



Committee of the Whole Revised Agenda

Monday, May 13, 2024, 7:00 p.m.

Council Chambers

Whitby Town Hall

This meeting will be available for viewing through the Town's **live stream feed** while the meeting is in progress. Please visit whitby.ca/CouncilCalendar for more information about the live stream and archived videos.

This meeting will be held in a hybrid in-person and virtual format. In accordance with Section 7 of Procedure By-law # 7462-18, Members of Council may choose to attend in-person or participate virtually.

Should you wish to provide comments regarding a matter being considered below, please submit written correspondence and/or a Delegation Request Form.

- **To submit written correspondence**, please email your correspondence to the Office of the Town Clerk at clerk@whitby.ca by noon on the day of the meeting. Correspondence must include your full name, address, and the item on the agenda that your correspondence is related to.
- **To speak during the Committee meeting either in-person or virtually**, please submit a **Delegation Request Form** online to the Office of the Town Clerk by 10 a.m. on the day of the meeting. Should you be unable to access a computer, please call 905.430.4315 to speak with a Staff Member in the Office of the Town Clerk.

A Revised Agenda may be published on a later date. Late items added or a change to an item will appear with an asterisk beside them.

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1. **Call To Order: The Mayor**
 2. **Call of the Roll: The Clerk**
 3. **Declarations of Conflict of Interest**
 4. **Consent Agenda**
 5. **Planning and Development**
 - 5.1 Presentations
 - 5.2 Delegations

- *5.2.1 Nizar Walji representing HarbourTen10 Residences Inc. C/O Castle Group Developments (In-Person Attendance)
Re: PDP 27-24, Planning and Development (Planning Services) Department Report
Draft Plan Condominium Application, HarbourTen10 Residences Inc., 1010 Dundas Street, File Number: DEV-11-24 (CW-2024-02)

Refer to Item 5.4.1, PDP 27-24

5.3 Correspondence

5.4 Staff Reports

- 5.4.1 PDP 27-24, Planning and Development (Planning Services) Department Report
Re: Draft Plan Condominium Application, HarbourTen10 Residences Inc., 1010 Dundas Street, File Number: DEV-11-24 (CW-2024-02)

Recommendation:

1. That Council approve the Draft Plan of Condominium (File No. CW-2024-02) subject to the comments included in the Planning Report PDP 27-24 and the Conditions of Approval, included in Attachment #4;
2. That the Mayor and Clerk be authorized to execute the Condominium Agreement and any other necessary documents; and,
3. That the Clerk advise the Commissioner of Planning and Economic Development at the Region of Durham, of Council's decision.

5.5 New and Unfinished Business - Planning and Development

6. General Government

6.1 Presentations

6.2 Delegations

6.3 Correspondence

6.4 Staff Reports

- 6.4.1 CAO 13-24, Office of the Chief Administrative Officer, Legal and Enforcement Services Department, and Financial Services Department Joint Report
Re: Municipal Accommodation Tax

Recommendation:

1. That Report CAO 13-24 regarding Municipal Accommodation Tax (MAT) be received;
2. That the Clerk be directed to bring forward a Municipal Accommodation Tax (MAT) By-law, establishing a MAT rate of 4%, effective July 1, 2024, as appended to Report CAO 13-24 as Attachment 1;
3. That Staff be directed to formalize an agreement, and the Commissioner of Finance & Treasurer or designate be authorized to execute an agreement between the Town of Whitby and Ontario Restaurant Hotel & Motel Association (ORHMA) to collect the Municipal Accommodation Tax from Whitby accommodations in a form satisfactory to the Commissioner of Legal & Enforcement Services/Town Solicitor;
4. That Staff are authorized to incorporate a Tourism Municipal Services Corporation (MSC), named Whitby Tourism Development Corporation (WTDC), if available and as outlined in the Business Case Study (Attachment 2) and that the Commissioner of Finance & Treasurer be authorized to execute any supporting documents confirming consent;
5. That the following list be appointed as the interim Board Members to the Whitby Tourism Development Corporation:
 - a. One (1) Member of Council, as appointed by the Mayor; and
 - b. Four (4) Staff Members.
6. That Staff bring forward in the fourth quarter of 2024, five (5) members to be appointed to the Whitby Tourism Development Corporation (WTDC) Board of Directors, and any required corporate by-laws, Operating Agreement, Asset Transfer Policy, budget, and other operational particulars to allow WTDC to conduct its affairs and transactions per its mandate, and applicable laws and regulations;
7. That the Program Manager, Events, Culture & Tourism and Senior Manager, Economic Development be authorized to request and obtain the consent of the Regional Municipality of Durham to create the Whitby Tourism Development Corporation pursuant to Section 11(4) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
8. That the Mayor and Clerk be granted the authority to enter into agreements with the MSC on behalf of the Town, including all necessary documents ancillary thereto, with Eligible Tourism Entity(ies) that receive(s) an amount of the Municipal

Accommodation Tax respecting reasonable financial accountability matters in order to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, and the agreements may provide for other matters, all in a form satisfactory to the Commissioner of Legal & Enforcement Services/Town Solicitor; and,

9. That a reserve fund, for the portion of the Municipal Accommodation Tax revenue that is retained by the Town, be established and that Staff bring forward a Municipal Accommodation Tax Reserve Fund Policy by the fourth quarter of 2024 for Council approval; and,
10. That Staff report back to Council in the fourth quarter of 2024 on the progress of the new Municipal Accommodation Tax and implementation plan.

6.4.2 CLK 04-24, Office of the Town Clerk Report
Re: Procedure By-law Review

Recommendation:

1. That the Clerk be directed to bring forward a revised Procedure By-law, as appended to Report CLK 04-24 as Attachment 1, which provides improved formatting, structure, and ease of reference;
2. That the revised Procedure By-law contain the following substantive revisions versus the current rules of procedure, based on feedback from the consultation sessions held with Members of Council:
 - a. an increased submission deadline for notices of motion, requiring Members to provide the Clerk with the topics of proposed motions 10 days in advance of meetings to allow the topics to be shared with all Members of Council prior to agenda publication;
 - b. revised meeting start times of 5:30 p.m. for Committee of the Whole, 6:30 p.m. for Planning Public Meetings, and 7:00 p.m. for Regular Council to be effective following the 2024 Council Summer Recess, noting that between 5:30 and 7:00 p.m. prior to Regular Council meetings will be reserved for Special Council meetings;
 - c. defined meeting adjournment times, requiring Chair review at 10:30 p.m., with all meetings ending at 11:00 p.m. with no further ability to debate or extend the adjournment time, noting that matters not considered prior to the adjournment will be deferred to the next applicable meeting instance;
 - d. hearing of delegates only at Committee of the Whole meetings,

unless a matter is being considered at a Regular Council meeting that was not previously considered at a Committee of the Whole meeting, or in instances where the effect of the Staff recommendation is altered by Council at Committee of the Whole;

- e. a registration deadline for delegates of 8:00 a.m. on the day of a meeting, allowing members of the public to review agendas over the weekend prior to a meeting and to accommodate the revised Rules of Procedure that only allow delegations at Council for new matters or where the Staff recommendation was altered;
- f. clarification regarding the role of the Chair, noting that the Chair has the responsibility to summarize discussion points raised by delegates, refer questions from delegates to Staff at the appropriate point of a meeting, and has overall responsibility to manage questions from Members to delegates;
- g. clarification regarding the types of questions Members may pose to delegates, noting that questions may only seek to clarify discussion points raised by delegates that are unclear, and not expand the scope of a delegate's remarks or to summarize their comments;
- h. food shall continue to be prohibited in Council Chambers, however Members of Council shall be permitted to consume water and other drinks (e.g., coffee, tea, pop, etc.) noting that beverages consumed on the dais shall be in the provided drinkware;
- i. a general seating plan for Members of Council for Committee of the Whole and Council meetings, as detailed in Attachment 2 to Staff Report CLK 04-24; and,
- j. that the past practice of requiring Members to Stand while speaking at Council meetings be eliminated.

6.4.3 LS 07-24, Office of the Chief Administrative Officer and Legal and Enforcement Services Department Joint Report
Re: Review of the Role of Mayor and Deputy Mayor under the Municipal Act, 2001

Recommendation:

That this Report LS 07-24 be received for information.

- *6.4.4 LS 06-24, Legal and Enforcement Services Department and Financial Services Department Joint Report
Re: Correcting Transfer to Acquire Parts 2, 3, 4, 5, 9 & 10 on Plan 40R-32247, being all of PIN 26487-0201(LT) from Metrolinx, and Dispose and Transfer Parts 2, 3, 4, 5, 9 & 10 on Plan 40R-32247, being all of PIN 26487-0201 (LT) to The Regional Municipality of Durham

Recommendation:

1. That Part Lot 22, Broken Front Concession, and part of the Road Allowance between Lots 22 and 23, Broken Front Concession, designated as Parts 2, 3, 4, 5, 9 and 10 on Plan 40R-32247, Town of Whitby (being all of PIN 26487-0201 (LT)), as shown in Attachment 2 outlined in green (the “Subject Property”) be acquired from Metrolinx and the Subject Property be declared surplus and conveyed to the Regional Municipality of Durham (the “Region”) subject to the conditions set forth in Legal Services Report 06-24;
2. That the Clerk bring forward by-laws authorizing the acquisition of the Subject Property from Metrolinx and the disposition of the Subject Property to the Region to the Council Meeting scheduled for May 27, 2024;
3. That the requirement to obtain an appraisal and give public notice in accordance with Town of Whitby Policy F-190 regarding the Acquisition, Sale or other Disposition of Land Policy be waived for the acquisition and disposition of the Subject Property herein; and,
4. That the Mayor and Clerk be authorized to execute any and all agreements and documents necessary to complete the acquisition of the Subject Property from Metrolinx and the disposition of the Subject Property to the Region.

- 6.4.5 FS 19-24, Financial Services Department Report
Re: Revision to Council Expense Policy (G050)

Recommendation:

That the revised Council Expense Policy (Policy # G050), Attachments 1 and 2 to Report FS 19-24, be approved.

- 6.4.6 FS 17-24, Financial Services Department Report
Re: Enhanced Property Tax Payment Options

Recommendation:

1. That the Town implement two new property tax pre-authorized payment plans as outlined in Report FS 17-24;
2. That staff be authorized to adjust the terms & conditions of the Pre-authorized Payment plans as required;
3. That, despite the two (2) years provided for in the Municipal Act, the Town of Whitby only proceeds to Tax Registration with accounts that are three (3) years in arrears plus the current year;
4. That the Town initiate a process to search title on a tax roll prior to Tax Registration in the year the account is two (2) years in arrears plus current and notify interested parties of the impending Tax Registration; and,
5. That the Town's Fees and Charges By-law be amended to include a "Tax roll sub-search of Title" in the amount of \$150.00.

6.5 New and Unfinished Business - General Government

7. Adjournment

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: DEV-11-24: Draft Plan Condominium Application CW-2024-02, HarbourTen10 Residences Inc., 1010 Dundas Street

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: PDP 27-24

Department(s) Responsible:

Planning and Development Department
(Planning Services)

Submitted by:

R. Saunders, Commissioner of Planning
and Development

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

K. Afante, Planner I, x. 2836

1. Recommendation:

1. That Council approve the Draft Plan of Condominium (File No. CW-2024-02) subject to the comments included in the Planning Report PDP 27-24 and the Conditions of Approval, included in Attachment #4;
2. That the Mayor and Clerk be authorized to execute the Condominium Agreement and any other necessary documents; and,
3. That the Clerk advise the Commissioner of Planning and Economic Development at the Region of Durham, of Council's decision.

2. Highlights:

- A Condominium Application has been submitted by HarbourTen10 Residences inc. for the land located at 1010 Dundas Street East.
- The Draft Plan of Condominium is required to enable the transfer of title to the future property owners and create a Condominium Corporation to adhere to the conditions of Site Plan Approval (SP-25-18) and the Subdivision Agreement (SW-2014-01).

- All commenting departments and external agencies have indicated support for the proposed development, subject to their comments and requested conditions being addressed.

3. Background:

3.1 Site and Area

The subject land is located at the northwest corner of Dundas Street East and the Canadian Pacific (CP) Railway (refer to Attachment #1). The subject land is approximately 0.74ha (1.83 acres) in size.

Surrounding land uses to the Draft Plan of Condominium, include CP Railway lands to the west, existing residential uses, and a high school to the north, and commercial uses to the east and south (refer to Attachment #2).

3.2 Application and Proposed Development

A Condominium Application (CW-2024-02) was submitted for one hundred ten (110) apartment dwelling units (refer to Attachment #3).

4. Discussion:

Planning Conformity

The Subject Land has previously been considered through a number of planning applications, specifically a Site Plan Application (SP-25-18), and a Subdivision Application (SW-2014-01). These applications were circulated to the appropriate internal departments and external agencies and all comments and concerns have since been addressed through the relevant Subdivision and Site Plan Agreements.

The proposed development conforms to the Region of Durham Official Plan, the Town of Whitby Official Plan and Zoning By-law #2585, as amended.

Therefore, it is recommended that the proposed Draft Plan of Condominium be approved, subject to the comments included in this report and the Conditions of Draft Plan of Condominium Approval included in Attachment #4.

5. Financial Considerations:

Not applicable.

6. Communication and Public Engagement:

Not applicable.

7. Input from Departments/Sources:

External Agencies

Region of Durham

Comments provided by the Region of Durham include:

- In June 2014, the Region reviewed and provided comments on the related subdivision application (S-W-2014-01). All our concerns regarding conformity with the Regional Official Plan and Provincial and Policies were previously addressed as part of the subdivision review. For the condominium proposal, we offer updated comments with respect to conformity with the new adopted Regional Official Plan (Envision Durham), the Region's delegated Provincial Plan Review responsibilities, regional servicing, and Bus Rapid Transit.
- The proposed condominium building will provide a residential density of approximately 149 units per hectare and meets the new Regional Official Plan's density target for land uses located along a Rapid Transit Spine.
- The condominium proposal also contributes to providing a full mix of housing options for the residents of Durham Region and the proposed high density promotes the intensification of the Dundas Street East Rapid Transit Corridor and efficient transit services. The development proposal further supports compact built form and pedestrian-friendly urban environment. The proposed condominium application conforms with the new Regional Official Plan.
- In April 2015, a Record of Site Condition (RSC) #217529 had been filed with the Ministry of Environment, Conservation and Parks (MECP) for the subject land. However, the Region will not accept this RSC as it exceeds the Region's and Province's 18-month limitation date. We will require a Qualified Person to prepare an Updated Environmental Letter indicating that the condition of the site remains appropriate for residential development. The Updated Environmental Letter must be provided to the Region along with the Region's Reliance Letter and Certificate of Insurance forms.
- The proposed condominium building abuts Dundas Street East and the Canadian Pacific Railway corridor to the west. The site is also located in close proximity to existing commercial uses.
- The Town of Whitby's executed Site Plan Agreement (SP-25-18) dated September 17, 2020, contains the appropriate noise control recommendations from the Environmental Noise and Vibration Impact Study, prepared by Aercoustics Engineering Ltd., revised and dated October 16, 2015. We are satisfied that noise concerns for the proposed development have been addressed to our satisfaction.

- Municipal water supply and sanitary sewer servicing for the proposed development were approved and installed through the related Regional Subdivision Agreement (S-W-2014-01).
- The Region's Rapid Transit Office has reviewed this application and indicated that the proposed grades at the property line should be set using a maximum of 2% from the back of existing curb.
- The proposed condominium building contributes to providing a full mix of housing options for the residents of Durham Region. The proposed high-density development is transit-supportive and promotes the intensification of the Dundas Street East Rapid Transit Corridor. The condominium proposal also supports compact built form and pedestrian-friendly urban environment. The proposed condominium application conforms with the current ROP and the new ROP.
- Based on the foregoing, the Region has no objection to the draft approval of this condominium application. The attached conditions of draft approval must be complied with prior to clearance by the Region for registration of this plan.
- The Owner must also provide a land use table prepared by an Ontario Land Surveyor to the Region's satisfaction. The land use table must provide lot area calculations for the proposed land use(s) allocated within the draft plan of condominium.

8. Strategic Priorities:

The development review process has provided opportunity for agency input. The recommendations contained in this report align with the priorities of the Community Strategic Plan, specifically Section 1.3.4 under Pillar 1: Whitby's Neighbourhoods by providing a variety of housing options.

This report is in a fully accessible format, which addresses the Town's strategic priority of accessibility.

The proposed condominium development increases the density on the subject land which provides a better use of existing infrastructure, which implements the Town's strategic priority of sustainability.

9. Attachments:

Attachment #1: Location Sketch

Attachment #2: Aerial Context Map

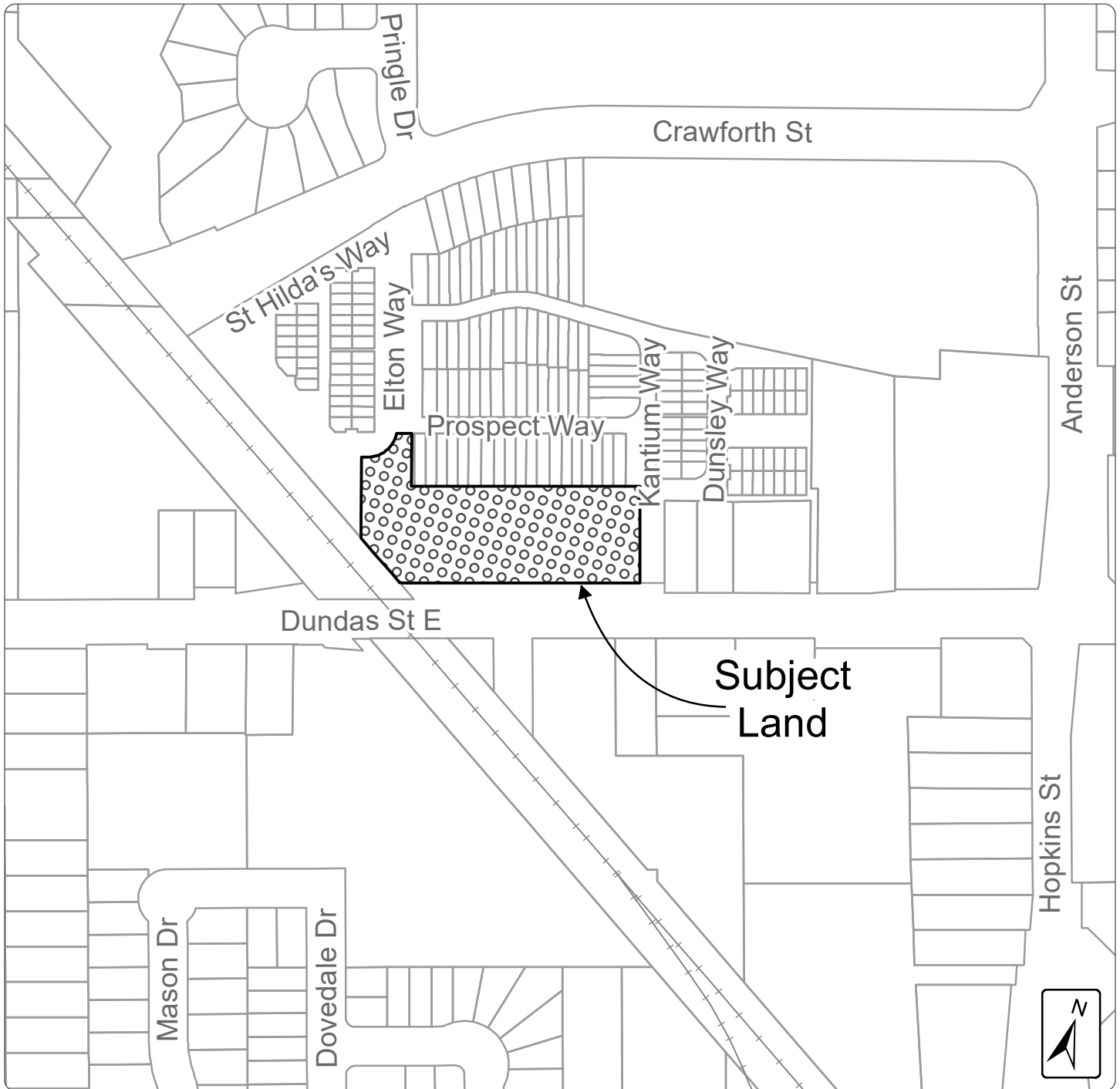
Attachment #3: Proponents Proposed Standard Condominium Plan

Attachment #4: Conditions of Draft Plan of Condominium Approval

Attachment #5: Agency and Stakeholder Detailed Comments

Attachment #1 Location Sketch

PDP 27-24



Town of Whitby Planning and Development Department

Proponent:
HarbourTen10 Residences Inc.

File Number:
DEV-11-24 / CW-2024-02

Date:
May 2024

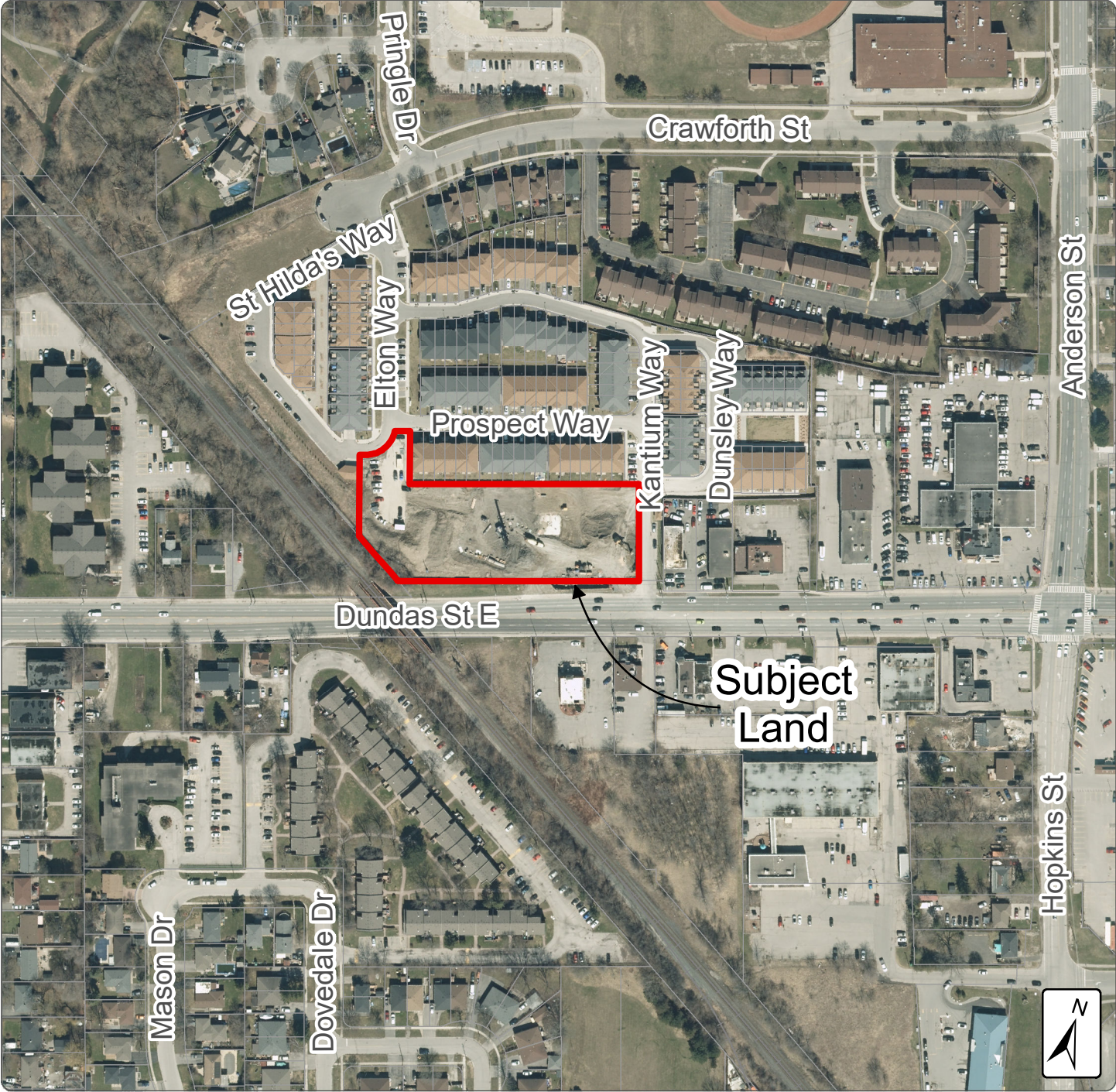
External Data Sources:
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Attachment #2
Aerial Context Map

PDP 27-24



Town of Whitby Planning and Development Department

Proponent:
HarbourTen10 Residences Inc.

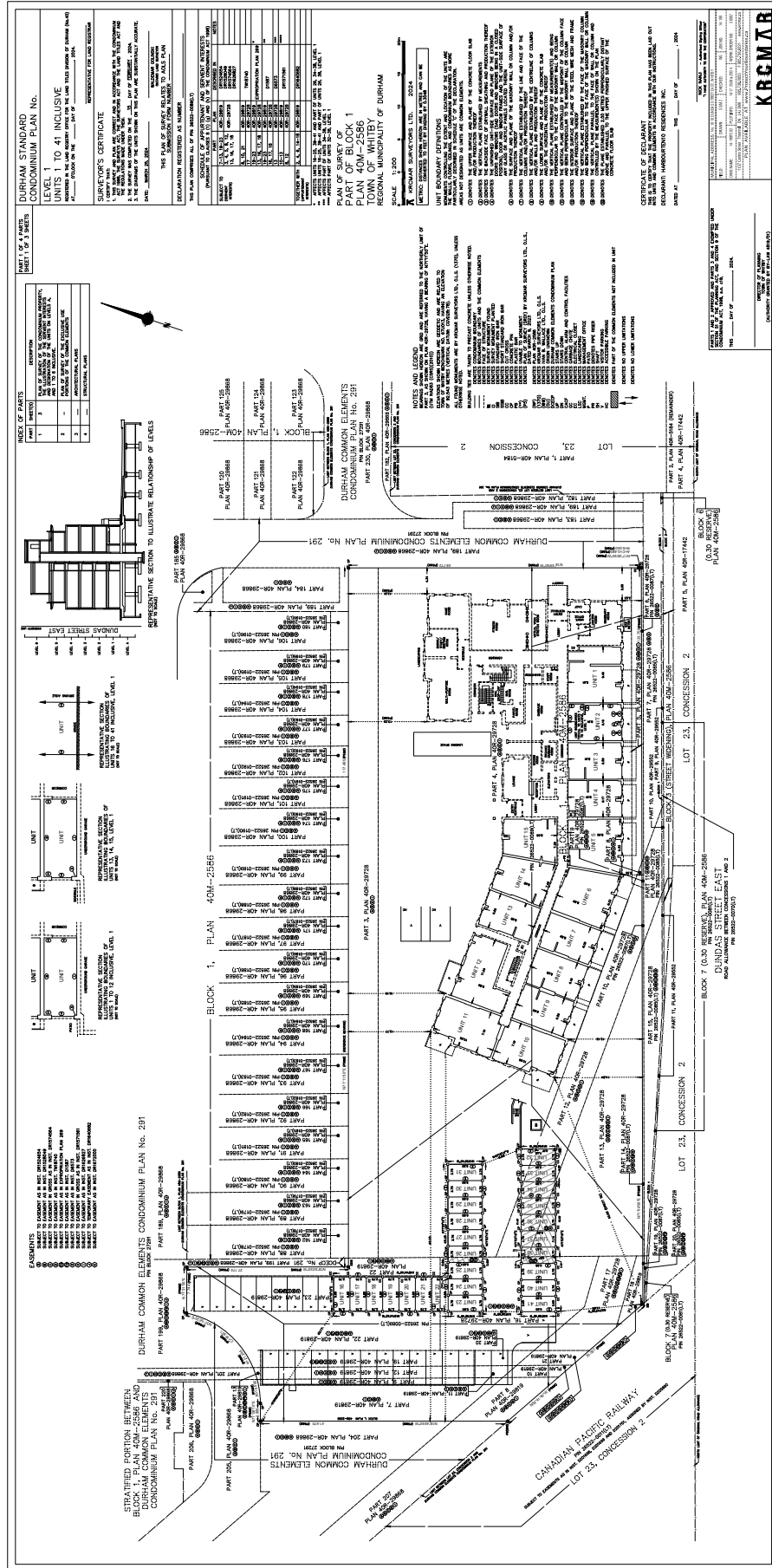
File Number:
DEV-11-24 / CW-2024-02

Date:
May 2024

External Data Sources:
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Conditions of Draft Plan of Condominium Approval

Conditions of Approval
File DEV-11-24 (CW-2024-02)

1. The Proponent shall prepare the final plan on the basis of the approved draft plan of condominium, prepared by KRCMAR identified as Job No. 14-199, plot date March 25, 2024, which illustrates a 5-storey condominium apartment building with 110 units and associated parking.
2. Prior to final approval, the Proponent shall provide the Region of Durham with an Updated Environmental Letter from a Qualified Person confirming no environmental concerns with the subject land and that the soil and groundwater conditions have not changed since the filing of Record of Site Condition Confirmation #217529
3. The proponent shall enter into a satisfactory Condominium Agreement with the Town.
4. The Proponent shall provide the Town with the fees and legal costs incurred for the preparation and registration of the Condominium Agreement including the Release Fee in the amount of \$3,752.97.
5. The Proponent covenants and agrees to implement the provisions of Site Plan Agreement (SP-25-18) and to confirm the same through the Condominium Agreement.
6. Any requirements under the Subdivision Agreement (SW-2014-01) between 1010 Dundas East Developments Inc. and the Corporation of the Town of Whitby are to be satisfied where applicable to this site.
7. Prior to final approval, the proponent shall provide the Commissioner of Planning and Development for the Town of Whitby with a copy of the Condominium Corporation documents, demonstrating that all relevant Site Plan conditions of approval have been included in said documents. This shall include all clauses in all offers of purchase and sale or lease and registered upon the title of the dwellings within the block, to advise potential purchasers of the following:
 - a. The proponent covenants and agrees to implement the provisions of the Site Plan Agreement (SP-25-18) and Subdivision Agreement (SW-2014-1) and to confirm the same through the Condominium Agreement;
 - b. The maintenance of all common elements such as, but not limited to, the internal roads, water meter room, hydro transformer, internal sidewalks, lighting, fencing, landscaping, driveway, and visitor parking area;
 - c. The collection and disposal of residual garbage, recycling, yard waste and organic materials shall be the responsibility of the Condominium Corporation;
 - d. The allocation of visitor/accessible parking spaces of the condominium are to be owned and maintained by the Condominium Corporation, shall

contain a clause in the condominium documents clearly specifying that the visitor/accessible parking spaces shall be properly signed and be solely for the use of visitors to the proposed condominium; and

- e. Any changes or alterations to the building elevations, roof shingles, colours or materials require the approval of the condominium board.
8. Prior to final approval of the plan of condominium, the Commissioner of Planning and Development for the Town of Whitby shall be advised in writing by:
- a. The Regional Municipality of Durham how conditions 1 and 2 have been satisfied.

Attachment #5

Agency and Stakeholder Detailed Comments

PDP 27-24



April 19th, 2024

Kerstin Afante, Planner I
Planning and Development
Department Town of Whitby
575 Rossland Road East
Whitby, ON L1N 2M8

The Regional Municipality of Durham

Planning and
Economic
Development
Department

605 Rossland Rd. E.
Level 4
PO Box 623
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1-800-372-1102
Email:
planning@durham.ca
durham.ca

Brian Bridgeman,
MCIP, RPP, PLE
Commissioner of
Planning and
Economic
Development

Re: **Region of Durham Comments**
Condominium Application CW-2024-02
Applicant: **Harbourten10 Residences Inc.**
Cross Ref.: Subdivision S-W-2014-01 & Site Plan SP-25-18
Part of Block 1 (40M-2586)
Location: 1010 Dundas Street East
Municipality: Town of Whitby

We have completed our review of the above-noted proposed condominium application and offer the following comments for the proposed development.

The subject land is approximately 0.74 hectares and is located on the north side of Dundas Street East, west of Anderson Street. The Canadian Pacific Railway corridor abuts the site's westerly property lot line. The site is identified as Part of Block 1 within Registered Plan 40M-2586, created through the related subdivision application (S-W-2014-01).

Proposed Application

The proposed draft standard plan of condominium application will facilitate the development of a 5-storey condominium building consisting of 110 units and associated parking. The residential density proposed is approximately 149 units per hectare (uph).

We understand that this residential building is fully constructed, and Site Plan Approval (SP-25-18) dated September 17, 2020, has been issued for the development. The proposed application is required to enable the transfer of title to the condominium apartment owners, create a Condominium Corporation that will be responsible for the Standard Condominium, and to require the Condominium Corporation to adhere to the conditions of the related Site Plan Approval (SP-25-18).

Background

In June 2014, the Region reviewed and provided comments on the related subdivision application (S-W-2014-01). All our concerns regarding

conformity with the Regional Official Plan and Provincial and Policies were previously addressed as part of the subdivision review. For the condominium proposal, we offer updated comments with respect to conformity with the new adopted Regional Official Plan (Envision Durham), the Region's delegated Provincial Plan Review responsibilities, Regional servicing, and Bus Rapid Transit.

Council Adopted Regional Official Plan (Envision Durham)

On May 17, 2023, Regional Council adopted the new Regional Official Plan (Envision Durham). The new ROP is currently with the Ministry of Municipal Affairs and Housing for approval.

