



Official Notice

Meeting of Regional Council

Regional Council Chambers
Regional Headquarters Building
605 Rossland Road East, Whitby

Wednesday, October 23, 2019

9:30 AM

1. Roll Call

2. Declarations of Interest

3. Announcements

4. Presentations

- 4.1 Melissa Hutchinson, Manager, Population Health, re: The Opioid Crisis: A Complex, Multifaceted Health and Social Issue

5. Adoption of Minutes

- 5.1 Regional Council meeting – [September 25, 2019](#) Pages 4 - 36
- 5.2 Closed Regional Council meeting – September 25, 2019 Under Separate Cover
- 5.3 Special Regional Council meeting – [October 9, 2019](#) Pages 37 - 44

6. Communications

- CC 41 [Correspondence from the elected leaders of Belleville, Brighton, Greater Napanee, Prince Edward County, Quinte West and Hastings County re: Lake Ontario Water Levels](#) Page 45
- CC 42 [Investigation Report from Deborah Anschell, ADRO Investigator, ADR Chambers Ombuds Office re: Complaint Reference Number MUN-301-0618](#) Page 45
- CC 43 [Correspondence from Association of Municipalities of Ontario re: AMO Board submission of a report to the Attorney General of Ontario on joint and several liability entitled "Towards A](#)

[Reasonable Balance: Addressing growing municipal liability
and insurance costs"](#)

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7. Delegations

8. Notice of Motions

8.1 [Territory Acknowledgement](#)

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9. Committee Reports

9.1 [Finance and Administration Committee](#)

Pages 74 - 79

9.2 [Health and Social Services Committee](#)

Pages 80 - 84

9.3 [Planning and Economic Development Committee](#)

Pages 85 - 88

9.4 [Works Committee](#)

Pages 89 - 91

10. Unfinished Business

There is no unfinished business

11. Other Business

There is no other business

12. By-laws

48-2019 Being a by-law to to amend By-law Number 44-2006
which regulates traffic and parking on roads under the
jurisdiction of the Regional Municipality of Durham.

This by-law implements the recommendations
contained in Item #4 of the 8th Report of the Works
Committee presented to Regional Council on October
23, 2019

49-2019 Being a by-law to amend the by-law respecting the
Water Supply System in the Regional Municipality of
Durham and the establishment of water rates and water
charges being By-law No. 89-2003 of the Regional
Municipality of Durham, to comply with local Source
Protection Plans (SPP).

This by-law implements the recommendations
contained in Item #7 of the 13th Report of the Works

Committee presented to Regional Council on December
16, 2015

13. Confirming By-law

50-2019 Being a by-law to confirm the proceedings of Regional
Council at their meeting held on October 23, 2019

14. 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

REGIONAL COUNCIL

Wednesday, September 25, 2019

The Council of The Regional Municipality of Durham met in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:31 AM

Regional Chair Henry assumed the Chair.

Prior to roll call, Regional Chair Henry read the following land acknowledgement:

We are currently located on land which has long served as a site of meeting and exchange among the Mississaugas Peoples and is the traditional and treaty territory of the Mississaugas of Scugog Island First Nation. We honour, recognize and respect this nation and Indigenous Peoples as the traditional stewards of the lands and waters on which we meet today.

Chair Henry advised that a Land Acknowledgement similar to the one just read would be read at the beginning of every Council meeting and would be forthcoming for Council approval.

1. Roll Call

All members of Council were present with the exception of Councillors Anderson, Joe Neal and Pickles

Councillor Anderson was absent with regrets

Councillor Bath-Hadden left the meeting at 12:22 PM on municipal business

Councillor Collier left the meeting at 10:40 AM to attend a funeral and returned at 12:53 PM

Councillor Maurice Brenner appeared on behalf of Councillor Pickles as the alternate for the City of Pickering

2. Declarations of Interest

Councillor Nicholson made a declaration of interest later in the meeting under the Municipal Conflict of Interest Act with respect to Item 11.1 under Other Business regarding Development Charges for the Royal Ashburn Golf Club. He indicated that his son is employed by the Golf Club's direct competitor.

3. Announcements

Various announcements were made relating to activities and events within the Region and area municipalities.

Regional Chair Henry congratulated Nancy Taylor, Commissioner of Finance, on receiving the 2019 Award of Excellence Award in Municipal Finance from the Municipal Finance Officers Association of Ontario. This award goes to an individual who has made significant contributions and demonstrated leadership in the field of municipal finance.

4. Presentations

4.1 Dr. R.J. Kyle, Commissioner & Medical Officer of Health re: Presentation of "Friends of Health" Awards

Dr. Kyle advised that Durham Region Health Department protects and promotes the health of Durham residents. He added that collaborations and partnerships are essential elements towards the success of their programs and services.

Dr. Kyle stated, that for many years, the Health Department has recognized the importance of contributions to their health protection and promotion efforts by internal and external partners whom they call "Friends of Health".

Dr. Kyle advised that their partners are nominated by managers or staff and nominations are approved by an Executive Committee. He added that this is the first year the "Friends of Health" are being publicly recognized by Regional Council, the Region's Board of Health.

External Partners

- Dr. Bryna Warshawsky, Medical Director of the Communicable Diseases, Emergency Preparedness and Response Department at Public Health Ontario (PHO). Dr. Warshawsky is one of the main physician leads for diseases of public health significance at PHO. For the last 4 years, Dr. Warshawsky was the keynote speaker at the Health Department's Annual Flu Event that is held for health care providers from hospitals, long-term care and retirement homes. At this event, she gives high level influenza updates and provides expert information on influenza. She is a highly rated speaker because her wide-ranging presentations have helped health care providers get prepared for the upcoming flu season and she makes complicated subjects easy to understand.
- Heather Hawco-Grey, Chair, Talking About Mental Illness (TAMI) Coalition. The TAMI Coalition was established in 2002 and includes many community partners. Its purpose is to provide a forum for interested Durham Region community stakeholders to coordinate and facilitate the delivery of mental health education to increase the knowledge of mental wellness and decrease the stigma associated with mental illness. Durham Region Health Department has been a partner of the TAMI coalition since 2016.

Together, the members of the TAMI coalition and the Public Health Nurses (PHNs) in the Healthy Living program raise awareness, reduce stigma and promote positive mental health in the school communities towards a comprehensive school health approach.

Internal Partners

- Darren Owen, Traffic Division Durham Region. Darren has worked with the Health Protection Division on a variety of projects. Over the past few years Darren has assisted with the development of signage for the Health Protection Division offices as well as creating signage for the safe water program and the tobacco enforcement program. Darren has been a champion for public health in that he recognizes the importance of the work being done in the Durham Region to protect public health. Darren continues to be a great partner to the Health Protection Division.
- Audrey Andrews, Manager, Strategic Partnerships and Initiatives, Social Services and Nora Landry, Policy Advisor, Strategic Partnerships, Social Services. Audrey Andrews and Nora Landry have been dedicated partners of the Social Determinants of Health (SDOH) working group, with a shared commitment to address poverty and low-income in Durham Region. They provided significant support with the development and distribution of the Health Department's Income Support Tool which supports service providers to assess clients for income related concerns and to provide appropriate supports and referrals. The partnership with Audrey and Nora has allowed the Health Department to expand the reach of their programs, services and resources.

4.2 Ramesh Jagannathan, Director, Transportation and Field Services, re: Automated Enforcement – Red Light Cameras and Automated Speed Enforcement (2019-W-65 and 2019-W-66)

R. Jagannathan, Director, Transportation and Field Services, presented a PowerPoint presentation regarding Automated Enforcement – Red Light Cameras and Automated Speed Enforcement.

Highlights from the presentation included:

- How Do Red-Light Cameras (RLC) Work?
 - First Photo
 - Second Photo
- How Do Automated Speed Enforcement (ASE) Cameras Work?
- Site Selection Process
- Red-Light Camera Site Selection Criteria
- Automated Speed Enforcement Site Selection Criteria

- Proposed Locations
 - Proposed Red-Light Camera Locations
 - Proposed ASE Locations
- Expected Benefits
- Automated Enforcement – Results (RLC and ASE)
- Why Now?
- Durham Vision Zero – Why Do We Need Automated Enforcement

R. Jagannathan explained red-light cameras (RLCs) work by taking two photographs. The first photo would show a vehicle behind the white stop bar at the start of the red light, and the second photo would show the vehicle beyond the white stop bar, after the start of the red light, therefore being in violation.

R. Jagannathan advised that Automate Speed Enforcement (ASE) work similar to red-light cameras (RLCs) by taking photos of the speeding vehicles including their license plate, and a charge is then sent to the registered owner of those vehicles.

R. Jagannathan advised that all 623 traffic signals within the Region of Durham were analyzed and ranked to determine the locations of the RLCs. He noted the ASE site selection criteria was established by legislation and only permitted in school zones and community safety zones.

R. Jagannathan advised that the reasons for moving forward with these programs now is that aggressive driving is a major concern and the public is asking for increased enforcement, resources for traditional enforcement are limited, and they work. He noted that no other safety countermeasures achieve such a level of crash reduction.

R. Jagannathan responded to questions of Regional Council.

Moved by Councillor Carter, Seconded by Councillor John Neal,
(266) That council recess for 15 minutes.

CARRIED

Council recessed at 11:01 AM and reconvened at 11:15 AM.

5. Adoption of Minutes

Moved by Councillor Marimpietri, Seconded by Councillor Leahy,
(267) That the minutes of the following meetings be adopted:

- Closed Regional Council meeting held on June 26, 2019; and
- Regular Committee of the Whole meeting held on September 11, 2019.

CARRIED

Moved by Councillor Marimpietri, Seconded by Councillor Leahy,
(268) That the minutes of the Regular Regional Council meeting held on June 26, 2019, as amended, be adopted.

CARRIED AS AMENDED

Councillor Nicholson requested that the minutes of the Regional Council meeting held on June 26, 2019 be amended to reflect that he was absent due to physical capacity limitations.

6. Communications

CC 33 Memorandum dated June 30, 2019 from Guy Giorno, Integrity Commissioner, re: Special Report: Follow-up on Committee of the Whole Presentation

Moved by Councillor Lee, Seconded by Councillor Ryan,
(269) That Council Correspondence CC 33 from Guy Giorno, Integrity Commissioner, re: Follow-up on Committee of the Whole Presentation, be received for information.

CARRIED

CC 34 Correspondence dated August 21, 2019 from the Ministry of Transportation, re: Proposed Improvements at the Highway 401/Harmony Road/Bloor Street Interchange

Moved by Councillor Carter, Seconded by Councillor Crawford,
(270) That Council Correspondence CC 34 from the Ministry of Transportation, re: Proposed Improvements at the Highway 401/Harmony Road/Bloor Street Interchange, be received for information.

CARRIED

CC 35 Correspondence dated August 30, 2019 from John Henry, Regional Chair and CEO and Adrian Foster, Mayor of the Municipality of Clarington, re: Request to Enact a Minister's Zoning Order to permit the development of a long-term care home project in the Municipality of Clarington, Regional Municipality of Durham

Moved by Councillor Foster, Seconded by Councillor Ryan,
(271) That Council Correspondence CC 35 from John Henry, Regional Chair and CEO and Adrian Foster, Mayor of the Municipality of Clarington, re: Request to Enact a Minister's Zoning Order to permit the development of a long-term care home project in the Municipality of Clarington, Regional Municipality of Durham, be endorsed.

CARRIED

CC 36 Correspondence dated September 17, 2019 from June Gallagher, Deputy Clerk of the Municipality of Clarington, re: Motion to Build a New Long-Term Care Facility on the Rekker Property and request to enact a Minister's Zoning Order

Moved by Councillor Foster, Seconded by Councillor Ryan,
(272) That Council Correspondence CC 36 from June Gallagher, Deputy Clerk of the Municipality of Clarington, re: Motion to Build a New Long-Term Care Facility on the Rekker Property and request to enact a Minister's Zoning Order, be endorsed.

CARRIED

CC 37 Email correspondence dated September 14, 2019 from Linda Gasser, re: concerns about the Notice of Commencement – Durham York Energy Centre Throughput Increase from 140,000 to 160,000 tonnes per year

Moved by Councillor Carter, Seconded by Councillor Leahy,
(273) That Council Correspondence CC 37 from Linda Gasser, re: concerns about the Notice of Commencement – Durham York Energy Centre Throughput Increase from 140,000 to 160,000 tonnes per year, be received for information.

CARRIED

CC 38 Memorandum dated September 25, 2019 from John Presta, Acting Commissioner of Works, re: Update on the Regional Municipality of Durham's Green Bin Program

Moved by Councillor Carter, Seconded by Councillor Leahy,
(274) That Council Correspondence CC 38 from John Presta, Acting Commissioner of Works, re: Update on the Regional Municipality of Durham's Green Bin Program, be received for information.

CARRIED

CC 39 Memorandum dated September 25, 2019 from John Presta, Acting Commissioner of Works, re: Red-Light Camera Program Implementation Site Selection Process (Report #2019-W-65)

Moved by Councillor Carter, Seconded by Councillor Leahy,
(275) That Council Correspondence CC 39 from John Presta, Acting Commissioner of Works, re: Red-Light Camera Program Implementation Site Selection Process, be received for information.

CARRIED

CC 40 Correspondence dated September 18, 2019 from Chris Darling, Chief Administrative Officer, Central Lake Ontario Conservation Authority (CLOCA), re: September 17, 2019 CLOCA Board Resolution

Moved by Councillor Chapman, Seconded by Councillor Mitchell,
(276) That Council Correspondence CC 40 from Chris Darling, Chief Administrative Officer, Central Lake Ontario Conservation Authority (CLOCA), re September 17, 2019 CLOCA Board Resolution, be received for information.

CARRIED

CC 41 Correspondence dated September 20, 2019 from Elaine Baxter-Trahair, Chief Administrative Officer re: Region of Durham's Organics Management Strategy Anti-Lobbying Policy

Moved by Councillor McLean, Seconded by Councillor Brenner,
(277) That Council Correspondence CC 41 from Elaine Baxter-Trahair, Chief Administrative Officer, re Region of Durham's Organics Management Strategy Anti-Lobbying Policy, be received for information.
CARRIED

7. Delegations

7.1 Greg Milosh, Oshawa resident, re: planning and deliberations pertaining to the Region's 2020 Financial Budget and property taxation

Greg Milosh appeared before Council with respect to the planning and deliberations pertaining to the Region's 2020 Financial Budget.

G. Milosh acknowledged that there are a number of pressures on the Regional budget and stated that it may be possible to limit any tax increase.

G. Milosh presented a table of Region of Durham Tax Data from 2000 to 2018 including the General Levy Stabilization (GLS) reserve fund, total annual property taxes, and investment portfolio.

G. Milosh stated that he wanted to discuss the possibility of using funds from one of the reserves to mitigate, or entirely forego, a property tax increase.

G. Milosh asked that the following questions be answered:

1. Exactly where did all this money in your investment portfolio come from?
2. Exactly what is the investment portfolio going to be used for?
3. Why isn't the General Levy Stabilization reserve being used to minimize or entirely preclude a tax increase?

G. Milosh stated that members of Council and staff have 6 figure incomes and many of these incomes are only one of two incomes within their households. He added that Council will receive a salary increase of approximately 2% which will not only cover the property tax increase, but in some cases that increase will cover almost the entirety of the tax bill. He also noted that there are countless Durham residents who struggle to absorb any additional property tax increase and that Revenue Canada reports that 65% of all income tax returns report a gross income of less than \$45,000.

G. Milosh stated that the ability to absorb another property tax increase is problematic and difficult for many residents, and in his opinion, the Region has an opportunity and a duty to use every possible means of minimizing and stabilizing property taxes, at least in the short term, and he believes that opportunity rests within the utilization of the Region's considerable reserves.

G. Milosh asked that as the Region proceeds with budget planning, to use these reserves, especially the General Levy Stabilization reserve which exists for that very purpose.

G. Milosh responded to questions from the members of Council.

Moved by Councillor Smith, Seconded by Councillor Brenner,
(278) That the Rules of Procedure be suspended in order to permit Carion Fenn to appear as a delegation with respect to Durham Mental Health Day.
CARRIED on a 2/3rds Vote

7.2 Carion Fenn, Carion Fenn Foundation, re: Durham Mental Health Day, October 10, 2019.

Carion Fenn appeared on behalf of the Carion Fenn Foundation with respect to Durham Mental Health Day, October 10, 2019 and the Together We Are Stronger Campaign. Highlights from her presentation included:

- Details about the Carion Fenn foundation
 - Increase awareness and support for mental health
 - Foundation is a registered charity
- First proclamation in Pickering for Durham Mental Health Day
- Proclamation in Ajax
- Proclamation in Whitby
- On May 7th MPP Rod Phillips and Carion Fenn hosting a luncheon at Queen's park to provide an opportunity to speak to MPP's about what is happening in our Region with regards to mental health
- Upcoming events

Bianca Albanese, Executive Vice President, Carion Fenn Foundation, outlined various programs that the foundation is involved with including an annual health expo, youth and seniors programs, adopt a park program participant, and various other community events.

B. Albanese advised that the Foundation's vision for mental health is to raise awareness and provide information; and provide support and a platform for easy access to available tools and resources.

B. Albanese outlined what mental health is and the differences between good mental health and poor mental health. She stated that 1 in 5 people will have a mental health illness in their lifetime.

B. Albanese advised that on October 10th the Foundation will hold their third annual mental health forum which will include various speakers and exhibitors.

B. Albanese outlined ways in which the Region can help including supporting and engaging in mental health programs, providing space for mental health programs, offering funding through grants and sponsorships, enhance strategies that support programs and resources to address issues like gambling and addictions, and celebrate Durham Mental Health Day with proclamations and flag raisings.

C. Fenn responded to questions from the members of Council.

7.3 Dave Paterson and Scott Paterson, re: Royal Ashburn Golf Club – Development Charge Appeal [Item 11.1 – Other Business]

At this point in the meeting Councillor Nicholson made a declaration of interest under the Municipal Conflict of Interest Act with respect to Item 11.1 under Other Business regarding Development Charges for the Royal Ashburn Golf Club. He indicated that his son is employed by the Golf Club's direct competitor. He did not take part in the discussions or vote on the matter.

