaining to the Region's investment portfolio. The purpose of this report is to provide information on the legislation governing municipal investments, including eligible investment, investment policy and reporting requirements, and describes preliminary next steps for improving the ability to earn better rates of return on the investment portfolio.

2. Background

- 2.1 On March 1, 2018 the Municipal Act, 2001 (Act), Ontario Regulation 438/97 (Regulation) was amended to update Section 418 for new eligible investments and add Section 418.1 to provide municipalities with the option to invest under the prudent investor standard. Prior to this change municipalities were only allowed to invest in a prescribed list of securities, often referred to as the legal list.
- 2.2 The legal list approach represents the default set of provincial guidelines for all municipalities and restricts investment to a prescribed list of securities. The ability to invest is limited to the institutions and securities that are considered eligible under the Regulation. For example, Guaranteed Investment Certificates (G.I.C.s) issued by a Schedule I bank are considered eligible investments, whereas direct ownership in shares of a Canadian corporation is not considered an eligible investment. For a full list of permitted securities under Part I: Eligible Investments of the Regulation please refer to Appendix A.

- 2.3 Qualifying municipalities who elect to adopt the prudent investor regime can invest in any security insofar as the portfolio is considered prudent for its circumstances. For a full description of the applicable rules for obtaining prudent investor status please refer to Part II: Prudent Investment in Appendix A.
- 2.4 Durham Region's investments are currently restricted to the legal list of eligible investments permitted under Regulation. The Region's Investment Policy sets a low risk tolerance level, and the overall investing approach prioritizes capital preservation and liquidity when considering investment opportunities to maximize returns within that risk tolerance.

3. Previous Reports and Decisions

- 3.1 The Region's current Statement of Investment Policy and Goals was approved by Council on December 12, 2007 (Confirmation By-law #88-2007). The Act states that before a municipality invests in a security prescribed under the regulation, the Council of the municipality shall adopt a statement of its Investment Policy and goals.
- 3.2 In accordance with the Municipal Act, 2001, Ontario Regulation 438/97, and the Region's "Statement of Investment Policy and Goals", an investment report is prepared annually by the Treasurer to report on the performance of the investment portfolio for the prior fiscal year and compliance with the Region's Investment Policy. The report for 2020 ([2021-INFO-90](#)) was included in the August 27, 2021 CIP package.
- 3.3 Council approved, through the 2020 annual budget, dedicated resources (Manager of Investment Portfolio and Senior Investment Analyst). The Manager of Investment Portfolio is now in place and will be undertaking the next steps as noted below.

4. Discussion

Legal List

- 4.1 Amendments to the legal list were introduced by the Province to provide additional flexibility to invest in a broader range of securities for municipalities that are ineligible for, or choose not to implement, the prudent investor standard.
- 4.2 Examples of investment options under the legal list include:
- Canadian federal, provincial and municipal government or government-guaranteed bonds
 - Short-term and fixed-income securities issued by Canadian chartered banks, loan or trust corporations and credit unions
 - Canadian corporate debt maturing in under 5 years

- Other prescribed investments such as commercial paper and arrangements for the sale of assets that entitle the purchaser to an undivided beneficial interest in a pool of assets (previously referred to as asset-backed securities)
 - Shares of a Canadian corporation or Canadian corporate debt maturing in over five years can only be accessed through ONE Investment portfolios
- 4.3 Issuing financial institutions for all deposit and debt related securities must satisfy the ratings and financial indicators identified in the legislation to be considered eligible investments. For example, Schedule I bank deposits or government debt with maturities over two years must be ranked by Fitch Ratings as “A-” or higher.
- 4.4 Under the legal list approach, no formal governance model is required under Ontario Regulation 438/97. Municipalities maintain full control and management of all investments purchased with public funds and no delegation of investment powers or duties to investment boards are required.
- 4.5 For a full description of amendments to the legal list of eligible investments that came into effect March 1, 2018, please refer to the documentation provided by the ONE Investment Program and WeirFoulds LLP attached as Appendix B.

Prudent Investor

- 4.6 Section 418.1 of the Municipal Act, 2001 that authorizes municipalities (other than the City of Toronto) to opt into the prudent investor regime was proclaimed in force, effective March 1, 2018. This included **regulatory amendments that set out the requirements around eligibility criteria, the governance framework, and the rules for municipalities investing together as a group**. Municipalities that opt into the prudent regime will no longer be restricted to a prescribed list of investments.
- 4.7 For a detailed account of the prudent investor standard, including requirements to participate as of January 1, 2019, please refer to the documentation provided by the ONE Investment Program and WeirFoulds LLP attached as Appendix C.

5. Next Steps

Investment Policy review

- 5.1 Staff will be reviewing the Council approved Investment Policy and regulatory amendments to identify enhancements of the current Investment Policy. Potential changes may include:
- Expanding the permitted list of eligible investments;
 - Revising investment limits (individual and overall portfolio adjustments to minimum or maximum targets);
 - Decreasing minimum credit ratings for eligible investments; and
 - Increasing the average term of the portfolio.

Potential changes to the Investment Policy to allow access to a broader range of securities exposes the Region to more investment risk than it has become accustomed to. However, legal list investments permitted by the Regulation are already restricted to high quality securities and issuers, minimizing the risks inherent with investing. Portfolio risk tolerance will also remain low as updates will provide staff with additional flexibility and guidance when choosing investments, increasing portfolio diversification, mitigating risk, and allowing for improved returns, subject to the capital preservation and liquidity objectives within the policy.

Recommendations from this review will be brought forward to Committee for consideration.

6. Relationship to Strategic Plan

6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- Goal 5.4 Service Excellence – This report demonstrates the commitment to effective, responsible financial management and provision of exceptional value to Durham taxpayers by identifying opportunities to drive organizational success through innovation, a skilled workforce, and modernized services.

7. Conclusion

- 7.1 A preliminary review of the Region's Investment Policy is a significant step towards implementing a more active investment strategy and improving the ability to generate new revenues by implementing a more diversified portfolio. Changes to the policy will enable the optimal use of available funds within the overarching objectives of the Investment Policy and is expected to generate increased investment income, subject to other external factors, such as market conditions.
- 7.2 Municipal investments are an important source of financing and as Durham Region continues to grow, additional revenues will be required to offset property tax increases and balance long-term cash flow needs and funding challenges with future capital budgeting requirements. Cash flows generated from expanded investment authorities can be structured to match expected capital expenses in the future by aligning investment life cycles with municipal asset management plans for repair, replacement, and creation of local infrastructure.
- 7.3 Establishing a process that is reflective of best practices where the long-term financial plan informs investment decisions will require a coordinated effort between Financial Planning and departmental business partners. Ideally, this exercise would include the forecasting of anticipated cash flows associated with approved growth capital projects or asset management requirements.
- 7.4 Finance staff will be communicating plans to the local Area Treasurers to determine effective partnership/support opportunities and will include updates in future reports.

8. Attachments

Attachment #1: Appendix A – O. Reg. 438/97 Eligible Investments & Prudent Investment

Attachment #2: Appendix B – New Investment Powers: Legal List Amendments

Attachment #3: Appendix C – New Investment Powers: Prudent Investor Standard

Respectfully submitted,

Original Signed By

Nancy Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer



Français

Municipal Act, 2001

ONTARIO REGULATION 438/97

FORMERLY UNDER MUNICIPAL ACT

ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

Consolidation Period: From March 1, 2018 to the e-Laws currency date.

Last amendment: 43/18.

Legislative History: [+]

This is the English version of a bilingual regulation.

