



Official Notice

Meeting of Regional Council

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

Wednesday, October 27, 2021

9:30 AM

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

1. Traditional Territory Acknowledgement

2. Roll Call

3. Declarations of Interest

4. Adoption of Minutes

- 4.1 Regional Council meeting – September 29, 2021 Pages 4 - 32
- 4.2 Closed Regional Council meeting – September 29, 2021 Under Separate Cover
- 4.3 Committee of the Whole meeting – October 13, 2021 Pages 33 - 39

5. Presentations

- 5.1 Stella Danos-Papaconstantinou, Commissioner of Social Services, and Erin Valant, Program Manager, Housing Services, re: Durham's Homelessness Support and Coordinated Access System (2021-SS-10)

6. Delegations

- 6.1 Public meeting pursuant to Section 12 of the Development Charges Act, 1997 regarding amendments to the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law No. 38-2019. (Mary Simpson, Director of Risk Management, Economic Studies and Procurement to provide a presentation.)

7. Reports related to Delegations/Presentations

There are no reports related to Delegations/Presentations

8. Communications

- CC 21 Report on Complaint from Guy Giorno, Regional Municipality of Durham Integrity Commissioner, re: Regional Municipality v. Neal and Schummer, 2021 ONMIC 15 Page 40

9. Committee Reports and any Related Notice of Motions

- 9.1 Finance and Administration Committee Pages 66 - 67
- 9.2 Health and Social Services Committee Page 68
- 9.3 Planning and Economic Development Committee Page 69
- 9.4 Works Committee Pages 70 - 71
- 9.5 Committee of the Whole Pages 72 - 73

10. Notice of Motions

- 10.1 Free Menstrual Products at Region Facilities Page 74
- 10.2 Natural Heritage Mapping Pages 74 - 75
- 10.3 Consolidated Municipal Service Manager Commitment to a High Quality, Accessible and Strategically Planned Early Years and Child Care System Pages 75 - 76
- 10.4 Capital Gains Tax Exemption on Principal Residences Pages 76 - 77

11. Unfinished Business

There is no unfinished business

12. Other Business

- 12.1 Public Meeting Regarding Proposed Amendments to the
Seaton Water Supply and Sanitary Sewerage Area Specific
Development Charge By-law No. 38-2019 (2021-F-27)

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13. Announcements

14. By-laws

- 29-2021 Being a by-law to to adopt Amendment #184 to the
Durham Regional Official Plan.

This by-law implements the recommendations
contained in Item #1 of the 7th Report of the Planning &
Economic Development Committee presented to
Regional Council on October 27, 2021
- 30-2021 Being a by-law to authorize the execution of an
agreement with Her Majesty the Queen in right of the
Province of Ontario as represented by the Minister of
Municipal Affairs and Housing for National Disaster
Mitigation Program (NDMP) intake 6.

This by-law implements the recommendations
contained in Item #3 of the 5th Report of the Committee
of the Whole presented to Regional Council on June 23,
2021

15. Confirming By-law

- 31-2021 Being a by-law to confirm the proceedings of Regional
Council at their meeting held on October 27, 2021

16. 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 29, 2021

The Council of The Regional Municipality of Durham met in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM. Electronic participation was offered for this meeting.

Regional Chair Henry assumed the Chair.

1. Traditional Territory Acknowledgment

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 acknowledged that tomorrow will be the first national Day for Truth and Reconciliation. He added that it is a day of reflection to recognize the tragic history of loss and suffering and the ongoing effects of Canada's residential school system.

He advised that Durham Region is home to approximately 13,000 indigenous people and also has a large Metis and a growing Inuit community. He added that this is a day of action towards reconciliation and that much more work is needed from the Region and all levels of government. He stated that the Region is committed to play its part in responding to the Truth and Reconciliation Commission's calls for action. Chair Henry advised that he will be asking Council to recess at 10:30 AM for one hour to allow members of Council to attend various events taking place throughout the Region, including a drum circle being held at Regional Headquarters, in recognition of the Day for Truth and Reconciliation.

Mayor Ryan spoke to the passing of John (Jack) Anderson, former Mayor of Pickering and Regional Councillor. Mayor Ryan noted that Mr. Anderson was a well-respected Mayor who was instrumental in the development of the Pickering City Hall complex and was a visionary who advocated for a downtown core in the City, and that the work continues in his honour. Mayor Ryan acknowledged Mr. Anderson's contributions to the City and extended condolences to his family.

2. Roll Call

A roll call was taken by the Regional Clerk and the following members were present:

Councillor Anderson
Councillor Ashe
Councillor Carter, left the meeting at 2:50 PM
Councillor Chapman, left the meeting at 3:10 PM
Councillor Collier
Councillor Crawford
Councillor Dies, left the meeting at 3:50 PM
Councillor Drew
Councillor Foster
Councillor Grant, left the meeting at 2:17 PM
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor McLean
Councillor Mitchell
Councillor Mulcahy
Councillor John Neal, left the meeting at 4:03 PM on municipal business
Councillor Joe Neal
Councillor Nicholson
Councillor Roy, left the meeting at 10:23 AM
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada
Regional Chair Henry
*** all members of Council, except the Regional Chair, participated electronically**

All members of Council were present.

3. Declarations of Interest

Councillor Marimpietri made a declaration of interest under the Municipal Conflict of Interest Act with respect to Report #2021-COW-22: Application for Mixed Waste Pre-Sort and Anaerobic Digestion Facility Project Capital Funding through the Federal Government's Clean Fuels Fund 2021 Call for Proposals, and any confidential attachments related to the report. He indicated that he has family members who reside in an area potentially affected by a facility of this type.

Councillor Collier made a declaration of interest under the Municipal Conflict of Interest Act with respect to Report #2021-DRT-23: Repeal and Replacement of Durham Region Transit By-law No. 70-2019, as amended. He indicated that his conflict is with respect to Section 9 of the By-law as it relates to the proposed revisions to the compensation for the Chair of the Transit Executive Committee in that he is the current chair of the Committee.

4. Adoption of Minutes

Moved by Councillor Marimpietri, Seconded by Councillor Smith, (191) That the minutes of the following meetings be adopted:

- Regular Regional Council meeting held on June 23, 2021;
- Regular Committee of the Whole meeting held on September 15, 2021;
- Closed Committee of the Whole meeting held on September 15, 2021; and
- Closed Committee of the Whole meeting held on September 15, 2021.

CARRIED

5. Presentations

5.1 Chief Todd Rollauer, Durham Regional Police Services, re: Quarterly Update to Regional Council

Councillor Drew, Chair of the Durham Regional Police Services Board (DRPSB) provided introductory remarks and outlined priorities for the Board from a governance perspective including the action plan to enhance trust and confidence in the DRPS, body worn cameras, addressing calls related to mental health, the selection of the next chief of police, and the budget process.

Chief Todd Rollauer, Durham Regional Police Services (DRPS) appeared before Council to provide an operational update on the DRPS. A copy of the presentation was provided to members prior to the meeting. Highlights of the presentation included:

- Youth Advisory Committee and Youth in Policing
- Body Worn Cameras – went live September 16, 2021
 - An explanatory video was shown
- Calls for Service
- Reported Crime
- Gun Crime
- Project Econoline – Targeting fentanyl trafficking and supporting the Durham Region Opioid Response Plan
- Firearm Offences
- Firearm Discharges/Shootings
- Crime Guns Seized
- Mental Health Calls

- Reopening Ontario Act
- Durham Regional Police Service Facilities
- Municipal Council Engagement
- Thank you to Durham Public Health

Chief Rollauer responded to questions from the members of Council.

Moved by Councillor Anderson, Seconded by Councillor John Neal,
(192) That Council recess for one hour.

CARRIED

Council recessed at 10:23 AM and reconvened at 11:32 AM.

The Regional Clerk conducted a roll call following the recess and all members of Council were present with the exception of Councillors McLean and Roy.

Chief Rollauer responded to additional questions from the members of Council following the recess.

Councillor Drew thanked Council for their questions and Chief Rollauer for his responses. She added that the Chief has done an exceptional job and will continue to do so until a new Chief is appointed. She noted that they are waiting for the provincial oversight body to come to a decision prior to appointing a new Chief. She added that the related online survey will be posted by late October and a report should be available in January.

Chair Henry thanked the officers and civilian staff for their support, especially during a time when the rules keep changing. He also acknowledged retirees from DRPS who continue their work in the community.

6. Delegations

6.1 Dr. Mark Katz re: The Clinical and Support Needs of Clients of the Beaverton Supportive Housing Proposal

Dr. Mark Katz provided a delegation with regards to the Clinical and Support Needs of Clients of the Beaverton Supportive Housing Proposal. A copy of his presentation material was provided to members prior to the meeting.

Dr. Katz advised that he is a Psychiatrist with 29 years of clinical experience including interfacing with homeless clients in crises, and he is a recent resident of Beaverton. Dr. Katz added that he conducted a literature review in preparation for this presentation.

Dr. Katz spoke to the permanent supportive housing proposal to build a 50 unit single site model in Beaverton, with a housing first model of support with no expectations of sobriety or acceptance of psychiatric treatment required. He

stated that there has been very little research done on single site models and there are other models that have proven to be more successful including transitional housing.

He stated that the proposal seeks to put 50 units in a relatively small community and added that Beaverton has no existing mental health or substance use supports; no primary care physician, only a part time community health clinic with nurse practitioners; limited EMS supports nearby; the nearest hospitals are 45-50 minutes away; and there is a lack of community support for the supportive housing proposal.

Dr. Katz advised that the population to be housed in the proposed development have high rates of mental illness, alcohol, opioid and stimulant addictions, which can result in behavioural disturbances, psychosis, and inadvertent overdose or death.

Dr. Katz advised that he has had discussions with experts and is of the opinion that required supports for the Beaverton Supportive Housing are as follows: nursing to support various needs; support workers to help with day to day living challenges; security supports who are trained in non-violent crisis intervention, conflict resolution, and mental health emergencies; case management to provide employment support; recreation therapy and programming; teams to help those with mental illness.

Moved by Councillor Smith, Seconded by Councillor Anderson,
(193) That Dr. Katz be granted a one-time two minute extension to finish his delegation.

CARRIED

Dr. Katz stated that without intensive onsite supports the Region is risking adverse outcomes including overdoses, deaths, medical emergencies, behavioural disturbances and violence, ostracization and stigmatizing of clients, rather than community engagement. He inquired whether the Region is prepared to budget for and provide the services required to make this proposal work.

Dr. Katz recommended that the Region: delay construction of the project, set up a working group with external expert membership and persons with lived experience with homelessness, develop the staffing requirements and operational budget for supports, secure the funds for the operational budget, engage the town of Beaverton and Brock Township, and develop a phased-in strategy and valid indicators of success or failure.

Dr. Katz responded to questions from the members of Council.

7. Reports related to Delegations/Presentations

There are no reports related to Delegations/Presentations.

8. Communications

CC 19 Correspondence from Association of Municipalities Ontario re: Municipal Support for Truth and Reconciliation

Moved by Councillor McLean, Seconded by Councillor Foster,
(194) That the following resolution from the Association of Municipalities Ontario regarding Municipal Support for Truth and Reconciliation be endorsed:

Whereas the Truth and Reconciliation Commission released its final report on June 2, 2015 which included 94 Calls to Action to redress the legacy of residential schools and advance the process of Canadian reconciliation;

And Whereas all Canadians and all orders of government have a role to play in reconciliation;

And Whereas Recommendation #80 of the Truth and Reconciliation Commission called upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process;

And Whereas the Federal Government has announced September 30th, 2021 as the first National Orange Shirt Day and a statutory holiday;

Therefore Be it Resolved That the Council of the Regional Municipality of Durham does hereby commit to recognizing September 30th, 2021, as the National Day for Truth and Reconciliation (National Orange Shirt Day) by sharing the stories of residential school survivors, their families, and communities.

CARRIED

CC 20 Correspondence from the Township of Scugog re: Council Appointment to Kawartha Conservation Authority

Moved by Councillor Drew, Seconded by Councillor Smith,
(195) That Councillor Robert Rock be appointed as the Township of Scugog's representative to the Kawartha Conservation Authority, replacing Councillor Angus Ross, for the remainder of the 2018 – 2022 term of Council.

CARRIED

Moved by Councillor Foster, Seconded by Councillor John Neal,
(196) That Council recess for 15 minutes.

CARRIED

Council recessed at 12:55 PM and reconvened at 1:10 PM

The Regional Clerk conducted a roll call following the recess and all members of Council were present with the exception of Councillors Marimpietri, Mulcahy and Roy.

9. Committee Reports and any related Notice of Motions

9.1 Report of the Finance and Administration Committee

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

[CARRIED]

- A) That a Community Investment Grant of \$340,125, representing 7.5 per cent of the \$4.535 million eligible capital budget, be approved, in principle, to Charles H. Best Diabetes Centre (Best Centre) for the capital expansion of their current facility in order to provide the necessary community support needed for the project to obtain grant funding from senior levels of government;
- B) That the final approval, along with any disbursements of funds, be subject to the submission of final capital construction cost estimates and be conditional on both the proposed project remaining as detailed in their submission to the Region and the project receiving sufficient funding from other sources that will allow for project completion;
- C) That, subject to the satisfaction of approval conditions, a funding agreement be established between the Region of Durham and the Best Centre outlining the following terms and condition of payment:
 - Milestones to be achieved over the term of the agreement
 - Amount and timing of payment after milestone completion
 - Annual project reporting
 - Recognition of funding from the Region of Durham; and
- D) That the Regional Chair and Regional Clerk be authorized to execute the funding agreement.

**2. 2022 Reginal Business Plans and Property Tax Supported Budget Guideline
(2021-F-20)**

[CARRIED ON A RECORDED VOTE] [SEE MOTION (198) AND PAGES 14 AND 15]

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

- i. The 2022 Property Tax Guideline not exceed an overall tax impact of 2.0 per cent compared to the 2021 approved budget with an additional 0.25 per cent dedicated to the Durham Regional Police Services Board to fund the incremental costs for year two of the body worn camera implementation and other strategic priorities of the Durham Regional Police Services Board and a further 0.25 per cent dedicated to fund future healthcare investments under the Region's Community Investment Grant Policy;
 - ii. The 2022 Business Plans and Budget for the Durham Regional Police Services Board not exceed \$230.67 million, an increase of 3.35 per cent compared to the 2021 approved budget plus an additional \$1.81 million to fund the incremental costs for year two of the body worn camera implementation (\$531,860) and other strategic priorities of the Durham Regional Police Services Board (\$1.28 million); and
 - iii. The 2022 Operating Budget for each Conservation Authority not exceed an increase of 2.5 per cent, plus or minus any current value assessment adjustments, and the 2022 Special Benefitting Programs Budget for each Conversation Authority not exceed an increase of 1.5 per cent, plus or minus any current value assessment adjustments, compared to the 2021 approved budget;
 - B) That the preliminary timetable for the 2022 Regional Business Plans and Budgets be approved, as outlined in Attachment #2 to Report #2021-F-20 of the Commissioner of Finance, which includes the following key dates:
 - i. December 22, 2021 – final Regional Council approval of the 2022 Water Supply and Sanitary Sewerage Business Plans and Budgets;
 - ii. February 23, 2022 – final Regional Council approval of all 2022 Property Tax Supported Business Plans and Budgets; and
 - C) That copies of Report #2021-F-20 be forwarded to the Durham Regional Police Services Board, Durham Region Transit Commissioner, Conservation Authorities, Durham Regional Local Housing Corporation, and other Outside Agencies to guide the development of detailed 2022 Business Plans and Budgets.
3. Appointment of the Regional Fire Coordinator and Deputy Fire Coordinator (2021-A-15)
-
- [CARRIED]

- A) That Scugog Fire Chief Mark Berney be appointed Regional Fire Coordinator effective August 1, 2021;
 - B) That Pickering Deputy Fire Chief Stephen Boyd be re-appointed Deputy Regional Fire Coordinator, effective August 1, 2021; and
 - C) That honoraria for these positions be provided as per the annual Regional budget.
4. Authorization to Extend the Agreement with CompuCom Canada for Provision of Desktop Computers and Monitors, Laptops, Tablets and Related Services (2021-A-16)
[CARRIED]
- A) That a single source extension to the agreement with CompuCom Canada Ltd. for the provision of Desktop Computers and Monitors, Laptops, Tablets and related services, for twelve (12) months from November 7, 2021 to November 7, 2022, at a total estimated cost of \$2,000,000 to be funded from the Region's approved annual Business Plans and Budget, be approved on the same terms and conditions; and
 - B) That the Commissioner of Finance be authorized to execute any related, required agreements and amendment agreements.
5. Extension of McAfee Security/Encryption Standardization (2021-A-17)
[CARRIED]
- That the McAfee suite of security products be approved as the corporate standard for the security and protection of the Region's information technology assets for a 3-year term in order to ensure uniformity within and across the Region's information technology assets.
6. Appointment of a Youth Member to the Durham Region Roundtable on Climate Change (DRRCC) (2021-A-18)
[CARRIED]
- That Peter Cohen, member of Climate Justice Durham, be appointed to the Durham Region Roundtable on Climate Change (DRRCC) as a citizen at-large youth member.
7. The Issuance of Debentures on Behalf of the City of Pickering, the City of Oshawa, the Township of Uxbridge, and The Regional Municipality of Durham ("Region") (2021-F-19)
[CARRIED]
- A) That the Commissioner of Finance be authorized to issue external debentures, in a total principal amount not to exceed \$80,935,000 on

behalf of the City of Pickering, the Township of Uxbridge, and the Region over various terms, as set out below, with such terms not to exceed 20 years and at an average net yield not to exceed 5.00 per cent relating to the financing requirements as indicated below:

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

- B) That authorization be given to issue an internal debenture for and on behalf of the City of Oshawa in an amount of \$2,442,000 on the basis that the City of Oshawa will purchase the Oshawa Debenture using reserve funds of the City of Oshawa as requested by the City;
- C) That the Commissioner of Finance be authorized to amend the proposed terms and conditions of the external debenture issue as deemed necessary by the Fiscal Agents in order to successfully market the issue to prospective investors on the basis that the Region may purchase all or part of the debentures; and
- D) That the Region be authorized to issue the external debentures through CDS Clearing and Depository Services Inc.'s "Book Entry Only" system.