Dave Paterson appeared on behalf of The Royal Ashburn Golf Club with respect to the imposition of development charges on property located at 995 Myrtle Road West, in the Town of Whitby. Mr. Paterson provided a written copy of his submission; a copy of correspondence to the Town of Whitby; a memorandum dated April 10, 2010, re: Onus on Municipality to Justify Development Charges; and a copy of the Municipal Property Assessment Corporation (MPAC) Property Income and Expense Return Questionnaire.

D. Paterson stated that the only precedent setting project of this kind in Durham Region is at Woodensticks Golf Course. He advised that in 2004 Woodensticks embarked on the same type of project and total development charges were \$19,539.88, with a Regional charge of \$7,104.00. He also noted the increase in development charges since Woodensticks constructed their cabins.

D. Paterson advised that the project was commenced by Royal Ashburn Golf Club in August 2018 when they decided to add accommodations that would be complementary to their existing business. He explained that they began working with the Town of Whitby in August 2018 and development charges were never discussed with them until June 3, 2019 when they went in for the building permit. He added that the cabins are to compliment their existing business and provide an opportunity for overnight accommodation.

D. Paterson asked that the seasonal nature of their business be considered and noted that it is not addressed in the current by-law. He added that they are constructing the cabins to complement their existing business as an opportunity to increase revenue and were not aware that the by-law was being reviewed as they are not developers.

D. Paterson stated that the Development Charges Complaint Committee was concerned about precedent setting if an exception was made for Royal Ashburn Golf Club. He advised that golf courses are assessed by the Municipal Property Assessment Corporation (MPAC), and noted that the more revenue they receive, the more they pay in taxes each year and that this is unique to golf courses

Moved by Councillor Kerr, Seconded by Councillor Foster,
(279) That D. Paterson be granted a one-time two minute extension to finish his delegation.

CARRIED

D. Paterson stated his opinion that if MPAC can make an exception he feels the Region and Municipality can also make an exception. He stated that he believes the MPAC model negates any precedent setting.

D. Paterson responded to questions from the members of Council.

7.4 Lillian Kuehn, Ajax resident, re: Report #2019-W-54: Petition for Construction of a Watermain on Range Road, Lakeridge Road and Ontoro Boulevard, in the Town of Ajax [Item 9.4 – Committee Reports – Works Committee]

Lillian Kuehn, Ajax resident, appeared before Council with respect to the concerns over equitable distribution of costs for the watermain construction on Range Road and Ontoro Boulevard, in the Town of Ajax. A copy of her delegation and supporting documents was provided as a handout.

Highlights from her presentation included:

- Petition Vote Result Distribution – 44 Votes
- Fee Distribution
- Frontage Fee relative to Assessed Value
- Distribution of Cost is not equitable
- Ontario Regulation 586/06
- Alternate Scenarios – Just and Equitable Basis

L. Kuehn stated that the distribution of costs of the public portion of the watermain construction along Range Road and Ontoro Boulevard using only “frontage fees” and the way the petition votes are weighted, unfairly burden a specific group of homeowners. She noted that the frontage fees being charged ranged from \$6,000 to \$225,000 per property.

L. Kuehn stated that lots in the area can no longer be subdivided as they are in the Greenbelt and each will only get one water connection. She added that the smaller lots will benefit more and are paying less for the connections.

Moved by Councillor Carter, Seconded by Councillor Lee,
(280) That L. Kuehn be granted a one-time two minute extension to finish her delegation.

CARRIED

L. Kuehn referenced Ontario Regulation 586/06, Section 16: Reductions and increases in special charges, and Section 17: Reduction in special charges, highlighting the phrase “adjust that amount on a just and equitable basis as compared with the other specially charged lots”. She stated this was not done in this petition and the full lot frontage was used to determine the distribution of costs.

L. Kuehn suggested the following alternate scenarios for the distribution of costs of the public portion of the watermain construction:

- Equal Benefit for Equal Cost ~ \$33,000
- Distribute costs based on assessed value
- Cap Frontages > 30m at 30m - recalculate cost/m
 - Cost \$/m = \$1,284
 - Frontage Fees range - \$14,055 - \$38,554
- Cap Frontages > 30m at 30m – Municipality assumes the difference
- Municipality determines lower special charges for certain lots
- Treat the properties different based on zoning
- Modify Zoning to allow the larger lots to gain an increased benefit
- Rerouting the pipeline to avoid the no votes
- Consider other forms of cost recovery

L. Kuehn responded to questions from the members of Council.

8. Notice of Motions

There were no notices of motions.

Moved by Councillor Foster, Seconded by Councillor Roy,
(281) That the agenda be altered in order to consider Item 11.1 of Other Business next.

CARRIED

11. Other Business

11.1 Report #1 of the Development Charges Complaint Committee, re: The Royal Ashburn Golf Club

[CARRIED AS AMENDED] [SEE MOTION (283) ON PAGE 12]

Moved by Councillor Foster, Seconded by Councillor Lee,
(282) That the development charges imposed by the Region of Durham on The Royal Ashburn Golf Club for the development of property known municipally as 995 Myrtle Road West (Regional Road No. 5), Town of Whitby, be confirmed.

CARRIED AS AMENDED
(See Following Motion)

Moved by Councillor Michell, Seconded by Councillor Mulcahy,
(283) That the main motion (282) of Councillors Foster and Lee to adopt the recommendations contained in Item 11.1 of Other Business be amended by adding the following after the word “confirmed”:

“and further, that staff be requested to review the Development Charges requirements where the matter involves seasonality and where a Regional service (i.e. Transit) is not impacted by the proposed development.”

CARRIED

The main motion (282) of Councillors Foster and Lee to adopt the recommendations contained in Item 11.1 of Other Business was then put to a vote and CARRIED AS AMENDED.

9. Committee Reports

9.1 Report of the Finance and Administration Committee

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

[CARRIED]

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

- C) That Microsoft Unified Support Services be the standard approach for the acquisition of training, development and problem resolution for the Microsoft platform, for a 5-year term, until October 2024;
 - D) That the negotiation of all related agreements with Microsoft Canada Inc., including the Enterprise Licensing Agreement and Unified Support Services, and any changes to these agreements including the annual true-up process and subscription model changes be authorized. These are funded through operational budgets and total \$1,800,000 per year; and;
 - E) That the Commissioner of Finance be authorized to sign agreements in a form satisfactory to the Director of Legal Services.
2. Municipal Lobbyist Registry and Gift Registry (2019-A-27)
[CARRIED]
- That Report #2019-A-27 of the Commissioner of Corporate Services be received for information.
3. Regional Headquarters Lower Level Boardroom (LL-C) Audio/Video Equipment Water Damage Repair Complete (2019-A-29)
[CARRIED]
- That Report #2019-A-29 of the Commissioner of Corporate Services be received for information.
4. Durham York Energy Centre – Approval of the Negotiated Resolution Between Covanta Durham York Renewable Energy Limited Partnership (“Covanta”) and the Owners for the 2017 Reconciliation (2019-A-30)
[CARRIED] [SEE MOTIONS 285 AND 286 ON PAGE 15, AND MOTION (297) ON PAGE 31]
- A) That the proposed resolution provided for in the confidential memorandum from the Director of Legal Services, Attachment #1 to Report 2019-A-30 of the Commissioner of Corporate Services, dated September 10, 2019, be approved by Regional Council;
 - B) That Regional staff be directed to execute such documents and carry out such tasks as may be required to implement the terms of the resolution; and
 - C) That should Council approval of Recommendations A) to B) of Report #2019-A-30 not be received, that staff be authorized to utilise the dispute resolution provisions of the Project Agreement, including binding Arbitration.

5. Cancellation of Uncollectible General Accounts Receivable (2019-F-30)
[CARRIED]

That one uncollectible account in the amount of \$25,852.75 be approved for write-off.

6. Joint and Several Liability Reform (2019-F-31)
[CARRIED]

A) That Report #2019-F-31 of the Commissioner of Finance be received and forwarded with consultation information to the Attorney General offices as the Region of Durham's submission to the Government of Ontario's consultation process to seek joint and several liability reform in Ontario; and

B) That a copy of Report #2019-F-31 be forwarded to AMO, all local Durham MPP's and all local municipalities.

7. Request for Deferral of Development Charges for Proposed Industrial Facility in Clarington (2019-F-32)
[CARRIED]

A) That the request from Cannapiece Group Inc. to defer the payment of development charges on the proposed industrial facility in Clarington be approved on such terms as are set out generally in the following recommendations:

- i) That the Region enter into an agreement with Cannapiece Group Inc. for the deferral of development charges for the proposed construction on an industrial facility at 580 Lake Road in Bowmanville at the rate in effect at time of payment;
- ii) That the agreement would contain such terms and conditions as are necessary to reasonably assure the Region of full payment of development charges; and

B) That the Commissioner of Finance be authorized to negotiate and execute the necessary agreements in a form approved by Corporate Services – Legal Services.

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

That Confidential Report #2019-A-28 of the Commissioner of Corporate Services be received for information.

Moved by Councillor Foster, Seconded by Councillor Drew,

- (284) That the recommendations contained in Items 1 to 3 and 5 to 8 of the Seventh Report of the Finance and Administration Committee be adopted.

CARRIED

Moved by Councillor Foster, Seconded by Councillor Drew,

- (285) That the recommendations contained in Item 4 of the Seventh Report of the Finance and Administration Committee be adopted.

CARRIED LATER IN THE MEETING

(See Following Motion)

Moved by Councillor Chapman, Seconded by Councillor John Neal,

- (286) That consideration of Item 4 of the Seventh Report of the Finance and Administration Committee be deferred to after the "Other Business" section of the agenda in order to go into a closed meeting session.

CARRIED

[See page 31 of these minutes]

9.2 Report of the Health and Social Services Committee

1. Region of Durham Paramedic Services (RDPS) Ambulance/AVL Vehicle Purchases and Standardization ([2019-MOH-5](#))

[CARRIED]

- A) That the Demers Ambulances Type III Mystere MX164A ambulance with the PRAN AVL system be adopted as the standard for RDPS for a period of three (3) years effective January 1, 2020; and
- B) That authorization be granted to award a single source agreement to Demers Ambulances for a period of three (3) years effective January 1, 2020 for the purchase of new ambulances and ongoing parts, pending the approval of the Paramedic Services Business Plans & Budgets.

2. Region of Durham Paramedic Services (RDPS) Command and Emergency Response Vehicle Standardization and Upfitting ([2019-MOH-6](#))

[CARRIED]

- A) That the General Motors (GM) Chevrolet "Tahoe" be adopted as the standard vehicle for RDPS Command and Emergency Response Vehicles (CERVs) for a further period of three (3) years effective January 1, 2020;

- B) That the current RDPS CERVs custom upfitting package provided by Kerr Industries Limited be adopted as the standard for RDPS for a period of three (3) years effective January 1, 2020; and
 - C) That authorization be granted to award a three (3) year extension to the existing agreement with Kerr Industries Limited for the purpose of purchasing custom upfitting packages and/or parts, as approved in the annual Paramedic Services Business Plans and Budgets.
3. Durham Nuclear Health Committee Membership (2019-MOH-7)
[CARRIED]
- A) That the following individual be appointed to the Durham Nuclear Health Committee:

Deborah Kryhul, Public Member - Clarington.
4. Provincial Funding for the Ontario Seniors Dental Care Program (2019-MOH-8)
[CARRIED]
- A) That annual and permanent unbudgeted 100 per cent Provincial funding from the Ontario Ministry of Health (MOH) in the amount of up to \$1,614,700 (pro-rated at \$1,211,025 for the period April 1, 2019 to December 31, 2019) be received as supplementary to the 2019 Health Department Business Plans and Budgets to provide oral health services to eligible low-income seniors as part of the Ontario Seniors Dental Care Program; and
 - B) That approval be granted to increase the Public Health staffing complement to be financed from the annual 100 per cent Provincial funding allocation, as follows:

Two full-time dentists (2.0 FTE)	\$314,892
Two full-time dental hygienists (2.0 FTE)	\$231,478
Three full-time dental assistants (3.0 FTE)	\$258,399
One full-time Clerk 2 (1.0 FTE)	\$78,834
One full-time Administrative Assistant 1 (1.0 FTE)	\$92,053
	\$975,656

- C) That annual increases will be funded entirely from program management costs from the additional 100 per cent Provincial funding allocation.
5. Connecting Ontario eHealth Agreement for the Region's Four Long-Term Care Homes (2019-SS-12)
[CARRIED]
- That the Regional Chair and Regional Clerk be authorized to enter into the Connecting Ontario eHealth Agreement and any subsequent agreements, subject to the concurrence of the Regional Solicitor and Commissioner of Finance, unless amended by eHealth Ontario, thereby requiring review and approval by the Health and Social Services Committee and by Regional Council.
6. Unbudgeted funding from the Federal Government of Canada, Employment and Social Development Canada (ESDC) for a research and innovation project entitled "Rebuilding the village: A novel approach to inclusive early learning and child care environment" (2019-SS-13)
[CARRIED]
- A) That unbudgeted one-time federal funding in the amount of \$277,625 from Employment and Social Development Canada (ESDC) be received as supplementary to the 2019 Business Plans and Budgets to completing a research and innovation project entitled "Rebuilding the village: A novel approach to inclusive early learning and child care environment";
 - B) That Federal funding in the amount of \$277,625 be expended in accordance with the funding agreement, which includes costs related to, but not limited to: staff wages, project costs, and capital assets; and
 - C) That the Regional Chair and Regional Clerk be authorized to execute the required agreement related to the additional unbudgeted funding.
7. Additional Provincial Funding from the 2019 Revised Child Care Allocation, and Fee Subsidy Update (2019-SS-14)
[CARRIED]
- A) That additional unbudgeted Provincial funding for child care services from the Ministry of Education in the amount of \$2,114,812 for the Regional Municipality of Durham Children's Services Division be received as supplementary to the 2019 Business Plans and Budgets and allocated as follows:

Program	Expenditure	Amount \$
Purchased Fee Subsidy Spaces	Fee Subsidy	200,000
General Operating Program – Licensed Home Child Care	Provider Payments	141,450
Special Purpose - Projects	Provider Payments	544,931
Wage Enhancement	Provider Payments Provider Payments – Fee Stabilization (discontinued effective March 31, 2019)	1,051,157 (1,976,485)
Child Care Expansion	Provider Payments Tangible Capital Assets: • Laptops (\$48k); Tablets (\$39k); Desktops (\$3k); Monitors (\$1k); Office Furniture (\$9k).	2,053,759 100,000
Total		<u>2,114,812</u>

- B) That the Regional Chair and the Regional Clerk be authorized to execute the Amended Ontario Transfer Payment Agreement.

Moved by Councillor Chapman, Seconded by Councillor Carter,

- (287) That the recommendations contained in Items 1 to 7, inclusive of the Seventh Report of the Health and Social Services Committee be adopted.

CARRIED

9.3 Report of the Planning and Economic Development Committee

1. Golden Horseshoe Food and Farming Alliance Funding Renewal Request
([2019-EDT-14](#))

[CARRIED]

- A) That contributions of \$30,000 to the Golden Horseshoe Food and Farming Alliance be included in the Business Plans and Budget submissions for the years 2020 to 2021, for consideration by Council through the annual Business Plans and Budgets process, and subject to approval of funding from the other six municipal partners; and
- B) That a copy of Report #2019-EDT-14 of the Commissioner of Planning and Economic Development be circulated to the Ontario Ministry of Agriculture, Food and Rural Affairs; the Regional Municipalities of Halton, Peel, York, Niagara; Cities of Hamilton and Toronto; and the Golden Horseshoe Food and Farming Alliance.

2. Envision Durham – Engagement and Outreach – Public Opinion Survey Summary (2019-P-35)
[CARRIED]
 - A) That Report #2019-P-35 of the Commissioner of Planning and Economic Development be received for information; and
 - B) That a copy of Report #2019-P-35 be forwarded to Durham's area municipalities; conservation authorities; and the Ministry of Municipal Affairs and Housing for information.
3. Envision Durham – Environment and Greenlands System Discussion Paper (2019-P-36)
[CARRIED]
 - A) That Report #2019-P-36 of the Commissioner of Planning and Economic Development be received for information; and
 - B) That a copy of Report #2019-P-36 be forwarded to Durham's area municipalities; conservation authorities; the Ministry of Municipal Affairs and Housing; the Ministry of Natural Resources and Forestry; the Ministry of Environment, Conservation and Parks; and the Durham Environmental Advisory Committee for review and comment.
4. Application to Amend the Durham Regional Official Plan, submitted by Beverley Turf Farms Ltd., to permit the severance of a dwelling rendered surplus as a result of the consolidation of non-abutting farm parcels, in the Township of Brock, File: OPA 2019-002 (2019-P-33)
[CARRIED]
 - A) That Amendment #174 to the Durham Regional Official Plan, to permit the severance of a dwelling rendered surplus as a result of the consolidation of non-abutting farm parcels, be adopted as contained in Attachment #3 to Report #2019-P-33 of the Commissioner of Planning and Economic Development; and
 - B) That “Notice of Adoption” be sent to the applicant, the applicant’s agent, the Township of Brock, the Ministry of Municipal Affairs and Housing, and all other persons or public bodies who requested notification of this decision.
5. Durham Regional Official Plan Amendment #175 to permit water and sewer service connections in certain circumstances for properties abutting municipal services outside of the Urban Area, File: OPA 2019-001 (2019-P-34)
[CARRIED]

- A) That Amendment #175 to the Durham Regional Official Plan, to permit water and sanitary sewer service connections in prescribed circumstances for properties abutting municipal services outside of the Urban Area, be adopted as contained in Attachment #1 to Report #2019-P-34 of the Commissioner of Planning and Economic Development; and
 - B) That “Notice of Adoption” be sent to the Ministry of Municipal Affairs and Housing, the area municipalities, and all other persons or public bodies who requested notification of this decision.
6. Durham Environmental Advisory Committee (DEAC) Membership
Appointments (2019-P-37)
[CARRIED]
- A) That Matt Thompson be appointed as the Town of Ajax’s Area Municipal Representative to the Durham Environmental Advisory Committee;
 - B) That Brian Shipp be appointed as an “at large” member to the Durham Environmental Advisory Committee
 - C) That the above-named citizen volunteers be advised of their appointment to the Durham Environmental Advisory Committee; and
 - D) That a copy of Report #2019-P-37 of the Commissioner of Planning and Economic Development be forwarded to the area municipalities.
7. North Durham Tourism Pilot Project Outcome and New Tourism Program
Coordinator (2019-EDT-13)
[CARRIED]
- A) That a new full-time permanent Tourism Program Coordinator position be approved within the Region’s Economic Development and Tourism Division, to deliver Regional tourism programming focused on the three northern Area Municipalities, and to support northern Area Municipal tourism projects; and
 - B) That Report #2019-EDT-13 of the Commissioner of Planning and Economic Development be circulated to the Township of Brock, Township of Scugog, and Township of Uxbridge.