We have reviewed the proposed development for conformity with the new ROP.

The subject land is designated as Community Areas on Map 1 – Regional Structure in the new ROP. Plan Community Areas are intended for a variety of housing types, sizes and tenures.

Dundas Street East is designated as a Rapid Transit Corridor on Map 1 – Regional Structure in the new ROP. Rapid Transit Corridors are identified as Strategic Growth Areas where emphasis is on accommodating intensification and higher-density mixed uses in a compact urban-built form. Rapid Transit Corridors are appropriate locations for intensification and higher density, and compact forms of residential development.

Dundas Street East is recognized as a Rapid Transit Spine on Map 3a – Transit Priority Network in the new ROP. Dedicated Rapid Transit Spines should accommodate a minimum density target of 160 people and jobs per hectare (72 uph).

Conclusion

The proposed condominium building will provide a residential density of approximately 149 uph and meets the new ROP's density target for land uses located along a Rapid Transit Spine. The condominium proposal also contributes to providing a full mix of housing options for the residents of Durham Region and the proposed high density promotes the intensification of the Dundas Street East Rapid Transit Corridor and efficient transit services. The development proposal further supports compact built form and pedestrian-friendly urban environment. The proposed condominium application conforms with the new ROP.

New and Unfinished Business - Planning and Development

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
P&D-0004	Automated Speed Cameras on Town Roads	That staff report to Council on the feasibility and cost of adopting an Automated Speed Enforcement program on Town Roads in School Safety Zones and Community Safety Zones.	29 Nov 2021	06 Mar 2023	02 Dec 2024	ASE will be considered through the Traffic Calming Policy. Details from the Region of Durham and area municipalities to support future consideration and help identify cost to implement.
P&D-0005	Planning and Development (Engineering Services) Department Report, PDE 02-22 Re: Boulevard Permit Parking Program	That Report PDE 02-22 be referred to Staff to review concerns raised by the Committee.	28 Feb 2022	13 Mar 2023	02 Dec 2024	Boulevard parking will be reviewed and considered as part of the residential parking permit program.
P&D-0007	Thistledown Crescent Emergency Access Review	That Staff be directed to report on the following issues: c. Following the opening of Thistledown Crescent to Taunton Road, the implementation of a monitoring program with 24/7 traffic counter device to obtain traffic data on speed, volumes, and other metrics and report back to Council within one year of the road opening regarding the traffic impacts of the development and whether any additional traffic calming measures are required.	07 Mar 2022	TBD		The road has not been constructed. Monitoring, through Radar Message Boards, and observations will occur following the opening of the roadway. Timing is currently unknown. Date to report back will continue to be delayed until construction/opening is known.

New and Unfinished Business - Planning and Development

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
P&D-0012	PDP 66-22, Planning and Development (Planning Services) Department, Financial Services Department, and Legal and Enforcement Services Department Joint Report Re: Ontario Bill 109, More Homes for Everyone Act, 2022	3. That staff report back to Council following completion of the Development Application Approval Process and Fee Review study regarding any further proposed process and fee changes required to adequately address the impacts of Bill 109.	12 Dec 2022	04 Dec 2023	16 Sep 2024	Report back following completion of DAAP.
P&D-0018	Three Way Stop at White Ash Drive and Palmerston Avenue	That Staff be directed to include consideration of a three way stop at White Ash Drive and Palmerston Avenue as part of a report on new stop controls by Q2 2024.	18 Mar 2024	10 Jun 2024		

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Municipal Accommodation Tax

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: CAO 13-24

Department(s) Responsible:

Office of the Chief Administrative Officer
Legal and Enforcement Services
Financial Services Department

Submitted by:

Sarah Klein, Director Strategic Initiatives
Francesco Santaguida, Commissioner,
Legal Services and Town Solicitor
Fuwing Wong, Commissioner, Financial
Services and Treasurer

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

Lara Toman, Program Manager, Events,
Tourism and Culture 905-706-1706

1. Recommendation:

1. That Report CAO 13-24 regarding Municipal Accommodation Tax (MAT) be received;
2. That the Clerk be directed to bring forward a Municipal Accommodation Tax (MAT) By-law, establishing a MAT rate of 4%, effective July 1, 2024, as appended to Report CAO 13-24 as Attachment 1;
3. That Staff be directed to formalize an agreement, and the Commissioner of Finance & Treasurer or designate be authorized to execute an agreement between the Town of Whitby and Ontario Restaurant Hotel & Motel Association (ORHMA) to collect the Municipal Accommodation Tax from Whitby accommodations in a form satisfactory to the Commissioner of Legal & Enforcement Services/Town Solicitor;
4. That Staff are authorized to incorporate a Tourism Municipal Services Corporation (MSC), named Whitby Tourism Development Corporation (WTDC), if available and as outlined in the Business Case Study

(Attachment 2) and that the Commissioner of Finance & Treasurer be authorized to execute any supporting documents confirming consent;

5. That the following list be appointed as the interim Board Members to the Whitby Tourism Development Corporation:
 - a. One (1) Member of Council, as appointed by the Mayor; and
 - b. Four (4) Staff Members.
6. That Staff bring forward in the fourth quarter of 2024, five (5) members to be appointed to the Whitby Tourism Development Corporation (WTDC) Board of Directors, and any required corporate by-laws, Operating Agreement, Asset Transfer Policy, budget, and other operational particulars to allow WTDC to conduct its affairs and transactions per its mandate, and applicable laws and regulations;
7. That the Program Manager, Events, Culture & Tourism and Senior Manager, Economic Development be authorized to request and obtain the consent of the Regional Municipality of Durham to create the Whitby Tourism Development Corporation pursuant to Section 11(4) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended;
8. That the Mayor and Clerk be granted the authority to enter into agreements with the MSC on behalf of the Town, including all necessary documents ancillary thereto, with Eligible Tourism Entity(ies) that receive(s) an amount of the Municipal Accommodation Tax respecting reasonable financial accountability matters in order to ensure that amounts paid to the entity are used for the exclusive purpose of promoting tourism, and the agreements may provide for other matters, all in a form satisfactory to the Commissioner of Legal & Enforcement Services/Town Solicitor; and,
9. That a reserve fund, for the portion of the Municipal Accommodation Tax revenue that is retained by the Town, be established and that Staff bring forward a Municipal Accommodation Tax Reserve Fund Policy by the fourth quarter of 2024 for Council approval; and,
10. That Staff report back to Council in the fourth quarter of 2024 on the progress of the new Municipal Accommodation Tax and implementation plan.

2. Highlights:

- The purpose of this Report is to seek Council's approval of a Municipal Accommodation Tax for Whitby at a rate of 4% and to incorporate a Tourism Municipal Services Corporation, named Whitby Tourism

Development Corporation (WTDC) as outlined in the Business Case Study (Attachment 2).

- Municipal Accommodation Tax (MAT) is a local tax levied by municipalities on the purchase of transient accommodations such as hotels and motels. The purpose of the tax is to generate revenue to support local tourism initiatives.
- There are currently over 50 municipalities across Ontario with a Municipal Accommodation Tax. The most common rate for the tax is 4%.
- Per the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “*Municipal Act*”), municipalities must allocate a portion of the MAT revenue (50% of the MAT revenues after deduction of the municipality’s reasonable costs) to an “eligible tourism entity”. Whitby does not have an Eligible Tourism Entity and Staff are recommending the creation of a Municipal Services Corporation (MSC) to fulfill this requirement. The other 50% of the MAT revenues (net of reasonable costs) remain with the Municipality.
- Whitby will benefit from the new revenues as the Town will utilize the 50% portion of the MAT funds to expand the community’s capacity for tourism offerings such as sports, art, music, heritage, and cultural experiences. These enhancements not only enrich the quality of life for Whitby residents, but also involve the development of new programs and infrastructure aimed at enhancing the overall visitor experience and tourism products.
- Individual stakeholder engagement was conducted over the last few months with the local accommodations including the four hotels and two motels. Short term rentals such as VRBO, cabins and Airbnb will be phased into the MAT once the Short-Term Rental By-law is updated and approved.
- The Town of Whitby is recommending designating the Ontario Restaurant Hotel Motel Association (ORHMA) as its agent, to collect the MAT from accommodation providers and remit to the Town, starting July 1, 2024.
- Once approved, a MAT webpage will be established and will include information and frequently asked questions for both the accommodations and visitors.

3. Background:

Tourism is the movement of visitors to places and all the activities that visitors engage in when travelling outside their usual environment. A visitor is defined as someone who takes an overnight out-of-town trip or an out-of-town same-day trip

and travels more than 40 kilometres for leisure, business, or other purposes and may stay overnight in an accommodation such as a hotel or motel.

On November 23, 2017, the Province of Ontario issued the Transient Accommodation Regulation 435/17, which came into effect December 1, 2017, and provides the necessary provisions for municipalities across Ontario to implement a Municipal Accommodation Tax. The Regulation applies if a municipality imposes a tax through a By-law in respect of the purchase of transient accommodation in the municipality under [Section 400.1 of the *Municipal Act*](#).

The Province of Ontario developed the Municipal Accommodation Tax (“MAT”) as a funding source to support tourism in communities and allow growth in the sector to contribute to economic, social, and cultural development across Ontario. The aim of the legislation is to generate new revenues that increase capacity in the community for the development of competitive tourism products and promotion, increasing overnight stays which in turn increases local economic activity.

The common rate amongst major cities and towns across Ontario is four (4%) percent. Under the *Municipal Act* and its regulations, municipalities must allocate a portion of the revenue to an “eligible tourism entity”. The MAT is applied on all room accommodations of four hours or more and continuous stays of 29 nights or less. Other services, including meeting room rentals, food and beverage, room services, internet and phone charges are excluded from the tax provided they are itemized separately on the bill. HST is also payable on the MAT portion.

The MAT Program has been implemented by over 50 municipalities in Ontario including Oshawa, Toronto, Mississauga, Oakville, Markham, London, Vaughan, and Ottawa. Pickering is currently in the process of establishing their MAT.

Towns and cities of comparable size have reported that the tax can generate approximately \$400,000 to \$700,000 annually. City of Toronto generates approximately \$24 million annually through their MAT Program.

Whitby is home to four hotels and two motels with approximately 460 rooms. To forecast the MAT revenues for the Town, a calculation was done based on the existing number of rooms in hotels (less some 60 under exemption due to use for shelter purposes) and an average price of \$120/night. As part of the forecast, an annual average hotel occupancy range of 50 per cent and 75 per cent was utilized.

The table below provides a breakdown of the potential MAT revenues at the 4 per cent rate based on two occupancy levels. Based on recent data provided by Central Counties Tourism, 2023 hotel occupancy rates for Durham Region were 76.7 per cent.

Estimated MAT Revenues (12 months)		
	Occupancy	
	50%	75%
400 rooms	\$350,400	\$525,600

There are also exemptions noted in the By-law to account for hotel or motel rooms used by the Town or its service providers for shelter purposes (i.e. Durham Region) and the MAT will not be charged on these rooms. Based on these estimates, Whitby's annual MAT revenues could range between \$350,400 and \$525,600 with half of the MAT revenue (adjusted for reasonable costs) to be allocated to a non-profit tourism entity whose mandate includes the promotion of tourism in Whitby and the balance being retained by Whitby for projects and initiatives that support tourism.

This project aligns with Goal 1, Action 1.2.4 - explore potential funding streams for tourism initiatives (Municipal Accommodation Tax) of [Destination Whitby- Tourism Strategy 2022 – 2025](#). A working group made up of staff members from Legal, Finance and Strategic Initiatives have been meeting and collaborating on MAT actions since the Fall of 2023 including the project plan, timeline and work associated with all the documents/agreements related to the MAT.

4. Discussion:

As a new funding option, the MAT will allow for new strategic projects that support tourism, increase visitor spending, and strengthen the local economy without impacting the property tax-funded budget. The *Municipal Act* specifically defines how the MAT revenues are to be spent. The legislation states under Ontario Regulation 435/17 that once reasonable costs of collecting and administering the tax are paid for, 50% of the remaining MAT shall be paid to an "eligible tourism entity" and the balance may be retained by the municipality to fund projects that support tourism. An "eligible tourism entity" is defined as a non-profit entity whose mandate includes the promotion of tourism in Ontario or the municipality.

At present, Whitby does not have an Eligible Tourism Entity and Staff are recommending the creation of a Municipal Services Corporation (MSC) to fulfill this requirement. Many comparator municipalities have found themselves in a similar situation to the Town of Whitby, without a registered not-for-profit tourism entity, and have elected to create an MSC to serve this purpose, including City of Hamilton, City of Brantford, City of Cornwall, Town of Huntsville, City of Markham, City of Sault Ste. Marie, City of Vaughan, City of Timmins, and still in progress, City of Pickering.

The benefits of the Town establishing the Corporation include:

- Satisfying the Province's requirement for a non-profit tourism entity to serve as an Eligible Tourism Entity that utilizes a minimum of 50% of the MAT revenues;
- Adopting a MSC model which provides accountability, corporate responsibility, and reasonable controls through the role of the voting members; and,
- Ensuring Council, as sole voting member, will be responsible for electing the Board of Directors (which will include a member of council, as appointed by the Mayor, staff representatives and industry stakeholders) that establish the governance framework for business plans, expenditures, and corporate policies.

The benefits of establishing a MSC extend beyond that of tourism development. MSCs often conduct business in a manner that meets the private sector requirement of timely, efficient and effective decision making.

A comparator of 8 municipalities with MSCs (listed above) was completed to understand the average administrative costs, how they are run, budgets and projects supported. The average administrative costs for the MSC's reviewed are approximately 10% of their annual budget with 90% of the funds being used for tourism promotions and projects and in some cases staffing for the MSC. This information will be considered when the Terms of Reference and budgets are developed for the MSC.

The Town proposes the incorporation of a non-profit, non-share capital Corporation as an MSC under the *Not-for-Profit Corporations Act, 2010* (Ontario) to be named "Whitby Tourism Development Corporation" (the "Corporation") if such name is available at the time of incorporation. Prior to creation of the MSC, Ontario Regulation 599/06 requires municipalities to conduct public consultation and develop a business case study. This was completed in March and April 2024.

Under Section 11 of the *Municipal Act*, Durham Region has exclusive authority over the collection and dissemination of information related to the promotion of all Durham Region local municipalities. For the Town to create the Corporation, the consent of Durham Region is required. Economic Development and Tourism staff have contacted their counterparts at the Region to begin this process and upon Council approval, will seek formal consent.

The MSC Business Case Study (**Attachment 2**) outlines the purpose, mandate and objectives, and governance structure of the proposed Whitby Tourism Development Corporation.

The mandate of the Whitby Tourism Development Corporation will be the promotion of tourism in alignment with the [Community Strategic Plan](#) and [Destination Whitby – Tourism Strategy 2022 – 2025](#). With the proposed implementation of the MAT, funding will be accessible to support the Tourism Strategy and related tourism initiatives moving forward.

MSC Corporate Governance Structure and Incorporation

To proceed with the establishment of the Municipal Services Corporation (MSC), the Town must submit an application to the province to incorporate a not-for-profit corporation under the *Not-for-Profit Corporations Act, 2010* (Ontario). The MSC will be created by way of articles of incorporation which will be drafted by the Town's Legal Services Department.

Staff propose the following positions to be the incorporators who will act as first interim Directors of the MSC:

- One (1) Member of Council, as appointed by the Mayor
- Director, Strategic Initiatives
- Commissioner, Financial Services and Treasurer
- Senior Manager, Economic Development
- Program Manager of Tourism, Culture and Events

The Interim Directors will have oversight and critical decision-making roles concerning the operation of the MSC. Staff will bring a report back to Council in Q4 2024 with final recommendations relating to establishing the new Board of Directors, their composition, Corporate By-laws, operating and asset transfer agreements, budget, and other details to bring the MSC to a complete stage of operation.

Collection of the MAT

The Town of Whitby is recommending designating the Ontario Restaurant Hotel Motel Association (ORHMA) as its agent to collect the MAT from Accommodation providers and remit to the Town. ORHMA works directly with the hotels and motels, provides training to staff, helps them set up a new tax code in their account, and works with booking agents such as Booking.com or Expedia to set up the tax code. After this process, it is the responsibility of the Accommodation provider to remit monthly reports to ORHMA, who will then collect and remit the funds to the Town, minus an administrative fee of 1.8% of the fees collected. Based on annual MAT revenues between \$350,400 to \$525,600, ORHMA fees related to the collection of Whitby's MAT would range between \$6,307 to \$9,460.

These fees are considered reasonable costs which will be deducted from MAT revenues.

Municipal Accommodation Tax Reserve Fund Policy

It is recommended that the 50% of the net MAT revenues retained by the Town be transferred to a new Municipal Accommodation Tax Reserve Fund. Subject to the establishment of the MAT reserve, as part of the annual budget process, staff will recommend draws from this reserve to fund projects that support tourism within the Town so there will be transparency on how these funds will be spent. Unspent MAT funds will accumulate in the reserve to be used in future years and may be used to fund more significant (in terms of dollar value) projects that support tourism.

Town Staff will bring forward the MAT Reserve Fund Policy, for Council's consideration by the fourth quarter of 2024.

Use of Municipal Accommodation Tax Funds

The Town's half of the MAT will allow for new strategic projects that support tourism, increase visitor spending, and strengthen the local economy. Whitby will benefit from the new revenues by increasing capacity in the community for enhancing existing tourism products and experiences including sport, art, music, heritage, and other cultural offerings that contribute to Whitby's high quality of life for residents, as well as developing new programs and infrastructure that will improve visitor experience.

As part of the budget process, Strategic Initiatives (Creative Communities) will recommend tourism-related initiatives and/or infrastructure projects supporting tourism that may be funded from the MAT Reserve. Utilizing the municipal accommodation tax to fund tourism-related initiatives and infrastructure provides for a non-property tax source of funding for such projects to proceed/be implemented.

Some of the initiatives and projects will be chosen based on actions identified in the Tourism Strategy (wayfinding and signage, product or trail development, event, and attraction support) or related to actions in the Community Strategic Plan (support Public Art, a focus on the waterfront, downtown beautification etc.) and could support event space development.

In the near-term, some of the priorities staff may recommend being funded from the MAT reserve include:

- Addition of holiday lights throughout Whitby (Waterfront, Grass Park, Rotary Centennial Park, Four Corners, Centennial Building etc.)
- Rowe House Waterfront Pop-up (accessible dock, photo ops, maps, Adirondacks, and temporary visitors centre)
- Signature Event Support
- Tourism Wayfinding and Signage
- Downtown Placemaking Spaces

Projects to be funded from the MAT reserve will be part of the budget process and will be subject to actual MAT collections.

Implementation Plan and Next Steps

Upon approval of this Report and the Municipal Accommodation Tax By-law, Staff will take the following next steps to meet the targeted Municipal Accommodation Tax implementation date of July 1, 2024, and set up the Municipal Services Corporation (MSC).

- Implement the new Municipal Accommodation Tax By-law (**Attachment 1**), for the collection of a Municipal Accommodation Tax.
- Sign an agreement with Ontario Restaurant Hotel & Motel Association (ORHMA) so ORHMA can begin training local hotel and motel staff in collection and remittance practices.
- Obtain Durham Region's consent to create the MSC.
- Establish a MSC under the name "Whitby Tourism Development Corporation", if available, by:
 - Conducting the necessary corporate name search;
 - Preparing and filing articles of incorporation; and,
 - Preparing organizational by-law(s) and other documents for the MSC including its budget and a potential loan agreement with the Town for start-up costs.
- Create a separate bank account for the MSC through the Finance Department.
- Prepare a policy on asset transfers to the MSC which will be brought forward for Council's approval in Q4 2024.
- Recruit Directors for the MSC through the Clerks Department in the same way new members are recruited for Town Advisory Committee positions and bring forward the list of candidates for Council's approval in Q4 2024.
- Draft agreement between the Town and MSC pursuant to Section 6 of O.Reg. 435/17.
- Prepare a Municipal Accommodation Tax Reserve Fund Policy for Council's approval by Q4 2024.

Future implementation of MAT for short term accommodations such as Airbnb and VRBO

Short Term Rentals (i.e. Airbnb and VRBO) will not be included in this phase of the MAT. As per Council's direction in Report LS 19 -19 and Council Update LS 06-20, Legal and Enforcement Services are currently working to create a regulatory framework and Zoning By-law amendments to control the short-term rental accommodations and licensing in Whitby. Public engagement was completed in Spring of 2021 and once the updated Short Term Rental By-law is brought forward to Council, these accommodation providers will be included in the MAT.

With the upcoming Consolidated Zoning By-law, the zoning regulation of short-term rentals will be addressed, at which point Legal and Enforcement Services will address the licensing component as well.

5. Financial Considerations:

Aside from property taxes and user fees, the Town has limited revenue tools. Implementation of a Municipal Accommodation Tax allows for tourism related initiatives and infrastructure to be implemented without an increase to property taxes.

The implementation of the Municipal Accommodation Tax is projected to generate between \$350,400 to \$525,600 of gross annual revenues based on 50% and 75% occupancy, respectively. As outlined in the table below, after deducting reasonable costs (currently only collection fees of 1.8%), it is expected that approximately \$172,046 to \$258,069 will be transferred to the MSC and the same amount is projected to be retained by the Town to fund future projects that support tourism:

	50% Occupancy	75% Occupancy
Projected MAT Revenues	\$350,400	\$525,600
Collection Cost (1.8%)	-\$6,307	-\$9,461
Net MAT (annual)	\$344,093	\$516,139
50% Allocation to MSC	\$172,046.50	\$258,069.50
50% Retained by Town (for tourism-related projects)	\$172,046.50	\$258,069.50
Total	\$344,093	\$516,139

It is anticipated that approximately 10% of annual funds allocated to the MSC will cover MSC-related administrative costs. Accordingly, the remaining 90% or approximately \$154,842 to \$232,263 of the net MAT revenues will be used by the

MSC, annually, for the promotion of tourism in Whitby. The MSC will prepare an annual budget that is separate from the Town of Whitby's budget.

As noted above, the Town will establish a MAT reserve for the projected 50% (e.g. approximately \$172,046 to \$258,069, annually) MAT revenues retained by the Town. Town of Whitby projects that support tourism to be funded from the MAT reserve will be part of the Town's budget process.

To date, approximately \$10,000 has been spent on external Legal fees to support the development of the MAT (including legal review of the draft policies, procedures and by-law related to a MAT program's governance, structure, and administrative procedures).

Once the MAT recommendations are approved by Council, additional costs to implement the program will include the following:

- Ontario Restaurant, Hotel and Motel Association (ORHMA) one-time fee (\$3,000)
- MSC/Whitby Tourism Corporation incorporation costs and NUAN's Search. (\$372.80)
- External Legal Costs to support the set-up of the MSC (\$5,000 to \$6,000)

The one-time/start-up costs, noted above, will be funded from the Creative Communities (Tourism) operating budget (Account 18132-52920) and staff will investigate whether these costs may be recovered from 2024 MAT collections. Staff will report back to Council on the first six months collection of the MAT and its distribution in late Q4 2024.

6. Communication and Public Engagement:

Prior to creation of the MSC, Ontario Regulation 599/06 requires municipalities to develop a business case study and conduct stakeholder consultation. The Creative Communities Team, in partnership with Economic Development staff began stakeholder meetings in late March/early April 2024 and met one-on-one with hotels and motels in Whitby to discuss and collect feedback on the Municipal Accommodation Tax. Follow-up emails were then sent out to the accommodation partners. A public notice was issued and the webpage whitby.ca/municipalservicescorporation was created for a short duration, as defined under the legislation.

Once the MAT is approved, a webpage specific to the accommodation tax will be created with information and frequently asked questions for both accommodation providers and visitors. The ORHMA will also host a training session in early June for accommodation providers on the MAT and how to remit.

7. Input from Departments/Sources:

The MAT Report and By-Law have been developed in partnership with staff from Strategic Initiatives, Financial Services and Legal and Enforcement Services.

8. Strategic Priorities:

In Whitby's Community Strategic Plan (CSP) 2023 – 2026, tourism is identified in the vision statement with the word explore. Improving the waterfront was highlighted by residents as the most important action to support the Whitby Economy. Action 1.2.2 in Strategic Pillar 1: Whitby's Neighbourhoods, the plan focuses on the need to enhance Whitby's culinary and live music sectors through collaborative partnerships. Action 3.1.3 identifies actions to enhance Whitby's tourism sector, with a focus on the waterfront. The Tourism Strategy builds upon these existing priorities and work plan alignment to ensure the pillars of the CSP are advanced. This project aligns with Goal 1, Action 1.2.4 explore potential funding streams for tourism initiatives (Municipal Accommodation Tax) of Destination Whitby - Tourism Strategy 2022 – 2025.

Tourism efforts in Accessibility and Sustainability are outlined in specific actions of the Tourism Strategy including Goal 3 – Building capacity for community tourism. Specific examples include investing and establishing a well signed, publicly accessible washroom in Downtown Whitby. The Whitby Food Guide was digitalized to allow for better accessibility. Action 2.1.4 under Objective 2, Goal 1 building Visitor Readiness identifies the need to invest in helping local businesses and stakeholders become "tourism ready" through online resources and training including the Safe Travels Stamp certification and the Green Step Sustainable Tourism certification program. The introduction of a Municipal Accommodation Tax will allow some of these actions to be funded as well as introduce new opportunities.

9. Attachments:

Attachment 1 – Draft By-law Municipal Accommodation Tax

Attachment 2 – Business Case Study: Whitby Tourism Development Corporation



Town of Whitby

By-law # Insert Number

Municipal Accommodation Tax By-law

Being a By-law to establish a Municipal Accommodation Tax.

Whereas subsection 400.1(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 ("Municipal Act") provides that a local municipality may, by by-law, impose a direct tax in respect of the purchase of transient accommodation within the municipality; and,

Whereas pursuant to section 400.1 of the Municipal Act and Ontario Regulation 435/17 (Transient Accommodation Tax) under the Municipal Act, Council wishes to establish a municipal accommodation tax rate to levy on the purchase of transient accommodation within the town of Whitby; and,

Whereas pursuant to subsection 400.1(3) of the Municipal Act, Council may establish and use such enforcement measures as Council considers appropriate if an amount assessed for outstanding tax, penalties or interest remains unpaid after it is due.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

- 1.1. "Accommodation" means Lodging, and the right to use Lodging, that is provided for consideration, whether or not the Lodging is actually used.
- 1.2. "Books and Accounts" includes books, accounts, bills, receipts, invoices, financial statements, and records in any format.
- 1.3. "By-law" means this by-law and any amendments made thereto.
- 1.4. "Establishment" means the physical location, a building or part of a building that provides Accommodation.
- 1.5. "Lodging" includes:
 - a. the use of a bedroom, a suite of rooms containing a bedroom, or the use of a bed within a bedroom, domicile, or other physical location; and,
 - b. the use of one or more additional beds or cots in a bedroom or suite.
- 1.6. "Multiple Offence" means an offence in respect to two (2) or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of this By-law.
- 1.7. "Municipal Accommodation Tax" means the tax imposed under this By-law.
- 1.8. "Person" includes an individual, a corporation, a partnership, a sole proprietorship, a trust, a joint venture, an association or any other organization or entity of any kind and their respective heirs, executors, administrators, successors, assigns or other legal representatives of a person to whom the context can apply according to law.

- 1.9. "Provider" means a Person who sells, offers for sale, or otherwise provides Accommodation, and includes agents, hosts or any others who sell, offer for sale or otherwise provide Accommodation. Where a Provider cannot be easily determined, the owner of a property providing Accommodation is deemed to be the Provider.
- 1.10. "Purchase Price" means the price for which Accommodation is purchased, including the price paid and other consideration accepted by the Provider in return for the Accommodation provided, including all fees and surcharges for additional occupants and beds, but does not include the harmonized sales tax imposed by the Government of Canada or by the Province of Ontario.
- 1.11. "Purchaser" means a Person who purchases Accommodation.
- 1.12. "Town" means The Corporation of the Town of Whitby.
- 1.13. "Town Solicitor" means the Commissioner of Legal and Enforcement Services/Town Solicitor, or their designate.
- 1.14. "Treasurer" means the Commissioner, Financial Services/Treasurer, or their designate.

2. Application

- 2.1. Subject to the exemptions set out in section 3.1 of this By-law, a Purchaser shall, at the time of purchasing Accommodation, pay the Municipal Accommodation Tax in the amount of four per cent (4%) of the Purchase Price of Accommodation provided for a continuous period of twenty-nine (29) days or less, but greater than four (4) hours, provided in a hotel, motel, motor hotel, lodging house, inn, resort, or hostel. For greater certainty, the continuous period is not disrupted by the purchase of different rooms, suites, beds, or other Lodging in the same Establishment in the course of the continuous period.

3. Exemptions

- 3.1. The Municipal Accommodation Tax does not apply to Accommodation provided by:
- a. the Crown, every agency of the Crown in right of Ontario, and every authority, board, commission, corporation, office or organization of persons a majority of whose directors, members or officers are appointed or chosen by or under the authority of the Lieutenant Governor in Council or a member of the Executive Council;
 - b. every board as defined in subsection 1(1) of the *Education Act*;
 - c. every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not

affiliated with a university, the enrolments of which are counted for purposes of calculating operating grants entitlements from the Crown;

- d. every hospital referred to in the list of hospitals and their grades and classifications maintained by the Minister of Health and Long-Term Care under the *Public Hospitals Act* and every private hospital operated under the authority of a licence issued under the *Private Hospitals Act*;
- e. every long-term care home as defined in subsection 2(1) of the *Fixing Long-Term Care Act, 2021* and every hospice;
- f. a hotel or motel used by the Town or its service providers for shelter purposes;
- g. a treatment centre that receives private funding or provincial aid under the *Ministry of Community and Social Services Act*;
- h. a house of refuge or Lodging for the reformation of offenders;
- i. a “lodging house” as defined in the Town’s Business Licensing By-law #5545-04, as amended;
- j. a charitable, non-profit philanthropic corporation organized as shelter for the relief of the poor or for emergency;
- k. a tent or trailer site supplied by a campground, tourist camp or trailer park;
- l. employers to their employees in premises operated by the employer;
- m. a hospitality room in an establishment that may or may not contain a bed and is used for displaying merchandise, holding meetings or entertaining; or,
- n. group bookings with contracts that are entered into prior to the date that this By-law takes effect.

4. Collection and Remittance

- 4.1. A Provider shall collect the Municipal Accommodation Tax from the Purchaser at the time the Accommodation is purchased.
- 4.2. A Provider shall identify the amount of the Municipal Accommodation Tax as a separate item on a bill, receipt, invoice or similar document issued by the Provider in respect of the Accommodation on which the tax is imposed and shall identify the item as “Municipal Accommodation Tax”.
- 4.3. A Provider shall be responsible for the collection and remittance of HST directly to the Government of Canada and/or the Province of Ontario.

- 4.4. A Provider shall, on or before the fifteenth (15th) day of the month, remit to the Town, or its tax collection agent, the amount of the Municipal Accommodation Tax collected for the previous month and shall submit monthly statements in a form required by the Town which details the number of Accommodations sold, the Purchase Price of each Accommodation, the amount of the Municipal Accommodation Tax collected and any other information as required by the Town of the purposes of administering and enforcing this By-law.
- 4.5. The Treasurer shall charge a fee for all payment remittances that are not honoured by the financial institution upon which it is drawn in an amount as set out in the Town's Fees and Charges By-law # 7220-17, as amended.

5. Delegation of Authority

- 5.1. The Treasurer is authorized to administer and enforce this By-law, including approvals and collection, and to instruct the Town Solicitor to take such legal action as may be considered appropriate.

6. Tax Collection Agent

- 6.1. The tax collection agent for the Town under this By-law is the Person who is designated in an agreement with the Town to collect the Municipal Accommodation Tax as an agent for the Town.
- 6.2. The Treasurer, in consultation with the Town Solicitor, may designate additional tax collection agents for the Town and is delegated the authority to enter into agreements with such designated tax collection agents.
- 6.3. The tax collection agent(s) shall collect and administer the Municipal Accommodation Tax as an agent for the Town in accordance with this By-law and the agreement between the Town and that tax collection agent.

7. Liens

- 7.1. All Municipal Accommodation Tax, interest, and penalties that are past due will be deemed to be in arrears and may be added to the tax roll for any real property in the town of Whitby that is registered in the name of the Provider to be collected in the same manner as property taxes and will constitute a lien upon the lands, but such lien will not be a priority lien for the purposes of subsections 1(2.1), (2.2) and (3) of the Municipal Act and such lien will not have a higher priority than it would otherwise have in law in relation to other claims, liens or encumbrances.

8. Audit and Inspection

- 8.1. A Provider shall keep all Books and Accounts that are sufficient to furnish the Town, or its representative with the necessary particulars of sales of

Accommodations and the amount of the Municipal Accommodation Tax collected, payable and remitted, for no less than seven (7) years from the date of the sale of the Accommodation.

8.2. A Provider shall permit the Town, or its representative, at all reasonable times, entry into any premises where any business is carried on, where any property is kept, where anything is done in connection with any business, or where any Books and Accounts are or should be kept and shall permit the Town or its representative to audit and inspect all Books and Accounts of the Provider. A Provider shall produce copies of any Books and Accounts that may be required by the Town or its representative for the purposes of administering and enforcing this By-law.

8.3. A Provider shall:

- a. give the Town or its representative all reasonable assistance with the audit or inspection;
- b. answer all questions relating to the audit or inspection either orally or, if the Town requires, in writing, on oath or by statutory declaration; and,
- c. attend at the premises with the Town or its representative for the purposes of giving reasonable assistance and answering questions relating to the audit or inspection.

