



General Committee Meeting Agenda

**Tuesday, November 5, 2019
7 p.m.**

**Council Chambers
Aurora Town Hall**



**Town of Aurora
General Committee
Meeting Agenda**

Tuesday, November 5, 2019
7 p.m., Council Chambers

Councillor Gaertner in the Chair

- 1. Approval of the Agenda**
- 2. Declarations of Pecuniary Interest and General Nature Thereof**
- 3. Community Presentations**
- 4. Delegations**
- 5. Consent Agenda**

Items listed under the Consent Agenda are considered routine or no longer require further discussion, and are enacted in one motion. The exception to this rule is that a Member may request for one or more items to be removed from the Consent Agenda for separate discussion and action.

Recommended:

That the following Consent Agenda item, C1, be approved:

- C1. Memorandum from Mayor Mrakas
Re: Engaged Inclusive Communities**

Recommended:

1. That the memorandum regarding Engaged Inclusive Communities be received for information.

6. Advisory Committee Meeting Minutes

Recommended:

That the following Advisory Committee Meeting Minutes item, A1 to A3, be received:

A1. Finance Advisory Committee Meeting Minutes of September 25, 2019

Recommended:

1. That the Finance Advisory Committee meeting minutes of September 25, 2019, be received for information.

A2. Accessibility Advisory Committee Meeting Minutes of October 2, 2019

Recommended:

1. That the Accessibility Advisory Committee meeting minutes of October 2, 2019, be received for information.

A3. Governance Review Ad Hoc Committee Meeting Minutes of October 9, 2019

Recommended:

1. That the Governance Review Ad Hoc Committee meeting minutes of October 9, 2019, be received for information.

7. Consideration of Items Requiring Discussion (Regular Agenda)

R1. PDS19-097 – Kitimat Crescent and Aurora Heights Public School Alternative Solutions to Safety Concerns

Recommended:

1. That Report No. PDS19-097 be received; and

2. That Parking By-law No. 4574-04.T be amended to prohibit parking at any time on the south and east sides of Kitimat Crescent from a point nine metres south of the beginning of the curb return to a point nine metres east of the end of the curb return adjacent to 25 Kitimat Crescent.

R2. FS19-031 – 2020-22 Operating Budget

Presentation to be provided by Rachel Wainwright-van Kessel, Director of Finance.

Recommended:

1. That Report No. FS19-031 be received; and
2. That the 2020, 2021, and 2022 draft Operating Budgets be referred to Budget Committee for review at its scheduled meetings commencing on November 18, 2019.

R3. CS19-025 – Fence By-law Exemption Request – 203 St. John’s Sideroad West

Recommended:

1. That Report No. CS19-025 be received; and
2. That an exemption to the Town’s Fence By-law No. 4753-05.P to permit a non-compliant fence in the front and side yard at 203 St. John’s Sideroad West, be refused; and
3. That an exemption to the Town’s Fence By-law No. 4753-05.P to permit the non-compliant wrought iron gate with a height exceeding 2.0 metres, be approved and the amending by-law be brought forward for enactment; and
4. That the registered property owner bring the property into compliance with respect to the provisions in the Fence By-law No. 4753-05.P within 30 days.

R4. FS19-037 – Procurement Exemptions to Library Square Project

Presentation to be provided by Les Camm, Senior Project Manager, Colliers Project Leaders.

Recommended:

1. That Report No. FS19-037 be received; and
2. That an exemption to the Procurement By-law be approved to permit Colliers Project Leaders, the project Architect and Planning/Landscape Architect, including RAW Architects and the Planning Partnership, to participate on the Evaluation Committees for the Library Square Project; and
3. That an exemption be approved to waive the requirement for liquidated damages for the Library Square Project.

R5. PDS19-091 – Amendments to Source Protection Plans and Assessment Reports

Recommended:

1. That Report No. PDS19-091 be received; and
2. That Council endorse the proposed amendments as discussed herein to the Lake Simcoe Couchiching-Black River and Toronto Region Assessment Reports, and South Georgian Bay Lake Simcoe and Central Lake Ontario, Toronto Region and Credit Valley Source Protection Plans; and
3. That the Town Clerk circulate the Council Resolution to the Regional Clerk, Chair of the South Georgian Bay Lake Simcoe Source Protection Committee, and the Chair of the Credit Valley, Toronto Region and Central Lake Ontario (CTC) Source Protection Committee.

8. Notices of Motion

(a) Mayor Mrakas

Re: Development Charges Exemption

9. New Business

10. Closed Session

11. Adjournment



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**Town of Aurora
Office of the Mayor**

Memorandum

Date: November 5, 2019
To: Members of Council
From: Mayor Tom Mrakas
Re: **Engaged Inclusive Communities**

Recommendations

- 1. That the memorandum regarding Engaged Inclusive Communities be received for information.**

Attachments

Attachment 1 – Letter from Neighbourhood Network re: Engaged Inclusive Communities Proposal



NeighbourhoodNetwork
Building Better Communities Together

Dear Mayor Mrakas,

We hope that this message finds you well.

Neighbourhood Network is built on the **vision** of *building better communities* together. For over ten years we have partnered with five of the Northern Six York Region municipalities to provide community engagement through volunteerism and spearhead programs to address important community needs as they arise.

As our communities continue to evolve, so too must these methods of engagement and support. We are writing you today with a request to come present a unique opportunity for the Town of Aurora to learn and shape ways of creating communities.

Neighbourhood Network has signed on to be a Lead Community Partner for an important initiative proposed to us by a community member and leader in engagement and inclusion. By collaborating with the municipalities of Aurora, East Gwillimbury, and Newmarket we will be able to gather a deeper understanding of the diversity in our communities, taking a critical first step in building belonging, engaging meaningfully, and deepening connection and impact.

Attached is a proposal that overviews this initiative. This is an opportunity for the Town of Aurora to get ahead of the changes, to be proactive in developing deeper understanding, and to take concrete action based on the knowledge that will be gained from this project.

As we quickly move towards 2020, we'd look forward to the chance in the near future to present this to the Town of Aurora for consideration so we can capitalize on this opportunity.

We look forward to sharing more with you, to building this together with you.

A handwritten signature in blue ink that reads "Erin Cerenzia".

Erin Cerenzia
Manager, Neighbourhood Network



“Because it values and respects all its members, an inclusive municipality builds a society without fences, where everyone has an equal chance at participating in its economic, political, social, cultural and recreational life, and to thrive there.

UNESCO Coalition of Inclusive Municipalities *
*Aurora and Newmarket are both members

Engaged Inclusive Communities — a partnered approach

PRESENTED BY:
Neighbourhood Network
LEAD COMMUNITY PARTNER



PREPARED BY:
Kim Clark, gazelle and company

Working together towards engaged,
connected and inclusive communities.

**FALL
2019**

Creating more engaged, inclusive, connected communities – Aurora, East Gwillimbury & Newmarket

Purpose

- ♦ To engage, build connections; build inclusion through collaborative approaches, initiatives, and dialogue for impact in partner municipalities.
- ♦ To help further communities where everyone feels a sense of belonging, connectedness, and are engaged meaningfully—with opportunities, access, and inclusion.

This initiative will be a collaborative approach across three municipalities in North York Region with Neighbourhood Network as Lead Community Partner. Leveraging the strength of Neighbourhood Network’s leadership in engagement and understanding of our communities, while also building on the N6 communities historical strength of collaboration on shared issues, while valuing and recognizing different needs in each. This initiative will be:

- ♦ Looking at shared challenges and opportunities
- ♦ Taking an integrated approach to avoid duplication and find efficiencies
- ♦ Researching the specific needs of each individual community where growth, increased development and change is rapid

GUIDING PRINCIPLES

Building Connections

Inclusion

Innovation

Engagement

Community Building

Alignment

“Diverse and inclusive cities and communities have more social, economic and physical resilience in the face of unforeseen challenges because community members are equipped with the values of equity, diversity and inclusion to adapt to changes and create positive opportunities for community-(re)building.”

Building Inclusive Cities Case Study – Cities of Migration

Why this approach? Why now?

Our communities are rich—with opportunity, with growth and with change, linked to the changing face and demographics of our communities. This is a time to engage and learn proactively, meaningfully and collaboratively. As a priority, this offers both significant opportunity and challenge. With this—here are some observations:

- ♦ A collective, specific and deeper understanding about what diversity looks like in our three communities leads to increased community strength, connectedness and inclusion for impact and growth
- ♦ Working collaboratively, sharing resources and leveraging expertise in engagement and inclusion in our community increases impact, identifies points of intersection and also provides an opportunity to do impactful work in a fiscally efficient way by pooling resources
- ♦ There are many organizations/stakeholders in these municipalities wanting to engage in similar work—this provides for a collaborative and integration point—while still allowing for individual municipalities and organizations to meet their specific needs
- ♦ Our borders are porous and stakeholders in this area of work crosses municipalities
- ♦ York Region is doing powerful work broadly around diversity in the region, but research and engagement specific to individual municipalities does not exist

Proposed Activities

1. Reviewing, assessing and reporting on current activities and status of inclusion work within each of the 3 municipalities
2. Reviewing and reporting on work around inclusion and belonging in York Region and within the 3 communities more broadly—key stakeholders and potential future partners such as—York Regional Police, Southlake Regional Health Centre, large employers/businesses, York Region school boards, York Children's Aid Society
3. Reviewing and assessing best practices in inclusive engagement and Inclusion & Diversity work in municipalities and other relevant organizations
4. Engaging in focused discussions with key community stakeholders for input—including existing engagement models/activities of partners to inform report and opportunities
5. Researching and exploring potential future funders and partners

In addition to these activities above, each municipal partner would have the opportunity for 1–2 workshops delivered to leadership within the municipalities around inclusive engagement.

The evidence is mounting that geographical openness and cultural diversity and tolerance are not by-products but key drivers of economic progress. Proximity, openness and diversity operate alongside technological innovation and human capital as the key engines of economic prosperity. Indeed, one might even go so far as to suggest that they provide the motive force of intellectual, technological, and artistic evolution.

Richard Florida "How Diversity Leads to Economic Growth," CityLab

Project Deliverables

The overarching goal of this project as a first step towards increased engagement in and understanding of diversity in our communities to report on opportunities and plans for future impact and community building. This includes:

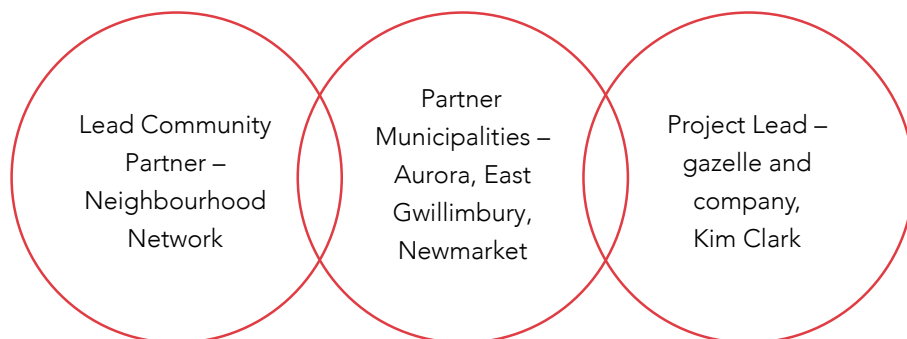
- ♦ A summary report that overviews inclusion work and opportunity in 3 municipalities and recommendations broadly and within each individual municipality. This report would include:
 - Snapshot demographic information within 3 communities based on 2016 census data related to inclusion and diversity (based on models by York Region, but a specific dive into 3 communities)
 - A summary of organizations and initiatives within 3 communities focused on inclusion, belonging, diversity and community engagement
 - Recommendations and opportunities identified for around inclusion, belonging and community engagement—a framework for action and engagement
 - A break out report for each individual municipality with snapshot and recommendations for action/opportunities for engagement
- ♦ 1st draft listing of organizations and stakeholders around inclusion in each municipality
- ♦ A framework for potential integrated-collective work moving forward within 3 communities
 - Including securing and sourcing potential broader funders and partners
 - Including potential activities and a plan that includes items such as:
 - › An inclusive communities forum
 - › Speaker series
 - › Deeper collective community engagement activities
 - › Capacity building in municipalities, community and community based organizations around inclusive engagement and related issues

Timelines (project rollout from approval)



Roles and Requirements

ROLES:



REQUIREMENTS:

Partner Municipalities – Each municipality will have an identified project lead/liaison to play a connector and coordinating role (minimal workload), access as needed for strategic direction to elected officials and municipal leadership.

Lead Community Partner – Provide administrative project support, space, supplies and play and advisory/connector role as needed. As community partner, Neighbourhood Network will provide significant in-kind support for this project by providing a home, leadership and administrative support.

Project Lead – Develop, manage and execute project. Given the opportunity to find efficiencies doing work collaboratively, given support of Neighbourhood Network as Community Partner and the importance of project for community, the lead partner will provide services at a special partner project fee structure.

Advisory Panel – Identify a small panel of key stakeholders and community builders to provide advisory input in development of project, deliverables and framework for moving forward.

Project Costs:

Collaborating and working together on this across three municipalities and partnered with a leading community organization not only makes sense for reach and impact, it also allows for cost savings and efficiencies. The costs to do this work as individual municipalities could be double at minimum (i.e. the proposed workshops alone would be between \$15,000–\$30,000).

A recommended project cost sharing model for this project phase outlined would be:

TOWN OF AURORA	TOWN OF EAST GWILLIMBURY	TOWN OF NEWMARKET	NEIGHBOURHOOD NETWORK
\$15,000	\$10,000	\$20,000	\$20,000+ (in-kind)



**Town of Aurora
Finance Advisory Committee
Meeting Minutes**

Date: Wednesday, September 25, 2019

Time and Location: 5:30 p.m., Holland Room, Aurora Town Hall

Committee Members: Councillor Michael Thompson (Chair), Councillor Harold Kim (arrived 5:50 p.m.), Mayor Tom Mrakas

Member(s) Absent: None

Other Attendees: Councillor Rachel Gilliland, Doug Nadorozny, Chief Administrative Officer, Techa van Leeuwen, Director of Corporate Services, Rachel Wainwright-van Kessel, Director of Finance, Jason Gaertner, Manager, Financial Management Services, Linda Bottos, Council/Committee Coordinator

The Chair called the meeting to order at 5:45 p.m.

1. Approval of the Agenda

**Moved by Mayor Mrakas
Seconded by Councillor Thompson**

That the agenda as circulated by Legislative Services be approved.

Carried

2. Declarations of Pecuniary Interest and General Nature Thereof

There were no declarations of pecuniary interest under the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50.*

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Wednesday, September 25, 2019

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3. Receipt of the Minutes

Finance Advisory Committee Meeting Minutes of June 26, 2019

Moved by Mayor Mrakas

Seconded by Councillor Thompson

That the Finance Advisory Committee meeting minutes of June 26, 2019, be received for information.

Carried

4. Delegations

None

5. Consideration of Items

1. Review of Detailed Financial Budget Information Re: Corporate Services

Staff provided an overview of the line-by-line analysis and year-to-date comparison of the final approved 2019 budget for the Corporate Services department, including detailed explanations regarding the highlighted budget variances. Staff responded to questions and noted that the Information Technology Strategic Plan represents the single greatest budget pressure for the department. Other budget pressures identified to the Committee included incremental staff resource requirements in the divisions of Access Aurora, By-law Services, and Legal Services relating to the Town maintaining its existing services levels in an environment of growing demand.

Moved by Councillor Kim

Seconded by Mayor Mrakas

1. That the comments and suggestions of the Review of Detailed Financial Budget Information for Corporate Services be received and referred to staff for consideration and action as appropriate.