8. Employment Lands Servicing Project Status(2019-EDT-15)
[CARRIED]

- A) That the preliminary criteria as outlined in Report #2019-EDT-15 of the Commissioner of Planning and Economic Development for the prioritization of pre-servicing of Employment Lands projects be endorsed; and
- B) That a copy of Report #2019-EDT-15 be circulated to Durham Local Area Municipalities.

Moved by Councillor Ryan, Seconded by Councillor Highet,
(288) That the recommendations contained in Items 1 to 8, inclusive of the Seventh Report of the Planning and Economic Development Committee be adopted.

CARRIED

9.4 **Report of the Works Committee**

1. Announcement by the Minister of Environment, Conservation and Parks regarding the Transition of the Blue Box to Extended Producer Responsibility (2019-WR-9)
[CARRIED]

That Report #2019-WR-9 of the Commissioner of Works be received for information.

2. Lease with Durham College for Space Located at 2000 Simcoe Street North, in the City of Oshawa, for Durham Regional Police Services (2019-W-53)
[CARRIED]

That Report #2019-W-53 of the Commissioner of Works be received for information.

3. Petition for Construction of a Watermain on Range Road, Lakeridge Road and Ontoro Boulevard, in the Town of Ajax (2019-W-54)
[CARRIED]

That the construction of a watermain on Range Road, Lakeridge Road and Ontoro Boulevard, in the Town of Ajax, be considered in the 2020 Water Supply System Capital Budget

4. Petition for Construction of a Watermain on Fielding Court, in the Town of Ajax (2019-W-55)
[CARRIED]

That the construction of a watermain on Fielding Court, in the Town of Ajax, be considered in the proposed 2020 Water Supply System Capital Budget.

5. Enactment of a By-law to Limit the Gross Vehicle Weight of Vehicles Passing over a Bridge Forming Part of the Regional Road System (2019-W-56)
[CARRIED]
 - A) That Corporate Services – Legal Services be directed to enact a by-law, generally in the form included as Attachment #1 to Report #2019-W-56 of the Commissioner of Works, for presentation to Regional Council for passage; and
 - B) That staff be authorized to take all steps required and necessary to give effect to the by-law as indicated in the form included as Attachment #1 to Report #2019-W-56.
6. Traffic By-law Amendment to Permit Area Municipalities to use an Administrative Penalty System Process for By-law Infractions on Regional Roads (2019-W-58)
[CARRIED]
 - A) That the Traffic By-law #44-2006 be amended to allow local municipalities to enforce by-law infractions on Regional roads through an Administrative Penalty System process where permitted by the local municipality's Administrative Penalty System Memorandum of Understanding with the Province of Ontario and their local by-laws; and
 - B) That an amending by-law, generally in the form included as Attachment #1 to Report #2019-W-58 of the Commissioner of Works, be approved.
7. Endorsement of Mr. Rob Franklin to the Trent Conservation Coalition Source Protection Committee (2019-W-59)
[CARRIED]
 - A) That Mr. Rob Franklin be endorsed as the municipal representative on the Trent Conservation Coalition Source Protection Committee;
 - B) That this endorsement be active upon receipt of formal Council resolutions from each of the member municipalities within the Ganaraska Region Source Protection Area; and
 - C) That endorsement be forwarded to the Lower Trent Source Protection Authority as the lead Source Protection Authority for official appointment to the Source Protection Committee.

8. Standardization and Approval to Award Sole Source Supply of Uninterruptible Power Supply Equipment (2019-W-61)
[CARRIED]
- A) That Uninterruptible Power Supply equipment for traffic signals manufactured by Alpha Technologies be adopted as the standard for the Regional Municipality of Durham;
 - B) That a sole source contract with Tacel Limited for the provision of Uninterruptible Power Supply equipment at traffic control signals be awarded, for a five-year term (January 1, 2020 to December 31, 2024) totalling \$1,625,000* at an annual cost of approximately \$325,000*, with financing provided subject to Regional Council's approval of the Works Department Business Plans and Budgets; and
 - C) That the Commissioner of Finance be authorized to execute the necessary agreement.
(*) including all applicable taxes.
9. Seaton Phase 1 Regional Infrastructure Front Ending Agreement – Amending Agreement (2019-W-62)
[CARRIED]
- A) That the planned trunk sanitary sewer under Elsa Storry Avenue, on the south side of Highway 407, be reclassified from a Region Constructed Project to a Landowner Constructed Project, as defined in the Seaton Phase 1 Regional Infrastructure Front Ending Agreement; and
 - B) That the Amending Agreement with the Seaton Landowners Group to allow this reclassification of project type, as identified in the Seaton Phase 1 Regional Infrastructure Front Ending Agreement, be approved; and
 - C) That the Regional Chair and Clerk be authorized to execute any necessary documents or agreements required to facilitate the arrangement described herein.
10. Amendment and Extension of Lease for Premises with Campbell Drive Professional Building Inc. at 2 Campbell Drive, Suites 301 – 305, in the Township of Uxbridge, for the Regional Municipality of Durham Social Services Department (2019-W-63)
[CARRIED]
- A) That the amendment and extension of lease for 446.86 square metres (4,810 square feet) of office space, being part of the building located at 2 Campbell Drive, Suites 301 – 305, in the Township of Uxbridge be approved with the following terms and conditions:

- i) The term is for a period of two years commencing November 1, 2019, ending October 31, 2021, with an option to extend for an additional three years subject to the rental rate being negotiated;
 - ii) The annual rental rate for the two-year period of the lease is \$64,935* based on a rate of \$145.31* per square metre (\$13.50* per square foot);
 - iii) The Regional Municipality of Durham is responsible for all operating costs for the building, common areas and the leased premises;
 - iv) The Regional Municipality of Durham is responsible for a proportionate share of any applicable property taxes; and
 - B) That the Regional Chair and Clerk be authorized to execute all documents associated with the amendment and extension of the lease agreement.
(*) before applicable taxes in all instances.
11. Rainbow Pedestrian Crosswalks (2019-W-64)
[CARRIED ON A RECORDED VOTE] [SEE MOTION 290 on PAGES 28 and 29]
- That installations of Rainbow Pedestrian Crosswalks not be permitted on Regional Roads.
12. Red-Light Camera Program Implementation (2019-W-65)
[CARRIED]
- A) That the Regional Municipality of Durham proceed with the implementation of twelve (12) Red-light Cameras as identified in Attachment #1 to Report #2019-W-65 of the Commissioner of Works to reduce red-light running and improve safety, subject to confirmation from the vendor that installations are technically feasible;
 - B) That the Commissioner of Works be authorized, subject to concurrence of the Commissioner of Finance and Director of Legal Services, to negotiate, enter into and execute a standing agreement with the City of Toronto for Red-Light Camera record processing including the cost sharing of expenses related to the operation of the Joint Processing Centre, at an estimated annual cost of \$72,000, with all 2019 costs to be funded from allowances within the Works Department's 2019 operating budget and 2020/2021 costs within the 2020 and 2021 Business Plans and Budgets;

- C) That the Commissioner of Works be authorized, subject to concurrence of the Commissioner of Finance and Director of Legal Services, to negotiate, enter into and execute a standing agreement with Her Majesty the Queen in Right of Ontario, as represented by the Ministry of Transportation, for the access and use of licence plate registration information, at an estimated annual cost of \$35,000, with all 2019 costs to be funded from allowances within the Works Department's 2019 operating budget and 2020/2021 costs within the 2020 and 2021 Business Plans and Budgets;
- D) That Regional Council request that the Province of Ontario permit the use of an Administrative Penalty System for offences issued by Red-Light Cameras;
- E) That the Commissioner of Finance be authorized to negotiate, enter into and execute a sole source agreement with Traffipax LLC for the supply, including installation and operation, of 12 red-light cameras, based on a Contract awarded through the City of Toronto's Request for Proposal No. 9148-15-5000 for "The Supply, Installation, Operation, and Maintenance of Red-Light Camera Systems within the City of Toronto and Other Municipalities within Ontario." in April of 2015, and as permitted under Article 13 of the Region's Purchasing By-law #68-2000, with the following provisions:
 - i) Contract period of two years and one month, commencing December 1, 2019 with an estimated total value of approximately \$1,000,000 (i.e. approximately \$500,000 per year), excluding taxes, with all 2019 costs to be funded from allowances within the Works Department's 2019 operating budget and 2020/2021 costs within the 2020 and 2021 Business Plans and Budgets; and
 - ii) Option to renew the contract for an additional five years, commencing January 1, 2022, subject to annual budget approval, for an estimated total value of approximately \$4,000,000, excluding taxes;
- F) That pre-budget approval be granted for the annual costs to administer the program, in both 2020 and 2021, in the amount of:
 - i) \$800,000, in both years, for Works Department red-light camera expenses; and
 - ii) \$350,000, in both years, for Legal Provincial Offences Act red-light camera expenses;

- G) That the Director of Legal Services be authorized to submit applications and other documents as may be required to the Province of Ontario or Ministry of Transportation for the appointment of any Regional employees as Provincial Offence Officers to implement the Region's Red-Light Camera Program;
 - H) That staff report back to the Works Committee with an update on the Red-Light Camera program, including information on red-light running violations and program expenses and revenues in fall 2020; and
 - I) That a copy of Report #2019-W-65 of the Commissioner of Works be sent to the Ministry of Transportation – Ontario, the City of Toronto and all area municipalities within the Regional Municipality of Durham.
13. Automated Speed Enforcement Program Implementation (2019-W-66)
[CARRIED]
- A) That the Regional Municipality of Durham proceed with the implementation of an Automated Speed Enforcement program at the twenty-two locations identified in Attachment #1 to Report #2019-W-66 of the Commissioner of Works to reduce operating speeds and improve safety;
 - B) That the Commissioner of Works, subject to the concurrence of the Commissioner of Finance and Director of Legal Services, be authorized to negotiate, enter into and execute an agreement with the City of Toronto for Automated Speed Enforcement record processing including the cost sharing of expenses related to the operation of the Joint Processing Centre with all 2019 costs to be funded from allowances within the Works Department's 2019 operating budget and 2020 to 2024 for costs within the 2020 to 2024 Business Plans and Budgets;
 - C) That the Commissioner of Works, subject to the concurrence of the Commissioner of Finance and Director of Legal Services, be authorized to negotiate, enter into and execute an agreement with Her Majesty the Queen in Right of Ontario, as represented by the Ministry of Transportation, for the access and use of licence plate registration information with all 2019 costs to be funded from allowances within the Works Department's 2019 operating budget and 2020 to 2024 for costs within the 2020 to 2024 Business Plans and Budgets;
 - D) That Regional Council request that the Province of Ontario permit the use of an Administrative Penalty System for offences issued by Automated Speed Enforcement;

- E) That the Commissioner of Finance be authorized to negotiate, enter into and execute a sole source agreement with Redflex Traffic Systems (Canada) Limited (vendor identified through City of Toronto RFP 9148-0048) for the supply, including installation and operation of Automated Speed Enforcement equipment as permitted under Article 13 of the Region's Purchasing By-law #68-2000, as amended;
 - F) That the term of the contract with Redflex Traffic Systems (Canada) Limited be for a period of five years and one month commencing December 1, 2019 with an estimated total value of approximately \$2,000,000, excluding taxes, with all 2019 costs to be funded from allowances within the Works Department 2019 operating budget and 2020 to 2024 costs within the 2020 to 2024 Business Plans and Budgets;
 - G) That the Commissioner of Works, subject to the concurrence of the Commissioner of Finance and Director of Legal Services be authorized to exercise an option to renew the contract for an additional five years, commencing July 16, 2024, to operate the automated speed enforcement system, subject to budget approval, for an estimated total of approximately \$4,000,000, excluding taxes;
 - H) That pre-budget approval be granted for the annual costs to administer the program, in 2020 to 2024, in the amount of:
 - i) \$500,000, in all years, for Works Department automated speed enforcement expenses; and
 - ii) \$350,000, in all years, for Legal Provincial Offences Act automated speed enforcement expenses;
 - I) That staff report back to the Works Committee with an update on the Automated Speed Enforcement program, including information on speed violations and program expenses and revenues, in fall 2020; and
 - J) That a copy of Report #2019-W-66 of the Commissioner of Works be forwarded to the Ministry of Transportation – Ontario, the Ministry of the Attorney General – Ontario, all area municipalities and Durham Regional Police Services.
14. Confidential Report of the Commissioner of Works – Litigation or Potential Litigation, including matters before an Administrative Tribunal with respect to s. 30 Agreement under the Expropriations Act, R.S.O. 1990, c. E.26, for Lands Acquired to Facilitate the Reconstruction of Regional Road 1 (Brock Road), in the City of Pickering (2019-W-57)
-
- [CARRIED]

That the recommendations contained in Confidential Report #2019-W-57 of the Commissioner of Works, be adopted.

15. Confidential Report of the Commissioner of Works – Proposed or Pending Acquisition or Disposition of Land for Regional Corporation Purposes with Respect to the Purchase of Lands Required for the Bus Rapid Transit Project, in the City of Pickering (2019-W-60)
-

[CARRIED]

That the recommendations contained in Confidential Report #2019-W-60 of the Commissioner of Works, be adopted.

- Moved by Councillor Mitchell, Seconded by Councillor Barton,
(289) That the recommendations contained in Items 1 to 10 and 12 to 15 of the Seventh Report of the Works Committee be adopted.

CARRIED

- Moved by Councillor Mitchell, Seconded by Councillor Barton,
(290) That the recommendation contained in Item 11 of the Seventh Report of the Works Committee be adopted.

CARRIED ON THE FOLLOWING RECORDED
VOTE:

Yes

Councillor Ashe
Councillor Carter
Councillor Chapman
Councillor Collier
Councillor Drew
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor McLean
Councillor Mitchell
Councillor Mulcahy
Councillor Roy
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada
Regional Chair Henry

No

Councillor Barton
Councillor Brenner
Councillor Crawford
Councillor Foster
Councillor John Neal
Councillor Nicholson

Members Absent: Councillor Anderson
Councillor Bath-Hadden
Councillor Dies
Councillor Joe Neal

Declarations of Interest: None

Moved by Councillor Chapman, Seconded by Councillor Leahy,
(291) That Council recess for lunch.

MOTION DEFEATED ON THE FOLLOWING
RECORDED VOTE:

<u>Yes</u>	<u>No</u>
Councillor Ashe	Councillor Brenner
Councillor Barton	Councillor Collier
Councillor Carter	Councillor Crawford
Councillor Chapman	Councillor Drew
Councillor Dies	Councillor Highet
Councillor Foster	Councillor Kerr
Councillor Leahy	Councillor Marimpietri
Councillor Lee	Councillor McLean
Councillor Ryan	Councillor Mitchell
Councillor Smith	Councillor Mulcahy
Regional Chair Henry	Councillor John Neal
	Councillor Nicholson
	Councillor Roy
	Councillor Wotten
	Councillor Yamada

Members Absent: Councillor Anderson
Councillor Bath-Hadden
Councillor Joe Neal

Declarations of Interest: None

9.5 Report of the Committee of the Whole

1. Organics Management Solution – Expression of Interest Process and Next Steps Including Site Identification Criteria and Anti-Lobbying Protocol
([2019-COW-22](#))

[CARRIED]

- A) That Regional Municipality of Durham (“Region”) staff be authorized to commence negotiations with Epcor Utilities Inc. (“Epcor”) to establish a joint venture/partnership with the Region on its long-term organics waste management solution (the “Project”);

- B) That Regional staff report back to Council on the results of the negotiations with Epcor and seek authority to ratify any agreements in principle arising from the negotiations; and
 - C) That staff report at Council on the City of Edmonton organics facilities, and the involvement of Epcor, and the type of facility or facilities under construction, or proposed in Edmonton, and their past facility.
2. Confidential Report of the Commissioner of Works and the Commissioner of Finance – Proposed or Pending Acquisition or Disposition of Land for Regional Corporation Purposes with Respect to the Disposition of Lands Located at 156 Church Street in Bowmanville, in the Municipality of Clarington (2019-COW-24)
[CARRIED]

That the recommendations contained in Confidential Report #2019-COW-24 of the Commissioners of Works and Finance, be adopted.

Moved by Councillor Regional Chair Henry, Seconded by Councillor Crawford, (292) That the recommendations contained in Items 1 and 2 of the Fifth Report of the Committee of the Whole be adopted.

CARRIED

10. Unfinished Business

There was no unfinished business to be considered.

11. Other Business

- 11.1 Report #1 of the Development Charges Complaint Committee, re: The Royal Ashburn Golf Club
[CARRIED AS AMENDED] [SEE MOTIONS 282 AND 283 ON PAGE 12]

This item was considered earlier in the meeting. See Item 11.1 on page 12 of these minutes.

- 11.2 Report #2019-WR-10 from the Acting Commissioner of Works re: City of Edmonton Waste Management Centre
[CARRIED]

Moved by Councillor Collier, Seconded by Councillor Leahy, (293) That Report #2019-WR-10 from the Acting Commissioner of Works, re: City of Edmonton Waste Management Centre, be received for information.
CARRIED

9.1 Report of the Finance and Administration Committee

4. Durham York Energy Centre – Approval of the Negotiated Resolution Between Covanta Durham York Renewable Energy Limited Partnership (“Covanta”) and the Owners for the 2017 Reconciliation (2019-A-30)
[CARRIED] [SEE MOTION 297 ON PAGE 31]
- A) That the proposed resolution provided for in the confidential memorandum from the Director of Legal Services, Attachment #1 to Report 2019-A-30 of the Commissioner of Corporate Services, dated September 10, 2019, be approved by Regional Council;
- B) That Regional staff be directed to execute such documents and carry out such tasks as may be required to implement the terms of the resolution; and
- C) That should Council approval of Recommendations A) to B) of Report #2019-A-30 not be received, that staff be authorized to utilise the dispute resolution provisions of the Project Agreement, including binding Arbitration.