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

[CARRIED]

- A) That the Statutory Public Meeting of Regional Council, as required by the Development Charges Act, 1997 be held on October 27, 2021 in the Regional Council Chambers, or virtually if required by public health guidelines, at the beginning of the regular Regional Council meeting to consider the proposed amendments to the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law No. 38-2019 in order to align this by-law with the changes to the Development Charges Act, 1997 and to update the capital cost estimates;
- B) That the proposed Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law Amendments and Background Study, as required by the Development Charges Act, 1997, be released to the public at no charge upon request to the Regional Clerk's Department, commencing October 12, 2021;
- C) That staff be authorized to place appropriate notification in newspapers of sufficient general circulation in Durham Region and the Regional website setting forth the date, time, location and purpose of the Statutory Public Meeting and the date and contact for the release of the proposed Development Charge By-law amendment and Background Study;
- D) That the consulting firm of Watson & Associates Economists Ltd. and legal firm of WeirFoulds LLP be retained to assist staff with the preparation of the Development Charge Background Study and amending By-law at a cost of up to \$20,000, to be financed from the Seaton Area Specific Development Charges Reserve Fund (50% from the Water Supply ASDC and 50% from the Sanitary Sewer ASDC); and
- E) That the Commissioner of Finance be authorized to execute the necessary agreements.

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

[CARRIED]

- A) That a comprehensive review and update of the Region's Regional Transit Development Charge By-law and related policies and the subsequent preparation of the new Development Charges By-law for consideration in the spring of 2022 as required by legislation, be undertaken;

- B) That the following outside consulting and legal services be retained, at an estimated cost not to exceed \$180,000, to provide the technical expertise with the preparation of the Regional Transit Development Charge By-law and Background Study as follows:
- i. The consulting firm of Watson & Associates Economists Ltd. be retained to assist with the development of the Regional Transit Development Charge Background Study, including the residential and non-residential planning forecasts and policy framework;
 - ii. The legal firm of WeirFoulds LLP be retained to prepare the new Regional Transit Development Charge By-law, ensuring the new by-law complies with the requirements of the Development Charges Act; and
 - iii. The consulting firm of HDR Inc. be retained to provide the technical expertise with the preparation of the ridership forecasts and capacity for all modes of transit, the planned level of service for the ten-year forecast period, and detailed service analysis necessary to support the Regional Transit Development Charge Study;

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

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

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

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

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

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

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

Moved by Councillor Foster, Seconded by Councillor Collier,
(197) That the recommendations contained in Items 1, 3, 5, 6, and 8 to 10 of Report #7 of the Finance and Administration Committee be adopted.
CARRIED

Moved by Councillor Foster, Seconded by Councillor Collier,
(198) That the recommendations contained in Item #2 of Report #7 of the Finance and Administration Committee be adopted.
**CARRIED ON A RECORDED VOTE
LATER IN THE MEETING
(See Following Motions)**

Moved by Councillor Joe Neal, Seconded by Councillor John Neal,
(199) That the recommendations contained in Part A) i) of Item #2 of Report #7 of the Finance and Administration Committee be amended so that the 2022 Property Tax Guideline not exceed an overall tax impact of 1.0 per cent.
**MOTION DEFEATED ON THE FOLLOWING
RECORDED VOTE:**

Yes

Councillor John Neal
Councillor Joe Neal

No

Councillor Anderson
Councillor Ashe
Councillor Barton
Councillor Carter
Councillor Chapman
Councillor Collier
Councillor Crawford
Councillor Dies
Councillor Drew
Councillor Foster
Councillor Grant
Councillor Highet

Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor McLean
Councillor Mitchell
Councillor Mulcahy
Councillor Nicholson
Councillor Pickles
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada
Regional Chair Henry

Members Absent: Councillor Marimpietri
Councillor Roy

Declarations of Interest: None

The main motion (198) of Councillors Foster and Collier to adopt the recommendations contained in Item #2 of Report #7 of the Finance and Administration Committee was then put to a vote and CARRIED ON THE FOLLOWING RECORDED VOTE:

Yes

Councillor Anderson
Councillor Ashe
Councillor Barton
Councillor Carter
Councillor Chapman
Councillor Collier
Councillor Crawford
Councillor Dies
Councillor Drew
Councillor Foster
Councillor Grant
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor McLean
Councillor Mitchell
Councillor Mulcahy
Councillor Nicholson
Councillor Pickles

No

Councillor John Neal
Councillor Joe Neal

Councillor Ryan
Councillor Smith
Councillor Wotten
Regional Chair Henry

Members Absent: Councillor Roy
Councillor Yamada

Declarations of Interest: None

Moved by Councillor Foster, Seconded by Councillor Collier,
(200) That the recommendations contained in Item #4 of Report #7 of the
Finance and Administration Committee be adopted.

CARRIED

Moved by Councillor Foster, Seconded by Councillor Collier,
(201) That the recommendations contained in Item #7 of Report #7 of the
Finance and Administration Committee be adopted.

CARRIED

9.2 **Report of the Health and Social Services Committee**

1. Correspondence from the City of Pickering re: Resolution passed at their Council Meeting held on June 28, 2021, endorsing 988, a National three-digit suicide and crisis hotline

[CARRIED]

- A) That the correspondence from the City of Pickering re: Resolution passed at their Council Meeting held on June 28, 2021, endorsing 988, a National three-digit suicide and crisis hotline be endorsed; and
- B) That Durham MPs, MPPs, the Canadian Radio-television and Telecommunications Commission, Ministers of Health (provincial and federal), Minister of Mental Health and Addictions, all Durham Region Post-Secondary Education partners, Durham Regional Police Services, Emergency Management Services, Lakeridge Health and Pinewood Centre of Lakeridge Health, be so advised.

2. Updated Durham Advisory Committee on Homelessness Terms of Reference (2021-SS-9)

[CARRIED]

That the updated Terms of Reference for the Durham Advisory Committee on Homelessness be adopted.

Moved by Councillor Chapman, Seconded by Councillor Pickles,
(202) That the recommendations contained in Items 1 and 2 inclusive of Report #6 of the Health and Social Services Committee be adopted.

CARRIED

Moved by Councillor Joe Neal, Seconded by Councillor Smith,
(203) That the delegation from Dr. Katz with respect to The Clinical and Support Needs of Clients of the Beaverton Supportive Housing Proposal be referred to staff for a formal response.

CARRIED ON THE FOLLOWING
RECORDED VOTE:

Yes

Councillor Anderson
Councillor Ashe
Councillor Barton
Councillor Carter
Councillor Collier
Councillor Crawford
Councillor Dies
Councillor Drew
Councillor Foster
Councillor Grant
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor McLean
Councillor Mulcahy
Councillor John Neal
Councillor Joe Neal
Councillor Nicholson
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada
Regional Chair Henry

No

Councillor Chapman
Councillor Mitchell
Councillor Pickles

Members Absent: Councillor Roy

Declarations of Interest: None

9.3 **Report of the Planning and Economic Development Committee**

1. Durham Environmental Advisory Committee (DEAC) Post-Secondary Student Membership Appointment (2021-P-22)
[CARRIED]

That Anish Panday be appointed as a Post-Secondary Student member to the Durham Environmental Advisory Committee.

2. Appointment of DEAC Representative on the Friends of Second Marsh Board of Directors
[CARRIED]

That Susan Clearwater be appointed as the Durham Environmental Advisory Committee representative on the Friends of Second Marsh Board of Directors.

Moved by Councillor Ryan, Seconded by Councillor Joe Neal,

- (204) That the recommendations contained in Items 1 and 2 inclusive of Report #6 of the Planning and Economic Development Committee be adopted.
CARRIED

9.4 **Report of the Works Committee**

1. Correspondence received from the Town of Ajax, dated June 24, 2021, re: Provincial Road Safety
[CARRIED]

That the following resolution from the Town of Ajax dated June 24, 2021, re: Provincial Road Safety be endorsed:

WHEREAS Vision Zero is an approach to road safety thinking based on the premise that no loss of life resulting from a motor vehicle collision is acceptable, and has been adopted by municipalities across Canada and around the world, including Durham Region, to inform their Durham Vision Zero Strategic Road Safety Action Plan;

AND WHEREAS as part of Vision Zero Canada's mission, using Vision Zero as a guiding principle, safety is prioritized over factors such as cost, speed, delay, level of service, and convenience - factors upon which decisions were traditionally made;

AND WHEREAS the Canadian Council of Motor Transportation Administrators (CCMTA) is the custodian of the *Road Safety Strategy 2025*, which encourages all road safety stakeholders to make Canada's roads the safest in the world and adopts a "safe systems approach", a key component of Vision Zero;

AND WHEREAS the Ontario Good Roads Association (OGRA) has repeatedly requested the Province of Ontario to establish a Provincial Vision Zero Strategy;

AND WHEREAS following a City of Mississauga Council endorsement of the OGRA request and letter to the Minister of Transportation, the Minister indicated that the Province supports federal measures for road safety, but did not address a provincial Vision Zero strategy. The request by OGRA and Mississauga has since been reinforced by a motion of Peel Region Council;

AND WHEREAS all local and regional Vision Zero strategies would be better supported, more consistent and effective with provincial buy-in and a dedicated provincial strategy in place. For example, current automated speed enforcement (ASE) regulations only permit installation in community safety zones and school zones, without the ability for municipalities to strategically utilize ASE equipment in a timely way to collect data in support of Vision Zero goals;

NOW THEREFORE BE IT RESOLVED THAT:

1. Ajax Council affirm their support for Durham Region's Vision Zero goals and the Durham Vision Zero Strategic Road Safety Action Plan;
 2. Ajax Council requests that the Province of Ontario take immediate steps to consult on a province-wide Vision Zero strategy framework;
 3. Ajax Council requests that the Province of Ontario amend the Automated Speed Enforcement regulations under the *Highway Traffic Act* to allow for greater flexibility for the use of ASE by Ontario municipalities;
 4. This request be shared with the Region of Durham and local Durham municipalities for their support; and
 5. This motion be distributed to the Hon. Caroline Mulroney, Minister of Transportation, and Rod Phillips, MPP for Ajax.
2. Expropriation of Lands Required for the Proposed Regional Road 3 Rehabilitation Project from 75 metres East of Townline Road to 150 metres East of Enfield Road (Regional Road 34) in the Municipality of Clarington (2021-W-28)
-
- [CARRIED]
- A) That authority be granted to Regional Municipality of Durham staff to initiate expropriation proceedings where necessary for the property requirements related to the proposed Regional Road 3 Rehabilitation project (Project) along Regional Road 3 as depicted in Attachment #1,

Attachment #2, and Attachment #3 of Report #2021-W-28 of the Commissioner of Works and as such other property requirements as may be determined and identified by Regional Municipality of Durham staff required for the Project;

- B) That authority be granted to the Regional Clerk and Regional Chair to execute any notices and forms as may be statutorily mandated by the Expropriations Act R.S.O. 1990, c. E.26 to give effect to Recommendation C) in Report #2021-W-28, including the Notices of Application of Approval to Expropriate;
 - C) That authority be granted to Regional Municipality of Durham staff to serve and publish Notices of Application for Approval to Expropriate the property requirement as described in Recommendation A) in Report #2021-W-28, and to forward to the Chief Inquiry Officer any requests for hearing that is received, to attend the hearings to present the Regional Municipality of Durham's position, and to report the Inquiry Officer's recommendations to Regional Council for its consideration; and
 - D) That all agreements and reports required for amicable property acquisitions and all agreements and reports required for settlements pursuant to the Expropriations Act RSO 1990, c. E.26 related to the Regional Road 3 Rehabilitation Project approved in accordance with the Delegation of Authority By-Law 29-2020 or by Regional Council, remain confidential in accordance to Section 239 (2)(c) of the Municipal Act as it relates to a proposed or pending acquisition or disposition of land for Regional Corporate purposes and only be released publicly by the Commissioner of Works once all compensation claims have been resolved on a full and final basis for the Regional Road 3 Rehabilitation Project.
3. Standardization of Septage Receiving and Bulk Water Filling Station Hardware and Software to be used for Regional Facilities (2021-W-30)
[CARRIED]
- A) That the Finance Department following successful negotiations be authorized to award contracts to Flowpoint Systems for the provision of septage receiving station hardware to be used at Regional facilities and related maintenance and support agreements for a five-year term;
 - B) That subject to successful completion of the negotiations, the pre-packaged bulk water filling station units supplied by Flowpoint Systems, and the septage receiving and bulk water filling station hardware supplied by Flowpoint Systems be adopted as the Regional standard for a period not exceeding five years for Regional facilities;

- C) That financing for the purchase of new septage receiving and bulk water filling station hardware and the provision of servicing and maintenance requirements be provided from future Sanitary Sewerage Capital, Water Supply Capital and Operating budgets; and
 - D) That the Commissioner of Finance be authorized to execute the required agreements.
4. Amendment to Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 and Residential Water and Sanitary Service Connection Protection Plans (2021-W-31)
[CARRIED]
- A) That the Regional Water Pollution Control System and Storm Sewer System By-Law #90-2003 be amended by extending a property owner's limit of responsibility for residential sanitary service connections from 1 metre (m) outside the foundation of the home currently to the new limit at the property boundary, to be consistent with the responsibility for water service connection maintenance effective July 1, 2022;
 - B) That the Regional Municipality of Durham enter into an agreement that endorses residential water and sanitary service line warranty protection plans with Service Line Warranties of Canada Inc. for an initial two-year period, with a maximum of two, five-year term renewal options for extension, with such extensions subject to Regional Council approval based upon a review of the overall success of the program;
 - C) That Regional staff report back to Regional Council prior to the end of the initial two-year period of the agreement to advise if the program is meeting the customer service needs and performance metrics as outlined in the agreement; and
 - D) That the Commissioner of Works be authorized to execute the agreement with Service Line Warranties of Canada Inc. for residential water and sanitary service warranty protection plans, together with such further ancillary documents that may be required, all in a form satisfactory to the Commissioner of Works, Commissioner of Finance, and the Regional Solicitor.
5. Sole source approval to Award Maintenance Service and/or Parts Supply Agreements Negotiated for Equipment Installed at the Duffin Creek Water Pollution Control Plant, in the City of Pickering (2021-W-32)
[CARRIED]
- A) That the sole source maintenance service and/or parts supply agreements for existing equipment installed as components of the

Stage 3 expansion and the Stages 1 and 2 upgrades at the Duffin Creek Water Pollution Control Plant (WPCP), be negotiated and awarded as noted in the following table, with terms not to exceed five years:

Authorized Supplier	Manufacturer	Estimated Annual Costs (excluding HST)
Alfa Laval	Alfa Laval	\$125,000
Xylem	Xylem	\$375,000
C & M Environmental	Brentwood Industries	\$300,000
Envirocan Ltd	JWC	\$125,000
Directrik	Vogelsang, Hydrostal, Weir, Wemco, Trillium Pumps	\$275,000
Toshont	Toshiba	\$100,000
Thermogenics	Thermogenics	\$150,000
Waterloo Manufacturing	Cleaver Brooks	\$150,000
	TOTAL	\$1,600,000

- B) That financing for the sole source maintenance service and/or parts supply agreements be provided from the approved annual Sanitary Sewerage Operations Budget for the Duffin Creek Water Pollution Control Plant, at an estimated cost not to exceed \$1,600,000, to be cost shared with the Regional Municipality of York, with Durham's share to be determined annually based on the Region's Operating agreement; and
 - C) That the Commissioner of Finance be authorized to execute the necessary maintenance service and/or parts supply agreements.
6. Confidential Report of the Commissioner of Works – Proposed or Pending Acquisition or Disposition of Land for Regional Corporation Purposes in the Township of Brock (2021-W-29)
[CARRIED]

That the recommendations contained in Confidential Report #2021-W-29 of the Commissioner of Works be adopted.

Moved by Councillor Mitchell, Seconded by Councillor Marimpietri,
(205) That the recommendations contained in Items 1, 2 and 4 to 6 of Report #7 of the Works Committee be adopted.

CARRIED

Moved by Councillor Mitchell, Seconded by Councillor Marimpietri,
(206) That the recommendations contained in Item #3 of Report #7 of the
Works Committee be adopted.

CARRIED

9.5 Report of the Committee of the Whole

1. Request for Funding from Kawartha Conservation for the Acquisition of Land within the Durham East Cross Forest in the Township of Scugog (2021-COW-21)
[CARRIED]

- A) That the request for funding from Kawartha Conservation in the amount of \$10,840, representing 40 per cent of the eligible acquisition costs of approximately two hectares (five acres) of land within Durham East Cross Forest in the Township of Scugog, be approved and financed from the Region's Land Conservation and Protection Reserve Fund; and
- B) That the Commissioner of Finance be authorized to adjust the total payment amount to Kawartha Conservation pending a review of the eligibility of final costs incurred pursuant to the Region's Land Acquisition Funding Policy.