CONTENTS [-]

PART I

ELIGIBLE INVESTMENTS AND FORWARD RATE AGREEMENTS

- 1. Investment under s. 418 of the Act
- 2. Eligible investments
- 2.1 Eligible investments, continued
- 3. Ratings, financial indicators
- 4. Investment limit
- 4.1 Conditions
- 5. School purposes
- 6. Canadian dollars
- 7. Statement of policies and goals
- 8. Investment report
- 8.1 Inconsistencies, treasurer's duty
- 9. Investments pre March 6, 1997

FORWARD RATE AGREEMENTS

- 10. Forward rate agreements
- 11. Statement of policies and goals
- 12. Report to council

PART II

PRUDENT INVESTMENT

- 13. Definitions
- 14. Application
- 15. Requirements under s. 418.1 (3) of the Act
- 16. Limitation, school board securities
- 17. Investments only through Investment Board or Joint Investment Board
- 18. Investment policy
- 19. Investment plan
- 20. Investment report
- 21. Inconsistencies, treasurer's duty
- 22. Agents of the Investment Board
- 23. Withdrawal from investment arrangement

<u>24.</u>	Application of Part, withdrawal or dissolution
<u>25.</u>	Transitional matters, what may be done in advance
<u>26.</u>	Transitional matters, s. 418.1 of the Act

PART I
ELIGIBLE INVESTMENTS AND FORWARD RATE AGREEMENTS

Investment under s. 418 of the Act

1. (1) This Part applies in respect of investments by a municipality under section 418 of the Act. O. Reg. 43/18, s. 2.

(2) A municipality does not have the power to invest under section 418 of the Act in a security other than a security prescribed under this Part. O. Reg. 43/18, s. 2.

Eligible investments

2. The following are prescribed, for the purposes of subsection 418 (1) of the Act, as securities that a municipality may invest in:

1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by,

i. Canada or a province or territory of Canada,

ii. an agency of Canada or a province or territory of Canada,

iii. a country other than Canada,

iv. a municipality in Canada including the municipality making the investment,

iv.1 the Ontario Infrastructure and Lands Corporation,

v. a school board or similar entity in Canada,

v.1 a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,

v.2 a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*,

vi. a local board as defined in the *Municipal Affairs Act* (but not including a school board or a municipality) or a conservation authority established under the *Conservation Authorities Act*,

vi.1 a board of a public hospital within the meaning of the *Public Hospitals Act*,

vi.2 a non-profit housing corporation incorporated under section 13 of the *Housing Development Act*,

vi.3 a local housing corporation as defined in section 24 of the *Housing Services Act, 2011*, or

vii. the Municipal Finance Authority of British Columbia.

2. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if,

i. the bond, debenture or other evidence of indebtedness is secured by the assignment, to a trustee, as defined in the *Trustee Act*, of payments that Canada or a province or territory of Canada has agreed to make or is required to make under a federal, provincial or territorial statute, and

ii. the payments referred to in subparagraph i are sufficient to meet the amounts payable under the bond, debenture or other evidence of indebtedness, including the amounts payable at maturity.

3. Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments the terms of which provide that the principal and interest shall be fully repaid no later than two years after the day the investment was made, if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by,

i. a bank listed in Schedule I, II or III to the *Bank Act* (Canada),

ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*, or

iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

- 3.1 Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments the terms of which provide that the principal and interest shall be fully repaid more than two years after the day the investment was made, if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by,
- i. a bank listed in Schedule I, II or III to the *Bank Act* (Canada), or
 - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*.
 - iii. REVOKED: O. Reg. 43/18, s. 3 (1).
4. Bonds, debentures, promissory notes or other evidence of indebtedness, the terms of which provide that the principal and interest shall be fully repaid no later than two years after the day the investment was made if issued or guaranteed by an institution listed in paragraph 3.1.
- 4.1 Bonds, debentures, promissory notes or other evidence of indebtedness, the terms of which provide that the principal and interest shall be fully repaid more than two years after the day the investment was made if issued or guaranteed by an institution listed in paragraph 3.1.
- 4.2 Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments, the terms of which provide that the principal and interest shall be fully repaid more than two years after the day the investment was made if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
- 4.3 Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
5. Short term securities, the terms of which provide that the principal and interest shall be fully repaid no later than three days after the day the investment was made, that are issued by,
- i. a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,
 - ii. a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, or
 - iii. a board of a public hospital within the meaning of the *Public Hospitals Act*.
6. Bonds, debentures, promissory notes, other evidence of indebtedness or other securities issued or guaranteed by the International Bank for Reconstruction and Development.
- 6.1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by a supranational financial institution or a supranational governmental organization, other than the International Bank for Reconstruction and Development.
7. Securities that are arrangements for the sale of assets that entitle the purchaser to an undivided beneficial interest in a pool of assets.
- 7.1 Bonds, debentures, promissory notes or other evidence of indebtedness issued by a corporation that is incorporated under the laws of Canada or a province of Canada, the terms of which provide that the principal and interest shall be fully repaid more than five years after the date on which the municipality makes the investment.
- 7.2 Bonds, debentures, promissory notes or other evidence of indebtedness issued by a corporation that is incorporated under the laws of Canada or a province of Canada, the terms of which provide that the principal and interest shall be fully repaid more than one year and no later than five years after the date on which the municipality makes the investment.
8. Negotiable promissory notes or commercial paper, other than securities referred to in paragraph 7, maturing one year or less from the date of issue, if that note or commercial paper has been issued by a corporation that is incorporated under the laws of Canada or a province of Canada.
- 8.1 Shares issued by a corporation that is incorporated under the laws of Canada or a province of Canada.
9. Bonds, debentures, promissory notes and other evidences of indebtedness of a corporation incorporated under section 142 of the *Electricity Act, 1998*.
10. Any security if the municipality acquires the security as a gift in a will or as a donation not made for a charitable purpose.
11. REVOKED: O. Reg. 43/18, s. 3 (5).
12. Shares of a corporation if,
- i. the corporation has a debt payable to the municipality,
 - ii. under a court order, the corporation has received protection from its creditors,
 - iii. the acquisition of the shares in lieu of the debt is authorized by the court order, and
 - iv. the treasurer of the municipality is of the opinion that the debt will be uncollectable by the municipality unless the debt is converted to shares under the court order. O. Reg. 438/97, s. 2; O. Reg. 265/02, s. 1; O. Reg. 399/02, s. 2; O. Reg. 655/05, s. 2; O. Reg. 607/06, s. 1; O. Reg. 39/07, s. 1; O. Reg. 373/11, s. 1; O. Reg. 74/16, s. 1, 2; O. Reg. 43/18, s. 3.

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

Eligible investments, continued

2.1 A security is prescribed for the purposes of subsection 418 (1) of the Act as a security that a municipality may invest in if,

- (a) the municipality invested in the security before January 12, 2009; and
- (b) the terms of the municipality's continued investment in the security have been changed pursuant to the Plan Implementation Order of the Ontario Superior Court of Justice dated January 12, 2009 (Court file number 08-CL-7440) and titled "In the matter of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended and in the matter of a plan of compromise and arrangement involving Metcalfe & Mansfield Alternative Investments II Corp. et al". O. Reg. 292/09, s. 1.

Ratings, financial indicators

3. (1) A municipality shall not invest in a security under subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 or paragraph 4 of section 2 unless the bond, debenture, promissory note or evidence of indebtedness is rated,

- (a) REVOKED: O. Reg. 265/02, s. 2 (1).
 - (b) by Dominion Bond Rating Service Limited as "AA(low)" or higher;
 - (b.1) by Fitch Ratings as "AA-" or higher;
 - (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
 - (d) by Standard and Poor's as "AA-" or higher. O. Reg. 438/97, s. 3 (1); O. Reg. 265/02, s. 2 (1); O. Reg. 399/02, s. 3 (1); O. Reg. 655/05, s. 3 (1, 2); O. Reg. 607/06, s. 2; O. Reg. 39/07, s. 2; O. Reg. 43/18, s. 4 (1).
- (2) A municipality shall not invest in a security under paragraph 3.1 or 4.1 of section 2 unless the bond, debenture, promissory note or evidence of indebtedness is rated,

- (a) by Dominion Bond Rating Service Limited as "A(low)" or higher;
 - (b) by Fitch Ratings as "A-" or higher;
 - (c) by Moody's Investors Services Inc. as "A3" or higher; or
 - (d) by Standard and Poor's as "A-" or higher. O. Reg. 43/18, s. 4 (2).
- (2.0.1) If a municipality's total investments in securities under subparagraph 3 iii and paragraph 4.2 of section 2 have, in the opinion of the treasurer, a value in excess of \$250,000, the municipality shall not invest in any additional security under paragraph 4.2 of section 2 unless the credit union or league that issues, guarantees or endorses the security provides, within 30 days before the day the investment is made,

- (a) audited financial statements indicating that the financial indicators mentioned in subsection (2.0.2) are met by the credit union or league; or
- (b) certification in writing that all of the financial indicators mentioned in subsection (2.0.2) are met by the credit union or league. O. Reg. 43/18, s. 4 (2).