Moved by Councillor John Neal, Seconded by Councillor Leahy,

- (294) That the meeting be closed to the public in order to discuss a matter that is subject to the receiving of advice that is subject to solicitor-client privilege with respect to approval of the negotiated resolution between Covanta Durham York Renewable Energy Limited Partnership (“Covanta”) and the Owners for the 2017 Reconciliation.

CARRIED

Moved by Councillor Hightet, Seconded by Councillor Lee,

- (295) That Council recess for ten minutes.

CARRIED

Council recessed at 1:23 PM and reconvened at 1:31 PM

(Refer to the closed Council meeting minutes of September 25, 2019.)

Regional Chair Henry advised that during the closed meeting session there was an exchange of information between Council and staff pertaining to the Confidential Attachment to Report #2019-A-30 of the Commissioner of Corporate Services. He advised that during the closed session there were no decisions, motions or recommendations made as it relates to Item 4 of the Seventh Report of the Finance and Administration Committee.

Moved by Councillor Foster, Seconded by Councillor Drew,

- (297) That the recommendation contained in Item 4 of the Seventh Report of the Finance and Administration Committee be adopted.

CARRIED

12. By-laws

- 40-2019 Being a by-law to adopt Amendment #174 to the Durham Regional Official Plan.
- This by-law implements the recommendations contained in Item #4 of the 7th Report of the Planning & Economic Development Committee presented to Regional Council on September 25, 2019.
- 41-2019 Being a by-law to adopt Amendment #175 to the Durham Regional Official Plan.
- This by-law implements the recommendations contained in Item #5 of the 7th Report of the Planning & Economic Development Committee presented to Regional Council on September 25, 2019.
- 42-2019 Being a by-law to limit the gross vehicle weight of any vehicle or any class thereof passing over a bridge forming part of the Regional Road system.
- This by-law implements the recommendations contained in Item #5 of the 7th Report of the Works Committee presented to Regional Council on September 25, 2019.
- 43-2019 Being a by-law to amend By-law Number 44-2006 which regulates traffic and parking on roads under the jurisdiction of the Regional Municipality of Durham.
- This by-law implements the recommendations contained in Item #6 of the 7th Report of the Works Committee presented to Regional Council on September 25, 2019.
- 44-2019 Being a by-law to amend the by-law respecting the Water Supply System in the Regional Municipality of Durham and the establishment of water rates and water charges being By-Law No. 89-2003 of the Regional Municipality of Durham.
- This by-law implements the recommendations contained in Item #10 of the 4th Report of the Committee of the Whole presented to Regional Council on June 26, 2019.
- 45-2019 Being a by-law to dedicate and establish certain lands as public highway to be and to form part of the public highway known as Regional Road Number 22, Bayly Street, in the Town of Ajax, in the Regional Municipality of Durham.

This by-law implements the recommendations contained in Item #2 of the 5th Report of the Works Committee presented to Regional Council on April 19, 2006.

Moved by Councillor Ashe, Seconded by Councillor Lee,
(298) That By-law Numbers 40-2019 to 45-2019, inclusive be passed.

CARRIED

13. Confirming By-law

46-2019 Being a by-law to confirm the proceedings of Regional Council at their meeting held on September 25, 2019.

Moved by Councillor Ashe, Seconded by Councillor Lee,
(299) That By-law Number 46-2019 being a by-law to confirm the proceedings of the Council of the Regional Municipality of Durham at their meeting held on September 25, 2019 be passed.

CARRIED

14. Adjournment

Moved by Councillor Wotten, Seconded by Councillor Dies,
(300) That the meeting be adjourned.

CARRIED

The meeting adjourned at 1:42 PM

Respectfully submitted,

John Henry, Regional Chair & CEO

Ralph Walton, Regional Clerk

The Regional Municipality of Durham

MINUTES

SPECIAL REGIONAL COUNCIL

Wednesday, October 9, 2019

The Council of The Regional Municipality of Durham met in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:01 AM

Regional Chair Henry assumed the Chair.

Prior to roll call, Regional Chair Henry read the following land acknowledgement:

We are currently located on land which has long served as a site of meeting and exchange among the Mississaugas Peoples and is the traditional and treaty territory of the Mississaugas of Scugog Island First Nation. We honour, recognize and respect this nation and Indigenous Peoples as the traditional stewards of the lands and waters on which we meet today.

1. Roll Call

All members of Council were present with the exception of Councillors Collier, Crawford, Kerr, Leahy, McLean, John Neal, Joe Neal and Yamada

Councillor Collier attended the meeting at 9:30 AM and left at 11:06 AM on municipal business

Councillor Crawford attended the meeting at 9:11 AM

Councillor Kerr attended the meeting at 9:12 AM

Councillor Leahy attended the meeting at 9:14 AM

Councillor Yamada attended the meeting at 9:14 AM and left at 11:35 AM on personal business

Councillor Brenner attended on behalf of Councillor McLean as the alternate for the City of Pickering

2. Declarations of Interest

There were no declarations of interest.

Regional Chair Henry and Councillor Wotten provided opening remarks.

3. Session Structure, Purpose and Key Objectives

K. Wiancki provided a brief overview of the session structure, purpose and key objectives. She advised that S. Hardman and S. Austin will provide an update on the progress of the development of the Strategic Plan since the March 21, 2019 Special Meeting of Regional Council.

4. Context and Strategic Planning Process Overview

4.1 Process Recap Since March

S. Hardman and S. Austin provided a PowerPoint presentation with regards to the New Strategic Plan for Durham Region, of which electronic and hard copies were provided to Members of Council.

S. Austin advised that she will be sharing what was heard from the community during the public engagement phase and reviewed the following points of the Presentation:

- Context & Process Overview
 - Strategic Planning Context and Process Overview
 - Process Recap and Key Activities
 - Community Engagement Summary
 - 13 Ideas Shared on “Your Voice Durham”
 - Sources of Citizen and Stakeholder Input
 - Survey Respondents – A Snapshot
 - Our Strengths – Based on Qualitative Input
 - Some Key Messages
 - Community Survey Respondents
 - Community Stakeholders
 - Regional Staff Focus Groups
 - Commonalities – Qualitative Comments from All Sources

4.2 Key Messages from Community Engagement

S. Hardman reviewed the responses received in the qualitative feedback from town hall meetings, stakeholder engagement sessions, etc. and reviewed the following points of the Presentation:

- March 21st Special Meeting of Council
- Early List of Priorities/Areas of Focus Discussed on March 21st
- Top 5 Overall Themes as Prioritized by 458 Survey Respondents
- Age Comparison of Top 5 Themes by Survey Respondents
- Municipal Comparison of Top 5 Themes by Survey Respondents
- Top Themes from All Qualitative Sources of Feedback
- Economic Prosperity and Job Creation
- Vibrant, Inclusive and Caring Communities
- Environmental Sustainability
- Good Governance and Service Excellence
- Growth and Infrastructure
- Connected Communities

Moved by Councillor Marimpietri, Seconded by Councillor Lee,
(301) That Council recess for 10 minutes.

CARRIED

Council recessed at 9:43 AM and reconvened at 9:53 AM.

4.3 Bringing Council and Community Thoughts Together

This item was dealt with in conjunction with Item 4.4.

4.4 Facilitated Dialogue with Karen Wianecki, Planning Solutions Inc.

K. Wianecki stated that the Strategic Plan has been structured around the following 6 proposed goal areas:

1. Customer Service – Good Governance & Service Excellence
2. Jobs – Economic Prosperity & Job Creation
3. Environmental Sustainability
4. Community – Vibrant, Inclusive & Caring Communities
5. Connected Communities
6. Growth & Infrastructure

With regards to the 6 Goals, K. Wianecki provided the following details:

- Goal 1: Goal Governance & Service Excellence
 - Commitment Statement: Durham Region is...responsive and open, service-oriented and results-driven
 - Suggested Strategic Objectives:
 - Respect for the Taxpayer
 - Open & Responsive Government
 - Solid Financial Positioning
 - Committed to Continuous Improvement
- Goal 2: Economic Prosperity & Job Creation
 - Commitment Statement: Durham Region...Opportunity & Economic Advantage Live Here
 - Suggested Strategic Objectives
 - Retain & Attract Good Quality Jobs
 - Build a Diverse, Innovation Economy
 - Leverage Existing Assets
 - Marketing the Durham Advantage
- Goal 3: Environmental Sustainability
 - Commitment Statement: Durham Region...a Healthy, Resilient Natural Environment & Agricultural System
 - Suggested Strategic Objectives:
 - Encourage Environmental Responsibility

- Preserve Green Spaces
 - Support & Promote Environmental Resilience
- Goal 4: Vibrant, Inclusive & Caring Communities
 - Commitment Statement: Durham Region...Livable, Inclusive, Welcoming & Safe
 - Suggested Strategic Objectives:
 - Increase the Range of Available and Attainable Housing
 - Support and Protect Public Health, Safety and Well-being
 - Make Communities More Welcoming and Inclusive
 - Strengthen the Network of Human Services to Support Durham Residents
- Goal 5: Connected Communities
 - Commitment Statement: Durham Region...Well-Connected and Engaged
 - Suggested Strategic Objectives:
 - Address Congestion
 - Build Better Networks that Connect People to Jobs, Goods and Services
 - Encourage Active Living
- Goal 6: Connected Communities
 - Commitment Statement: Durham Region...is Future-Focused and Opportunity Ready
 - Suggested Strategic Objectives
 - Be Anticipatory, Future-Focused & Opportunity Ready
 - Manage Growth Strategically

Council members provided the following comments with regards to the proposed 6 Priority Goals:

- Focus on value for tax dollars spent
- Set specific goals with regards to the environment
- Examine ways to increase capacity on the provincial roads system
- Look at ways to keep downtowns vibrant and support small business owners and those already invested in Durham Region
- Post Secondary and Health Care Economies have to be considered
- Hamilton-Oshawa Port Authority Development and all related aspects
- Focus on complete communities, healthy cities
- Focus on new developments and developments that encourage high walkability and active transportation
- Strengthen and support traditional communities of Durham
- Have a broad range of economic interests
- Recognize community diversity and income diversity

5. Gap Analysis

K. Wiancki requested that members review the suggested strategic objectives listed under the 6 Priority Goals and provide specific comments with regards to each Priority Goal.

With regards to Goal #1 and the suggested strategic objectives, the following comments were provided:

- Continue to look for quality of service based upon the taxpayer's expectation
- Communicate how money is allocated and governance
- Education outreach – making sure people understand what services are provided; communication, collaboration and engagement component is important
- How to utilize reserves and invest in our community
- Look at communities that are leading edge
- Have a customer service model in everything that is done
- Communication regarding regional responsibilities as well as municipal responsibilities
- Do better than “good” when it comes to governance – change wording
- Instead of ‘open and responsive government’, use ‘engaged and responsive government’ or ‘effective governance’
- Regional councillors need to share what regional government is all about
- Distinguish what makes this strategic plan different from the last one
- What can be done differently in the action plan
- Demonstrate value for taxpayer dollars
- Realistic expectations
- Help taxpayers understand what taxes are paying for
- 5 goals may work better than 6
- Distilled, clear and concise strategic plan
- ‘good governance and service excellence’ can be changed to ‘customer service excellence’
- ‘solid financial positioning’ can be changed to ‘responsible fiscal management’

With regards to Goal #2 and the suggested strategic objectives, the following comments were provided:

- ‘economic prosperity and job creation’ can be changed to ‘fostering our local economy’
- People want to see clear understandable goals
- Service the employment lands to create jobs and make businesses come to the Region
- Change verbage for more specific goals

- Look at the possibility of adding specific targets
- Need to save the greenspace
- Stress tourism – in northern municipalities, tourism and agriculture are number one economic drivers
- Tourism – put a value on natural and existing assets
- Commitment Statements for Goals #2 and #6 look the same - maybe go down to 4 goals

With regards to Goal #3 and the suggested strategic objectives, the following comments were provided:

- Be much more aggressive and specific about GHG reductions and have a meaningful statement
- Be serious about re-use and repurposing of existing lands

With regards to Goal #4 and the suggested strategic objectives, the following comments were provided:

- Goals #4 and #5 be combined
- Use more terminology that speaks to age-friendly housing and inclusive communities
- Need targets when it comes to affordable housing
- Community policing model
- Create a model that supports individuals transitioning back into society
- Consideration to Accessibility
- Stress key success factors and key inputs to success
- Need to rely on other levels of government to put in effective strategies of their own – be realistic of the Region's role and what can accomplished
- More decisive with wording
- Increase the range of available and attainable housing
- State what needs to be done to have a healthy community
- Be more aggressive in stating goals
- We want a healthy community with appropriate health supports

With regards to Goal #5 and the suggested strategic objectives, the following comments were provided:

- Stress the need for high speed rail and connections of rail systems
- Importance in managing growth

With regards to Goal #6 and the suggested strategic objectives, the following comments were provided:

- Change 'growth and infrastructure' to 'infrastructure growth'
- Rehabilitation of existing infrastructure

- Traditional communities be protected and rehabilitated
- Look at a Brownfield Strategy

6. Recap, Wrap-up and Next Steps

K. Wianeck provided a recap of the suggestions provided with regards to the 6 Priority Goals and the suggested strategic objectives.

K. Wianecki requested that members consider the following questions:

- What are your critical strategic priorities?
- What should Regional Council be focusing on in the next year, in the next two years and in the next three years and beyond?
- What do you want to accomplish?

In addition to comments provided earlier in the meeting, Council members provided the following comments:

- Need to send a clear message that there is one Durham and that all services be equally delivered
- Need to focus and get a strong police plan in all of our communities
- Need a new hospital in Durham Region
- Focus on economic, prosperity and job creation
- By 2022, nail down Metrolinx GO Extension, Airport and 407 lands
- Focus on requirement and need to provide for transitional and affordable housing

Council members were reminded that further and additional comments may be forwarded to staff after the meeting.

7. Confirming By-law

47-2019 Being a by-law to confirm the proceedings of Regional Council at their meeting held on October 9, 2019.

Moved by Councillor Ashe, Seconded by Councillor Leahy,
(302) That By-law Number 47-2019 being a by-law to confirm the proceedings of the Special Council of the Regional Municipality of Durham at their meeting held on October 9, 2019 be passed.

CARRIED

8. Adjournment

Moved by Councillor Leahy, Seconded by Councillor Lee,
(303) That the meeting be adjourned.

CARRIED

The meeting adjourned at 12:01 PM

Respectfully submitted,

John Henry, Regional Chair & CEO

Ralph Walton, Regional Clerk

Communications

October 23, 2019

- CC 41 Correspondence from the elected leaders of Belleville, Brighton, Greater Napanee, Prince Edward County, Quinte West and Hastings County regarding Lake Ontario Water Levels (Our File: E00)
-

Recommendation: Motion for direction

([See attached correspondence on pages 46-47](#))

- CC 42 Deborah Anschell, ADRO Investigator, ADR Chambers Ombuds Office, Investigation Report – Complaint Reference Number MUN-301-0618 dated September 30, 2019 (Our File: C24)
-

Recommendation: Motion to refer to staff for a report

([See attached correspondence on pages 48-52](#))

- CC 43 Correspondence from Association of Municipalities of Ontario and submission to the Attorney General of Ontario entitled “Towards a Reasonable Balance: Addressing growing municipal liability and insurance costs” (Our File: A01)
-

Recommendation: Motion to endorse

([See attached correspondence on pages 53-72](#))



RE: Lake Ontario Water levels

September 26, 2019

Dear Mayors, Reeves and other elected leaders:

We, the elected leaders of Belleville, Brighton, Greater Napanee, Prince Edward County, Quinte West and Hastings County, met September 24, 2019 in Quinte West to discuss concerns surrounding the local water levels. Together we identified pressing issues where we will be working to seek direct action to improve the future outlook of the water situation in the Bay of Quinte region and beyond.

Yesterday we sent the following requests to the International Joint Commission:

1. We requested that the *International Joint Commission* revoke the *Lake Ontario - St. Lawrence River Plan 2014* and reinstate *Plan 1958-DD*.
2. We requested the *International Joint Commission* take immediate action to reduce water levels and keep them down.
3. We requested a response to this letter by October 10, 2019.

It is clear that this flooding is a human-made problem — not a direct result of climate change. We feel the *International Joint Commission* is refusing to take responsibility and that they need to be held accountable.

Together, the mayors and warden agree that the current water levels have caused overwhelming damage to local infrastructure, public safety and health. Individual municipalities are spending hundreds of thousands of dollars as a result of flooding, not including the devastating impacts on tourism and economic development.

Today we sent the following requests to the Provincial and Federal Governments:

1. Support our requests to the *International Joint Commission*.
2. Provide immediate assistance to property owners affected by the flooding. Remove the existing barriers that prevent people from accessing assistance, such as requiring municipalities to have declared a state of emergency.
3. Introduce legislation that allows municipalities and property owners to take extraordinary measures to protect their properties, such as the ability to build larger, more permanent retaining walls.

There are more than 40 Ontario municipalities along the shore of Lake Ontario, and even more with watersheds that have been impacted. The repercussions of recent flooding have been felt across the province. There is strength in numbers and by working together we can apply greater pressure to the International Joint Commission and the Provincial and Federal Governments.



We urge you to contact us and pledge your support as we explore every possible avenue to leverage the revocation of *Plan 2014*. We would like to update our request to the International Joint Commission with the support of as many municipalities as possible.

We look forward to hearing from you.

Sincerely,

His Worship Jim Harrison
Mayor of Quinte West
mayor@quintewest.ca

His Worship Mitch Panciuk
Mayor of Belleville
mayor.panciuk@belleville.ca

His Worship Brian Ostrander
Mayor of Brighton
bostrander@brighton.ca

Her Worship Marg Isbester
Mayor of Greater Napanee
mayorisbester@greaternapanee.com

His Worship Steve Ferguson
Mayor of Prince Edward County
sferguson@pecounty.on.ca

Mr. Rick Phillips
Warden of Hastings County
warden@hastingscounty.com



INVESTIGATION REPORT

Complaint Reference Number: MUN-301-0618

Complaint Opened: July 16, 2018

Date Required Information Received: January 17, 2019

Report Date: September 30, 2019

Investigator: Deborah Anschell

Complaint

This Complaint relates to the Regional Municipality of Durham (“Durham Region”). The Complainant previously received a letter from Durham Region indicating that Durham Region was planning to remove the existing sewer system and water lines in his area. The project was a Town of Whitby project for the reconstruction of James Street. Six months later, the Complainant received correspondence advising that lead was found in the water service line. The Complainant was subsequently advised that the water service line is on his private property, and therefore he was responsible for the replacement cost. The Complainant maintains that Durham Region should look after the connection costs.