2. Application for Mixed Waste Pre-sort and Anaerobic Digestion Facility Project Capital Funding through the Federal Government's Clean Fuels Fund 2021 Call for Proposals (2021-COW-22)
[CARRIED]

- A) That Regional staff be authorized to proceed with work necessary to meet the requirements of the Federal Government's Clean Fuels Fund (CFF) 2021 Call for Proposals and submit an application for the Mixed Waste Pre-sort and Anaerobic Digestion Facility (AD Project) under the funding program, including minor scope of work amendments to existing consulting agreements where necessary to be funded from approved capital project funds;
- B) That the Commissioners of Works, Corporate Services and Finance be authorized to negotiate a Contribution Agreement should the federal application authorized under Recommendation A) of Report #2021-COW-22 be successful;
- C) That the Commissioner of Finance and Treasurer be authorized to execute the Contribution Agreement and any other necessary agreements or documents, in a form satisfactory to the Regional Solicitor, to receive CFF funding to be applied to total capital costs for the AD Project, as part of and subject to, financing approvals received from Regional Council once a preferred Respondent is selected under

the pending Negotiated Request for Proposals (NRFP #1080-2021);
and

D) That the by-law, in the form included as Attachment #1 to Report #2021-COW-22, be passed.

3. Confidential Report of the Commissioners of Works and Finance – Proposed or Pending Acquisition or Disposition of Land for Regional Corporation Purposes as it relates to the Acquisition of Property, in the City of Oshawa (2021-COW-24)
[CARRIED]

That the recommendations contained in Confidential Report #2021-COW-24 of the Commissioners of Works and Finance be adopted.

4. Confidential Report of the Commissioners of Works, Finance, Social Services and Planning & Economic Development – Proposed or Pending Acquisition or Disposition of Land for Regional Corporation Purposes from Habitat for Humanity to Durham Region Non-Profit Housing Corporation as part of the Rapid Housing Initiative in the City of Oshawa (2021-COW-25)
[CARRIED]

That the recommendations contained in Confidential Report #2021-COW-25 of the Commissioners of Works, Finance, Social Services, and Planning and Economic Development be adopted.

Moved by Councillor Ryan, Seconded by Councillor Smith,
(207) That the recommendations contained in Items 1, 2 and 4 of Report #6 of the Committee of the Whole be adopted.

CARRIED

Moved by Councillor Joe Neal, Seconded by Councillor John Neal,
(208) That the meeting be closed to the public in order to consider the proposed or pending acquisition or disposition of land for Regional Corporation purposes as it relates to the acquisition of property, in the City of Oshawa.

CARRIED

[See Closed Council Meeting Minutes of September 29, 2021]

Regional Chair Henry advised that there were no motions made or directions given during the closed session.

Moved by Councillor Ryan, Seconded by Councillor Smith,
(210) That the recommendations contained in Item #3 of Report #6 of the Committee of the Whole be adopted.

CARRIED ON THE FOLLOWING
RECORDED VOTE:

Yes

Councillor Anderson
Councillor Ashe
Councillor Barton
Councillor Carter
Councillor Chapman
Councillor Collier
Councillor Crawford
Councillor Dies
Councillor Drew
Councillor Foster
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor McLean
Councillor Mitchell
Councillor Mulcahy
Councillor John Neal
Councillor Nicholson
Councillor Pickles
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada
Regional Chair Henry

No

Councillor Joe Neal

Members Absent: Councillor Grant
Councillor Roy

Declarations of Interest: None

Moved by Councillor Nicholson, Seconded by Councillor Marimpietri,
(211) That a copy of Confidential Report #2021-COW-24 be provided to the
local ward Councillors in Oshawa, upon the reaching of an agreement
with the seller, or as soon as possible thereafter.

CARRIED

10. Notice of Motions

10.1 Workplace COVID-19 Vaccination Policy

[CARRIED AS AMENDED ON A RECORDED VOTE] [SEE MOTIONS (212) (213), (214), (215), (216) AND (217) ON PAGES 25 TO 30]

Moved by Councillor Collier, Seconded by Councillor Lee,
(212) That the Durham Region Human Resource Department and Durham Region Health Department, led by Dr. Kyle, be directed to institute a workplace Covid-19 vaccination policy requiring all Regional employees to be fully vaccinated;

That the policy exempt certain medical conditions and other protected grounds to ensure compliance with the Ontario Human Rights Code;

That other Region of Durham agencies such as Durham Regional Police Services, Durham Region Transit, Region of Durham Paramedic Services and Durham's four Long-Term Care Homes be encouraged to establish similar workplace Covid-19 vaccination policies; and

That all members of Regional Council be required to be fully vaccinated and provide proof of vaccination to Human Resources by September 30, 2021.

CARRIED AS AMENDED LATER IN THE
MEETING ON A RECORDED VOTE
(See Following Motions)

Moved by Councillor Collier, Seconded by Councillor Lee,
(213) That the main motion (212) of Councillors Collier and Lee be amended by deleting Clause 1 in its entirety.

CARRIED

Moved by Councillor Collier, Seconded by Councillor Lee,
(214) That the main motion (212) of Councillors Collier and Lee be amended by deleting Clause 3 and replacing it with the following:
"That Durham Regional Council request that Durham Regional Police Services (DRPS) create a similar COVID-19 vaccination policy."

CARRIED

Moved by Councillor Collier, Seconded by Councillor Lee,
(215) That the main motion (212) of Councillors Collier and Lee be amended in the last Clause by deleting the words "Human Resources" and replacing them with the words "Council Services" and by deleting the date of "September 30, 2021" and replacing it with the date of "October 20, 2021".

CARRIED

Moved by Councillor Collier, Seconded by Councillor Lee,

- (216) That the main motion (212) of Councillors Collier and Lee be amended by deleting Clause 2 in its entirety; and by adding the following sentence to the end of the last Clause: "such requirements subject to exemption for certain medical conditions and other protected grounds to ensure compliance with the Ontario Human Rights Code".

CARRIED

Moved by Councillor Ryan, Seconded by Councillor Joe Neal,

- (217) That the main motion (212) of Councillors Collier and Lee be amended by adding the following sentence to the end of the last Clause, as amended: "and that non-compliance would result in denial of the member to access a Regional facility."

CARRIED

Moved by Councillor Foster, Seconded by Councillor Collier,

- (218) That the question be now put.

CARRIED ON A 2/3rds VOTE

The main motion (212) of Councillors Collier and Lee was then put to a vote and CARRIED AS AMENDED ON THE FOLLOWING RECORDED VOTE:

Yes

Councillor Anderson
Councillor Ashe
Councillor Barton
Councillor Collier
Councillor Crawford
Councillor Drew
Councillor Foster
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor McLean
Councillor Mitchell
Councillor Mulcahy
Councillor Joe Neal
Councillor Nicholson
Councillor Pickles
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada

No

None

Regional Chair Henry

Members Absent: Councillor Carter
Councillor Chapman
Councillor Dies
Councillor Grant
Councillor John Neal
Councillor Roy

Declarations of Interest: None

The main motion (212) of Councillors Collier and Lee, as amended, now reads as follows:

“That Durham Regional Council request that Durham Regional Police Services (DRPS) establish a similar COVID-19 vaccination policy; and

That all members of Regional Council be required to be fully vaccinated and provide proof of vaccination to Council Services by October 20, 2021, such requirements subject to exemption for certain medical conditions and other protected grounds to ensure compliance with the Ontario Human Rights Code, and that non-compliance would result in the denial of the member to access a Regional facility.”

11. Unfinished Business

There was no unfinished business to be considered.

12. Other Business

12.1 Repeal and Replacement of Durham Region Transit By-law No. 70-2019, As Amended (2021-DRT-23)

[CARRIED AS AMENDED] [PART B) WAS DIVIDED FROM THE REMAINDER AND VOTED ON SEPARATELY] [SEE MOTIONS (219) AND (220) ON PAGES 28 AND 29]

Moved by Councillor Ryan, Seconded by Councillor Mulcahy,

(219) A) That the current Durham Region Transit Commission By-law No. 70-2019, be repealed; and

B) That a new Durham Region Transit Commission By-law for the purpose of operating the Regional transit system known as Durham Region Transit (DRT), generally in the form as set out in Report #2021-DRT-23 of the General Manager of Durham Region Transit, be approved.

CARRIED AS AMENDED
(See Following Motions)

Moved by Councillor Mulcahy, Seconded by Councillor Barton,
(220) That the main motion (219) of Councillors Mulcahy and Barton be divided in order to allow voting on Section 9 of the new proposed By-law, as recommended in Part B) of Report #2021-DRT-23, separately.

CARRIED

Moved by Councillor Mulcahy, Seconded by Councillor Barton,
(221) That Part B) of the main motion (219) of Councillors Ryan and Mulcahy be amended by adding the following to the end: “and that the effective date for Section 9 of the By Law be retroactive to the commencement of this term of service on January 9, 2019”.

CARRIED

Part B) of the main motion (219) of Councillors Ryan and Mulcahy was then put to vote and CARRIED AS AMENDED. Councillor Collier did not vote on the item due to a conflict of interest.

The remainder of the main motion (219) of Councillors Ryan and Mulcahy was then put to a vote and CARRIED AS AMENDED.

13. Announcements

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

N. Taylor announced that the Region is hosting a virtual budget townhall on Wednesday, October 20, 2021. Those interested can preregister by email at budgets@durham.ca or watch the livestream on the Region's website.

14. By-laws

26-2021 Being a by-law to authorize Regional staff to apply for and obtain funding from the Federal Government's Clean Fuels Program.

This by-law implements the recommendations contained in Item #2 of the 6th Report of the Committee of the Whole presented to Regional Council on September 29, 2021

27-2021 Being a by-law to repeal By-law No. 70-2019, as amended, and replace it with a new Durham Region Transit Commission By-law for the purpose of operating the regional transit system known as Durham Region Transit (“DRT”).

This by-law implements the recommendations contained in Item #12.1 of Other Business presented to Regional Council on September 29, 2021

Moved by Councillor Ashe, Seconded by Councillor Lee,
(222) That By-law Numbers 26-2021 to 27-2021 inclusive be passed.
CARRIED

15. Confirming By-law

28-2021 Being a by-law to confirm the proceedings of Regional Council at
their meeting held on September 29, 2021.

Moved by Councillor Ashe, Seconded by Councillor Lee,
(223) That By-law Number 28-2021 being a by-law to confirm the proceedings
of the Council of the Regional Municipality of Durham at their meeting
held on September 29, 2021 be passed.
CARRIED

16. Adjournment

Moved by Councillor Marimpietri, Seconded by Councillor Kerr,
(224) That the meeting be adjourned.
CARRIED

The meeting adjourned at 4:17 PM

Respectfully submitted,

John Henry, Regional Chair & CEO

Ralph Walton, Regional Clerk

If this information is required in an accessible format, please contact 1-800-372-1102 ext. 2097.

The Regional Municipality of Durham

MINUTES

COMMITTEE OF THE WHOLE

Wednesday, October 13, 2021

A regular meeting of the Committee of the Whole was held on Wednesday, October 13, 2021 in the Council Chambers, Regional Headquarters Building, 605 Rossland Road East, Whitby, Ontario at 9:30 AM. Electronic participation was permitted for this meeting.

Regional Chair Henry assumed the Chair.

1. Roll Call

Present: Councillor Anderson
Councillor Ashe
Councillor Barton
Councillor Carter
Councillor Chapman
Councillor Collier
Councillor Crawford
Councillor Dies
Councillor Drew
Councillor Foster
Councillor Grant
Councillor Highet
Councillor Kerr
Councillor Leahy
Councillor Lee
Councillor Marimpietri
Councillor Mitchell
Councillor Mulcahy
Councillor John Neal
Councillor Joe Neal
Councillor Nicholson
Councillor Pickles
Councillor Roy
Councillor Ryan
Councillor Smith
Councillor Wotten
Councillor Yamada
Regional Chair Henry
*** all members of Council, except the Regional Chair, participated electronically**

Absent: Councillor McLean

Staff

Present: G. Anello, J. Austin, S. Austin, E. Baxter-Trahair, A. Caruso, D. Culp, D. Beaton, B. Bridgeman, S. Danos-Papaconstantinou, J. Demanuele, J. Dixon, S. Gill, S. Glover, L. Huinink, J. Hunt, R. Inacio, R. Jagannathan, L. McIntosh, G. Muller, G. Pereira, N. Prasad, J. Presta, S. Siopis, K. Smith, N. Taylor and R. Walton

2. Declarations of Interest

There were no declarations of interest.

3. Statutory Public Meetings

There were no statutory public meetings.

4. Delegations

4.1 Jamie Davidson, Director, Watershed Planning & Natural Heritage, Central Lake Ontario Conservation Authority, re: Regional Cycling Plan (2021-COW-26) [Item 7. A)]

Jamie Davidson, Director, Watershed Planning & Natural Heritage, Central Lake Ontario Conservation Authority appeared before the Committee regarding the Regional Cycling Plan.

Highlights from the presentation included:

- Central Lake Ontario Conservation Authority (CLOCA) is in support of the Regional Cycling Plan
- Cycling Routes
 - Connects key destinations, including many of CLOCA's conservation areas
 - Closes some critical gaps in what should be a well-connected network
 - Strengthens community infrastructure
- Regional Cycling Plan aligns with CLOCA's strategic objectives
- Supportive of the Region taking leadership in coordinating wayfinding and signage
- Pleased to see new resources for both infrastructure development and coordination in support of successful implementation

Regional Chair Henry on behalf of the Committee thanked J. Davidson for his delegation.

4.2 Willie Popp, Deputy Mayor, Township of Uxbridge, re: Regional Cycling Plan (2021-COW-26) [Item 7. A)]

Willie Popp, Deputy Mayor, Township of Uxbridge provided a PowerPoint presentation regarding the Regional Cycling Plan.

Highlights from the presentation included:

- Regional Cycling Plan (RCP) – Past & Present
- RCP Supports the Northern Municipalities
- The Cycling Tourism Opportunity
- Bike Friendly Businesses
- Regional Cycling Plan, Active Transportation (AT) and Staffing

W. Popp responded to questions from the Committee.

Regional Chair Henry on behalf of the Committee thanked W. Popp for his delegation.

4.3 Ian McDougall, Ward Councillor, Township of Scugog, re: Regional Cycling Plan (2021-COW-26) [Item 7. A)]

Ian McDougall, Ward Councillor, Township of Scugog appeared before the Committee regarding the Regional Cycling Plan.

I. McDougall stated that he was presenting his delegation as a resident, not as a municipal councillor.

I. McDougall shared a YouTube video titled, “Commuting to School – Durham Cycling Stories”.

I. McDougall stated that active transportation is becoming more multi-modal, and there are more opportunities for family experiences. He stated he wants to see the implementation of safe routes to school and cross rides, to assist families with getting to their destinations without having to get in their car.

Regional Chair Henry on behalf of the Committee thanked I. McDougall for his delegation.

4.4 Ron Lalonde, Chair, Durham Region Active Transportation Committee, re: Regional Cycling Plan (2021-COW-26) [Item 7. A)]

Ron Lalonde, Chair, Durham Region Active Transportation Committee appeared before the Committee regarding the Regional Cycling Plan.

R. Lalonde on behalf of the Durham Region Active Transportation Committee asked that Council consider the following:

- Prioritize the request within the plan for dedicated RCP Staffing as a first step;
- Review the proposed infrastructure rollout time frames and shift funding support more to the immediate time frame;
- Challenge the status quo and move Durham Region to a position of leadership by advancing the cycling-supportive strategies and actions identified in the RCP in support of safe cycling; and
- Consider the survey results referenced earlier which clearly shows Durham Residents are asking for improved cycling support today, not in the future.

R. LaLonde responded to questions from the Committee.

Regional Chair Henry on behalf of the Committee thanked R. LaLonde for his delegation.

5. Presentations

5.1 Greg Pereira, Manager of Transportation Planning, Planning & Economic Development re: Regional Cycling Plan 2021(2021-COW-26) [Item 7. A)]

Greg Pereira, Manager of Transportation Planning, Planning & Economic Development provided a PowerPoint presentation regarding the Regional Cycling Plan 2021.

Highlights from the presentation included:

- Foundations of a Regional Cycling Plan (RCP)
- Regional Cycling Plan 2021
 - Process
 - Milestones
- Alignment with Regional Plans
- Durham Region Active and Sustainable Mode Share Targets
- Durham Regional Cycling Plan 2021 Vision
- Importance of Cycling and the RCP 2021
 - Promotes Tourism & Economic Investment
 - Supports Changing Attitudes and Demographics
 - Supports Equitable Transportation Connections
 - Supports the Environment
 - Enhancing Safety for Cyclists
- Fostering a Sense of Place
- RCP 2021 Strategies, Actions & Recommendations
- Key Elements to the 2021 RCP
- Primary Cycling Network (PCN) Network Vision
- PCN Phasing (2021-2040)
- Cycling Facility Types
- RCP 2021 Supporting Cycling Strategies
- Key Themes that Emerged from Area Municipal Council Feedback

G. Pereira responded to questions from the Committee regarding whether there are opportunities to run special events, especially in the rural areas, to draw cyclists into the downtowns and connect local municipalities; whether conversations will occur between Regional staff and local municipal staff with respect to investments already made by the local tier municipalities to improve their cycling plans and infrastructure that may not align with the Regional Cycling Plan; plans for increased education for cyclists and motorists with respect to being safe on the roads; funding allocations between regional and local roads and how the funding from the Regional Cycling Plan will be made equitable across the Region; when Regional staff will begin meeting with local municipalities to discuss signage issues, potential gaps and financing; the intent of the Durham Meadoway; and whether there has been consideration made to charging stations for hybrid bicycles.