8.4. A Provider shall comply with a written demand from the Town or its representative for information or for the production on oath or otherwise of any Books and Accounts as the Town or its representative considers necessary to determine compliance with this By-law. A Provider in receipt of such a demand shall comply with the demand within the time specified in the demand.

9. Determination of Amount

9.1. The Treasurer may determine an amount of the Municipal Accommodation Tax that is required to be remitted, together with any interest imposed upon any Municipal Accommodation Tax that is outstanding, if a Provider who is responsible for the payment or remittance of the Municipal Accommodation Tax fails to pay or remit as required by this By-law.

9.2. The Treasurer may impose an interest charge of one and one-quarter per cent (1.25%) of the Municipal Accommodation Tax that is outstanding on the first day of each month and subsequent months until the Municipal Accommodation Tax is paid in full.

9.3. The Treasurer may assess or reassess for any Municipal Accommodation Tax that is payable by the Provider within three (3) years from the day the Municipal Accommodation Tax was remittable, except that where the

Treasurer establishes that a Provider has made any negligent or wilful misrepresentation or has committed any fraud in supplying, or omitting to supply, any information under this By-law, then the Treasurer may assess or reassess, for any time that the Treasurer considers reasonable, the Municipal Accommodation Tax payable.

- 9.4. A Provider shall pay the amount of the Municipal Accommodation Tax and any interest set out in the notice of calculation made under this section 9 of this By-law within thirty (30) days from the date of mailing of the notice of calculation.

10. Offences and Penalties

10.1. Every Person is guilty of an offence under this By-law who:

- a. makes, participates in, assents to or contributes in the making of false or deceptive statements in a report, statement, form or other document that is prepared, submitted or filed under or for the purposes of this By-law;
- b. destroys, alters, mutilates, hides or otherwise disposes of any Books and Accounts in order to evade payment or remittance of any amounts owing under this By-law;
- c. makes, participates in, assents to or contributes in the making of false or deceptive entries, including omitting to enter an entry, in any Books and Accounts;
- d. hinders, obstructs or interferes with any audit or inspection conducted by the Town or its representative under this By-law;
- e. willfully, in any manner, evades or attempts to evade:
 - I. paying the Municipal Accommodation Tax;
 - II. remitting the Municipal Accommodation Tax; or,
 - III. otherwise complying with this By-law; or,
- f. conspires with any other Person to commit an offence described in subsections 10.1 (a) through (e) of this By-law.

10.2. Any Person who is guilty of an offence under this By-law is liable as follows:

- a. upon a first conviction, a fine of not less than \$300.00 and not more than \$50,000.00 if the Provider is a Person other than a corporation, and not less than \$500.00 and not more than \$100,000.00 if the Provider is a corporation;
- b. upon a second or subsequent conviction for the same offence, a fine of not less than \$500.00 and not more than \$100,000.00;

- c. upon conviction for a continuing offence, a fine of not less than \$500.00 and not more than \$10,000.00 for each day or part of a day that the offence continues and the total of all of the daily fines for the offence is not limited to \$100,000.00; and,
- d. upon conviction for Multiple Offences, for each offence included in the Multiple Offence, a fine of not less than \$500.00 and not more than \$10,000.00 and the total of all fines for each included offence is not limited to \$100,000.00.

11. General

11.1. If any section or portion of this By-law is found by a court of competent jurisdiction to be invalid, illegal, unenforceable or of no force and effect, then it is the intention of Council that all remaining sections and portions of this By-law continue in force and effect to the fullest extent possible according to law.

11.2. This By-law may be referred to as the “Municipal Accommodation Tax By-law”.

12. Effective Date

12.1. This By-law shall come into force and take effect on July 1, 2024.

By-law read and passed this Select date day of Insert Month, Year.

Appendices

Appendix 1

Text

Appendix 2

Text

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk

Tourism Municipal Services Corporation

1.0 Purpose

The Town of Whitby proposes to incorporate a not-for-profit municipal services corporation to be named "Whitby Tourism Development Corporation" ("Corporation") to serve as the eligible tourism entity for the purposes of the municipal accommodation tax and the promotion of tourism in Whitby.

This Business Case Study provides information on the benefits of establishing the Corporation and a proposed governance framework for the Corporation. Specifically, this document:

1. Sets out the objectives of the Corporation and its mandate, guiding objectives, governance structure, funding sources, accountability, reporting and implementation strategy; and
2. Has been prepared according to section 6 of Ontario Regulation 599/06 (Municipal Services Corporations) of the *Municipal Act, 2001* (Ontario).

2.0 Defined Terms

Eligible Tourism Entity is a non-profit entity whose mandate includes the promotion of tourism in Ontario or in a municipality and may include the development of tourism products.

Municipal Accommodation Tax (MAT) is a tax on the purchase of transient accommodation in the municipality which funds tourism promotion and other projects that will benefit the local economy.

Municipal Services Corporation (MSC) is a corporation that is established by a municipality or by a municipality and one or more other public sector entities and whose purpose is to provide a system, service, or thing that the municipality itself could provide.

Ontario Restaurant Hotel & Motel Association (ORHMA) is the largest provincial hospitality association in Canada that represents members of more than 11,000 establishments across the province.

Tourism Municipal Services Corporation

Transient Accommodation is accommodation for a continuous period of stay of 29 nights or less; this continuous period is not disrupted by the purchase of different rooms, suites, beds or lodging in the same licensed establishment, such as a hotel, motel or bed and breakfast.

3.0 Background

Tourism is the movement of visitors to countries or places and all activities that visitors engage in when travelling outside their usual environment. A visitor is someone who takes an overnight out-of-town trip or an out-of-town same-day trip and travels more than 40 kilometres for leisure, business, or other purposes. Commuting to work or school, being on a diplomatic mission, going shopping as part of a regular activity, and going to regular appointments for doctors or religious ceremonies do not count as a visitor. For international visitors, it also excludes students who stay in Canada for 75 or more nights.

Tourism plays a significant economic, social, and cultural role in communities across Ontario and provides benefits to local businesses and residents.

The Province of Ontario developed the Municipal Accommodation Tax (“MAT”) as a funding source to support tourism in communities and allow growth in the sector so that tourism continues to contribute to economic, social, and cultural development across Ontario.

Under Ontario Regulation 435/17 (Transient Accommodation Tax) of the *Municipal Act, 2001* (Ontario), the Town must share a minimum of 50% of MAT revenues (less the Town’s reasonable costs of collecting and administering the tax) with an entity that is designated as an Eligible Tourism Entity.

As of 2024, Whitby does not have an Eligible Tourism Entity as mandated by Ontario Regulation 435/17. Therefore, the Town proposes to establish a not-for-profit Municipal Services Corporation (“MSC”) to serve as the Eligible Tourism Entity in Whitby.

Ontario Regulation 599/06 requires the Town to prepare a Business Case Study for the proposed corporation and obtain approval of the Business Case Study by Council Resolution.

Tourism Municipal Services Corporation

This Business Case Study is presented to fulfill the requirements of Ontario Regulation 599/06.

3.0 Mandate and Objectives

Since the fall of 2020, Tourism has been part of the Creative Communities section in Strategic Initiatives, which also includes culture, events, and downtown development. Whitby's Culture Plan 2021 – 2031 identified a key action to develop a community-driven tourism strategy that leverages cultural and heritage assets, creates a distinctive identity, and supports eco-tourism and local food.

In March of 2021, just as the COVID-19 pandemic has reshaped the tourism industry, the Creative Communities section set out to formulate the tourism strategy to support local businesses and stakeholders. Central Counties Tourism was retained to help develop a four-year strategy, and in May of 2022, Council adopted Destination Whitby – Tourism Strategy 2022 – 2025 ("Tourism Strategy").

The Tourism Strategy provides a framework for businesses, local government, and residents to leverage the visitor economy and grow Whitby as a visitor-ready and welcoming destination. It is a strategy to guide the municipality in future tourism support, promotion, planning, and destination development. One of the actions in the Tourism Strategy recommended the implementation of the MAT. In addition, the Community Strategic Plan recognized promoting tourism as a top priority. Additionally, there is an action item under Whitby's Economy that focuses on advancing Whitby's tourism sector.

The actions and objectives from these strategies have been carried out by the Creative Communities section operating under the brand "Explore Whitby" and "Discover Something New to Enjoy."

The mandate of the Corporation (serving as the Eligible Tourism Entity in Whitby) will be the promotion of tourism in alignment with the Tourism Strategy and the Community Strategic Plan. With the proposed implementation of the MAT, funding will be accessible to support the Tourism Strategy, the Community Strategic Plan, and related tourism initiatives moving forward.

The following objectives will guide the Corporation in decision making throughout the Corporation's lifecycle irrespective of changes in leadership, goals, strategies and

Tourism Municipal Services Corporation

activities:

- a) The Corporation will act as steward and receiver of funds from the MAT;
- b) The Corporation's business plan and/or guiding documents will be the Tourism Strategy and the Community Strategic Plan, including all updates;
- c) The Corporation will engage in tourism promotion and tourism product development in Whitby;
- d) The Corporation will act as a vehicle for moving funding to third parties that enhances, but does not replace, existing municipal funding;
- e) The Corporation will report to Council at least once a year or as otherwise stipulated in the Corporation's by-laws; and
- f) The Corporation will undertake its work based on objective decision-making processes that are accountable and transparent, resulting in town-wide benefits.

4.0 Analysis

4.1 Benefits of a Municipal Services Corporation

The benefits of the Town establishing the Corporation include:

- a) Satisfying the Province's requirement for a non-profit tourism entity to serve as an Eligible Tourism Entity that utilizes a minimum of 50% of the MAT revenues;
- b) Adopting a MSC model, which provides accountability, corporate responsibility, and reasonable controls through the role of the voting member; and
- c) Ensuring Council, as sole voting member, will be responsible for electing the Board of Directors (which may include staff representatives) that establish the governance framework for business plans, expenditures and corporate policies.

The benefits of establishing a MSC extend beyond that of tourism development. MSCs often conduct business in a manner that meets the private sector requirement of timely, efficient and effective decision making.

As no Eligible Tourism Entity currently exists in the local market, the Town is best positioned to advance the work of the MAT through the MSC model.

4.2. Governance Structure and Incorporation

Tourism Municipal Services Corporation

To proceed with the establishment of the Corporation, the Town must submit an application to the Province to incorporate a not-for-profit corporation under the *Not-for-Profit Corporations Act, 2010* (Ontario). The Corporation will be created by way of articles of incorporation which will be drafted by the Town's Legal Services Department.

The application will include the following information:

- a) **Name of the Corporation:** Whitby Tourism Development Corporation (if such name is available on the date of incorporation).
- b) **Address of the Head Office:** 575 Rossland Road East, Whitby, Ontario L1N 2M8
- c) **Incorporators:** Staff propose the following positions to be the incorporators who will act as first directors of the Corporation:
 - Member of Council, as appointed by the Mayor
 - Director, Strategic Initiatives.
 - Commissioner, Financial Services and Treasurer
 - Sr Manager, Economic Development
 - Program Manager of Tourism, Culture and Events
- d) **Objects of the Corporation** include the delivery of, and support for, tourism promotion in Whitby.
- e) **Special Provisions** include limiting the provision of services to members, no director remuneration, and distribution of assets upon dissolution.

Once incorporated, the Board of Directors will have oversight and critical decision-making roles concerning the operation of the Corporation. Staff will bring a report back to Council in Q4 2024 with final recommendations relating to the composition of the Board of Directors, corporate by-laws, financial accountability agreement, asset transfer policy, budget, and other details to bring the organization to a stage of operation.

Once the board members have been established, the incorporators will be invited to attend meetings and continue a relationship with the Board of Directors in an

Tourism Municipal Services Corporation

advisory (non-voting) capacity. The Tourism and Culture Coordinator will continue to support the Board of Directors, as required, until an administrative support person is found.

4.3 Funding, Budget, and Collection of Municipal Accommodation Tax (MAT) Funds

4.3.1 Financial Impact of MAT

It is anticipated that the MAT, which is proposed to be imposed at 4%, will generate approximately \$350,400 in annual new revenue to the Town. The total generated will be divided equally between the Town and the Corporation less the Town's reasonable costs of collecting and administering the MAT. This revenue will grow in the long-term if the projected new hotels become operational and the short-term rentals are taxed by the Town.

4.3.2 MAT Reserve Fund

With the implementation of the MAT, staff will ask Council to approve the establishment of a discretionary reserve fund to receive the Town's portion of the MAT revenue.

4.3.3 Corporation Annual and Multi-Year Operating Budget

The Corporation will be funded from a minimum of 50% of the proceeds of the MAT revenues. As is the case with the Town, the Corporation will develop a discretionary reserve fund. The creation and management of an annual operating budget and multi-year operating budget will be the responsibility of the Corporation's Board of Directors. The budget for operating costs may include general administration and office costs of accounting services, audit services, phone, computer software, internet, and other contractual and professional services (municipal tourism staff services, etc.). The Corporation will report audited financial statements at its annual meeting.

4.3.4 Loan from the Town for Startup Costs

The nominal cost to establish the Corporation, such as incorporation fee, purchase of accounting software, and staff costs to perform financial and/or administrative duties of the Corporation, will be funded by the Town through a loan to be repaid by the

Tourism Municipal Services Corporation

Corporation or once the Corporation receives MAT revenues. Staff will bring back a recommended loan amount in Q4 2024 for Council's consideration.

4.3.5 Financial Accountability Agreement

The Corporation will enter into an agreement with the Town respecting reasonable financial accountability matters to ensure that amounts paid to the Corporation are used for the sole purposes of promoting tourism and developing or enhancing tourism products. In addition, the agreement may provide for other matters.

4.3.6 Collection of Funds

Licensed accommodation providers will be responsible for the collection of the MAT. They will then remit these collections to the Ontario Restaurant Hotel & Motel Association ("ORHMA").

The reasonable costs of collecting and administering the MAT would be deducted from the total MAT collected by ORHMA before remittance of the MAT to the Town. Following receipt of the remaining MAT from ORHMA, the Town will remit a minimum of 50% of the remaining MAT to the Corporation pursuant to the requirements of Ontario Regulation 435/17.

4.4 Accountability and Reporting

The Town's Tourism Strategy and Community Strategic Plan will serve as the guiding documents for the Corporation.

It is anticipated that reporting to Council by the Corporation would take place at least once a year or as otherwise stipulated in the Corporation's by-laws.

5.0 Conclusion

The Business Case Study for a new municipal services corporation that is mandated to promote tourism, in alignment with the Tourism Strategy and the Community Strategic Plan, is established based on Ontario Regulation 599/06 and Ontario Regulation 435/17. The Corporation will allow the Town to enhance its leadership role in establishing Whitby as a tourism destination.

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Procedure By-law Review

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: CLK 04-24

Department(s) Responsible:

Office of the Town Clerk

Submitted by:

Christopher Harris, Town Clerk

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

Christopher Harris, Town Clerk
Kathryn Douglas, Sr. Legislative
Specialist
Kevin Narraway, Deputy Clerk

1. Recommendation:

1. That the Clerk be directed to bring forward a revised Procedure By-law, as appended to Report CLK 04-24 as Attachment 1, which provides improved formatting, structure, and ease of reference;
2. That the revised Procedure By-law contain the following substantive revisions versus the current rules of procedure, based on feedback from the consultation sessions held with Members of Council:
 - a. an increased submission deadline for notices of motion, requiring Members to provide the Clerk with the topics of proposed motions 10 days in advance of meetings to allow the topics to be shared with all Members of Council prior to agenda publication;
 - b. revised meeting start times of 5:30 p.m. for Committee of the Whole, 6:30 p.m. for Planning Public Meetings, and 7:00 p.m. for Regular Council to be effective following the 2024 Council Summer Recess, noting that between 5:30 and 7:00 p.m. prior to Regular Council meetings will be reserved for Special Council meetings;

- c. defined meeting adjournment times, requiring Chair review at 10:30 p.m., with all meetings ending at 11:00 p.m. with no further ability to debate or extend the adjournment time, noting that matters not considered prior to the adjournment will be deferred to the next applicable meeting instance;
- d. hearing of delegates only at Committee of the Whole meetings, unless a matter is being considered at a Regular Council meeting that was not previously considered at a Committee of the Whole meeting, or in instances where the effect of the Staff recommendation is altered by Council at Committee of the Whole;
- e. a registration deadline for delegates of 8:00 a.m. on the day of a meeting, allowing members of the public to review agendas over the weekend prior to a meeting and to accommodate the revised Rules of Procedure that only allow delegations at Council for new matters or where the Staff recommendation was altered;
- f. clarification regarding the role of the Chair, noting that the Chair has the responsibility to summarize discussion points raised by delegates, refer questions from delegates to Staff at the appropriate point of a meeting, and has overall responsibility to manage questions from Members to delegates;
- g. clarification regarding the types of questions Members may pose to delegates, noting that questions may only seek to clarify discussion points raised by delegates that are unclear, and not expand the scope of a delegate's remarks or to summarize their comments;
- h. food shall continue to be prohibited in Council Chambers, however Members of Council shall be permitted to consume water and other drinks (e.g., coffee, tea, pop, etc.) noting that beverages consumed on the dais shall be in the provided drinkware;
- i. a general seating plan for Members of Council for Committee of the Whole and Council meetings, as detailed in Attachment 2 to Staff Report CLK 04-24; and,
- j. that the past practice of requiring Members to Stand while speaking at Council meetings be eliminated.

2. Highlights:

- Further to Council's direction at the March 18, 2024 Regular Council meeting, this report introduces proposed revisions to the Council and Committee Rules of Procedure ("Procedure By-law") for Council's consideration with the goal of

improving meeting efficiency, enhancing public participation, and clarifying existing rules and practices.

- A comprehensive review of the Town's current Procedure By-law # 7462-18, as amended, was conducted, including an environmental scan of comparator municipalities and consultation with Members of Council ("Members").
- The proposed Procedure By-law (Attachment 1) includes substantive revisions as identified in the Report recommendations. Other administrative and minor revisions to the by-law are as noted within this Report. Changes to the current Procedure By-law are shown in the proposed By-law in marked-up text, noting that changes to formatting and structure are not shown for ease of review.

3. Background:

Section 238 (2) of the Municipal Act, 2001, S.O. 2001, c. 25 ("Municipal Act") requires every municipality to pass a procedure by-law for governing the calling, place, and proceedings of meetings.

On March 18, 2024, Council directed a comprehensive review of the Procedure By-law through Resolution #49-24:

"That the Clerk be directed to undertake a comprehensive review of the Procedure By-law and report to Council prior to summer recess 2024 with recommended amendments based on an environmental scan of comparator municipalities and consultation with Members of Council; and,

That the procedural matters to review include but not be limited to Council remuneration, appointments to advisory boards and committees, assigned seating in Council Chambers, delegations, meeting start and end times, notices of motion, speaking limits, and the appointment of a Deputy Mayor, with the goal of addressing meeting efficiency and enhancing public participation."

As part of the comprehensive review, Members of Council were interviewed based on their experiences in meetings to obtain feedback on the current Procedure By-law and proposed changes. Additionally, an environmental scan of comparator municipalities took place, including the review of the Procedure By-laws for the Region of Durham, Town of Ajax, City of Oshawa, City of Pickering, Town of Newmarket, and City of Burlington.

4. Discussion:

The proposed Procedure By-law revisions are summarized in Sections 4.1 to 4.6 below. The draft By-law identifies proposed changes and includes notes that highlight where strong mayor powers, as prescribed by Part VI.1 of the Municipal Act, intersect with the Procedure By-law provisions.

4.1. Notices of Motion

The current Procedure By-law states that a Notice of Motion must be submitted to the Clerk with finalized wording by noon on the Wednesday prior to the meeting date, which is generally the day Council meeting agendas are published. The proposed By-law includes a provision requiring Members to identify the topic of a Notice of Motion 10

days in advance of a meeting to allow the Clerk to share the topic of the motion with all Members for their awareness in advance of the publication of a meeting agenda. 10 days in advance would be two Fridays before a Monday meeting. There is no proposed change to when a Notice of Motion needs to be finalized. The deadline for finalized Notices of Motion will remain at noon on the Wednesday prior to the meeting. This change will allow Members to be aware of the topics of Notices of Motion prior to agendas being published and receiving inquiries from constituents who may review meeting agendas shortly after publication, prior to Members having capacity to review themselves. A 10-day notice period for Notices of Motion aligns with the current practices at the City of Pickering and Town of Ajax.

Staff have not recommended any changes to the provisions around introducing a motion for urgent business. Members may continue to introduce a motion under New and Unfinished Business, with the consent of Two-Thirds Majority of Members, which due to its urgent nature cannot be properly presented at a Meeting of Council in accordance with the notice provisions discussed above.

4.2. Meeting Start and End Times

Members of Council and Staff have expressed a desire to commence and conclude Council and Committee meetings at times that allow for coherent and productive discussions and decision making. The current Procedure By-law does not speak to meeting start times, which have historically been set at 7:00 p.m. through the annual Council approval of the following year's meeting schedule. The current Procedure By-law requires a majority vote to continue meetings past 11:00 p.m. and a Two-Thirds vote to continue past 11:30 p.m. Except for one meeting in late 2023, the Clerk's Office is not aware of any other instances in recent memory where Council has not voted to extend a meeting's adjournment past 11:00 p.m. and 11:30 p.m.

The proposed Procedure By-law includes meeting start times of 5:30 p.m. for Committee of the Whole and 6:30 p.m. for Public meetings, while Council meetings would continue to be scheduled for 7:00 p.m. From 5:30 p.m. to 7:00 p.m. on the day of a Regular Council meeting will be reserved for scheduling Special Council meetings for education and training or closed session matters. The recommendation provides that the 2024 Council and Committee Calendar be republished to include the revised start times effective following the 2024 Council Summer Recess.

A review of historic trends from 2021 to present was conducted to determine the average number of Special Council meetings held prior to regularly scheduled 7:00 p.m. Committee of the Whole or Regular Council meetings. On average, a Special Council meeting was held prior to 50% of Committee of the Whole meetings and 70% of Regular Council meetings, meaning that Council business generally begins at 5:30 p.m. or 6:00 p.m. for the majority of meeting instances.

It is not anticipated that changes to meeting start times will significantly impact existing schedules for Members and Staff who are currently required to attend Special Council meetings prior to Committee of the Whole and Regular Council meetings. Earlier meeting start times will improve Council's ability to address Committee of the Whole agenda items in a timely manner so meetings may conclude earlier in the evening. The

start time for Regular Council meetings is proposed to remain unchanged at 7:00 p.m. in order to have time available for education and training or closed meetings, but also because Council meetings are generally not as lengthy given that most delegations along with the initial discussion of a matter occurs at Committee of the Whole.

A number of comparator municipalities commence their Council and Standing Committee meetings at various times in the morning or afternoon; however, many Members of Council have existing commitments during the daytime that precludes meetings during these times. Given that local Councillor positions are considered part-time positions, some Members have other employment responsibilities that prevent attendance at daytime meetings.

A majority of Members provided feedback regarding challenges with engaging in productive discussions and decision making when meetings continue late into the evening, which has become a more common occurrence in recent years. Further, Members noted challenges for Staff and barriers to public participation when meetings run late. To address this, defined meeting adjournment times for Council and Committee of the Whole meetings have been included in the proposed By-law. The proposed By-law indicates that the Chair will be responsible for reviewing outstanding agenda items at 10:30 p.m., and then presenting a plan to Members for how remaining items of business may be considered prior to adjournment, with meetings automatically adjourning at 11:00 p.m. with no ability to extend the adjournment time. At the discretion of the Mayor or Chair, and subject to the consensus of Members, all or select remaining business may be presented to Members as Consent Items to be considered without debate. Matters not considered prior to adjournment will be deferred to the next applicable meeting instance. The proposed Procedure By-law provides that a motion to suspend the rules to waive the automatic adjournment would not be in order.

4.3. Delegations

The following recommended changes to the Procedure By-law concerning delegations aim to balance community engagement and meeting efficiency.

Delegation Speaking Limits

Most comparator municipalities align with the Town's current provisions providing a 5-minute speaking limit for delegates with the ability to extend the time limit through a vote of Council.

Members were generally supportive of maintaining the five-minute speaking limit with the continued ability to extend through a Two-Thirds Majority vote, with an individual Member suggesting limiting the ability to extend to a one-time extension of two minutes.

No proposed changes to speaking limits for delegates are proposed.

Permitted Meeting Types

Delegations will continue to be permitted to speak only to items that are listed on an agenda with a proposed change that delegations only be heard at Committee of the Whole meetings and not at Regular Council. An exception to this will allow delegates to address Council with respect to an item on a Council meeting agenda that was not

previously considered at Committee of the Whole, or in instances where the effect of the staff recommendation has been altered by Committee. The importance of allowing delegates at Council when a staff recommendation presented at Committee is modified was raised by several Members who referenced a similar scenario with a recent planning application. In that instance, it was observed that members of the public did not register to speak to the planning application at Committee of the Whole as they had reviewed and were in favour of the staff recommendation. However, when the staff recommendation was modified in a way that some residents were no longer in favour, Members felt that those residents should have the ability to appear at Council despite not having addressed Committee.

Feedback from Members of Council varied on this topic, with some Members feeling strongly that delegations should continue to be allowed at Committee and Council, while others identified that hearing the same delegates again at Council was unnecessary as the same or very similar opinions and viewpoints were often expressed. With the goal of the Procedure By-law review being to balance community engagement and meeting efficiency, Staff have recommended the proposed changes to hearing delegations for the following reasons:

- After addressing Committee, the public is still able to contact Council outside of the formal meeting process by correspondence, which is circulated on the correspondence agenda, or by phone or email directly to their Member of Council should they wish to further engage their representatives on the matter;
- The public appearing at Committee and Council to state the same or very similar views twice is not aligned with the stated goal of improving meeting efficiency; and,
- The proposal to allow delegations at Council for new items not previously considered at Committee of the Whole, or when the recommendations presented at Committee are altered, aligns with the intended purpose of Council meetings ensuring a 'sober second thought' of decisions adopted at Committee while acknowledging that the public is less likely to speak to an item if they have no concerns with the recommendation presented.

Registration Deadlines

Currently, Committee of the Whole delegates are requested to register by 10:00 a.m. on the day of the Meeting and those wishing to delegate at a Regular Council meeting are requested to register by noon on the Wednesday prior to the meeting.

A standardized registration deadline for Council and Committee meetings of 8:00 a.m. on the day of a meeting is proposed. This standardized change will improve clarity for members of the public regarding registration deadlines and allows interested parties to review the agenda over the weekend prior to the meeting. Additionally, the proposed change will help ensure that the agenda is republished in a timely manner on Monday morning, allowing Members to see the list of registered delegates earlier in the day. The proposed deadline also aligns with the revised procedures that only allow delegations at Council for new matters and where the Staff recommendation was altered at Committee.

Questions from Members to Delegates

The revised By-law seeks to clarify the types of questions Members may pose to delegates and aims to ensure that questions are stated succinctly. Questions may only seek to clarify discussion points raised by delegates that are unclear, and not expand the scope of a delegate's remarks or to summarize their comments. For example, questions such as "are you aware", "do you agree", or "wouldn't you say" will not be permitted as they do not seek clarification. The proposed changes closely align with the current practices of several comparator municipalities, many of which provide specific examples of prohibited question types.

During the consultations with Members, some indicated a desire to provide the Chair greater authority to address questions from Members that are out of order. The proposed by-law seeks to clarify the role of the Chair, indicating that the Chair has the responsibility to summarize discussion points raised by delegates, refer questions from delegates to Staff at the appropriate point of a meeting, and has overall responsibility to manage questions from Members to delegates.

4.4. Speaking Limits for Members of Council

The proposed Procedure By-law does not include any changes to speaking limits for Members of Council. Members will continue to be permitted to speak to the same item or motion, or in reply, for no longer than 5 minutes at both Committee of the Whole and Council meetings. Additionally, Members will continue to be limited to speaking once to items at Council, with no limit applied at Committee of the Whole.

4.5. Deputy Mayor

Provisions concerning the method of appointment and roles and responsibilities of the Deputy Mayor will be considered by Council through a separate Staff Report which will propose the adoption of a standalone Deputy Mayor policy. The Procedure By-law provides that the Deputy Mayor, regardless of how Council chooses to appoint going forward, will be the presiding officer when the Mayor is absent. Further, Section 2.3 of Procedure By-law # 7462-18, which provides that every Regional Councillor shall serve one calendar year during the term as Deputy Mayor, will continue to apply until Council considers and approves the standalone policy regarding the appointment process for the Deputy Mayor.

4.6. Miscellaneous***Permitted food and beverage in Council Chambers***

Staff recommend that food continue to be prohibited in Council Chambers, however, Members of Council shall be permitted to consume water and other drinks (e.g., coffee, tea, pop, etc.) noting that beverages consumed on the dais shall be in the provided drinkware. Maintaining the current practice of prohibiting food will alleviate concerns regarding disruptions caused by food consumption during a Council or Committee meeting, while permitting other beverages in addition to water, but within provided drinkware, provides greater flexibility while maintaining the professional appearance of the dais.

Assigned seating in Council Chambers

As depicted in the diagrams included as Attachment 2, Staff are recommending the following Procedure By-law provisions regarding assigned seating for Members of Council:

Council Meetings: Ward Councillors seated on the west side of the dais, in order clockwise from Ward 1 through Ward 4. Regional Councillors seated on the east side of the dais, in order clockwise based on the order of votes received in the last municipal election, from highest to lowest. Mayor and Deputy Mayor seated on the north side of the dais.

Committee of the Whole Meetings: Ward Councillors seated on the west side of the dais, in order clockwise from Ward 1 through Ward 4. Regional Councillors, including the Deputy Mayor (unless appointed as a Chair) seated on the east side of the dais, in order clockwise based on the order of votes received in the last municipal election, from highest to lowest. Mayor and Chairs seated on the north side of the dais.

The effect of this suggested amendment improves clarity for seating around the dais in Council Chambers. The Mayor would have the ability to alter seating for Members in the event an accommodation is required.

Appointments to Advisory Boards and Committees

The Mayor will continue to be responsible for appointing Council designates to Advisory Boards and Committees. While most Members were agreeable to the current procedures, some expressed support for the practices of the Town of Newmarket and Municipality of Clarington. The Council of the Town of Newmarket appoints Members and other representatives to committees, boards, and organizations by vote of Council, while the Municipality of Clarington appoints Members through a vote of Council based on a Member's interest in being appointed to a board or committee.

Composition of the Audit Committee

Staff recommend the following changes to the composition of the Audit Committee to ensure the Committee maintains a three Member composition in the absence of an appointed Budget Chair:

The Audit Committee shall be composed of the Mayor, Deputy Mayor, and the Councillor designated as Chair of Finance/Budget by the Mayor. If the Mayor does not appoint a Chair of Finance/Budget or, if the Deputy Mayor and Chair of Finance/Budget are the same Member, then the Mayor may appoint an alternate Member to serve on the Audit Committee in order to achieve the three Member composition.

Special Powers and Duties of the Mayor

The draft by-law includes notations to account for special powers and duties of the Mayor as prescribed by Part VI.1 of the Municipal Act. These include the Mayor's ability to establish or dissolve Committees and assign functions to Committees consisting solely of Members of Council.

Standing during Council Meetings

The requirement to stand during a Council meeting has been a historical practice. During the consultation, a majority of Members indicated that they are agreeable to eliminating this practice. This change will allow the auto-follow cameras in Chambers to be reprogrammed for tighter shots of each Member as a wider zoom to accommodate both sitting and standing positions will no longer be required. Tighter camera angles will also avoid capturing individuals seated in the background or adjacent to the active speaker. The microphones in Council Chambers are also designed to capture audio from a close, seated range so audio quality will be improved. Additionally, this change will improve the ability for Members to reference their iPad agenda and notes and eliminates barriers to the perceived formality of Council meetings.

Announcement Period

During interviews with Members, a request was received to include a standing heading on the Regular Council meeting agenda to designate an announcement period. It was suggested that Members be allocated a short period of time (perhaps one or two minutes) to provide relevant updates about their Ward, community achievements, local events, and other matters not included on an agenda. An announcement period has not been included in the draft by-law as this proposal was not included in the direction provided to Staff to undertake this review and considering only one Member raised the matter.

Other

Additional amendments have been captured in the proposed By-law to improve clarity and readability and delete reference to inaccurate or outdated information. Notable amendments include:

- Adoption of minutes – The Clerk will not be required to read aloud an entire set of Council minutes prior to their adoption. The proposed By-law also clarifies that Committee minutes are not signed by the Mayor or Clerk, and therefore are not adopted by Council.
- Powers and duties of the Clerk – The Clerk's authority to undertake administrative corrections to any By-law, Motion, Resolution, minutes, or other Council document has been expanded provided that such corrections do not materially alter the intent of the document.
- Quorum and Call to Order – A new provision has been added stating that if quorum is not present within fifteen minutes after the time appointed for a Meeting, the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next regular Meeting or other Meeting called in accordance with the provisions of the by-law.
- Clarification regarding tabling, deferral, referral, and postponement of motions.
- General principles have been added to the by-law and those principles can be referenced to inform procedural rulings. The principles are found in other municipal Procedure By-laws, including the Region of Durham and the City of Toronto.

5. Financial Considerations:

N/A

6. Communication and Public Engagement:

The revised Procedure By-law will be included on the Town's website. Council and Committee meeting agendas will be revised to reflect the updated registration timelines for delegates. The 2024 Council Calendar will be republished with the revised meeting start times pending Council approval.