Durham Region’s Response

Durham Region states that the Complainant needs to replace existing water service pipes on private property that contain lead. Furthermore, the water sample test results do not confirm that the lead in the Complainant’s water supply is at a dangerous level.

ADR Chambers Ombuds Office Investigation

We reviewed the documentation provided by the Complainant and conducted telephone interviews with the Complainant and the Director, Environmental Services, Durham Region (“Director”).

ADR Chambers Ombuds Office Analysis

The essence of the Complainant’s position is stated in his Complaint Submission Form dated July 11, 2018. The Complainant advised that on June 30, 2016 he and others on his street received a letter advising that the Town of Whitby was proposing the reconstruction of James Street from King Street to Centre Street in 2018. This communication also indicated that this work would include the replacement of the watermain and sanitary sewer, as required by Durham Region.

On November 29, 2016 the Complainant and his neighbors received communication that stated as follows:

“As part of the Town of Whitby James Street Reconstruction project, the Region of Durham is proposing to construct a new sanitary sewer on James Street, from King Street to Centre Street. We want to eliminate the rear yard sanitary sewer connections presently on your homes and connect them to the proposed sanitary sewer on James Street. We will be required to obtain basement floor elevations in your home and will need access to your property and basement to obtain this information.

We need to determine the elevation of your basement floor and location of your sanitary cleanout to complete the study, we need to set up a time with you to complete these measurements. Please call Kevin Johnston at the telephone number noted below to set up a convenient time for entry into your home. Kevin may also knock on your door if he is in the area and you are home.”

In late spring 2017, a representative from Durham Region came to the properties on James Street and had discussions with the residents informing them that the work was going forward, and they would need access to their driveways. .

In September 2017 when no construction had begun, the residents of James Street were told that the project had been postponed to the summer of 2018.

On January 8, 2018 the Complainant and his neighbors received correspondence advising that the water service connection from the watermain to his home was made of lead material. The correspondence advised that Durham Region was currently installing new watermain and sanitary sewers along James Street. The residents on James Street were advised to replace the portion of the watermain that they owned, between the property line and their water meters.

The Complainant and his neighbors on James Street are of the view that the costs should not fall upon them to replace the existing infrastructure.

According to the Complainant, on May 22, 2018 two representatives from Durham Region met with the Complainant and his neighbor. During this meeting they were told that the previous project did not exist. When the Complainant provided some confirming information, a representative of Durham Region indicated that they would not work on private property. Durham Region denies that the statement “the project did not exist” was made.

On May 24, 2018 Durham Region had a representative attend at the Complainant’s home to test the water for lead. The Complainant’s position is that the results of this testing were invalid because the inspector ran the water for thirty minutes before taking the samples. The Complainant subsequently had his own testing done, and the results were different than that obtained by Durham Region.

The Complainant summarized his Complaint as follows:

1. The residents of James Street note that the water line has been used and serviced by Durham Region for the past seventy years. Accordingly, Durham Region should rectify any issues and incur the cost.
2. The James Street residents believe there was a misrepresentation by Durham Region.

3. Finally, the lead piping that services these homes is the Region's responsibility. The residents pay for clean safe drinking water, and sewer systems as part of their taxes. The Complainant believes that the way the lead testing was performed did not produce an accurate result.

The essence of Durham Region's position can be found in the Director's email communication of July 10, 2018. The Director noted that the existing water service connection services five homes and is not compliant with current standards. The Region found that the existing water service is made of lead material. The Director recommended that the Complainant replace the existing water service pipe on the Complainant's private property. Based on the Regional Water Supply By-Law, the property owner is responsible for the water service pipes on private property. In conjunction with the reconstruction of James Street, new water and sanitary sewer connections were installed along the James Street right of way.

The Director apologized for the earlier representations made that led the Complainant to believe that the Region would connect the water services from his home to the water line at the front of his property. The Director advised me that the original project was not postponed; it was always intended to be completed in 2018, subject to council approval. In fact, it was completed in 2018. Further, the Director advised that when he apologized, he did not have all the project information, nor had he had an opportunity to speak with staff. He listened to the Director's concerns and ensured him that he would follow up and respond.

With respect to the Region's water sampling procedures, the Director advised that the Region took two water samples from the Complainant's property and the results for lead from these tests were 4.9 ug/l and 4.6 ug/l. The sample results that the Complainant obtained privately were 5.84 ug/l and 3.72 ug/l. These results were very similar. The Region followed the procedure found in O.Reg 170. The Director noted that Durham Region's staff followed the Region's Water Supply By-Law. Further, the quantity of lead met the requirements stipulated in the Health Canada guideline, that indicates that lead should be less than 5 ug per litre.

I spoke directly to both the Complainant and the Director. The Director referenced the November 29, 2016 Notice provided to residents. He acknowledged that this was a miscommunication, and he had previously apologized to the Complainant for the Region's error. The Director advised that for the James Street residents, they had the option of continuing with the non-standard service from their respective backyards or paying for a connection to the front of their homes.

In our discussion, the Complainant advised that he estimated the cost to be \$30,000 - \$40,000 for each home on James Street. On the other hand, the Director has suggested that the typical average estimate to install a standard size service pipe on private property will range from \$5000 to \$15,000 subject to property landscaping and constraints. In order to conduct a proper estimate, a plumber and contractor would need to visit the property.

In addition to speaking with the Complainant and the Director, I have reviewed By-Law Number 89-2003, as Amended. Part V of the By-Law deals with the Connection to the Regional Water Supply System. Section 23 (9) provides as follows:

“(9) Where the Region replaces a substandard Water Service Connection as part of a construction project, the Consumer shall be responsible for the cost of replacing the Service Pipe and shall have a period of thirty days from the date of written notice from the Commissioner of Works to connect the Consumer’s building to the new Water Service connection.”

Section 24 of the By-Law provides as follows:

“24. The Consumer shall be responsible for the installation of a Service Pipe.”

Service Pipe is a defined term in the By-Law and means “*that part of a Water Service from the street line, property line or easement limit to a building*”.

Based on this analysis, Durham Region has correctly applied the By-Law to insist that the Complainant pay for any water service from the street or property line to his home. It appears clear that Durham Region must pay for replacing the water line on the Region’s side of the property line, with property owners having the responsibility to pay for the portion on their side of the property line.

With respect to the issue of the level of lead in the Complainant’s drinking water, I am not satisfied based on a balance of probabilities that the level is at a dangerous level. I accept the Director’s information that the level of lead in the Complainant’s drinking water complies with national guidelines in place, and below the provincial water quality standards.

However, on the other hand, I am concerned that there was initially a misrepresentation made to the Complainant and his neighbors on James Street with respect to who would look after the water connection to his home. Certainly, in the communication of November 29, 2016 the Complainant was advised that Durham Region would be providing a new sanitary sewer connection at the front of his property. Thus, he was led to believe that this work would be done at no cost to himself. This was further confirmed in the spring of 2017 when a representative of the Region visited the Complainant’s property to inform the James Street residents that the Region would be removing their driveways and replacing the infrastructure.

Had the Complainant understood from the outset that it was his responsibility to pay for replacing the service line on his side of his property, he may have put into place a plan to have his service line replaced while Durham Region was undertaking its work. I understand from the Director’s communication to the Complainant that new water and sanitary sewer connections have already been installed along the James Street right of way.

The Director has acknowledged the initial representations made to the Complainant with respect to who would pay for the new water and sanitary sewer connections on his property and has apologized. It is my view that the Complainant was harmed by Durham Region’s representations, when he did not undertake to replace the connections on his property when the Region was undertaking its work.

In balancing the strict wording of the By-Law, together with the harm caused by Durham Region’s representations, I find that there should be a cost-sharing with respect to the work on the Complainant’s property. I find that Durham Region and the Complainant should share equally in the cost to connect the Complainant’s home to the Durham water and sewer supply at the front of his property. In other words, the Complainant should receive a 50% subsidy for the cost of a new Service Pipe on his property.

I would also recommend that Durham Region provide assistance if the Complainant requests such assistance with respect to arranging for and facilitating the work by a general contractor.

Recommendation

My recommendation is that Durham Region will pay half of all of the Complainant's expenses relating to the installation of new copper service lines between the property line and the Complainant's water meter.

Deborah Anschell
Investigator

AMO SUBMITS REPORT TO ATTORNEY GENERAL ON LIABILITY AND INSURANCE COST REFORMS

October 1, 2019

On September 27, the AMO Board approved a submission on joint and several liability entitled, “Towards A Reasonable Balance: Addressing growing municipal liability and insurance costs.” Earlier today, AMO President Jamie McGarvey forwarded the report to the Attorney General, The Honourable Doug Downey for consideration.

Municipal councils are encouraged to endorse the report and its recommendations. The Ministry of the Attorney General has agreed to accept municipal resolutions up until November 1, 2019. Resolutions can be sent to the Attorney General at doug.downeyco@pc.ola.org and magpolicy@ontario.ca or by writing to:

The Honourable Doug Downey
Attorney General of Ontario
McMurtry-Scott Building,
720 Bay St, 11th Floor,
Toronto, ON
M7A 2S9

The report includes seven key recommendations on actions which the government could take to reduce the negative impact of joint and several liability. It builds on previous reports and resolutions submitted in 2010, 2011, and 2014. Please see the report for more details.

AMO thanks those municipalities that have contributed to the government’s consultation to date. If you have not already done so, please provide a copy of your submission to the AMO President at amopresident@amo.on.ca.

For questions related to the report, please contact AMO Senior Advisor Matthew Wilson at mwilson@amo.on.ca or at 416-971-9856 ext. 323.

DOWNLOAD



Towards a Reasonable Balance: Addressing Growing Municipal Liability and Insurance Costs

CONTACT

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Towards a Reasonable Balance:

Addressing growing municipal liability and insurance costs

Submission to the Attorney General of Ontario

October 1, 2019

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Sent via email to: doug.downeyco@pc.ola.org
magpolicy@ontario.ca

October 1, 2019

The Honourable Doug Downey
Attorney General of Ontario
McMurtry-Scott Building, 11th Floor
720 Bay Street
Toronto, Ontario
M7A 2S9

Dear Attorney General Downey,

Municipal governments accept the responsibility to pay their fair share of a loss. Always. Making it right and paying a fair share are the cornerstones of our legal system. Citizens expect nothing less of their local governments.

But what is a challenge for municipalities and property taxpayers alike, is being asked to assume someone else's responsibility for someone else's mistake. Municipal governments should not be the insurer of last resort. For municipalities in Ontario, however, the principle of joint and several liability ensures that they are just that.

Joint and several liability means higher insurance costs. It diverts property tax dollars from delivering public services. It has transformed municipalities into litigation targets while others escape responsibility. It forces municipal government to settle out-of-court for excessive amounts when responsibility is as low as 1%.

There must be a better way. There must be a better way to help ensure those who suffer losses are made whole again without asking municipalities to bear that burden alone. There must be a better way to be fair, reasonable, and responsible.

AMO welcomes the government's commitment to review joint and several liability. It is a complex issue that has many dimensions. Issues of fairness, legal principles, "liability chill", insurance failures and high insurance costs are all intertwined. Many other jurisdictions have offered additional protection for municipalities and AMO calls on the Ontario government to do the same.

What follows is a starting point for that discussion. Our paper reasserts key issues from AMO's 2010 paper, AMO's 2011 insurance cost survey, provides more recent examples, and details some possible solutions of which there are many options.

Municipalities are in the business of delivering public services. Municipal governments exist to connect people and to advance the development of a community. It is time to find a reasonable balance to prevent the further scaling back of public services owing to joint and several liability, "liability chill", or excessive insurance costs.

Together with the provincial government, I am confident we can find a better way.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. McGarvey', with a long horizontal stroke extending to the right.

Jamie McGarvey
AMO President

Executive Summary

AMO's advocacy efforts on joint and several liability in no way intends for aggrieved parties to be denied justice or damages through the courts. Rather, municipal governments seek to highlight the inequity of how much "deep pocket" defendants like municipalities are forced to pay, for both in and out of court settlements.

It is entirely unfair to ask property taxpayers to carry the lion's share of a damage award when a municipality is found at minimal fault or to assume responsibility for someone else's mistake.

Municipal governments cannot afford to be the insurer of last resort. The principle of joint and several liability is costing municipalities and taxpayers dearly, in the form of rising insurance premiums, service reductions and fewer choices. The *Negligence Act* was never intended to place the burden of insurer of last resort on municipalities.

As public organizations with taxation power and "deep pockets," municipalities have become focal points for litigation when other defendants do not have the means to pay. At the same time, catastrophic claim awards in Ontario have increased considerably. In part, joint and several liability is fueling exorbitant increases in municipal insurance premiums.

The heavy insurance burden and legal environment is unsustainable for Ontario's communities. Despite enormous improvements to safety, including new standards for playgrounds, pool safety, and better risk management practices, municipal insurance premiums and liability claims continue to increase. All municipalities have risk management policies to one degree or another and most large municipalities now employ risk managers precisely to increase health and safety and limit liability exposure in the design of facilities, programs, and insurance coverage. Liability is a top of mind consideration for all municipal councils.

Joint and several liability is problematic not only because of the disproportioned burden on municipalities that are awarded by courts. It is also the immeasurable impact of propelling municipalities to settle out of court to avoid protracted and expensive litigation for amounts that may be excessive, or certainly represent a greater percentage than their degree of fault.

Various forms of proportionate liability have now been enacted by all of Ontario's competing Great Lakes states. In total, 38 other states south of the border have adopted proportionate liability in specific circumstances to the benefit of municipalities. Many common law jurisdictions around the world have adopted legal reforms to limit the exposure and restore balance. With other Commonwealth jurisdictions and the majority of state governments in the United States having modified the rule of joint and several liability in favour of some form of proportionate liability, it is time for Ontario to consider various options.

There is precedence in Ontario for joint and several liability reform. The car leasing lobby highlighted a particularly expensive court award made in November of 2004 against a car leasing company by the victim of a drunk driver. The August 1997 accident occurred when the car skidded off a county road near Peterborough, Ontario. It exposed the inequity of joint and several liability for car leasing companies. The leasing companies argued to the government that the settlement had put them at a competitive disadvantage to lenders. They also warned that such liability conditions would likely drive some leasing and rental companies to reduce their business in Ontario. As a result, Bill 18 amended the *Compulsory Automobile Insurance Act*, the *Highway Traffic*

Act and the Ontario *Insurance Act* to make renters and lessees vicariously liable for the negligence of automobile drivers and capped the maximum liability of owners of rental and leased cars at \$1 million. While Bill 18 has eliminated the owners of leased and rented cars as “deep pocket” defendants, no such restrictions have been enacted to assist municipalities.

A 2011 survey conducted by AMO reveals that since 2007, liability premiums have increased by 22.2% and are among the fastest growing municipal costs. Total 2011 Ontario municipal insurance costs were \$155.2 million. Liability premiums made up the majority of these expenses at \$85.5 million. Property taxpayers are paying this price.

These trends are continuing. In August of 2019, it was reported the Town of Bradford West Gwillimbury faces a 59% insurance cost increase for 2019. This is just one example. AMO encourages the municipal insurance industry to provide the government with more recent data and trends to support the industry’s own arguments regarding the impact joint and several has on premiums.

Insurance costs disproportionately affect small municipalities. For 2011, the per capita insurance costs for communities with populations under 10,000 were \$37.56. By comparison, per capita costs in large communities with populations over 75,000 were \$7.71. Property taxpayers in one northern community are spending more on insurance than their library. In one southern county, for every \$2 spent on snowplowing roads, another \$1 is spent on insurance.

In 2016, the Ontario Municipal Insurance Exchange (OMEX), a not-for-profit insurer, announced that it was suspending reciprocal underwriting operations. The organization cited, a “low pricing environment, combined with the impact of joint and several liability on municipal claim settlements” as reasons for the decision. Fewer choices fuels premium increases.

Learning from other jurisdictions is important for Ontario. The Province of Saskatchewan has implemented liability reforms to support its municipalities. As a municipal lawyer at the time, Neil Robertson, QC was instrumental in laying out the arguments in support of these changes. Now a Justice of the Court of Queen’s Bench for Saskatchewan, AMO was pleased to have Neil Robertson prepare a paper and address AMO conference delegates in 2013. Much of the Saskatchewan municipal experience (which led to reforms) is applicable to the Ontario and the Canadian municipal context. Summarised below and throughout this paper are some of Robertson’s key findings.

Robertson found that, regardless of the cause, over the years municipalities in Canada have experienced an accelerating rate of litigation and an increase in amounts of damage awards. He noted these developments challenge municipalities and raise financial, operational and policy issues in the provision of public services.

Robertson describes the current Canadian legal climate as having placed municipalities in the role of involuntary insurer. Courts have assigned municipal liability where liability was traditionally denied and apportioned fault to municipal defendants out of proportion to municipal involvement in the actual wrong.

This increased exposure to liability has had serious ramifications for municipalities, both as a deterrent to providing public services which may give rise to claims and in raising the cost and reducing the availability of insurance. The cost of claims has caused insurers to reconsider not only

what to charge for premiums, but whether to continue offering insurance coverage to municipal clients.

Robertson also makes the key point that it is reasonable for municipal leaders to seek appropriate statutory protections. He wrote:

“Since municipalities exist to improve the quality of life for their citizens, the possibility of causing harm to those same citizens is contrary to its fundamental mission. Careful management and wise stewardship of public resources by municipal leaders will reduce the likelihood of such harm, including adherence to good risk management practices in municipal operations. But wise stewardship also involves avoiding the risk of unwarranted costs arising from inevitable claims.”

And, of course, a key consideration is the reality that insurance premiums, self-insurance costs, and legal fees divert municipal funds from other essential municipal services and responsibilities.

It is in this context that AMO appreciated the commitments made by the Premier and the Attorney General to review the principle of joint and several liability, the impact it has on insurance costs, and the influence “liability chill” has on the delivery of public services. Now is the time to deliver provincial public policy solutions which address these issues.