In response to a question from the Committee regarding whether there is a breakdown of how much is being spent within each municipality under the Regional Cycling Plan, G. Pereira advised that he will forward that information to all Committee members.

6. Correspondence

There were no items of communication to be considered.

7. Reports

A) Regional Cycling Plan 2021 – Final Plan (2021-COW-26)

Report #2021-COW-26 from B. Bridgeman, Commissioner of Planning & Economic Development, S. Siopis, Commissioner of Works, and N. Taylor, Commissioner of Finance, was received.

Staff responded to questions from the Committee regarding how Council will be held accountable for what is funded and not funded under the Regional Cycling Plan; how Durham Region will ensure that it is delivering on its objectives and goals for the future; whether there is financial cooperation occurring between the Region and local municipalities; the intent of hiring 2 dedicated staff members for 8.5 km of roads each year; and whether there is a plan for a cycling path under the Hwy. 401 at Courtice Road in the Municipality of Clarington.

Moved by Councillor Foster, Seconded by Councillor Kerr,
(49) That we recommend to Council:

- A) That the Regional Cycling Plan 2021, provided as Attachment #1 to Report #2021-COW-26 of the Commissioner of Planning & Economic Development, Commissioner of Works, and the Commissioner of Finance, be endorsed; and

- B) That the Regional Cycling Plan 2021 recommendations be considered along with all other Regional priorities through future annual Regional Business Plans and Budget processes.

CARRIED

- B) Request for Funding from Lake Simcoe Region Conservation Authority for the Acquisition of Land adjacent to the Beaver River Wetland Conservation Area in the Township of Brock (2021-COW-27)
-

Report #2021-COW-27 from N. Taylor, Commissioner of Finance, and B. Bridgeman, Commissioner of Planning & Economic Development was received.

Staff responded to a question from the Committee regarding why the request for funds for the acquisition of lands from conservation authorities are not being dealt with during the normal budget cycle.

Moved by Councillor Smith, Seconded by Councillor Grant,
(50) That we recommend to Council:

- A) That the request for funding from Lake Simcoe Region Conservation Authority in the amount of \$51,917, representing 40 per cent of the eligible acquisition costs of approximately 55.4 hectares (137 acres) of land located adjacent to the Beaver River Wetland Conservation Area in the Township of Brock, be approved and financed from the Region's Land Conservation and Protection Reserve Fund; and
- B) That the Commissioner of Finance be authorized to adjust the total payment amount to Lake Simcoe Region Conservation Authority pending a review of the eligibility of final costs incurred pursuant to the Region's Land Acquisition Funding Policy.

CARRIED

Moved by Councillor Carter, Seconded by Councillor Ryan,
(51) That the Rules of Procedure be suspended in order to introduce Report #2021-COW-28: Status of the Pending Provincial Position on the Upper York Sewage Solutions Environmental Assessment.

CARRIED ON A 2/3rds VOTE

- C) Status of the Pending Provincial Position on the Upper York Sewage Solutions Environmental Assessment (2021-COW-28)
-

Report #2021-COW-28 from S. Siopis, Commissioner of Works was received.

Moved by Councillor Drew, Seconded by Councillor Pickles,
(52) That we recommend to Council:

- A) That the Regional Municipality of Durham confirms its support for the preferred alternative as documented in the Upper York Sewage Solutions Environmental Assessment which includes an advanced treatment system in the Lake Simcoe watershed within the Regional Municipality of York; and
- B) That a copy of Report #2021-COW-28 of the Commissioner of Works be provided to the City of Pickering, Town of Ajax, the Ajax and Pickering Board of Trade, the Mississaugas of Scugog Island First Nation and all the Members of Provincial Parliament within Durham.

8. Confidential Matters

There were no confidential matters to be considered.

9. Other Business

There was no other business to be considered.

10. Adjournment

Moved by Councillor Chapman, Seconded by Councillor Pickles,

(53) That the meeting be adjourned.

CARRIED

The meeting adjourned at 11:16 AM

Respectfully submitted,

John Henry, Regional Chair

Committee Clerk

Communications

October 27, 2021

CC 21 Guy Giorno, Regional Municipality of Durham Integrity Commissioner, Report on Complaint re: Regional Municipality v. Neal and Schummer, 2021 ONMIC 15, dated October 19, 2021 (Our File: C17)

Recommendation: Receive for information

(See attached correspondence on pages 41-65)

REGIONAL MUNICIPALITY OF DURHAM INTEGRITY
COMMISSIONER, GUY GIORNO

Citation: Regional Municipality v. Neal and Schummer, 2021 ONMIC 15
Date: October 19, 2021

REPORT ON COMPLAINT

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THE COMPLAINT

1. This report concludes an inquiry into a complaint about an alleged breach of confidentiality by Councillors Joe Neal and Walter Schummer (Respondents). The breach is alleged to have occurred when they moved and seconded an amendment during the December 16, 2020, Regional Council meeting.
2. The complaint was submitted on behalf of the Regional Municipality by the Regional Clerk and Director of Legislative Services, Ralph Walton, who did so with the knowledge and support of the Regional Chair and the Chief Administrative Officer, supported by the Region's Legal Services division. In this report, I recognize the Regional Clerk, in his representative role, as the nominal Complainant.
3. According to the complaint, the alleged breach of confidentiality contravened section 12 of By-law Number 09-2019, the Code of Conduct By-law.

SUMMARY

4. This report makes no comment on the merits of the Beaverton Supportive Housing Project, and expresses no opinion on the disagreement between the Region and the Township of Brock. Nothing in this report should be interpreted as taking a position on the substantive issues.
5. This report does not comment on the Region's practices of classifying certain information as confidential. It also does not comment on whether a municipality's request for a Minister's Zoning Order (MZO) should or should not be treated as confidential. Those questions are outside an Integrity Commissioner's jurisdiction.
6. There was no closed meeting at which the information in question was considered. Consequently, there was no breach of closed meeting confidentiality.
7. There was, however, disclosure of information that the Region was treating as confidential, and Regional Council had not authorized the release. By a 26-3 vote on December 16 (albeit after disclosure had already occurred), Regional Council upheld a decision that the information was confidential. Regional Council's decision was final and is binding on me.

BACKGROUND

8. The Respondent Joe Neal represents the Municipality of Clarington, having been elected as Regional Councillor for Wards 1 and 2 of the Municipality.

9. At the relevant times, the Respondent Walter Schummer attended Regional Councillor meetings as the alternate for the Township of Brock, while the Township's Mayor, Debbie Bath-Hadden, was absent due to illness. (Mr. Schummer is Ward 3 Councillor of the Township of Brock.) Mayor Bath-Hadden passed away tragically earlier this year, and Mr. John Grant was appointed Mayor in her place. Mr. Schummer no longer represents the Township at Regional Council meetings.

10. For several months, the Township of Brock and the Regional Municipality of Durham have been disagreeing over the Region's Beaverton Supportive Housing Project, which would involve the construction of approximately 50 pre-fabricated, modular, supportive housing units at 133 Main Street, Beaverton.

11. At its October 26, 2020, meeting, the Township of Brock Council adopted two resolutions related to the Beaverton Supportive Housing Project. One resolution asked that the Region, "Not pursue the Project because the [Township] Zoning By-law does not permit the uses proposed by the Project." The other resolution directed the Township staff to prepare an interim control by-law that would temporarily prohibit prefabricated, modular construction and supportive housing anywhere in Brock.

12. The two Brock resolutions were sent to the Region and considered at the October 28, 2020, Regional Council meeting. Council referred Brock's correspondence¹ containing the resolutions to the Regional staff.²

13. Mr. Schummer, appearing in a personal capacity and not on behalf of Brock or the Township Council, made a delegation to the same meeting of Regional Council. He outlined concerns about the Beaverton Supportive Housing Project.

14. In addition to Mr. Schummer, nine other delegations spoke on the issue. Three spoke about supportive housing generally,³ and six specifically addressed the Beaverton Supportive Housing Project.⁴ Regional Council also received three more items of correspondence from Brock,⁵ and four additional items of correspondence,⁶ related to the Project.

15. On October 28, Regional Council also approved the creation of a Beaverton Supportive Housing Community Liaison Committee, "consisting of up to 10 local resident representatives selected by the Council of the Township of Brock, for the purpose of sharing information, identifying issues, concerns and mitigation strategies and to promote

¹ Council Correspondence CC 46 (October 28, 2020).

² Resolutions 300 and 301 (October 28, 2020).

³ Items 6.2, 6.7, 6.8 (October 28, 2020).

⁴ Items 6.3, 6.4, 6.5, 6.9, 6.10, 6.11 (October 28, 2020).

⁵ Council Correspondence CC 38, CC 39, CC 40 (October 28, 2020).

⁶ Council Correspondence CC 41, CC 42, CC 43, CC 47 (October 28, 2020).

the successful integration of this project and its residents within the broader Brock community.”⁷ As I discuss below, Brock subsequently declined to select any representatives.

16. On November 23, the Township of Brock enacted By-law Number 2994-2020, Being a by-law under the provisions of Section 38 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to establish Interim Control provisions for the entirety of the Township of Brock to prohibit the establishment of Supportive Housing and Modular Construction, including Manufactured Dwelling Houses, for a period of twelve (12) months in order to allow for the appropriate completion of further research and consultation.

17. The addendum to the agenda of the November 25 Regional Council meeting discloses that Council was to consider the following correspondence:

<p>CC 57 Confidential Memorandum from Jason Hunt, Director of Legal Services, dated November 25, 2020 re: Beaverton Supportive Housing Project Potential Litigation</p>	<p>Under Separate Cover</p>
<p>Recommendation: Receive for information</p>	

18. I have reviewed Council Correspondence CC 57. The first words on the first page, in bold type, are “**Privileged and Confidential.**”

19. Council Correspondence CC 57 was distributed “Under Separate Cover” because the Regional staff considered the content to be confidential.

20. Council Correspondence CC 57 was not made public.

21. Council Correspondence CC 57 was not, however, considered in closed session. As the agenda addendum indicated, the staff recommendation was that Council Correspondence CC 57 be received for information. In open session, Regional Council resolved that Council Correspondence CC 57 “be received for information.” Questions about the document were asked and answered in open session. I consider below whether the open session activity deprived the memorandum of its confidential character.

22. The open session questions about Council Correspondence CC 57 were asked by Councillor Joe Neal and Councillor Schummer,⁸ and also Councillor Smith (who is not a party to this inquiry). The following is my transcription of the recording of that portion of the Regional Council meeting:

⁷ Resolution 293 (October 28, 2020).

⁸ The reason I refer to one Respondent only by surname (Councillor Schummer) and the other Respondent also by first name (Councillor Joe Neal) is that, as Regional Council members and those who follow Regional Council proceedings will be aware, there are two Councillors with the surname Neal.

Regional Chair: On item CC 57 the memorandum from –

Coun. Chapman: Move to receive for information.

Regional Chair: – from Jason Hunt, Director of Legal Services on the Beaverton Supportive Housing Project, to receive for information, moved by Councillor Chapman, looking for seconder.

Coun. Leahy: Leahy, second.

Regional Chair: Seconded by Councillor Leahy

Coun. Joe Neal: Point of order, Mr. Chair.

Regional Chair: Yes, Councillor Neal.

Coun. Joe Neal: So, I don't understand why this is being dealt with in –

Regional Chair: Sorry, I've lost you again. Can you start over please?

Coun. Joe Neal: I don't understand why it's being dealt with as a confidential report because it's outlining steps that will be taken which are in my mind not really giving legal advice, so I think that report should be in public record.

Regional Chair: OK. Thank you. The recommendation is receive for information. It has been moved and seconded. Councillor Smith in the chat box.

Coun. Smith: Yes, thank you. Through you Chair Henry, and I guess to Mr. Hunt, if I can.

Regional Chair: You can, but remember we are in open session.

Coun. Smith: Yes. The Township of Brock during its meeting on Monday has decided to enact an interim control by-law, but still negotiate with the Region regarding possible modifications to the Beaverton project. I'm just trying to figure out how to word this. So based on the recommendations in your report, will that negotiation still be able to take place?

Regional Chair: I'll go to Mr. Hunt first, please.

Mr. Hunt: Yes, I would anticipate that the negotiations will continue between staff at the Region and staff at Brock and it's my understanding that those negotiations so far have been fruitful and certainly have not reached the end of the line. We certainly are putting our full efforts into reaching a negotiated resolution to this, and our experience with Brock to date has been that they are reciprocating in that, so the parties I think are hopeful that we will reach a resolution, however, we may need, in the unlikely event we're not able to resolve this through that process, then this memo lays out what the next steps for the Region would be from a legal perspective, and appreciating that there are some timing constraints on this we want to keep this advice timely for Council so Council was aware what the Region was doing.

Coun. Smith: Thank you. I just want to make sure this didn't preclude any of that. I do have some questions that I'll bring forward to next week's Health and Social Services Committee. Thank you for that information.

Regional Chair: Councillor Joe Neal.

Coun. Joe Neal: My question is: At what point would the actions outlined in this actually take place?

Voice: Right away.

Coun. Joe Neal: There's an action at the end of this memo. I'm wondering, when would that be made public?

Regional Chair: I will go to Mr Hunt first.

Coun. Joe Neal: The Region of Durham has a policy to go above and beyond, for example, transparency and so on so, as I recall, there was a policy to go above and beyond –

Regional Chair: Councillor Neal, your microphone is still cutting in and out.

Coun. Joe Neal: Well, maybe it's yours, Mr. Chair, because I think mine's working fine.

Regional Chair: Well, I'm in the Council Chambers with staff and the Clerk's Office, and they're hearing the same thing I am but, anyways, I will move on to Mr Hunt.

Mr. Hunt: So I think it's important to note that we would be in [likelihood] proceeding almost immediately with those steps. As I commented earlier, I don't think the one, the negotiation, precludes the other. But, as we said, given the timing, we would be moving relatively quickly. As to the second part of the question, when there would be public disclosure, receiving advice as to the appropriate next steps in the litigation is, in my view, a privileged exercise, however, depending on the nature of the litigation, taking that next step is not something that's done in confidence. So to use an example, you may receive my confidential advice to initiate litigation by filing a statement of claim against a party. Once that statement of claim is filed of course it's a matter of public record. So when the step that's recommended here becomes a matter of public record, then obviously as [the] Councillor has pointed out, this would at least in part become a public matter. I don't have any information, unfortunately, specifically on when, at what point in the process it would be public. But the Councillor is correct to say at some point it would be a matter of public record that this particular step has been taken.

Coun. Joe Neal: OK. Thanks.

...

Regional Chair: That concludes your questions, Councillor Neal?

Coun. Joe Neal: Yes.

Regional Chair: Thank you. Councillor Schummer.

Coun. Schummer: Thank you, Mr. Chair. I'll just ask a general question here. Are there any issues with respect to timing to take the steps outlined, given where we are in the calendar, because typically half the schedule starts getting useless with holidays and what have you, any busy-ness that COVID is creating at various levels. So I'm just wondering: Is there a concern about time to take the appropriate steps?

Regional Chair: I will have our CAO respond, Councillor Schumer.

CAO: Yes, there are a number of issues impacting time. In order to have the project delivered by the end of next year, which is when the provincial and likely federal funding will expire, we require a building permit by February, so it is really urgent that we move this matter forward as quickly as possible.

Coun. Schummer: Thank you. Yes, I realize that. My question was more so about possible actions in the correspondence and how that relates to actually getting things done in a short period of time.

CAO: That would be the subject of discussion between Regional officials and the Minister's office.

Coun. Schummer: OK. Thank you.

Regional Chair: Members of Council, seeing no other comments in the chat box, on the receive for information, I will be now call that vote. All those in favour? In opposition? Hearing none, that carries.

23. At the December 16 meeting of Regional Council, Councillor Chapman and Councillor Pickles moved and seconded the following motion, of which they had previously given notice:

Whereas at the meeting of October 28, 2020, Regional Council passed a motion that in part said:

"That in order to improve communication with area residents, a Beaverton Supportive Housing Community Liaison Committee be created, consisting of up to 10 local resident representatives selected by the Council of the Township of Brock, for the purpose of sharing information, identifying issues, concerns and mitigation strategies and to promote the successful integration of this project and its residents within the broader Brock community";

And Whereas the Council of the Township of Brock has chosen not to support this project including not wishing to select representatives of the community to participate in a Beaverton Supportive Housing Community Liaison Committee;

And Whereas Regional Council believes a Beaverton Supportive Housing Community Liaison Committee created for the purpose of sharing information, identifying issues, concerns and mitigation strategies would greatly assist to promote the successful integration of this project and its residents within the broader Brock community;

Now therefore be it resolved that staff reach out to local Beaverton community groups such as, but not limited to the Legion, Lions Club, Board of Trade, Lakeview Manor Family Committee, Gillespie Gardens, the Library Board, Brock Community Health Centre and Local church groups to invite these groups to nominate a representative for a Beaverton Supportive Housing Community Liaison Committee; and

That the Beaverton Supportive Housing Community Liaison Committee have up to 10 members from the Brock community as noted above; it be co-chaired by the Director of Housing Services and a community member selected by the committee; and, meet at least monthly.