(2.0.2) For the purposes of subsection (2.0.1), the financial indicators to be met by the credit union or league are the following:

1. Positive retained earnings in its audited financial statements for its most recently completed fiscal year.
2. Regulatory capital of at least the percentage of its total assets set out in subsection (2.0.3) as of the date of the latest audited financial statements, calculated in accordance with Ontario Regulation 237/09 (General) made under the *Credit Unions and Caisses Populaires Act, 1994*.
3. Regulatory capital of at least the percentage of its total risk weighted assets set out in subsection (2.0.4) as of the date of the latest audited financial statements, calculated in accordance with Ontario Regulation 237/09 (General).
4. Positive net income in its audited financial statements for three of its five most recently completed fiscal years. O. Reg. 43/18, s. 4 (2).

(2.0.3) The percentage mentioned in paragraph 2 of subsection (2.0.2) is the percentage obtained by adding one percent to the minimum percentage set out in paragraph 1 of subsection 15 (3) of Ontario Regulation 237/09 (General). O. Reg. 43/18, s. 4 (2).

(2.0.4) The percentage mentioned in paragraph 3 of subsection (2.0.2) is the percentage obtained by adding one percent to the minimum percentage set out in paragraph 2 of subsection 15 (3) of Ontario Regulation 237/09 (General). O. Reg. 43/18, s. 4 (2).

(2.0.5) A municipality shall not invest in securities under paragraph 4.3 of section 2 unless the credit union or league that issues or guarantees the security satisfies the conditions set out in subsection (2.0.1). O. Reg. 43/18, s. 4 (2).

(2.1) A municipality shall not invest in a security under paragraph 6.1 of section 2 unless the security is rated,

- (a) by Dominion Bond Rating Service Limited as "AAA";
- (b) by Fitch Ratings as "AAA";
- (c) by Moody's Investors Services Inc. as "Aaa"; or

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

- (d) by Standard and Poor's as "AAA". O. Reg. 655/05, s. 3 (4).
- (3) A municipality shall not invest in a security under paragraph 7 of section 2 that matures more than one year from the date of issue unless the security is rated,
- (a) by Dominion Bond Rating Service Limited as "AAA";
 - (a.1) by Fitch Ratings as "AAA";
 - (b) by Moody's Investors Services Inc. as "Aaa"; or
 - (c) by Standard and Poor's as "AAA". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (2); O. Reg. 655/05, s. 3 (5); O. Reg. 43/18, s. 4 (3).
- (4) A municipality shall not invest in a security under paragraph 7 of section 2 that matures one year or less from the date of issue unless the security is rated,
- (a) by Dominion Bond Rating Service Limited as "R-1(high)";
 - (a.1) by Fitch Ratings as "F1+";
 - (b) by Moody's Investors Services Inc. as "Prime-1"; or
 - (c) by Standard and Poor's as "A-1+". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (3); O. Reg. 655/05, s. 3 (6); O. Reg. 43/18, s. 4 (4).
- (4.1) A municipality shall not invest in a security under paragraph 7.1 or 7.2 of section 2 unless the security is rated,
- (a) by Dominion Bond Rating Service Limited as "A(low)" or higher;
 - (b) by Fitch Ratings as "A-" or higher;
 - (c) by Moody's Investors Services Inc. as "A3" or higher; or
 - (d) by Standard and Poor's as "A-" or higher. O. Reg. 43/18, s. 4 (5).
- (4.2) REVOKED: O. Reg. 43/18, s. 4 (5).
- (5) A municipality shall not invest in a security under paragraph 8 of section 2 unless the promissory note or commercial paper is rated,
- (a) by Dominion Bond Rating Service Limited as "R-1(mid)" or higher;
 - (a.1) by Fitch Ratings as "F1+";
 - (b) by Moody's Investors Services Inc. as "Prime-1"; or
 - (c) by Standard and Poor's as "A-1+". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (4); O. Reg. 655/05, s. 3 (8).
- (6) If an investment made under subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 of section 2 or paragraph 3.1, 4, 4.1, 6.1, 7, 7.1, 7.2 or 8 of section 2 falls below the standard required by this section, the municipality shall create a plan, including expected timelines, for selling the investment and shall sell the investment in accordance with the plan. O. Reg. 43/18, s. 4 (6).
- (6.1) Subsection (6) does not apply with respect to an investment made by a municipality under paragraph 7 of section 2 on a day before the day this subsection comes into force. O. Reg. 292/09, s. 2 (3).
- (6.1.1) If a municipality's total investments in securities under subparagraph 3 iii and paragraph 4.2 of section 2 have, in the opinion of the treasurer, a value in excess of the limit mentioned in subsection (2.0.1) of this section and one of the following circumstances applies, the municipality shall create a plan, including expected timelines, for selling investments made under paragraph 4.2 of section 2 in excess of that limit and shall sell the investments in accordance with the plan:
1. The financial indicators mentioned in subsection (2.0.2) are not met.
 2. The credit union or league fails to provide audited financial statements or a certification as mentioned in subsection (2.0.1). O. Reg. 43/18, s. 4 (7).
- (6.1.2) For the purposes of determining the value of investments under subsection (6.1.1), the value of all investments under subparagraph 3 iii of section 2 shall be counted as part of the total first, followed by the value of all investments made under paragraph 4.2 of section 2. O. Reg. 43/18, s. 4 (7).
- (6.1.3) If one of the circumstances in paragraph 1 or 2 of subsection (6.1.1) applies, the municipality shall create a plan, including expected timelines, for selling investments made under paragraph 4.3 of section 2 and shall sell the investments in accordance with the plan. O. Reg. 43/18, s. 4 (7).
- (7) A municipality shall not invest in a security under paragraph 9 of section 2 unless, at the time the investment is made and as long as it continues, the investment ranks, at a minimum, concurrently and equally in respect of payment of principal and interest with all unsecured debt of the corporation. O. Reg. 265/02, s. 2 (2).

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

(8) A municipality shall not invest in a security under paragraph 9 of section 2 unless, at the time the investment is made, the total amount of the municipality's investment in debt of any corporation incorporated under section 142 of the *Electricity Act, 1998* that would result after the proposed investment is made does not exceed the total amount of investment in debt, including any interest accrued on such debt, of the municipality in such a corporation that existed on the day before the day the proposed investment is to be made. O. Reg. 265/02, s. 2 (2).

(9) Any investment made under paragraph 9 of section 2, including any refinancing, renewal or replacement thereof, may not be held for longer than a total of 10 years from the date such investment is made. O. Reg. 265/02, s. 2 (2).

(10) Subsections (7), (8) and (9) do not prevent a municipality from holding or disposing of a security described in paragraph 9 of section 2 issued by a corporation incorporated under section 142 of the *Electricity Act, 1998*, if the municipality acquired the security through a transfer by-law or otherwise under that Act. O. Reg. 655/05, s. 3 (9).

(11) If a municipality acquires a security under paragraph 10 of section 2 that is not otherwise prescribed under this Part, the municipality shall create a plan, including expected timelines, for selling the investment and shall sell the investment in accordance with the plan. O. Reg. 43/18, s. 4 (8).

(12) REVOKED: O. Reg. 292/09, s. 2 (4).

Investment limit

4. (1) A municipality shall not invest more than 25 per cent of the total amount in all sinking and retirement funds in respect of debentures of the municipality, as estimated by its treasurer on the date of the investment, in short-term debt issued or guaranteed by the municipality. O. Reg. 438/97, s. 4 (1).

(2) In this section,

"short-term debt" means any debt, the terms of which provide that the principal and interest of the debt shall be fully repaid no later than 364 days after the debt is incurred. O. Reg. 438/97, s. 4 (2).