7. Input from Departments/Sources:

Members of Council were interviewed to obtain feedback on the current Procedure By-law and proposed changes.

8. Strategic Priorities:

The recommendations contained in this report advance pillar four of the Town's Community Strategic Plan, being Whitby's Government – Accountable & Responsive, by identifying opportunities to improve Council and Standing Committee meeting efficiency.

9. Attachments:

Attachment 1 – Draft Procedure By-law

Attachment 2 – Council and Committee Seating Plans



Town of Whitby

By-law # Insert Number

Rules of Procedure By-law

Being a By-law governing the calling, place and proceedings of meetings.

Whereas section 238(2) of the Municipal Act, 2001, S.O. 2001, c. 25, provides that every municipality shall pass a procedural by-law for governing the calling, place and proceedings of meetings.

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. Definitions

- 1.1. **Advisory Committee** means a Committee created by Council to act in an advisory capacity on a specific matter of municipal interest;
- 1.2. **By-law** means an enactment, in a form approved by Council, passed for the purpose of giving effect to a decision or proceedings of Council;
- 1.3. **Chair** means the presiding officer of any Meeting of Council or Committee;
- 1.4. **Clerk** means the Clerk of the Corporation of the Town of Whitby, or their designate, as the context requires;
- 1.5. **Closed Meeting** means a Meeting, or part of a Meeting of Council or a Committee, which is closed to the public as permitted by the Municipal Act;
- 1.6. **Committee** means any Standing Committee, Advisory Committee, Quasi-Judicial Committee or other committee, subcommittee or similar entity established by Council;
- 1.7. **Consent Agenda** means a listing of Consent Items presented to Council ~~and~~ or Committee for its consideration and vote;
- 1.8. **Consent Item** means a report that is presented for approval without debate ~~and with no delegation or presentation~~ and is generally considered routine or time sensitive;
- 1.9. **Consent Report** means a report from a Standing Committee outlining items approved by the Standing Committee and being forwarded to Council for its consideration;
- 1.10. **Council** means the Council of the Corporation of the Town of Whitby;
- 1.11. **Councillor** means a Member of Council, other than the Mayor;
- 1.12. **Delegate** means any person, group of persons, firm or organization, who is neither a Member of a Committee or Council or an appointed official of the Town, or a consultant or other individual hired by the Town, wishing to address Committee or Council on a specific matter upon request to the Clerk;

- 1.13. **Local Board** means any board established and exercising any power and a substantial amount of authority over their own operations under any Act with respect to the affairs or purposes of the Town, or the Town and one or more other municipalities;
- 1.14. **Majority** means for the purpose of voting, unless otherwise specified, more than half the total number of the Members of Council or Committee present at the vote and not prohibited by statute from voting;
- 1.15. **Majority Vote** means more than one half of the votes cast by Members present (see also Attachment 1);
- 1.16. **Mayor** means the Mayor of the Corporation of the Town of Whitby;
- 1.17. **Meeting** shall have the same meaning as Section 238 of the Municipal Act.
- 1.18. **Member** means a Member of Council, a Committee, or a Local Board, as the context requires, and includes the Mayor;
- 1.19. **Motion** means a proposal moved by a Member and seconded by another Member, for the consideration of Council, or a proposal moved by a Member for the consideration of a Committee;
- 1.20. **Municipal Act** means the Municipal Act, 2001, S.O. 2001, c. 25, as amended or replaced from time to time;
- 1.21. **Open Meeting** means a Meeting which is open to the public;
- 1.22. **Petition** means a document requesting Council's consideration of a matter to which multiple individuals have signed or otherwise agreed with as petitioners and presented in a form and according to the process outlined in this by-law;
- 1.23. **Quasi-Judicial Committee** means a Committee created by Council to exercise a legislative or quasi-judicial power under the Planning Act, Municipal Act or an Act so prescribed, and includes the Municipal Licensing and Standards Committee (Property Standards Committee) required under the Building Code Act and the Compliance Audit Committee required under the Municipal Elections Act;
- 1.24. **Resolution** means a Motion that has been carried by Council;
- 1.25. **Rules of Procedure** means the rules and regulations governing the calling, place and proceedings of Meetings as provided in this by-law;
- 1.26. **Special/Ad Hoc Committee** means a Committee created by Council, with a defined ending, to report and recommend directly to Council/Committee on a specific matter;

1.27. **Standing Committee** means a Committee appointed by and directly reporting to Council, created from time to time, and currently comprised of the following Committees:

1.27.1. Audit Committee; and,

1.27.2. Committee of the Whole.

1.28. **Town** means the Corporation of the Town of Whitby; and,

1.29. **Two-Thirds Vote** means an affirmative vote of at least two-thirds of the votes cast by Members present (see also Attachment 1).

2. Interpretation

2.1. In the event of a conflict between this Procedure By-law and any statute or regulation, the provisions of the statute or regulation shall prevail.

2.2. When advice or guidance is required on a question of procedure, Robert's Rules of Order may be used by the Clerk. The advice or guidance provided by Robert's Rules of Order may then be communicated by the Clerk to the Chair to assist in making a ruling.

2.3. Further to Section 2.2, Robert's Rules of Order does not automatically take precedence when the Procedure By-law does not address a particular procedural matter. Custom, precedent, and the intentional silence of the Procedure By-law on a matter must also be considered. Only when there is an inability to interpret or act upon the Procedure By-law would there be a need to reference Robert's Rules of Order.

3. Application and Suspension of Rules

Suspension of Rules

3.1. These Rules of Procedure shall be observed in all proceedings at meetings of Council, and, where applicable, in Standing Committee meetings.

3.2. The Rules of Procedure may be suspended by a Two-Thirds Vote, with the exception of Section 11.48 (Adjournment), and any rule which is required to be followed by law.

3.3. A Motion to suspend the Rules of Procedure required by this by-law shall not be debatable or amendable and shall require a Two-Thirds Vote of the Members present.

3.4. A Motion to reconsider shall not be applied to a Motion to suspend the Rules of Procedure.

4. General Principles

4.1. The following general principles shall be observed by all Members participating in a meeting, and may be used by a meeting Chair for guidance in determining the appropriate course of action for any matter not addressed in these procedures:

4.1.1. The majority of Members have the right to decide;

4.1.2. All Members have the right to be heard;

4.1.3. All Members have the right to information to help make decisions;

4.1.4. All Members have a right to an efficient meeting;

4.1.5. All Members have the right to be treated with respect and courtesy; and,

4.1.1.4.1.6. All Members have equal rights, privileges, and obligations.

5. Conduct at Meetings

Members of Council

5.1. No Member shall,

5.1.1. consume food ~~or drink, other than water,~~ in a room in which a Meeting is taking place, noting that beverages are permitted provided they are consumed in the provided drinkware;-

5.1.2. speak disrespectfully of any level of government, including elected or appointed members of government, another municipality, or the Region of Durham;

5.1.3. use offensive words ~~or un-parliamentary language~~ or speak disrespectfully against Council, staff, a Committee or Local Board, or against any Member;

5.1.4. speak on any subject other than the subject in debate;

5.1.5. criticize any decision of Council except for the purpose of moving that the question be rescinded, amended, or reconsidered; and,

5.1.6. disobey the Rules of Procedure or decisions on questions of order or practice, or upon the interpretation of the Rules of Procedure, and in the case where a Member persists in any such disobedience after having been called to order, the Mayor or the Chair of the Committee or Local Board, as the case may be, may order that such Member leave the Meeting, ~~but~~ however if the Member apologizes and agrees to adhere to the Rules of Procedure, matter of order, or matter of practice, the Member shall be permitted to remain at the Meeting.

Rules of Debate

- 5.2. Every Member prior to speaking to any Motion must be recognized first by the Chair. This will be done by the raising of the Member's hand.
- 5.3. When two or more Members request to speak, the Chair shall designate the Member who has the floor first.
- 5.4. When the Chair calls for the vote on a Motion, ~~each Member shall be seated and shall remain seated until the result of the vote has been declared by the Chair, and during such time~~ no Member shall ~~walk across the room to~~ speak to any other Member or make any noise or disturbance and no Member shall speak to the Motion nor shall any other Motion be made until after the vote is taken and the result has been declared.
- 5.5. When a Member is speaking, no other Member shall ~~pass between the Member and the Chair or~~ interrupt the Member except to raise a question of privilege, appeal from the decision of the Chair, or raise a point of order ~~or move reconsideration~~.
- 5.6. Any Member may require a Motion under discussion to be read or displayed at any time during the debate but not so as to interrupt a Member while speaking.
- 5.7. No Member shall speak more than once to the same Motion without permission of the Chair, except that a reply shall be allowed to be made only by the Member who has presented the Motion to Council.
- 5.8. No Member, without leave of Council, shall speak to the same Motion, or in reply, for longer than five (5) minutes.
- 5.9. A Member after being recognized as the next speaker may ask ~~a question~~ s~~only~~ for the purpose of obtaining information relating to the Motion under discussion and such questions must be stated concisely and asked only through the Chair. ~~Notwithstanding the foregoing, when a Member has been recognized as the next speaker, such Member may immediately before speaking, ask a question through the Chair on the Motion under discussion but only for the purpose of obtaining information,~~ following which the Member shall speak.
- 5.10. The Chair who presides over any part of a Meeting may state relevant facts and the Chair's position on any matter before Council or a Standing Committee without leaving the Chair, which may take place immediately prior to the vote, but it shall not be permissible for the Chair to move a Motion or debate a question without first leaving the chair.
- 5.11. If the Mayor desires a Member to preside over a portion of the Meeting for the purpose of the Mayor taking part in debate or move a Motion, the Mayor shall

~~designate request that~~ the Deputy Mayor, if present, and if not present, any other Member, preside over the Meeting until the Mayor resumes the Chair.

Members of the Public

5.12. No member of the public shall:

5.12.1. ~~display s~~Signs, banners, emblems, ~~or~~ flags, ~~or make use of~~ cameras, audio ~~or, and~~ video recordings ~~s devices by the public are prohibited~~ in the Council Chambers or other Meeting location, except by permission of the Chair;

5.12.2. come onto the dais during a Meeting of Council or Committee without the permission of the Mayor;

5.12.3. make detrimental comments, or speak ill of, or malign the integrity of staff, the public, or Council and Committee; or,

~~5.12.4. consume food or drink, other than water, in a room in which a Meeting is taking place.~~

6. Powers and Duties of the Mayor

Duties of the Mayor

6.1. It shall be the duty of the Mayor,

6.1.1. to preside at all Meetings of the Council;

6.1.2. to open Meetings of the Council by taking the Chair ~~wearing the Chain of Office~~ and calling the Members to order;

6.1.3. to announce the business before the Council in the order in which it is to be acted upon;

6.1.4. to receive and submit to a vote, in the proper manner, all Motions which do not contravene the Rules of Procedure and to announce the result;

6.1.5. to decline to put to a vote Motions which infringe upon the Rules of Procedure;

6.1.6. to restrain the Members, within the Rules of Procedure, when engaged in debate;

6.1.7. to enforce on all occasions the observance of order and decorum among the Members;

- 6.1.8. to expel any person for improper conduct at a Meeting, it being understood that such action shall be at the sole discretion of the Mayor;
- 6.1.9. to authenticate, by signature when necessary, all By-laws, Resolutions, and minutes of Council;
- 6.1.10. to inform Members of the Council on any point of order; and,
- 6.1.11. to adjourn the Meeting without the question being put or to suspend or recess the sitting for a time to be named if considered necessary because of disorder arising in the Meeting.

Mayor's Designates and Appointments

- 6.2. Where Council representation is required on a Committee or a Local Board, the Mayor shall designate the Member or Members to represent Council on such Committee or Local Board and the Mayor's decision shall be final and binding.
- 6.3. The Mayor shall appoint Members to serve as Chair and Vice-Chair of Planning and Development and Chair and Vice Chair of General Government, and those Members shall be responsible for chairing the respective portions of the Committee of the Whole agenda and meeting. The term of appointment shall be for one calendar year.

Note: Notwithstanding the provisions of the Procedure By-law, the ability for the Mayor to appoint Members to serve as Chair and Vice-Chair of Committees consisting solely of Members of Council is prescribed by Part VI.1 of the Municipal Act, 2001, S.O. 2001, c. 25.

- 6.4. The Mayor shall appoint a Ward Councillor as an alternate member of the upper-tier council, to act in place of a Member who is a member of the councils of the local municipality and its upper-tier municipality, when the Member is unable to attend a meeting of the upper-tier council for any reason.

- 6.5. The Mayor may appoint a Member to act as the Chair of Finance/Budget, and that Member shall be responsible for consulting with the Treasurer with regard to the preparation of the annual budget, and the presentation of the budget to the Council and public.

Note: Notwithstanding the provisions of the Procedure By-law, the Mayor has the authority to prepare and propose the annual budget to Council for Council's consideration, as prescribed by Part VI.1 of the Municipal Act, 2001, S.O. 2001, c. 25, unless the Mayor chooses to direct staff to carry out those duties and/or have that responsibility pass to Council by allowing the statutory timeframes to lapse.

6.5.6.6. Council shall consider and adopt a policy governing the appointment of and assignment of responsibilities to a Deputy Mayor. As a transition provision, until such time as a Council approved policy on the appointment of a Deputy Mayor is adopted, the appointment of Deputy Mayor shall continue to be in accordance with Section 2.3 of By-law # 7462-18, with that section deemed to be in force and effect until such time as Council passes a policy on the appointment of a Deputy Mayor to supersede it.

7. Powers and Duties of the Clerk

7.1. The Clerk shall record in the minutes:

7.1.1. the date, time, and place of a Meeting;

7.1.2. the Members attending the Meeting;

7.1.3. the ~~reading, if requested,~~ correction and adoption of the minutes of prior Meetings; and,

7.1.4. all other proceedings of the Meeting without note or comment.

7.2. It shall be the duty of the Clerk to ensure that the minutes of the last regular Meeting and all special, closed and Standing Committee Meetings held prior to a regular Meeting are included in the next regularly scheduled Council agenda.

7.3. The minutes are a legal record of what action was taken and are open for errors and omissions. No debate is permitted.

7.4. The minutes ~~may~~ shall be adopted by the Council without being read by the Clerk.

7.5. When the minutes of a Council ~~and Committee~~ Meeting have been adopted, the Mayor ~~and/or Chair~~ and the Clerk shall sign them. Committee Meeting minutes are presented to Council for information only and do not require adoption or signatures.

7.6. The Clerk shall be authorized to make minor corrections to any By-law, Motion, Resolution, minutes or other Council document to eliminate technical or typographical errors or to make any other corrections that do not materially alter the intent and purpose of the original document.

7.7. The Clerk or their designate shall be the secretary of all Standing Committees.

7.8. It shall be the duty of the secretary to give notice of each Meeting of a Standing Committee together with an agenda of the matters to be considered so that such notice and agenda will reach the Members not later than the day preceding the day of the Meeting.

- 7.9. Despite any provision of this by-law to the contrary, the secretary shall make every effort to publish an agenda with respect to a Meeting of a Standing Committee at least three (3) business days prior to such Meeting.
- 7.10. The Clerk shall prepare a Council Information Index listing all petitions and correspondence received by the Clerk and not related to an upcoming agenda. The Council Information Index shall be delivered directly to each Member of Council, generally on a weekly basis every Friday. A Member of Council may request in writing that an item from the Council Information Index be lifted and included on the next appropriate agenda, and the Clerk shall advise the Mayor and relevant Standing Committee Chair, and then add the item to the next appropriate agenda as determined by the Mayor.

8. Meetings – General Provisions

Electronic Participation at Meetings

- 8.1. A Member of Council may participate electronically in a Meeting that is open or closed to the public. A Member participating electronically shall count towards determining whether or not a quorum of members is present at any point in time.
- 8.2. Where the Rules of Procedure conflict with the need to facilitate electronic participation, the Chair, in consultation with the Clerk shall have the authority to modify the Rules of Procedure to ensure Members can effectively electronically participate in the meeting.
- 8.3. Members of the public shall have the option to present or delegate to Council and at Statutory Public Meetings under the Planning Act either electronically or in person, and the Clerk shall facilitate the presenter or delegate's preferred option upon receiving a formal request to appear as a delegation.
- 8.4. The Clerk may provide for the electronic participation of staff, including electronic participation of the Clerk.

Inaugural Council Meeting

- 8.5. The first Meeting of Council following a regular election shall be held on the Monday following November 15th, or if November 15th is a Monday, on that day.
- 8.6. At the inaugural Meeting, each Member present shall make their declaration of office and Council shall not proceed with any regular business at this Meeting.

Meeting Start Times

- 8.7. The regular Meeting start times for the following types of meetings shall be as follows:

- 8.7.1. Regular Council Meetings – 7:00 p.m.:
- 8.7.2. Committee of the Whole Meetings – 5:30 p.m.; and,
- 8.7.3. Statutory Public Meetings held Pursuant to the Planning Act – 6:30 p.m.
- 8.8. Despite the provisions of Section 8.7, there are no prescribed Meeting start times for other Standing Committees, Special Council Meetings, or Special Standing Committee meetings.

Notice of Meetings

- 8.9. Prior to the end of each year, Council shall ~~adopt~~ establish the dates for its regular Meeting schedule ~~for its Meetings to be held~~ in the following year ~~including the dates, times, and locations for such Meetings~~ and the Clerk shall publish the schedule on the Town's website.
- 8.10. Despite the provisions of Section 8.9, the date, time, and location of regular Meetings of Council may subsequently be amended by consent of Mayor, and the Clerk shall note the change on the Town's website and shall give notice of the revised date, time and/or location to all Members and the public in accordance with Section 8.11 and Section 8.12.
- 8.11. Staff shall give public notice of all regular ~~open and closed~~ Council and Standing Committee Meetings by inclusion on the Town's website at least 72 hours prior to the Meeting.
- 8.12. Staff shall give public notice of all Special Meetings ~~, open and closed,~~ of Council and Standing Committees by inclusion on the Town's website as soon as possible after the Meeting is called and no later than 24 hours prior to the Meeting.
- 8.13. Notwithstanding Section 8.11 and Section 8.12, staff shall give further notice as required of specific items on any agenda, in accordance with applicable legislation and/or Town policy.

Special Council Meetings

- 8.14. The Mayor may at any time call a Special Meeting of Council.
- 8.15. ~~Upon receipt of a petition of~~ The Majority of the Members of the Council ~~may present a petition to;~~ the Mayor and Clerk ~~shall call and advise the Mayor to call~~ acalling a Special Meeting for the purpose and at the time and place mentioned in the petition.
- 8.16. The Clerk shall give notice of the time, place, and purpose of every Special Meeting to all Members not less than 24 hours prior to the time fixed for the Meeting.

- 8.17. The notice calling a Special Meeting of the Council shall state the business to be considered at the Special Meeting and Council shall consider no business other than that stated in the notice of such Meeting.
- 8.18. A Special Meeting may be called for the purpose of educating or training Members, it being understood that the purpose of the Meeting is only to educate or train, and delegations shall not be received and decisions shall not be made or considered.
- 8.19. On urgent or extraordinary circumstances, the Mayor may call an emergency Special Council Meeting without the notice provided in Section 8.12 and Section 8.16 of this by-law.

Seating

- 8.20. For meetings taking place in the Council Chambers, Members will be assigned seating as follows:
- 8.20.1. Council Meetings: Ward Councillors seated on the west side of the dais, in order clockwise from Ward 1 through Ward 4. Regional Councillors seated on the east side of the dais, in order clockwise based on the order of votes received in the last municipal election, from highest to lowest. Mayor and Deputy Mayor seated on the north side of the dais.
- 8.20.2. Committee of the Whole Meetings: Ward Councillors seated on the west side of the dais, in order clockwise from Ward 1 through Ward 4. Regional Councillors seated on the east side of the dais, in order clockwise based on the order of votes received in the last municipal election, from highest to lowest. Mayor and Chairs seated on the north side of the dais.
- 8.21. Notwithstanding the provisions of Section 8.20 of this By-law, the Mayor may revise the assigned seating for the purpose of an accommodation a Member requires that has been confirmed by the Town.

Voting

Open Meeting Voting

- 8.22. The manner of determining the decision of the Council on a Motion shall be by show of hands unless a recorded vote is requested. In the event that all or some Members are participating in the meeting electronically, the vote shall be called by asking for "those opposed". No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect.

Recorded Vote

8.23. If a Member present at a Council Meeting at the time of a vote requests before the taking of the vote that the vote be recorded, each Member present, except a Member who is disqualified from voting by any Act, shall announce ~~his or her~~ their vote openly and the Clerk shall record each vote. The order of voting shall be in alphabetical order by surname or single name, save and except the Mayor who shall vote last.

8.24. The Clerk shall record in the minutes the name of any Member of Council who is not present at the Meeting when such recorded vote is taken.

Majority Vote

8.25. The vote required to pass a Motion shall be a simple majority except as otherwise provided in this by-law or by statute and every Member shall have one vote.

Failure to Vote

8.26. A failure or abstention to vote by a Member who is present at the Meeting at the time of the vote and who is qualified to vote shall be deemed to be a negative vote.

Voting at Closed Meetings

8.27. In a closed Meeting, Council or Committee shall only vote on Motions pertaining to a procedural matter or for giving directions or instructions to officers, employees or agents of the Town or persons retained by or under a contract with the Town.

Tie Votes

8.28. Any question on which there is a tie vote shall be deemed to be lost, except where otherwise provided by any Act ~~or this by-law~~.

9. Closed Meetings

9.1. A Meeting or part of a Meeting may be closed to the public if the subject matter being considered is a matter permitted to be considered in a Closed Meeting in accordance with Section 239 of the Municipal Act.

9.2. Prior to holding a Closed Meeting, Council or Committee shall state by resolution the fact of the holding of the Closed Meeting and the general nature of the matter to be considered.

9.3. Council may maintain a Closed Meeting Policy for the purpose of providing consistent rules and guidelines for Council, Local Board and Committee Meetings that may be closed to the public.

9.4. A Closed Meeting Policy may exempt certain Local Boards and Committees from the open Meeting requirements as contained in the Municipal Act.

10. Quorum

10.1. A majority of the Members of Council shall constitute a quorum.

10.2. For the purposes of a quorum of a Committee:

10.2.1. two Members of the Audit Committee shall constitute a quorum, and;

10.2.2. a Majority of the Members of Council shall constitute a quorum for Committee of the Whole.

10.3. Where there is an insufficient number of voting Members to constitute a quorum due to a provision of the Municipal Conflict of Interest Act, the remaining Members of Council constitute quorum provided that such number is not less than two (2).

11. Council Proceedings

Council Order of Business

11.1. The business of Council shall be taken up in the following order unless otherwise decided by the majority of the Members present:

11.1.1. Call to Order

11.1.2. Moment of Reflection and Land Acknowledgement

11.1.3. Call of the Roll

11.1.4. ~~Disclosure-Declarations~~ of Conflicts of Interest

11.1.5. Approval of the Minutes

11.1.6. Presentations

11.1.7. Delegations

11.1.8. Correspondence/Petitions

11.1.9. Committee Reports

11.1.10. Notices of Motion

11.1.11. New and Unfinished Business

11.1.12. By-laws

11.1.13. Closed Session

11.1.14. Confirmatory By-law

11.1.15. Adjournment

Call to Order

- 11.2. As soon after the hour fixed for holding the Meeting of the Council and provided a quorum is present, the Mayor shall call the Members to order.
- 11.3. In the case of the Mayor not attending within 15 minutes after the hour fixed for holding the Meeting of the Council, and provided a quorum is present, the Deputy Mayor shall call the Members to order and shall preside until the arrival of the Mayor.
- 11.4. If a quorum is not present within fifteen minutes after the time appointed for a Meeting, the Clerk shall record the names of the Members present and the Meeting shall stand adjourned until the date of the next regular Meeting or other Meeting called in accordance with the provisions of this by-law.

Moment of Reflection and Land Acknowledgement

- 11.5. Council meetings shall commence with a moment of reflection and land acknowledgement.

Call of the Roll

- 11.6. The Clerk shall report the attendance of the Members of the Council.

Declarations of Conflict of Interest

- 11.7. When a Member present at a Meeting has a conflict of interest as defined in the Municipal Conflict of Interest Act, as amended or replaced from time to time, the Member shall, prior to any consideration or discussion of the matter, disclose the conflict of interest and the general nature thereof and refrain from discussing, debating or voting on the matter.
- 11.8. Every disclosure of conflict of interest made by a Member shall be recorded in the minutes of the Meeting by the Clerk in accordance with the provisions of the Municipal Conflict of Interest Act, and the Member shall file a ~~written~~ statement of the interest and its general nature with the Clerk.
- 11.9. If the matter is being considered or discussed at a Closed Meeting, the Member declaring a conflict of interest shall leave the Meeting for the portion in which that matter is discussed, debated, or voted on.

Presentations

- 11.10. Presentations at Meetings shall be limited to a maximum of 10 minutes.
- 11.11. The following types of presentations shall provide information only and shall be heard at the beginning of a Meeting:

- 11.11.1. Presentations approved by the Mayor made by outside organizations providing information with no accompanying report or recommendations; and,
- 11.11.2. Presentations by staff or Town consultants.
- 11.12. Recognitions at Meetings will generally occur at Regular Council Meetings and will be considered in accordance with the procedures established by the Clerk in consultation with the Mayor.

Delegations

- 11.13. A Delegate may only address Council with respect to an item on the agenda that was not previously considered at a Standing Committee meeting or in instances where the effect of the staff recommendation has been altered by a Standing Committee. Delegates may only and verbally present information on matters of fact. To make a request to appear at Council, written notice shall be given to the Clerk no later than ~~noon on the Wednesday prior~~ 8:00 a.m. on the day of the Meeting.
- 11.14. ~~Delegations may be heard at Council provided they have first appeared before the Standing Committee responsible for the matter, unless a matter considered by the Council was not previously considered by a Standing Committee.~~
- 11.15. ~~Persons desiring to verbally present information of an urgent nature to the Council and who have not first made representation before the appropriate Committee of the Council, save and except as provided for in Section 2.8.2, may be heard upon a Two-Thirds Vote of the Members present.~~
- 11.16. Persons making delegations to Council or Committee shall not speak more than five (5) minutes unless otherwise provided by a Majority Vote of the Members present.
- 11.17. The priority in which delegations shall be considered by Council or Committee shall be determined by the Mayor or Chair, as applicable.
- 11.18. Delegates shall not be permitted to appear before Council or Committee for the sole purpose of generating publicity for an event.
- 11.19. A Delegate may only address a Standing Committee with respect to an item on the agenda. Delegations have until ~~10:00~~ 8:00 a.m. on the day of the Committee Meeting to notify the Clerk in order to be a registered Delegate ~~to submit a written statement~~ for the Meeting. ~~These~~ Delegations meeting the notification deadline will be added to the ~~addendum meeting~~ agenda ~~in accordance with section 2.1.1.~~
- 11.20. ~~Except on matters of order, the Chair shall not interrupt a Delegate while they are addressing Council or Committee.~~

- 11.21. Members may only address a Delegate upon recognition by the Chair and may only ask questions and not express opinions or enter into debate or discussion.
- 11.22. When posing questions to a Delegate, Members shall:
- 11.22.1. ask questions to clarify points raised by a Delegate without introducing new information or asking the Delegate's opinion on a potential idea, suggestion, or course of action; and,
 - 11.22.2. ask questions in a succinct manner without summary of the delegate's speaking points, and without preamble, other introduction, or adding their own opinions or remarks.
- 11.23. The Chair shall be responsible for summarizing the speaking points of Delegates, referring questions from Delegates to Staff when appropriate, and managing the exchange of questions between Members and Delegates ensuring that questions are in accordance with Section 11.21 and Section 11.22.

Correspondence/Petitions

- 11.24. Correspondence intended to be presented to the Council shall,
- 11.24.1. include the author's full name and full address;
 - 11.24.2. be legibly written or printed;
 - 11.24.3. be appropriate and respectful in tone, and not contain any improper or offensive language or information; and,
 - 11.24.4. be filed with the Clerk.
- 11.25. Petitions intended to be presented to the Council shall:
- 11.25.1. Be filed with the Clerk and be regarding a subject or requesting an action that is within Council's authority.
 - 11.25.2. Have the text listed at the top of each page for multiple-page petitions. Pages should be numbered, and total number of pages indicated.
 - 11.25.3. Be appropriate and respectful in tone and must not contain any improper or offensive language or information.
 - 11.25.4. Identify the petition organizer and provide the organizer's full name, full address, and contact information.

- 11.25.5. If a paper petition, the petition should be legible and printed in ink, and include the signature, printed full name, and full address of each petitioner.
- 11.25.6. If an electronic petition, include the full name, full address, and a valid e-mail address of each petitioner.
- 11.25.7. Petitioners acknowledge that petitions addressed to the Town of Whitby and/or Council are considered a public document, may be posted on a publicly available agenda, and that the information contained in the petition may be subject to the scrutiny of the Town and members of the general public.
- 11.25.8. A petition that adheres to some but not all of the above requirements may be distributed to Council at the discretion of the Clerk. If the Clerk refuses to accept the petition for not meeting the above criteria, the Clerk shall notify the petition organizer and advise Members of Council that the petition has been refused.
- 11.26. Petitions or correspondence relating to a matter on the Council or Committee agenda shall be delivered to the Clerk not later than ~~Wednesday~~ noon before-on the day the Meeting.
- 11.27. The Clerk shall distribute the petition or correspondence received to Council or Committee Members prior to the Meeting to which the correspondence pertains.
- 11.28. All correspondence on any subject within the purview of a Standing Committee shall be referred directly to that Standing Committee.

Committee Reports

- 11.29. Council shall consider reports of the Committees in the following order:
 - 11.29.1. Committee of the Whole
 - 11.29.2. Audit Committee
- 11.30. Committee reports shall be presented by the Chair of the Committee or, in their absence, the Vice-Chair of the Committee, who shall move the adoption of the report.
- 11.31. Council Members shall identify any items contained in a Committee Consent Report which they wish to speak to and the matter shall be extracted from the Consent report to be dealt with separately.
- 11.32. The balance of items on the Committee Consent report, which have not been extracted, shall be voted on in one Motion.

Contents of Committee Reports

- 11.33. All recommendations of a Standing Committee passed as a Motion shall be placed on the next regular Council agenda as part of the applicable Standing Committee Report, save and except:
- 11.33.1. The Referral of an item at Standing Committee shall be noted as having been referred on the next regular Council agenda. Notwithstanding referral of a matter at Standing Committee, Council may dispense with or otherwise consider said matter;
 - 11.33.2. Motions to lift a matter from the Standing Committee's New and Unfinished Business List.
- 11.34. In the event that a recommendation or Motion regarding a Staff Report presented at a Standing Committee is defeated and not replaced with an alternative recommendation or Motion, the subject header for that Staff Report shall be placed on the next regular Council agenda as part of the applicable Standing Committee Report, with the following note in place of a recommendation: "No Committee Recommendation – Council Direction Required".

Notice of Motion

- 11.35. A Member desiring to introduce a Motion at a Meeting regarding a matter that would not otherwise be considered by the Council at such Meeting, shall notify the Clerk of the topic of the proposed motion 10 days in advance of the meeting in order that the Clerk may share the topic of the motion with Members. The Member shall then deliver a written copy of the Motion, with a confirmed mover and seconder, to the Clerk not later than Wednesday noon before the regular Meeting of Council at which notice of the Motion is to be given.
- 11.36. The Clerk, upon receipt of a notice of Motion, shall print the Motion in full in the agenda for the next regular Meeting of the Council.
- 11.37. ~~A notice of Motion shall be considered or otherwise disposed of by the Council at the regular Meeting at which it is first introduced, unless a Member objects to its consideration, in which case it shall be considered at the next regular Meeting of the Council.~~
- 11.38. Any Member of Council may agree to second a notice of Motion if the seconder is absent from the Meeting.

New and Unfinished Business

- 11.39. Departmental reports of an urgent nature which have not been considered by a Committee shall be listed under the New and Unfinished Business Section of the agenda for Council's consideration.

- 11.40. A Member may, with the consent of Two-Thirds Majority of the Members present, introduce a Motion under New and Unfinished Business which due to its urgent nature cannot be properly presented at a Meeting of Council or a Meeting of Committee in accordance with Section 11.35. Prior to introducing a formal Motion, a Member may provide clarity on the subject.

By-laws

- 11.41. The Clerk shall submit to Council a summary of all by-laws proposed for adoption, including the by-law number and title.
- 11.42. Unless otherwise requested or separated, all by-laws proposed for adoption shall be passed in one single Motion, duly moved and seconded.
- 11.43. Every By-law passed by Council shall:
- 11.43.1. be signed by the Mayor, or the presiding officer at the Meeting;
 - 11.43.2. be signed by the Clerk or Deputy Clerk;
 - 11.43.3. be sealed with the seal of the Town; and,
 - 11.43.4. indicate the date of passage.

Confirmatory By-law

- 11.44. Council may enact a By-law to confirm all actions taken by Council at that Meeting.

Adjournment

- 11.45. On a Motion, which is non-debateable, approved by the majority of Members present, the Meeting shall adjourn.
- 11.46. ~~No item of business shall be considered at a Meeting of the Council after 11:00 pm unless otherwise decided by a Majority Vote of the Members present.~~
- 11.47. At 10:30 p.m. during any Meeting, the Mayor or Chair, as applicable, shall conduct a review of remaining items of business and present a plan to Members for how the remaining items of business may be considered prior to the meeting's adjournment. At the discretion of the Mayor or Chair, and subject to the consensus of Members, all or select remaining business may be presented to the Members as Consent Items to be considered without debate.
- 11.48. If a Meeting is still in session at 11:~~3000~~ pm, it shall adjourn with any remaining items of business deferred to the next appropriate meeting agenda.