24. Councillor Joe Neal moved, seconded by Councillor Schummer, "That the main motion of Councillors Chapman and Pickles be amended by adding the following clause: 'That the Region not seek a Minister's Zoning Order (MZO) and instead work with Brock Township to satisfy local concerns.'"

25. The following is my transcription of debate at Regional Council, beginning immediately after Councillor Chapman read his main motion into the record:

Regional Chair: Councillor Chapman, did you wish to speak to it?

Coun. Chapman: Yes. As we heard when we originally passed the motion on October 28th, about having this committee, Councillor Smith from Brock, Councillor Pickles (the Vice Chair of Health and Social Services), and our Director of Housing, met with a number of the residents in the Brock community about this Project, and what came out of that was the request for a two-way passage of information with the residents on this matter. So the motion was to have a committee appointed by the Brock Township Council, seeing that they would know their community more than that. The Brock Township, I'm told, Council is not interested in doing that. So in this case it's another way to reach out. We don't want staff or Regional Council selecting these people. We're asking these various groups, the staff can reach out to them by way of letter or however staff sees best of how to do that, to get ten people, at least up to ten people, to have this important committee, so that we can have that two-way dialogue with the residents up there, and they can understand the Project,

they can help our staff understand some of their concerns, and working together maybe we can move forward to make sure that the Project is successful. So I hope that all of Council would support this, to have this liaison committee. Thank you, Mr. Chair.

Regional Chair: Thank you. Councillor Pickles, do you wish to speak to this?

Coun. Pickles: Thank you, Mr. Chair. Just to clarify that when I and Councillor Smith agreed to meet residents, one resident representative came out, but as Councillor Chapman indicated, that one resident purported to, if not necessarily represent, but had been talking with a number of other residents and really felt that there could be a better two-way communication, and that's why we drafted up the motion that we did, to seek this committee. You know, it's not incumbent to be supportive of the Project to be on the committee. We may have people who are supportive, some people who aren't, or some people who just have a lot of questions, and that's fine. But I think we do want to open it up to the communities to have people who are interested in participating coming forward. If people aren't interested in participating they don't need to come forward. We want to make this available for those that are interested in receiving the information, asking questions, and having a dialogue. I'm pleased we brought it forward. I do think there are people in the community that will want to put their names forward and participate. Thank you.

Regional Chair: Thank you. Councillor Joe Neal, you have an amendment?

Coun. Joe Neal: Yes, sir. I gave it to the Clerk. It could be displayed, or do you want me to just read it?

Regional Chair: Please read it, and I will ask the Clerk to display it.

Coun. Joe Neal: So the amendment is moved by myself, seconded by Councillor Schummer: "That the Region not seek a Minister's Zoning Order (MZO) and instead work with Brock Township to satisfy local concerns."

Regional Chair: Councillor Neal, that was an in camera item.

Coun. Joe Neal: Well, I sent to the Clerk so, I'm just –

Regional Chair: One second.

[pause]

Regional Chair: Members of Council, just bear with me for one minute please.

[pause]

Regional Chair: So, Members of Council, I will come back to this. I'm going to ask for a ten-minute recess, please

Coun. Joe Neal: I'll give you that motion.

Coun. Marimpietri: So moved, Mr. Chair.

Regional Chair: Moved by Councillor Joe Neal, seconded by Councillor Marimpietri. On a ten-minute recess, all those in favour? In opposition? None. We are in recess for ten minutes.

[recess]

Regional Chair: Mr. Clerk, if you could do a roll call please.

[roll call omitted]

Regional Chair: Thank you, Mr. Clerk. Councillor Neal, I'm going to rule your amendment out of order. The subject matter is confidential. It deals with a matter that Council has already previously considered.

Coun. Joe Neal: Mr. Chair, I don't think it's dealing with confidential advice of any sort. It's dealing with –

Regional Chair: It's not for debate. I've given my ruling on your amendment. You always have the option of challenging the chair.

Coun. Joe Neal: I'll challenge the ruling.

Regional Chair: OK. Mr. Clerk, will you explain the rules for challenging the chair, please?

Regional Clerk: Through you, the question is: Shall the ruling of the chair be upheld? If you wish to uphold or support the ruling of the chair, you vote yes; if you are opposed to the ruling, you'll vote no.

[roll call vote omitted]

Regional Chair: The ruling is upheld. Councillor Neal.

Coun. Joe Neal: Well, so much for accountability and transparency.

Regional Chair: Councillor, really?

Coun. Joe Neal: Section 224 of the *Municipal Act* talks to that, as the role of council, Mr. Chair, to ensure the accountability and transparency of the operations of the municipality.

Regional Chair: Councillor Neal, we've gotten through a very long meeting today, with a decorum that has been pretty amazing, and we will continue with that decorum, thank you. Each Member of Council acts on their own accord. Please continue.

Coun. Joe Neal: So I don't agree with the notion of bypassing Brock Council on this, so I can't imagine this happening in a different locale, or maybe it will happen, I don't know, for example, if something was happening regarding the EFW or something and Clarington was not particularly happy about it, would you –

[open microphone interruption omitted]

Coun. Joe Neal: I'll stop there, Mr. Chair. Thanks.

Regional Chair: Thank you.

Coun. Joe Neal: Recorded vote, please.

Regional Chair: This isn't bypassing Brock Council. Brock Council has made a decision. Councillor Schummer.

Coun. Schummer: Thank you, Mr. Chair. I will be supporting the motion, because I never like to not support getting the public involved. If I could get some clarification, this committee, is the idea that this committee would be formed and active both before and after the Project completion?

Regional Chair: So, Councillor Schummer, your question is to the mover of the motion, which would be Councillor Chapman. Councillor Chapman.

Coun. Chapman: Yes, the idea is to get the Project moving, as it moves forward, up and running, and then it would see whether it would be needed at that stage, or whether some other local or committee within the housing organization would take up those responsibilities.

Regional Chair: Councillor Schummer, did that help?

Coun. Schummer: Kind of. I guess I'll go to where it states the purpose of it being to share information, identify issues, concerns, and mitigation strategies. So is the purpose of this committee, then, not only to kind of act as a human suggestion box, and receive, maybe,

complaints and issues with the Project, but is the point to also solicit possible solutions from the public?

Regional Chair: Councillor Chapman.

Coun. Chapman: Yes. Through this committee, the idea is to share the information on it, to identify concerns, from both sides of those working on the Project and later on when we're into the actual running of the operation, and of course the residents, and to try to address those concerns as best possible. This is why we also want to have a joint chairmanship of it, somebody from the community as well as our Director of Housing.

Coun. Schummer: Thank you. My concern – there is an awful lot of, I'm going to call it suspicion, in the Beaverton community especially, and I can only imagine there's going to be some from this as well. At the last Health and Social Services Committee, the Orgcode⁹ consultant was both at the committee and his report was there, as well as a critique of that report which was from a Guelph, I believe, professor, which was brought in at the request of the Beaverton Vision group of citizens,¹⁰ and unfortunately the consultant really just brushed off all of the points that were in that critique. He labelled it as nothing but NIMBYism, which certainly is a slap in the face, because a lot of the concerned people in Beaverton, it's not that they just don't want the Project in their backyard, but they want a proper project. What happened there was quite a slap in the face, and there were recommendations made in that report, in fact, one of them being about the 20 per cent of the units that will share a washroom, and the consultant was very much against that but, yet, the Region is going to move ahead, full steam ahead, regardless of that safety concern, especially during COVID, and so, if the Region is not going to pay attention to such a significant concern and recommendation from its own consultant, I don't know what the citizens of Beaverton that are going to be solicited to sit on this committee are going to feel if they're going to really have an impact. My concern is that this will be seen as a feel-good project. I know that you do not, Councillor Chapman and Pickles, I know you do not want it to be that, but my fear is that that is how it's going to be seen, as everything has been full steam ahead as far as many of the citizens in Beaverton are concerned. Like I said, I am going to support this motion, but I can only offer some serious advice that this committee, if you're going to use the words about mitigation strategies, if it seems that it's just collecting words and putting words out, it is going to lose the faith, even more so, of those residents of Beaverton and the ones that sit on the committee. Like I said, I'll support this, but this has got to be done right or there's going to be an even further erosion of faith and trust. Thank you.

Regional Chair: Thank you. Councillor Pickles, I know you want to comment on this, but you've already spoken to this matter as the seconder.

Coun. Pickles: That's fine, Mr. Chair. I just wanted to point out to Council, that this motion isn't so much about setting up the committee but how appointing to it. We've already dealt with the matter of the committee previously.

Regional Chair: Thank you. Is there anyone else wishing to speak to this motion? I believe, Councillor Joe Neal, you asked for a recorded vote.

Coun. Joe Neal: That's fine.

Regional Chair: OK. Thank you. OK. Mr. Clerk, I'll call for that recorded vote now, please.

[roll call vote omitted] [motion carried]

⁹ Iain De Jong, President and CEO, Orgcode Consulting Inc., presented to the Health and Social Services Committee, December 3, 2020, on the suitability study of 133 Main Street, Beaverton.

¹⁰ At the same meeting, David J. Douglas presented to the committee and provided comments on the Orgcode suitability study. The committee minutes do not identify Dr. Douglas as such, but he is Professor Emeritus in the University of Guelph School of Environmental Design and Rural Development.

26. Both the minutes and the recording indicate that the Regional Chair ruled the amendment of Councillors Joe Neal and Schummer out of order on the ground that the subject matter was confidential and had previously been considered by Council. The Chair's ruling was sustained on a 26-3 vote.

27. The amendment was moved at approximately 3:20 p.m.

28. At 1:03 p.m., Councillor Joe Neal had sent the following email to the email address of Mr. Walton, the Regional Clerk:

From: Joe Neal

Sent: December 16, 2020 1:03 PM

To: Ralph Walton

Subject: Chapman Pickles Motion

Ralph: On the above motion, the following amendment would be moved by myself and seconded by Councillor Schummer:

"That the Region not seek an MZO and instead work with Brock Twp. to satisfy local concerns."

Thanks

Joe

29. The email was sent during the lunch recess, which lasted from 12:41 p.m. to 1:45 p.m.

30. The Regional Chair and the Regional Clerk were present in the Council Chamber during the December 16 meeting. The recording shows that the Regional Clerk was active during the meeting, conducted five roll calls and 15 recorded votes, gave advice to the Chair, and communicated with the staff.

31. The Respondents were not present in the Chamber. They attended the meeting virtually.

PROCESS FOLLOWED

32. In operating under the Code, I follow a process that ensures fairness to both the individual bringing a Complaint and the Council Members responding to the Complaint. This process is based on the Complaint/Application for Inquiry Procedure that is Schedule A to the Code of Conduct.

33. I received the Complaint January 5.

34. On January 9, I issued a Notice of Inquiry, informing the parties that I was conducting an inquiry under section 223.4 of the *Municipal Act* into whether the

Respondents contravened section 12 of the Council Code of Conduct by making confidential information public without the authorization of Regional Council when they moved and seconded the amendment at the December 16 meeting.

35. I also informed the parties that, even though there are two Respondents, I would conduct a single inquiry because there is only one Complaint based on one allegation. I modified my usual process by offering each Respondent an opportunity to address the submissions of the other Respondent, in addition to the submissions of the Complainant. This turned out to be unnecessary because the Respondents made joint submissions.

36. On January 9, Councillor Joe Neal requested clarification. He also requested an extension of time for the Respondents to file a joint Response. I granted an extension.

37. I also dealt with the Respondents' suggestion that, in order to respond to the Complaint, they needed to see any MZO request submitted by the Region to the Minister of Municipal Affairs and Housing. I address this position later in the report.

38. I received the Respondents' joint Response on March 9.

39. I received the Complainant's Reply on March 25.

40. On April 27, I emailed the parties to inform them that the material provided to me was sufficient for me to understand the nature of the Complaint and the position of the parties. As a result, I did not think it was necessary for me to request interviews of the parties. I nevertheless offered each party the opportunity of an interview, at the party's election.

41. Councillor Joe Neal accepted the opportunity of an interview. The Complainant declined.

42. I issued a delegation under subsection 223.3(3) of the *Municipal Act* to another lawyer in my office, authorizing him to conduct the interview of Councillor Joe Neal. The interview took place on May 21.

43. I subsequently reviewed the law, read all the documentation provided, carefully examined the recordings of the November and December meetings of Regional Council, and considered the submissions of the parties. In writing this report I have taken into account all the evidence and all the submissions.

POSITION OF THE PARTIES

Position set out in Complaint

44. According to the Complaint, by moving the amendment on December 16, the Respondents released confidential information during an open, public portion of a Regional Council meeting and in the process contravened section 12 of the Code. The Complaint mentions Regional Council meetings are broadcast and streamed online with recordings available to the public.

45. The Complaint states that the Regional Chair, as presiding officer of the meeting, ruled the motion out of order because it dealt with a confidential subject, and the Regional Chair's ruling was sustained on appeal.

46. The Complaint states that at no time did Council authorize the release of the confidential information.

Respondents' Position

47. The Respondents' written submissions refer specifically to section 12.1 C) of the Code. This provision relates to a meeting closed to the public. The written submissions do not specifically mention section 12.1 A), which applies to confidential information acquired by virtue one's office, but the submissions do, in detail, address whether the request for an MZO was confidential. Whether the MZO request was confidential is the issue under section 12.1 A), and the Respondents have addressed that issue.

48. The Respondents emphasize that there was no closed meeting on November 25 at which the content of Council Correspondence CC 57 was considered. As a result, they did not disclose the substance of "a matter, that has been debated or discussed at a meeting closed to the public," in contravention of section 12.1 C) of the Code.

49. The Respondents further submit that by introducing the amendment on the floor of Council they did not reveal any legal advice or any confidential information. They rely on the November 25 explanation of the Director of Legal Services as authority for the "distinction between legal advice which is confidential, versus a step that is taken as a result of that advice, which is not confidential."

50. The Respondents argue that the wording of the amendment ("That the Region not seek a Minister's Zoning Order (MZO)") did not disclose confidential information, properly construed. They note that no discussion took place about the Region actually requesting an MZO.

51. Further, the Respondents believe that the CAO's comments ("That would be the subject of discussion between Regional officials and the Minister's office") at the November 25 meeting were sufficient to allow an individual listening to the meeting to conclude that the Region was contemplating applying for an MZO from the Minister of Municipal Affairs and Housing. To support their position, they provided a contemporaneous email that suggests at least one individual in the community did infer, from the CAO's statement, that an MZO would be sought. That individual had written, "Right at the end the CAO mentioned the Minister. I can only assume they will be asking for an MZO."

52. According to their submissions, "The CAO of the Region had let the cat out of the bag, not Councillors Neal and Schummer."

53. The Respondents submit that, in any event, once an MZO had been formally requested – a fact of which they were unaware on December 16 – the step of requesting the MZO was no longer confidential. In their words, "Once the request for the MZO was made by the Region on November 25, 2020, the fact of the request ceased to be confidential."

54. Further, they observe that, "There was no disclosure of any legal advice in putting the amendment on the floor of Council, nor was there disclosure that the Region had in fact applied for an MZO."

55. I note that, while section 12.1 A) is not expressly mentioned in the written submissions, the arguments set out at paragraphs 49 through 54, above, if correct, would be a response to the allegation that the Respondents contravened section 12.1 A).

56. The Respondents further submit that requesting an MZO from the Minister is not grounds for a closed meeting under section 239 of the *Municipal Act*. They note that the Region cannot exempt itself from section 239.

57. During his interview, Councillor Joe Neal explained that Regional Council routinely receives memoranda from municipal lawyers that were marked confidential but that are not properly considered confidential. As a Regional Councillor, he believes it is his duty to prevent the overuse of the term "confidential" by the municipal staff, as overuse has the effect of depriving the public of knowledge about important matters about which the public otherwise has a right to know. He pointed out that this is precisely why s. 239 of the *Municipal Act* exists: to ensure that meetings are open to the public unless they are closed to the public for a legitimate purpose.

58. The Respondents also point out that they emailed the text of their amendment to the Regional Clerk, at 1:03 p.m., during the lunch recess, on the day of the December 16 meeting. They explain that, during virtual meetings necessitated by the COVID pandemic, emailing the Regional Clerk with the wording of motions and amendments has become

standard practice. Previously, during in-person meetings, an amendment needed to be written out, signed by the mover and seconder, and physically handed to the Regional Clerk at the meeting.

59. As evidence, Councillor Joe Neal provided numerous examples –both before and after the December 16 meeting – of motions and amendments that had been emailed to the Regional Clerk in the same manner as his email of December 16.

60. The Respondents take the position that Councillors should be able to assume that an amendment that has been emailed to the Regional Clerk has been reviewed.

61. They also note that the Regional Clerk had more than two hours to raise any concerns about the amendment – two hours during which the information in the amendment had not been shared with anyone other than the Regional Clerk and, consequently, was not public. The Respondents believe that the Regional Clerk had ample opportunity to review the amendment and address any concerns before Councillor Joe Neal was invited to read the wording of the amendment in open session.