Carried

Finance Advisory Committee Meeting Minutes
Wednesday, September 25, 2019

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**2. Memorandum from Project Management Office
Re: Town's Major Capital Projects Update**

Staff gave a brief overview of the memorandum and status of the Town's current major capital projects, noting that all projects are on schedule and on budget, except for Fire Hall 4-5, which remains in the procurement process and is to be redesigned in order to meet the budget.

**Moved by Councillor Kim
Seconded by Mayor Mrakas**

1. That the memorandum regarding Town's Major Capital Projects Update be received for information.

Carried

3. Draft 2020 Detailed Capital Investment Plan

Staff responded to several questions on items in the summary sheets provided for the 2020 Draft 1 Repair and Replacement, Growth and New, and Studies and Other Capital Projects, which will be considered at the Budget Committee meeting of October 5, 2019.

**Moved by Mayor Mrakas
Seconded by Councillor Kim**

1. That the Town's Draft 2020 Detailed Capital Investment Plan be received for information.

Carried

6. New Business

The Chair requested that staff encourage Council members to contact staff on any clarification needed regarding the 2020 Capital Budget binder content prior to the upcoming Budget Committee meeting.

Finance Advisory Committee Meeting Minutes
Wednesday, September 25, 2019

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7. Adjournment

**Moved by Councillor Kim
Seconded by Mayor Mrakas**

That the meeting be adjourned at 6:32 p.m.

Carried



**Town of Aurora
Accessibility Advisory Committee
Meeting Minutes**

Date: Wednesday, October 2, 2019
Time and Location: 7 p.m., Holland Room, Aurora Town Hall
Committee Members: John Lenchak (Chair), Hailey Reiss (Vice Chair) (arrived 7:16 p.m.), Matthew Abas, Max Le Moine, Jo-anne Spitzer, Councillor Rachel Gilliland
Members Absent: Gordon Barnes
Other Attendees: Ivy Henriksen, Manager, Customer Service, Terence Wong, Senior Plans Examiner, Gary Greidanus, Senior Landscape Architect, Linda Bottos, Council/Committee Coordinator

The Chair called the meeting to order at 7:07 p.m.

1. Approval of the Agenda

**Moved by Jo-anne Spitzer
Seconded by Max Le Moine**

That the agenda as circulated by Legislative Services be approved.

Carried

2. Declarations of Pecuniary Interest and General Nature Thereof

There were no declarations of pecuniary interest under the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50.*

3. Receipt of the Minutes

Accessibility Advisory Committee Meeting Minutes of September 4, 2019

Accessibility Advisory Committee Meeting Minutes
Wednesday, October 2, 2019

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**Moved by Jo-anne Spitzer
Seconded by Max Le Moine**

That the Accessibility Advisory Committee meeting minutes of September 4, 2019, be received for information.

Carried

4. Delegations

None

5. Matters for Consideration

1. Memorandum from Planner

**Re: Zoning By-law Amendment Application, L & B Aurora Inc., N/E
Corner of Wellington Street East and John West Way, Part of Lot 81,
Concession 1, File Number: ZBA-2019-01**

Staff provided an overview of the application and comments previously submitted to the Planner by the Accessibility Advisor on behalf of the Committee regarding accessibility standards to be considered as part of the Zoning By-law amendment application. The Committee reviewed the site plan and inquired about the proposed sidewalk on John West Way, and staff confirmed that the sidewalk would be paved.

**Moved by Matthew Abas
Seconded by Max Le Moine**

1. That the memorandum regarding Zoning By-law Amendment Application, L & B Aurora Inc., N/E Corner of Wellington Street East and John West Way, Part of Lot 81, Concession 1, File Number: ZBA-2019-01, be received; and
2. That the Accessibility Advisory Committee supports the comments previously submitted by the Accessibility Advisor regarding the Zoning By-law Amendment Application.

Carried

Accessibility Advisory Committee Meeting Minutes
Wednesday, October 2, 2019

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2. Memorandum from Planner

Re: Application for Site Plan Amendment, Smart Centres – Whitwell Developments Ltd., 157 First Commerce Drive, Part of Block 2, Plan 65M3819, Parts 1 to 9 on RP 65R31257, File Number: SP-2019-04

Staff provided an overview of the application and comments previously submitted to the Planner by the Accessibility Advisor on behalf of the Committee regarding accessibility standards to be considered as part of the site plan amendment.

**Moved by Matthew Abas
Seconded by Max Le Moine**

1. That the memorandum regarding Application for Site Plan Amendment, Smart Centres – Whitwell Developments Ltd., 157 First Commerce Drive, Part of Block 2, Plan 65M3819, Parts 1 to 9 on RP 65R31257, File Number: SP-2019-04, be received for information.

Carried

3. Memorandum from Senior Planner

Re: Site Plan Application – 2nd submission, 2450290 Ontario Inc., 32 Don Hillock Drive, Part of Lot 2, Registered Plan 65M-3974, File Number: SP-2016-02

Staff provided an overview of the application, and the Committee reviewed the site plan and discussed the accessibility standards to be considered as part of the site plan application.

**Moved by Max Le Moine
Seconded by Matthew Abas**

1. That the memorandum regarding Site Plan Application – 2nd submission, 2450290 Ontario Inc., 32 Don Hillock Drive, Part of Lot 2, Registered Plan 65M-3974, File Number: SP-2016-02, be received; and
2. That the following Accessibility Advisory Committee comments regarding the Site Plan Application – 2nd submission be considered by staff:

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Wednesday, October 2, 2019

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- (a) Request for ramp access at ground floor main entrance instead of stairs (in addition to the ramp access to landing indicated between two accessible parking spaces); and
- (b) Request for relocation of the two accessible, barrier-free underground parking spaces to be closer to the elevator to prevent persons with disabilities from having to cross an active traffic laneway; and
- (c) Request for installation of a sidewalk in the parking lot; and
- (d) Request for installation of automatic door openers at all public access entry points; and
- (e) Request for review of curb ramps.

Carried

**4. Memorandum from Senior Landscape Architect
Re: St. Andrew's College Boardwalk Accessibility Review**

Staff gave an overview of the memorandum and proposed trail connection, including boardwalk and ramps, from the existing Willow Farm Trail to the intersection of St. John's Sideroad and Yonge Street. The Committee reviewed the concept drawings and discussed the accessibility standards to be considered including vertical versus horizontal ramp handrail detail, ramp elevation, width between chicanes at entry points to allow mobility devices, trail surface, and drainage.

**Moved by Jo-anne Spitzer
Seconded by Matthew Abas**

1. That the memorandum regarding St. Andrew's College Boardwalk Accessibility Review be received; and
2. That the Accessibility Advisory Committee comments and suggestions regarding the St. Andrew's College Boardwalk Accessibility Review be received and referred to staff for consideration and action as appropriate.

Carried

Accessibility Advisory Committee Meeting Minutes
Wednesday, October 2, 2019

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5. Round Table Discussion

Re: Town of Aurora Accessibility Plan 2018 to 2024

No comments were submitted by the Committee.

6. Informational Items

6. Memorandum from Accessibility Advisor

**Re: Information and Communications Standards Development
Committee's Initial Recommendations Report**

Staff provided an overview of the memorandum and encouraged the Committee to participate in the online Phase 1 and Phase 2 surveys by October 15, 2019, and/or contact the Accessibility Advisor with any feedback. Staff also advised the Committee of the Town's current projects and ongoing initiatives toward improving the accessibility of Town document templates and its internal/external websites.

Moved by Max Le Moine

Seconded by Jo-anne Spitzer

1. That the memorandum regarding Information and Communications Standards Development Committee's Initial Recommendations Report be received for information.

Carried

7. Adjournment

Moved by Jo-anne Spitzer

Seconded by Max Le Moine

That the meeting be adjourned at 8:28 p.m.

Carried



**Town of Aurora
Governance Review Ad Hoc Committee
Meeting Minutes**

Date: Wednesday, October 9, 2019
Time and Location: 4 p.m., Holland Room, Aurora Town Hall
Committee Members: Tim Jones (Vice-Chair), Steve Hinder, Bill Hogg, Terry Jones, and Jeff Thom
Member(s) Absent: None
Other Attendees: Beate Bowron, Consultant, Gary Davidson, Consultant, Michael de Rond, Town Clerk

1. Approval of the Agenda

**Moved by Bill Hogg
Seconded by Steve Hinder**

That the agenda as circulated by Legislative Services be approved.

Carried

2. Declarations of Pecuniary Interest and General Nature Thereof

There were no declarations of pecuniary interest under the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*.

3. Receipt of the Minutes

Governance Review Ad Hoc Committee Meeting Minutes of April 1, 2019

**Moved by Bill Hogg
Seconded by Jeff Thom**

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Monday, October 9, 2019

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That the Governance Review Ad Hoc Committee meeting minutes of April 1, 2019, be received for information.

Carried

4. Delegations

None

5. Matters for Consideration

1. Memorandum from Deputy Town Clerk Advisory Committee Chair Rotation

Moved by Steve Hinder

Seconded by Bill Hogg

1. That the memorandum regarding Advisory Committee Chair Rotation be received for information.

Carried

2. Round Table Discussion Re: Electoral System Review

Beate Bowron provided an overview of the project work plan as well as what the consultants hoped to accomplish at the meeting. She noted the work plan would be amended to include a meeting with the Governance Review Ad Hoc Committee before the second round of public engagement, rather than during.

The role of the consultants and the committee was clarified. The consultants will lead and manage the study, while the Committee will provide input at various stages. Staff and the consultants advised the committee that their role would be more substantial once the various options for electoral systems were available.

The Committee also noted that more information should be provided to the public to help them offer meaningful responses to the survey regarding the electoral system review.

Governance Review Ad Hoc Committee Meeting Minutes
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**Moved by Bill Hogg
Seconded by Steve Hinder**

1. That the comments and suggestions regarding the Electoral System Review be received and referred to staff for consideration and action as appropriate.

Carried

6. Adjournment

**Moved by Terry Jones
Seconded by Bill Hogg**

That the meeting be adjourned at 5:10 p.m.

Carried



**Town of Aurora
General Committee Report No. PDS19-097**

Subject: Kitimat Crescent and Aurora Heights Public School Alternative Solutions to Safety Concerns

Prepared by: Michael Bat, Traffic/Transportation Analyst

Department: Planning and Development Services

Date: November 5, 2019

Recommendation

1. That Report No. PDS19-097 be received; and,
2. That Parking By-law No. 4574-04.T be amended to prohibit parking at any time on the south and east sides of Kitimat Crescent from a point nine metres south of the beginning of the curb return to a point nine metres east of the end of the curb return adjacent to 25 Kitimat Crescent.

Executive Summary

As directed by Council at its meeting on March 26, 2019, staff reviewed various options designed to enhance pedestrian safety on Kitimat Crescent and pick-up/drop-off activities for Aurora Heights Public School.

The report recommends the following:

- A pedestrian connection not be introduced between Aurora Heights Public School and Aurora Community Centre;
- Introducing a layby parking area on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School raises a number of challenges;
- Keeping the existing parking restrictions on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School; and,
- Introducing parking restrictions on Kitimat Crescent at the bend in the road which represents the most viable solution to improve safety in the area.

Background

Active and Safe Routes to School Program:

As discussed in Staff Report No. PDS19-001 – Sidewalk Construction on Kitimat Crescent, the Town implemented the “Active and Safe Routes to School Program” in 2013. This program has helped to encourage the physical activity of youth, enhance environmental sustainability by reducing greenhouse gas emissions and help alleviate traffic concerns in school areas.

The School Travel Planning Policy (#69) was approved by Council in December 2013 and set out a mechanism that would allow for student pedestrian priority. This policy was intended to provide tools for students and school boards to request safety related traffic controls that could not be accommodated in other Town traffic management policies.

A key feature of this program and policy was to focus on the walkability of school routes for students to encourage more walking and build a stronger sense of safety within the community related to school travel. The Town has implemented the school travel-planning program for a number of schools (e.g. Rick Hansen Public School, Devins Drive Public School and Regency Acres Public School) with great success.

Previous Staff Report:

On March 26, 2019, Council considered Staff Report No. PDS19-001 – Sidewalk Construction on Kitimat Crescent and passed the following resolutions:

1. That Report No. PDS19-001 be received; and,
2. That staff report back on alternative solutions to safety concerns around the Kitimat Crescent area and identify alternative pick-up and drop-off zones for Aurora Heights Public School.

A meeting initiated by Town staff was held on April 1, 2019 with the Principal of Aurora Heights Public School (the school) to discuss the possible alternative solutions related to traffic concerns and pick-up and drop-off activities for the school.

In addition, staff have discussed and received feedback related to the various options from Operations Services and By-law Services.

Subsequently, a Staff Report No. PDS19-043 – Kitimat Crescent and Aurora Heights Public School Alternative Solutions was presented at the Community Advisory Committee meeting on May 2, 2019. The Advisory Committee was generally in support of the following staff recommendations:

- No pedestrian connection between Aurora Heights Public School and Aurora Community Centre;
- No layby parking on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School; and,
- Maintain the existing parking restrictions on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School.

Implementation of a Sidewalk on Kitimat Crescent:

Council at its meeting on March 26, 2019 decided that introducing a sidewalk on Kitimat Crescent is to be considered when the street is scheduled for road rehabilitation, which is not expected to take place for the next 11 years. Therefore, a sidewalk on Kitimat Crescent was excluded from any alternative solutions discussed herein.

The subject location is illustrated in Figure 1.

Analysis

Existing road conditions of Kitimat Crescent and Tecumseh Drive

Kitimat Crescent: is a two-lane local road (single lane per travel direction) with a 20 metres ROW width. It has an urban cross-section with curbs on both sides of the road but no sidewalks. The existing pavement is measured 8.0 metres wide and the posted speed limit is 40 km/h within the study area.

Tecumseh Drive: is a two-lane local road (single lane per travel direction) with a 20 metres ROW width. It has an urban cross-section with curbs on both sides of the road and sidewalks provided on the south-east side of the road. The existing pavement is measured 8.0 metres wide and the posted speed limit is 40 km/h.

A pedestrian connection between Aurora Heights Public School and Aurora Community Centre is not recommended

Town staff do not recommend implementing a pedestrian connection between Aurora Heights Public School and Aurora Community Centre based on the following analysis:

- There is a considerable difference in elevations between the school (south-east limit of property) and Aurora Community Centre (south-west limit of property) resulting in a steep slope (see Figure 2);
- Staff have explored various design options including a switchback layout however it is challenging to comply with the maximum slope requirement of 1:20 (or 5%) for external paths of travel as outlined in the Accessibility for Ontarians with Disabilities Act (AODA); and,
- All trails are not groomed or maintained during the winter months by the Town. In addition, the school expressed that there is no operating budget to undertake any winter maintenance for trails or pathways located within the school's property.
- The school has expressed concern that a pedestrian connection located at the rear of the property will ultimately direct students and parents/guardians to the highly utilized parking area with frequent maneuvering activities (including school buses) resulting in unsafe crossing conditions.

A layby parking area on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School raises a number of challenges

Town staff have identified a number of challenges with implementing layby parking on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School. Staff have reviewed and undertaken a conceptual design of a layby parking area and they are detailed in the following subsections.