Conditions

4.1 (1) A municipality shall not invest in a security under paragraph 7 of section 2 or in a promissory note or commercial paper under paragraph 8 of section 2 unless, on the date that the investment is made,

(a) the municipality itself is rated, or all of the municipality's long-term debt obligations are rated,

(i) by Dominion Bond Rating Service Limited as "AA(low)" or higher,

(i.1) by Fitch Ratings as "AA-" or higher,

(ii) by Moody's Investors Services Inc. as "Aa3" or higher, or

(iii) by Standard and Poor's as "AA-" or higher; or

(b) the municipality has entered into an agreement with the Local Authority Services and the CHUMS Financing Corporation to act together as the municipality's agent for the investment in that security, promissory note or commercial paper. O. Reg. 265/02, s. 3; O. Reg. 399/02, s. 4; O. Reg. 655/05, s. 4 (1, 2); O. Reg. 43/18, s. 5 (1).

(1.1) A municipality shall not invest in a security under paragraph 7.1 or 8.1 of section 2 unless, on the date the investment is made, the municipality has entered into an agreement with the Local Authority Services and the CHUMS Financing Corporation to act together as the municipality's agent for the investment in the security. O. Reg. 655/05, s. 4 (3); O. Reg. 43/18, s. 5 (2).

(1.2) Subsection (1.1) does not apply to investments in securities by the City of Ottawa if all of the following requirements are satisfied:

1. Only the proceeds of the sale by the City of its securities in a corporation incorporated under section 142 of the *Electricity Act, 1998* are used to make the investments.

2. The investments are made in a professionally-managed fund.

3. The terms of the investments provide that,

i. where the investment is in debt instruments, the principal must be repaid no earlier than seven years after the date on which the City makes the investment, and

ii. where the investment is in shares, an amount equal to the principal amount of the investment cannot be withdrawn from the fund for at least seven years after the date on which the City makes the investment.

4. The City establishes and uses a separate reserve fund for the investments.

5. Subject to paragraph 6, the money in the reserve fund, including any returns on the investments or proceeds from their disposition, are used to pay capital costs of the City and for no other purpose.

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

6. The City may borrow money from the reserve fund but must repay it plus interest. O. Reg. 655/05, s. 4 (3).

(2) The investment made under clause (1) (b) or described in subsection (1.1), as the case may be, must be made in the One Investment Program of the Local Authority Services and the CHUMS Financing Corporation with,

- (a) another municipality;
- (b) a public hospital;
- (c) a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*;
- (d) a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*;
- (d.1) a foundation established by a college mentioned in clause (d) whose purposes include receiving and maintaining a fund or funds for the benefit of the college;
- (e) a school board;
- (f) any agent of an institution listed in clauses (a) to (e);
- (g) Local Authority Services;
- (h) CHUMS Financing Corporation;
- (i) Association of Municipalities of Ontario; or
- (j) Municipal Finance Officers' Association of Ontario. O. Reg. 265/02, s. 3; O. Reg. 655/05, s. 4 (4); O. Reg. 607/06, s. 3; O. Reg. 292/09, s. 3; O. Reg. 52/11, s. 1; O. Reg. 74/16, s. 1, 3; O. Reg. 43/18, s. 5 (3-5).

School purposes

5. A municipality shall not invest in a security issued or guaranteed by a school board or similar entity unless,

- (a) the money raised by issuing the security is to be used for school purposes; and
- (b) REVOKED: O. Reg. 248/01, s. 1.

O. Reg. 438/97, s. 5; O. Reg. 248/01, s. 1.

Canadian dollars

6. (1) Subject to subsection (3), a municipality shall not invest in a security that is expressed or payable in any currency other than Canadian dollars. O. Reg. 43/18, s. 6 (1).

(2) Subsection (1) does not prevent a municipality from continuing an investment, made before this Regulation comes into force, that is expressed and payable in the currency of the United States of America or the United Kingdom. O. Reg. 438/97, s. 6 (2).

(3) Subsection (1) does not apply in respect of securities listed in paragraphs 3, 3.1 and 4.2 of section 2, which may also be expressed or payable in the currency of the United States of America. O. Reg. 43/18, s. 6 (2).

Statement of policies and goals

7. (1) Before a municipality invests in a security prescribed under this Part, the council of the municipality shall, if it has not already done so, adopt a statement of the municipality's investment policies and goals. O. Reg. 438/97, s. 7; O. Reg. 43/18, s. 7.

(2) In preparing the statement of the municipality's investment policies and goals under subsection (1), the council of the municipality shall consider,

- (a) the municipality's risk tolerance and the preservation of its capital;
- (b) the municipality's need for a diversified portfolio of investments; and
- (c) obtaining legal advice and financial advice with respect to the proposed investments. O. Reg. 265/02, s. 4.

(3) REVOKED: O. Reg. 655/05, s. 5.

(4) In preparing the statement of the municipality's investment policies and goals under subsection (1) for investments made under paragraph 9 of section 2, the council of the municipality shall consider its plans for the investment and how the proposed investment would affect the interest of municipal taxpayers. O. Reg. 265/02, s. 4.

Investment report

8. (1) If a municipality has an investment in a security prescribed under this Part, the council of the municipality shall require the treasurer of the municipality to prepare and provide to the council, each year or more frequently as specified by the council, an investment report. O. Reg. 438/97, s. 8 (1); O. Reg. 43/18, s. 7.

(2) The investment report referred to in subsection (1) shall contain,

- (a) a statement about the performance of the portfolio of investments of the municipality during the period covered by the report;
 - (b) a description of the estimated proportion of the total investments of a municipality that are invested in its own long-term and short-term securities to the total investment of the municipality and a description of the change, if any, in that estimated proportion since the previous year's report;
 - (c) a statement by the treasurer as to whether or not, in his or her opinion, all investments are consistent with the investment policies and goals adopted by the municipality;
 - (d) a record of the date of each transaction in or disposal of its own securities, including a statement of the purchase and sale price of each security; and
 - (e) such other information that the council may require or that, in the opinion of the treasurer, should be included. O. Reg. 438/97, s. 8 (2); O. Reg. 655/05, s. 6.
- (2.1) The investment report referred to in subsection (1) shall contain a statement by the treasurer as to whether any of the following investments fall below the standard required for that investment during the period covered by the report:

- 1. An investment described in subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 of section 2.
- 2. An investment described in paragraph 3.1, 4, 4.1, 6.1, 7, 7.1, 7.2 or 8 of section 2.
- 3. An investment described in subsection 9 (1). O. Reg. 292/09, s. 4; O. Reg. 43/18, s. 8 (1).

(2.2) The investment report referred to in subsection (1) shall contain a statement by the treasurer as to whether any investments under paragraphs 4.2 and 4.3 of section 2 are affected by the circumstances set out in paragraphs 1 and 2 of subsection 3 (6.1.1) during the period covered by the report. O. Reg. 43/18, s. 8 (2).

(3) Upon disposition of any investment made under paragraph 9 of section 2, the council of the municipality shall require the treasurer of the municipality to prepare and provide to the council a report detailing the proposed use of funds realized in the disposition. O. Reg. 265/02, s. 5.

Inconsistencies, treasurer's duty

8.1 If an investment made by the municipality is, in the treasurer's opinion, not consistent with the investment policies and goals adopted by the municipality, the treasurer shall report the inconsistency to the council of the municipality within 30 days after becoming aware of it. O. Reg. 655/05, s. 7.

Investments pre March 6, 1997

9. (1) Despite this Part, an investment by a municipality in bonds, debentures or other indebtedness of a corporation made before March 6, 1997 may be continued if the bond, debenture or other indebtedness is rated,

- (a) REVOKED: O. Reg. 265/02, s. 6.
 - (b) by Dominion Bond Rating Service Limited as "AA(low)" or higher;
 - (b.1) by Fitch Ratings as "AA-" or higher;
 - (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
 - (d) by Standard and Poor's as "AA-" or higher. O. Reg. 438/97, s. 9 (1); O. Reg. 265/02, s. 6; O. Reg. 399/02, s. 5; O. Reg. 655/05, s. 8; O. Reg. 43/18, s. 7.
- (1.1) REVOKED: O. Reg. 43/18, s. 9 (1).

(2) If the rating of an investment continued under subsection (1) falls below the standard required by that subsection, the municipality shall create a plan, including expected timelines, for selling the investment and shall sell the investment in accordance with the plan. O. Reg. 43/18, s. 9 (2).