Note: in accordance with Section 3 of this By-law, Council may not suspend the rules of procedure to circumvent the automatic adjournment at 11:00 p.m.

12. Standing Committee Meetings

Chair and Vice-Chair

12.1. The Members appointed as Chair, and in their absence the Vice Chair, shall Chair the portions of Committee of the Whole that respectively consider General Government and Planning and Development matters, and the Mayor and in their absence the Deputy Mayor shall chair the remaining portions of the agenda and meeting.

Committee Order of Business

12.2. The Clerk shall prepare an agenda containing the following:

12.2.1. Call to Order

12.2.2. Land Acknowledgement

12.2.3. Call of the Roll

12.2.4. Declarations of Conflict of Interest

12.2.5. Consent Agenda

12.2.6. Delegations/Presentations

12.2.7. Correspondence

12.2.8. ~~Public Meetings~~

12.2.9. Staff Reports

12.2.10. New and Unfinished Business

12.2.11. Adjournment

Composition

12.3. The Audit Committee shall be composed of the Mayor, Deputy Mayor, and the Councillor designated as Chair of Finance/Budget by the Mayor. If the Mayor does not to appoint a Chair of Finance/Budget or, if the Deputy Mayor and Chair of Finance/Budget are the same Member, then the Mayor may appoint an alternate Member to serve on the Audit Committee in order to achieve the three Member composition.

12.4. Committee of the Whole shall be comprised of all Members of Council.

12.5. Only Standing Committee Members may make Motions and vote. Members of Council who are non-Members of a Standing Committee may:

12.5.1. attend the Standing Committee Meetings;

12.5.2. sit at the Standing Committee table; and,

12.5.3. speak after Members of the Standing Committee have had the first opportunity to speak.

Special Standing Committee Meetings

12.6. The Mayor may call a Special Standing Committee Meeting.

12.6.1. The Clerk shall give notice of the time, place and purpose of every Special Standing Committee Meeting in accordance with Section 8.12.

12.6.2. The agenda for a Special Meeting of the Standing Committee shall state the business to be considered at the Special Meeting and the Standing Committee shall consider no business other than that stated in the agenda.

12.6.3. All recommendations passed at a Special Standing Committee Meeting shall be forwarded to Council for consideration.

Referral by Mayor

12.7. The Mayor may refer any matter of an urgent nature to Council which, due to ~~the time elements~~ its urgent nature, cannot be properly presented at the next regular Meeting of a Standing Committee.

Rules of Procedure for Committee

12.8. The Rules of Procedure of Council shall be observed in Meetings of Committees in so far as they are applicable, provided that,

12.8.1. a Motion shall not be required to be seconded;

12.8.2. the number of times a Member may speak on any question shall not be limited;

12.8.3. no Member shall speak more than once until every Member who desires to speak shall have spoken; and,

12.8.4. no vote on any particular item shall be recorded ~~but a Member, on request, may be recorded as being opposed.~~

Standing Committees

12.9. There shall be the following standing committees of Council:

12.9.1. Audit Committee; and,

12.9.2. Committee of the Whole.

Note: Notwithstanding the provisions of the Procedure By-law, the Mayor has the power to establish or dissolve Committees consisting solely of Members as prescribed by Part VI.1 of the Municipal Act, 2001, S.O. 2001, c. 25, unless the Mayor chooses to delegate those powers and duties.

Standing Committee Responsibilities

12.10. The Audit Committee shall generally be responsible for review of the audit statements of the Corporation, prior to submission to Council.

12.11. The Committee of the Whole shall be responsible for considering all matters that do not properly fall under the jurisdiction of the Audit Committee, with the Committee of the Whole agendas segregated into matters of general government and matters of planning and development, the latter of which shall generally include those related to the Planning and Development Department.

Note: Notwithstanding the provisions of the Procedure By-law, the Mayor has the power to assign functions to Committees consisting solely of Members as prescribed by Part VI.1 of the Municipal Act, 2001, S.O. 2001, c. 25, unless the Mayor chooses to delegate those powers and duties.

13. Statutory Public Meetings under the Planning Act

13.1. The Chair and in their absence the Vice-Chair of Planning and Development appointed by the Mayor shall Chair Statutory Public Meetings under the Planning Act.

13.2. The dates and times for hearing Statutory Public Meetings under the Planning Act shall be established in the Council and Standing Committee meeting schedule as provided for in Section 8.9, and the dates and times of such Statutory Public Meetings under the Planning Act may be amended with the consent of the Planning and Development Chair and Commissioner of Planning and Development, provided all notice requirements under the Planning Act are met.

13.3. Statutory Public Meetings under the Planning Act are not deemed to be a meeting of Council or a Standing Committee. The Chair, Commissioner of Planning and Development and designates, and Clerk and/or **appointed** recording secretary shall be permitted to appear on the dais, and no other Member shall be permitted on the dais.

13.4. The rules regarding the hearing of a Delegate as provided for in this By-law shall apply to Statutory Public Meetings under the Planning Act, including provisions regarding speaking time and decorum, save and except that any

person wishing to make an oral submission at a public meeting shall not be required to register with the Clerk prior to appearing. All procedure rulings and interpretation regarding a Delegate shall be at the discretion of the Chair.

13.5. The Statutory Public Meeting under the Planning Act for each application shall proceed as follows:

13.5.1. Staff shall provide a brief overview of the application;

13.5.2. The applicant or their representative may appear and provide information regarding the application;

13.5.3. Members of the public and/or stakeholders in attendance and wishing to speak may make an oral submission; and,

13.5.4. The Chair may call on the applicant and/or staff to provide clarification on matters raised by members of the public and/or stakeholders.

13.6. The Clerk shall capture oral submissions from the public and stakeholders at Statutory Public Meetings under the Planning Act, and shall publish a copy of the minutes ~~capturing such submissions to the Members of Council~~ once prepared.

14. Advisory Committee Procedures and Reporting

14.1. The Clerk may establish simplified Rules of Procedure for Advisory Committees, Quasi-Judicial Committees or Local Boards. Where simplified Rules of Procedure are not established, the Committee or Local Board shall be deemed to have adopted this Procedure By-law, save and except Local Boards which may adopt their own Rules of Procedure subject to the approval of the Clerk.

14.2. Where an Advisory Committee is established to advise Council on certain matters, recommendations from the Advisory Committee requiring Council endorsement shall be placed on the Council Information Index and may be considered by Council in accordance with Section 7.10.

15. Motions

Precedence of Motions

15.1. Except as otherwise provided in this by-law, the order of presentation and disposition of Motions shall be as follows, with the lowest ranking Motion being at the bottom of the list and a Motion shall not be in order if a Motion having higher precedence is pending.

15.1.1. Privileged Motions

1) Adjourn

- 2) Recess
- 3) Question of Privilege

15.1.2. Subsidiary Motions

- 4) Table
- 5) Call the Question
- 6) Limit or Extend Limits of Debate
- 7) Deferral
- 8) Referral
- 9) Main Motion
- 10) Take from the Table
- 11) Reconsideration
- 12) Rescind

15.1.3. Incidental Motions

- 13) Appeal
- 14) Point of Order
- 15) Withdrawal of Motion
- 16) Suspension of Rules
- 17) Motion of Divide

Seconding

15.2. Council shall not debate any Motion until it has been seconded. When a Motion has been seconded, it may upon request be read or stated by the Mayor or Clerk at any time during the debate, but not so as to interrupt a speaker.

Motions

[Listed alphabetically for ease of reference]

Adjourn

15.3. A motion to adjourn Council or adjourn the debate shall always be in order except:

- 15.3.1. when a Member is speaking or during the taking of a vote;
- 15.3.2. immediately following the affirmative resolution of a Motion that a vote on the question be now taken;
- 15.3.3. when a Member has already indicated to the Chair that the Member desires to speak to the question; and,
- 15.3.4. when resolved in the negative, cannot be made again until Council has conducted further proceedings.

Appeal

15.4. A Motion to appeal from the decision of the Mayor,

- 15.4.1. If a Member appeals to Council, the Member shall have the right to state their case, the Mayor shall have the right to reply and Council shall decide the question without further debate by Majority Vote of the Members present and its decision shall be final.
- 15.4.2. shall be made only at the time the ruling is made by the Mayor;
- 15.4.3. shall not be debated, amended, or reconsidered; and,
- 15.4.4. the Chair will give concise reasons for the ruling and will call a vote on the following question; "Will the ruling of the chair be sustained?", and the decision is final. The Chair may vote on this question.

Beyond Jurisdiction

15.5. A Motion in respect of a matter which is beyond the jurisdiction of Council shall not be in order unless it is a matter which, in the opinion of the Majority of Members present (this question to be decided without debate), has to do with the welfare of the citizens generally.

Call the Question

15.6. A Motion to call the question,

- 15.6.1. shall not be debatable or amendable;
- 15.6.2. shall not be proposed when there is an amending Motion under consideration except for the purpose of moving that the amending Motion be considered immediately;
- 15.6.3. when decided in the affirmative shall preclude all further amendments of the main Motion;
- 15.6.4. when resolved in the affirmative, the original Motion shall be considered immediately without debate or amendment; and,

15.6.5. shall not be moved by a Member who has spoken on the main Motion.

Deferral

15.7. A Motion to defer is to postpone a matter to a definite time and shall be debatable, amendable, and may be reconsidered.

15.8. If a matter has been deferred and a Member wishes to bring it back before the appointed time, the Motion to bring the matter back shall require a Two-Thirds Vote.

Limit or Extend Limits of Debate

15.9. A Motion to limit or extend the limits of debate,

15.9.1. shall not be debatable;

15.9.2. may be amended;

15.9.3. may be reconsidered; and,

15.9.4. shall require a Two-Thirds Vote.

Point of Order

15.10. A point of order may be called by a Member to bring attention to,

15.10.1. any breach of the Rules of Procedure of the Council;

15.10.2. any defect in the constitution of any Meeting of the Council;

15.10.3. the use of improper, offensive, or abusive language;

15.10.4. notice of the fact that the matter under discussion is not within the scope of the proposed Motion; or,

15.10.5. any other informality or irregularity in the proceedings of the Council.

15.11. When a Member ~~raises or~~wishes to raise a point of order, the Member shall ask leave of the Mayor to raise the point of order and after leave is granted the Member shall state the point of order to the Mayor and then remain silent, ~~sit down and remain seated~~ until the Mayor has decided and stated the point of order.

15.12. Thereafter, a Member shall only address the Mayor for the purpose of appealing the Mayor's decision to Council.

15.13. If no Member appeals, the decision of the Mayor shall be final.

Question of Privilege

- 15.14. Where a Member considers that their integrity or the integrity of Council as a whole has been called into question, the Member may, as a matter of privilege ~~rise~~raise the matter at any time, with the consent of the Mayor, with no debate being allowed, for the purpose of drawing the attention of Council to the question.
- 15.15. A Motion resulting from a question of privilege shall be treated as a main Motion and shall receive disposition by Council forthwith and the Motion so interrupted shall be immediately considered at the point where it was interrupted.

Recess

- 15.16. A Motion to recess when other business is before the Meeting:
- 15.16.1. shall specify the length of time of the recess;
 - 15.16.2. shall not be debatable and shall only be amendable with respect to the length of the recess; and,
 - 15.16.3. shall not have a Motion to reconsider applied to it.
- 15.17. A Motion to recess, when no other business is pending, shall be treated as a main Motion. The recess may be taken immediately or at a future time.

Reconsideration

- 15.18. After a matter has been decided by Council, it shall only be reconsidered within 12 months following the decision of Council based on new information and if Council decides to do so by a Two-Thirds Vote, unless a regular election has occurred following the decision.
- 15.19. A Motion to reconsider is debatable.
- 15.20. No discussion on the matter being reconsidered shall be allowed until the Motion for reconsideration is carried.
- 15.21. If the Motion to reconsider is decided in the affirmative, such reconsideration shall become the next order of business, and debate on the question to be reconsidered shall proceed as though it had never previously been considered.
- 15.22. Where a decision of the ~~Local Planning Appeal Tribunal (LPAT)~~ Ontario Land Tribunal (OLT) results in a planning and development matter being referred back to Council for reconsideration, the matter shall be placed as soon as practicable on the Council meeting agenda following the referral from ~~LPAT~~the OLT and the matter shall not be deemed a reconsideration for the purpose of this Section.

Referral

15.23. A Motion to refer:

- 15.23.1. shall identify to whom or what body the question or Motion is being referred (i.e. staff, an Advisory Committee, or from a Standing Committee to Council);
- 15.23.2. shall identify the date and time the matter shall be brought back for consideration by the Standing Committee or Council;
- 15.23.3. shall require instructions or reasons for the referral (i.e. to undertake further investigations or provide additional information); and,
- 15.23.4. is debatable and amendable.

Rescind

15.24. A Motion to rescind:

- 15.24.1. shall not be used if it is possible to use the Motion to reconsider;
- 15.24.2. shall require a Two-Thirds Vote; and,
- 15.24.3. shall be debatable, amendable, and may be reconsidered.

Table

15.25. A Motion to lay on the table:

- 15.25.1. takes precedence over all other subsidiary Motions;
- 15.25.2. may be applied to main Motions, to appeals, to reconsideration and to Motions that arise out of questions of privilege;
- 15.25.3. is in order when a Motion to close debate is pending or has been carried;
- 15.25.4. cannot be debated or amended; and,
- 15.25.5. cannot apply to any subsidiary Motion and cannot have any subsidiary Motion applied to it.

Take from the Table

15.26. A Motion to take from the table:

- 15.26.1. shall not be in order when another Motion is before the Meeting;
- 15.26.2. shall not be debatable or amendable;

- 15.26.3. when resolved in the negative, shall not be presented again ~~until after some intermediate proceedings have been completed by Council~~that meeting; and,
- 15.26.4. when resolved in the affirmative the Motion shall become immediately pending, ~~and the Motion taken from the table shall not be laid on the table again until after some intermediate discussion has taken place.~~

Withdrawal

15.27. A request to withdraw a Motion:

- 15.27.1. shall only be made by the mover of the Motion;
 - 15.27.2. may be made without the consent of the seconder of the Motion; and,
 - 15.27.3. shall be in order up until the vote on the Motion is taken;
- 15.28. If a Member objects to the withdrawal of a Motion, a withdrawal Motion may be entertained and becomes a main Motion, requires a seconder and a Majority Vote to adopt. If no Member objects to the withdrawal of the Motion, the Motion shall be considered withdrawn without the necessity of a seconder and a vote.

16. Short Title

16.1. This by-law may be referred to as the Procedure By-law.

17. Repeal of Existing By-law

17.1. The following by-laws are hereby repealed:

- 17.1.1. By-law # 7462-18;
- 17.1.2. By-law # 7467-19;
- 17.1.3. By-law # 7534-19;
- 17.1.4. By-law # 7586-19;
- 17.1.5. By-law # 7618-20;
- 17.1.6. By-law # 7632-20;
- 17.1.7. By-law # 7656-20;
- 17.1.8. By-law # 7714-21;
- 17.1.9. By-law # 7724-21;

17.1.10. By-law # 7734-21; and,

17.1.11. By-law # 7888-22.

18. Effective Date

18.1. This by-law shall come into force and take effect on the passing thereof.

By-law read and passed this 27th day of May, 2024.

Appendices

Appendix 1

Table for Determining “More Than One-Third Vote”, Majority Vote, and Two-Thirds Vote

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk

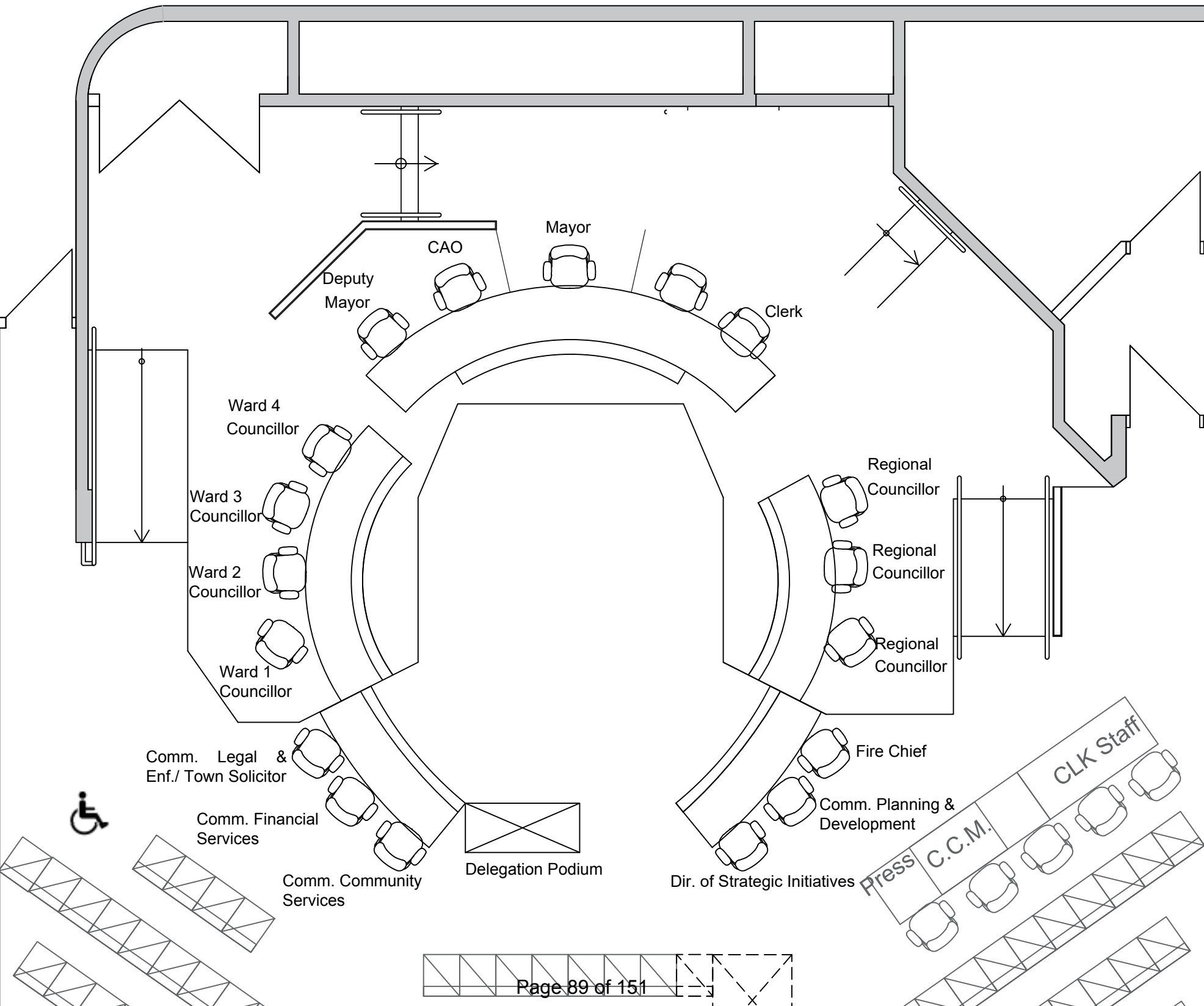
Appendix 1 to Rules of Procedure By-law # XXXX-24

Table for Determining “More Than One-Third Vote”, Majority Vote, and Two-Thirds Vote

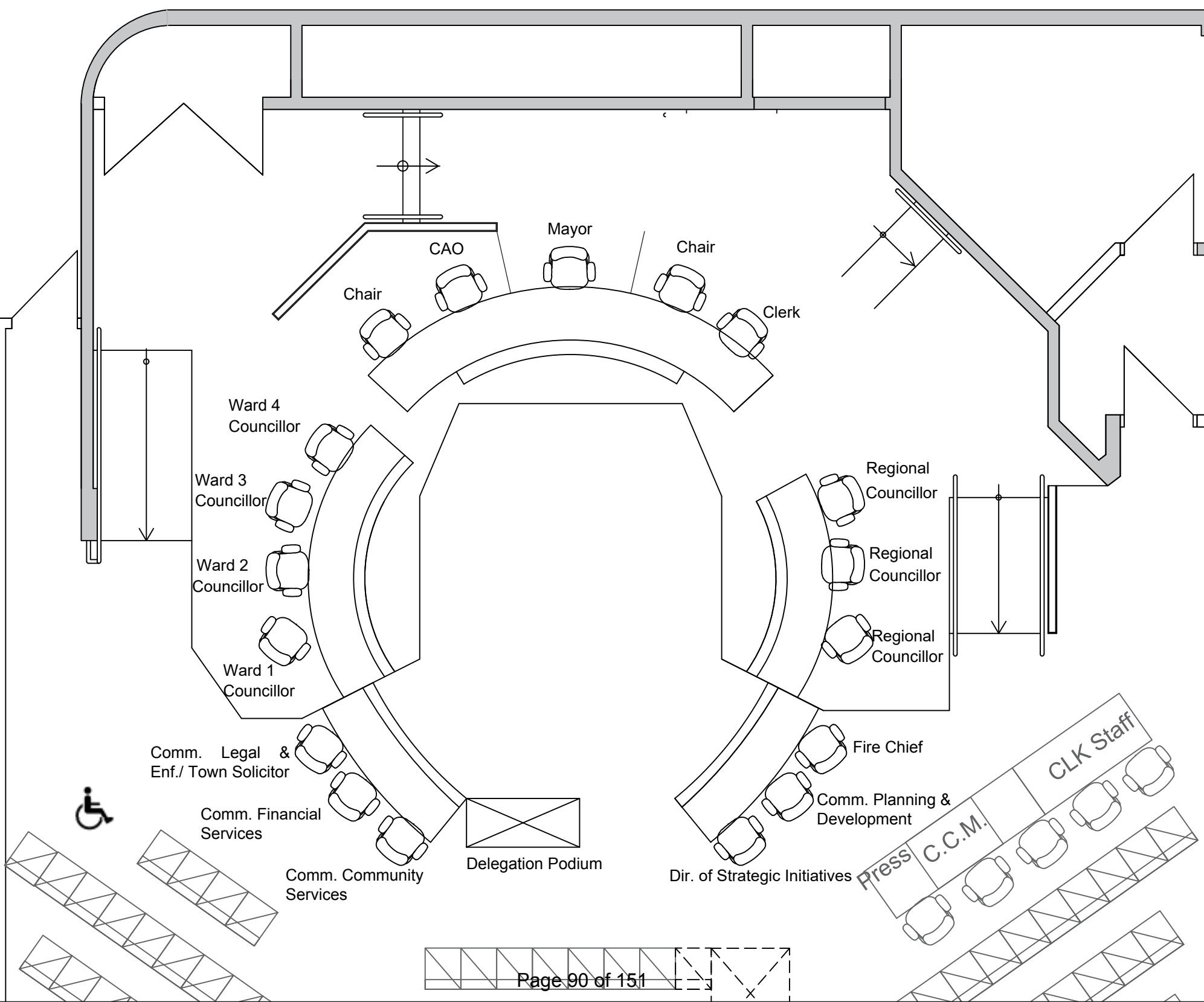
Note: Reference to “More Than One-Third Vote” is applicable to specific circumstances noted in Part VI.1 of the Municipal Act, 2001, S.O. 2001, c. 25.

Number of Votes Cast	One-Third Vote	Majority Vote	Two-Thirds Vote
1	1	1	1
2	1	2	2
3	2	2	2
4	2	3	3
5	2	3	4
6	3	4	4
7	3	4	5
8	3	5	6
9	4	5	6
10	4	6	7
11	4	6	8
12	5	7	8
13	5	7	9
14	5	8	10
15	6	8	10

Council Seating Plan - 2024



Committee Seating Plan - 2024



Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Review of the Role of Mayor and Deputy Mayor under the *Municipal Act, 2001*

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: LS 07-24

Department(s) Responsible:

Office of the Chief Administrative Officer
Legal and Enforcement Services

Submitted by:

Matthew Gaskell, Chief Administrative Officer

Francesco Santaguida, Commissioner of Legal and Enforcement Services/Town Solicitor

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

Francesco Santaguida, Commissioner of Legal and Enforcement Services/Town Solicitor

1. Recommendation:

1. That this Report LS 07-24 be received for information.

2. Highlights:

- Traditionally, the office of the Mayor was considered a “first among equals” position on municipal councils.
- The role of the Mayor has evolved into an executive role for the municipality, with the most recent stage of that evolution occurring through the granting of Strong Mayor powers under Part VI.1 of the *Municipal Act, 2001*.
- In accordance with the changing legislative environment pertaining to the role of the Head of Council and the strengthening of mayoral authority, this is an opportune time to reflect on the roles and responsibilities of Mayor, and how they would shape the appointment, role, and responsibilities of the Deputy Mayor.

3. Background:

A Brief History of the Role of the Mayor

The role of Mayor in Ontario dates back to the *Municipal Corporations Act* of 1849, also known as the “Baldwin Act”, which created a basic structure of municipalities in Ontario. The Baldwin Act sought to bring local democratic self government to then Upper Canada and formed the foundation of Ontario municipal governance up to 2001. Under the Baldwin Act, counties and townships were created which elected 5 aldermen, of which they chose one to be Reeve of the Township. The responsibilities of Townships and Counties were downloaded to communities as they grew into Towns and Cities. For example, the Towns of Whitby and Brooklin were separate municipalities under the Baldwin Act until their merger into the Town of Whitby with the creation of the Regional Municipality of Durham in 1974.

As the size and relative sophistication of Towns and Cities grew, so did the responsibilities and profile of the Mayor. The Mayor could serve a quasi-administrative function overseeing the Clerk and Commissioners who were appointed by and reported directly to Council. However, with the creation of the Regional Municipality of Durham in 1974, the role of the Mayor became formalized as a “first among equals”, where the Mayor was formally elected at-large, but held few formal powers above any other member of Council.

The Role of the Mayor in the *Municipal Act, 2001*

With the passage of the [Municipal Act, 2001](#), the role of the Mayor continued under the principle of a “first among equals”. [Section 225](#) set out the following:

It is the role of the head of council [Mayor],

- (a) to act as chief executive officer of the municipality;
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;
- (c) to provide leadership to the council;
- (c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);
- (d) to represent the municipality at official functions; and
- (e) to carry out the duties of the head of council under this or any other Act.

[Section 226.1](#) clarifies the role of the Mayor as the “Chief Executive Officer” of the municipality:

As chief executive officer of a municipality, the head of council [Mayor] shall,

- (a) uphold and promote the purposes of the municipality;
- (b) promote public involvement in the municipality’s activities;

(c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and

(d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

The *Municipal Act, 2001* also contained provisions whereby another member of Council could act in place of the Mayor. Notably, [Section 226](#) allowed for Council to appoint an alternative to the Mayor, with the Mayor's consent, to another body which the Mayor is a member by virtue of their office.

[Section 238\(4\)](#) also allows for a procedure by-law to designate a member of Council, other than the Mayor, to preside at the meetings of Council with the Mayor's consent.

Notably, [Section 242](#) allows for Council to appoint a member of Council to act in the place of the Mayor, where the Mayor is absent, refuses to act, or if the office of the Mayor is vacant. This section does not explicitly state that the consent of the Mayor is required in this circumstance.

The introduction of “Strong Mayor” powers

In early September 2022, the Provincial Government passed Bill 3, the *Strong Mayors, Building Homes Act, 2022*, which introduced the so called “Strong Mayor” powers in Ontario to the Cities of Toronto and Ottawa. Bill 3 amended the *Municipal Act, 2001* to introduce [Part VI.1, Special Powers and Duties of the Head of Council](#) (i.e. Mayor). The powers under Bill 3 gave the Mayor new powers to affect the Administration of the municipality, allowing the Mayor to appoint or dismiss the Chief Administrative Officer and certain management roles, as well as changing the organizational structure of the municipality. Bill 3 also granted the Mayor powers to appoint members to local boards, set and appoint members to committees of Council, allow the Mayor a veto power related to *Municipal Act, 2001* and *Planning Act* by-laws, and granted the Mayor the authority to set the municipality's budget.

These “Strong Mayor” powers were expanded in early December 2022 with the passage of Bill 39, the *Better Municipal Governance Act, 2022*. Bill 39 allowed a Mayor [to bring forward a by-law related to a prescribed Provincial Priority for Council to consider](#), and the by-law could be passed with the support of one-third of the members of Council. The Provincial Government has [identified two priorities](#) that are subject to these additional powers: the construction of 1.5 million new residential units by 2031, as well as the construction and maintenance of infrastructure to support housing.

On June 16, 2023, the Provincial Government included the Town of Whitby in its expansion of “Strong Mayor” powers to [additional municipalities in Ontario](#). As of July 1, 2023, the Mayor of Whitby could exercise the powers under Part VI.1 of the *Municipal Act, 2001* with the inclusion of the Town in [O. Reg 530/22](#).

The use of “Strong Mayor” powers is to be publicly recorded and reported. The decisions and directives of the Mayor of Whitby related to this authority are [reported on the Town's Website](#).

The Deputy Mayor role

The position of Deputy Mayor is not a formally recognized role under the *Municipal Act, 2001*. The role and responsibility of Deputy Mayor in Whitby is created under the Town's [Procedure By-law # 7462-18](#) (the "Procedure By-law"). It is noteworthy that the Strong Mayor Powers do not extend to a deputy Mayor in the absence of the Mayor.

There is no requirement for a municipality to appoint a Deputy Mayor. The responsibilities of such a role are largely at the discretion of the Mayor and Council as set out in the Procedure By-law. For example, the Mayor of the City of Toronto has authority to appoint one or more Deputy Mayors, and has in the past appointed Deputy Mayors for Toronto's former boroughs, as well as topic or issue-specific Deputy Mayors (e.g., Deputy Mayor for Housing).

In Whitby, the Deputy Mayor role dates to at least 1986, where it is mentioned under the Town's then Procedure By-law. Currently, the delegation of the Mayor's authority to the Deputy Mayor under the Procedure By-law is limited to the situations described in [Section 242](#) of the *Municipal Act, 2001*, where the Deputy Mayor can act in place of the Mayor for the role of presiding at meetings where the Mayor is unable or unwilling to do so, or if the Office of the Mayor is vacant. Under this section, the appointment of a Member of Council (i.e., Deputy Mayor) to preside at a meeting of Council does not explicitly require the Mayor's consent. The Deputy Mayor also has ancillary authority to sign documents on behalf of the Mayor under the Town's Signing By-law # 7127-16.

Traditionally, within Whitby the Deputy Mayor's role has been broader than simply presiding at meetings and signing agreements. The Deputy Mayor has acted in place of the Mayor when the Mayor is not available. This has included the Mayor's formal Council responsibilities (e.g., taking the role of Chair in a meeting if a Mayor seeks to move a matter), as well as the Mayor's responsibilities as a representative in and of the community (e.g., attending community events on the Mayor's behalf). In recognition of the increased duties and community role, the position of Deputy Mayor also carried an additional vehicle stipend under the Council Remuneration and Expenses By-law # 6500-11.

4. Discussion:**Agenda Setting and Mayoral Accountability/Council check-and-balance are the core of the "Strong Mayor" Powers**

The genesis of "Strong Mayor" powers in Ontario appears designed to increase the political accountability of the position of the Mayor, as well as to streamline the municipal decision making process related to Provincial Priorities (i.e., new and additional housing).

Ontario's "Strong Mayor" powers reflect an American Strong Mayor's authority, while maintaining a strong policy initiation and review role for Council in all areas of municipal jurisdiction. The Province [specifically acknowledges](#) the importance of the role of members of Council, through their continued ability to create and influence the policy process, and act as a check-and-balance on Mayoral power

through a two-thirds override of a Mayoral veto or by-law, and may review, debate and amend a Mayor's budget.

The Role of the Mayor has Evolved

The Province has been gradually increasing the responsibilities and accountabilities of the Head of Council/Mayor since the implementation of the *Municipal Act, 2001*. The role of Mayor is a leadership and representative role for both Council and the municipality. Sections 226 and 238(d) of the *Municipal Act, 2001* also set requirements for the Mayor to consent to other members of Council acting in the role of the Mayor. The exception is Section 242, which does not require the Mayor's consent to preside over meetings of Council, and which makes sense in the context of a Mayor who is unable or unwilling to act in their role to preside over a meeting of Council. The underlying purpose of this section is to ensure that the business of the municipality can continue in the Mayor's absence.

The role has also evolved into an executive role for the municipality, and while a Mayor may not necessarily directly manage the administration of the municipality, Part VI.1 of the *Municipal Act, 2001* grants a Mayor the authority to build a team that can reflect and implement their vision. The Province has clearly leaned-into the idea of the Mayor as a key figure and driver of policy initiatives of the municipality, whether those initiatives come from the Mayor, Council or administration.

As noted above, these additional powers increase both the profile and the accountability of the Mayor, as "Strong Mayor" Decisions and Directives under Part VI.1 are published publicly and are not decisions of the majority of Council. The role of Mayor also has extensive policy authority over housing and the infrastructure to support it, which may be one of the greatest policy challenges of our time.

The changes in the Role, Responsibilities and Accountabilities of the Mayor and Council warrant revisiting the role of Deputy Mayor

While the Chief Administrative Officer and Town Solicitor are not advocating for any particular change to the Procedure By-law to address the role of the Deputy Mayor, we recognize the above noted changes to the role of the Town's Mayor. We also recognize that the role of the Deputy Mayor, as it is currently constituted, reflects a previous governance structure where the Mayor and Deputy Mayor could be seen as the "first" and "second" among equals on Council. The role and appointment of the Deputy Mayor does not account for the current context of increasing mayoral authority, which have given a Mayor greater freedom and control over delegation, appointments and the municipality's organizational structure.