The subject section of the layby parking area is illustrated in Figure 3.

a) Layby Parking Area Design Standards:

The Town does not have engineering standards for the construction of layby parking area. Therefore, staff developed the conceptual design using the City of Markham Engineering Standard Drawings for a Parking Bay and Bike Lane. The minimum width required for a layby parking area is 5.75 metres.

b) Layby Parking Area and Cross Section Conceptual Design:

A conceptual layby parking area design is provided in Figure 4. It was developed using the above referenced design criteria and incorporated the following area specific constraints into consideration:

- The layby parking area begins just north of the all-way stop control intersection at Tecumseh Drive and Kitimat Crescent to eliminate possible operational conflicts and safety concerns;
- The length and location of the layby parking area was strategically selected to avoid the needs of relocating any privately owned staircases, retaining wall and transformer box; and,
- Avoid any impact on the existing utility poles, which will increase the construction costs of the layby parking area considerably.

As shown in the design, the layby parking area can accommodate a maximum of five vehicles.

In addition, staff have prepared a conceptual cross section of Tecumseh Drive with layby parking area for cost estimation purposes.

The design of the layby parking area (please see Figure 4) and cross section are based on a desktop analysis and should only be considered as conceptual. Therefore, should Council direct staff to proceed with the project, a detailed design by an external engineering consultant will have to be completed to determine the feasibility and provide cost estimates of construction.

c) Insufficient ROW on Tecumseh Drive to Accommodate a Layby Parking Area:

The estimated right-of-way measured from the curb to the school property line is approximately 5.00 metres. As noted previously, a minimum of 5.75 metres is required resulting in an estimated encroachment of 0.75 metres, which means that a portion of the relocated sidewalk and the retaining wall will have to be built on the school property (please see Figure 4).

Should Council decided to proceed with constructing a layby parking area, two possible options can be considered:

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- Initiating discussion with the York Region District School Board to enter into an easement agreement or encroachment agreement (feasibility to be confirmed); and,
- Initiating discussion with the York Region District School Board for land expropriation (feasibility to be confirmed).

Staff contacted Aurora Heights Public School on October 16, 2019 to discuss the possible encroachment issue and the request has been forwarded to the York Region District School Board for review and consideration. The School Board has advised the Town that they are investigating the matter.

d) Winter Maintenance:

Staff have consulted with the Operations Services regarding the maintenance and snow clearing operations of the layby parking area. The following comments were expressed:

- Snow cleared from roadway and layby parking area will be directed towards the curb faced sidewalk causing excessive build ups of snow/ice on the sidewalk;
- Due to the retaining wall abutting the sidewalk, machinery has no means of depositing snow on the existing boulevard area leaving no option but to try and push the snow, along with the deposited snow from the road plow down towards the bottom of the hill; and,
- This area will need to be kept clear of snow and windrows on the curbside of the parking stalls to allow for safe entering and exiting of passengers in the vehicles. Again this would mean that during a snow event, all the snow would need to be pushed northward past the existing utility pole and staircase and stock piled towards the bottom of the hill.

The on-going winter maintenance of the layby parking area is estimated by the Operations Department at \$10,000 per year.

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The removal of the existing parking restrictions on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School is not recommended

Town staff does not recommend removing the existing parking restrictions on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School due to the following reasons:

- By-law Services Division has expressed concerns if the existing parking restrictions on Tecumseh Drive along the school's frontage were removed, it will create insufficient travel width to accommodate two-way traffic and emergency vehicles.

Staff recommends implementing parking restrictions on Kitimat Crescent at the bend in the road

Generally, when vehicle(s) are parked along the inside corner radius of a road bend it will cause sightline obstruction for road users.

As a result, staff recommends that the Parking By-law be amended to prohibit parking at any time on the south and east sides of Kitimat Crescent from a point nine metres south of the beginning of curb return to a point nine metres east of the end of curb return adjacent to 25 Kitimat Crescent (see Figure 5).

This will ensure sight distance will not be impeded for all road users when navigating around the road bend on this section of Kitimat Crescent.

Advisory Committee Review

Staff Report No. PDS19-043 – Kitimat Crescent and Aurora Heights Public School Alternative Solutions was presented at the Community Advisory Committee meeting on May 2, 2019. The Committee was generally in support of the staff recommendations on not implementing the following:

- A pedestrian connection between Aurora Heights Public School and Aurora Community Centre;
- Layby parking on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School; and,
- Removing of the existing parking restrictions on the east side of Tecumseh Drive along the frontage of Aurora Heights Public School.

Legal Considerations

The construction of the layby parking area will encroach approximately 0.75 metres onto school property. Should Council decide to proceed with the layby parking area, staff will have to obtain approval from the York Region District School Board for an easement and/or encroachment agreement or alternatively proceed with land expropriation for the purpose of an easement.

If Council decides to proceed by way of an easement or an encroachment agreement, a reference plan would be required to delineate the area. In addition, the York Region District School Board may incur legal fees (if it does not have in-house legal staff) and may request that the Town pay for any such legal fees. The legal costs associated with this are estimated at \$15,000. If Council decides to proceed with land expropriation, costs incurred may be in excess of this amount.

Financial Implications

The estimated cost for the installation of two “No Parking” signs is \$400.00 and the necessary funds are available from the Town’s Operations Services Department Operating Budget.

The total cost estimate for the construction of the layby parking area is \$105,000 and details are provided in Table 1.

Table 1 – Preliminary Budget for Layby Parking Area Construction and Design

Components	Estimated Cost
Detailed Design (including cost of survey)	\$30,000
Construction Costs (including 25% contingencies)	\$60,000
Legal Fees	\$15,000
Total Cost	\$105,000

The on-going winter maintenance of the layby parking area is estimated at \$10,000 per year as provided by the Operations Services Department.

In addition, should Council decided to proceed with the option of land expropriation, the associated costs will be determined at the design stage and will be in excess of the amount presented in Table 1.

Communications Considerations

The affected area residents were notified that this staff report is to be presented to the General Committee meeting of November 5, 2019. Those notified include:

- Residents of Kitimat Crescent by mail dated October 22, 2019; and,
- Residents that signed the petition submitted to the General Committee meeting on October 15, 2019 using e-mail or a phone number listed on the petition.

Should any additional direction be provided regarding this project, the residents and those members of the public who signed the petition, will be contacted regarding the status.

Link to Strategic Plan

This report supports the Strategic Plan goal of Support an Exceptional Quality of Life for All by examining traffic patterns and identify potential solutions to improve movement and safety at key intersections in the community.

Alternative to the Recommendation

1. That Council provide direction.

Conclusions

As directed by Council, staff have reviewed possible options to enhance safety during the school pick-up/drop-off periods. Staff have consulted with the Principal for Aurora Heights Public School and have received feedback from Operations and By-law Services. After a thorough review of the options, staff consider the minor parking restriction on Kitimat Crescent as the most expedient solution to improve safety in the area.

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Attachments

- Figure 1: Subject Location Map
- Figure 2: Existing Elevations between Aurora Heights Public School and Aurora Community Centre
- Figure 3: Subject Section for Layby Parking Area
- Figure 4: Layby Parking Area Conceptual Design
- Figure 5: Proposed Parking Restrictions on Kitimat Crescent

Previous Reports

General Committee Report No. PDS19-001, dated March 19, 2019; and,
Community Advisory Committee Report No. PDS19-043, dated May 2, 2019.

Pre-submission Review

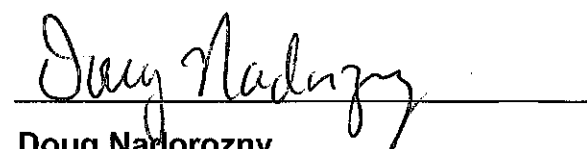
Reviewed by Chief Administrative Officer and Director of Planning and Development Services.

Departmental Approval



**David Waters, MCIP, RPP, PLE
Director
Planning and Development Services**

Approved for Agenda



**Doug Nadorozny
Chief Administrative Officer**

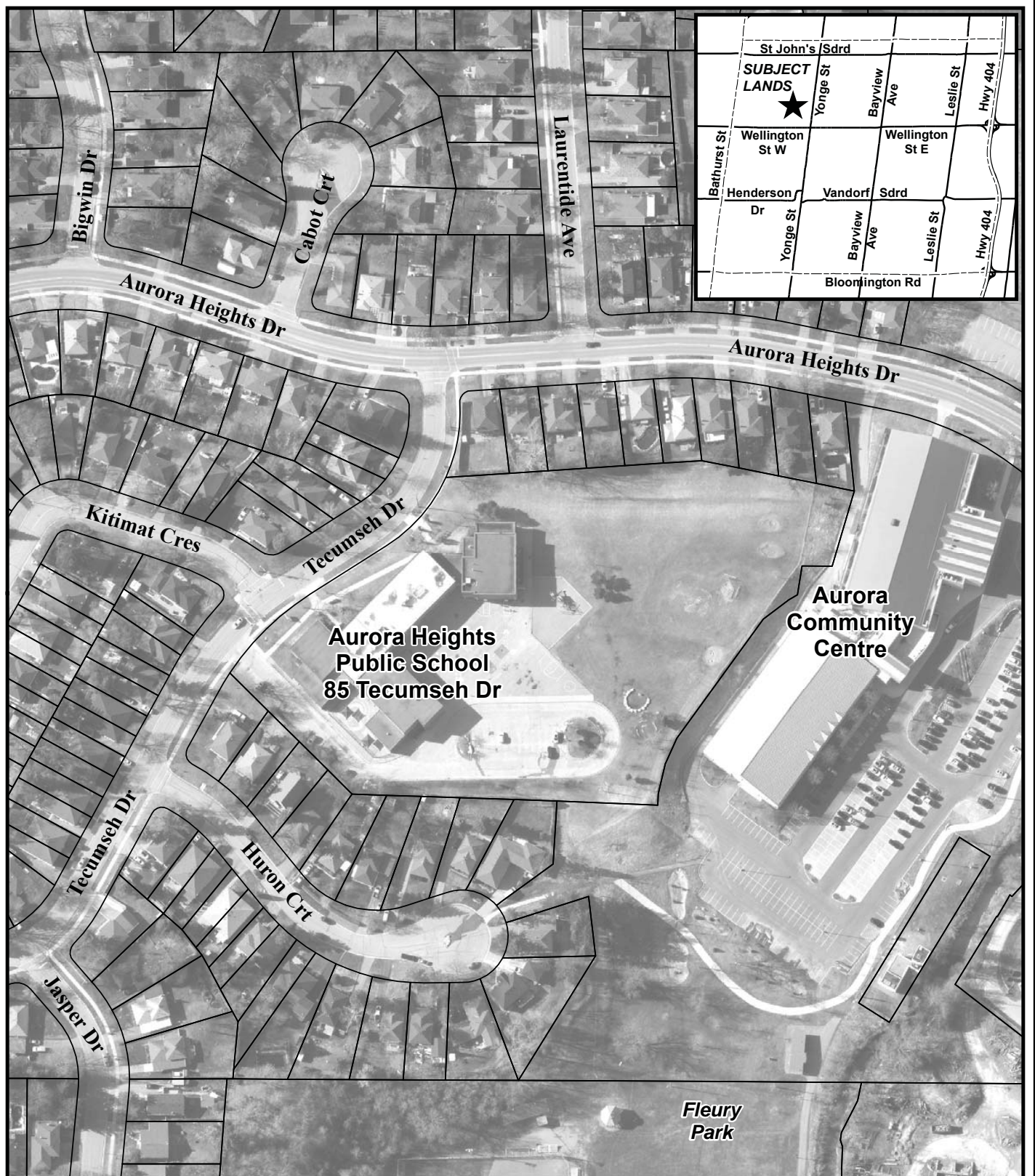
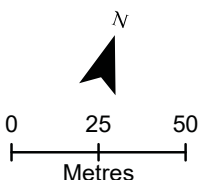


FIGURE 1
SUBJECT LOCATION
MAP



PDS19-097

Map created by the Town of Aurora Planning and Development Services Department, Engineering and Capital Delivery Division, April 24th, 2019. Base data provided by York Region and Aurora - GIS.



FIGURE 2
EXISTING ELEVATIONS BETWEEN AURORA HEIGHTS PUBLIC SCHOOL AND AURORA COMMUNITY CENTRE



PDS19-097

Map created by the Town of Aurora Planning and Development Services Department, February 1st, 2018. Base data provided by York Region and Aurora - GIS. This is not a legal survey.

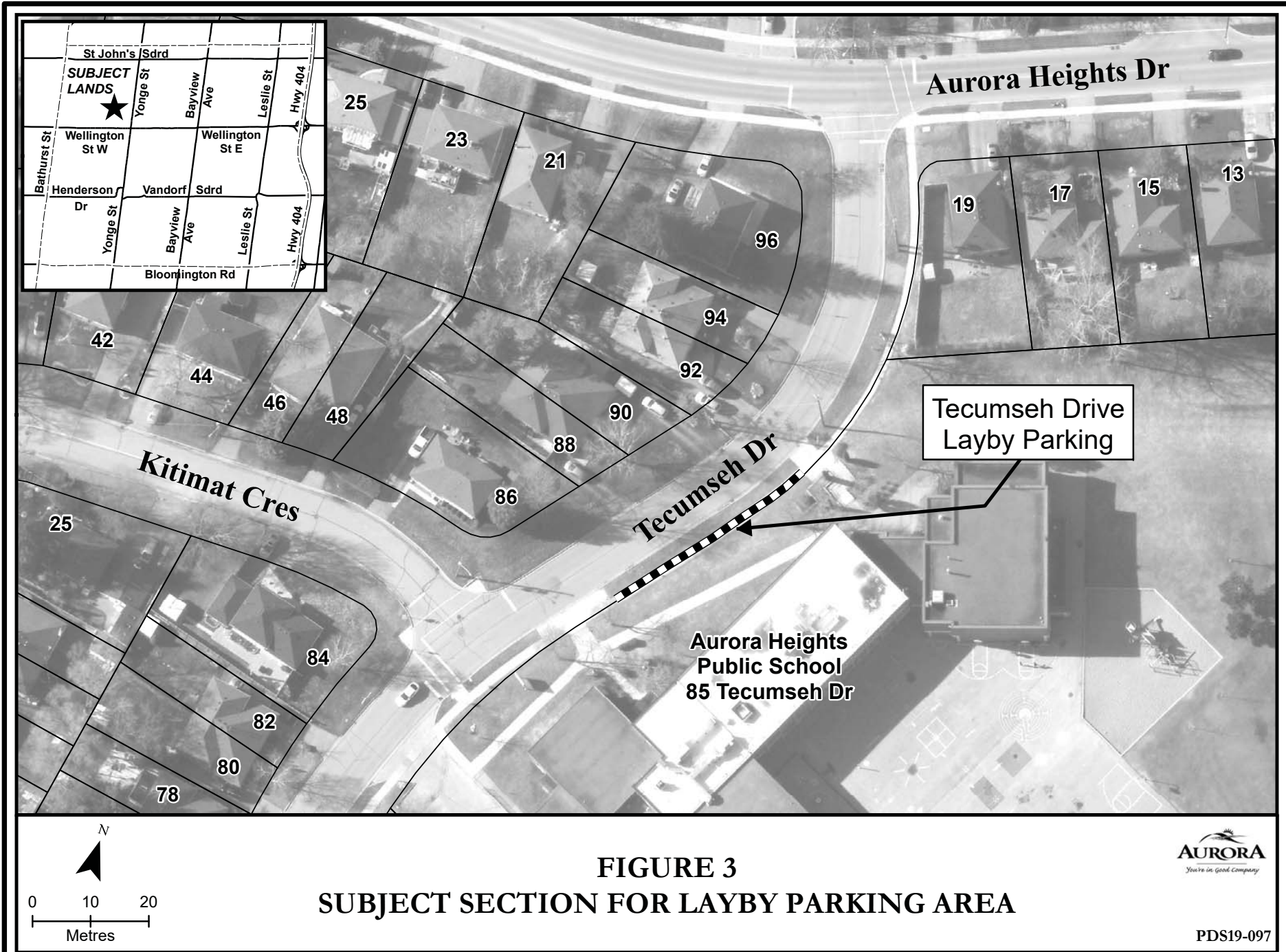
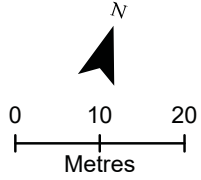


FIGURE 3
SUBJECT SECTION FOR LAYBY PARKING AREA



PDS19-097

Map created by the Town of Aurora Planning and Development Services Department, Engineering and Capital Delivery Division, October 17th, 2019. Base data provided by York Region and Aurora - GIS.