Recommendations

AMO recommends the following measures to address these issues:

1. The provincial government adopt a model of full proportionate liability to replace joint and several liability.
2. Implement enhancements to the existing limitations period including the continued applicability of the existing 10-day rule on slip and fall cases given recent judicial interpretations, and whether a 1-year limitation period may be beneficial.
3. Implement a cap for economic loss awards.
4. Increase the catastrophic impairment default benefit limit to \$2 million and increase the third-party liability coverage to \$2 million in government regulated automobile insurance plans.
5. Assess and implement additional measures which would support lower premiums or alternatives to the provision of insurance services by other entities such as non-profit insurance reciprocals.
6. Compel the insurance industry to supply all necessary financial evidence including premiums, claims, and deductible limit changes which support its, and municipal arguments as to the fiscal impact of joint and several liability.
7. Establish a provincial and municipal working group to consider the above and put forward recommendations to the Attorney General.

Insurance Cost Examples

The government has requested detailed information from municipalities regarding their insurance costs, coverage, deductibles, claims history, and out-of-court settlements. Municipalities have been busy responding to a long list of provincial consultations on a wide range of topics. Some of the information being sought is more easily supplied by the insurance industry. AMO's 2011 survey of insurance costs produced a sample size of 122 municipalities and assessed insurance cost increases over a five-year period. The survey revealed an average premium increase which exceeded 20% over that period.

All of the same forces remain at play in 2019 just as they were in 2011. Below are some key examples.

Ear Falls - The Township of Ear Falls reports that its insurance premiums have increased 30% over five years to \$81,686. With a population of only 995 residents (2016), this represents a per capita cost of \$82.09. This amount is a significant increase from AMO's 2011 Insurance Survey result. At that time, the average per capita insurance cost for a community with a population under 10,000 was \$37.56. While the Township has not been the subject of a liability claim, a claim in a community of this size could have significant and long-lasting financial and service implications. The Township has also had to impose stricter insurance requirements on groups that rent municipal facilities. This has had a negative impact on the clubs and volunteers' groups and as a consequence, many have cut back on the service these groups provide to the community.

Central Huron – For many years the municipality of Central Huron had a deductible of \$5,000. In 2014, the deductible was increased to \$15,000 to help reduce insurance costs. The municipality also increased its liability coverage in 2014 and added cyber security coverage in 2018. The combined impact of these changes represents a premium cost of \$224,774 in 2019, up from \$141,331 in 2010. Per capita costs for insurance alone are now \$29.67.

Huntsville – Since 2010, the Town of Huntsville reports an insurance premium increase of 67%. In 2019 this represented about 3.75% of the town's property tax levy. At the same time, Huntsville's deductible has increased from \$10,000 to \$25,000. The town also reports a reluctance to hold its own events for fear of any claims which may affect its main policy. Additional coverage is purchased for these events and these costs are not included above.

Ottawa - In August 2018, the City began working with its insurance broker, Aon Risk Solutions ("Aon"), to prepare for the anticipated renewal of the Integrated Insurance Program in April 2019. As the cost of the City's insurance premiums had risen by approximately 25% between 2017 and 2018, this early work was intended to ensure that any further increase could be properly accounted for through the 2019 budget process. Early indications of a possible further 10% premium increase prompted the City and Aon in late 2018 to explore options for a revised Program, and to approach alternative markets for the supply of insurance.

On January 11, 2019, an OC Transpo bus collided with a section of the Westboro Station transit shelter, resulting in three fatalities and numerous serious injuries. This was the second major incident involving the City's bus fleet, following approximately five years after the OC Transpo – VIA train collision in September 2013.

The January 2019 incident prompted insurance providers to re-evaluate their willingness to participate in the City Program. Despite Aon's work to secure an alternative provider, only Frank Cowan Company ("Cowan"), the City's existing insurer, was prepared to offer the City an Integrated Insurance Program. Cowan's offer to renew the City's Program was conditional on revised terms and limits and at a significant premium increase of approximately 84%, or nearly \$2.1 million per year. According to Cowan, these changes and increases were attributable to seven principle factors, including Joint and Several Liability:

1. Escalating Costs of Natural Global Disasters;
2. Joint and Several Liability;
3. Claims Trends (in the municipal sector);
4. Increasing Damage Awards;
5. Class Action Lawsuits;
6. New and/or Adverse Claims Development; and,
7. Transit Exposure.

Cowan also indicated that the primary policy limits for the 2019-2020 renewal would be lowered from \$25 million to \$10 million per occurrence, thereby raising the likelihood of increased costs for the City's excess liability policies.

Joint and Several in Action - Recent Examples

The following examples highlight joint and several in action. The following examples have occurred in recent years.

GTA Municipality – A homeowner rented out three separate apartments in a home despite being zoned as a single-family dwelling. After a complaint was received, bylaw inspectors and Fire Prevention Officers visited the property. The landlord was cautioned to undertake renovations to restore the building into a single-family dwelling. After several months of non-compliance, charges under the fire code were laid. The owner was convicted and fined. A subsequent visit by Fire Prevention Officers noted that the required renovations had not taken place. Tragically, a fire occurred which resulted in three fatalities. Despite having undertaken corrective action against the homeowner, joint and several liability loomed large. It compelled the municipality to make a payment of \$504,000 given the 1% rule.

City of Ottawa - A serious motor vehicle accident occurred between one of the City's buses and an SUV. The collision occurred at an intersection when the inebriated driver of the SUV failed to stop at a red light and was struck by the City bus. This collision resulted in the deaths of the SUV driver and two other occupants, and also seriously injured the primary Plaintiff, the third passenger in the SUV. The secondary action was brought by the family of one of the deceased passengers.

The Court ultimately concluded that the City was 20% liable for the collision, while the SUV driver was 80% at fault. Despite the 80/20 allocation of fault, the City was required to pay all of the approximately \$2.1 million in damages awarded in the primary case and the \$200,000 awarded in the secondary case, bringing the amount paid by the City to a total that was not proportionate to its actual liability. This was due to the application of the principle of joint and several liability, as well as the interplay between the various automobile insurance policies held by the SUV owner and

passengers, which is further explained below. Although the City appealed this case, the Ontario Court of Appeal agreed with the findings of the trial judge and dismissed it.

This case was notable for the implications of various factors on the insurance policies held by the respective parties. While most automobile insurance policies in Ontario provide for \$1 million in third party liability coverage, the insurance for the SUV was reduced to the statutory minimum of \$200,000 by virtue of the fact that the driver at the time of the collision had a blood alcohol level nearly three times the legal limit for a fully licensed driver. This was contrary to the requirements of his G2 license, which prohibit driving after the consumption of any alcohol. Further, while the Plaintiff passengers' own respective insurance provided \$1 million in coverage for underinsured motorists (as the SUV driver was at the time), this type of coverage is triggered only where no other party is in any way liable for the accident. As a result, the primary Plaintiff could only effectively recover the full \$2.1 million in damages if the Court attributed even a small measure of fault to another party with sufficient resources to pay the claim.

In determining that the City was at least partially responsible for the collision, the Court held that the speed of the bus – which according to GPS recordings was approximately 6.5 km/h over the posted limit of 60 kilometres an hour – and momentary inattention were contributing factors to the collision.

To shorten the length of the trial by approximately one week and accordingly reduce the legal costs involved, the parties had earlier reached an agreement on damages and that the findings regarding the primary Plaintiff would apply equally to the other. The amount of the agreement-upon damages took into account any contributory negligence on the part of the respective Plaintiffs, attributable to such things as not wearing a seat belt.

City of Ottawa, 2nd example – A Plaintiff was catastrophically injured when, after disembarking a City bus, he was struck by a third-party motor vehicle. The Plaintiff's injuries included a brain injury while his impairments included incomplete quadriplegia.

As a result of his accident, the Plaintiff brought a claim for damages for an amount in excess of \$7 million against the City and against the owner and driver of the third-party vehicle that struck him. Against the City, the Plaintiff alleged that the roadway was not properly designed and that the bus stop was placed at an unsafe location as it required passengers to cross the road mid-block and not at a controlled intersection.

Following the completion of examinations for discovery, the Plaintiff's claim against the Co-Defendant (the driver of the vehicle which struck the plaintiff) was resolved for \$1,120,000 comprising \$970,000 for damages and \$120,000 for costs. The Co-Defendant's policy limit was \$1 million. The claim against the City was in effect, a "1% rule" case where the City had been added to the case largely because the Co-Defendant's insurance was capped at \$1 million, which was well below the value of the Plaintiff's claim.

On the issue of liability, the pre-trial judge was of the view that the City was exposed to a finding of some liability against it on the theory that, because of the proximity of the bus stop to a home for adults with mental health issues, the City knew or should have known that bus passengers with cognitive and/or physical disabilities would be crossing mid-block at an unmarked crossing. This, according to the judge, could have resulted in a finding being made at trial that the City should

either have removed the bus stop or alternatively, should have installed a pedestrian crossing at this location.

The judge assessed the Plaintiff's damages at \$7,241,000 exclusive of costs and disbursements which he then reduced to \$4,602,930 exclusive of costs and disbursements after applying a reduction of 27.5% for contributory negligence and subtracting the \$970,000 payment made by the Co-Defendant's insurer.

Settlement discussions took place and the judge recommended that the matter be resolved for \$3,825,000 plus costs of \$554,750 plus HST plus disbursements.

Joint and Several Liability in Action - Other notable cases

Deering v Scugog - A 19-year-old driver was driving at night in a hurry to make the start time of a movie. She was travelling on a Class 4 rural road that had no centerline markings. The Ontario Traffic Manual does not require this type of road to have such a marking. The driver thought that a vehicle travelling in the opposite direction was headed directly at her. She swerved, over-corrected and ended up in a rock culvert. The Court found the Township of Scugog 66.7% liable. The at-fault driver only carried a \$1M auto insurance policy.

Ferguson v County of Brant - An inexperienced 17-year-old male driver was speeding on a road when he failed to navigate a curve which resulted in him crossing the lane into oncoming traffic, leaving the roadway, and striking a tree. The municipality was found to have posted a winding road sign rather than a sharp curve sign. The municipality was found 55% liable.

Safranyos et al v City of Hamilton - The plaintiff was leaving a drive-in movie theatre with four children in her vehicle at approximately 1 AM. She approached a stop sign with the intention of turning right onto a highway. Although she saw oncoming headlights she entered the intersection where she was struck by a vehicle driven 15 km/h over the posted speed limit by a man who had just left a party and was determined by toxicologists to be impaired. The children in the plaintiff's vehicle suffered significant injuries. The City was determined to be 25% liable because a stop line had not been painted on the road at the intersection.

Mortimer v Cameron - Two men were engaged in horseplay on a stairway and one of them fell backward through an open door at the bottom of a landing. The other man attempted to break the first man's fall and together they fell into an exterior wall that gave way. Both men fell 10 feet onto the ground below, one of whom was left quadriplegic. The trial judge determined both men were negligent, but that their conduct did not correspond to the extent of the plaintiff's injuries. No liability was attached to either man. The building owner was determined to be 20% and the City of London was found to be 80% liable. The Court awarded the plaintiff \$5 M in damages. On appeal, the City's liability was reduced to 40% and building owner was determined to be 60% liable. The City still ended up paying 80% of the overall claim.

2011 Review of Joint and Several Liability – Law Commission of Ontario

In February 2011 the Law Commission of Ontario released a report entitled, *"Joint and Several Liability Under the Ontario Business Corporations Act"*. This review examined the application of

joint and several liability to corporate law and more specifically the relationship between the corporation and its directors, officers, shareholders and stakeholders.

Prior to the report's release, AMO made a submission to the Law Commission of Ontario to seek to expand its review to include municipal implications. The Law Commission did not proceed with a broader review at that time, but the context of its narrower scope remains applicable to municipalities. In fact, many of the same arguments which support reform in the realm of the *Business Corporations Act*, are the same arguments which apply to municipal governments.

Of note, the Law Commission's¹ report highlighted the following in favour of reforms:

Fairness: "it is argued that it is unfair for a defendant, whose degree of fault is minor when compared to that of other defendants, to have to fully compensate a plaintiff should the other defendants be insolvent or unavailable."

Deep Pocket Syndrome: "Joint and several liability encourages plaintiffs to unfairly target defendants who are known or perceived to be insured or solvent."

Rising Costs of Litigation, Insurance, and Damage Awards: "Opponents of the joint and several liability regime are concerned about the rising costs of litigation, insurance, and damage awards."

Provision of Services: "The Association of Municipalities of Ontario identifies another negative externality of joint and several liability: municipalities are having to delay or otherwise cut back services to limit exposure to liability."

The Law Commission found that the principle of joint and several liability should remain in place although it did not explicitly review the municipal situation.

2014 Resolution by the Ontario Legislature and Review by the Attorney General

Over 200 municipalities supported a motion introduced by Randy Pettapiece, MPP for Perth-Wellington which called for the implementation a comprehensive, long-term solution in 2014. That year, MPPs from all parties supported the Pettapiece motion calling for a reform joint and several liability.

Later that year the Ministry of the Attorney General consulted on three options of possible reform:

1. The Saskatchewan Model of Modified Proportionate Liability

Saskatchewan has adopted a modified version of proportionate liability that applies in cases where a plaintiff is contributorily negligent. Under the Saskatchewan rule, where a plaintiff is contributorily negligent and there is an unfunded liability, the cost of the unfunded liability is split among the remaining defendants and the plaintiff in proportion to their fault.

¹ Law Commission of Ontario. "Joint and Several Liability Under the Ontario *Business Corporations Act*." Final Report, February 2011 Pages 22-25.

2. Peripheral Wrongdoer Rule for Road Authorities

Under this rule, a municipality would never be liable for more than two times its proportion of damages, even if it results in the plaintiff being unable to recover full damages.

3. A combination of both of the above

Ultimately, the government decided not to pursue any of the incremental policy options ostensibly because of uncertainty that insurance cost reductions would result. This was a disappointing result for municipalities.

While these reviews did not produce results in Ontario, many other common law jurisdictions have enacted protections for municipalities. What follows are some of the options for a different legal framework.

Options for Reform – The Legal Framework

To gain a full appreciation of the various liability frameworks that could be considered, for comparison, below is a description of the current joint and several liability framework here in Ontario. This description will help to reader to understand the further options which follow.

This description and the alternatives that follow are taken from the Law Commission of Ontario's February 2011 Report entitled, *"Joint and Several Liability Under the Ontario Business Corporations Act"* as referenced above.²

Understanding the Status Quo and Comparing it to the Alternatives

Where three different defendants are found to have caused a plaintiff's loss, the plaintiff is entitled to seek full payment (100%) from any one of the defendants. The defendant who fully satisfies the judgment has a right of contribution from the other liable parties based on the extent of their responsibility for the plaintiff's loss.

For example, a court may find defendants 1 (D1), 2 (D2) and 3 (D3) responsible for 70%, 20%, and 10% of the plaintiff's \$100,000 loss, respectively. The plaintiff may seek to recover 100% of the loss from D2, who may then seek contribution from D1 and D3 for their 70% and 10% shares of the loss. If D1 and/or D3 is unable to compensate D2 for the amount each owes for whatever reason, such as insolvency or unavailability, D2 will bear the full \$100,000 loss. The plaintiff will be fully compensated for \$100,000, and it is the responsibility of the defendants to apportion the loss fairly between them.

The descriptions that follow are abridged from pages 9-11 of the Law Commission of Ontario's report. These are some of the key alternatives to the status quo.

² Ibid. Page 7.

1. Proportionate Liability

a) Full Proportionate Liability

A system of full proportionate liability limits the liability of each co-defendant to the proportion of the loss for which he or she was found to be responsible. Per the above example, (in which Defendant 1 (D1) is responsible for 70% of loss, Defendant 2 (D2) for 20% and Defendant 3 (D3) for 10%), under this system, D2 will only be responsible for \$20,000 of the \$100,000 total judgement: equal to 20% of their share of the liability. Likewise, D1 and D3 will be responsible for \$70,000 and \$10,000. If D1 and D3 are unable to pay, the plaintiff will only recover \$20,000 from D2.

b) Proportionate Liability where Plaintiff is Contributorily Negligent

This option retains joint and several liability when a blameless plaintiff is involved. This option would cancel or adjust the rule where the plaintiff contributed to their loss. As in the first example, suppose the plaintiff (P) contributed to 20% of their \$100,000 loss. D1, D2 and D3 were responsible for 50%, 20% and 10% of the \$100,000. If D1 and D3 are unavailable, P and D2 will each be responsible for their \$20,000 shares. The plaintiff will remain responsible for the \$60,000 shortfall as a result of the absent co-defendants' non-payment (D1 and D3).

c) Proportionate Liability where Plaintiff is Contributorily Negligent with a Proportionate Reallocation of an Insolvent, Financially Limited or Unavailable Defendant's Share

In this option of proportionate liability, the plaintiff and remaining co-defendants share the risk of a defendant's non-payment. The plaintiff (P) and co-defendants are responsible for any shortfall in proportion to their respective degrees of fault.

Using the above example of the \$100,000 total judgement, with a shortfall payment of \$50,000 from D1 and a shortfall payment \$10,000 from D3, P and D2 must pay for the missing \$60,000. P and D2 have equally-apportioned liability, which causes them to be responsible for half of each shortfall - \$25,000 and \$5,000 from each non-paying defendant. The burden is shared between the plaintiff (if determined to be responsible) and the remaining defendants.

d) Proportionate Liability with a Peripheral Wrongdoer

Under this option, a defendant will be proportionately liable only if their share of the liability falls below a specified percentage, meaning that liability would be joint and several. Using the above example, if the threshold amount of liability is set at 25%, D2 and D3 would only be responsible for 20% and 10%, regardless of whether they are the only available or named defendants. However, D1 may be liable for 100% if it is the only available or named defendant. This system tends to favour defendants responsible for a small portion of the loss, but the determination of the threshold amount between joint and several liability and proportionate liability is arbitrary.

e) Proportionate Liability with a Reallocation of Some or All of an Insolvent or Unavailable Defendant's Share

This option reallocates the liability of a non-paying defendant among the remaining defendants in proportion to their respective degrees of fault. The plaintiff's contributory negligence does not

impact the application of this reallocation. Joint and several liability would continue to apply in cases of fraud or where laws were knowingly violated.

f) Court Discretion

Similar to the fraud exception in the option above, this option includes giving the courts discretion to apply different forms of liability depending on the case.