FORWARD RATE AGREEMENTS

Forward rate agreements

10. (1) A municipality that enters into an agreement to make an investment on a future date in a security prescribed by section 2 may enter one or more forward rate agreements with a bank listed in Schedule I, II or III to the *Bank Act* (Canada) in order to minimize the cost or risk associated with the investment because of fluctuations in interest rates. O. Reg. 655/05, s. 9.

(2) A forward rate agreement shall provide for the following matters:

- 1. Specifying a forward amount, which is the principal amount of the investment or that portion of the principal amount to which the agreement relates.
- 2. Specifying a settlement day, which is a specified future date.
- 3. Specifying a forward rate of interest, which is a notional rate of interest applicable on the settlement day.
- 4. Specifying a reference rate of interest, which is the market rate of interest payable on a specified future date on an acceptance issued by a bank listed in Schedule I, II or III to the *Bank Act* (Canada).
- 5. Requiring a settlement payment to be payable on the settlement day if the forward rate and the reference rate of interest are different. O. Reg. 655/05, s. 9.

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

(3) A municipality shall not enter a forward rate agreement if the forward amount described in paragraph 1 of subsection (2) for the investment whose cost or risk the agreement is intended to minimize, when added to all forward amounts under other forward rate agreements, if any, relating to the same investment, would exceed the total amount of the principal of the investment. O. Reg. 655/05, s. 9.

(4) A municipality shall not enter a forward rate agreement unless the settlement day under the agreement is within 12 months of the day on which the agreement is executed. O. Reg. 655/05, s. 9.

(5) A municipality shall not enter a forward rate agreement if the settlement payment described in paragraph 5 of subsection (2) exceeds the difference between the amount of interest that would be payable on the forward amount calculated at the forward rate of interest for the period for which the investment was made and the amount that would be payable calculated at the reference rate of interest. O. Reg. 655/05, s. 9.

(6) A municipality shall not enter a forward rate agreement except with a bank listed in Schedule I, II or III to the *Bank Act* (Canada) and only if the bank's long-term debt obligations on the day the agreement is entered are rated,

(a) by Dominion Bond Rating Service Limited as "A(high)" or higher;

(b) by Fitch Ratings as "A+" or higher;

(c) by Moody's Investors Service Inc. as "A1" or higher; or

(d) by Standard and Poor's as "A+" or higher. O. Reg. 655/05, s. 9.

Statement of policies and goals

11. (1) Before a municipality passes a by-law authorizing a forward rate agreement, the council of the municipality shall adopt a statement of policies and goals relating to the use of forward rate agreements. O. Reg. 655/05, s. 9.

(2) The council of the municipality shall consider the following matters when preparing the statement of policies and goals:

1. The types of investments for which forward rate agreements are appropriate.
2. The fixed costs and estimated costs to the municipality resulting from the use of such agreements.
3. A detailed estimate of the expected results of using such agreements.
4. The financial and other risks to the municipality that would exist with, and without, the use of such agreements.
5. Risk control measures relating to such agreements, such as,
 - i. credit exposure limits based on credit ratings and on the degree of regulatory oversight and the regulatory capital of the other party to the agreement,
 - ii. standard agreements, and
 - iii. ongoing monitoring with respect to the agreements. O. Reg. 655/05, s. 9.

Report to council

12. (1) If a municipality has any subsisting forward rate agreements in a fiscal year, the treasurer of the municipality shall prepare and present to the municipal council once in that fiscal year, or more frequently if the council so desires, a detailed report on all of those agreements. O. Reg. 655/05, s. 9.

(2) The report must contain the following information and documents:

1. A statement about the status of the forward rate agreements during the period of the report, including a comparison of the expected and actual results of using the agreements.
2. A statement by the treasurer indicating whether, in his or her opinion, all of the forward rate agreements entered during the period of the report are consistent with the municipality's statement of policies and goals relating to the use of forward rate agreements.
3. Such other information as the council may require.
4. Such other information as the treasurer considers appropriate to include in the report. O. Reg. 655/05, s. 9.

PART II PRUDENT INVESTMENT

Definitions

13. In this Part,

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

"Investment Board" means a municipal service board that is established under section 196 of the Act by a municipality for the purposes of this Part and includes, for the purposes of paragraph 3 of section 15, subsection 17 (3) and sections 21 and 23, the Toronto Investment Board; ("commission des placements")

"Joint Investment Board" means a municipal service board that is established under section 202 of the Act by two or more municipalities for the purposes of this Part; ("commission mixte des placements")

"Toronto Investment Board" means the board of the City of Toronto described in subsection 46 (2) of Ontario Regulation 610/06 (Financial Activities) made under the *City of Toronto Act, 2006*. ("Commission des placements de Toronto") O. Reg. 43/18, s. 10.

Application

14. This Part applies in respect of investments by a municipality under section 418.1 of the Act. O. Reg. 43/18, s. 10.

Requirements under s. 418.1 (3) of the Act

15. A municipality must satisfy one of the following requirements on the day referred to in subsection 418.1 (3) of the Act in order to pass a by-law for the purposes of that subsection:

1. The municipality must have, in the opinion of its treasurer, at least,
 - i. \$100,000,000 in money and investments that it does not require immediately, or
 - ii. \$50,000,000 in net financial assets, as indicated in Schedule 70 of the most recent Financial Information Return supplied to the Ministry of Municipal Affairs by the municipality under the Act and posted on the Ministry's website on the day the municipality passes the by-law under subsection 418.1 (2) of the Act.
2. The municipality must have entered into an agreement to establish and invest through a Joint Investment Board with one or more other municipalities, and all of the municipalities must have, in the opinion of each of their treasurers, a combined total of at least \$100,000,000 in money and investments that the municipalities do not require immediately.
3. The municipality must have entered into an agreement with the following parties to invest through an Investment Board or a Joint Investment Board that was established by another municipality or municipalities before the day the municipality passes the by-law:
 - i. The Investment Board or Joint Investment Board, as the case may be.
 - ii. Any other municipalities investing through the Investment Board or Joint Investment Board on the day the municipality passes the by-law. O. Reg. 43/18, s. 10.

Limitation, school board securities

16. A municipality shall not invest money in a security issued or guaranteed by a school board or similar entity in Canada unless the money raised by issuing the security is to be used for school purposes. O. Reg. 43/18, s. 10.

Investments only through Investment Board or Joint Investment Board

17. (1) A municipality that satisfies the requirement set out in paragraph 1 of section 15 may invest money only by having an Investment Board that meets the following criteria do so on its behalf:

1. The Investment Board has been established by the municipality.
2. The Investment Board has been given the control and management of the municipality's investments by the municipality delegating to the Investment Board,
 - i. the municipality's powers to make the investments, and
 - ii. the municipality's duties under section 418.1 of the Act. O. Reg. 43/18, s. 10.

(2) A municipality that satisfies the requirement set out in paragraph 2 of section 15 may invest money only by having a Joint Investment Board that satisfies the following criteria do so on its behalf.

1. The Joint Investment Board is the subject of an agreement referred to in paragraph 2 of section 15.
2. The Joint Investment Board has been given the control and management of the municipality's investments, together with that of all the other municipalities that are party to the agreement referred to under paragraph 2 of section 15, by each municipality delegating to the Joint Investment Board,
 - i. the municipality's powers to make the investments, and
 - ii. the municipality's duties under section 418.1 of the Act. O. Reg. 43/18, s. 10.

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

(3) A municipality that satisfies the requirement under paragraph 3 of section 15 may invest money only by having an Investment Board or Joint Investment Board, as the case may be, that satisfies the following criteria do so on its behalf:

1. The Investment Board or Joint Investment Board is the subject of an agreement referred to in paragraph 3 of section 15.
2. The Investment Board or Joint Investment Board has been given the control and management of the municipality's investments by the municipality delegating to the Investment Board or Joint Investment Board,
 - i. the municipality's powers to make the investments, and
 - ii. the municipality's duties under section 418.1 of the Act. O. Reg. 43/18, s. 10.

(4) The following persons may not be appointed as members of the Investment Board or Joint Investment Board:

1. An officer or employee of any municipality for which it invests.
2. A member of council of any municipality for which it invests. O. Reg. 43/18, s. 10.