FIGURE 4
LAYBY PARKING AREA CONCEPTUAL DESIGN



PDS19-097

Map created by the Town of Aurora Planning and Development Services Department, Engineering and Capital Delivery Division, October 17th, 2019. Base data provided by York Region and Aurora - GIS.



FIGURE 5
PROPOSED PARKING RESTRICTIONS ON
KITIMAT CRESCENT



PDS19-097

Map created by the Town of Aurora Planning and Development Services Department, February 1st, 2018. Base data provided by York Region and Aurora - GIS. This is not a legal survey.



**Town of Aurora
General Committee Report**

No. FS19-031

Subject: 2020-22 Operating Budget

Prepared by: Jason Gaertner, Manager, Financial Management

Department: Finance

Date: November 5, 2019

Recommendation

- 1. That Report No. FS19-031 be received for information; and**
- 2. That the 2020, 2021 and 2022 draft Operating Budgets be referred to Budget Committee for review at its scheduled meetings commencing November 18, 2019.**

Executive Summary

On June 18, 2019, Council directed staff to prepare the Town's first multi year operating budget for 2020, 2021 and 2022 fiscal years, with a target tax rate increase equal to inflation for each of these years. Inflation was estimated to be 2 percent for each year. Each annual budget was also to include a further 1 percent increase in support of the Town's fiscal strategies and infrastructure. This report presents the Town's first multi-year draft operating budget for 2020, 2021 and 2022 for review by the Budget Committee.

Staff's recommended draft operating budgets for 2020, 2021 and 2022 result in a required tax levy increase of 2.9 percent for these next three years which is 0.1 percent lower per year than the direction received by Council.

- This multi-year budget respects Council's defined annual tax pressure ceilings
- Each year's budget successfully addresses all identified base, capital operating cost, growth driven, enhanced and transformational services or strategic initiative funding pressures
- The Town's phase-in budget strategy for the planned Fire Services expansion concludes at the end of 2020

- Each annual budget supports Council's fiscal strategy objectives of reducing the town's reliance upon supplementary tax revenues; as well as continuing to grow the Town's contributions in support of its infrastructure renewal
- There are two identified budget pressures not included in the 2.9 percent tax levy increase
- The Town's recommended rate funded utility budgets will be presented to the Budget Committee for its review as well
- The Town's budget re-affirmation process will be the opportunity to adjust the budget should changes be required in 2021 and 2022
- The multi-year budget binder review material will be distributed to Council at the end of tonight's meeting

Background

At its meeting of June 18, 2019, Council adopted the Town's updated budget principals and processes. One key change to these documents included the adoption of a multi-year budget framework for the Town of Aurora. This will help the Town manage how budget decisions made in one year may impact future budget years.

The Town has adopted a multi-year budgeting framework where Council approves the first year's budget of its term and receives an accompanying forecast of the next three budgets. In the second year of its term, Council will approve a three-year operating budget, including all related tax impacts. Using multi-year budgets and forecasts improves fiscal health and service delivery through:

- a. better coordination of budgeting and strategic priorities,
- b. greater certainty for departments in managing expenditures and service levels
- c. improved fiscal discipline of the organization
- d. streamlined budget reviews that focus on key changes in assumptions and the reasons driving such changes
- e. allowing staff to develop budgets with fixed targets in place, allowing early response to circumstances and budget constraints of such targets.
- f. reduces uncertainty about future year tax levies
- g. provides longer term outlook to outside organizations that rely upon the Town for a share of their funding, which enables them to plan and deliver their programs more effectively.

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Report No. FS19-031

Council also provided the following direction to staff relating to the Town's first multi-year budget covering the 2020, 2021 and 2022 fiscal years:

Public Consultation

- 1) Individuals and groups will be provided with an opportunity to provide suggestions, advice or requests and proposals to the Budget Committee with regards to the 2020 to 2022 Operating budgets or 2020 Capital budget.

Base Operating Budget

- 1) The overall Aurora net residential tax bill increase for the Base Operating budget will be limited to the reported June 1st to May 31st 2019 Consumer Price Index (CPI) for the Toronto Area for the 2020 budget. In the absence of available inflation projections for 2021 and 2022, an equivalent rate to the 2020 rate will be assumed for these years.
- 2) All fees, rates and charges are to be indexed by the same CPI reported value, and new revenue sources identified.
- 3) New taxes from new community growth be incorporated into the base budget and be used to extend existing services to these new communities, residents and businesses.
- 4) For strategic priorities separately identified by Council, a further levy increase should be considered for such new funding. Council may consider a multi-year phased approach to increasing service levels.
- 5) The Treasurer is to provide the Library Board, the Cultural Centre Board, and the Historical Society a clear budget funding allocation for 2020, 2021 and 2022 early in the budget development stage for their consideration when preparing their business plans.
- 6) The three-year operating budget will include a staffing needs analysis.

Phase-In Budget

- 7) The phase-in budget strategy currently approved for the Fire Services expansion will be funded from within the inflationary and growth components of the base operating budget, as applicable, with any excess planned increase being a separate component of the overall tax increase.

Fiscal Strategy Budget

- 8) In addition to the base budget increase for inflation, a dedicated Fiscal Strategy tax levy increase will be included in each year of the multi-year operating budget to fund additional contributions to Infrastructure Reserves in accordance with the long range fiscal strategies adopted in the recent Ten-Year Capital and Asset Management Plan, and reduce budgetary reliance on unsustainable levels of development driven revenues.

Analysis

This multi-year budget respects Council's defined annual tax pressure ceilings

Staff are pleased to present the Town's draft multi-year operating budget which respects Council's above noted direction, resulting in an average town share tax increase of 1.9 percent plus 1 percent for fiscal strategies in 2020, 2021 and 2022 representing an amount that is 0.1 percent below Council's defined tax pressure target of 3.0 percent per year.

The 12 month June to May 31, 2019 CPI for the Toronto area was reported by Statistics Canada at 2.0 percent (data table 18-10-0004-01, filtered to Toronto only). In the absence of available inflation projections for 2021 and 2022, the equivalent 2020 inflation rate of 2 percent was assumed for these years.

The Town's draft three year budget is presented under Attachment #1 by department.

Attachment #2 presents some tax rate history for the Town of Aurora, in comparison to staff's proposed tax rate increases for the next three years.

Each year's budget successfully addresses all identified base, capital operating cost, growth driven, enhanced & transformational services or strategic initiative funding pressures

The Town has used two forms of incremental tax levy revenues to manage its identified funding pressures each year. Firstly, the Town has used the majority of Council's directed maximum annual tax levy increase of three percent (two percent inflation plus one percent for fiscal strategies) for 2020, 2021 and 2022. Secondly, the Town accessed all of its available incremental tax revenue arising from tax assessment growth that has taken place over the course of the prior fiscal year. The Town strived to use its available assessment growth tax revenues, as much as possible, to fund its

growth driven tax pressures. This enables the Town to provide the same level of service to a growing community. The additional tax levy revenue from assessment growth does not impact the tax bill for any of the Town's existing tax payers. The Town has estimated that its incremental tax levy revenues relating to growth will be the following for the next three years:

Fiscal Year	Equivalent Tax Increase (%)	Estimated Incremental Tax Levy Revenues (\$)
2020	2.6	1,209,400
2021	2.4	1,204,700
2022	2.2	1,178,600

In each year of this multi-year budget, staff have successfully addressed its identified funding pressures within the Town's available incremental revenues. Some common pressures addressed in all years include:

1. Funding of the inflationary impact on various Town contracts
2. Cost of living adjustments (COLA) and step increases for existing staff
3. The Town's share of incremental core and growth Central York Fire Services requirements
4. New staffing requirements driven predominantly by the Town striving to provide the same level of service to a growing community. A summary of all proposed staffing are included in Attachment #3
5. Increased contributions to infrastructure reserves in support of asset management
6. Continued reduction in Town reliance upon development driven revenues
7. All 2020, 2021 and 2022 rates, fees, and charges of the Town have been indexed where permissible by two percent in an effort to offset the estimated inflationary erosion of service delivery costs
8. All revenue estimates have been carefully considered in the context of anticipated service demand for each fiscal year

The year-over-year budget changes are outlined in Attachment #3. These changes include all anticipated new revenues, the above noted budget pressures, as well as any other new incremental costs that are expected in each year. These budget pressures are grouped as follows:

1. Base

These are pressures on the Town's cost of delivering its services at their existing levels of service, assuming no growth in the demand for those services. The most common pressure of this nature is inflation.

2. Capital Operating Costs

These are operating pressures that arise when capital projects become operational such as the construction of a new Town facility.

3. Maintaining Service Levels for Growth:

These pressures are driven by the Town striving to provide a similar level of service where there has been or there is anticipated to be growth in the demand for its existing services. For example, when the Town assumes a new subdivision, this represents new roads and curbs, sidewalks, streetlights, signs, parks and equipment, etc. that the Town now has to maintain to a similar level of service to the rest of its similar assets whose cost to do is not in the existing approved operating budget.

4. Enhancements & Transformation:

These pressures arise from the creation of a new or enhancement of an existing Town service such as the offering of a new special event by the Town or the movement to a pick up of garbage twice a week instead of the present once per week.

5. Strategic Initiatives:

Funding requirements of this nature relate to the Town's implementation of arising financial strategies such as its goal to continue to increase the Town's contributions to Infrastructure Reserves in support of the sustainability of the Town's assets, and to reduce its budgetary reliance on unsustainable levels of development driven revenues.

Staff's original draft 2020 to 2022 operating budgets initially exceeded their anticipated new revenues. Through a further detailed review of the Town's anticipated requirements and revenues for the next three years, staff were successful in reducing their original net operating budget requirements to a needed tax levy increase of 2.9 percent which is 0.1 percent less than Council's recommended ceiling.

The Town's phase-in budget strategy for the planned Fire Services expansion concludes at the end of 2020

2020 is the sixth and final year of the Town's phase-in strategy of the expected cost

increases relating to the planned expansion of Central York Fire Services by increasing its fire services budget by 1.3 percent of the tax levy each year. The Town's estimated Fire Services requirements for 2021 and 2022 drop to an equivalent tax increase requirement of 0.9 (\$444,800) and 0.8 (\$413,500) percent, respectively. All of these incremental costs have been funded from the Town's available growth tax revenues in each year.

Each annual budget supports Council's fiscal strategy objectives of reducing the town's reliance upon supplementary tax revenues; as well as continuing to grow the Town's contributions in support of its infrastructure renewal

A one percent tax increase has been included in each year's budget, as directed by Council, to fund the Town's fiscal strategies which include the on-going increase in contributions to infrastructure reserves in support of infrastructure renewal and the reduction in the Town's reliance on supplementary tax revenues.

The planned incremental tax levy (cash-to-capital) contributions to infrastructure reserves that are included in each year's operating budget reflect what was captured in the Town's recent Council endorsed 10-year capital plan. They are as follows:

Fiscal Year	Equivalent Tax Increase (%)	Estimated Incremental Tax Levy Revenues (\$)
2020	0.9	436,200
2021	0.9	460,170
2022	1.0	538,400

The remainder of 0.1 percent of the fiscal strategy funding in 2020 and 2021 is allocated to support of the Town's continued strategy to reduce its reliance upon supplementary tax revenues by \$75,000 per year until the Town's reliance upon these revenues reaches a sustainable value of \$150,000 per year. The Town reaches its desired reliance target of \$150,000 by the end of 2022 with a final reduction in the Town's SUPP revenue reliance of \$50,000. In 2022, the remaining 0.1 percent has been allocated to the Town's Infrastructure Reserves in support asset sustainability.

There are two identified budget pressures not included in the 2.9 percent tax levy increase

Two budget pressures have been identified that did not fall within staff's recommended 2.9 percent tax levy increase. These pressures relate the Town's planned Library

Square development and the operations of its community partner, the Aurora Cultural Centre (ACC).

Together, Council and staff are in the process of refining the final design and requirements relating to the construction of a new community hub, currently referred to as Library Square. The planned Library Square work includes many dimensions:

- A new addition to the Church Street School
- A new outdoor square
- An above ground pedestrian bridge linking the new addition and the library
- New parking configuration, and
- New library vestibule, program rooms and Yonge St. Entrance

The total required investment for this project is presently estimated to be \$47.9 million. The Town's proposed investment strategy for this project includes the use of debt as a source of funding. The Town's debt tolerance for this project was defined as the debt principal cannot exceed a point where its annual carrying costs exceed an equivalent value to a 1 percent tax rate increase being \$484,700 in 2020. The investment strategy for this project plans to use the maximum defined debt threshold. The debt is expected to be required in late 2021 or early 2022. This provides the Town time to phase in the annual carrying costs, principal and interest, of this debt. It is recommended that this new debt's annual cost equivalent of a 1 percent tax increase be phased in over 2020 and 2021 in two equal tax rate increases of 0.5%.

The ACC has identified operating pressures in each of the next three fiscal years totaling \$67,000, \$19,000 and \$21,400 in 2020, 2021 and 2022, respectively. These pressures are driven by a 2019 base salary funding catch-up of \$30,400, new required annual salary adjustments and rental income losses. The Town has budgeted inflationary increases of \$8,300, \$8,500 and \$8,700 for 2020 to 2022, respectively. Once these available amounts have been applied to the pressures, the net remaining ACC funding requirements become \$58,700, \$10,500 and \$12,800 for the next three years. Staff recommend that each of these net remaining pressures be funded out of existing Library Square operating budget funding that is included in staff's recommended draft budget thus avoiding the need for any further incremental tax rate increases. If Council does not support staff's recommendation in this regard, a further tax increase in addition to the identified 2.9 percent increase per year would be necessary.

The Budget Committee will be asked to consider these two pressures and their recommendations as part of its reviews of the Town's 2020, 2021 and 2022 draft

operating budgets.

The Town’s recommended rate funded utility budgets will be presented to the Budget Committee for its review as well

In addition to the tax levy funded operating budgets, the Budget Committee will be presented with the Town’s next three years of rate funded operating budgets along with their recommended rates for its review and endorsement to Council for approval.

Staff’s recommended increases to the overall rate budgets total 5.3, 4.9 and 4.2 percent for 2020, 2021 and 2022, respectively. See Figure 1.

Figure 1 – Proposed Rate Operating Budgets for 2020-22

	2019 Budget	2020 Budget	% Change Budget	2021 Budget	% Change Budget	2022 Budget	% Change Budget
Total Water	\$ 11,105,365	\$ 11,552,126	4.0%	\$ 12,101,617	4.8%	\$ 12,385,961	2.3%
Total Wastewater	13,839,100	14,741,594	6.5%	15,413,999	4.6%	15,708,083	1.9%
Total Stormwater	2,069,100	2,511,661	21.4%	2,958,962	17.8%	3,410,348	15.3%
Total Proposed ALL Rate Operations	27,013,565	28,805,381	6.6%	30,474,578	5.8%	31,504,392	3.4%

The Town’s budget re-affirmation process will be the opportunity to adjust the budget should changes be required in 2021 and 2022

As per the Municipal Act Council is required to re-affirm the budget for future years annually. In 2020 Council will be asked to re-affirm the budget for 2021 and 2022 and then asked in 2021 to re-affirm the budget for 2022. However, the focus of these budget reviews would be on the changes to the previously approved budget.