The role of the Deputy Mayor should be set out clearly to provide greater specificity to the role, as well as clearly set out the scope and context of the delegation of Mayoral authority. Further to Staff Report CLK 04-24 regarding the Procedure By-law Review, it is recommended that Council consider the appointment and assignment of responsibilities to the position of Deputy Mayor through adoption of a standalone policy. Examples of how Ontario municipalities have chosen to appoint and assign responsibilities to the position of Deputy Mayor are appended to this report as Attachments 1 and 2.

The [Appointment of Deputy Mayor Policy](#) from the City of London is one example of a standalone policy regarding the position of Deputy Mayor. Council's consideration of such a policy would provide a clear, comprehensive, and up-to-date framework for the role of Deputy Mayor. This would in-turn provide clear direction for Staff as well on how to approach the roles and responsibilities of the Mayor and Deputy Mayor, which at this point in time is unclear, specifically with respect to any particular policy agenda which may be advanced by the Office of the Mayor.

The revised Procedure By-law provides that the Deputy Mayor, regardless of how Council chooses to appoint one going forward, will be the presiding officer when the Mayor is absent. As noted above, Section 242 of the Municipal Act does not require the consent of the Mayor to appoint an alternative member of Council to preside over a meeting of Council; however, this section also does not prohibit allowing the Mayor to consent to appointment of the Deputy Mayor as a part of a Procedure By-law. Such a consent would follow the legislative trend of mayors being granted authority to consent who will represent them and would reflect how other Ontario municipalities have more recently approached the appointment of the Deputy Mayor.

Until such time as Council considers the creation of a policy regarding the Deputy Mayor position, Section 2.3 of Procedure By-law # 7462-18, which stipulates that every Regional Councillor shall serve one calendar year during the term as Deputy Mayor, will continue to apply. The necessary wording has been added to the proposed revised Procedure By-law so that adoption of a standalone policy on Deputy Mayor would supersede the appointment process outlined in the current Procedure By-law # 7462-18.

Given the changes in the role, responsibilities, and accountabilities of the Office of the Mayor, as well as the increased profile that those responsibilities and accountabilities bring, both the Chief Administrative Officer and Town Solicitor believe this is an opportune time to reflect on the roles and responsibilities of Mayor, and how they would shape the role and responsibilities of the Deputy Mayor.

Should Council at Committee of the Whole provide direction on the appointment of and general nature of the responsibilities to be assigned to the Deputy Mayor, then Staff will prepare the necessary policy to reflect that direction for Council's consideration on May 27th.

5. Financial Considerations:

Not Applicable.

6. Communication and Public Engagement:

Not Applicable.

7. Input from Departments/Sources:

This report includes input from Legislative Services.

8. Strategic Priorities:

This report generally relates to Strategic Pillar 4: Whitby's Government in the Community Strategic Plan.

9. Attachments:

Attachment 1 – Appointment of Deputy Mayor at comparator municipalities

Attachment 2 – Assignment of responsibilities to Deputy Mayor at comparator municipalities

Deputy Mayor – Method of Appointment

Whitby's Current Method of Appointment	Elected Directly	One or multiple Member(s) appointed to defined role	Deputy Mayor appointed by Mayor	Appointed by Council	Appointed for defined term based on Ward, number of votes, or alphabetically
The Deputy Mayor is appointed for one calendar year from among Members of Council elected by general vote (Regional Councillors) with the Member receiving the fewest votes serving the first full calendar year of the term and the Member receiving the most votes serving for the remainder for the first year of the Council term (November 15th to December 31st) and the final year of the Council Term (January 1st to November 14th).	<p>Cobourg: Deputy Mayor is elected during the municipal election for the entire term.</p> <p>Newmarket: Deputy Mayor is elected during the municipal election for the entire term.</p>	<p>Burlington: Deputy Mayor (Emergencies/Ceremonial) position is alternated. Deputy Mayor with Portfolio positions are assigned by the Mayor in consultation with individual Members of Council. Appointment is for term of Council.</p>	<p>Toronto: Deputy Mayor is appointed by Mayor.</p>	<p><u>Mayor Selects and Council Appoints:</u></p> <p>Oshawa: Mayor may recommend to Council a Deputy Mayor or a second Deputy Mayor to act in place of the Deputy Mayor.</p> <p>London: The Mayor's initial selection for Deputy Mayor shall be determined and confirmed at the Inaugural Meeting of Council, and appointed by by-law. Mayor may change their selection for Deputy Mayor through the term, which shall be confirmed by Council through by-law.</p> <p>Peterborough: Council shall, upon the recommendation of the Mayor, appoint a Member to act in the place of the Mayor when the Mayor is absent from the municipality, or is absent through illness, or refuses to act.</p> <p><u>Council Appoints:</u></p> <p>Ajax: Appointed by Members of Council, however Council may delegate the power to appoint the Deputy Mayor.</p> <p>Waterloo: Council appoints Acting Mayor by by-law. The order of rotation for the Acting Mayor may be changed by resolution of Council.</p> <p>Clarington: Council shall appoint a Member to act as a Deputy Mayor in the absence of the Mayor.</p>	<p>Pickering: Each of the three Regional Councillors are appointed for a 16-month term.</p> <p>Vaughan: Deputy Mayor is the Regional Councillor (general election) with the most votes in the last general municipal election.</p> <p>Markham: Deputy Mayor is the Regional Councillor who received the highest number of votes for Regional Councillor in the last election.</p> <p>Richmond Hill: Council shall by by-law or resolution appoint a Deputy Mayor for the City who shall normally be the Regional Councillor who received the highest number of votes for that office in the last election as certified by the Clerk.</p> <p>Oakville: Council will enact a by-law at the first meeting of a new term of Council to appoint (in surname alphabetical order) the Members of Council to act as Acting Mayor. Each member shall have an equal opportunity to serve as Acting Mayor during the term. Preference for the first Acting Mayor shall be for a returning member of Council and the rotation of members shall proceed thereafter in alphabetical order.</p>

Deputy Mayor – Roles and Responsibilities

Whitby's Current Roles and Responsibilities	Elected Directly	One or multiple Member(s) appointed to defined role	Deputy Mayor appointed by Mayor	Appointed by Council	Appointed for defined term based on Ward, number of votes, or alphabetically
In accordance with the Municipal Act, the Deputy Mayor shall act in the place of the Mayor when the Mayor is absent or refuses to act, or the office of the Mayor is vacant, and the Deputy Mayor shall have all the powers and duties of the Mayor with respect to the role of presiding at meetings.	<p>Cobourg: Deputy Mayor, when acting as Mayor, has all the rights, powers, and authority of the Mayor. In the event that both the Mayor/Head of Council and the Deputy Mayor are not available, the Clerk in consultation with the CAO, will select a member of the Cobourg Municipal Council to perform the specific responsibility or duty as required.</p> <p>Newmarket: Deputy Mayor, when acting as Mayor, has all the rights, powers, and authority of the Mayor.</p>	Burlington: Deputy Mayor (Emergencies/Ceremonial) will act in the place of the Mayor, and while so acting, has and may exercise all the rights, powers and authority of the Head of Council. The function of the Deputy Mayor Emergencies/Ceremonial is for corporate/administrative purposes. The rotation of the Deputy Mayor (Emergencies/Ceremonial) will be on a three times per year basis, determined by the Mayor in consultation with council prior to the start of each term of Council. Deputy Mayor with Portfolio will work in collaboration with the Mayor to enhance and support the existing governance framework and Council approved priorities, while respecting that decision-making remains with Council.	Toronto: The Deputy Mayor has, and may exercise, all the rights, powers, and authority of the Mayor, except the by-right-of-office powers of the Mayor as a member of a Community Council.	<p>Oshawa: Deputy Mayor serves as Acting Mayor in the absence of the Mayor.</p> <p>London: Assist Mayor in carrying out duties and/or act in place of the head of council or other member of council designated to preside at meetings in the municipality's procedure by-law when the head of council or designated member is unable or refuses to act or the office is vacant. Mayor shall be solely responsible for determining which of their powers and duties are to be allocated to the Deputy Mayor and may adjust that allocation from time to time at their discretion.</p> <p>Peterborough: The appointee recommended by the Mayor and appointed by Council shall be known as the First Deputy Mayor and shall have all of the duties, rights, powers and authority of the Mayor during such absence or refusal to act.</p> <p>In addition to the appointment of a First Deputy Mayor, the Council shall, by by-law, appoint a Member as Second Deputy Mayor, who shall have all of the duties, rights, powers and authority of the Mayor during the absence or refusal to act of both the Mayor and the First Deputy Mayor.</p>	<p>Pickering: In the Mayor or Deputy Mayor's absence at an event, the City Councillor in the Ward where the event is taking place will act as the Acting Mayor (ceremonial). In their absence, the Mayor will select another Councillor to attend the event as Acting Mayor (ceremonial).</p> <p>Vaughan: In the absence of the Mayor, the Deputy Mayor acts as the Chair at Council.</p> <p>Markham: Deputy Mayor is the Head of Council as defined by the Municipal Act when acting in absence of the Mayor.</p> <p>Richmond Hill: In the absence or inability of the Mayor to act, or if a vacancy in the Office of the Mayor occurs, the Deputy Mayor shall be the Acting Mayor for the City and may exercise all the Mayor's rights and duties as set out in this by-law, the Act, or Applicable Law.</p> <p>Oakville: In the absence of the Mayor, or if he/she is absent through illness or refuses to act or his/her office is vacant, or otherwise at the request of the Mayor, the Acting Mayor as determined by by-law shall serve as Acting Mayor.</p>

See next page for more examples.

Deputy Mayor – Roles and Responsibilities (continued)

Whitby's Current Roles and Responsibilities	Elected Directly	One or multiple Member(s) appointed to defined role	Deputy Mayor appointed by Mayor	Appointed by Council	Appointed for defined term based on Ward, number of votes, or alphabetically
In accordance with the Municipal Act, the Deputy Mayor shall act in the place of the Mayor when the Mayor is absent or refuses to act, or the office of the Mayor is vacant, and the Deputy Mayor shall have all the powers and duties of the Mayor with respect to the role of presiding at meetings.	-	-	-	<p>Ajax: While acting as Mayor, Deputy Mayor has and may exercise all the rights, powers, and authority of the Mayor. For greater certainty, the rights, powers and authority provided to the Deputy Mayor in the absence of the Mayor do not include powers assigned to the head of Council pursuant to Part VI.1 of the Act.</p> <p>Waterloo: In the absence of the Mayor, the member of Council designated as Acting Mayor for that date shall assume the powers and responsibilities of the Mayor for the duration of the meeting.</p> <p>Clarington: During any such absence of the Mayor, the Deputy Mayor shall exercise all of the powers and responsibilities of the Mayor under this By-law or any other by-law or statute.</p>	-

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Correcting Transfer to Acquire Parts 2, 3, 4, 5, 9 & 10 on Plan 40R-32247, being all of PIN 26487-0201(LT) from Metrolinx, and Dispose and transfer Parts 2, 3, 4, 5, 9 & 10 on Plan 40R-32247, being all of PIN 26487-0201 (LT) to The Regional Municipality of Durham

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: LS 06-24

Department(s) Responsible:

Legal and Enforcement Services
Financial Services Department

Submitted by:

Francesco Santaguida, Commissioner of
Legal and Enforcement Services/Town
Solicitor

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

Francesco Santaguida, Commissioner of
Legal and Enforcement Services/Town
Solicitor, 905.430.4342

Fuwing Wong, Commissioner, Financial
Services/Treasurer, 905.430.4314

Laura Scott, Real Estate Law Clerk,
Legal Services 905.430.2843

1. Recommendation:

1. That Part Lot 22, Broken Front Concession, and part of the Road Allowance between Lots 22 and 23, Broken Front Concession, designated as Parts 2, 3, 4, 5, 9 and 10 on Plan 40R-32247, Town of Whitby (being all of PIN 26487-0201 (LT)), as shown in Attachment 2 outlined in green (the "Subject Property") be acquired from Metrolinx and the Subject Property be declared surplus and conveyed to the Regional Municipality of Durham (the "Region") subject to the conditions set forth in Legal Services Report 06-24;

2. That the Clerk bring forward by-laws authorizing the acquisition of the Subject Property from Metrolinx and the disposition of the Subject Property to the Region to the Council Meeting scheduled for May 27, 2024;
3. That the requirement to obtain an appraisal and give public notice in accordance with Town of Whitby Policy F-190 regarding the Acquisition, Sale or other Disposition of Land Policy be waived for the acquisition and disposition of the Subject Property herein; and
4. That the Mayor and Clerk be authorized to execute any and all agreements and documents necessary to complete the acquisition of the Subject Property from Metrolinx and the disposition of the Subject Property to the Region.

2. Highlights:

- On November 20, 2017, Council passed By-law #7337-17 (included as Attachment #1) to authorize the sale of certain lands to Metrolinx for the purpose of constructing the East Rail Maintenance Facility.
- On April 5, 2018, the conveyance of the lands to Metrolinx was completed and upon investigation by Town staff in Legal Services it was found that the Subject Property was inadvertently included in the transfer to Metrolinx at the time of registration. The Subject Property was intended to remain in the ownership of the Town.
- The Region has approached the Town to acquire ownership of the Subject Property for the purpose of constructing the future Highway 401 overpass crossing at Hopkins Street.
- To convey the Subject Property to the Region it is necessary to correct ownership of the Subject Property. In this regard, the Town has approached Metrolinx and requested that the Subject Property be conveyed back to the Town for nominal consideration and Metrolinx has agreed to this request.
- Town staff will continue to negotiate and finalize the acquisition of the Property from Metrolinx and will continue to negotiate and finalize the disposition of the Property to the Region.
- Town staff recommend the acquisition of the Property from Metrolinx for nominal consideration and the subsequent disposition of the Property to the Region for nominal consideration.

3. Background:

On November 20, 2017, Council passed By-law #7337-17 to authorize the sale of PIN 26487-0012 (LT) [Part of], Parts 2, 3 and 5 on Plan 40R-28183, and PIN 26487-0062 (LT), Part 6 Plan 40R-28183, Town of Whitby (as shown in Attachment 3 outlined in yellow) (the "Metrolinx Lands") to Metrolinx for the purpose of Metrolinx's construction of

the East Rail Maintenance Facility in accordance with Corporate Services Report CS 12-14.

On April 5, 2018, the Town transferred the Metrolinx Lands to Metrolinx by registration of Transfer/Deed of Land registered as Instrument No. DR1693446 and, due to administrative error, the Subject Property was inadvertently included in the legal description of the transfer. Upon registration of the transfer, Metrolinx incorrectly became the registered owner of the Subject Property.

In June 2021, the Region approached the Town to request the conveyance of the Subject Property for the construction of the future Highway 401 overpass at Hopkins Street. To proceed with granting the conveyance of the Subject Property to the Region, it is necessary for Metrolinx to first convey the Subject Property back to the Town. Metrolinx has agreed to the request to transfer the Subject Property back to the Town for nominal consideration.

4. Discussion:

Due to the planned Regional infrastructure construction and improvements of the future Highway 401 overpass at Hopkins Street, the Region has requested the conveyance of the Subject Property from the Town. A map of the area including the location of the Subject Property and the Metrolinx Land is provided in Attachment 4 to this report.

The conveyance from Metrolinx to the Town and Town to the Region would help facilitate the construction of the Hopkins Street Highway 401 overpass. The Region has advised that the construction of the Hopkins overpass infrastructure is tentatively scheduled between 2026 to 2030. There are currently four streets and roads that cross Highway 401 within the Town of Whitby. Three of the crossings are interchanges (Lake Ridge Road, Brock Street, and Thicksen Road) and are not considered pedestrian or cyclist friendly. The Region recommends an overpass for Highway 401 at Hopkins Street from the realigned Victoria Street (Regional Road 22) to Consumers Drive (Regional Road 23).

5. Financial Considerations:

The proposed acquisition of the Subject Property from Metrolinx will be at nominal cost to the Town except for staff time and land conveyance costs. As the conveyance of the Subject Property back to the Town from Metrolinx is to correct the previous administrative error, no appraisal will be obtained or is required.

The proposed disposition of the Subject Property to the Region will be at nominal consideration. Per discussion with Regional staff, this is the standard practice when the Region acquires properties from lower tier municipalities for the purposes of Regional infrastructure projects. Based on the concept of one taxpayer, the fact that this Property is surplus to the Town's needs, and the lands are deemed non-viable, nominal consideration is appropriate for this transaction with the Region of Durham. Further, the Town's policy allows direct sales in land dispositions with other governments therefore no appraisal will be obtained or is required. The Region will be responsible for all registration costs with respect to the transfer to the Region.

Legal Services does not normally charge other governments or school boards any legal fees for the time spent by Legal Services to complete land transfers to those entities. This practice will be maintained for both the acquisition of the Subject Property from Metrolinx and the disposition of the Subject Property to the Region.

6. Communication and Public Engagement:

As the Property is deemed non-viable and is required for municipal (Regional) infrastructure, staff recommend that the notice requirements under Town Policy F 190 be waived.

7. Input from Departments/Sources:

Engineering, Operations, and Planning Services reviewed the Region's request to obtain ownership of the Property and had no comments or objections to the conveyance.

8. Strategic Priorities:

The acquisition of the Subject Property from Metrolinx and the disposition of the Subject Property to the Region for virtually no cost is consistent with Strategic Pillar 4.4: Ensure fiscal accountability and responsibly plan for growth, and in particular Action 4.4.1: Deliver services that respond to community needs while balancing the impact to taxpayers.

9. Attachments:

Attachment #1 – By-law #7337-17

Attachment #2 – Plan 40R-32247 outlining the Subject Property as Parts 2, 3, 4, 9 & 10

Attachment #3 – Plan 40R-28183 outlining the Metrolinx Lands as Parts 2, 3, 5 & 6

Attachment #4 – Location Map of the Subject Property and Metrolinx Lands

Attachment #5 – Land Acquisition By-Law # XXXX-24 (Draft)

Attachment #6 – Land Disposition By-Law # XXXX-24 (Draft)



Town of Whitby

By-law # 7337-17

By-law to Authorize the Sale of Lands

Being a By-law to authorize the sale of PIN 26487-0012 (LT) [Part of], Parts 2, 3 and 5 on Plan 40R-28183, and PIN 26487-0062 (LT), Part 6 Plan 40R-28183, Whitby.

Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, grants municipalities the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And Whereas the Council of the Corporation of The Town of Whitby has authorized the sale of property as described in Schedule A to Metrolinx in accordance with Corporate Services Report CS 12-14;

And Whereas notice of the intention to sell the lands described in Schedule A was given in accordance with the requirements of By-law No. 3650-95 and no objections were received;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. General

- 1.1. That the Mayor and Clerk are hereby authorized to execute all documents to effect the sale of the said lands.

2. Schedule

Schedule A – Lands authorized to be sold to Metrolinx.

By-law read and passed this 20th day of November, 2017..

Handwritten signature of Don Mitchell in cursive script.

Don Mitchell, Mayor

Handwritten signature of Christopher Harris in cursive script, with a circular official stamp partially visible behind it.

Christopher Harris, Town Clerk

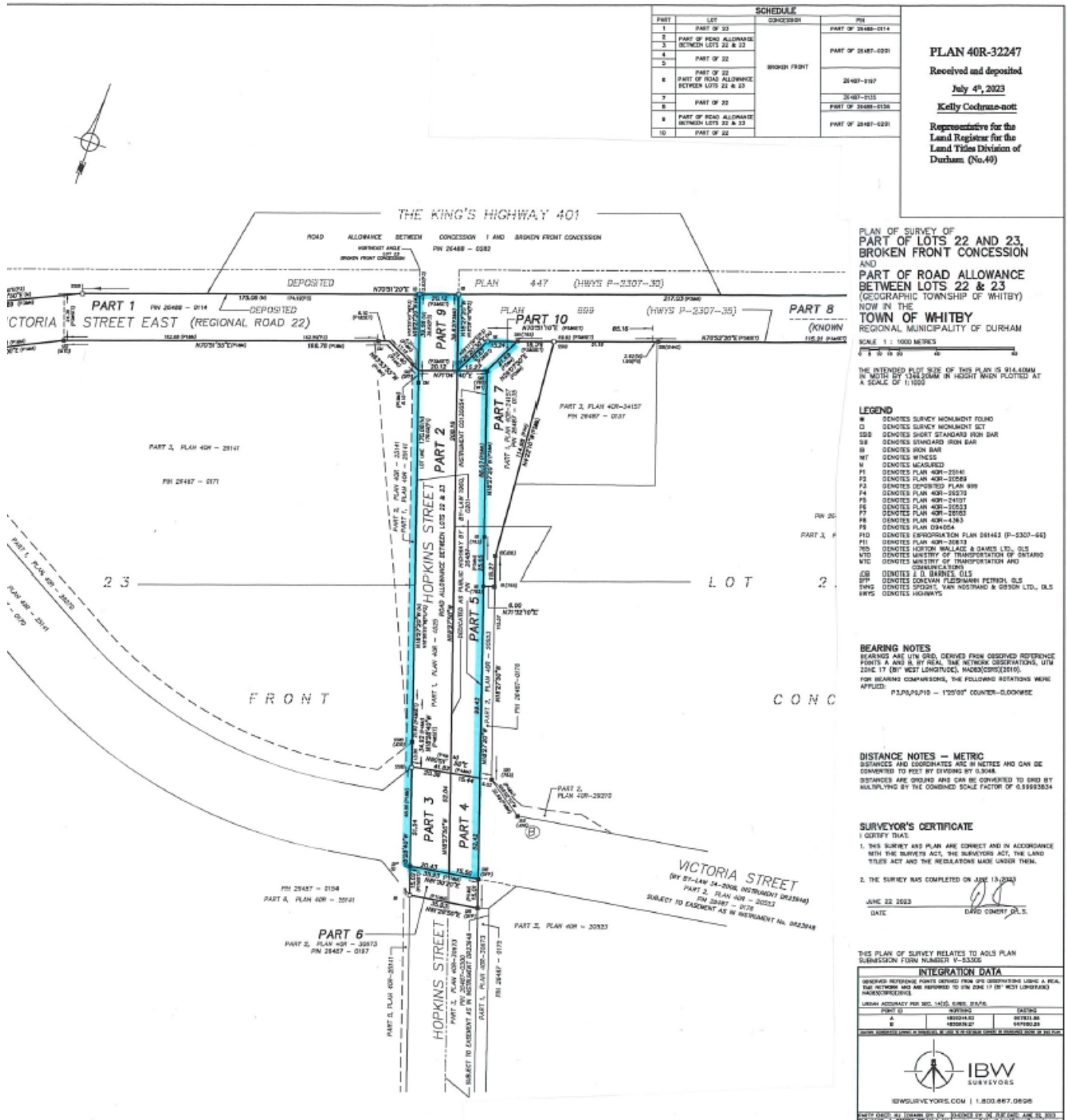
Schedule A

All and singular that certain parcel or tract of land and premises, situate, lying and being the in the Town of Whitby, in the Regional Municipality of Durham and being more particularly described as

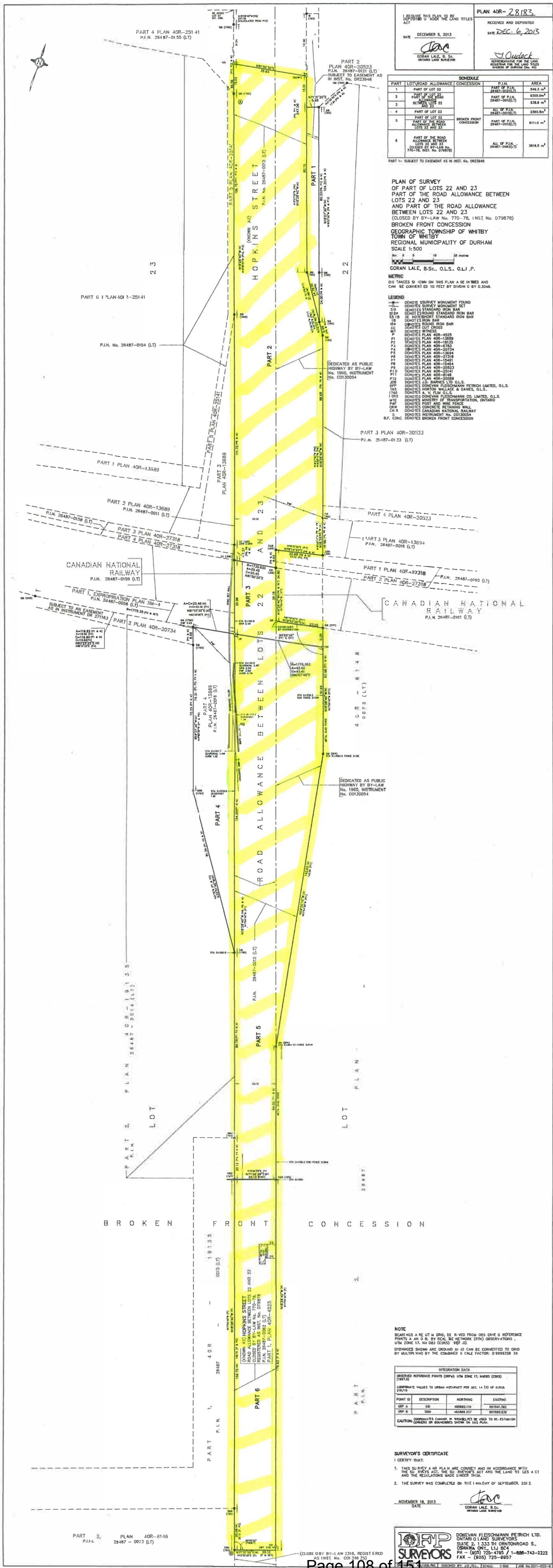
Part of Hopkins Street

PIN: 26487-0012 (LT) [Part of]
Parts 2, 3 and 5 on Plan 40R-28183
PIN: 26487-0062 (LT)
Part 6 on Plan 40R-28183

Attachment # 2
Partial Copy of Plan 40R-32247
outlining the Subject Property as Parts 2, 3, 4, 5, 9 and 10



Partial copy of oversized Plan 40R-32247, not to scale

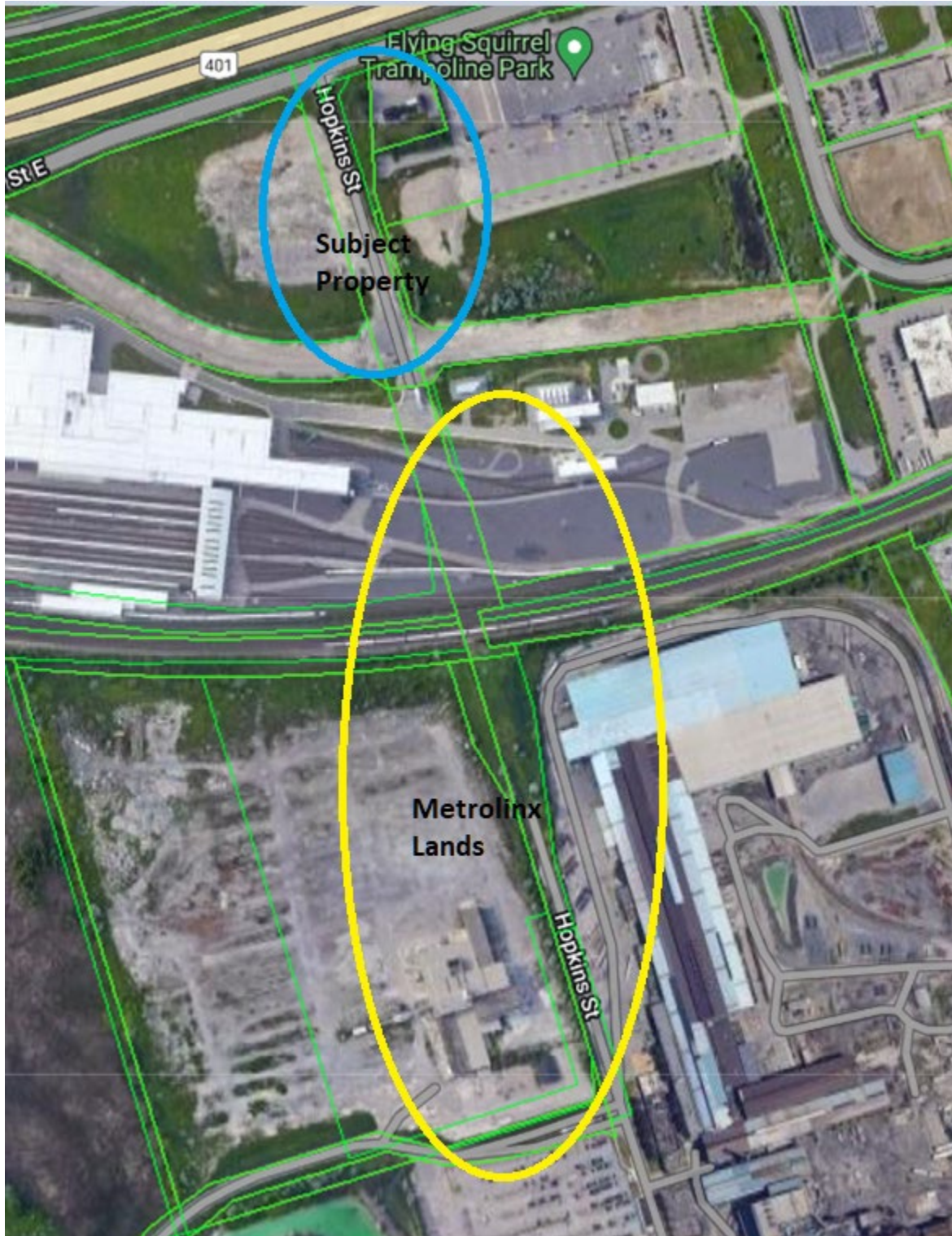


Attachment #3
Plan 40R-28183
outlining the Metrolinx Lands
as Parts 2, 3, 5 and 6

Attachment # 4
Location Map of the Subject Property and Metrolinx Lands

**NOT TO SCALE*

***LOCATIONS ARE APPROXIMATE*





Town of Whitby

By-law # XXXX-24

By-law to Authorize the Acquisition of Lands from Metrolinx

Being a By-law to authorize the acquisition of the lands described as Part Lot 22, Broken Front Concession, and part of the Road Allowance between Lots 22 and 23, Broken Front Concession, designated as Parts 2, 3, 4, 5, 9 and 10 on Plan 40R-32247, (being all of PIN 26487-0201 (LT)), Town of Whitby, Regional Municipality of Durham (the "Lands") from Metrolinx.

Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, grants municipalities the capacity, rights, power and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas the Council of The Corporation of the Town of Whitby has authorized the acquisition of the Lands from Metrolinx in accordance with Legal Services Report, LS 06-24;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. General

- 1.1. That the land legally described as Part Lot 22, Broken Front Concession, and part of the Road Allowance between Lots 22 and 23, Broken Front Concession, designated as Parts 2, 3, 4, 5, 9 and 10 on Plan 40R-32247, (being all of PIN 26487-0201 (LT)), in the Town of Whitby, Regional Municipality of Durham, be conveyed to The Corporation of the Town of Whitby from Metrolinx.
- 1.2. That the Mayor and Clerk be authorized to execute any and all agreements and documents necessary to effect the acquisition of the said Lands.

By-law read and passed this 27th day of May, 2024.

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk



Town of Whitby

By-law # XXXX-24

By-law to Authorize the Disposition of Lands to the Regional Municipality of Durham

Being a By-law to authorize the disposition and conveyance of lands legally described as Part Lot 22, Broken Front Concession, and part of the Road Allowance between Lots 22 and 23, Broken Front Concession, designated as Parts 2, 3, 4, 5, 9 and 10 on Plan 40R-32247, (being all of PIN 26487-0201 (LT)), Town of Whitby, Regional Municipality of Durham (the "Lands") to the Regional Municipality of Durham;

Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c.25 as amended, grants municipalities the capacity, rights, power and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas the Council of The Corporation of the Town of Whitby has authorized the disposition of the Lands to the Regional Municipality of Durham in accordance with Legal Services Report, LS 06-24;

Now therefore, the Council of The Corporation of the Town of Whitby hereby enacts as follows:

1. General

- 1.1. That the land legally described as Part Lot 22, Broken Front Concession, and part of the Road Allowance between Lots 22 and 23, Broken Front Concession, designated as Parts 2, 3, 4, 5, 9 and 10 on Plan 40R-32247, (being all of PIN 26487-0201 (LT)), in the Town of Whitby, Regional Municipality of Durham, be conveyed to the Regional Municipality of Durham.
- 1.2. That the Mayor and Clerk be authorized to execute any and all agreements and documents necessary to effect the disposition of the said Lands.

By-law read and passed this 27th day of May, 2024.

Elizabeth Roy, Mayor

Christopher Harris, Town Clerk

Town of Whitby

Staff Report

whitby.ca/CouncilCalendar



Report Title: Revision to Council Expense Policy (G 050)

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: FS 19-24

Department(s) Responsible:

Financial Services Department

Submitted by:

Fuwing Wong, Commissioner, Financial Services & Treasurer

Acknowledged by M. Gaskell, Chief Administrative Officer

For additional information, contact:

Fuwing Wong, 905.430.4314

Brittany Gray, Senior Manager, Financial Accounting, 905.444.2801

1. **Recommendation:**

That the revised Council Expense Policy (Policy # G050), Attachments 1 and 2 to Report FS 19-24, be approved.