(5) Subsection (3) does not apply to any treasurer of a municipality for which the board invests provided that treasurers do not make up more than one quarter of the members. O. Reg. 43/18, s. 10.

Investment policy

18. (1) The council of a municipality shall adopt and maintain an investment policy in relation to investing under this Part. O. Reg. 43/18, s. 10.

(2) The investment policy shall include requirements with respect to the following:

1. The municipality's objectives for return on investment and risk tolerance.
2. The municipality's need for liquidity including, for greater certainty, the municipality's anticipated needs for funds for planned projects and the municipality's needs to have funds available for unanticipated contingencies. O. Reg. 43/18, s. 10.

(3) The investment policy may include other requirements with respect to investment matters that council considers to be in the interests of the municipality. O. Reg. 43/18, s. 10.

(4) At least annually, the council shall review the investment policy and update it, as necessary, as a result of the review. O. Reg. 43/18, s. 10.

Investment plan

19. (1) An Investment Board or Joint Investment Board shall adopt and maintain an investment plan in respect of all municipalities that have delegated to it,

- (a) the municipality's powers to make investments; and
- (b) the municipality's duties under section 418.1 of the Act. O. Reg. 43/18, s. 10.

(2) The investment plan shall deal with how the Investment Board or Joint Investment Board will invest each municipality's money and set out the Board's projections of the proportions of each municipality's portfolio of investments to be invested at the end of the year in each type of security selected by the Investment Board or Joint Investment Board and may include other requirements. O. Reg. 43/18, s. 10.

(3) At least annually, following each council's review of the investment policy under subsection 18 (4), the Investment Board or Joint Investment Board shall review the investment plan and update it, as necessary, as a result of the reviews. O. Reg. 43/18, s. 10.

Investment report

20. (1) An Investment Board or Joint Investment Board shall prepare and provide to the council of each municipality referred to in subsection 19 (1), each year or more frequently as specified by the council, an investment report. O. Reg. 43/18, s. 10.

(2) The investment report shall contain,

- (a) a statement about the performance of the municipality's portfolio of investments during the period covered by the report;
- (b) a statement by the treasurer of the municipality as to whether or not, in the opinion of the treasurer, all investments are consistent with the municipality's investment policy under section 18 and the investment plan for the municipality under section 19; and
- (c) such other information that the council may require or that, in the opinion of the treasurer, should be included. O. Reg. 43/18, s. 10.

Inconsistencies, treasurer's duty

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

21. If an investment made by an Investment Board or a Joint Investment Board is, in the opinion of the municipality's treasurer, not consistent with the municipality's investment policy under section 18 and the investment plan for the municipality under section 19 of this Regulation or section 48.1 of Ontario Regulation 610/06 (Financial Activities) made under the *City of Toronto Act, 2006*, as the case may be, the treasurer shall report the inconsistency to the council within 30 days after becoming aware of it. O. Reg. 43/18, s. 10.

Agents of the Investment Board

22. (1) Subject to subsections (2) and (3), an Investment Board or Joint Investment Board may authorize an agent to exercise any of the board's functions to the same extent that a prudent investor, acting in accordance with ordinary investment practice, would authorize an agent to exercise any investment function. O. Reg. 43/18, s. 10.

(2) An Investment Board or Joint Investment Board may not authorize an agent under subsection (1) unless a written agreement between the board and the agent is in effect and the agreement includes,

(a) a requirement that the agent comply with the requirements included in the investment policy or policies under section 18 and with the investment plan under section 19; and

(b) a requirement that the agent report to the board at regular stated intervals. O. Reg. 43/18, s. 10.

(3) An Investment Board or Joint Investment Board shall exercise prudence in selecting an agent, in establishing the terms of the agent's authority and in monitoring the agent's performance to ensure compliance with those terms. O. Reg. 43/18, s. 10.

(4) For the purpose of subsection (3), prudence in monitoring an agent's performance includes,

(a) reviewing the agent's reports;

(b) regularly reviewing the agreement between the Investment Board or Joint Investment Board and the agent and how it is being put into effect, including assessing whether the requirement described in clause (2) (a) is being complied with;

(c) considering whether directions should be provided to the agent or whether the agent's appointment should be revoked; and

(d) providing directions to the agent or revoking the appointment if the Investment Board or Joint Investment Board considers it appropriate to do so. O. Reg. 43/18, s. 10.

(5) This section does not prevent the investment, by the Investment Board or Joint Investment Board, in mutual funds, pooled funds or segregated funds under variable insurance contracts, and the manager of such a fund is not an agent for the purpose of this section. O. Reg. 43/18, s. 10.

Withdrawal from investment arrangement

23. A municipality may withdraw from investing through an Investment Board or Joint Investment Board that the municipality has not established if all of the following conditions are met:

1. All the municipalities investing through the board agree to the withdrawal.

2. The municipality has done one of the following:

i. Entered into an agreement with another municipality that has established an Investment Board, that Investment Board and any other municipalities investing through that Investment Board, to invest through that Investment Board.

ii. Entered into an agreement with the municipalities that have established a Joint Investment Board, that Joint Investment Board and any other municipalities investing through that Joint Investment Board, to invest through that Joint Investment Board.

iii. Established an Investment Board on its own or established a Joint Investment Board with one or more other municipalities.

3. The municipality has given the Investment Board or Joint Investment Board through which it will be investing the control and management of the municipality's investments by delegating to the board,

i. the municipality's powers to make the investments, and

ii. the municipality's duties under section 418.1 of the Act. O. Reg. 43/18, s. 10.

Application of Part, withdrawal or dissolution

24. (1) This section applies if a municipality establishes an Investment Board or a Joint Investment Board,

(a) in order to meet the condition set out in subparagraph 2 iii of section 23 with respect to withdrawing from investing; or

(b) in order to meet a condition set out in Ontario Regulation 42/18 (Dissolution of and Prescribed Changes to Investment Board or Joint Investment Board) made under the Act. O. Reg. 43/18, s. 10.

8/31/2021

O. Reg. 438/97: ELIGIBLE INVESTMENTS, RELATED FINANCIAL AGREEMENTS AND PRUDENT INVESTMENT

(2) The municipality must satisfy the requirement set out in paragraph 1 or 2 of section 15 at the time of establishing the board and the reference in subparagraph 1 ii of section 15 to "the day the municipality passes the by-law under subsection 418.1 (2) of the Act" is deemed for the purposes of this section to be a reference to "the day the Investment Board is established". O. Reg. 43/18, s. 10.

(3) Subsections 17 (1) and (2) apply to the municipality. O. Reg. 43/18, s. 10.

(4) Sections 16 and 18 to 22 apply with respect to the investment of money by the Investment Board or Joint Investment Board. O. Reg. 43/18, s. 10.

Transitional matters, what may be done in advance

25. For greater certainty, before a municipality passes a by-law under subsection 418.1 (2) of the Act and before the effective date of the by-law,

- (a) the municipality may establish an Investment Board or Joint Investment Board and appoint the members;
- (b) the municipality may enter into an agreement described in paragraph 2 or 3 of section 15;
- (c) the municipality may adopt an investment policy under section 18;
- (d) an Investment Board or Joint Investment Board may adopt an investment plan under section 19; and
- (e) an Investment Board or Joint Investment Board may authorize an agent under section 22. O. Reg. 43/18, s. 10.

Transitional matters, s. 418.1 of the Act

26. (1) No municipality shall pass a by-law under subsection 418.1 (2) of the Act until January 1, 2019. O. Reg. 43/18, s. 10.

(2) Despite the passing of a by-law by a municipality under subsection 418.1 (2) of the Act,

- (a) section 8 of this Regulation continues to apply to the municipality for the purposes of reporting in respect of any period up to and including the effective date of the by-law; and
- (b) section 20 of this Regulation applies to an Investment Board or Joint Investment Board for the purposes of reporting in respect of any period following the effective date of the by-law. O. Reg. 43/18, s. 10.

(3) Despite the passing of a by-law by a municipality under subsection 418.1 (2) of the Act,

- (a) section 8.1 of this Regulation continues to apply with respect to investments made on or before the effective date of the by-law; and
- (b) section 21 of this Regulation applies with respect to investments made following the effective date of the by-law. O. Reg. 43/18, s. 10.