Should a significant change arise to one of these future year budgets Council will be able to make adjustments to the applicable future year approved budgets at the time of re-affirmation. These adjustments may include, but are not limited to;

- a) Legislation changes
- b) Unplanned service level changes
- c) Material changes to the projected inflation rate
- d) Material changes to labour agreements
- e) Changes to assessment growth projections

The multi-year budget binder review material will be distributed to Council at the end of tonight's meeting

The Town's multi-year operating budget covering the 2020, 2021 and 2022 fiscal years binder materials will be distributed to Council members at the end of this evening's meeting. These same binder contents will be made available in electronic format to Council should they require a copy, as well as on the Town's website shortly thereafter.

The binder tab #12 presents the operating financial overview for the Town's presented multi-year operating budget. Tabs #14 to #21 capture each Departmental Business Plan as well as any applicable proposed new staffing business cases. While Tabs #22 and #23 capture all Central York Fire Services and Community Partners budget materials, respectively.

Upon the completion of the Budget Committee reviews, the Treasurer will bring forward a final budget approval report reflecting all adjustments recommended by the Committee.

Advisory Committee Review

The Financial Advisory Committee does not review the annual draft operating budget, however they are charged with reviewing the detailed budgets of each Town department on a rotating basis. This approach allows the Budget Committee to focus their review on the key changes and pressures arising in the annual budget, while relying upon the work of the Finance Advisory Committee in regards to the review of each department's ongoing core operating budget details.

Legal Considerations

Section 291 of the Municipal Act provides that a municipality may prepare and adopt multi-year budgets. For the second and each subsequent year, Town Council will have the opportunity to re-review the budget, make any necessary changes and re-adopt the budget for the year to which the budget applies.

Financial Implications

Residential tax bills contain three different property taxes. Taxes collected for provincial education purposes represents approximately 20.5 percent of a residential tax bill, while taxes for York Region are approximately 42.8 percent and the Town's share is the remaining 36.7 percent.

The Town's proposed annual tax increase of 2.9 percent would add approximately \$8.48 per year to the Town's share of the tax bill for each \$100,000 of assessment, or \$43 per year for a home assessed at \$500,000. For the average Aurora home assessed at \$800,000, the proposed budgets would add approximately \$68 per year to the Town's share of the tax bill.

For reference, Attachment #4 sets out a history of Aurora's tax rate increases in recent years.

Based upon staff's recommended rate funded operating budgets for the next three years, the following rates are required in order to ensure a balanced budget:

Table 2 – Proposed Water Rates for 2020-2022

	Retail Water Rate (per cu.m)	Retail Wastewater Rate (per cu.m)	Combined Water & Wastewater Rate (per cu.m)	Stormwater Flat Rate Residential (per month)	Stormwater Flat Rate Non-Residential (per month)
2019 Rate	\$2.18	\$2.65	\$4.83	\$5.44	\$69.08
2020 Proposed	\$2.41	\$3.11	\$5.52	\$7.09	\$90.07
Change (%)	10.6%	17.4%	14.3%	30.3%	30.4%
2021 Proposed	\$2.45	\$3.11	\$5.56	\$8.01	\$101.73
Change (%)	1.7%	0.0%	0.7%	13.0%	12.9%
2022 Proposed	\$2.48	\$3.15	\$5.64	\$9.32	\$118.31
Change (%)	1.2%	1.3%	1.4%	16.4%	16.3%

Communications Considerations

This report will be posted to the Town's Budget and Financial Information web page for transparency and accountability as part of the overall annual budget communications and engagement plan. Each budget meeting will be separately communicated through various channels to the community, including a synopsis of the topics planned. A final press release with budget highlights will be issued upon approval by Council.

Budget Committee meetings for review of the 2020 to 2022 multi-year operating budget has been set as follows:

November 5, 2019

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Report No. FS19-031

1. Monday November 18, 2019, 6:00 p.m.
2. Monday November 25, 2019, 6:00 p.m.
3. Thursday November 28, 2019, 6:00 p.m.
4. Thursday December 5, 2019, 6:00 p.m. (if needed)

Budget meetings may be cancelled or added, or starting times changed by the Chair. All meeting updates will be reflected on the Town's website as soon as changes are approved.

Link to Strategic Plan

Developing the annual budget supports all aspects of the Strategic Plan. Specifically, this report supports the Plan principles of Leadership in Corporate Management, Leveraging Partnerships, and Progressive Corporate Excellence and Continuous Improvement.

Alternative(s) to the Recommendation

1. None: General Committee will consider the presented 2020, 2021 and 2022 draft budgets in detail, reviewing materials from each operating department, as well as materials presented by the Library Board, the Aurora Cultural Board, Aurora Sports Hall of Fame and the Aurora Historical Society. Shortly, the approved 2020 detailed operating budget plus outlook years for 2021 and 2022 for Central York Fire Services, as reviewed and recommended by the Joint Council Committee will be presented to Committee for comment.

The Committee may make recommendations for changes to the 2020, 2021 and/or 2022 draft operating budgets at any time during its review process.

Conclusions

Council established a budget target for the 2020, 2021 and 2020 operating budgets of inflation plus 1 percent in support of fiscal strategies, representing a maximum 3.00 percent tax increase. Staff have responded with recommended operating budgets for the next three years that require a tax increase of 2.9 percent in each of these years. Of the recommended tax levy increase for each year, 1.9% relates to the town's core operations; the remainder of 1.0% is fiscal strategy driven.

November 5, 2019

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Report No. FS19-031

As directed, all revenue rates, fees and charges have been indexed for inflation wherever possible. All operating lines continue to be examined for opportunities for constraint, while maintaining services to our growing community. All revenue targets were examined for expected volumes of activities. Through careful review, an annual tax increase of 2.9 percent for the next three years meets all of Council's criteria and goals set out in their directives to staff. The two pressures that have been identified in addition to staff's recommended 2.9 percent increase each year along with recommendations for their mitigation will be presented to the Budget Committee for its review and endorsement.

The Town's next three years of rate funded operating budgets along with their required cost recovering rates representing a required combined water/wastewater rate increase of 14.9, (1.9) and 3.3 percent and a stormwater rate increase of 30.3, 13.0 and 16.4 percent for the next three years, respectively will be presented to the Budget Committee for its review and endorsement.

Attachments

- Attachment # 1 – 2020, 2021, 2022 Draft Operating Budget – By Department
- Attachment # 2 – Summary of Key 2020, 2021, 2022 Operating Budget Pressures by Category
- Attachment # 3 – Three Year New proposed staffing summary (continuity schedule)
- Attachment # 4 – History of Aurora Tax Rate Increases

Previous Reports

FS19-020: 2020-22 Budget Development Direction

Pre-submission Review

The Agenda Management Team's review of this report was facilitated by e-mail on Friday, October 18th.

November 5, 2019

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Report No. FS19-031

Departmental Approval

Approved for Agenda



**Rachel Wainwright-van Kessel, CPA, CMA
Director, Finance
- Treasurer**



**Doug Nadorozny
Chief Administrative Officer**

Program Tax Levy Summary

\$000's	Net Actual Results		2019 Budget			2020 Proposed		Net Change	
	2017	2018	Net Fcst*	Gross	Net	Gross	Net	\$	%
Mayor & Council	538.9	607.3	571.1	576.1	576.1	578.1	578.1	2.0	0.3%
Office of the CAO	1,065.6	1,166.0	1,276.6	1,332.4	1,332.1	1,378.8	1,378.5	46.4	3.5%
Corporate Services	6,706.7	7,111.0	7,420.6	8,269.9	7,472.9	9,330.6	8,364.7	891.8	11.9%
Finance	1,302.9	2,119.9	1,730.9	2,293.8	1,837.5	2,503.6	2,073.6	236.1	12.9%
Planning & Development Services	(959.6)	(161.8)	535.1	5,868.5	1,047.8	6,124.6	1,117.3	69.5	6.6%
Operational Services	9,991.5	10,009.7	9,919.0	11,063.9	9,996.1	11,724.0	10,578.3	582.3	5.8%
Community Services	7,553.1	7,901.0	8,728.9	14,654.1	9,429.7	15,381.5	9,628.3	198.6	2.1%
Corporate Revenues and Expenses	2,402.7	1,724.6	589.6	8,364.9	535.0	8,876.8	509.2	(25.9)	(4.8%)
Departmental Total	28,603.7	30,479.7	30,771.8	52,423.7	32,227.3	55,898.0	34,228.1	2,000.8	6.2%
Central York Fire Services	10,225.0	10,496.4	11,188.1	11,188.1	11,188.1	11,755.3	11,755.3	567.2	5.1%
Library	3,767.7	3,843.1	3,843.1	3,843.1	3,843.1	3,868.1	3,868.1	25.0	0.7%
Total	42,596.4	44,819.1	45,803.0	67,454.9	47,258.5	71,521.4	49,851.5	2,593.0	5.5%
Assessment Growth								1,209.4	2.6%
Proposed Tax Increase								1,383.6	2.9%

\$000's	2021 Proposed		Net Change		2022 Proposed		Net Change	
	Gross	Net	\$	%	Gross	Net	\$	%
Mayor & Council	587.6	587.6	9.5	1.6%	597.2	597.2	9.7	1.6%
Office of the CAO	1,403.1	1,402.8	24.4	1.8%	1,428.1	1,427.8	25.0	1.8%
Corporate Services	10,160.2	9,174.6	809.8	9.7%	10,559.4	9,555.2	380.6	4.1%
Finance	2,688.3	2,160.3	86.6	4.2%	2,849.7	2,334.7	174.5	8.1%
Planning & Development Services	6,466.8	1,116.1	(1.2)	(0.1%)	6,786.3	1,184.0	68.0	6.1%
Operational Services	12,230.0	11,106.4	528.1	5.0%	12,755.1	11,629.9	523.5	4.7%
Community Services	15,982.7	10,208.3	580.0	6.0%	16,263.4	10,535.0	326.8	3.2%
Corporate Revenues and Expenses	8,828.4	707.3	198.1	38.9%	9,379.5	1,509.4	802.1	113.4%
Total Departmental Budget	58,347.1	36,463.3	2,235.2	6.5%	60,618.7	38,773.3	2,310.0	6.3%
Central York Fire Services	12,200.1	12,200.1	444.8	3.8%	12,613.6	12,613.6	413.5	3.4%
Library	3,896.1	3,896.1	28.0	0.7%	3,934.1	3,934.1	38.0	1.0%
Total Proposed Budget	74,443.3	52,559.5	2,708.0	5.4%	77,166.4	55,321.0	2,761.5	5.3%
Assessment Growth			1,204.7	2.4%			1,178.6	2.2%
Proposed Tax Increase			1,503.3	2.9%			1,582.9	2.9%

*Net forecast as of August 31, 2019

Attachment #2

**2020 TO 2022 Operating Budget Impacts
Converted and New Positions Included 2020, 2021 and 2022 Budgets**

	2020			2021			2022		
	FTE	Gross	Net	FTE	Gross	Net	FTE	Gross	Net
Opening Full Time Equivalent (FTE)	231			240			248		
Corporate Services									
IT Strategic Plan Positions	2	252,000	252,000	1	111,800	111,800	1	111,800	111,800
Project Manager, PMO (Conversion)	1	136,200	-						
Parking/By-Law Officers (Conversion)	2	163,000	8,500						
Uplift of Part Time to Full Time Customer Service Rep				1	55,700	55,700			
Human Resources Consultant				1	108,800	108,800			
Legal Assisstant				1	74,300	74,300			
Legal Acticling Student							1	90,000	90,000
Finance									
Senior Financial Management Advisor	1	119,800	119,800						
Financial ERP Specialist				1	111,100	-			
Procurement Analyst							1	90,900	90,900
Planning & Development Services									
Administrative Assistant - Engineering Division							1	75,000	75,000
Operational Services									
Water Meter/Backflow Administrator	1	82,000	-						
Flex Service Person (Conversion)	1	81,300	15,900						
Flex Service Person				1	81,300	81,300			
Parks Operator							1	83,000	83,000
Community Services									
Community Programmer	1	83,900	83,900						
Facility Booking Administrator				1	68,200	68,200			
Sport & Community Development Specialist (Conversion)				1	100,900	-			
Closing Full Time Equivalent (FTE)	240	918,200	480,100	248	712,100	500,100	253	450,700	450,700

Financial Summary

\$000's	Net Actual Results		Fcst* 2019	Budget 2019	Proposed Budget		
	2017	2018			2020	2021	2022
Departmental:							
Expenditures	48,921.5	54,541.9	54,418.3	52,423.7	55,898.0	58,347.1	60,618.7
Non-Tax Revenues	(20,317.8)	(24,062.2)	(23,646.5)	(20,196.4)	(21,669.9)	(21,883.9)	(21,845.4)
Net Departmental	28,603.7	30,479.7	30,771.8	32,227.3	34,228.1	36,463.3	38,773.3
Fire Services	10,225.0	10,496.4	11,188.1	11,188.1	11,755.3	12,200.1	12,613.6
Library	3,767.7	3,843.1	3,843.1	3,843.1	3,868.1	3,896.1	3,934.1
Total Proposed Budget	42,596.4	44,819.1	45,803.0	47,258.5	49,851.5	52,559.5	55,321.0
Assessment Growth					1,209.4	1,204.7	1,178.6
Proposed Tax Increase					1,383.6	1,503.3	1,582.9