2. **Highlights:**

- There are two revisions to the Council Expense Policy recommended in this report:
 - The addition of an additional corporate expense: Supplemental Corporate Education and Training with Approved Consultants; and
 - Clarification on when Community Event Tickets are eligible expenses if the event organizer is issuing a donation receipt for income tax purposes for any portion of the ticket.

3. **Background:**

The Town's Council Expense Policy (Policy # G 050) is meant to provide consistent rules and guidelines on expenditures that support Members of Council in fulfilling their duties as elected officials. The Policy was last updated March 20, 2023 and is comprised of two documents:

- 1) The main policy document; and
- 2) Guidelines for Expenses for Members of Council (Appendix A to the Policy)

The proposed updates (highlighted in yellow in the attachments to this report) consider common issues and questions related to Council business expenses since the March 2023 update and incorporates feedback from Members of Council from recent meetings conducted by Clerks Department staff.

4. Discussion:

A revised Council Expense Policy is included in Attachment 1 and 2 to this report. Below is a summary of the key changes:

- Addition of a new Corporate Expense: Supplemental Corporate Education and Training with Approved Consultants
 - Staff from the Chief Administrative Officer's and Town Clerk's office currently arrange Corporate Training, including municipal conflict of interest and Council Orientation/education sessions made available to all Members of Council throughout the Council term.
 - This recommended new corporate expense allows for Members of Council to obtain supplemental education and training sessions with only those speakers, professionals, instructors, and consultants, previously organized by staff under Corporate Training during the current term of Council, up-to the limits of \$2,000 per Councillor and \$4,000 for the Mayor each year.
 - The limits may be adjusted proportionally as Corporate budgets are adjusted for items such as inflation/the consumer price index.
 - The purpose of the supplemental education and training sessions is to support Members of Council who wish to attend individual follow-up sessions with Corporate Trainers for the purpose of exploring training topics in more detail and/or working through tailored learning and development plans.
- Clarification of Community Event Tickets where the event organizer provides a donation receipt (for income tax purposes) for any portion of the ticket:
 - To be an eligible expense, the ticket must be purchased directly by the Corporation of the Town of Whitby on behalf of the Member of Council;
 - No portion of such tickets purchased directly by a Member of Council is reimbursable
 - This clarification is intended to ensure that donation receipts for income tax purposes are not accidentally issued/claimed to/by Members of Council for tickets paid for with public funds.

5. Financial Considerations:

As part of the 2024 budget, Council approved \$40,000 for corporate training for Members of Council. Subject to Council approval of this report:

- \$20,000 will be allocated to Corporate Training as defined in the policy as “corporate training, including municipal conflict of interest and Council Orientation/education sessions, made available to all members of Council and co-ordinated by the Chief Administrative Officer’s or Town Clerk’s office.”; and,
- \$20,000 allocated to the new Corporate Expense: Supplemental Corporate Education and Training with Approved Consultants (see more information in the Discussion section of this report).

6. Communication and Public Engagement:

N/A

7. Input from Departments/Sources:

The proposed revisions have incorporated feedback received from Members of Council.

8. Strategic Priorities:

N/A

9. Attachments:

Attachment 1 - Policy G 050 – Council Expense Policy

Attachment 2 – Guideline for Expenses for Members of Council (Appendix A to the Council Expense Policy)



Town of Whitby Policy

Policy Title:	Council Expense Policy
Policy Number:	G 050
Reference:	Municipal Act, Municipal Elections Act, Council Remuneration By-law #6500-11, as amended. Council Resolution #467-16, #526-17, #91-18, #353-19, and #83-23
Date Originated:	October 11, 2016
Date Revised:	May 27, 2024
Review Date:	Not applicable
Approval:	Council
Point of Contact:	Commissioner of Financial Services/Treasurer

Policy Statement

The Council Expense Policy provides Members of Council with guidelines for eligible expenses incurred while fulfilling the Member's duties.

Purpose

The purpose of this policy is to provide consistent rules and guidelines for Members of Council on expenditures that support Members of Council in fulfilling their duties as elected officials.

Scope

This policy applies to the Mayor and Members of Council.

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1 Definitions

- 1.1 **Election Year** shall mean the calendar year (January 1st to December 31st) during which a regular municipal election is held in accordance with the Municipal Elections Act.
- 1.2 **Election Period** shall mean the first day prescribed for the filing of nominations in accordance with the Municipal Elections Act and ending when the new Council takes office.
- 1.3 **Eligible Expense** means an expense that the Town will reimburse or pay directly.
- 1.4 **Ineligible Expense** means an expense that is not provided for in this Policy and will not be reimbursed or paid by the Town.
- 1.5 **Members** shall include the Mayor and all Members of Council.

2 Responsibilities

- 2.1 Members are to:
 - a) Adhere to this policy;
 - b) Sign-off on all expenses submitted or paid by the Town directly; and,
 - c) Meet all financial, legal, and income tax obligations.
- 2.2 Chief Administrative Officer to:
 - a) Support the implementation of this policy.
- 2.3 Treasurer (or designate) to:
 - a) Approve expenditures in accordance with this policy;
 - b) Advise Members of the status of their budget, and if budget is exceeded, require Members to personally pay the over-expenditure;
 - c) Advise Members if any submitted or proposed expenditures are ineligible or breach this policy; and
 - d) Make sure that supporting documentation is in place, and that expenditures conform to this policy.

3 Annual Budget

- 3.1 Each Councillor will have an annual expense limit of \$13,000 and the Mayor will have an annual expense limit of \$17,000.

- 3.2** A corporate budget will be established for one Ward Town Hall meeting per ward per year in the amount of \$300 (or \$75 per Ward Town Hall meeting x 4 meetings hosted by a Ward and Regional Councillor team) for refreshments. Expenditures beyond the \$75 per Ward Town Hall meeting or in addition the Corporate support to be provided by staff will be allocated evenly to each Ward and Regional Councillor's Annual Budget, in accordance with this Policy, following each event. For clarity, for an expenditure of \$85 at a Ward Town Hall meeting, the \$10 in excess of the corporate budget will be allocated \$5 to the Ward Councillor and \$5 to the Regional Councillor hosting the Ward Town Hall meeting.
- 3.3** A corporate budget of \$25,000 will be established for one annual publication, organized by the Mayor's Office, to communicate the Town's achievements, current projects, and the Town of Whitby, overall.
- 3.4** A corporate budget of \$40,000 will be established for Council education and training with approved consultants starting in 2024 and allocated as follows:
- a) \$20,000 will be used for Corporate Training, including municipal conflict of interest and Council Orientation/education sessions, made available to all Members of Council and co-ordinated by the Chief Administrative Officer's or Town Clerk's office; and,
 - b) \$20,000 may be used by individual Members as Supplemental Corporate Education and Training with Approved Consultants up-to the following limits:
 - Member- \$2,000 per year
 - Mayor - \$4,000 per year
- 3.5** Budget amounts noted in this Section shall be indexed annually, based on the Consumer Price Index (Ontario – All Items) in April of the previous year, and rounded to the nearest dollar starting in 2024. For clarity, 2024 budgets indexed based on April 2023 CPI.
- 3.6** Each Member may choose how to allocate their expenses within the limit established, based on their business needs, in accordance with what constitutes an eligible expense as per this policy.
- 3.7** Allocations are not transferrable between calendar years and cannot be accumulated and carried over.
- 3.8** If a Member exceeds their annual expense limit, the over-expenditure is the personal responsibility of the Member.

4 Excluded Expenses

- 4.1** Council remuneration in the form of salary, benefits, and vehicle allowances are excluded from this policy as these items are accounted for through other Town of Whitby corporate policies, by-laws, or budget provisions.
- 4.2** Defence of court action brought against a Member, as such expenses are subject to and in accordance with the Indemnification By-law and/or the Town's insurance coverage.

5 Expense Guidelines

- 5.1** Appendix 1 - Guidelines for Expenses for Members of Council forms part of this policy and provides Members with detailed guidelines of what expenses are eligible and ineligible.
- 5.2** Reimbursement or payment by the Town for an expense will not be made if it is not specifically provided for in this policy.
- 5.3** Expense reimbursements submitted by Members or expenditures incurred by the Town on behalf of Members will be charged to the Members' budget.
- 5.4** Member of Council claims for expenses must follow basic accounting and audit principles:
 - a) Expenses must relate to the business of the Town of Whitby;
 - b) A Member or the Town must directly incur the expense. Expenses incurred by third parties cannot be claimed;
 - c) Expenses must be consistent with what is permitted in this policy (see Appendix 1 – Guidelines for Expenses for Members of Council);
 - d) Members must provide proper documentation, including detailed original receipts, invoices, or e-bills for all expense claims. Credit card receipts or statements alone are not sufficient and will not be accepted.
 - e) Invoices must include a description of the goods purchased or services rendered, the cost, taxes and HST registration number, if applicable;
 - f) Expenses must be charged for the year in which they were incurred; Expenses cannot be carried forward to subsequent years; and,
 - g) Expenses must be submitted for reimbursement as soon as reasonably possible.

6 Election Year and Election Period Restrictions

- 6.1** In accordance with the Municipal Elections Act, the Town cannot provide a subsidy to any candidate's election campaign. Therefore, special conditions for expense reimbursement for all Members of Council apply during an Election Year and, in the event of a by-election, for sitting Members of Council who are nominated in a by-election.
- 6.2** Members of Council shall adhere to the Use of Corporate Resources for Election Purposes Policy G 070 and shall not use corporate resources for campaigning as defined and specified therein.
- 6.3** In an Election Year or in the event that a by-election is held and a sitting Member of Council is nominated to run in the by-election, the following conditions shall apply to all Members of Council during an Election Year and to sitting Members who are nominated in a by-election effective at the start of the nomination period until the day after Election Day:
- a) Annual budgets noted in Sub-Section 3.1 of this policy will be pro-rated for each term in an Election Year (11/12 months for Members of Council to the end of the term and 1/12 months for Members of Council starting the new Council term) or in the event of a by-election; and
 - b) Other expense restrictions may apply as specified within Appendix 1.
- 6.4** During an Election Period:
- a) Eligible Expenses under the heading "Communications, Advertising and Constituency Meetings" in Appendix 1 will not be paid or reimbursed by the Town;
 - b) Ward Town Hall meetings will not be held and no annual printed publication, noted in Section 3 of this policy, will be produced, and distributed.

7 Interpretation

- 7.1** Members of Council may consult with the Treasurer for guidance with respect to the eligibility of an expense and/or any interpretation on the application of this policy.

8 Reporting

- 8.1** Eligible expenses annually incurred by each Member shall be reported publicly in accordance with the requirements of the Municipal Act, as amended.

9 Policy Review

- 9.1** This policy shall be reviewed every four years prior to the budget meetings that follow the general municipal election, or as directed by Council.

10 Related Documents

- Council Code of Conduct
- Purchasing Policy
- Council Remuneration By-law #6500-11
- Ward Town Hall Meetings Policy
- Use of Corporate Resources for Election Purposes Policy G 070

Appendices

Appendix 1 Guideline for Expenses for Members of Council

This Policy is hereby approved by Council Resolution # XX-24 on this 27th day of May, 2024.



Guidelines for Expenses for Members of Council

May 2024

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CORPORATE EXPENSES:

Resources Available to Council – Items in this category are resources provided and paid for directly by the Town in order to facilitate the necessary conditions for Members to exercise their duties and are not considered to be expenses and will not be reported as such.

Office Space, Equipment, and Operations

Office Space	<ul style="list-style-type: none">• Office space for the Mayor and shared office space for Members of Council in the Mayor and Councillors' Office.
Office Supplies	<ul style="list-style-type: none">• General office supplies for use by the Mayor and Councillors' Office that are not intended for the exclusive use of a particular Member.
Office Furniture	<ul style="list-style-type: none">• Office furniture for use at Town Hall.
Mobile Phone and Portable Computing Device	<ul style="list-style-type: none">• Members of Council will be issued one Corporate Mobile phone and one Corporate Computing Device at the start of each term which may be replaced during the term based on the Town's standard replacement schedule to protect Town networks from obsolete/insecure devices.• In an Election Year and at the end of each Council Term, Members of Council will have the option to purchase their mobile phone and/or portable computing device, at values based on the greater of:<ul style="list-style-type: none">(a) any outstanding hardware balance owed to the mobile phone carrier; or(b) the unamortized value, calculated based on Revenue Canada's Capital Cost Allowance (Class 10) rates, for campaign use or personal use in accordance with this Policy.• Any Member who resigns, is disqualified, not re-elected, dismissed from Office, or has otherwise not opted to purchase their mobile phone and/or portable computing device by the end of the Council term, shall have the option of transferring ownership of Town issued computing device(s) and/or mobile phone, eligible software, and accessories as a taxable benefit, calculated as outlined above, at that time. Costs to transfer the corporate phone number and/or plan shall be paid for by the Member.• Mobile Phone and Portable Computing Device will be installed with Corporate Software and Applications, such as the electronic agenda management application and the Microsoft Teams messaging and virtual meeting platform• Only Corporate Software and Applications installed by the Town will be supported by Town Technology and Innovation Services (TIS) staff

Council Courier	<ul style="list-style-type: none"> • Courier service is provided to Member's home address as scheduled by the Office of the Town Clerk.
Staffing	<ul style="list-style-type: none"> • Administrative support for Members is provided through the Mayor and Councillors' Office at a level that is in accordance with the annual operating budget and staffing resources allocated on that basis.
Corporate Training	<ul style="list-style-type: none"> • Corporate Training, including municipal conflict of interest and Council Orientation/education sessions, made available to all Members of Council and co-ordinated by the Chief Administrative Officer's or Town Clerk's office.
Supplemental Corporate Education and Training with Approved Consultants	<ul style="list-style-type: none"> • Members of Council may obtain supplemental education and training sessions with speakers, professionals, instructors, and consultants, previously organized by staff under Corporate Training during the current term of Council, up-to the limits of \$2,000 per Councillor and \$4,000 for the Mayor each year. • Limits may be adjusted proportionally as Corporate budgets are adjusted for items such as inflation/the consumer price index. • Eligible vendors are speakers, professionals, instructors, and consultants organized by staff under Corporate Training during the current term of Council. • For clarity, members of Council may obtain supplemental education and training sessions only from vendors/consultants organized by staff under Corporate Training during the current term of Council. • Amounts in excess of the limits or sessions for other vendors may be eligible under the Training, Seminars and Conference section of this policy.
Corporate Subscriptions	<ul style="list-style-type: none"> • Subscriptions made available to all Members of Council where the Town pays a set fee (e.g., based on population) and there are no incremental costs to add Members of Council
Advice from the Integrity Commissioner	
Corporate Expenses	<ul style="list-style-type: none"> • Advice to a Member respecting their obligations under a procedure, rule, or policy of the Town, governing the ethical behaviour of Members, including the Council Code of Conduct. • Advice to a Member respecting their obligations under the Municipal Conflict of Interest Act.
Ineligible Expenses	<ul style="list-style-type: none"> • Advice is not available from the Integrity Commissioner if it pertains to a matter that is already being investigated by the

	Commissioner, is under review by a court, or is about an issue for which a formal complaint has been received.
Conditions	<ul style="list-style-type: none"> • Expenses associated with advice from the Integrity Commissioner to a Member shall be incurred corporately and not through a Member's expense allowance. • The total aggregated cost for advice provided by the Integrity Commissioner to Members shall be reported within the Integrity Commissioner's Annual Report.

Event Tickets	
Town Organized Event Tickets	
Eligible Expenses	<ul style="list-style-type: none"> • A ticket for a Member and one ticket for the Member's spouse or guest which shall be recorded as an expense based on the face value of the ticket.
Ineligible Expenses	<ul style="list-style-type: none"> • Additional tickets other than those for the Member and their spouse or guest.
Conditions	<ul style="list-style-type: none"> • Tickets must be purchased through the Mayor and Councillors' Office.
Community Event Tickets	
Eligible Expenses	<ul style="list-style-type: none"> • A ticket for a Member and one ticket for the Member's spouse or guest to attend a charitable or fund-raising event organized by a charitable/non-profit organization where funds raised will support services provided to the residents of Whitby and/or the Region of Durham.
Ineligible Expenses	<ul style="list-style-type: none"> • Additional tickets other than those for the Member and their spouse or guest. • Raffle tickets, silent auction costs, and event tickets where each ticket holder is guaranteed a prize or gift other than token gifts, such as a souvenir or memento or a commemorative gift that is given in recognition of attending the event. For clarity, event tickets where all tickets are entered into a draw where the number of gifts/prizes is less than the total number of tickets entered into the draw are Eligible Expenses. • No portion of a ticket, where the organizer offers to provide a donation receipt for income tax purposes, will be reimbursable if the ticket was purchased directly by a Member. Such tickets are Eligible Expenses only if they are purchased directly by the Corporation of the Town of Whitby on behalf of the Member.

Conditions	<ul style="list-style-type: none"> • Members should provide a copy of the event notice/flyer/e-mail/correspondence with information on the purpose of the event and event organizer. • Events where there are no formal notices, flyers, or advertisements are readily available (such as dinner tickets in support of Legions) will be reviewed based on whether it is common knowledge that such an event was held by the reputable organizer in support of the community. • Proof of ticket payment directly to the organization hosting the event when seeking reimbursement. •
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Administrative Expenditures	
Council Portraits	
Eligible Expenses	<ul style="list-style-type: none"> • Resitting for a Member's portrait if the Member is not satisfied with the original portrait.
Ineligible Expenses	<ul style="list-style-type: none"> • Portraits that do not use the photography services procured and approved by the Town for all Members.
Conditions	<ul style="list-style-type: none"> • Council portraits are generally taken once per Council term but may be retaken to accommodate a new Member during the Council term, with the cost for such sittings being borne by the Town as a corporate expense. • Members may use their Council portrait for communications and duties related to their role as a Member of Council; however, in accordance with the Use of Corporate Resources for Election Purposes Policy G 070, Members are prohibited from using their Council portrait for Campaigning or inclusion on Campaign Materials.
Books and Subscriptions	
Eligible Expenses	<ul style="list-style-type: none"> • Books, magazines, newspapers, and periodicals (physical or electronic) that are related to the business of the Town or municipalities in general, or support Members in serving as elected officials.
Ineligible Expenses	<ul style="list-style-type: none"> • Books, magazines, newspapers, and periodicals that have no demonstrated relation to municipal affairs, the Town, or to the role of Members as elected officials. Examples of ineligible books and subscriptions may include lifestyle or entertainment magazines such as sports, cooking, fashion, celebrity, and travel.
Conditions	<ul style="list-style-type: none"> • Title of the publication should be included on the invoice.

	<ul style="list-style-type: none"> • Members shall identify the business purpose for the book, magazine, newspaper and/or periodical when the business reason is not evident. • Delivery address should be Town Hall or the Member's home address. For electronic subscriptions, the Members Corporate email address should be used. • Members shall provide an original subscription invoice or renewal notice indicating delivery address of publication.
Office Supplies, Business Cards/Signs	
Eligible Expenses	<ul style="list-style-type: none"> • Letterhead, signs, and business cards where design and content are in accordance with the Town's standards for accessibility and branding. • General office supplies such as pens, paper clips, envelopes, and notepads, if ordered for a Member's exclusive use and ordered through the Mayor and Councillors' Office.
Ineligible Expenses	<ul style="list-style-type: none"> • Stationery and office supplies for personal use or campaign use
Conditions	<ul style="list-style-type: none"> • Where procurement practices or procedures are in place, or when a preferred vendor has been identified, Members shall where applicable conform to such general practices when purchasing office supplies.
Town Attire	
Complimentary	<ul style="list-style-type: none"> • Clothing widely distributed to a group for the purpose of attending or organizing a Town event (i.e., staff, volunteers, Members of Council) shall not be recorded as an expense against the Member.
Eligible Expenses	<ul style="list-style-type: none"> • Up to two pieces of Town logoed or branded clothing per calendar year for use by the Member at official functions or events.
Ineligible Expenses	<ul style="list-style-type: none"> • Additional clothing beyond the two pieces per calendar year.
Conditions	<ul style="list-style-type: none"> • Clothing will be provided through the promotional attire inventory held by the Town or ordered based on pre-defined catalogue of available garments sourced by the Town through a preferred supplier without incurring additional setup and/or design fees.

Training, Seminars, and Conferences	
Eligible Expenses	<ul style="list-style-type: none"> • Registration cost. • Transportation (air, train, or bus) to/from the training, conference, or seminar and ground transportation (car rental, taxi, or transit) when there. • Mileage at the Canada Revenue Agency rate for mileage if the training, conference, or seminar, is outside of the Town of Whitby limits. • Parking. • Hotel at a single or double occupancy room rate. • Per diem for meals starting in 2022 are as follows: <ul style="list-style-type: none"> - Breakfast - \$16.52 - Lunch - \$27.55 - Dinner - \$38.58 - Per diem rates for meals shall be increased annually at the rate of inflation, as established by Statistics Canada • Supplementary medical insurance for out of country travel. • Individual training for Members (e.g., media relations, leadership training, etc.) • Costs paid in advance to take advantage of early booking discounts. It is incumbent upon the Member of Council to reimburse the Town should the booking be cancelled and a refund was provided directly to the Member of Council
Ineligible Expenses	<ul style="list-style-type: none"> • Personal or spousal expenses. • Sightseeing expenses. • Mileage within the Town of Whitby.
Conditions	<ul style="list-style-type: none"> • A portion of expenses can be shared with a municipal, local, or regional body to which the member is also appointed or elected. • Mileage is claimed in addition to any vehicle allowance provided through the Council Remuneration By-law or as otherwise approved by Council. Highway tolls may be claimed in addition to the per kilometer Canada Revenue Agency rate. • An original hotel invoice itemizing room costs and other incidentals must be submitted. Where a Member has requested a room above the double occupancy rate, the Town shall only reimburse the portion of costs associated with the advertised double occupancy rate (i.e. where a Member requests a suite to accommodate their accompanying family, the cost difference between the suite rate and the advertised double occupancy room rate shall be the responsibility of the Member). • No receipts are required to claim a per diem for meals. The meal per diem may only be claimed when a meal is not

	<p>provided as part of the seminar or conference package or registration.</p> <ul style="list-style-type: none"> • A Member of Council shall reimburse the Town for any discounts or refunds received, including refund of early booking costs, for which the Member of Council has received eligible business expense reimbursement for.
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Communications, Advertising, and Constituency Meetings	
Eligible Expenses	<ul style="list-style-type: none"> • Design, production and mailing of constituent newsletters, neighbourhood letters, and cooperative letters. • Creation and maintenance of a constituent website and social media accounts. • Advertising through print media, radio or television stations that have general circulation, listeners, or viewership in the Town for the purpose of supplementing advertising by the Town to promote specific programs or events. • Meeting rooms to conduct constituency meetings. • Pay-per-use or subscription application/software costs related to conducting virtual/hybrid constituency meetings. Note: Microsoft Teams is the standard Town-issued and supported software for messaging and virtual meetings. Town TIS staff cannot provide technical support for third-party applications, including other virtual meeting platforms. • The catering of light snacks and refreshments, venue set-up fees, and additional cleaning charges for constituency meetings. • Costs may be shared between Members of Council.
Ineligible Expenses	<ul style="list-style-type: none"> • Advertising or communications, regardless of the media, that promotes organizations, political parties and candidates or is partisan in nature. • Advertising or communications found to be in violation of the Council Code of Conduct as determined by an Integrity Commissioner appointed by Council. • Advertising or communications that criticize Members of Council or the decisions of Council.
Conditions	<ul style="list-style-type: none"> • A newsletter shall not be mailed or otherwise distributed beyond the boundaries of the constituency of a Member except where postal codes cross beyond such boundaries. • Members shall provide a copy of the communication or advertisement as an attachment to the expense submission. • Members should identify the business purpose of the advertisement or communication or show that it promotes specific Town programs or events.

	<ul style="list-style-type: none"> • Use of the Town logo or branding shall be approved by the Corporate Communications Division. • Town Staff and internal resources shall not be used to assist the Member with preparing and/or distributing advertising or communications. • Election Period Restrictions outlined in Council Expense Policy are applicable. Specifically, in an Election Year, expenses within this category are not reimbursable/not eligible expenses from the first day prescribed for the filing of nominations in accordance with the Municipal Elections Act and ending when the new Council takes office.
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Mobile Phone Expenses	
Eligible Expenses – Corporate Devices and Phone Plans	<ul style="list-style-type: none"> • Peripherals such as additional chargers or carrying cases. • Mobile phone plan to meet the Member’s communication needs, including data. • Roaming charges, where not incurred for personal use, or add-on travel plans. • Replacement Corporate Phones and Corporate Portable Computing Devices outside of the Town’s Standard Replacement Schedule subject to the Conditions in this section.
Corporate Expense - Corporate Devices	<ul style="list-style-type: none"> • A mobile phone in accordance with a predetermined list of mobile phone options made available through the Town’s selected supplier.
Ineligible Expenses – Corporate Devices and Phone Plans	<ul style="list-style-type: none"> • Pay-per use calls. • Personal usage that incurs additional fees. • Charges related to the use of personal phones. • Campaign or election related usage.
Conditions – Corporate Devices and Phone Plans	<ul style="list-style-type: none"> • No replacement mobile phone shall be purchased or leased for a Member unless it is lost or stolen, or no longer operates and cannot be repaired at a reasonable cost to its initial operating specifications. The old equipment must be returned, and/or written confirmation provided that the equipment has been lost or stolen. • Device support is limited to the business functions for which the device is intended to be used (i.e., sending/receiving emails and use of the e-agenda app) and support will not be provided for personal use (i.e., third party apps and personal email). • The Member agrees to the application of established security protocols for mobile devices. • The Member agrees to follow all relevant Town-wide IT policies (including 500-050-01 Mobile Device Usage Policy).

	<ul style="list-style-type: none"> Occasional or incidental personal use that does not incur additional fees is expected within reasonable limits. Members of Council are responsible for exercising good judgement regarding the reasonableness of personal use. If, from the day of filing their nomination until Election Day, the Member wishes to use their corporate phone for campaign or election related purposes, the Member shall reimburse the Town for all costs associated with their corporate mobile phone for that period, and purchase the Town issued device based on the calculations outlined in the Corporate Expenses section of this Policy, as of the time of nomination.
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Computer Hardware, Software and Accessories	
Corporate Expense	<ul style="list-style-type: none"> Town issued computing devices, software, and accessories in accordance with a predetermined list of computing device options made available through the Town's selected supplier.
Ineligible Expenses	<ul style="list-style-type: none"> Personal computing devices, hardware, software, and accessories not issued through the Town's Technology and Innovation Services (TIS) Division or acquired by a Member outside of the Town's purchasing processes and procedures.
Conditions	<ul style="list-style-type: none"> The Member agrees to follow all relevant Town-wide IT policies (including 500-040-01 Technology Resource Acceptable Use Policy). No replacement computer hardware, software and accessories shall be purchased or leased for Member unless it is lost or stolen, or no longer operates and cannot be repaired to its initial operating specifications. The old equipment must be returned, and/or written confirmation provided that the equipment has been lost or stolen. Replacement equipment issued in the fourth year of the Council term must be returned to the Town at the end of the Council term and may not be used for campaigning or election purposes. Configuration of devices, including software, security and ongoing patching and management will be performed by the Technology and Innovation Services (TIS) Division. Device support is limited to the Town business functions for which the device is intended to be used (i.e., sending/receiving emails and use of the e-agenda software/app) and support will not be provided for personal use (i.e., third party software/apps and personal email). TIS will continue to support devices after they are transferred to a sitting Member up to the end of the Council term.

	<ul style="list-style-type: none"> • Occasional or incidental personal use that does not incur additional fees is expected within reasonable limits. Members of Council are responsible for exercising good judgement regarding the reasonableness of personal use. • If, after the day of filing their nomination, a Member wishes to use their Town device (e.g., iPad) for campaign or election related purposes, the ownership for such Town issued computing device(s), eligible software and accessories shall be transferred from the Town to the Member. If the Member chooses to exercise this option, the Member may purchase the Town issued device based on the calculations outlined in the Corporate Expenses section of this Policy, as of the time of nomination. • Computing devices, software and accessories remaining in Town ownership during the Election Period (i.e., when the Member elects not to transfer ownership) shall not be used for campaigning or election related purposes. • Software must be eligible to be transferred from a corporate account to a private account.
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Business Meetings and Hospitality	
Eligible Expenses	<ul style="list-style-type: none"> • Mileage at the Canada Revenue Agency rates for mileage if the business meeting is outside of the Town of Whitby limits. • Food and non-alcoholic beverages when attending a business meeting for the purpose of discussing matters of official Town business. • Food and alcoholic beverages for Economic Development purposes or hosted events by the CAO or Treasurer. • Meeting rooms to conduct official Town business. • The catering of light snacks and refreshments, venue set-up fees, and additional cleaning charges for business meetings or for hospitality at municipal events (i.e., annual AMO Conference).
Ineligible Expense	<ul style="list-style-type: none"> • Business meeting expenses of a personal nature and/or social meals or events. • Alcohol other than as noted above. • Mileage within the Town of Whitby.
Conditions	<ul style="list-style-type: none"> • Aside from mileage, where the expense is for a business meeting, the full names of all participants attending the meeting, the date of the meeting and the purpose/circumstances of the meeting must be recorded and submitted.

	<ul style="list-style-type: none">• Trade missions or research/study trips shall be approved by Council and associated costs shall be in accordance with those allocated by Council for that purpose. General practices regarding expenses (hotel rooms, mileage, etc.) shall be followed where applicable.
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Town of Whitby Staff Report

whitby.ca/CouncilCalendar



Report Title: Enhanced Property Tax Payment Options

Report to: Committee of the Whole

Date of meeting: May 13, 2024

Report Number: FS 17-24

Department(s) Responsible:

Financial Services Department

Submitted by:

Fuwing Wong, Commissioner of
Financial Services / Treasurer

**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

Crystal Doucette, Sr. Manager of
Revenue and Taxation, ext 2815

Recommendation:

1. That the Town implement two new property tax pre-authorized payment plans as outlined in Report FS 17-24;
2. That staff be authorized to adjust the terms & conditions of the Pre-authorized Payment plans as required;
3. That, despite the two (2) years provided for in the Municipal Act, the Town of Whitby only proceeds to Tax Registration with accounts that are three (3) years in arrears plus the current year;
4. That the Town initiate a process to search title on a tax roll prior to Tax Registration in the year the account is two (2) years in arrears plus current and notify interested parties of the impending Tax Registration; and,
5. That the Town's Fees and Charges By-law be amended to include a "Tax roll sub-search of Title" in the amount of \$150.00.

1. Highlights:

- The Town of Whitby currently has only one pre-authorized payment (“**PAP**”) plan for property taxes (an 11-month plan, January to November);
- Two additional PAP plans are proposed based on feedback received from taxpayers and to assist taxpayers that are in tax arrears:
 - a) An Instalment Due Date PAP Plan (four times a year where withdrawals coincide with instalment due dates)
 - b) An Arrears PAP Plan
- The Town of Whitby’s accounts receivable for property taxes has been trending higher in recent years. The Town would like to take a proactive approach to assisting the property owners of Whitby with protecting their property by clearing their past due property tax balances.
- Despite a trend of higher tax arrears, the Municipal Affairs and Housing’s (“**MMAH**”) Financial Indicator Review (received January 2024) indicates that the Town’s taxes receivable as a % of total taxes is still in the low risk range.

2. Background:

The Town of Whitby currently has only one pre-authorized plan whereby property taxes are withdrawn from taxpayer bank accounts over 11 months, January to November. Pre-authorized payment plans are a convenient way for taxpayers to make payments in a timely manner thereby avoiding late payment fees. Currently, 13,014 taxpayers (or 26% of the 49,250 tax rolls) are enrolled in the Town’s 11-month PAP plan.

Property taxes are due four (4) times a year (i.e. February, April, June, and September). For taxpayers that do not participate in the Town’s PAP plan, a common reason provided is that they do not wish to pay the Town “early” (e.g. a January PAP withdrawal when the instalment date is February). Accordingly, it is recommended that the Town implement an Instalment Due Date Pre-authorized Plan where the timing of the withdrawal of funds is the same four (4) payment instalment dates in February, April, June, and September.

The Town’s property tax arrears (or taxes receivable) as a % of total taxes levied has been trending upwards since 2019 as shown in the table below:

Year	Taxes Receivable (\$ millions)	Taxes Levied (\$ millions)	Taxes Receivable as a % Taxes Levied
2019	\$14.0	\$293.5	4.76%
2020	\$16.3	\$314.1	5.18%
2021	\$14.7	\$319.0	4.61%
2022	\$20.5	\$333.0	6.17%
2023	\$30.0	\$357.7	8.37%

Note: Taxes Receivable and Taxes Levied include the Town, Region, and School Board portions of all tax accounts in arrears. The Town collects property taxes for the Town services and services provided by the Region of Durham and School Boards. When a property is in tax arrears, the Town up-fronts the instalment payments to the Region and School Boards on behalf of the property owner and charges late payment fees to offset costs incurred (if any) or opportunity costs.

Despite a trend of higher tax arrears, the Financial Indicator Review, sent to Ontario municipalities annually from the MMAH, shows that Taxes Receivable as a % of Total Taxes levied under 10% is Low Risk (10 to 15% Moderate Risk; and > 15 is High Risk). The last Financial Indicator Review summary, received from MMAH in January 2024 (for 2022 financials), indicates that the Town's taxes receivable as a % of total taxes is still in the low risk range.