62. The Respondents note that the Regional Clerk was physically present in Council chambers with the Regional Chair the day of the meeting. They believe that it is unreasonable to the Regional Clerk subsequently to file a Code of Conduct complaint under the circumstances.

Region's Reply

63. The Regional Clerk, on behalf of the Region, noted that the amendment text was emailed to the Regional Clerk's individual email address, contrary to the following direct instruction included with meeting invitations: "We will use the "Message/Chat" function in Teams to indicate requests to speak. If you wish to send wording for a motion, please send it to clerks@durham.ca." [emphasis added]

64. The difference, of course, is that the clerks@durham.ca email address is accessible to a larger number of staff members, and not just the Regional Clerk who has active duties during the meeting. The Region's Reply also notes that "Meetings are very dynamic and fluid and time does not always permit in depth review of information and motions forwarded to Clerks' staff. Complexity of issues adds to the challenge."

65. According to the Reply, only after the amendment in question had been moved and seconded was it actually reviewed (in consultation with the Chief Administrative Officer and Regional Solicitor).

66. The Reply also makes the point that the CAO's November 25 comment about discussions with the Minister's office did not imply that an MZO was being considered.

67. Finally, the Reply notes that section 12.1 A) of the Code refers to confidential information without tying that information to a closed meeting. (In contrast, section 12.1 C applies to matters considered at closed meetings.)

FINDINGS OF FACT

68. The following findings are based on the standard of a balance of probabilities, taking into account all the evidence.

69. I find as a fact that Council Correspondence CC 57 (November 25) was not considered in a closed meeting. I find further that the Respondents did not disclose a matter, the substance of a matter, or information pertaining to a matter that had been discussed at a meeting closed to the public.

70. However, I also find as a fact that CC 57 was a confidential document and that the Respondents acquired access to it by virtue of their office.

71. I find the Respondents knew that the information in CC 57 was being treated as confidential. On November 25, in reference to CC 57, the Regional Chair had reminded the Council that it was meeting in open session. I find that the Regional Chair's reminder was intended as, and understood to be, a caution not to disclose the memorandum's content. It is clear from the recording of the meeting that Council Members chose their words carefully, to avoid disclosing what was in CC 57.

72. For example, Councillor Schummer confirmed that he would not discuss specifics of the legal memorandum when he said, "I'll just ask a general question here." He did not disclose the document's content, and carefully referred only to "possible actions in the correspondence."

73. Councillor Joe Neal argued, on a point of order, that the memorandum should be public. His point was that the document was not public but should be. In making this point, Councillor Joe Neal acknowledged the confidential status of CC 57. He did not agree, but he understood the document was confidential. In his words, "I don't understand why this is being dealt with as a confidential report ..."

74. I find as a fact that, at the time of the December 16 meeting, Regional Council had not consented to the release of the content of CC 57. In particular, I find that Regional Counsel had not consented to the release of information about requesting an MZO.

75. I find as a fact that the CAO's comments on November 25 did not imply a request for an MZO. The fact that one or more members of the community inferred that this was the case does not mean that this is what the CAO implied or intended to imply. The drawing of an inference does not require an implication.

76. I find as a fact that on December 16 a request for an MZO was not public.

ISSUES AND ANALYSIS

77. I have considered the following issues:

- A. Did the Respondents need access to the Region's communication with the Minister about an MZO?
- B. Did the Respondents contravene section 12.1 C) by disclosing closed meeting information?
- C. Did the Respondents contravene section 12.1 A) by disclosing confidential information?

A. DID THE RESPONDENTS NEED ACCESS TO THE REGION'S COMMUNICATION WITH THE PROVINCE ABOUT AN MZO?

78. Part of the delay was occasioned by the Respondents' request for access to a communication by the Region to the Province about an MZO.

79. As Integrity Commissioner, I have *Municipal Act* authority, in the course of an inquiry, to obtain relevant information and records from a municipality, but I do not have authority to order a municipality to disclose records to anyone else, including a respondent in an inquiry. I do have the ability to determine whether it is fair to proceed with an inquiry based on the information available to a respondent.

80. As I understand the Respondents' position, once an MZO has been requested, the fact of the request is not confidential and, consequently, is not subject to the restriction in section 12 of the Code.

81. I understand the Respondents' position to be based, at least in part, on the following statement of the Director of Legal Services, made November 25:

As to the second part of the question, when there would be public disclosure, receiving advice as to the appropriate next steps in the litigation is, in my view, a privileged exercise, however, depending on the nature of the litigation, taking that next step is not something that's done in confidence. So to use an example, you may receive my confidential advice to initiate litigation by filing a statement of claim against a party. Once that statement of claim is filed of course it's a matter of public record. So when the step that's recommended here becomes a matter of public record, then obviously as [the] Councillor has pointed out, this would at least in part become a public matter. I don't have any information, unfortunately, specifically on when, at what point in the process it would be public. But the Councillor is correct to say at some point it would be a matter of public record that this particular step has been taken.

82. I interpret the Director of Legal Services to have been making a general observation that confidential advice about taking action is distinct from the taking of action, and that while the advice remains confidential, the taking of action will become a matter of public record. The Director did not specifically state when the taking of action becomes public, and he certainly did not state that the request for an MZO is public immediately upon being made.

83. On the contrary, the Director stated, "So when the step that's recommended here becomes a matter of public record, then obviously as [the] Councillor has pointed out, this would at least in part become a public matter." This sentence is a tautology, and sheds no light on the point in time when the becoming public occurs.

84. The next two sentences confirm that the Director was making no statement about the timing of becoming public: "I don't have any information, unfortunately, specifically on when, at what point in the process it would be public. But the Councillor is correct to say at some point it would be a matter of public record that this particular step has been taken."

85. I agree that the central issues in this inquiry are whether information became public and, if so, when it became public. In my view, actual communication between the Region and the Province is not essential to either issue. The Respondents not only had a fair opportunity to address these issues, they did in fact address the issues fully.

B. DID THE RESPONDENTS CONTRAVENE SECTION 12.1 C) BY DISCLOSING CLOSED MEETING INFORMATION?

86. No. It is established that Council Correspondence CC 57 was not considered at a closed meeting and that the Respondents' amendment did not relate to a matter considered at a closed meeting.

87. Consequently, there was no contravention of section 12.1 A) of the Code.

C. DID THE RESPONDENTS CONTRAVENE SECTION 12.1 A) BY DISCLOSING CONFIDENTIAL INFORMATION?

88. Section 12.1 A) of the Code of Conduct By-law reads as follows:

12.1 No member shall:

- A) disclose, release or publish by any means to any person or to the public any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or the board or otherwise by law to do so

89. Before continuing, I will address two preliminary issues related to this section.

90. First, I need to address whether section 12.1 A) is properly in issue in this inquiry.

91. The Complaint does not mention section 12.1 A) or 12.1 C. It simply refers to section 12.

92. Similarly, the Notice of Inquiry that I issued does not specify section 12.1 A) or section 12.1 C). It simply refers to section 12.

93. However, the Respondents have focused on the following statement in the Notice of Inquiry:

The following is the allegation and the section of the Code I am considering:

- Allegation that Councillors Neal and Schummer contravened section 12 of the Code by moving and seconding motion 396 at the December 16 Council Meeting, thereby making public confidential information considered at and arising from the November 25 closed session of Regional Council, without the authorization of Regional Council to release the information.

94. As will be noted, the above passage does not refer to either 12.1 A) or 12.1 C). It simply mentions section 12. Further, the passage combines in a single sentence the concept of information considered at a closed meeting (which pertains to section 12.1 C)) and confidential information disclosed without the authorization of Regional Council (which pertains to section 12.1 A)).

95. In hindsight, it would have been better for the Notice to separate the two concepts more clearly. Nonetheless, what is relevant is whether the Respondents understood and had a fair opportunity to address the allegations. It was clear from the materials provided to the Respondents that the alleged disclosure of confidential information was one of the central issues. Second, the Respondents addressed in some detail the allegation that they disclosed confidential information. See paragraphs 49 through 54, above, which summarize their position that confidential information was not disclosed.

96. In my view, there is no reason to discontinue the inquiry into the allegation under section 12.1 A) – disclosure of confidential information without the authorization of Council.

97. Second, I must explain the limits of my role as Integrity Commissioner in a section 12.1 A) case. I do not have authority to review the Region's decisions about openness and transparency. In other words, it is not for me to determine whether the Region was right or wrong to classify certain information as confidential.

98. The Code defines confidential information as follows:

"confidential information" means any information in the possession of, or received in confidence by, the Region that the Region is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, or any other law, which includes, but is not limited to:

- (1) information of a corporate, commercial, scientific or technical nature received in confidence from third parties;
- (2) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*;
- (3) information that is subject to solicitor-client privilege;
- (4) information that concerns any confidential matters pertaining to matters related to an identifiable individual, personal, labour relations, litigation, property acquisition, the security of the property of the municipality or a local board;
- (5) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order; and
- (6) any information considered by or made available to Council during a closed meeting pursuant to subsection 239(2) of the *Municipal Act, 2001*.

99. As will be seen from the definition, in particular, its introductory words and items (4) and (5), the Region has scope to determine whether information is to be disclosed or kept confidential. Once the Region has done so, the *Municipal Act* gives me no authority to overrule its determination.

100. If a municipality transmits to the Minister a request for an MZO, it is not for me to state whether the municipality should or should not treat this action as confidential. The Respondents, and, in particular, Councillor Joe Neal, advanced reasoned arguments why a municipality's taking of such action should not be confidential. That is not, however, a question I need to consider. The relevant questions are whether the Region decided to make the information about the taking of action confidential, and whether Regional Council authorized the information's release.

101. I appreciate that item (5) of the "confidential information" definition refers to "information lawfully determined by the Council to be confidential." The application of section 239 of the *Municipal Act* (closed meetings) is under the jurisdiction of the closed meeting investigator and the application of MFIPPA is under the Information and Privacy Commissioner's jurisdiction; in neither instance may an Integrity Commissioner rule on what is lawful. Should other instances exist, I am not certain that the inclusion of the word "lawfully" permits the Integrity Commissioner to decide that a particular determination of confidentiality was unlawful and therefore not subject to the definition in the Code, but in this case, that question does not arise.¹¹

102. Councillor Joe Neal has set out his reasons for believing that the "confidential" designation is overused to shield from public view information that ought to be accessible. The issue he raises is significant, but this report neither accepts nor rejects the Councillor's position. That issue falls outside an Integrity Commissioner's purview.

¹¹ Section 239 of the *Municipal Act* was raised, but it applies to meetings and not the status of a particular document (in this case, CC 57).

103. I now turn to substance of the allegation under section 12.1 A). In my view, the reference to an MZO was confidential when the amendment was moved: see the findings of fact at paragraphs 70 through 76, above.

104. The Regional Council had not consented to the release of that information.

105. As I have explained, the issue of whether CC 57 was confidential is distinct from the question of whether a request for an MZO ought to be confidential. That question is not for an Integrity Commissioner to decide.

106. The Respondents knew or should have known that CC 57 was considered confidential. As I have noted, Councillor Joe Neal's November 25 point of order was premised on the confidential classification of CC 57. He disagreed with the confidential classification, but he was aware of it. In fact, that was the entire subject of his point of order.

107. Even if the making of a request for a MZO had the effect of converting the request into public information (and there is no evidence that this was the Region's intention), the Respondents were unaware, on December 16, of a request having been transmitted to the Minister. In other words, as of December 16, they knew nothing to suggest that the confidential classification of CC 57 had changed since November 25.

108. Finally, and significantly, the Regional Chair ruled, and a 26-3 majority sustained the ruling, that the Respondent's December 16 amendment contained confidential information. I am required to accept that determination for purposes of this inquiry.

109. In previous cases I have expressed the view that, once the presiding officer of a meeting has ruled on an issue of order (or decorum), the Integrity Commissioner should not duplicate that work by making parallel findings under the Code of Conduct: see, for example, *Sinnott et al. v. McConkey*, 2021 ONMIC 4 (CanLII), at para. 180.

110. I am not the only Integrity Commissioner to defer to the procedural decisions of presiding officers. In the City of Toronto, Integrity Commissioners have consistently taken the position that they do not have jurisdiction over the behaviour of Council Members during Council and committee meetings. Professor David Mullan, the first municipal Integrity Commissioner ever appointed in Canada, noted that the *Municipal Act* requires that each municipality pass a procedure by-law¹² and that the procedure by-law provides a clear mechanism for enforcing decorum and orderly conduct during meetings. Integrity Commissioner Mullan concluded:

In general, the Integrity Commissioner does not have authority under the Code of Conduct to review complaints about the behaviour of Councillors at Council and Committee meetings. The behaviour of Councillors at Council, while regulated by the Code of Conduct, is the responsibility of Council (acting primarily through the Mayor or his deputy). Absent a resolution of Council

¹² *Municipal Act*, 2001, subsection 238(2).

requesting the Integrity Commissioner to become involved, this self-policing is part of the statutory rights and privileges of Council.¹³

111. Subsequently, Toronto's Interim Integrity Commissioner Lorne Sossin¹⁴ (now Mr. Justice Sossin), Integrity Commissioner Janet Leiper¹⁵ (now Madam Justice Leiper), and Integrity Commissioner Valerie Jepson,¹⁶ all declined to exercise jurisdiction over comments made during meetings. As Integrity Commissioner Jepson explained:

The strong policy principle behind this approach is that the Integrity Commissioner ought not to interfere with the conduct and management of any particular meeting. This makes good sense. The Speaker, or any Chair of a meeting, requires a certain degree of autonomy to ensure that a meeting is conducted in accordance with the procedural bylaw and as specifically stated therein, to oversee order and behaviour of members (s. 27-43(C)). So, if a councillor uses an insulting term against another councillor, in an effort to ensure decorum, the speaker might rule the question out of order and seek some remedial measure such as an apology or – in a serious case – an ejection from the meeting. In most cases, these issues are resolved and the meeting proceeds. There would be little gained by a subsequent referral to the Integrity Commissioner to review the actions.¹⁷

112. The Region's Procedural By-law, By-law 44-2018, as amended, sets clear rules of procedure and gives the Regional Chair all the tools necessary to enforce order.

113. Clause 5.3(d) provides that it is the duty of the Regional Chair, "to decline to put to vote, motions which infringe upon the Rules of Procedure or which are beyond the jurisdiction of Council."

114. Pursuant to this authority, the Regional Chair ruled the amendment out of order on the ground that its subject matter was confidential.

115. The Procedural By-law provides for an appeal of the Chair's ruling. In this case, the Regional Chair's ruling was appealed and upheld. According to clause 17.2(e), "The decision of Council [on the appeal] is final." "Final" means, among other consequences, that an Integrity Commissioner is bound by the decision.

116. Based on the Regional Chair's and Council's determination, it is settled that the Respondents' amendment contained confidential information.

117. I have considered the other submissions of the Respondents, including the advance emailing to the Regional Clerk of the amendment wording. Those submissions

¹³ City of Toronto, Report on Complaint (April 6, 2005), Integrity Commissioner David Mullan, at 4.

¹⁴ City of Toronto, Integrity Commissioner Annual Report-2009 (July 29, 2009), Interim Integrity Commissioner Lorne Sossin, at 12.

¹⁵ City of Toronto, Integrity Commissioner Annual Report-2010 (June 28, 2010), Integrity Commissioner Janet Leiper, at 4.

¹⁶ City of Toronto, Report from the Integrity Commissioner on Violation of Code of Conduct: then-Mayor Rob Ford (September 22, 2015), Integrity Commissioner Valerie Jepson, at 10.

¹⁷ *Ibid.* Note that in Toronto a Speaker, and not the Mayor, chairs meetings of Council.

are relevant to my recommendation, but not to whether the amendment contained confidential information.

RECOMMENDATION

118. As I have noted, Regional Council determined on December 16 that the Respondents moved and seconded an amendment containing confidential information. I make no recommendation about whether Council ought to reaffirm that decision (as it is not my place to advise Council on procedure). For my purposes, I accept that the issue of confidentiality was decided and settled by that vote, which is final and, therefore, binding on me.

119. I do not recommend sanctions, for the following reasons.

120. Councillor Schummer was new to the Regional Council and served in an alternate capacity. He was acting in place of the late Mayor Debbie Bath-Hadden during her illness and, after her untimely passing, he continued to act until a new Mayor was appointed. December 16 was only his second Regional Council meeting as a member.

121. I also note that Councillor Schummer's temporary participation in meetings of Regional Council and committees was precipitated by tragic circumstances. Brock's need of an alternate has now passed.

122. It is clear to me that a factor contributing to the incident was the difficulty associated with conducting and participating in virtual meetings. Had the December 16 meeting been conducted in person, and had the amendment been physically handed to the Regional Clerk, it is extremely likely that concern about the amendment would have been flagged before the content was made public.

123. Further, the circumstances of this case were complicated. The status of a confidential report that was not actually considered in camera, but instead was considered in an open meeting, was understandably confusing. Council's December 16 vote to uphold the Regional Chair's ruling was conclusive and final, and sufficient to clear up any uncertainty, but it came after the information had already been made public.

124. Finally, I return to my comments about deference to the decisions of presiding officers during meetings (in this case, deference to a decision of the Regional Chair that was upheld 26-3 on appeal). The Procedural By-law was applied and the Regional Chair and Council have spoken. I am not sure that there is anything I usefully can add.

125. I do, however, offer the suggestion that refresher training in confidentiality and the handling of confidential information – not limited to closed meetings, since this case did not involve a closed meeting – would be beneficial.