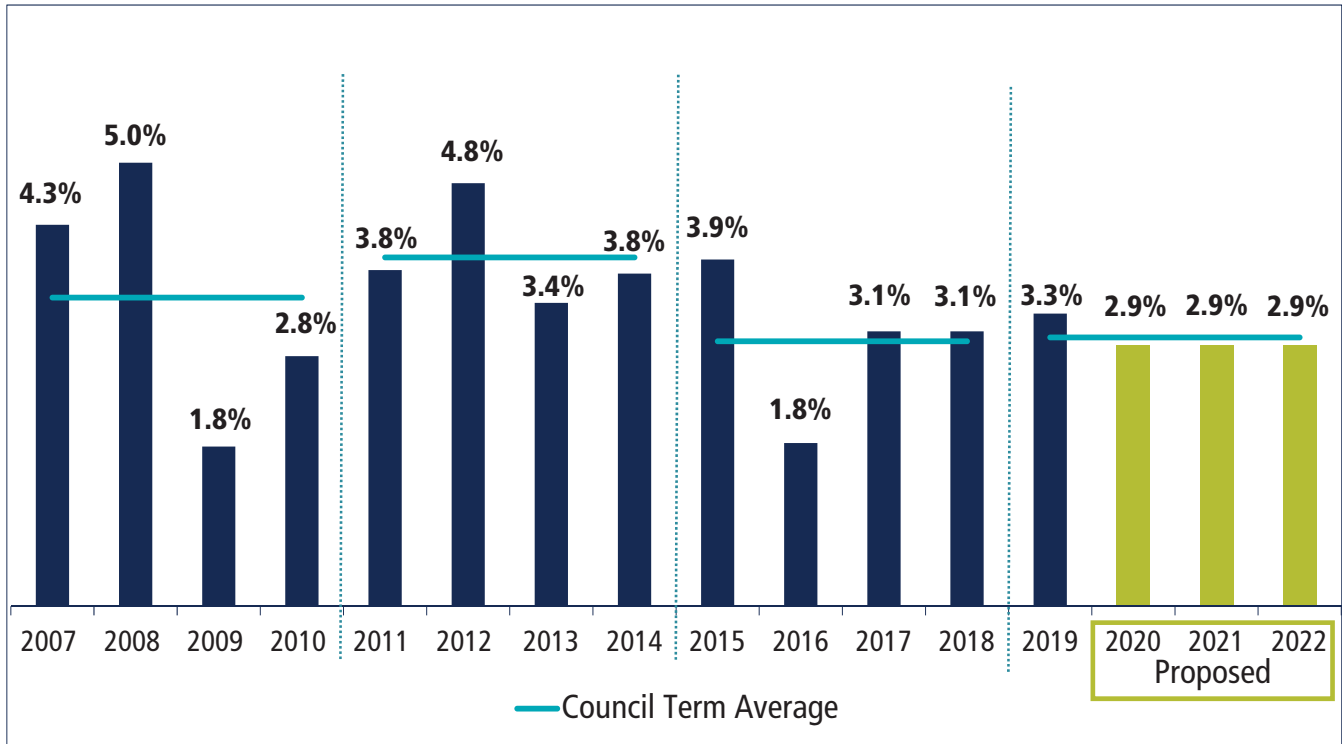
*Net forecast as of August 31, 2019

Net Budget Change Summary

	2020		2021		2022	
	FTE	\$000's	FTE	\$000's	FTE	\$000's
Base						
Salary & Wages including COLA, step increases and other approved staffing actions	-	947.3	-	642.0	-	523.2
Solid waste / recycling contract increases	-	318.3	-	184.1	-	219.1
Rate stabilization draws/contributions	-	291.6	-	(333.8)	-	208.9
Inflationary impacts on various Town contracts	-	192.5	-	130.1	-	191.5
Town Facility operating cost increases (utilities, heating, operating supplies)	-	86.6	-	88.7	-	98.3
Fleet and equipment operation	-	81.4	-	35.7	-	29.5
Insurance premium increases	-	55.2	-	60.8	-	66.8
Multi-year budget contingency	-	-	-	100.0	-	56.0
Penalty revenue increases	-	(495.3)	-	(61.7)	-	-
Overhead support recoveries from water & building operations	-	(235.0)	-	(129.7)	-	(92.2)
Other savings / revenues	-	(208.7)	-	(129.6)	-	(105.9)
One time provincial modernization grant	-	(160.4)	-	160.4	-	-
Lease revenues	-	(83.4)	-	(67.2)	-	103.9
Sponsorship / advertising revenues	-	(42.8)	-	(18.3)	-	(6.3)
	-	747.4	-	661.5	-	1,292.9
Capital Operating Costs						
Phase in of New Library Square Operating Budget	-	240.0	-	240.0	-	-
New HRIS Software Maintenance & Support	-	-	-	175.0	-	-
	-	240.0	-	415.0	-	-
Maintaining Service Levels for Growth						
Central York Fire Services	-	567.2	-	444.8	-	413.5
New positions - Various	5.0	357.5	6.0	500.1	5.0	450.7
Contract increases	-	189.0	-	158.8	-	65.8
Part time / contract increases	-	171.3	-	39.8	-	52.7
Solid waste / recycling contract increases	-	44.7	-	37.8	-	37.8
Community partner delivered services	-	37.3	-	38.6	-	45.3
New Positions - Various Conversions	4.0	8.5	1.0	-	-	-
Community program revenue increases	-	(328.7)	-	(38.1)	-	(57.8)
Development driven revenue increases	-	(181.7)	-	(115.9)	-	(129.2)
	9.0	865.2	7.0	1,066.0	5.0	878.8
Enhancements and Transformation						
IT Strategic Plan driven non staffing enhancements	-	229.1	-	30.0	-	-
New Positions - Financial & Systems Specialist	-	-	1.0	-	-	-
	-	229.1	1.0	30.0	-	-
Fiscal Strategy						
Cash to capital contribution to reserve	-	436.3	-	460.6	-	539.8
Reduce reliance on Supplementary Taxes	-	75.0	-	75.0	-	50.0
	-	511.3	-	535.6	-	589.8
Total Net Budget Change	9.0	2,593.0	8.0	2,708.0	5.0	2,761.5

Attachment #4

**Town of Aurora
2020 - 22 Draft Operating Budgets
HISTORY OF AURORA TAX RATE INCREASES**





**Town of Aurora
General Committee Report**

No. CS19-025

Subject: Fence By-law Exemption Request – 203 St. John’s Sideroad West
Prepared by: Alexander Wray, Manager of Bylaw Services
Department: Corporate Services
Date: November 5, 2019

Recommendation

- 1. That Report No. CS19-025 be received; and**
- 2. That an exemption to the Town’s Fence By-law No. 4753-05.P to permit a non-compliant fence in the front and side yard at 203 St. John’s Sideroad West, be refused; and**
- 3. That an exemption to the Town’s Fence By-law No. 4753-05.P to permit the non-compliant wrought iron gate with a height exceeding 2.0 metres, be approved and the amending by-law be brought forward for enactment; and**
- 4. That the registered property owner bring the property into compliance with respect to the provisions in the Fence By-law No. 4753-05.P within 30 days.**

Executive Summary

The purpose of this report is to update Council on the non-compliant fence and wrought iron gate at 203 St. John’s Sideroad West.

- The pending sale of the home eliminates the resident’s grounds for an exemption based on medical and privacy needs.
- If an exemption to the Town’s Fence By-law is granted for the fence, it is likely to set a community precedent
- The wrought iron gate for the driveway entrance minimally exceeds the maximum height requirements and therefore approval is recommended

Background

The subject property is a Single Family Residential dwelling situated in the Yonge Street and St. John’s Sideroad neighbourhood. The current property owner is seeking relief

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Report No. CS19-025

from the by-law regulations to maintain an existing front yard fence with a wrought iron gate and side yard fence. The fence and gate exceed the permitted height of 2.0 meters for a fence on a Rural Residential Property. Additionally, the fence is constructed of wood, which is a prohibited material for a front yard fence. The gate is wrought iron which is a compliant material.

As a result of a complaint from a member of the community, Bylaw Services attended the property and conducted an inspection of the recently constructed fence and gate on or about August 13, 2018. During the inspection, Bylaw Services Officers identified the fence and gate did not comply with the provisions set out in Fence Bylaw No. 4753-05.P.

At the General Committee meeting on February 12, 2019, Council refused the fence and gate exemption request for 203 St. John's Sideroad West. Subsequently, at the Council meeting on February 26, 2019, a representative from the property delegated to Council which resulted in Council requesting Bylaw Services work with the property owner towards a resolution.

Bylaw Services engaged the current property owner to reach a resolution that would satisfy the needs of both the Town and the property owner. However, it has recently come to the attention of Bylaw Services that the property is listed for sale, and as such the request for a fence exemption to support the owners medical and privacy concerns are no longer valid. Bylaw Services is recommending that the existing wrought Iron Gate which abuts St. John's Sideroad be exempted as the gate itself is constructed with compliant material and only minimally exceeds the maximum height of 2.0 metres.

Analysis

The pending sale of the home eliminates the resident's grounds for an exemption based on medical and privacy needs.

The current homeowner requested during his delegation that a fence exemption be considered due to medical and privacy reasons. Bylaw Services had been working with the homeowner to reach a satisfactory resolution which included a landscaping buffer along the fence edge. However staff was waiting on the submission of a survey to confirm property lines and location of planting. Given that the house is expected to change ownership, the requested reasoning for an exemption would no longer have relevance.

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Report No. CS19-025

If an exemption to the Town's existing Fence By-law is granted, it is likely to set a community precedent

Fencing is a common solution to address privacy, security, and aesthetics. An exemption to the current Fence By-law would set a precedent within the community and may permit other properties to go through the same process. By permitting the exemption both current and future decisions may be viewed as subjective and would strongly diminish the integrity of the Town's Fence By-law 4753.05.P.

The wrought iron gate for the driveway entrance minimally exceeds the maximum height requirements and therefore approval is recommended.

The wrought iron gate is a gateway feature for the driveway egress. The gate is constructed of compliant material. The overall height of the gate exceeds the maximum height of 2.0 metres. However the appearance of the gate is compatible and similar to other features and properties in the neighbourhood.

Advisory Committee Review

N/A

Legal Considerations

The Town's Fence By-law 4753.05.P sets out the requirements for fence height and material of construction. If Council elects not to grant an exemption to the By-law requirements, the property owner that caused the fence to be erected would be in breach of the By-law. A person found to be in breach of the Fence By-law is subject to prosecution and a fine under the *Provincial Offences Act*.

The Fence By-law does not have an exemption process and in order to grant an exemption from the Fence By-law requirements Council would be required to pass a site-specific by-law amendment. Such a by-law amendment could waive the application of the provisions relating to height and materials for 203 St. John's Sideroad West and establish site-specific requirements to be applicable in this case, as directed by Council.

Financial Implications

The applicant may face financial implications associated with the recommended removal of the fence.

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Report No. CS19-025

Communications Considerations

N/A

Link to Strategic Plan

N/A

Alternative(s) to the Recommendation

1. Provide further direction.
2. Exempt the existing fence in the front and side yards.

Conclusions

For reasons outlined in this report staff are recommending the fence exemption be refused, and the property owner comply with all provisions of the Town's Fence By-Law within 30 Days of this decision.

Attachments

N/A

Previous Reports

Report CS19-011 – Fence By-Law Exemption Request – 203 St John's Sideroad West,
General Committee – February 12, 2019

Pre-submission Review

Agenda Management Team review on October 16, 2019

November 5, 2019

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Report No. CS19-025

Departmental Approval



**Techa Van Leeuwen
Director
Corporate Services**

Approved for Agenda



**Doug Nadorozny
Chief Administrative Officer**



**Town of Aurora
General Committee Report**

No. FS19-037

Subject: Procurement Exemptions to Library Square Project
Prepared by: Anna Ruberto, Procurement Manager
Department: Finance
Date: November 5, 2019

Recommendation

- 1. That Report No. FS19-037 be received;**
- 2. That an exemption to the Procurement By-law be approved to permit Colliers Project Leaders, the project Architect and Planning/Landscape Architect, including RAW Architects and the Planning Partnership, to participate on the Evaluation Committees for the Library Square Project; and**
- 3. That an exemption be approved to waive the requirement for liquidated damages for the Library Square Project.**

Executive Summary

The Community Services department has requested that Colliers Project Leaders (“Colliers”), The Planning Partnership (TPP) and RAW Architects participate on the Evaluation Committees for the Library Square Project and that the requirement for a liquidated damages clause be waived on this project. Both these requests require approval from Council.

- Colliers TPP and RAW Architects possess extensive industry knowledge and experience
- Colliers TPP and RAW recommend not using a liquidated damages clause

Background

The Town’s Procurement By-law 6076-18, defines as consisting of Town staff only. Within the Procurement By-law 6076-18, Section 3. Definitions 3.1 (aa) “Evaluation Committee” is a component of the Request for Proposal process, where a committee of

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Report No. FS19-037

three or more staff, is established to conduct proposal evaluations, interviews, and demonstrations, during proposal evaluations for goods, services, or construction. Consequently, in order to permit an external party to be part of an evaluation committee, the requirement to only have Town staff as part of the committee has to be waived by Council.

The review of the Procurement By-law 2020 will include the review of the definition for "Evaluation Committee".

With respect to liquidated damages, Council passed a motion on February 24, 2015 that mandated that liquidated damages clauses be included in all construction project contracts, unless approval is obtained from Council not to include one and that staff report to Council on the effectiveness of a liquidated damages clause. Later that year, staff brought forward Closed Session Report No. LLS15-047, Effectiveness of Liquidated Damages Clauses, which Council deferred to the August 25, 2015 open session meeting. At this meeting, Council received the report for information. No further direction was provided with respect to liquidated damages. As such, and in accordance with the February 24, 2015 resolution, staff have been inserting such clauses on every construction contract.

Analysis

Colliers Project Leaders, The Planning Partnership and RAW Architects possess extensive industry knowledge and experience

The Library Square Project will be the Town's largest procurement and project undertaken by the Town. The Town has engaged Colliers to assist in the process and provide their expertise in managing the project. As part of their service team, Colliers brings a team of industry experts that have taken part in leading and managing projects with a similar scope to Library Square. As the design consultant team, TPP and RAW will be working closely with the General Contractor and need to have input into the selection.

Following a review of the Town's procurement process, it has been recommended that Colliers Project Leaders, TPP and RAW Architects be permitted to be part of the evaluation committees to evaluate any contractors to be hired by the Town to conduct work on the Library Square Project. The Town's Community Services department is in support of this approach in order to ensure that the evaluation team involved on this project is equipped with an appropriate level of relevant knowledge and experience.

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Report No. FS19-037

As per the Town's process, any members of the evaluation committee will be required to avoid any conflicts of interest and will be required to sign a statement attesting to their impartiality in the evaluation prior to their involvement.

Colliers Project Leaders, TPP and RAW recommend not using a liquidated damages clauses

As part of developing the terms of reference that will be applicable to the Library Square project the matter of liquidated damages was discussed. Colliers and TPP/RAW has suggested that a liquidated damages clause not be employed as part of the Library Square project. Colliers recommends the utilization of contract documents through the Canadian Construction Documents Committee (CCDC). The CCDC contract documents are commonly used and accepted throughout the construction industry. The CCDC contains clauses pertaining to all aspects of the construction process. It has been developed and vetted by professionals in the construction industry.

As per recommendation from Colliers, the contract document that would be part of the Library Square project would consist of CCDC terms and Supplementary Conditions. With respect to recovery of damages caused by delay, the contract documents would contain a clause that provides an ability for the Town to recover reasonable costs from the contractor, incurred as a result of delays, provided such damages can be demonstrated and are shown to have been caused by the contractor. Colliers has expressed the following with respect to liquidated damages clauses:

- A liquidated damages clause creates an adversarial relationship with the general contractor from the initiation of the project. Colliers has found this not to be a productive approach on such projects, as from the start of the project the contractor is preparing back-up documentation to justify contractually why this schedule milestone could not be met.
- If liquidated damages are to be assessed for delays, contractors also expect to be rewarded, by way of financial incentives, if milestones can be achieved ahead of schedule. If such bonuses are not introduced, it eliminates the motivation for the contractor to do anything more than is expressly required by the contract documents.
- It would be difficult to accurately ascertain the actual value of liquidated damages to apply to this contract, especially with respect to the Square and Library work. Such estimates involve an amount of speculation and assumptions which begin to qualify the estimates as a penalty rather than an actual cost. The estimates must not be overstated in order to be valid. However if not directly addressed in

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Report No. FS19-037

the contract, the Supplementary Condition clause permits the Town an ability to recover the actual costs incurred by the Town, due to the contractor's delay in achieving the schedule

Advisory Committee Review

None

Legal Considerations

Council has mandated by resolution in 2015 that all Town construction projects include a liquidated damages clause, which requirement can only be waived by Council. A detailed report from Legal Services with respect to liquidated damages clause was previously presented to Council in an open session on August 25, 2015 and is attached to this report.

If the clause is not included as part of the Library Square contract documents, it cannot be added later in the project. A liquidated damages clause is used to define the scope of damage that the Town is estimated to suffer as a result of delays on a project. In case of delays that are caused by a contractor and not approved by the Town, the Town could demand payment of the predetermined amount for every day of delay. The Town would generally be limited in recovery to the estimated amount set out in the contract.