Once a tax account is in arrears for two (2) years plus the current year, a municipality may initiate a tax sale of the property to recover the property taxes outstanding:

- Of the 6,404 tax accounts in arrears as of the end of December 2023, 336 (or approximately 5%) are in arrears for two (2) years or more.
- Section 373 (1) of the *Municipal Act, 2001* notes that "where any part of tax arrears is owing with respect to land in a municipality on January 1 in the second year following that in which the real property taxes become owing, the treasurer of the municipality, unless otherwise directed by the municipality, may prepare and register a tax arrears certificate against the title to that land."
- Prior to May 2017, tax sales were initiated following three (3) years.
- Since the change to two (2) years, many municipalities (including all of the Durham municipalities except for Oshawa) continued with proceeding with a tax sale process after three (3) years.

Although the Municipal Act currently allows for tax sales (related to the non-payment of property taxes) to be initiated after two (2) years, it is recommended the Town of Whitby continue to initiate the tax sale process after three (3) years of tax arrears. Further, a Tax Arrears PAP plan is recommended to assist taxpayers become current in their property tax payments by suspending all tax sale activity while the taxpayer is on the plan and providing the taxpayer with calculations on how to become current on their property taxes over a fixed period of time. See more information on the Tax Arrears PAP plan in the Discussion section, below.

3. Discussion:

This report recommends two additional pre-authorized payment plans to be implemented:

- 1) Instalment Due Date PAP Plan to provide more options to taxpayers;
- 2) Arrears PAP Plan to assist taxpayers, currently in arrears, with a roadmap to bring their account current over a maximum of three (3) years.

Instalment Due Date PAP Plan

The Instalment Due Date PAP plan will allow residents, who have tax accounts that are current, to pay their four (4) regular tax instalments per year via automated bank withdrawals. The withdrawal dates for this plan would fall on the due dates of the Interim

and Final bills (i.e., February, April, June, and September). Interim and Final property tax bills will continue to be mailed/emailed to residents on this plan at least 21 days before the first due date listed on the bill. The tax bill provides the instalment amount and due dates that will be aligned to the Instalment Due Date PAP Plan withdrawal dates.

It is hopeful that this additional PAP option will encourage more taxpayers to sign-up for PAP and avoid missing an instalment payment/incurred late payment charges.

A sample of the Instalment Due Date PAP Plan application form (with terms and conditions) is shown in Attachment 1 to this report.

Tax Arrears PAP Plan (12-Monthly Withdrawals per Year)

For property taxpayers that are in tax arrears, the Tax Arrears PAP Plan assists the taxpayer to bring their account current by:

- 1) Calculating the minimum monthly withdrawal amounts over a fixed period of time (maximum of three years), adjusted annually for tax increases, late payment fees, to bring the account current by the end of the fixed period;
- 2) Automatically deducting these amounts from the taxpayer's bank account annually over all twelve (12) months (January to December); and
- 3) Providing a commitment not to initiate a tax sale while the taxpayer is on the Tax Arrears PAP plan and is in good standing (i.e., has not missed any payments).

Late payment fees will continue to be charged in accordance with the Town's by-law and the Municipal Act. However, under this plan late payment fees are factored into the monthly payments that will help the taxpayer bring the tax account current in three (3) years or less.

A sample of the Tax Arrears PAP Plan application form with all other terms and conditions is shown in Attachment 2 to this report.

For completeness, a revised application form for the Town's current 11-month PAP plan is shown in Attachment 3 to this report. The Terms and Conditions are listed on the back of all PAP Plan application forms and outline items like eligibility to enrol in the plan, termination and voluntary cancellation from the plan, and clarification when the property is sold by the property owner. Terms and Conditions for the PAP program should reflect industry best practices, changes, municipal trends, and be responsive to resident concerns. Accordingly, it is recommended that staff be authorized to update and amend terms and conditions for the Town's Pre-authorized Payment plans, as necessary. All taxpayers registered for the Town's PAP program will be notified of changes to terms and conditions following updates.

Tax Roll Sub-Search of Title

As noted in the Background section of this report, the Town's Tax Arrears (or taxes receivable) as a % of Taxes Levied has been trending upward since 2019.

Concurrent with the Tax Arrears PAP Plan to assist taxpayers become current, the Town is also recommending a tax roll sub-search of title (and associated fee) in year two (2) of a tax account becoming in arrears. That is, to reduce taxes receivable and avoid the Town's taxes receivable becoming moderate risk or high risk (as determined

by annual Provincial Financial Indicator Review), it is recommended that the Town complete a Tax sub-search of title on the property and notify any mortgage holders of the details of the arrears. Mortgage companies, then, may elect to pay all property taxes owing and add the property taxes to their clients' regular mortgage payments.

Subject to Council approval of this report, the Town's Fees and Charges By-law will be updated to include a "Tax roll sub-search of Title" fee in the amount of \$150.00 inclusive of disbursements, to cover this service.

4. Financial Considerations:

The additional PAP plans should provide taxpayers more options to pay their property taxes in a timely manner. As the Town currently only has one 11-month PAP plan, taxpayers generally pay in-person, provide post-dated cheques, and/or set-up their own post-dated electronic bill payments via online banking. Pre-authorized payment plans will automatically deduct amounts from taxpayer accounts even if they become too busy at tax instalment time and cannot come in-person/set-up an online bill payment or have lost/misplaced or did not receive their tax bill.

Preauthorized Payments are also more efficient for the Town to process property tax payments as multiple property tax accounts may be processed at once via the Town's online banking system. It is estimated that the two additional PAP plans will cost the Town of Whitby approximately \$80.00 annually in additional bank fees plus \$0.045 per transaction.

5. Communication and Public Engagement:

The proposed two (2) new pre-authorized payment options would become available for enrollment in June 2024.

Promotional materials and social media posts will be prepared to promote the new payments options.

6. Input from Departments/Sources:

Legal services have reviewed the pre-authorized payment forms and terms and conditions for each plan.

7. Strategic Priorities:

The proposed additional pre-authorized payment plans/options is consistent with Action 4.3.1." Continually improve the customer experience through the use of technology, more flexible payment and service options, and the implementation of a consolidated customer contact centre" of Whitby's Community Strategic Plan.

8. Attachments:

Attachment 1: Instalment Due Date Pre-authorized Tax Payment Plan Application

Attachment 2: Arrears Pre-authorized Tax Payment Plan Application

Attachment 3: Monthly Pre-authorized Tax Payment Plan Application



INSTALMENT DUE DATE

PRE-AUTHORIZED TAX PAYMENT PLAN APPLICATION

The Corporation of the Town of Whitby
575 Rossland Road East, Whitby ON, L1N 2M8

Roll No.

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Name(s) _____

Municipal
address _____

Email _____

Contact # _____

Home phone

Cell

Please attach an unsigned VOID cheque or pre-authorized deposit form

By enrolling in the Plan I/we agree to:

4-Month/Instalment due date Plan (Withdrawal amounts as listed on tax bills)

- Withdrawal Dates: Four (4) instalment dates, which are set annually for the months of February, April, June, and September, as listed on the Interim and Final tax bills.
- Withdrawal Amounts: (subject to #8, #10 and #11 of the terms on the reverse)
- Tax account must be current to join this plan.

February & April – as shown on the Interim tax bill, which is sent at least 21 days prior to the February instalment date.

June & September – as shown on the Final tax bill, which is sent at least 21 days prior to the June instalment date.

I have read the terms and conditions and hereby authorize my financial institution to debit my bank account in accordance with the Town of Whitby pre-authorized payment plan agreement for the purpose of paying property taxes with respect to the property noted above, this form may contain personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*. This information is collected under the legal authority of the *Municipal Act, 2001*. This information will be used and maintained by the Town of Whitby for the Plan. Questions regarding this collection may be directed to the Town Clerk's office, Town of Whitby, 575 Rossland Road East, Whitby, Ontario, L1N 2M8.

SIGNATURE _____

SIGNATURE _____

DATE SIGNED _____

Page 139 of 151

START DATE _____

Terms & Conditions

By enrolling in the Pre-Authorized Payment Plan (the “**Plan**”), I/we:

1. authorize the Town of Whitby to withdraw property tax payments payable to the Town of Whitby, at the specified Withdrawal Dates and Withdrawal Amounts, from the account as indicated on the attached “VOID” cheque.
2. am/are responsible for the payment of property taxes for my/our property. If a mortgage company is currently shown as responsible for paying, then this enrollment will be considered the authorization to remove their interest effective immediately.
3. will check my/our financial institution statement regularly to confirm the withdrawals are being made in accordance with the authorization.
4. warrant that all person(s) signature(s) are required to sign on this account have signed this agreement. In the case of land owned by a partnership or corporation, I (we) represent and warrant that I(we) have the authority to bind the partnership or corporation and that I(we) are duly authorized to enroll by the partnership or corporation.
5. acknowledge that delivery of authorization of the Town of Whitby constitutes delivery by me/us to the branch of the financial institution of which I/we maintain an account at and that such financial institution is not required to verify that the payments(s) are withdrawn in accordance with this authorization.
6. will notify the Town of Whitby in writing of any changes to my/our financial institution, branch or account. All changes must be submitted by the end of the month prior to the next withdrawal.
7. acknowledge that I/we may be terminated from the Plan if two (2) payments are returned by my/our financial institution and are not replaced.
8. agree that late payment fees and/or administrative fees may be added to the withdrawal amounts for any unsuccessful withdrawals, including pre-authorized payments that did not clear through my/our bank/financial institution account.
9. agree that the withdrawal amount may be reduced as a result of assessment changes pursuant to section 32, 33, 34, 39.1, 40 or 46 of the *Assessment Act* and/or tax appeals pursuant to section 334, 357 or 358 of the *Municipal Act, 2001*.
10. acknowledge that if additional charges, including but not limited to a lien pursuant to the *Municipal Act, 2001* are added to the tax account, such charges will be automatically withdrawn if not paid by the next withdrawal date. Any and all amounts due will be withdrawn on the four regular instalment due dates.
11. understand that additional property taxes resulting from supplementary/omitted assessments pursuant to section 33 or 34 of the *Assessment Act* and/or assessment changes pursuant to section 32, 39.1, 40 or 46 of the *Assessment Act* and/or tax appeals pursuant to section 359 or 359.1 of the *Municipal Act, 2001* will be billed separately as supplementary billings and will need to be paid separate from the Pre-authorized payment plan by the specified due dates to avoid late payment. If the supplementary billings remain unpaid by the next withdrawal date, all amounts due will be withdrawn.
12. acknowledge that, unless otherwise specified in the specific Plan chosen, enrollment is automatically renewed annually and that I/we may apply for cancellation of the plan by visiting www.whitby.ca/tax or sending the request in writing to the Tax Department fourteen (14) days prior to the next withdrawal date. (see more information in the “Voluntary Cancellation / Property Sale” section, below)
13. agree that if there has been an error in processing the withdrawal by my/our financial institution, administrative fees will still apply, and it will be my/our responsibility to recover any fees from my/our financial institution.
14. acknowledge that if my/our account was compromised that resulted in an unsuccessful Plan withdrawal, administrative fees will be waived once proof of the compromised account has been provided to the satisfaction of the Tax Department.
15. have recourse right if any debit does not comply with this agreement. I(we) have the right to receive reimbursement for any PAP that is not authorized or is not consistent with the PAP agreement. To obtain a form for a reimbursement claim or for more information on my/our recourse rights, I(we) may contact my/our financial institution or visit www.cdnpay.ca.

Void Cheque

If the name on the Void cheque does not match that of the ownership name(s) on the tax account, both the person whose name is on the void cheque (the “**Payee**”) and the registered owner(s) of the tax account (the “**Owner**”) must sign the enrollment form. Further, the Payee and Owner agree that any overpayment or credit on the account will be refunded to the owner of the tax account and not the payee. The Owner and Payee agree that any administrative fees associated with any payments returned from the Payee’s financial institution will be added to the Owner’s tax roll and form part of the taxes due. Cancellations can be made by either the Owner or the Payee.

Voluntary Cancellation / Property Sale

If I/we are changing ownership of the property and/or need to cancel the pre-authorized payments, I/we will notify the Tax Department in writing at least fourteen (14) days prior to the next withdrawal date. I(we) acknowledge that if notice is not given to cancel the plan when a sale occurs any payments withdrawn after the sale date will remain on the account and it will be the vendor’s responsibility to negotiate these payments with their lawyers.

ARREARS



PRE-AUTHORIZED TAX PAYMENT PLAN APPLICATION

The Corporation of the Town of Whitby
575 Rossland Road East, Whitby ON, L1N 2M8

Roll No.

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Name(s)

Municipal
address

Email

Contact #

Home phone

Cell

Please attach an unsigned VOID cheque or pre-authorized deposit form

By enrolling in the Plan I/we agree to:

Arrears Plan (12 Monthly Withdrawals until Account No Longer in Arrears)

- Withdrawal Dates: The fifteenth (15th) day of each month from January to December.
- Withdrawal Amounts:

January to Dec – Town of Whitby to calculate monthly Withdrawal Amount with a goal of bringing the tax account current within a maximum of three (3) years. This will include all tax arrears, current taxes, estimates of future taxes with projected tax increase and late payment fees.

Withdrawal amounts are re-calculated annually, subject to #8, #10 and #11 of the terms on the reverse and budgetary increases to annual taxes. These adjustments will be sent in writing to the owner at least 15 days prior to the next withdrawal date.

- Tax account must be in arrears to join this plan.
- Enrollment is automatically renewed annually until the tax account has been cleared of all arrears and is brought current.

I have read the terms and conditions and hereby authorize my financial institution to debit my bank account in accordance with the Town of Whitby pre-authorized payment plan agreement for the purpose of paying property taxes with respect to the property noted above, this form may contain personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*. This information is collected under the legal authority of the *Municipal Act, 2001*. This information will be used and maintained by the Town of Whitby for the Plan. Questions regarding this collection may be directed to the Town Clerk's office, Town of Whitby, 575 Rossland Road East, Whitby, Ontario, L1N 2M8.

SIGNATURE

SIGNATURE

DATE SIGNED

Page 141 of 151

START DATE

Terms & Conditions

By enrolling in the Pre-Authorized Payment Plan (the “Plan”), I/we:

1. authorize the Town of Whitby to withdraw property tax payments payable to the Town of Whitby, at the specified Withdrawal Dates and Withdrawal Amounts, from the account as indicated on the attached “VOID” cheque.
2. am/are responsible for the payment of property taxes for my/our property. If a mortgage company is currently shown as responsible for paying, then this enrollment will be considered the authorization to remove their interest effective immediately.
3. will check my/our financial institution statement regularly to confirm the withdrawals are being made in accordance with the authorization.
4. warrant that all person(s) signature(s) are required to sign on this account have signed this agreement. In the case of land owned by a partnership or corporation, I (we) represent and warrant that I(we) have the authority to bind the partnership or corporation and that I(we) are duly authorized to enroll by the partnership or corporation.
5. acknowledge that delivery of authorization of the Town of Whitby constitutes delivery by me/us to the branch of the financial institution of which I/we maintain an account at and that such financial institution is not required to verify that the payments(s) are withdrawn in accordance with this authorization.
6. will notify the Town of Whitby in writing of any changes to my/our financial institution, branch or account. All changes must be submitted by the end of the month prior to the next withdrawal.
7. acknowledge that I/we may be terminated from the Plan if a payment is returned by my/our financial institution and is not replaced which places the account in default of the payment arrangement established to avoid tax sale.
8. agree that late payment fees and/or administrative fees may be added to the withdrawal amounts for any unsuccessful withdrawals, including pre-authorized payments that did not clear through my/our bank/financial institution account.
9. agree that the withdrawal amount may be reduced as a result of assessment changes pursuant to section 32, 33, 34, 39.1, 40 or 46 of the *Assessment Act* and/or tax appeals pursuant to section 334, 357 or 358 of the *Municipal Act, 2001*.
10. acknowledge that if additional charges, including but not limited to a lien pursuant to the *Municipal Act, 2001* are added to the tax account, such charges will be included in the monthly withdraw amounts.
11. understand that additional property taxes resulting from supplementary/omitted assessments pursuant to section 33 or 34 of the *Assessment Act* and/or assessment changes pursuant to section 32, 39.1, 40 or 46 of the *Assessment Act* and/or tax appeals pursuant to section 359 or 359.1 of the *Municipal Act, 2001* will be billed separately as supplementary billings and will be included in the re-calculated withdrawal amounts.
12. acknowledge that, unless otherwise specified in the specific Plan chosen, enrollment is automatically renewed annually and that I/we may apply for cancellation of the plan by visiting www.whitby.ca/tax or sending the request in writing to the Tax Department before the end of the month prior to the next withdrawal date. (see more information in the “Voluntary Cancellation/ Property Sale” section, below)
13. agree that if there has been an error in processing the withdrawal by my/our financial institution, administrative fees will still apply, and it will be my/our responsibility to recover any fees from my/our financial institution.
14. acknowledge that if my/our account was compromised that resulted in an unsuccessful Plan withdrawal, administrative fees will be waived once proof of the compromised account has been provided to the satisfaction of the Tax Department.
15. have recourse right if any debit does not comply with this agreement. I(we) have the right to receive reimbursement for any PAP that is not authorized or is not consistent with the PAP agreement. To obtain a form for a reimbursement claim or for more information on my/our recourse rights, I(we) may contact my/our financial institution or visit www.cdnpay.ca.
16. acknowledge, if I/we are enrolled in the Arrears Plan (outlined in the application), late payment fees continue to apply but the Town of Whitby will not proceed with a tax sale of my/our property as provided for in the *Municipal Act, 2001* as long as withdrawals are successful, and the payment arrangement is still valid.

Void Cheque

If the name on the Void cheque does not match that of the ownership name(s) on the tax account, both the person whose name is on the void cheque (the “Payee”) and the registered owner(s) of the tax account (the “Owner”) must sign the enrollment form. Further, the Payee and Owner agree that any overpayment or credit on the account will be refunded to the owner of the tax account and not the payee. The Owner and Payee agree that any administrative fees associated with any payments returned from the Payee’s financial institution will be added to the Owner’s tax roll and form part of the taxes due. Cancellations can be made by either the Owner or the Payee.

Voluntary Cancellation / Property Sale

If I/we are changing ownership of the property and/or need to cancel the pre-authorized payments, I/we will notify the Tax Department in writing before the end of the month prior to the next withdrawal date. I(we) acknowledge that if notice is not given to cancel the plan when a sale occurs any payments withdrawn after the sale date will remain on the account and it will be the vendor’s responsibility to negotiate these payments with their lawyers.

**MONTHLY****PRE-AUTHORIZED TAX PAYMENT PLAN APPLICATION**

The Corporation of the Town of Whitby
575 Rossland Road East, Whitby ON, L1N 2M8

Roll No.

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Name(s)Municipal
address

Email

Contact #

Home phone

Cell

Please attach an unsigned VOID cheque or pre-authorized deposit form

By enrolling in the Plan I/we agree to:

11-Month payment Plan (Withdrawals January to November)

- Withdrawal Dates: The fifteenth (15th) day of each month from January to November
- Tax account must be current to join this plan
- Withdrawal Amounts:

January to May – Each withdrawal calculated as follows: 50% of the previous year's Final tax bill (adjusted for #8 in the terms on the reverse) divided by 11 months;

June to November – Each withdrawal calculated as follows:

- The current year's Final tax bill amount (adjusted for #8 in the terms on the reverse) less January to May withdrawals;
- The difference, calculated above, divided by the remaining six (6) months.

I have read the terms and conditions and hereby authorize my financial institution to debit my bank account in accordance with the Town of Whitby pre-authorized payment plan agreement for the purpose of paying property taxes with respect to the property noted above, this form may contain personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*. This information is collected under the legal authority of the *Municipal Act, 2001*. This information will be used and maintained by the Town of Whitby for the Plan. Questions regarding this collection may be directed to the Town Clerk's office, Town of Whitby, 575 Rossland Road East, Whitby, Ontario, L1N 2M8.

SIGNATURE _____

SIGNATURE _____

DATE SIGNED _____

START DATE _____

Terms & Conditions

By enrolling in the Pre-Authorized Payment Plan (the “Plan”), I/we:

1. authorize the Town of Whitby to withdraw property tax payments payable to the Town of Whitby, at the specified Withdrawal Dates and Withdrawal Amounts, from the account as indicated on the attached “VOID” cheque.
2. am/are responsible for the payment of property taxes for my/our property. If a mortgage company is currently shown as responsible for paying, then this enrollment will be considered the authorization to remove their interest effective immediately.
3. will check my/our financial institution statement regularly to confirm the withdrawals are being made in accordance with the authorization.
4. warrant that all person(s) signature(s) are required to sign on this account have signed this agreement. In the case of land owned by a partnership or corporation, I (we) represent and warrant that I(we) have the authority to bind the partnership or corporation and that I(we) are duly authorized to enroll by the partnership or corporation.
5. acknowledge that delivery of authorization of the Town of Whitby constitutes delivery by me/us to the branch of the financial institution of which I/we maintain an account at and that such financial institution is not required to verify that the payments(s) are withdrawn in accordance with this authorization.
6. will notify the Town of Whitby in writing of any changes to my/our financial institution, branch or account. All changes must be submitted by the end of the month prior to the next withdrawal.
7. acknowledge that I/we may be terminated from the Plan if a payment is returned by my/our financial institution and is not replaced.
8. agree that late payment fees and/or administrative fees may be added to the withdrawal amounts for any unsuccessful withdrawals, including pre-authorized payments that did not clear through my/our bank/financial institution account.
9. agree that the Withdrawal Amount may be reduced as a result of assessment changes pursuant to section 32, 33, 34, 39.1, 40 or 46 of the *Assessment Act* and/or tax appeals pursuant to section 334, 357 or 358 of the *Municipal Act, 2001*.
10. acknowledge that if additional charges, including but not limited to a lien pursuant to the *Municipal Act, 2001* are added to the tax account, such charges will **not** be automatically included in the monthly withdraw amounts and payment for such charges must be remitted separately by the specified due date.
11. understand that additional property taxes resulting from supplementary/omitted assessments pursuant to section 33 or 34 of the *Assessment Act* and/or assessment changes pursuant to section 32, 39.1, 40 or 46 of the *Assessment Act* and/or tax appeals pursuant to section 359 or 359.1 of the *Municipal Act, 2001* will be billed separately as supplementary billings with specified due date(s) and will **not** be included in the Pre-authorized withdrawals. If these billings are not paid by the perspective due dates the account will be removed from the Pre-authorized plan.
12. acknowledge that, unless otherwise specified in the specific Plan chosen, enrollment is automatically renewed annually and that I/we may apply for cancellation of the plan by visiting www.whitby.ca/tax or sending the request in writing to the Tax Department before the end of the month prior to the next withdrawal date. (see more information in the “Voluntary Cancellation/ Property Sale” section, below)
13. agree that if there has been an error in processing the withdrawal by my/our financial institution, administrative fees will still apply, and it will be my/our responsibility to recover any fees from my/our financial institution.
14. acknowledge that if my/our account was compromised that resulted in an unsuccessful Plan withdrawal, administrative fees will be waived once proof of the compromised account has been provided to the satisfaction of the Tax Department.
15. have recourse right if any debit does not comply with this agreement. I(we) have the right to receive reimbursement for any PAP that is not authorized or is not consistent with the PAP agreement. To obtain a form for a reimbursement claim or for more information on my/our recourse rights, I(we) may contact my/our financial institution or visit www.cdnpay.ca.

Void Cheque

If the name on the Void cheque does not match that of the ownership name(s) on the tax account, both the person whose name is on the void cheque (the “Payee”) and the registered owner(s) of the tax account (the “Owner”) must sign the enrollment form. Further, the Payee and Owner agree that any overpayment or credit on the account will be refunded to the owner of the tax account and not the payee. The Owner and Payee agree that any administrative fees associated with any payments returned from the Payee’s financial institution will be added to the Owner’s tax roll and form part of the taxes due. Cancellations can be made by either the Owner or the Payee.

Voluntary Cancellation / Property Sale

If I/we are changing ownership of the property and/or need to cancel the pre-authorized payments, I/we will notify the Tax Department in writing before the end of the month prior to the next withdrawal date. I(we) acknowledge that if notice is not given to cancel the plan when a sale occurs any payments withdrawn after the sale date will remain on the account and it will be the vendor's responsibility to negotiate these payments with their lawyers.

New and Unfinished Business - General Government

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
GG-0001	Fishing in Town Parks	That Staff report back on legal fishing in Town parks, including Port Whitby, after consultation with the fishing community has occurred.	07 May 2018	11 Feb 2019	28 Oct 2024	
GG-0002	Community and Marketing Services Department Report, CMS 35-18 Re: Cullen Central Park Master Plan	2. That Council direct staff to commence the development of the Cullen Central Park Master Plan with the final Master Plan to be brought forward for Council approval in Q4 2019; and, 5. That Staff identify options to recognize former mayor Marcel Brunelle in Cullen Park.	25 Jun 2018	18 Nov 2019	17 Feb 2025	In the Whitby Sports Complex Construction Tender Results & Project Budget Approval - Parks projects (originally planned for 2024 in the 10-year forecast) will be impacted by this, includes the Cullen Central Park Redevelopment Phase 2. This project will be budgeted in 2025.
GG-0004	Correspondence # 2020-77 from Karey Anne Large, Executive Director, Downtown Whitby Business Improvement Area, dated January 2, 2020 regarding the Downtown Whitby Business Improvement Area's Annual Report, the 2020 Proposed Budget, and Disbursement Schedule.	That the Commissioner of Corporate Services/Treasurer be directed to report back on the development of a policy to deal with grant and in-kind requests, including predetermined criteria and scoring, in order to ensure grants are based on needs and targeted outcomes.	09 Mar 2020	21 Sep 2020	28 Oct 2024	

New and Unfinished Business - General Government

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
GG-0005	Public Works (Operations) Department Report, PW 17-21 Re: Vimy Memorial Park	3. That staff report back to Council on the progress of the park agreement along with refined budget implications prior to assumption.	21 Jun 2021	13 Jun 2022	10 Jun 2024	Planning & Development & Community Services Staff prepared a joint memo that went on the Aug 11 CII to update Council on the status of the Park. A report will come forward once all issues have been resolved and the park is moving forward.
GG-0006	Financial Services Department Report, FS 37-21 Re: Town-Owned Land Strategy	That the properties at Part of Lot 25, 26, Conc. 4, Portion of PIN 26569 0285 (LT), Broadleaf and McKinney, as shown on Attachment #15 and Part Lot 25, Con. 2, now 40R-1655, Part 6, PIN 26532 0244 (LT), known municipally as 500 Garden Street, as shown on Attachment #3 be referred to staff to investigate zoning opportunities that would maximize the land value.	27 Sep 2021	05 Jun 2023	28 Oct 2024	
GG-0007	Community Services Department Report, CMS 19-21 Re: Unnamed West Whitby Park – Park Name Survey Results	3. That staff be directed to review the Municipal Property and Facility Naming Policy (MS 250) and report back with any recommended revisions to update the policy.	29 Nov 2021	16 Jan 2023	16 Sep 2024	

New and Unfinished Business - General Government

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
GG-0019	Refrigerated Outdoor Ice Rinks or Skating Trails	That following the tender results for the Whitby Sports Complex and as part of the development of the Parks and Recreation Master Plan, that Staff be directed to report on opportunities to install refrigerated outdoor ice rinks or skating trails in the Town	20 Mar 2023	25 Mar 2024	02 Dec 2024	Following the recommendations of the Parks and Recreation Master Plan.
GG-0021	Protecting Whitby's Urban Forest Canopy	That staff report back on the opportunity to protect trees of significance on private lands in order to preserve Whitby's urban forest canopy.	20 Mar 2023	04 Dec 2023	02 Dec 2024	This recommendation is to create a plan that will help guide a Tree Protection By-law
GG-0022	Gateway Maintenance Program	That Staff be directed to report to Council on the implementation of a gateway maintenance program, including additional resources required, to address the repair and rehabilitation of deteriorating gateway signage in subdivisions throughout the Town of Whitby.	24 Apr 2023	20 Nov 2023	13 May 2024	
GG-0023	CMS 06-23, Community Services Department Report Re: Bill 23 Parkland Dedication Framework	4. That staff be directed to report to Council with options for the acquisition of land to support the development of sports fields as identified by the 2015 Sports Facility Strategy and updated by the 2023 Parks and Recreation Master Plan; and, 5. That Staff be directed to report to Council in September 2023 on the status of the parks master plan agreement.	19 Jun 2023	25 Sep 2023	02 Dec 2024	Memo re: the parks master plan agreement forthcoming.

New and Unfinished Business - General Government

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
GG-0024	LS 07-23, Legal and Enforcement Services Department Report Re: Proposed Amendments to the Town of Whitby Towing By-law # 6887-14	2. That Council direct staff to review current municipal regulations regarding the licensing and governing of tow truck drivers and tow truck businesses, activities, and undertakings in the Town of Whitby.	19 Jun 2023	13 May 2024	31 Jul 2024	Staff member who is the subject matter expert is currently on leave.
GG-0025	Council Education and Training Program	That consideration of the Council Education and Training Program be referred to Staff to prepare a Report to Council about the program in November	02 Oct 2023	15 Jan 2024	13 May 2024	
GG-0026-0	CMS 09-23, Community Services Department Report Re: James Rowe House - Food and Beverage RFP	2. That staff enter negotiations with the respondents to the RFP and report back to Council with the results of those negotiations for approval by Council..	27 Nov 2023	03 Jun 2024		Expression of Interest (EOI) to be issued in April 2024 which will guide the RFP process.
GG-0026	Installing lighting at Town parks within a 1-kilometre radius of 1635 Dundas Street	That Staff be directed to report to Council on the cost and timelines to install lighting at Town parks within a 1-kilometre radius of 1635 Dundas Street East.	18 Dec 2024	25 Nov 2024		
GG-0027	Replacing Town Park playground surfaces within a 1- kilometre radius of 1635 Dundas Street East	That Staff be directed to report to Council on the cost and timelines to replace Town park playground surfaces with alternative surfaces within 1-Kilometre radius of 1635 Dundas Street East.	18 Dec 2023	25 Nov 2024		
GG-0028	Enacting an Encampment bylaw	That Staff be directed to report to Council on the merits and feasibility of enacting an encampment by-law in the Town.	18 Dec 2023	15 Apr 2024	03 Jun 2024	Recent Court decisions are being reviewed to incorporate into the Legal Analysis.
GG-0029	Prohibiting loitering, obstruction, panhandling, and resting/sleeping outdoors	That Staff be directed to report to Council on the merits and feasibility of enacting a by-law to prohibit loitering, obstruction, panhandling, and resting/sleeping outdoors in the Town.	18 Dec 2023	15 Apr 2024	03 Jun 2024	Recent Court decisions are being reviewed to incorporate into the Legal Analysis.

New and Unfinished Business - General Government

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
GG-0030	Corr # 2023-587 from E. Underwood, Chief Executive Officer, Habitat for Humanity GTA, regarding Expression of Interest in Acquiring Surplus Sites at Dunlop Street East and Hickory Street for Affordable Housing Development	2. That Staff be directed to report to Council regarding the Expression of Interest received from Habitat for Humanity Greater Toronto Area for the proposed Affordable Housing Development at Dunlop Street East and Hickory Street; and, 3. That the Report back include an appraised value for the donated land.	18 Dec 2023	04 Mar 2024	10 Jun 2024	
GG-0031	Requiring the Region of Durham to consult with the Town of Whitby prior to proposed expropriation requests or orders	That Staff report to Council through a memorandum on the Council Information Index on the legal feasibility of requiring Durham Region to consult with Town of Whitby Planning & Development Staff, CAO, and Council prior to a proposal of expropriation requests on private lands, or orders (for any buildings or lands) not being used for the purpose of providing utilities, (especially if the building is 70,000+ square feet). Which the purpose is to include a request for mandatory consultation with the Town and the Region.	18 Dec 2023	TBD		

New and Unfinished Business - General Government

Item Number	Description	Resolution	Meeting Date	Due Date	Revised Date	Explanation/Comments
GG-0032	Memorandum from H. Ellis, Council and Committee Coordinator, dated October 13, 2023 regarding the Joint Accessibility Advisory and Whitby Diversity and Inclusion Advisory Committee request to participate in the Leading Equitable and Accessible	That the memorandum from H. Ellis, Council and Committee Coordinator, dated October 13, 2023 regarding the Joint Accessibility Advisory and Whitby Diversity and Inclusion Advisory Committee request to participate in the Leading Equitable and Accessible Delivery Program be referred to Staff to report back on the opportunity to participate in this program given corporate resource constraints and commitments.	29 Jan 2024	13 May 2024		
GG-0033	Comprehensive Review of the Procedure By-law	1. That the Clerk be directed to undertake a comprehensive review of the Procedure By-law and report to Council prior to summer recess 2024 with recommended amendments based on an environmental scan of comparator municipalities and consultation with Members of Council.	18 Mar 2024	10 Jun 2024		
GG-0034	LS 13-23, Legal and Enforcement Services Department Report Re: Business Licensing By-law Exception Request - 417 Byron Street North	4. That Council direct staff to review the lodging house provisions within the Business Licensing by-law and report back on the merits of amending the By-law to ensure consistency with other applicable provincial legislation; and, 5. That Council direct staff to review the merits of adding provisions/schedules to the Business Licensing By-law to regulate Rooming Houses in the Town of Whitby.	18 Mar 2024	31 Mar 2025		
GG-0035	CMS 04-24, Community Services Department Report Re: Commemorative Tree and Bench Policy Update	4. That Staff be directed to investigate the installation of a commemorative dedication feature at the waterfront and report back to Council in Q4 2024.	29 Apr 2024	02 Dec 2024		