For example, if a particular co-defendant's share of the fault was relatively minor the court would have discretion to limit that defendant's liability to an appropriate portion.

2. Legislative Cap on Liability

Liability concerns could be addressed by introducing a cap on the amount of damages available for claims for economic loss.

3. Hybrid

A number of jurisdictions provide a hybrid system of proportionate liability and caps on damages. Co-defendants are liable for their portion of the damages, but the maximum total amount payable by each co-defendant is capped to a certain limit.

The Saskatchewan Experience

As referenced earlier in this paper, the Province of Saskatchewan responded with a variety of legislative actions to assist municipalities in the early 2000s. Some of those key developments are listed below which are abridged from *"A Question of Balance: Legislative Responses to Judicial Expansion of Municipal Liability – the Saskatchewan Experience."* The paper was written by Neil Robertson, QC and was presented to the annual conference of the Association of Municipalities of Ontario in 2013. Two key reforms are noted below.

1. Reforming joint and several liability by introducing modified proportionate liability: "The Contributory Negligence Act" amendments

The *Contributory Negligence Act* retained joint and several liability, but made adjustments in cases where one or more of the defendants is unable to pay its share of the total amount (judgement). Each of the parties at fault, including the plaintiff if contributorily negligent, will still have to pay a share of the judgement based on their degree of fault. However, if one of the defendants is unable to pay, the other defendants who are able to pay are required to pay only their original share and an additional equivalent share of the defaulting party's share.

The change in law allows municipalities to reach out-of-court settlements, based on an estimate of their degree of fault. This allows municipalities to avoid the cost of protracted litigation.

Neil Robertson provided the following example to illustrate how this works in practise:

"...If the owner of a house sues the builder for negligent construction and the municipality, as building authority, for negligent inspection, and all three are found equally at fault, they would each be apportioned 1/3 or 33.3%. Assume the damages are \$100,000. If the builder has no funds, then the municipality would pay only its share (\$33,333) and a 1/3 share of the builder's defaulting share

(1/3 of \$33,333 or \$11,111) for a total of \$44,444 (\$33,333 + \$11,111), instead of the \$66,666 (\$33,333 + \$33,333) it would pay under pure joint and several liability.”

This model will be familiar to municipal leaders in Ontario. In 2014, Ontario’s Attorney General presented this option (called the Saskatchewan Model of Modified Proportionate Liability) for consideration. At the time, over 200 municipal councils supported the adoption of this option along with the “Peripheral Wrongdoer Rule for Road Authorities” which would have seen a municipality never be liable for more than two times its proportion of damages, even if it results in the plaintiff being unable to recover full damages. These two measures, if enacted, would have represented a significant incremental step to address the impact of joint and several to Ontario municipalities.

2. Providing for uniform limitation periods while maintaining a separate limitation period for municipalities: “The Limitations Act”

This act established uniform limitation periods replacing many of the pre-existing limitation periods that had different time periods. The Municipal Acts in Saskatchewan provide a uniform one-year limitation period “from time when the damages were sustained” in absolute terms without a discovery principle which can prolong this period. This helps municipalities to resist “legacy” claims from many years beforehand. This act exempts municipalities from the uniform two-year discoverability limitation period.

Limitation periods set deadlines after which claims cannot be brought as lawsuits in the courts. The legislation intends to balance the opportunity for potential claimants to identify their claims and, if possible, negotiate a settlement out of court before starting legal action with the need for potential defendants to “close the books” on claims from the past.

The reasoning behind these limitations is that public authorities, including municipalities, should not to be punished by the passage of time. Timely notice will promote the timely investigation and disposition of claims in the public interest. After the expiry of a limitation period, municipalities can consider themselves free of the threat of legal action, and continue with financial planning without hurting “the public taxpayer purse”. Municipalities are mandated to balance their budgets and must be able to plan accordingly. Thus, legacy claims can have a very adverse affect on municipal operations.

Here in Ontario, there is a uniform limitations period of two years. Municipalities also benefit from a 10-day notice period which is required for slip and fall cases. More recently, the applicability of this limitation deadline has become variable and subject to judicial discretion. Robertson’s paper notes that in Saskatchewan, courts have accepted the one-year limitations period. A further examination of limitations in Ontario may yield additional benefits and could include the one-year example in Saskatchewan and/or the applicability of the 10-day notice period for slip and fall cases.

Other Saskatchewan reforms

Saskatchewan has also implemented other reforms which include greater protections for building inspections, good faith immunity, duty of repair, no fault insurance, permitting class actions, and limiting nuisance actions. Some of these reforms are specific to Saskatchewan and some of these currently apply in Ontario.

Insurance Related Reforms

Government Regulated Insurance Limits

The April 2019 provincial budget included a commitment to increase the catastrophic impairment default benefit limit to \$2 million. Public consultations were led by the Ministry of Finance in September 2019. AMO wrote to the Ministry in support of increasing the limit to \$2 million to ensure more adequate support those who suffer catastrophic impairment.

In 2016, the government lowered this limit as well as third-party liability coverage to \$200,000 from \$1 million. This minimum should also be increased to \$2 million to reflect current actual costs. This significant deficiency needs to be addressed.

Insurance Industry Changes

In 1989 the Ontario Municipal Insurance Exchange (OMEX) was established as a non-profit reciprocal insurance provider for Ontario's municipalities. It ceased operations in 2016 citing, "[a] low pricing environment, combined with the impact of joint & several liability on municipal claim settlements has made it difficult to offer sustainable pricing while still addressing the municipalities' concern about retro assessments."³ (Retro assessments meant paying additional premiums for retroactive coverage for "long-tail claims" which made municipal budgeting more challenging.)

The demise of OMEX has changed the municipal insurance landscape in Ontario. That joint and several liability is one of the key reasons listed for the collapse of a key municipal insurer should be a cause for significant concern. Fewer choices fuels cost. While there are other successful municipal insurance pools in Ontario, the bulk of the insurance market is dominated by for-profit insurance companies.

Reciprocal non-profit insurers are well represented in other areas across Canada. Municipalities in Saskatchewan, Alberta, British Columbia are all insured by non-profit reciprocals.

The questions for policy makers in Ontario:

Are there any provincial requirements or regulations which could better support the non-profit reciprocal municipal insurance market?

What actions could be taken to better protect municipalities in Ontario in sourcing their insurance needs?

How can we drive down insurance costs to better serve the needs of municipal property taxpayers?

³ Canadian Underwriter, August 11, 2016 <https://www.canadianunderwriter.ca/insurance/ontario-municipal-insurance-exchange-suspends-underwriting-operations-1004098148/>

Conclusion

This AMO paper has endeavoured to refresh municipal arguments on the need to find a balance to the issues and challenges presented by joint and several liability. It has endeavoured to illustrate that options exist and offer the reassurance that they can be successfully implemented as other jurisdictions have done.

Finding solutions that work will require provincial and municipal commitment. Working together, we can find a better way that is fair, reasonable, and responsible. It is time to find a reasonable balance.

Notice of Motions

October 23, 2019

8.1 Territory Acknowledgement

Councillors Collier and Lee gave Notice that the following motion will be presented at the October 23, 2019 meeting, or subsequent meeting of Regional Council:

WHEREAS Regional Council believes that traditional territory acknowledgements are a respectful and fitting way to recognize that Durham Region spans a portion of the territories covered by the Williams Treaties, and that all eight area municipalities of Durham are home to Indigenous Peoples;

AND WHEREAS recognition and respect are essential elements of building healthy, reciprocal relationships with Indigenous Peoples;

AND WHEREAS Regional representatives engaged local Indigenous communities;

NOW THEREFORE BE IT RESOLVED that the Council Procedural By-law be amended to provide for the reading of a traditional territory acknowledgement at the beginning of every Council meeting.

Report #8 of the Finance & Administration Committee

For consideration by Regional Council

October 23, 2019

The Finance & Administration Committee recommends approval of the following:

1. Long-term Financial Planning Framework for the Region of Durham ([2019-F-33](#))
 - A) That the long-term financial planning framework as outlined in Appendix #1 to Report #2019-F-33, including vision statement be endorsed;
 - B) That the following new reserve funds be established in the amounts shown below and for the purposes outlined in Attachment #1 to Report #2019-F-33 with future use of reserve funds based on Regional Council approval generally through the annual budget process:
 - i) Economic Development (\$3.8 million);
 - ii) Innovation and Modernization Initiatives (\$5.0 million)
 - iii) Servicing of Employment Lands and Key Locations- Water, Sewer, and General Tax (\$19.4 million);
 - iv) Vision Zero Initiatives (\$5.0 million); and
 - v) Climate Mitigation and Environment (\$5.0 million);
 - C) That the following existing Reserve Funds be topped up as follows and for the purposes outlined in Attachment #1 to Report #2019-F-33:
 - i) Regional Revitalization Reserve Fund (\$5.0 million);
 - ii) Durham Region Forest (\$1.0 million); and
 - iii) Regional Roads Reserve (0.4 million);
 - D) That the following repeal of reserve funds and transfers be approved to finance the \$44.6 million required to create and top-up the reserve funds:
 - i) Transfer \$30.0 million from the General Levy Stabilization Reserve Funds;
 - ii) Repeal the following reserve funds:
 - a. Regional share of non-residential development for water and sewer (\$8.9 million);
 - b. Foreign exchange reserve fund (\$4.8 million);
 - c. Industrial Land Reserve Fund (\$0.5 million);
 - d. Highway #2 Reserve Fund (\$0.4 million);
 - e. Police Capital Reserve Fund (\$0.0 million);
 - E) That the remaining funds in the General Levy Stabilization Reserve Fund (\$204.7 million) be utilized to create two new funds as follows:
 - i) Operating Impact Stabilization Fund (\$50.0 million); and

- ii) Capital Impact Stabilization Fund (\$154.7 million);
- F) That the Employee Benefits Reserve usage be extended to fund the post year end payment for 50% of the unused incidental sick hours for employees and employee groups covered by the Short Term Income Protection Program; and
- G) That the Regional Solicitor be authorized to prepare the necessary by-laws to establish the recommended new reserve funds and repeal the recommended deletion of reserve funds.

2. Durham Region Community Investment Grant Policy (2019-F-34)

That the No Grants Policy be repealed and replaced with the Durham Region Community Investment Grant Policy (Attachment #1 to Report #2019-F-34 of the Commissioner of Finance), including the following:

- A) That Community Investment Grants will be available for capital infrastructure investments in healthcare and post-secondary education institutions at the discretion of Regional Council and subject to approval during the annual Business Planning and Budget process;
- B) That financial support will continue to be considered, on a case-by-case basis, for one-time special projects that are applicable or complimentary to Regional program areas (e.g. Economic Development, Innovation, Climate Change and Environment, Conservation Authorities, PARA/COMRA), support the strategic direction of the Region and provide a Region-wide benefit;
- C) That all community investment requests must be submitted in writing to the Commissioner of Finance, and the business case will include the following components:

Regional Community Investment Funding Business Case Components

- Demonstrate alignment with Regional strategic priorities;
 - Clearly defined desired project outcomes, including Region-wide benefits;
 - Analysis of alternative options capable of generating desired outcomes;
 - Sound technical, economic, financial, and cost-benefit assumptions;
 - Detailed review of available financing and long-term financial implications; and,
 - Assessment of potential risks;
- D) That institutions that receive funding approval will be required to enter into a funding agreement with the Region which will outline terms and conditions, including:

- Funds will be distributed upon completion of key project milestones;
 - The requirement for annual reports detailing project completion status and progression toward key milestones; and,
 - The form of recognition of the financial support from the Region of Durham;
- E) That Regional investment grants to post-secondary education and healthcare institutions will also need to conform to the following funding formulas:

Healthcare Institution Funding Formula

- The need for Provincial project approval;
- The commitment of at least 70 per cent Provincial funding of total project costs at the time of request. This relates to all capital projects, excluding capital equipment;
- The proposed financing must include donations raised from the community;
- Region's contribution representing 25 per cent of the community component or a maximum of 7.5 per cent of the total project cost;
- Funds will only be provided for long-term capital assets; and
- Must provide proof of project benefits to residents of the entire Region;

Post-Secondary Education Institution Funding Formula

- The need for Provincial project approval;
 - The proposed financing must include donations raised from the community;
 - Region's contribution representing a maximum of 7.5 per cent of the total project cost;
 - Funds will only be provided for long-term capital assets; and
 - Must provide proof of project benefits to residents of the entire Region; and,
- F) That the Durham Region Cancer Centre/Hospital Reserve Fund be renamed the Durham Region Healthcare Institution Reserve Fund and the Regional Solicitor be instructed to undertake the necessary actions.

3. Request for Deferral of Regional Development Charges for the Regional Council approved Regional Revitalization Project regarding the Development of Vacant Lands located at 80 Bond Street East in the City of Oshawa (2019-F-35)

- A) That the Regional Revitalization Agreement with the City of Oshawa be amended to allow for the deferral of Regional development charges from time of full building permit issuance to occupancy permit issuance (by floor) for the Council-approved Project of 80 Bond Street East in the City of

Oshawa with the City of Oshawa to collect Regional Development Charges prior to issuance of occupancy permits;

- B) That the Region enter into an agreement with Bond and Mary Development (Phase 2) Inc. (BMDI) for the deferral of Regional development charges normally due at time of full building permit issuance to occupancy permit issuance (by floor) for the Council-approved Revitalization Project of 80 Bond Street East in the City of Oshawa, with the agreement containing such terms and conditions as are necessary to reasonably assure the Region of full payment of applicable Regional development charges by time of occupancy permit issuance (by floor) for the proposed project; and
- C) That the Commissioner of Finance be authorized to negotiate and execute the amending agreement with the City of Oshawa and a deferral agreement with BMDI in a form approved by Corporate Services – Legal Services.
4. The Issuance of Debentures on Behalf of the City of Pickering, the Town of Ajax, and the Township of Uxbridge (2019-F-36)

- A) That the Commissioner of Finance be authorized to issue external debentures, in a total principal amount not to exceed \$17,291,000 on behalf of the City of Pickering, the Town of Ajax and the Township of Uxbridge 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>		
Supply and Delivery of Road Grader with Attachments	\$369,000	5 Years
Westney Road – Road Reconstruction	1,496,000	10 Years
Salem Road – Road Reconstruction	700,000	10 Years
Brock Ridge Community Park and S.M. Woodsmere Park – Baseball Diamond Improvement Project	919,000	10 Years
Centennial Park Baseball Diamond Reconstruction Project	357,000	10 Years
Pickering Recreation Complex Roof and Skylight Rehabilitation Project	<u>690,000</u>	20 Years
Sub Total – City of Pickering	<u>\$4,531,000</u>	
<u>Town of Ajax</u>		
New Audley Recreation Centre – Phase 2	<u>\$6,360,000</u>	15 Years
<u>Township of Uxbridge</u>		
Brock Street Culvert Replacement Project	\$4,000,000	10 Years
Brock Street Culvert Replacement Project	<u>2,400,000</u>	15 Years*
Sub Total – Township of Uxbridge	<u>\$6,400,000</u>	
TOTAL EXTERNAL DEBENTURE REQUIREMENTS	<u>\$17,291,000</u>	

* 5 year debentures with an option to issue refinancing debentures on or before the maturity date over a further maximum term of 10 years, at the option of the Township of Uxbridge.

- B) 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
 - C) That the Region of Durham be authorized to issue the external debentures through CDS Clearing and Depository Services Inc.'s "Book Entry Only" system.
5. Update on DRT Kids Ride Free Incentive Pilot Program ([2019-F-37](#))
-
- A) That approval be granted to make permanent Durham Region Transit's Kids Ride Free fare incentive pilot program for children 12 years of age and younger; and
 - B) That Durham Region Transit report back through the 2020 budget process, in collaboration with the Finance Department, on Kids Ride Free uptake, including ridership and revenue impacts.
6. 2020 Regional Business Plans and Property Tax Supported Budget Guideline ([2019-F-38](#))
-
- A) That the following detailed direction and guidelines for the 2020 Business Plans and Budgets for the Durham Regional Police Services Board, Conservation Authorities, Regional Operations and other Outside Agencies be approved:
 - i. The 2020 Property Tax Guideline not exceed an overall tax impact of 2.0 per cent compared to the 2019 approved budget;
 - ii. The 2020 Business Plans and Budget for the Durham Regional Police Services Board not exceed \$213.225 million, an increase of approximately 3.2 per cent compared to the 2019 approved budget not including the request for new front-line officers; and
 - iii. The 2020 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 2020 Special Benefitting Programs Budget for each Conservation Authority not exceed an increase of 1.5 per cent, plus or minus any current value assessment adjustments, compared to the 2019 approved budget;
 - B) That the preliminary timetable for the 2020 Regional Business Plans and Budgets be approved, as outlined in Attachment #2 to Report #2019-F-33, which includes the following key dates:

- i. December 18, 2019 – final Regional Council approval of the 2020 Water Supply and Sanitary Sewerage Business Plans and Budgets;
 - ii. February 26, 2020 – final Regional Council approval of all 2020 Property Tax Supported Business Plans and Budgets; and
 - C) That copies of Report #2019-F-33 be forwarded to the Durham Regional Police Services Board, Durham Region Transit Commission, Conservation Authorities, Durham Regional Local Housing Corporation and other Outside Agencies to guide the development of detailed 2020 Business Plans and Budgets.
7. Water Billing System Go Live Update ([2019-F-39](#))
-
- A) That the contract with Black & Veatch Canada Company as the System Integrator for the Supply and implementation of a Water Billing Customer Information System and for additional post implementation support services, be increased by \$1.945 million, to a new upset limit of \$14.845 million;
 - B) That the financing for the additional services be provided from the project contingency in the amount of \$425,000 with the balance of \$1.42 million provided equally from available water and sewer user rate sources (\$760,000 each) at the discretion of the Commissioner of Finance; and
 - C) That the Commissioner of Finance be authorized to execute any amendments to the agreement in a form acceptable to Corporate Services – Legal Services.