If a liquidated damages clause is not part of the contract, the Town may still recover for delay. The contract document that would be part of the Library Square project would contain a standard clause that would allow for recovery of damages suffered by the Town as a result of a delay. The difference in not having a liquidated damages clause is that the amount of losses would not be a predetermined daily amount, but rather it would be based on a reasonable amount of losses or damages that is demonstrated by the Town, and shown to have been caused by the contractor. Consequently, without having a predetermined estimate, when making a claim to recover delay damages, the Town would have to show the actual losses suffered attributable to the contractor.

Financial Implications

None

Communications Considerations

None

Link to Strategic Plan

The development of Library Square supports the following strategic Plan goals and key objectives:

Supporting an exceptional quality of life for all in its accomplishment in satisfying requirements in the following key objectives within these goal statements:

- **Invest in sustainable infrastructure**
- **Celebrating and promoting our culture**
- **Encourage an active and healthy lifestyle**
- **Strengthening the fabric of our community**

Alternative(s) to the Recommendation

1. To not approve the request for an exemption to allow Colliers Project Leaders, RAW Architects and The Planning Partnership to participate on Evaluation Committee for the Library Square Project.
2. To not approve the request to waive the requirement for Liquidated Damages to be included in the tender documents.

Conclusions

Town staff is recommending that Colliers Project Leaders, The Planning Partnership and RAW Architects be permitted to be part of the evaluation committees that will be involved in evaluating submissions from contractors for the work on the Library Square Project. The members of the Colliers Project Leaders team working on this project possess extensive industry experience including large construction projects and their participation would be valuable in the evaluation process. Further, based on recommendation from Colliers, TPP and RAW, staff are also asking that Council waive the requirement for a liquidated damages clause on this project.

November 5, 2019

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Report No. FS19-037

Attachments

Attachment #1: Extract from Council Meeting of Tuesday, February 24, 2015

Attachment #2: Report No. LLS15-047, Effectiveness of Liquidated Damages Clauses dated July 14, 2015

Previous Reports

N/A

Pre-submission Review

Agenda Management Team review on October 16, 2019

Departmental Approval



**Rachel Wainwright-van Kessel, CPA,
CMA
Director, Finance
-Treasurer**

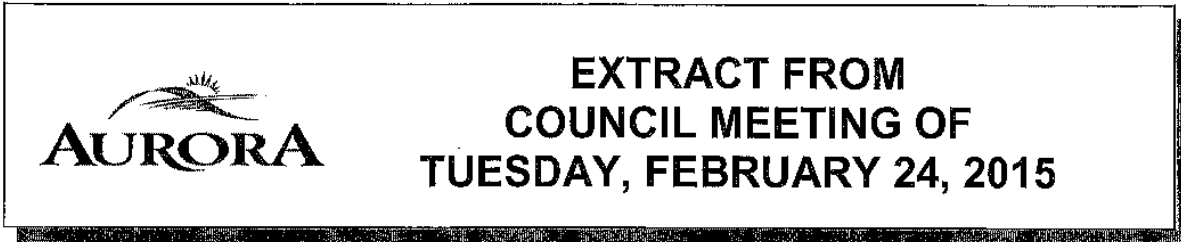
Approved for Agenda



Doug Nadorozny

Chief Administrative Officer

Attachment #1



10. NOTICES OF MOTION/MOTION FOR WHICH NOTICE HAS BEEN GIVEN

(ii) Motions for Which Notice Has Been Given

**(b) Councillor Mrakas
Re: Liquidated Damages**

**Main motion as amended
Moved by Councillor Mrakas
Seconded by Councillor Pirri**

WHEREAS most forms of building contracts include a clause referred to as "liquidated damages" that specifies the amount of damages that a contractor may be responsible for should the contractor fail to meet project timelines, including the completion date; and

WHEREAS "liquidated damages" are a tool that can be used to ensure that projects meet timelines and the completion date; and

WHEREAS the ability to meet time of delivery or performance of contractual obligations is an important factor in the award of any contract, and the Town may reasonably expect to suffer financial damages if performance targets and/or project timelines are not met; and

WHEREAS the Town currently includes "liquidated damages" clauses in its tender/RFP documents that form part of the construction contract between the contractor and the Town; and

EXTRACT/CORRESPONDENCE ROUTING INFORMATION							
External Correspondence was sent by Council Secretariat:		YES		NO	X		
External Correspondence to be sent by:							
ACTION DEPT.: (To Director and Assistant)	CAO	Building & By-law	Corporate & Financial	Infrastructure & Environmental	Legal & Legislative X	Parks & Recreation	Planning & Development
ACTION STAFF: (If other than above)							
INFO. DEPT.: (To Director and Assistant)	CAO	Building & By-law	Corporate & Financial	Infrastructure & Environmental	Legal & Legislative	Parks & Recreation	Planning & Development
INFO STAFF: (If other than above)	Pending List						

WHEREAS the absence of a "liquidated damages" clause in a construction contract does not prevent the Town from recovering any financial losses against a contractor due to breach of contract terms such as a failure to meet a completion date, but its inclusion does serve as an important tool and warning to contractors that project timelines and completion dates must be met.

NOW THEREFORE BE IT HEREBY RESOLVED THAT if staff determines that a "liquidated damages" clause should not be included in a construction project contract, then staff must obtain the approval of Council prior to the removal of such clause; *and*

BE IT FURTHER RESOLVED THAT staff report back to Council on the effectiveness of a liquidated damages clause as well as other tools available to ensure contractors meet project timelines and completion dates.

CARRIED AS AMENDED

Attachment #2



**TOWN OF AURORA
CLOSED SESSION REPORT**

No. LLS15-047

SUBJECT: *Effectiveness of Liquidated Damages Clauses*
FROM: *Warren Mar, Director of Legal & Legislative Services/Town Solicitor*
DATE: *July 14, 2015*

RECOMMENDATIONS

THAT Report No. LLS15-047 be received for information.

PURPOSE OF THE REPORT

The purpose of this report is to inform Council about the effectiveness of liquidated damages clauses, as well as other tools, in ensuring contractors meet project timelines and completion dates. In addition, the report discusses strategies to improve the potential of liquidated damages clauses being enforceable and effective.

BACKGROUND

At the Council meeting of February 24, 2015, Council directed staff to:

"BE IT FURTHER RESOLVED THAT staff report back to Council on the effectiveness of a liquidated damages clause as well as other tools available to ensure contractors meet project timelines and completion dates."

This report satisfies this request of Council and reviews the effectiveness of liquidated damages clauses in ensuring contractors meet project timelines.

COMMENTS

Summary

A liquidated damages clause is a stipulation in a contract providing for the payment of a specific amount of money by the breaching party in the event they fail to perform or comply with the terms of the contract.¹ Generally, a contract is negotiated by parties

¹ Richard Manly, "The Benefits of Clauses that Liquidate, Stipulate, Pre Estimate or Agree Damages" (2012) 28 BCL Rev 246 at 246.

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who agree to a specific amount and terms of such a clause prior to executing the contract and in turn, decide how a breach of contract will be dealt with. For example, if a party to a contract fails to complete the project by the specified deadline, the non-breaching party may collect the amount stipulated in the liquidated damages clause. Usually, the clause stipulates a fixed amount, to be calculated on a daily or weekly rate.

It is important to note that only those liquidated damages clauses that are a “genuine pre-estimate” of damages are enforceable.² A clause that provides for an excessive amount of damages beyond the actual loss will likely be deemed a penalty and therefore unenforceable by a court, if the clause is challenged judicially. If the liquidated damages clause is unenforceable due to being too excessive, the Town will be limited to a claim for damages flowing from any loss actually suffered as a result of the contractor’s breach of contract.

The benefits of utilizing such a clause include: (a) greater contractual certainty that work will be completed on time; (b) reduced costs associated with calculating and challenging a claim for damages; and (c) the likelihood that reasonable timelines have been negotiated. In addition, utilizing a properly calculated liquidated damages clause eliminates the need to mitigate or prove the loss of the innocent party. Lastly, a liquidated damages clause may act as an incentive for a contractor to complete work on time, since not doing so will result in them paying damages to the non-breaching party.

However, unless resources are used to calculate an accurate pre-estimate of the losses, these benefits may not be realized as the clause may not be enforceable. A liquidated damages clause that provides for an amount significantly greater than the actual loss suffered is likely to be challenged by a contractor and consequently not enforced by the courts. Also, an arbitrary amount, if challenged, may be difficult to support if there is no actual justification for it and it appears to be excessive. To avoid having a liquidated damages clause struck down as being a penalty, too excessive, or unconscionable, the Town needs to have tools to accurately calculate pre-estimates of damages.

Treatment of Liquidated Damages Clauses by the Courts

Whether or not a liquidated damages clause is enforced by the courts is determined by the wording and effect of the clause. The House of Lords first set out the test for determining the enforceability of a liquidated damages clause in the United Kingdom decision of *Dunlop Pneumatic Tire*. If the clause is a “genuine pre-estimate” of the loss, it will likely be enforced. However, if the clause is punitive or provides for an amount that is extravagant and unconscionable, it will likely not be enforced.³ A penalty may be defined as “a requirement for a fixed sum to be paid upon a default or breach of a

² *Dunlop Pneumatic Tire Co v New Garage and Motor Co*, [1915] AC 79 at 86 [*Dunlop*].

³ *Ibid*.

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specified clause(s) where the amount does not bear an apparent relationship to the actual loss suffered.”⁴ If the amount is far beyond the actual loss suffered, the clause will likely be unenforceable as a penalty. Thus, under the strict *Dunlop* test, a provision that amounts to a penalty will not be enforced.

Many years later, the Supreme Court of Canada, in *Elsley Estate v JG Collins Insurance*,⁵ introduced a less stringent approach, suggesting that even if a liquidated damages clause was not a genuine pre-estimate of the loss, it may still be enforced as long as there is no oppression and the clause does not provide for an amount that is unconscionable.⁶ An analysis of jurisprudence reveals that courts now use a combination of the approaches set out in *Dunlop* and *Elsley*.

The use of the words “penalty” or “liquidated damages” is not in and of itself conclusive of what the Court will determine the clause to be. If the clause does not mention the word “penalty,” the Court may still consider whether or not the clause is a genuine pre-estimate of damages, and may still conclude that the clause is actually a penalty, despite the absence of such words.⁷ On the other hand, if the clause does include the word “penalty,” this alone does not make the clause unenforceable.⁸

The onus of establishing that a liquidated damages clause is a penalty rests with the party against whom the damages are claimed.⁹ A court will provide relief by striking down a liquidated damages clause that is a penalty and oppresses the party against whom a claim for damages is made. Where there is no oppression, the clause will likely not be struck down.

However, a penalty clause that is excessive, unconscionable or oppressive risks being struck down by the courts. In *MTK Auto West Ltd v Allen*, the British Columbia Supreme Court struck down a penalty clause as being unconscionable because the damages provided for in the clause amounted to three times the actual damages suffered and thus the clause was oppressive.¹⁰ The Court went on to say that “a court should not strike down a penalty clause as being unconscionable lightly because it is a significant intrusion on freedom of contract.”¹¹ *MTK* confirms the *Elsley* approach to not automatically strike down a penalty clause, unless it is unconscionable or oppressive.

In *Don West Construction Limited Corporation of the Village of Port Stanley*, the Court

⁴ Kevin McGuinness & Stephen Bauld, *Municipal Procurement*, 2d ed (Markham, ON: LexisNexis Canada, 2009) at 1008.

⁵ *Elsley Estate v JG Collins Insurance Agencies Ltd*, [1978] 2 SCR 916 at 937, 83 DLR (3d) 1 [*Elsley*].

⁶ Paul-Erik Veel, “Penalty Clauses in Canadian Contract Law” (2008) 66:2 UT Fac L Rev 229 at 233-240.

⁷ SM Waddams, *The Law of Contracts*, 5th ed (Aurora, ON: Canada Law Book, 2005) at 325.

⁸ John Swan, *Canadian Contract Law*, 1st ed (Markham, ON: LexisNexis Canada, 2006) at 715.

⁹ *Elsley* at 937.

¹⁰ *MTK Auto West Ltd v Allen*, 2003 BCSC 1613 at para 22 (available on CanLII) [*MTK Auto*].

¹¹ *Ibid*.

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upheld a clause providing for a penalty of \$100 per day in the event the contractor failed to complete an extension to an arena.¹² Thus, a liquidated damages clause that provides for a daily rate of damages may be enforced by the courts.

In *Exel Environmental v Ottawa-Carleton (Regional Municipality)*, the Ontario Superior Court of Justice found a liquidated damages clause providing that a waste disposal company pay the municipality \$1,500 for every route collected late, to be excessive and unconscionable.¹³ The Court went on to say that the clause amounted to a penalty and had “nothing to do with the actual damages suffered by the Region nor the pre-estimate of damages initially made by the Region.”¹⁴ Thus, contracting parties must carefully pre-estimate damages or risk having their clause be deemed unenforceable.

Recommendations for an Enforceable Liquidated Damages Clause

If the Town chooses to include a liquidated damages clause in its construction contracts, it should ensure that the following requirements are satisfied, in order to avoid judicial scrutiny:

1. The clause must be a “genuine pre-estimate of loss” in order to be enforceable, otherwise the court will not enforce it. Consequently, parties should engage in a “genuine pre-estimate” of anticipated damages and record any negotiations that occur as evidence that the amount provided for in the clause is agreed upon by both parties. In a tender scenario, generally there is very little, if any, room for actual negotiation and such clauses have to be established unilaterally by the Town. This puts even more onus on the Town to ensure that such estimates are genuine and defensible.
2. It is recommended to have a formula for calculating the amount of damages to be paid, i.e., daily rate, or different rate for given breaches.
3. Ensure that the clause provides for an amount that is not punitive or unconscionable. If the clause provides for an amount far greater than the actual loss resulting from the breach of contract, courts will likely not enforce it using either the *Dunlop* or *Elsley* approach.
4. If the project for which the parties are contracting involves sectional completion, apportion the clause into individual amounts for each section of the project.¹⁵

¹² *Don West Construction Limited Corp of the Village of Port Stanley* (1983), 2 CLR 243 at para 27, 21 ACWS (2d) 442 (Ontario County Court – Elgin County).

¹³ 2889218 *Canada (Exel Environmental) v Ottawa-Carleton (Regional Municipality)*, [2001] OJ No 3360 (ONSC) at para 85-86.

¹⁴ *Ibid* at para 85.

¹⁵ Turner and Townsend, “Liquidated Damages Contract Risk Management” (March 2009)

<www.turnerandtowntsend.com/Liquidated_Damages_oeN9s.pdf>

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5. The clause must provide that the liquidated damages run from a specific date. Otherwise, courts may not enforce the clause, since without a specific date, damages cannot be calculated.
6. Ensure the clause does not provide for a lump sum amount – this will be presumed to be a penalty by the courts.¹⁶
7. The clause should include a provision for extending the completion date in order to ensure the clause will be enforced. Otherwise, in the eyes of the courts, it would be unfair to charge liquidated damages against a breaching party without a mechanism for extension of a deadline, particularly for delay caused by events beyond the control of the party.

Benefits of Liquidated Damages Clauses

If a liquidated damages clause is valid and enforceable, it may provide the following benefits:

- Greater contractual certainty
- No duty to mitigate loss
- Reduced risk of under compensation
- Allocation of commercial risk
- No need to prove loss
- Freedom of contract generally upheld, unless penalty
- General public interest
- Assurance that contract will be performed

Greater Contractual Certainty

By pre-determining the compensatory obligations of the breaching-party, a liquidated damages clause avoids the difficulty, uncertainty, and expense of proving loss and calculating damages in court.¹⁷ Thus, liquidated damages clauses provide contracting parties with contractual certainty and promote economic efficiency by avoiding the expenses associated with disputing damages calculations in court.