(4) Despite the passing of a by-law by a municipality under subsection 418.1 (2) of the Act, reports shall be made by the treasurer under subsection 12 (1) of this Regulation until reports have been made covering the periods up to and including the period ending on the effective date of the by-law. O. Reg. 43/18, s. 10.

Français



March 1, 2018

New Investment Powers: Legal List Amendments

New Additions to the Legal List of Eligible Investments and Related Changes

The Amendments to O. Reg.s 438/97 (relating to changes to the Legal List), 653/05 and 84/16 under the Act have implemented the following changes to the existing rules:

1. Previously municipalities were required to sell certain rated investments within 180 days if the investments were downgraded to a level not permitted for municipal investments. The amended regulations provide that the requirement to sell within 180 days does not apply if the municipality first creates a workout plan that includes expected timelines for selling the downgraded investment (“**Workout Plan**”) and the municipality sells the downgraded investment in accordance with the Workout Plan.
2. The minimum security credit ratings for securities in which municipalities can invest have been reduced to A- (or equivalent ratings of specified rating agencies) for the following, although the other requirements in respect of such securities continue:
 - (a) deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments (“**Deposit Securities**”) with a term of more than two years issued, guaranteed or endorsed by a Canadian bank or a loan or trust corporation registered under the *Ontario Loan and Trust Corporations Act* (“**Loan or Trust Corporation**”);
 - (b) bonds, debentures, promissory notes or other evidence of indebtedness (“**Debt Securities**”) with a term of more than two years issued or guaranteed by a Canadian bank or Loan or Trust Corporation;
 - (c) Canadian corporate bonds with a term greater than one year and not greater than five years;
 - (d) Canadian corporate bonds with a term greater than five years.
3. Municipalities are enabled to invest in Deposit Securities, regardless of the duration of the term, issued, guaranteed or endorsed by a credit union or league to which the *Ontario Credit Unions and Caisses Populaires Act, 1994* applies (“**Credit Union or League**”), up to \$250,000. If, within 30 days of the date of any such investment, in the opinion of the municipality’s treasurer, the value of the aggregate of such securities held by the municipality exceeds \$250,000 the municipality is prohibited from making any further investment in such Deposit Securities with a term greater than 2 years unless the Credit Union or League meets the requirements in respect of the financial indicators set forth in the regulation.
4. Municipalities are enabled to invest in Debt Securities issued or guaranteed by a Credit Union or League only if the Credit Union or League meets conditions set out in the regulation.

5. Municipalities are enabled to invest in Deposit Securities denominated in U.S. currency, for any term, issued, guaranteed or endorsed by a Canadian bank, Loan or Trust Corporation or Credit Union or League.
6. Municipalities may accept any security acquired as a gift in a will or as a donation not made for a charitable purpose, provided that the security is sold or converted into an eligible security (or securities) in accordance with a Workout Plan (see para. 1 above).
7. The 180 day limitation that formerly applied to bond forward agreements has been replaced by a limit of 12 months.
8. Municipalities are enabled to enter into investment agreements with an expanded range of persons, including LAS, CHUMS, AMO and MFOA.¹

¹ LAS (Local Authority Services); CHUMS (CHUMS Financing Corporation); AMO (Association of Municipalities of Ontario); MFOA (Municipal Finance Officers' Association of Ontario)



March 1, 2018

New Investment Powers: Prudent Investor Standard

Prudent Investor Regime

Section 418.1 of the *Municipal Act, 2001* (the “**Act**”) that authorizes municipalities (other than the City of Toronto) to opt into the prudent investor regime was proclaimed in force, effective March 1, 2018. On the same date, the long-awaited regulatory amendments that set out the rules and requirements that municipalities must satisfy prior to investing under the prudent investor standard will come into force. Specifically, those rules and requirements include: eligibility criteria, the governance framework, and the rules for municipalities investing together as a group. However, despite coming into force, a municipality shall not pass a by-law adopting the prudent investor regime **until January 1, 2019.**

Prior to the changes Ontario municipalities (other than the City of Toronto) were restricted to investing in a prescribed list of securities. The regulatory amendments provide a framework within which municipalities will have the opportunity to invest in a much wider array of securities and investment vehicles. These broader investment powers will be subject to the prudent investment standard which requires a municipality to exercise the care, skill, diligence and judgement that a prudent investor would exercise in making such an investment. The prudent investor standard is well-established in the Province because it has governed Ontario trustees for almost two decades.

Summary Overview

Generally speaking, in order for a municipality to take advantage of these new powers, it will have to:

- meet specific financial criteria
- pass an appropriate by-law
- establish or enter into an agreement to appoint an Investment Board (the “**IB**”) which is to be a municipal service board
- adopt and maintain an investment policy
- have the IB adopt and maintain an investment plan which reflects the municipality’s investment policy

- put in place a compliance monitoring system to provide assurance that the money is invested under the direction and supervision of the IB in compliance with the investment policy and the investment plan
- put in place a mechanism for regular reviews and reports (at least annually) and, if required, for the update of the municipality's investment policy and investment plan

A municipality will be able to qualify to invest under the prudent investor regime either independently or as part of a group. The distinction is dealt with below. Once a municipality has opted into the prudent investor regime, it cannot opt out unless a future regulation is passed permitting it to invest again in accordance with the prescribed list of securities.

Financial Criteria for a Municipality to Independently Qualify

For a municipality to independently qualify, its treasurer must be of the opinion that the municipality can satisfy one of the following criteria:

1. the municipality has at least \$100,000,000.00 in money and investments that it does not require immediately; or
2. the municipality has at least \$50,000,000.00 in net financial assets (as per Schedule 70 of the most recent Financial Information Return supplied to the Ministry and posted on the Ministry's website on the day the municipality passes the appropriate by-law referred to above).

Financial Criteria for Municipalities to Invest Together as a Group

If a municipality does not independently qualify, it may be able to invest under the new regime as part of a group of municipalities if it meets one of the following criteria:

1. enter into a written agreement to invest through an IB established by a municipality that has fulfilled an independent qualification requirement, provided such municipality, the IB and other municipalities investing through the IB are parties to the agreement;
2. enter into a written agreement to invest through the City of Toronto's IB, provided the City of Toronto, the Toronto IB and other municipalities investing through the Toronto IB are parties to the agreement (see comments below re: the City of Toronto and its IB);
3. enter into an agreement to establish and invest through a Joint Investment Board which is to be a joint municipal service board (the "JIB") with one or more other municipalities if all of the municipalities establishing the JIB have, in the opinion of their treasurers, a combined total of at least \$100,000,000.00 in money and investments that the municipalities do not require immediately; or
4. enter into an agreement to invest through an existing JIB established by other municipalities in accordance with 3 (above) provided such municipalities, the JIB and any other municipalities investing through the JIB are parties to the agreement.

Scope

Section 418.1 of the Act provides that a municipality may invest in accordance with the prudent investor regime “money that it does not require immediately”. This is not a new concept. Investments in the prescribed list of securities have historically, and are still limited to “money that [a municipality] does not require immediately.” Nevertheless, a municipality wishing to move from the prescribed list of securities to the new prudent investment regime should consider carefully its budget and financial assets with a view to making a determination of the amount of money that it ‘requires immediately’ and the amount of money that it ‘does not require immediately’. Money that falls into the latter category must be transferred to the IB. A discussion of possible interpretations of “money not required immediately” will be featured in an upcoming newsletter.

Governance

Under Section 418.1 a municipality must give its IB control and management of money to be invested by officially delegating to it the municipality’s powers to make investments and the municipality’s duties regarding investments under that section of the Act.

The municipal council will be able to select and appoint the members of the IB. However, with the exception of the treasurer, an officer or employee or a member of the Council of any municipality for which the IB invests cannot be a member of the IB. In the case of a JIB, municipal treasurers cannot make up more than one quarter of the members.

Of note, once a municipality begins investing through an IB or a JIB, the new rules place restrictions on when and how a municipality can withdraw from the IB or the JIB. These restrictions and their consequences should be carefully reviewed prior to entering into any agreement.

Investment Policy and Investment Plan

The investment policy is to be adopted and maintained by the municipal council, and must include requirements taking into account the municipality’s objectives for return on investment, risk tolerance and the need for liquidity, in addition to any other requirements deemed to be in the interests of the municipality.