CONTENT

126. Subsection 223.6(2) of the *Municipal Act* states that I may disclose in this report such matters as in my opinion are necessary for the purposes of the report. All the content of this report is, in my opinion, necessary.

Respectfully submitted,



Guy Giorno
Integrity Commissioner
Regional Municipality of Durham

October 19, 2021

Report #8 of the Finance & Administration Committee

For consideration by Regional Council

October 27, 2021

The Finance & Administration Committee recommends approval of the following:

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

That the Region of Durham hereby supports the resolutions from Northumberland County and the City of Toronto with respect to their plea to halt the proclamation of the Early Resolution reforms included in Bill 177 Stronger Fairer Ontario Act and take immediate action to streamline and modernize this section of the legislation by making it easier and more convenient for the public and prosecutors to engage in resolution discussions, and by making it more effective and efficient to administer early resolution proceedings for Part I and Part II offences in the Provincial Offences Court.

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

That the City of Sarnia's resolution regarding Capital Gains Tax on Primary Residence, be endorsed.

3. Authorization to Enter into Collection Agency Services Agreements for POA Defaulted Fines and General Accounts Receivables Under the Ontario Education Collaborative Marketplace (OECM) Master Agreement (2021-F-26)
-

A) That the Region of Durham be authorized to enter into a Client Supplier Agreement with Gatestone & Co. Inc., Credit Bureau of Canada Collections, EOS Canada Inc., ARO Inc., and Debt Control Inc. for the collection of defaulted Provincial Offences Act (POA) fines and general account receivables, in accordance with the terms and conditions of the Ontario Education Collaborative Marketplace (OECM) Master Agreement, and including:

- i) Commission fees ranging from 12% to 15% for first placement agencies and 18% to 25% for the second placement agency; and,
- ii) The initial term ending on March 31, 2024, in accordance with the term established by the OECM, with up to two additional one-year extensions.

- B) That the Commissioner of Finance be authorized to execute the Client Supplier Agreements and any other necessary agreements.
 - 4. Confidential Report of the Commissioner of Corporate Services – Labour Relations/Employee Negotiations with respect to the Canadian Union of Public Employees (“CUPE”), Local 1764 and Local 1764-04 (2021-A-19)
-

That the recommendations contained in Confidential Report #2021-A-19 of the Commissioner of Corporate Services be adopted.

Respectfully submitted,

A. Foster, Chair, Finance & Administration Committee

Report #7 of the Health & Social Services Committee

For consideration by Regional Council

October 27, 2021

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

1. Comprehensive Master Plan for Paramedic Services (2021-MOH-5)
 - A) That the Comprehensive Master Plan for Paramedic Services be referred to Regional staff for review by affected Regional departments and be used as a guiding document, along with evolving growth projections and operational considerations, for future Paramedic Services planning, Regional development charge background studies and future business plans and budgets; and
 - B) That Regional staff report back on the status of the review of the recommendations in the Comprehensive Master Plan for Paramedic Services prior to presenting the proposed Public Health and Paramedic Services 2023 Business Plan and Budget.
2. Confidential Report of the Commissioner of Social Services – Closed Matter with respect to information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them, regarding Capital Projects Submitted under the Rapid Housing Initiative (RHI) Round 2 and the Social Services Relief Fund Phase 4 (SSRF Phase 4) Funding (2021-SS-11)

That the recommendations contained in Confidential Report #2021-SS-11 of the Commissioner of Social Services be adopted.

Respectfully submitted,

B. Chapman, Chair, Health & Social Services Committee

Report #7 of the Planning & Economic Development Committee

For consideration by Regional Council

October 27, 2021

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

1. Application to Amend the Durham Regional Official Plan, submitted by 1725596 Ontario Limited to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels, in the Municipality of Clarington, File: OPA 2021-001 [\(2021-P-23\)](#)

 - A) That Amendment #184 to the Durham Regional Official Plan, to permit the severance of a dwelling rendered surplus to a farming operation as a result of the consolidation of non-abutting farm parcels, be adopted as contained in Attachment #3 to Report #2021-P-23 of the Commissioner of Planning and Economic Development; and
 - B) That “Notice of Adoption” be sent to the applicant, the applicant’s agent, the Municipality of Clarington, the Ministry of Municipal Affairs and Housing, and all other persons or public bodies who requested notification of this decision.

Respectfully submitted,

D. Ryan, Chair, Planning & Economic Development Committee

Report #8 of the Works Committee

For consideration by Regional Council

October 27, 2021

The Works Committee recommends approval of the following:

1. Amendment to the Uniform Regional Traffic Policy to Permit 40km/h Posted Speed Limits on Regional Roads (2021-W-33)

That the Uniform Regional Traffic Policy (URTP) be updated to permit posted speed limits of 40km/h on Regional Roads where appropriate.

2. Amendments to Regional Roads Consolidation By-Law Number 22-2018 (2021-W-34)

That Corporate Services – Legal Services be directed to prepare an amending by-law to amend By-Law Number 22-2018, generally in the form included as Attachment #1 to Report #2021-W-34 of the Commissioner of Works, for submission to Regional Council for passage.

3. Participation in the National Sciences and Engineering Research Council, Industrial Research Chair in Source Water Quality Monitoring and Advanced/Emerging Technologies for Drinking Water at the University of Toronto (2021-W-35)

A) That the Regional Municipality of Durham continue participation as a municipal partner of the National Sciences and Engineering Research Council, Industrial Research Chair, in Source Water Quality Monitoring and Advanced/Emerging Technologies at the University of Toronto for five years (2022 – 2026) at a cost of \$50,000 annually to be financed from the annual Water Supply Business Plans and Budget; and

B) That Regional Chair and Clerk be authorized to execute the partnership agreement.

4. Proposed Study of the Current Policy/Practice for Streetlighting on Regional Roads (2021-W-36)

A) That the Draft Terms of Reference outlined in Report #2021-W-36 of the Commissioner of Works for a Consultant Study of the Current Policy/Practice with respect to Streetlighting on Regional Roads, be circulated to the Durham Local Area Municipal Councils for endorsement no later than December 10, 2021; and

B) That the Current Policy/Practice with respect to Streetlighting on Regional Roads (Attachment #1 to Report #2021-W-36) continue to prevail until the

proposed Consultant Study is completed and any changes on a consensus basis are approved and implemented.

Respectfully submitted,

D. Mitchell, Chair, Works Committee

Report #7 of the Committee of the Whole

For consideration by Regional Council

October 27, 2021

The Committee of the Whole recommends approval of the following:

1. Regional Cycling Plan 2021 – Final Plan (2021-COW-26)

 - A) That the Regional Cycling Plan 2021, provided as Attachment #1 to Report #2021-COW-26 of the Commissioner of Planning & Economic Development, Commissioner of Works, and the Commissioner of Finance, be endorsed; and
 - B) That the Regional Cycling Plan 2021 recommendations be considered along with all other Regional priorities through future annual Regional Business Plans and Budget processes.
2. Request for Funding from Lake Simcoe Region Conservation Authority for the Acquisition of Land adjacent to the Beaver River Wetland Conservation Area in the Township of Brock (2021-COW-27)

 - A) That the request for funding from Lake Simcoe Region Conservation Authority in the amount of \$51,917, representing 40 per cent of the eligible acquisition costs of approximately 55.4 hectares (137 acres) of land located adjacent to the Beaver River Wetland Conservation Area in the Township of Brock, be approved and financed from the Region's Land Conservation and Protection Reserve Fund; and
 - B) That the Commissioner of Finance be authorized to adjust the total payment amount to Lake Simcoe Region Conservation Authority pending a review of the eligibility of final costs incurred pursuant to the Region's Land Acquisition Funding Policy.
3. Status of the Pending Provincial Position on the Upper York Sewage Solutions Environmental Assessment (2021-COW-28)

 - A) That the Regional Municipality of Durham confirms its support for the preferred alternative as documented in the Upper York Sewage Solutions Environmental Assessment which includes an advanced treatment system in the Lake Simcoe watershed within the Regional Municipality of York; and
 - B) That a copy of Report #2021-COW-28 of the Commissioner of Works be provided to the City of Pickering, Town of Ajax, the Ajax and Pickering Board of Trade, the Mississaugas of Scugog Island First Nation and all the Members of Provincial Parliament within Durham.

Respectfully submitted,

J. Henry, Regional Chair and CEO

Notice of Motions

October 27, 2021

10.1 Free Menstrual Products at Region Facilities

Councillors Leahy and Yamada gave Notice that the following motion will be presented at the October 27, 2021 meeting, or subsequent meeting of Regional Council:

Whereas according to the most recent Canada census data 51% of the population of Durham Region are women;

And Whereas the government of Ontario has taken a leadership position and recently announced a province-wide initiative to provide free menstrual products to every secondary school in Ontario;

And Whereas “Period Poverty” where girls do not have access or the resources for menstrual products exists in our community, and this can interfere with their ability to take part in sports and or activities;

And Whereas menstrual products are a necessity, not a luxury;

And Whereas access to free high-quality products is fundamentally a human rights issue and crucial to the health, well being and success of women who don’t have access to these products;

And Whereas women’s menstrual products are not currently freely available in all public Region run facilities,

And Whereas the lack of feminine hygiene products has been identified as a barrier to access for some women and girls;

Now therefore be it resolved:

1. That staff investigate the possibility and cost of adding free menstrual products to all public Region facilities and add this as a decision item for the 2022 Regional budget; and
2. That a copy of this motion be shared with all Durham area Municipalities, and Durham area MPPs.

10.2 Natural Heritage Mapping

Councillors Joe Neal and Anderson gave Notice that the following motion will be presented at the October 27, 2021 meeting, or subsequent meeting of Regional Council:

Whereas Durham Region values accountability and strives to provide transparent government;

And Whereas the Region has prepared natural heritage mapping for all rural areas as part of Envision Durham;

And Whereas there will be significant effect for rural property owners within a natural heritage system, including the ability to construct secondary dwelling units;

And Whereas there is no appeal to the Ontario Land Tribunal from Durham's Official Plan for natural heritage mapping once it is adopted;

Now therefore be it resolved that:

1. Durham Regional staff notify each rural property owner by mail if their property will have any new or additional natural heritage designation(s), including a map of same; and
2. A follow up notice be sent to all rural property owners advising of the date and time when the final Official Plan will be considered by the Planning and Economic Development Committee, and advising how the owner can make a delegation at the meeting.

10.3 Consolidated Municipal Service Manager Commitment to a High Quality, Accessible and Strategically Planned Early Years and Child Care System

Councillors Chapman and Dies gave Notice that the following motion will be presented at the October 27, 2021 meeting, or subsequent meeting of Regional Council:

Whereas high quality, affordable child care promotes equitable opportunities for women in the workforce;

And Whereas research shows that access to high quality early years and child care services support positive economic and well being outcomes for children, families, and communities;

And Whereas research demonstrates that qualified early childhood educators are necessary to ensuring high quality early years and child care services;

And Whereas there is a critical shortage of professionally compensated, qualified early childhood educators across the province;

And Whereas the COVID-19 pandemic has highlighted child care as an essential service necessary to maintain emergency and health systems and support economic activity;

And Whereas in April 2021, the Federal Government announced plans for a Canada-wide Early Learning and Child Care Plan. The five-year plan includes a plan for a 50 per cent average fee reduction for preschool care by the end of 2022 and an average fee of \$10 a day for regulated child care by 2026;

Now therefore be it resolved that:

1. Council affirms its commitment, as the Early Years and Child Care Service Manager, to ensure a system of high quality, inclusive, accessible, and strategically planned early years and child care services for all families;
2. Council calls upon the Federal and Provincial governments to work together to establish a bilateral agreement for a National Child Care Framework, including the reduction in full-time child care fees and long-term goals that support high quality, accessible and affordable services for all families;
3. Council encourages the provincial government to work in partnership with Consolidated Municipal Service Managers to implement a framework across Ontario;
4. That Children's Services staff continue to actively engage the early years and child care sector, families and the province in system planning and implementation as well as monitor federal developments; and
5. That a copy of this Motion be shared with the eight lower tier Municipal councils, the Premier, the Minister of Education, all Durham Region MPPs, all Durham Region MPs, the Prime Minister, the federal Cabinet Minister responsible for child care, and the Association of Municipalities of Ontario (AMO) and the Ontario Municipal Social Services Association (OMSSA).

10.4 Capital Gains Tax Exemption on Principal Residences

Councillors Collier and Nicholson gave Notice that the following motion will be presented at the October 27, 2021 meeting, or subsequent meeting of Regional Council:

Whereas housing affordability is front of mind for many Canadians, and governments of all levels are working to develop solutions that will address the issue for current and future generations;

And Whereas primary residences are currently exempt from a capital gains tax in Canada, while capital gains on secondary and additional non-primary are subject to taxation;

And Whereas the taxing of capital gains on the sale of principal residences has been noted as a potentially effective market-cooling option for the federal government by some economists;

And Whereas there are many Canadians that have built their wealth and retirement plans on realizing the full value of their primary residences;

And Whereas many organizations, including tax and personal finance experts, retiree groups and other professional associations, have cautioned against implementing a policy of this kind;

And Whereas a change in taxation to primary residences would have a significant financial impact, and would lead to depleted savings, inter-generational disparities, and a disproportional impact on the many seniors that have significant savings vested in their primary residences;

Now therefore be it resolved that:

1. Council opposes the elimination of capital gains tax exemptions on primary residences;
2. The new federal Minister responsible for affordable housing be requested to confirm, in writing, the government's position on capital gains tax exemptions for primary residences; and
3. A copy of this motion be sent to the Prime Minister, Leader of the Official Opposition and federal party leaders.

Other Business

October 27, 2021

12.1 Public Meeting Regarding Proposed Amendments to the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law No. 38-2019 (2021-F-27)

Recommendations to Council:

- A) That Report #2021-F-27 of the Commissioner of Finance be received for information; and
- B) That all submissions received by Regional Council and the written submissions received by the Regional Clerk by 5:00 PM on December 3, 2021, including those opinions expressed verbally at the October 27, 2021 public meeting, be received and referred to Regional staff for consideration in the preparation of the final development charge recommendations and amending by-law scheduled to be presented to Regional Council for approval on December 22, 2021.

(See attached Report on pages 79-89)



The Regional Municipality of Durham Report

To: Regional Council
From: Commissioner of Finance
Report: #2021-F-27
Date: October 27, 2021

Subject:

Public Meeting Regarding Proposed Amendments to the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charge By-law No. 38-2019

Recommendation:

- A) That Report #2021-F-27 be received for information; and
 - B) That all submissions received by Regional Council and the written submissions received by the Regional Clerk by 5:00 PM on December 3, 2021, including those opinions expressed verbally at the October 27, 2021 public meeting, be received and referred to Regional staff for consideration in the preparation of the final development charge recommendations and amending by-law scheduled to be presented to Regional Council for approval on December 22, 2021.
-

Report:

1. Purpose

- 1.1 The Region executed a Front-Ending Agreement in late 2015 with the Seaton Landowners Group for the development of Phase 1 lands (Seaton Phase 1 Regional Front-Ending Agreement) which required the Seaton Landowners to upfront a share of the water supply, sanitary sewer and roads infrastructure necessary to service Seaton. In order to facilitate the Seaton Phase 1 Front-Ending Agreement and to provide development charge credits for the water and sewer infrastructure projects being upfronted by the Seaton Landowners Group, Regional Council adopted an area specific development charge (ASDC) by-law for water and sanitary sewer services in April 2013, which was renewed in July of 2019 (By-law No. 38-2019).

- 1.2 As the Landowners Group are also upfront a significant portion of the Regional roads required to develop Seaton Phase 1, the Seaton Landowners receive development charge credits for the costs they upfront based on the Region-wide roads development charge component. Credits can only be used for development in Seaton.
- 1.3 The purpose of this report is to provide information regarding the public meeting of Regional Council to be held as a virtual meeting of Regional Council on October 27, 2021 with respect to the proposed amendments to the Seaton Water Supply and Sanitary Sewerage ASDC By-law No. 38-2019.
- 1.4 The proposed amendments are required to:
 - a. Address the changes in the Development Charges Act, 1997 (DCA) resulting from Bill 108, More Homes, More Choice Act, 2019, Bill 138, Plan to Build Ontario Together Act, 2019, Bill 197, COVID-19 Economic Recovery Act, 2020 and O. Reg. 454/19; and
 - b. Modify the development charge calculation to reflect updated cost estimates. Updating the capital program and related ASDCs supports the appropriate development charge credits applied to the Seaton Landowners who upfronted the capital costs for this service area under the Seaton Phase 1 Front-Ending Agreement.
- 1.5 The purpose of the October 27, 2021 public meeting of Regional Council is to fulfill the statutory requirement to solicit input from the public and provide the necessary background information on the proposed development charge amending by-law. Normally, the public meeting permits public representation from any person who attends the meeting. However, in light of the COVID-19 pandemic, members of the public are invited to speak via teleconference during the meeting. In order to address Council during the meeting via teleconference, members of the public need to contact Legislative Services at clerks@durham.ca, or 905-668-7711, ext. 2054 by noon on Tuesday, October 26, 2021.
- 1.6 Interested parties can also submit written correspondence via email directly to the Regional Clerk or can mail comments to the Regional Clerk. Comments must be submitted by 5:00 PM, December 3, 2021. Regional Council is scheduled to make final decisions on the proposed by-law amendments at the December 22, 2021 regular Regional Council meeting.