Respectfully submitted,

A. Foster, Chair, Finance & Administration Committee

Report #8 of the Health & Social Services Committee

For consideration by Regional Council

October 23, 2019

The Health & Social Services Committee recommends approval of the following:

1. Additional Provincial Funding from the 2019 Community-Based EarlyON Child and Family Centre Capital Program ([2019-SS-15](#))

 - A) That additional unbudgeted 100 per cent one-time Provincial funding for capital costs associated with EarlyON services from the Ministry of Education in the amount of \$262,166 for the Regional Municipality of Durham Children's Services Division be received as supplementary to the 2019 Business Plans and Budgets and allocated to renovate and retrofit space for EarlyON programming within a current Early Learning and Child Care building; and
 - B) That the Regional Chair and the Regional Clerk be authorized to execute the Amended Ontario Transfer Payment Agreement.
2. Unbudgeted Provincial funding from the Ministry of Long-Term Care for a Designated Behavioural Support Transitional Unit for Fairview Lodge Long-Term Care Home in Whitby ([2019-SS-16](#))

 - A) That the following recommendations be adopted, pending approval by the Ministry of Long-Term Care and, as such, will only be acted upon once formal approval is received by the Ministry;
 - B) That the 2019 portion of unbudgeted ongoing Provincial funding from the Ministry of Long-Term Care (MOLTC) in the amount of \$475,800 for the period September 1, 2019 to December 31, 2019, be expended in accordance with the funding agreement which includes costs related to, but not limited to: staff wages and project costs associated with the operation of a Designated Behavioural Support Transition Unit;
 - C) That approval be granted to increase the Long-Term Care and Services for Seniors staffing complement by eleven (11) new full-time positions effective November 1, 2019 and increase part time staffing costs to account for 24/7 operations coverage within the Unit;
 - D) That the increases in 2019 will be funded entirely from the additional Provincial funding allocation as follows:
 - i. One (1) Registered Nurse at an estimated 2019 cost of \$20,158 (annualized cost of \$122,310);

- ii. Eight (8) Registered Practical Nurses at an estimated cost of \$115,039 (annualized cost of \$694,976);
 - iii. One (1) Personal Support Worker at an estimated 2019 cost of \$12,017 (annualized cost of \$72,615);
 - iv. One (1) Social Worker at an estimated 2019 cost of \$19,884 (annualized cost of \$120,127);
 - v. Increase Part-time hours for Recreation Programmer of \$4,549 to support the Unit (annualized cost is \$27,505);
 - vi. Increase Part-time hours for Nursing and Personal Care \$59,252 to account for 24/7 operations and coverage within the Unit (annualized cost is \$358,269);
 - vii. The annualized costs for incremental staffing costs noted of \$1,423,500 to be funded from the increased Provincial per diem funding;
- E) That unbudgeted one-time provincial funding in the amount of \$230,748 be used for the purpose of staff training and minor equipment purchases; and
- F) That the Regional Chair and Regional Clerk be authorized to execute any required agreements related to the additional funding.
- 3. Project Update and Adoption of Terms of Reference: Durham Region Community Safety and Well-Being Plan (CSWP) (2019-SS-17)
 - A) That the Terms of Reference for the CSWP Steering Committee (Attachment #2 to Report #2019-SS-17 of the Commissioner of Social Services) be adopted;
 - B) That Councillor Carter be appointed to the Steering Committee in accordance with the CSWP Terms of Reference (Section 3.2);
 - C) That Regional Chair Henry be appointed as the alternate to the Steering Committee in accordance with the CSWP Terms of Reference (Section 3.2) and
 - D) That a copy of Report #2019-SS-17 be sent to the area municipalities, Durham Regional Police Service (DRPS), and CSWP Steering Committee Members.

4. Notice of Motion re: Opioid Overdose Emergency Resolution

Whereas the opioid overdose emergency is affecting communities across Ontario, including Durham Region; and

Whereas the prevalence of addiction and the incidence of emergency department visits and deaths associated with opioid use disorder have increased in recent years; and

Whereas addiction to prescription and illegal opioids is negatively affecting individuals, families and entire communities; and

Whereas on September 12, 2019, the Government of Ontario announced its plan to establish the Mental Health and Addictions Division (MHAD) under the leadership of Karen Glass, Assistant Deputy Ministry; and

Whereas the MHAD will lead the development and implementation of Ontario's Mental Health and Addictions Strategy; and

Whereas the Government of Ontario will be consulting key stakeholders and the public on modernizing public health and land ambulance services; and

Whereas public health programs and services demonstrate superior value for money and return on investment; and

Whereas the Federation of Canadian Municipalities (FCM) has identified a need for federal and provincial strategies that are comprehensive, coordinated and address the root causes of the opioid crisis; and

Whereas FCM has recommended an intergovernmental action plan that aligns federal, provincial/territorial and local strategies, responds to specific needs of indigenous communities and rapidly expand all aspects of the collective response; and

Whereas FCM has echoed the recommendations of the Mayor's Task Force on the Opioid Crisis; and

Whereas the Association of Municipalities Ontario (AMO) has identified the following recommendations for a provincial response to addressing the opioid overdose emergency in Ontario:

- i. That the Province publicly affirms the seriousness of the opioid overdose emergency and commit to take all necessary measures to save lives and prevent harm, including the provision of long-term funding for existing programs as well as new funding streams, where necessary;

- ii. That the Province undertakes an ‘all of government’ effort to develop a comprehensive provincial drug strategy that addresses the opioid overdose emergency, based on a public health approach that addresses the social determinants of health, and that takes a non-discriminatory approach to overdose prevention and harm reduction. This strategy should cascade down to guide local drug strategy development and implementation with accompanying resources so that municipalities in Ontario have comprehensive, multi-faceted, funded drug strategies in place led by dedicated local coordinators. Further, progress toward implementation should be measured with performance indicators and be evaluated for outcomes achieved;
- iii. That the Province examines, and its ministries provide, a coordinated ‘all of government’ response with adequate funding to address the root causes of addiction, including housing related factors, poverty, unemployment, mental illness, and trauma;
- iv. That the Ministry of Health provides more funding to support, enhance and expand evidence- based consumption, treatment and rehabilitation services, addiction prevention and education, and harm reduction measures in all areas of Ontario;
- v. That the Ministry of Health targets funding for addiction and mental health services that would assist in treating people with mental illness to reduce and/or eliminate self-medication and would provide services to help people overcome their addiction;
- vi. That the Ministry of the Solicitor General provides enhanced funding to enforce laws surrounding illicit drug supply, production, and distribution;
- vii. That the Province enhances funding for diversion programs, mobile crisis intervention teams, and further promote harm reduction approaches among police services;
- viii. That the Ministry of Health examines community paramedicine as a viable option to provide treatment and referral services;
- ix. That the Ministry of Health funds a public education campaign, including on social media, to complement the efforts of individual communities;
- x. That the provincial coordinator work with the Ministry of Education to add a health promoting youth-resiliency program to the school curriculum that includes coping skills to get through obstacles in life, e.g. social competence, conflict resolution, healthy relationships, and informed decision-making;
- xi. That the Ministry of Health fully funds (100%) Naloxone for all municipal first responders (paramedics, police, and fire services) and provide training in its use;

- xii. That the Ministry of Health and the Ministry of Children, Community and Social Services work together with municipal human service system managers to better link social service and health supports including to help people overcome addiction and address mental health;
- xiii. That the Ministry of Health works toward a goal of establishing and maintaining 30,000 supportive housing units in the province; and
- xiv. That the Province advocates to the federal government for appropriate and supportive measures that will support effective provincial and local responses;

Now therefore be it resolved that the Health & Social Services Committee recommends to Regional Council:

- A) That the Government of Canada and Ontario recognize, acknowledge and declare a national health epidemic in respect to the opioid overdose emergency across Canada;
- B) That AMO's recommendations with respect to Ontario's opioid overdose emergency be endorsed;
- C) That the Government of Ontario be urged to continue funding the important work of public health units to help address the current opioid crisis;
- D) That the Government of Canada and Ontario be advised that the opioid emergency is not limited to major urban centres and that federal and provincial representatives work directly with the Region of Durham, to develop and fund a full-suite of prevention and addiction services, affordable social and supportive housing to address the crisis in our communities; and
- E) That the Prime Minister of Canada, Ministers of Health and Children, Families and Social Development, and Minister Responsible for the Canada Mortgage and Housing Corporation, Durham's MPs, Chief Public Health Officer of Canada, Premier of Ontario, Deputy Premier & Minister of Health, Ministers of Children, Community and Social Services, Finance, and Municipal Affairs and Housing, Durham's MPPs, Chief Medical Officer of Health, AMO, alPHa, FCM, all local municipalities, and all Ontario boards of health be so advised as well as be provided with a copy of the presentation from M. Hutchinson, Manager, Population Health, regarding The Opioid Crisis: A Complex, Multifaceted Health and Social Issue.

Respectfully submitted,

B. Chapman, Chair, Health & Social Services Committee

Report #8 of the Planning & Economic Development Committee

For consideration by Regional Council

October 23, 2019

The Planning & Economic Development Committee recommends approval of the following:

1. Envision Durham – Transportation System Discussion Paper ([2019-P-41](#))
 - A) That Report #2019-P-41 of the Commissioner of Planning and Economic Development be received for information; and
 - B) That a copy of Report #2019-P-41 be forward to Durham’s area municipalities, conservation authorities, the Ministry of Municipal Affairs and Housing, the Ministry of Transportation, Metrolinx, and the Durham Active Transportation Committee for review and comment.
2. Provincial Policy Statement Review, Proposed Policies (ERO #019-0279) ([2019-P-42](#))
 - A) That Report #2019-P-42 of the Commissioner of Planning and Economic Development be endorsed as Durham Region’s response to the Environmental Registry’s posting (ERO #019-0279) for the Provincial Policy Statement Review – Proposed Policies, including the following recommendations:
 - i) That, for clarification purposes, the term “Provincial Interest” be defined in the PPS, or that a reference to section 2 of the Planning Act be included;
 - ii) That a policy be included in Policy 1.1.1 that encourages the preparation and implementation of community energy plans as a component of planning for healthy, liveable and safe communities;
 - iii) That the term “market-based” in Policy 1.1.1.(6) be revised to “market informed” to better reflect the provincial policy-led planning system, and the Region’s long-term planning objectives that support the provision of affordable and supportive housing, while encouraging a more compact urban form that is sensitive to local conditions;
 - iv) That the Province be requested to either release an updated Land Needs Assessment guidance document, or confirm the existing draft document, to help the Region advance Envision Durham, the Region’s Municipal Comprehensive Review;

- v) That the PPS continue to use the word “shall” in policies 1.1.3.6, 1.1.3.7 and 1.6.7.2 to assist with the implementation of orderly and sequential development and complete communities;
- vi) That the references to Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety of the PPS be reinstated in Policy 1.1.3.8 to ensure that the review of Settlement Area boundaries is systematic, well planned and comprehensive;
- vii) That natural heritage and hydrologic systems be added as criteria for consideration in the adjustment of Settlement Area boundaries to ensure that these reviews are systematic, well-planned and comprehensive and in sync with the Growth Plan;
- viii) That the proposed wording changes to the land use compatibility policies in Policies 1.2.6.1 and 1.2.6.2 not be supported, as the changes could lead to greater conflict between sensitive uses and industrial/manufacturing uses;
- ix) That the Province be requested to provide additional guidance regarding the appropriate transition area, or distance separation, between industrial and manufacturing uses and non-employment uses, including providing additional clarity regarding Places of Worship that are regarded as sensitive land uses;
- x) That the term “regional economic development corporation” in Policy 1.3.2.5 be changed to “Planning Authority” to be consistent with other policies in the PPS;
- xi) That the Province be requested to confirm whether it intends to release updated population and employment forecasts for the Greater Golden Horseshoe that would allow the Region to use a 25-year planning horizon in its Municipal Comprehensive Review;
- xii) That the Province clarify that the upper-tier planning authority is the level which has responsibility for ensuring residential growth can be accommodated for a minimum of 12 years, and that the three-year supply of residential units is also maintained at the Regional level. In addition, it should be clarified that the upper or single-tier municipality would be responsible for defining the “regional market area”;
- xiii) That the proposed wording changes to Policy 1.6.6.3 be revised to address and safeguard the financial and operational risks to a municipality associated with privately-owned communal services;

- xiv) That proposed Policy 1.6.6.7 of the PPS be deleted related to the integration of stormwater and water/sewer planning, as the responsibilities of municipalities in single-tier and two-tier systems differ;
 - xv) That Policy 1.6.7.5 not be deleted as its removal is inconsistent with the PPS overall, as the Province and municipalities are to support the timely planning and implementation of transportation infrastructure improvements, coincident with the scale and pace of development, and the failure to provide this statement does not support the principle of promoting transit supportive development;
 - xvi) That, for clarification purposes, the term “wayside” not be deleted from the heading in Policy 2.5.5, as the policy is specific to wayside pits and quarries;
 - xvii) That the Province provide guidance regarding how excess fill can be managed by the planning and development approvals process and suggest that excess fill can be managed through engineering approvals for developments following the draft approval stage;
 - xviii) That the definition of the term “conserved” remain the same as per the 2014 PPS to recognize that municipalities do not have the authority to “approve” or adopt archaeological and heritage impact assessments; and
 - xix) That a reference to climate data be added to the definition of “impacts of a changing climate”; and
- B) That a copy of Report #2019-P-42 be forwarded to the Ministry of Municipal Affairs and Housing, and Durham’s area municipalities and conservation authorities.
3. Recommendation for Award – Regional Cycling Plan Update ([2019-P-43](#))
- A) That Request for Proposals RFP-1029-2019 (the "RFP") for a Regional Cycling Plan Update to be completed by September 2020 be awarded to WSP Inc. at an upset limit of \$140,000, plus applicable taxes be funded, as follows:
- | | |
|---------------------------------|------------------|
| Prior Financing | \$90,000 |
| (Program Number: 23020) | |
| 2019 Transportation Master Plan | <u>\$50,000</u> |
| (Program Number: 23020) | |
| TOTAL | <u>\$140,000</u> |

- B) That the Commissioner of Finance be authorized to execute the Consulting Services Agreement and any amendments required to complete the work.

Respectfully submitted,

D. Ryan, Chair, Planning & Economic Development Committee

Report #8 of the Works Committee

For consideration by Regional Council

October 23, 2019

The Works Committee recommends approval of the following:

1. Award of Request for Proposal # 660-2019 to Establish a Registry of Qualified Ontario Land Surveyors to Provide Surveying Services with Estimated Individual Project Values up to \$125,000 ([2019-W-69](#))

 - A) That Request for Proposal #660-2019 be awarded to the four (4) selected companies listed below to form the Registry for the Provision of Surveying Services having an estimated value of up to \$125,000* per project for a term of three (3) years from the date of award:
 - Delph & Jenkins North Ltd.
 - IBW Surveyors
 - J.D. Barnes Limited
 - Young and Young Surveying Inc.; and
 - B) That the Commissioner of Finance be authorized to execute the necessary agreements.
(*) before applicable taxes
2. Sole Source Engineering Services Agreement for Detailed Design to Replace Existing Watermains with the Ontario Ministry of Transportation (MTO) Simcoe Street South and Albert Street Bridge Replacement projects at Highway 401 in the City of Oshawa ([2019-W-71](#))

 - A) That the Regional Municipality of Durham enter into a sole source engineering services agreement with WSP Inc. to undertake detailed design to replace existing watermains with the Ontario Ministry of Transportation Simcoe Street South and Albert Street bridge replacement projects at Highway 401, in the City of Oshawa, at an amount not to exceed \$246,086* to be funded 50 percent from the approved water supply budget of \$300,000 for this project and 50 percent from the Ontario Ministry of Transportation; and
 - B) That the Commissioner of Finance be authorized to execute the necessary engineering services agreement.
(*) before applicable taxes and including disbursements

3. Report on Tenders and Additional Financing for Regional Municipality of Durham Contract D2019-036 for Maintenance Upgrades at the Michael Boulevard Sanitary Sewage Pumping Station in the Town of Whitby (2019-W-72)

- A) That the low compliant bid of BGL Contractors Corp., in the amount of \$419,400*, be awarded for Regional Municipality of Durham Contract D2019-036 resulting in a total estimated project cost of \$626,900;
- B) That the previously approved project budget of \$250,000 be increased by \$376,900 to a revised total project budget of \$626,900;
- C) That the funding for the additional project commitments in the amount of \$376,900 be provided from the following source:
Reallocation from the 2019 Sanitary Sewerage System Capital Budget Item 14 Works to rectify identified system deficiencies independent of road programs in various locations (Project M1999)

User Revenues	<u>\$376,900</u>
Total Reallocated Financing	<u>\$376,900</u>
- D) That the Regional Chair and Clerk be authorized to execute Regional Municipality of Durham Contract D2019-036.
(*) before applicable taxes

4. Amendments to Regional Traffic and Parking By-Law #44-2006 (2019-W-73)

- A) That Corporate Services – Legal Services be directed to prepare a by-law to amend By-Law #44-2006, generally in the form included as Attachment #1 to Report #2019-W-73 of the Commissioner of Works, for presentation to Regional Council for passage; and
- B) That staff be authorized to take all steps required and necessary to give effect to the amendments contemplated to By-Law #44-2006 as indicated in the form included as Attachment #1 to Report #2019-W-73.

5. Confidential Report of the Commissioner of Works and the Director of Legal Services – Litigation or Potential Litigation, including matters before Administrative Tribunals, affecting the Regional Corporation with respect to Recovery of the Regional Corporation of Durham's Costs Relating to the 2017 Fire at Waste Management of Canada Corporation's Clarington Transfer Station (2019-WR-11)

That the recommendations contained in Confidential Report #2019-WR-11 of the Commissioner of Works and the Director of Legal Services be adopted.

6. Confidential Report of the Commissioner of Works – Litigation or Potential Litigation, including matters before Administrative Tribunals, affecting the Regional Corporation, with respect to a s. 24 Settlement Agreement under the Expropriations Act, R.S.O. 1990, c.E.26, for Lands Acquired to Facilitate the Reconstruction of Regional Road 2 (Kingston Road), in the City of Pickering (2019-W-67)
-

That the recommendations contained in Confidential Report #2019-W-67 of the Commissioner of Works be adopted.

7. Confidential Report of the Commissioner of Works – Acquisition or Disposition of Land for Regional Corporation Purposes with Respect to the Purchase of Lands required for the Bus Rapid Transit project, in the City of Pickering (2019-W-68)

That Confidential Report #2019-W-68 of the Commissioner of Works be received for information.

Respectfully submitted,

D. Mitchell, Chair, Works Committee