The investment policy can apply to all investments and financial arrangements entered into by a municipality, including money and investments that remain under the control and management of the treasurer as ‘money that the municipality requires immediately’ and that is accordingly not transferred to the IB or the JIB.

Use of Agents

Under the new regulations, an IB or JIB may authorize an agent, such as a portfolio manager, a custodian, etc. to exercise any of the board’s functions, provided that a written agreement with the agent exists and the agreement requires the agent to comply with the investment policy and plan, and to report to the board at regular intervals.

Withdrawal from Investment Arrangement

A municipality can withdraw from investing through an IB or a JIB provided all of the prescribed conditions are met.

City of Toronto as an Illustration of the Prudent Investment Standard in Use

The City of Toronto is the first Ontario municipality to operate under the prudent investor regime. Pursuant to the regulations under the *City of Toronto Act, 2006* (“**COTA**”), effective January 1, 2018 the City of Toronto was required to invest its money that it does not require immediately under the new regime. In anticipation of the effective date, Toronto City Council adopted an investment policy before the end of 2017. Toronto’s investment policy is the only existing operative Ontario municipal investment policy under the prudent investor regime in the Province. It affords useful guidance to Ontario’s other 443 municipalities that may be considering the adoption of an investment policy under the new prudent investor regime. A word of caution, however. Under the COTA and its related regulations, the City of Toronto has significantly broader investment powers than the other 443 Ontario municipalities will have even under the new prudent investor regime. As a consequence, other Ontario municipalities should establish their own investment policies and not simply adopt one that mirrors Toronto’s investment policy as by adopting the Toronto model without appropriate alterations they may not be compliant with the new prudent investor rules and requirements. Of further note, the City of Toronto’s current investment policy does not contemplate the City of Toronto investing money on behalf of other municipalities.

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2304



The Regional Municipality of Durham Report

To: Finance and Administration Committee
 From: Commissioner of Finance
 Report: #2021-F-26
 Date: October 12, 2021

Subject:

Authorization to enter into Collection Agency Services Agreements for POA Defaulted Fines and General Accounts Receivable under the Ontario Education Collaborative Marketplace (OECM) Master Agreement

Recommendation:

That the Finance and Administration Committee recommends to Regional Council:

- A) That the Region of Durham be authorized to enter into a Client Supplier Agreement with Gatestone & Co. Inc, Credit Bureau of Canada Collections, EOS Canada Inc., ARO Inc., and Debt Control Inc. for the collection of defaulted Provincial Offences Act (POA) fines and general account receivables, in accordance with the terms and conditions of the Ontario Education Collaborative Marketplace (OECM) Master Agreement, and including:
 - i) Commission fees ranging from 12% to 15% for first placement agencies and 18% to 25% for the second placement agency; and,
 - ii) The initial term **ending** on March 31, 2024, in accordance with the term established by the OECM, with up to two additional one-year extensions.
 - B) That the Commissioner of Finance be authorized to execute the Client Supplier Agreements and any other necessary agreements.
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Report:

1. Purpose

- 1.1 The purpose of this report is to recommend entering into agreements for collection agency services for the collection of defaulted Provincial Offences Act

(POA) fines and general accounts receivable, in accordance with the terms and conditions of the Ontario Education Collaborative Marketplace (OECM) Master Agreement.

2. Background

- 2.1 The use of collection agencies to assist in collecting funds owed to the Region of Durham has been a long-term standing practice. Collection agencies have been used to assist with the collection of general accounts receivable where warranted. Upon assumption of the Provincial Offences operation, the use of collections agencies was extended to the collection of defaulted Provincial Offences Act (POA) fines and has proven beneficial in conjunction with the staff efforts for the collection of fine revenue.
- 2.2 For Provincial Offences, the use of services of third parties is permitted under the Memorandum of Understanding between the Province and the Region. While approval of the Attorney General was previously necessary for the use of collection agency services, as well as for the recovery of collection agency commission fees from POA offenders, this is no longer required.

3. Previous Reports and Decisions

- 3.1 Approval of Report 2015-F-69 authorized entering into agreements with collection agencies under the Ontario Education Collaborative Marketplace (OECM) Master Agreement for the first time. The term of these agreements was for three and a half years, with the option of two additional one-year extensions.

4. Selection of Collection Agencies

- 4.1 In reviewing options for selection of collection agencies, staff found that in January 2014 the Ontario Education Collaborative Marketplace (OECM) had issued a Request for Proposal number 2014-197 (RFP) for the provision of Collection Agency Services to assist clients with the collection and recovery of debts. Participation in this RFP was open to Broader Public Sector (BPS) organizations. Subsequently, the OECM awarded contracts to three collection agencies - Gatestone & Co. Inc., Credit Bureau of Canada Collections and EOS Canada Inc. The OECM has recently completed a new RFP process for collection agency services.
- 4.2 OECM is a not for profit/non share corporation, partially funded by the government of Ontario and governed by a Board of Directors representing publicly funded education institutions in addition to the business community. All OECM agreements meet the mandatory requirements of the BPS Procurement Directive and are available to participation by municipalities.
- 4.3 Finance staff has reviewed the OECM RFP and Master Agreement and are once again recommending participation by the Region of Durham in this award for the services of third-party collection agencies. The award will result in a lower range for

commission fees for both first placement (initial collection efforts) and second placement (files have already been worked by first placement agencies) assignments. First placement commission fees range from 12 – 15 per cent, compared to the current 13 – 19 per cent, and the range for second placements drops to 18 - 25 per cent from the current 30 – 35 per cent.

- 4.4 The OECM awarded contracts were effective March 31, 2021 and are for a period of three years. The agreements provide for two optional one-year extensions.
- 4.5 The Finance Department is currently using or has used the services of four of the five agencies being recommended: Credit Bureau of Canada Collections, EOS Canada Inc., ARO Inc., and Gatestone & Co. Inc., helping to ensure a smooth transition. The new agency, Debt Control Inc., is being used by other municipalities.
- 4.6 It is recommended that the Region enter into Client Supplier Agreements with these five agencies for the collection of defaulted Provincial Offences Act (POA) fines and general accounts receivable, in accordance with the terms and conditions of the OECM Master Agreement.
- 4.7 The collection agency commission fees charged by the agencies will continue to be recovered from POA offenders, to the extent possible. The Finance Department also provides collection services for the County of Elgin (Elgin) under a Purchase of Services contract, which includes the use of the collection agencies selected by Durham.

5. FINANCIAL IMPLICATIONS

Purchasing By-Law

- 5.1 Section 12.1 of Purchasing By-law 16-2020 provides that the Purchasing Manager may enter into arrangements with area municipalities, local boards and other public bodies or authorities on a co-operative or joint basis where there are economic advantages in so doing providing that under such arrangements:
 - “12.1.1 The method of acquisition used is a competitive method similar to that described in this by-law; and
 - 12.1.2 The awarding and reporting of such contracts are in accordance with Appendix “D” of this by-law and applicable laws and trade treaties.”
- 5.2 Where the value of the award is expected to exceed \$100,000 for the term of the contracts, approval of the award by Regional Council is required. Collectively, these agreements are expected to exceed the limit over the term.

Financing

- 5.3 Commission fees are included in the applicable annual Business Plans and Budgets for various programs of the Finance Department. Collection agency

commission fees can be added to the cost of a fine for POA matters and whenever possible these fees are recovered from POA offenders.

6. Relationship to Strategic Plan

- 6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

Goal 5 - To provide exceptional value to Durham taxpayers through responsive, effective and fiscally sustainable service delivery.

7. Conclusion

- 7.1 It is recommended that the Region of Durham enter into Client Supplier Agreements with Gatestone & Co. Inc, Credit Bureau of Canada Collections, EOS Canada Inc., ARO Inc., and Debt Control Inc. for the collection of defaulted POA fines and general account receivables, in accordance with the terms and conditions of the Ontario Education Collaborative Marketplace Master Agreement. The agreements are for a term of approximately three years, with two optional one-year extensions.

Respectfully submitted,

Original Signed By

Nancy Taylor, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed By

Elaine C. Baxter-Trahair
Chief Administrative Officer