- 1.7 The notices of the public meetings have been advertised in the Toronto Star on September 25 and October 2 and in the local Metroland newspapers throughout the Region from September 23 to October 7, 2021 (Attachment #1). In addition, the notice has been posted on the Regional website. As indicated in the public notice, the proposed amending by-law and background study have been available to the public at no cost since October 12, 2021 from the Regional Clerk and was also posted on the Regional website. The dates for the public notice, public release of the proposed amending by-law and background study and the public meeting were outlined in Report #2021-F-22 that was approved by Regional Council on September 29, 2021.

2. Background

- 2.1 In 2019, Bill 108, *More Homes, More Choice Act, 2019*, Bill 138, *Plan to Build Ontario Together Act, 2019* and O. Reg. 454/19 resulted in a number of changes to the DCA, effective January 1, 2020.
- 2.2 Subsequently, the Province passed Bill 197, *COVID-19 Economic Recovery Act, 2020* on July 21, 2020 which impacted a number of pieces of legislation, including the DCA. Bill 197 received Royal Assent on July 21, 2020, however the provisions of the Bill were not in force and were awaiting proclamation. On September 18, 2020, the Province proclaimed the remaining amendments to the DCA through Bill 197, *COVID-19 Economic Recovery Act, 2020* and Bill 108, *More Homes, More Choice Act, 2019*.
- 2.3 The changes to the DCA have:
- a. Impacted the timing and process for the collection of DCs;
 - b. Modified the determination of the DC rates (i.e. freezing of DC rates); and
 - c. Broadened the exemptions for additional (secondary) units.
- 2.4 A number of amendments are required to bring the Seaton Water Supply and Sanitary Sewerage ASDC By-law No. 38-2019 into conformity with the DCA.
- 2.5 Since the approval of the Seaton ASDC By-law (No. 38-2019) in June 2019 (effective July 1, 2019), design and construction work have advanced or been completed on a number of Seaton water supply and sanitary sewerage capital projects, resulting in changes to the capital costs estimates. The proposed amending by-law includes an update to the capital forecast, resulting in revised Seaton ASDCs.

3. Previous Reports and Decisions

- 3.1 The following information reports provided updates to Regional Council on the status of the changes to the DCA from Bill 108, Bill 138 and Bill 197:
- a. Report #2019-INFO-51
 - b. Report #2020-INFO-6
 - c. Report #2020-INFO-38
 - d. Report #2020-INFO-73
 - e. Report #2020-INFO-111
 - f. Report #2021-INFO-30
- 3.2 Report #2021-F-22, approved by Regional Council on September 29, 2021, provided staff the authority to proceed with the public process to amend the Seaton ASDC By-law.

4. Proposed Amendments

- 4.1 The following provides a summary of the proposed amendments that apply to the Seaton ASDC By-law No. 38-2019.

Collection and Timing of DC Collections and Freezing of DC Rates

- 4.2 DCs for rental housing development and institutional developments (as defined in O. Reg. 454/19) are to be paid in six equal annual installments over five years, commencing at the earlier of the date of issuance of occupancy permit or the date of first occupancy. The subsequent annual installments are due on the anniversary date of the first installment
- 4.3 DCs for non-profit housing developments (as defined in O. Reg. 454/19) will pay DCs in twenty-one equal annual installments over twenty years, commencing the earlier of the date of issuance of occupancy permit or the date of first occupancy. The subsequent annual installments are due on the anniversary date of the first installment.
- 4.4 DC rates are locked in on the date of application for an approval of development in a site plan control area or, if this does not apply, the date an application for an amendment to a by-law passed under Section 34 of the Planning Act. The DC rates are frozen until two years from the date the site plan application or zoning application is approved and are only applicable for site plan and zoning by-law amendment applications received after December 31, 2019.
- 4.5 The legislation allows municipalities to impose interest charges to recover the costs associated with the development charge deferral and / or the freezing of DCs. The amending by-law provides a clause to reflect the changes to the collection and freezing of DC rates and includes a clause to allow for the application of interest charges. Regional staff are developing a Regional Development Charge Interest Rate Policy for Committee and Council consideration.

Exemption of Additional (Secondary) Units

- 4.6 Prior to the recent changes to the DCA, the DCA provided exemptions for additional (secondary) units that were limited to additional units created within prescribed existing residential units.
- 4.7 Given the changes to the DCA, the exemptions for additional units have been broadened and now apply to the creation of additional units ancillary to prescribed existing residential units and within, or ancillary to, prescribed new residential units.
- 4.8 The Seaton ASDC By-law (38-2019) approved by Regional Council in June 2019 broadened the exemptions for additional units within existing residential units to include units ancillary to the existing unit. The proposed amendments to the Seaton ASDC By-law expands the exemptions to include secondary units constructed within or ancillary to new residential units.

5. Additional Amendments to Seaton ASDC By-law

- 5.1 As mentioned in Section 2.0, there has been updated cost estimates for the Seaton Water Supply and Sanitary Sewer capital program, based on the advancement of design and construction work.
- 5.2 Appendix A of the Seaton Development Charge Background Study (released on October 12, 2021) provides the updated capital forecast for the water supply and sanitary sewerage services. As shown in Appendix A, there are three categories of capital projects for both water and sanitary sewerage services as follows:
 - a. Works constructed and funded by the Seaton Landowners;
 - b. Works constructed by the Region and funded by the Seaton Landowners; and
 - c. Regional Attributions. This category mainly includes infrastructure projects outside of Seaton that have been constructed or will be constructed in the future by the Region that support the development of lands outside of Seaton, but also provides capacity to the Seaton community. The Region recovers the Seaton share of these costs through this area specific development charge on the Seaton Landowners.
- 5.3 Table 1 below provides a high-level summary of the original capital costs from 2019 and updated cost estimates (in 2019\$). No changes to the timing of the capital program have been made, only changes to the cost estimates.

Table 1
Seaton Water Supply and Sanitary Sewerage Capital Forecast
Gross Costs (\$ million - \$2019)

Water Supply	2019 ASDC Study	Updated Cost Estimates	Change	Reason
Regional Constructed Works / Landowner Financed	\$140.0	\$139.4	\$(0.6)	Updated estimates to two projects (WR12 and WR13) ⁽⁴⁾ based on construction completion
Landowner Constructed and Financed Projects	51.9	50.0	\$(1.9)	Updated estimates by the Seaton Landowners Group based on completion of construction, design and tender documents
Regional Attributions	205.2	205.2	-	No changes
Total	\$397.1	\$394.6	\$(2.5)	
Sanitary Sewer				
Regional Constructed Works / Landowner Financed	\$45.9	\$61.7	\$15.8	Updated estimate for project SR1 (Seaton Pumping Station), based on tender award and projects SR2b / SR3a (Central Duffin Collector Sewer) based on design completion ⁽¹⁾⁽²⁾
Landowner Constructed and Financed Projects	102.2	115.5	\$13.3	Updated estimates by the Seaton Landowners Group based on completion of construction, design and tender documents
Regional Attributions	272.1	222.6	\$(49.5)	Updated estimates based on the completion of the Environmental Assessment for project 3 (Effluent Discharge Upgrades, Outfall – Duffin Creek WPCP) ⁽³⁾
Total	\$420.2	\$399.8	\$(20.4)	

Notes:

1. Significant increase in costs to project SR3a (Central Duffin Collector Sewer) is due to tunnelling work and additional studies / permits related to the tunnelling work. Previous cost estimates did not assume any tunnelling work.
2. Project SR3b is to be constructed by the Seaton Landowners Group and therefore has been moved to the group of capital to be constructed and financed by the Seaton Landowners Group (project SL3d).
3. The preferred solution for the EA Outfall Limitations does not require a new outfall. The proposed work includes modifications to the outfall and optimization of phosphorous removal, resulting in a significantly lower cost.
4. Projects WR12 and WR13 were feeder mains constructed in conjunction with the Highway 407 Whites Road Interchange project. Updated estimates based on final costs.

6. Proposed New Seaton Development Charge Rates

- 6.1 Tables 2 and 3 provide the impact on the Seaton Residential and Non-residential ASDCs from the updated capital program.

Seaton Residential Development Charges

- 6.2 Table 2 provides the existing rates for a single detached/semi-detached dwelling unit and the proposed amended rates. Consistent with the proposed changes to the capital forecast, there:
- Are substantial increases in the sanitary sewer ASDCs for the Regional constructed / landowner financed projects and landowner financed / constructed works due to the significant cost increases;
 - Is a significant reduction in the sanitary sewer Regional Attributions ASDCs due to the lower cost of the outfall project; and
 - Is a small reduction in the water supply ASDCs as there were slight reductions in the capital program cost estimates.

Table 2
Comparison of Current and Proposed ASDCs (Indexed) for January 1, 2022
For Single Detached/Semi Detached Dwelling Units

Service Category	Current Rate \$	Proposed Rate \$	Variance \$
Sanitary Sewerage			
Seaton Landowners Constructed DCs	5,437	6,087	650
Regional Seaton-Specific DCs	1,976	2,551	575
Regional Attributions DCs	2,919	2,541	(378)
Subtotal - Sanitary Sewerage	10,332	11,179	847
Water Supply			
Seaton Landowners Constructed DCs	2,601	2,526	(75)
Regional Seaton-Specific DCs	6,102	6,066	(36)
Regional Attributions DCs	4,312	4,312	-
Subtotal - Water Supply	13,015	12,904	(111)
Total Development Charges	\$ 23,347	\$ 24,083	\$ 736

Seaton Non-residential Development Charges

- 6.3 The Table 3 below provides the existing Seaton non-residential water supply and sanitary sewerage area specific development charge rates and the proposed rates after the adjustments to the capital program. Similar to the residential charges, the sanitary sewer non-residential ASDCs increase for the landowner constructed/landowner financed projects and the Regional constructed/landowner financed projects. There is also a decrease in the costs of the capital related to the sanitary sewer Regional Attributions and small reductions in the water non-residential ASDCs.

Table 3
Comparison of Current and Proposed DCs for January 1, 2022
Seaton Non-residential Charges

Non-Institutional Development Charges \$ Per Square Foot of Gross Floor Area			
Service Category	Current Rates	Proposed Rates January 1, 2022	Change
Sanitary Sewerage			
Seaton Landowners Constructed DCs	1.57	1.76	0.19
Regional Seaton-Specific DCs	0.59	0.74	0.15
Regional Attributions DCs	1.95	1.70	(0.25)
Subtotal - Sanitary Sewerage	4.11	4.20	0.09
Water Supply			
Seaton Landowners Constructed DCs	0.27	0.25	(0.02)
Regional Seaton-Specific DCs	0.60	0.59	(0.01)
Regional Attributions DCs	1.34	1.34	-
Subtotal - Water Supply	2.21	2.18	(0.03)
Total Development Charges	\$ 6.32	\$ 6.38	\$ 0.06

Institutional Development Charges \$ Per Square Foot of Gross Floor Area			
Service Category	Current Rates	Proposed Rates January 1, 2022	Variance
Sanitary Sewerage			
Seaton Landowners Constructed DCs	0.54	0.62	0.08
Regional Seaton-Specific DCs	0.21	0.25	0.04
Regional Attributions DCs	0.67	0.58	(0.09)
Subtotal - Sanitary Sewerage	1.42	1.45	0.03
Water Supply			
Seaton Landowners Constructed DCs	0.09	0.08	(0.01)
Regional Seaton-Specific DCs	0.22	0.21	(0.01)
Regional Attributions DCs	0.46	0.46	-
Subtotal - Water Supply	0.77	0.75	(0.02)
Total Development Charges	\$ 2.19	\$ 2.20	\$ 0.01

Prestige Employment Land Area Development Charges \$ Per Net Hectare			
Service Category	Current Rates	Proposed Rates January 1, 2022	Variance
Sanitary Sewerage			
Seaton Landowners Constructed DCs	76,788	85,624	8,836
Regional Seaton-Specific DCs	28,102	35,920	7,818
Regional Attributions DCs	93,143	81,299	(11,844)
Subtotal - Sanitary Sewerage	198,033	202,843	4,810
Water Supply			
Seaton Landowners Constructed DCs	12,851	12,511	(340)
Regional Seaton-Specific DCs	29,147	28,983	(164)
Regional Attributions DCs	64,247	64,247	-
Subtotal - Water Supply	106,245	105,741	(504)
Total Development Charges	\$ 304,278	\$ 308,584	\$ 4,306

7. Staff Consultation

- 7.1 Staff have sent letters to the development industry (local and GTA chapters of the Building and Land Development Associations and the Durham Region Home Builders' Association) and local Chambers of Commerce / Business Associations advising of the amending by-law and public process and offered to meet virtually to discuss.
- 7.2 Staff also sent a letter to the Seaton Trustee, who coordinates the interactions between the Seaton Landowners and the Region as mandated by the Seaton Front-ending Agreement, advising of the timeline of the public process for the amending by-law and provided a copy of the Seaton ASDC Background Study.

8. Next Steps

- 8.1 All comments received at the October 27, 2021 Public Meeting and any written submissions by the public received by the Regional Clerk by 5:00 PM on December 3, 2021 will be considered in preparing the final recommendations and amending by-law.
- 8.2 On December 22, 2021, Regional Council will consider the approval of the final recommendations regarding the amendments to Development Charge By-law No. 38-2019.
- 8.3 If the proposed amending by-law is changed following the October 27, 2021 public meeting, Regional Council must also formally consider whether a second public meeting is required. Regional Council's decision in this regard should be reflected in an appropriately worded resolution. Further, Regional Council's decision in regards to a subsequent public meeting will be final and not subject to review by a court or the Ontario Land Tribunal (OLT) [formerly the Local Planning Appeal Tribunal (LPAT)].
- 8.4 The recommendations to be presented by staff to Regional Council on December 22, 2021 will have given due consideration to the public input received.

9. Relationship to Strategic Plan

- 9.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:
 - a. Ensuring the Region's DC By-law is in conformity with the DCA, supporting Goal 5 (Service Excellence).

10. Conclusion

- 10.1 In accordance with the public consultation process, it is recommended that this report be received for information with final recommendations regarding the

proposed DC amending by-law to be presented to Regional Council on December 22, 2021.

10.2 Further, it is recommended that all submissions received by Regional Council and the written submissions received by the Regional Clerk by 5:00 PM on December 3, 2021, including those opinions expressed verbally or in writing at the October 27, 2021 public meeting, be received and referred to Regional staff for consideration in the preparation of the final development charge recommendations and amending by-law.

10.3 The Planning and Economic Development, Works and Corporate Services - Legal departments have assisted with the Development Charge Background Study and reviewed this report.

11. Attachments

11.1 Attachment #1: Development Charge Public Notice

Respectfully submitted,

Original Signed by

N. Taylor, BBA, CPA, CA
Commissioner of Finance

Recommended for Presentation to Committee

Original Signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer

Attachment #1 Development Charge Public Notice



**REGIONAL MUNICIPALITY OF DURHAM
NOTICE OF PUBLIC MEETING
REGARDING AREA SPECIFIC DEVELOPMENT CHARGES
FOR THE WATER SUPPLY AND SANITARY SEWERAGE
SERVICES IN THE SEATON COMMUNITY
OF THE CITY OF PICKERING**

On October 27, 2021 the Council of the Region of Durham will hold a public meeting, pursuant to Section 12 of the Development Charges Act, 1997. This public meeting will be held to present the proposed amendments to the Seaton Water Supply and Sanitary Sewerage Area Specific Development Charges By-law No. 38-2019 and the related underlying background study and to obtain public input on that proposed by-law and study. The amendments are necessary to reflect changes to the Development Charges Act, 1997 and Regulations and to update the capital costs estimates.

The public meeting is to be held on:

Wednesday, October 27, 2021
9:30 a.m.

The Regional Municipality of Durham Headquarters
Council Chambers
605 Rossland Road East
Whitby, Ontario

In order that sufficient information is made available to the public, copies of the proposed amending by-law and the background study will be made available as of October 12, 2021 upon request. The documents will also be posted on the Regional website at durham.ca on October 12, 2021.

Interested persons can submit written correspondence via email directly to the Regional Clerk at clerks@durham.ca, or mail your comments to the Regional Clerk, Regional Municipality of Durham, 605 Rossland Road East, Whitby, ON L1N 6A3 by 5:00 PM on Friday December 3, 2021.

Any interested persons wanting to address Council at the public meeting on Wednesday, October 27, 2021, please note that in an effort to mitigate the spread of COVID-19 and to comply with public health measures, this meeting will be held in an electronic meeting format with limited in-person participation. Members of the public are strongly encouraged to view the meeting via live streaming at www.calendar.durham.ca/meetings instead of attending the meeting in person. If you wish to address Council during the meeting, please contact Legislative Services at clerks@durham.ca, or 905-668-7711, ext. 2054 by noon on Tuesday, October 26, 2021. Staff will provide you with the details on how to participate in the meeting. Information you provide or present during the public meeting, including your name, are subject to the requirements of the Municipal Freedom of Information and Protection of Privacy Act and will form part of the public record and may be made available to the public.

All submissions received in writing, and those opinions expressed at the Public Meeting, will be considered prior to Council's decision which is anticipated during the regular Regional Council meeting of December 22, 2021.

Further information may be obtained by contacting Mary Simpson, Director of Risk Management, Economic Studies and Procurement, Regional Finance Department at 905-668-4113 (ext. 2301) or mary.simpson@durham.ca.

Ralph Walton
Regional Clerk / Director of Legislative Services