Contractual certainty and risk allocation is “a central motivating factor in every commercial transaction.”¹⁸ A liquidated damages clause may encourage parties to enter into a contractual relation in circumstances where they would otherwise not have if no such clause was in place. For example, if the contract is risky and the calculation of damages is too difficult, a liquidated damages clause may provide the certainty and risk allocation that the parties need before agreeing to enter into the contract.

¹⁶ *Lord Elphinstone v Monkland Iron and Coal Co* (1886), 11 AC 332. See Swan, *supra* note 6 at 717.

¹⁷ Manly, *supra* note 1 at 250-252.

¹⁸ *Ibid* at 254.

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No Duty to Mitigate Loss

Traditionally, a non-breaching party has a duty to mitigate the losses it will suffer by taking reasonable steps. However, where a contract contains a liquidated damages clause, there is no such duty to mitigate losses.¹⁹ Breach of contract alone would be sufficient to trigger the breaching party's obligation to pay the liquidated damages.

Reduced Risk of Under Compensation

A liquidated damages clause helps a non-breaching party avoid the risk of under-compensation that may otherwise arise by the legal restrictions on damages one would have to prove if no such clause was included. These restrictions on damages include: remoteness, certainty of proof, mitigation, and intangible losses.²⁰ In situations where damages for breach of contract result in consequential, indirect or idiosyncratic losses, damages are usually difficult to calculate, or deemed to be too remote and not reasonably foreseeable. In this event, a liquidated damages clause may cover such consequential and indirect damages that otherwise would not normally be recoverable under the general rules for damages from breach of contract.²¹

Allocation of Commercial Risk

A liquidated damages clause allows a contractor to allocate and assess the risk of a potential delay or late completion of a project. At the tendering stage, a contractor is able to know in advance their liability in the event of a delay or late completion.²² A contractor can take this risk into account when calculating their tender price; however, this may increase the tender price if the genuine pre-estimate of damages is high, or where a project is complex and the difficulty of certain components is unknown.

No Need to Prove Loss

Another benefit of including a liquidated damages clause is that there is no requirement on the non-breaching party to prove actual loss, an otherwise lengthy and costly process. Additionally, a non-breaching party is entitled to claim the liquidated damages as soon as the project timeline in the contract passes, without having to have suffered actual loss at that moment in time.²³ However, the amount may not be excessive or unconscionable.

Freedom of Contract Generally Upheld, Unless Penalty

The Supreme Court of Canada in *Elsley* urges courts to "be careful not to set too stringent a standard and bear in mind that what the parties have agreed to should normally be upheld."²⁴ The Court went on to say that the power of courts to strike down

¹⁹ Manly, *supra* note 1 at 253.

²⁰ Waddams, *supra* note 7 at 327.

²¹ Manly, *supra* note 1 at 255.

²² *Ibid* at 256.

²³ Manly, *supra* note 1 at 257.

²⁴ *Elsley*, *supra* note 5.

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a penalty clause is “a blatant interference with freedom of contract and is designed for the sole purpose of providing relief against oppression for the party having to pay the stipulated sum.”²⁵ Thus, parties to a contract can rest assured that their agreed upon terms, including a liquidated damages clause, will almost always be upheld and enforced by the courts. However, where the stipulated sum is a penalty, only the damages that can be proven are recoverable, but the amount recoverable may not exceed the sum stipulated.²⁶

General Public Interest

Some scholars suggest that liquidated damages clauses are even beneficial for public interest reasons. For example, Manly purports that “[l]iquidated damages clauses are beneficial and in the public’s interest because they promote the common good, reduce the incidence of litigation and promote commercial certainty.”²⁷

Assurance that Contract will be Performed

A liquidated damages clause gives additional assurance to all parties to the contract that the contract will be performed, since not meeting certain timeframes or deadlines will force the breaching party to pay the agreed upon amount.

On the other hand, the potential breaching party or the contractor also benefits from agreeing to include a liquidated damages clause in their contract. A contractor who is in the early years of their business, without a commercial history or a previous contractual relationship with the Town, may be able to convince an otherwise hesitant Town to enter into a contract by agreeing to include a liquidated damages clause.²⁸

In addition, a party to a contract may offer to include an extra-compensatory liquidated damages clause that is of a significantly larger amount than would otherwise be agreed to, as a signal of their intention to complete the work on time and as a demonstration of their reputation.²⁹ However, caution should be exercised with an extra-compensatory clause, because if challenged, it may be deemed unenforceable for being too excessive.

Drawbacks of Liquidated Damages Clauses

If a liquidated damages clause does not meet the tests in *Dunlop* and *Elsley*, and is consequently not enforced, the parties risk the following:

- Risk of under compensation
- Cost of determining the amount of damages and settling enforceability disputes

²⁵ *Elsley*, *supra* note 5 at 937.

²⁶ *Ibid* at 938.

²⁷ Manly, *supra* note 1 at 260.

²⁸ *Ibid* at 262.

²⁹ Veel, *supra* note 6 at 251.

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Risk of Under Compensation

In the event that the actual loss suffered as a result of a breach of contract is greater than the amount provided for in a liquidated damages clause, the non-breaching party may be held to the terms of the contract and limited to only recover the agreed upon amount from the breaching party. This is because contract law does not prevent people from entering into bad bargains.³⁰

By including a liquidated damages clause in a contract, a non-breaching party assumes the risk of any excess loss over the amount stipulated in the clause.³¹ This is another reason to ensure that such clauses are in fact genuine estimates and that arbitrary or standard amounts are not utilized. The risk of under compensation may be mitigated by obtaining insurance (if available) to cover for any loss beyond the agreed amount set out in the liquidated damages clause (i.e., insurance coverage for business interruption in the event of a delay).

Costs of Determining the Amount of Damages

This report has previously stated that liquidated damages clauses reduce legal fees for both parties to a contract, by avoiding the expense associated with calculating damages and assessing breach of contract claims in court. However, significant pre-contract work must be undertaken by the hiring party (i.e., the Town) to determine a genuine pre-estimate of damages that it may suffer as a result of a delay. This work may include additional costs from an architect and the use of internal staff resources across the organization to provide justifiable calculations for the liquidated damages amount. Thus, the cost of determining the amount of a liquidated damages clause, in some circumstances, may be more expensive than calculating actual damages suffered after the loss has occurred and is easily quantifiable.

Other Tools to Ensure Contractors Meet Project Timelines

While the timely completion of a project is never guaranteed, various tools other than the inclusion of a liquidated damages clause may be utilized to help ensure that contractors meet project timelines.

Forfeiture of Deposit

If a contract stipulates that a deposit is "non-refundable," it may be forfeited by the non-breaching party. However, the mere labelling of a payment as a deposit does not preclude the judicial scrutiny of the amount as being a penalty, excessive or unconscionable, in which case it may be challenged and found unenforceable.³² Thus, by providing for the forfeiture of a deposit in a contract, a party to a contract may be

³⁰ Veel, *supra* note 10 at 253.

³¹ Manly, *supra* note 1 at 261.

³² See *Tang v Zhang*, 2013 BCCA 52 at para 27, 223 ACWS (3d) 894.

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encouraged to complete the work on time for fear of losing the deposit.

Holdback of Payment

Similar to the forfeiture of a deposit, the holdback of payment may be exercised by the non-breaching party. This may provide an incentive to the contractor to complete the project on time. It is useful to have a provision in the contract stipulating that payment will be withheld in the event of a delay.

Project Management

Parties to a construction contract are encouraged to implement a detailed project management plan, in which both parties are actively engaged. By setting realistic goals and timelines, allocating for potential delay in setting dates and being actively engaged in project oversight, the Town may reduce the risk of delay.

Bonuses for Performance Targets

To encourage the timely completion of construction projects, bonuses may be offered as an incentive to meet project timelines. In addition, several bonuses may be made available, to be awarded to the contractor for every early successful completion of a project stage. While likely to be a successful strategy, there are financial implications of awarding such bonuses that should be considered when discussing this alternative tool.

LINK TO STRATEGIC PLAN

None.

FINANCIAL IMPLICATIONS

In order to ensure that a liquidated damages clause is upheld for being a genuine pre-estimate of damages, additional resources may have to be utilized to accurately pre-estimate damages before a contract is executed. Although an additional expense, the benefits of investing in an accurate pre-estimate of damages during initial contract formation may outweigh the drawbacks and expenses associated with proving loss, mitigating damages, and disputing damages in court, where a liquidated damages clause is not utilized.

ALTERNATIVE(S) TO THE RECOMMENDATIONS

1. Further options as Council may direct.

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CONCLUSIONS

This report has considered the effectiveness of liquidated damages clauses in ensuring that contractors meet project timelines. An analysis of jurisprudence suggests that if a carefully drafted and calculated clause is included in a contract, it will likely be enforced by the courts and provide various benefits to the parties, including: reduced costs, commercial certainty, allocation of commercial risk, and increased assurance that the project will be completed on time.

However, if the clause is seen as a penalty by the courts, provides for the payment of an amount in excess of the actual loss suffered, and/or is oppressive or unconscionable, the clause will likely be deemed unenforceable by the courts. Thus, if the Town is to benefit from including a liquidated damages clause in its construction contracts, it should carefully draft such clauses to ensure that they reflect a genuine pre-estimate of damages that are not excessive, oppressive, or unconscionable. In addition, the Town may utilize other tools to ensure that contractors meet project timelines, including the forfeiture of deposits, holdback of payment, increased project management, or performance target bonuses.

ATTACHMENTS

None.

PREVIOUS REPORTS

LLS15-044 – “Aurora Family Leisure Complex Renovations”, dated June 23, 2015

PRE-SUBMISSION REVIEW

None.

***Prepared by: Daria Vodova, Law Student – ext. 4219 and Slawomir Szlapczynski,
Associate Solicitor – Ext. 4745***



Warren Mar

Director of Legal & Legislative Services/Town Solicitor



**Town of Aurora
General Committee Report No. PDS19-091**

Subject: Amendments to Source Protection Plans and Assessment Reports
Prepared by: Katherine Bibby, Planner
Department: Planning and Development Services
Date: November 5, 2019

Recommendation

- 1. THAT Report No. PDS19-091 be received;**
- 2. THAT Council endorse the proposed amendments as discussed herein to the Lake Simcoe Couchiching-Black River and Toronto Region Assessment Reports, and South Georgian Bay Lake Simcoe and Central Lake Ontario, Toronto Region and Credit Valley Source Protection Plans; and,**
- 3. THAT the Town Clerk circulate the Council Resolution to the Regional Clerk, Chair of the South Georgian Bay Lake Simcoe Source Protection Committee, and the Chair of the Credit Valley, Toronto Region and Central Lake Ontario (CTC) Source Protection Committee.**

Executive Summary

The purpose of this report is to request Council endorsement of the proposed changes to the Lake Simcoe Couchiching-Black River and Toronto Region Assessment Reports, and the South Georgian Bay Lake Simcoe and Central Lake Ontario, Toronto Region and Credit Valley (CTC) Source Protection Plans, as required by regulations under the *Safe Drinking Water Act, 2002* and the *Clean Water Act, 2006*.

The proposed changes include:

- The Wellhead Protection Area in Aurora will be amended due to the addition of a new Aurora Well (Well 7), as a result of the Yonge Street Aquifer (YSA) Well Capacity Restoration Environmental Assessment Project.
- The Wellhead Protection Area will be amended due to the removal of a Newmarket Well (Well 14).

- Amendments to the Assessment Reports and Source Protection Plans.
- The Wellhead Protection Area amendments will be addressed during the Town's Official Plan Review.

Background

The Region's Source Water Protection program protects drinking water

Source Water Protection is a key component of York Region's multi-barrier approach to ensure clean and safe drinking water. York Region is located within two Source Protection Authorities as shown in Figure 1.

Assessment reports completed by the Source Protection Authorities identify:

- Vulnerable areas including wellhead protection areas, intake protection zones, significant groundwater recharge areas and highly vulnerable aquifers.
- Potential threats to drinking water, ranked as low, moderate or significant.

Each of the Source Protection Authorities are located in a larger Source Protection Region. Lake Simcoe Couchiching-Black River Source Protection Authority is in the South Georgian Bay Lake Simcoe Source Protection Region, and Toronto Region Source Protection Authority is in the Central Lake Ontario, Toronto Region and Credit Valley (CTC) Source Protection Region.

Source Protection Plan policies require action by municipalities

The South Georgian Bay Lake Simcoe Source Protection Plan came into effect on July 1, 2015, and the Central Lake Ontario, Toronto Region and Credit Valley Source Protection Plan came into effect on December 31, 2015. Both plans contain policies that must be implemented by the Region and area municipalities to manage existing and future threats in order to protect drinking water quality and quantity.

A new well in Aurora will upgrade groundwater well infrastructure in the Yonge Street Aquifer area

The Region has developed a new groundwater supply well, Aurora Well 7. The well is located in a deep interconnected groundwater aquifer referred to as the Yonge Street Aquifer. The new well was developed as part of the Yonge Street Aquifer Well Capacity

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Restoration Project completed in accordance with the Municipal Class Environmental Assessment process in 2017. The project's purpose was to restore the full permitted capacity of York Region's wells, within the Yonge Street Aquifer, that has been lost due to the aging of infrastructure.

The *Safe Drinking Water Act, 2002* requires updates to the Assessment Reports and Plans for new or expanded municipal drinking water systems prior to the well becoming operational.

Analysis

The Wellhead Protection Area in Aurora will be amended due to the addition of a new Aurora Well (Well 7), as a result of the Yonge Street Aquifer (YSA) Well Capacity Restoration Environmental Assessment Project.

The new Aurora Well 7 is located at the site of existing Aurora Well 5, at the south-east corner of St. John's Sideroad and Old Yonge Street. Aurora Well 7 will be added to the system and Wellhead Protection Area changes are required since changes to pumping from the well site will occur. These changes require updates to the Source Protection Plans and Assessment Reports.

Wellhead Protection Areas represents zones that may contribute water to the well. As the aquifer in this area is interconnected, pumping from the new well also influences the Wellhead Protection Areas for other wells. Wellhead Protection Areas have been delineated for Aurora Well 7 with the use of numerical flow model following the Ministry requirements outlined in the Technical Rules under the *Clean Water Act, 2006*.

The Town's existing Wellhead Protection Areas (Schedule "L" of the Official Plan) are shown in Figure 2. The updated Wellhead Protection Areas are shown in Figure 3 (see hatched areas). The changes include:

- Lands added near south of Wellington Street East, between Bayview Avenue and Leslie Street;
- Lands added at the northeast quadrant of Bloomington Road and Bathurst Street continuing east along Bloomington Road; and
- A boundary change of the 2-5 Year Zone, located west of Yonge Street near Murray Drive.

These areas will be subject to the Region's screening process that evaluates if land uses will pose risks to drinking water.

The updated Wellhead Protection Areas will be included in the amended Assessment Reports and Source Protection Plans.

The Wellhead Protection Area will be amended due to the removal of a Newmarket Well (Well 14).

Newmarket Well 14 is no longer in use and will be removed from the system and therefore, it will be removed from the Assessment Reports and Plans.

Amendments to the Assessment Reports and Source Protection Plans

The Region's 2013 groundwater flow model was updated, and the results of the analysis recommended changes to the Wellhead Protection Areas as mentioned above, and a number of technical amendments. These changes included updates to: threat enumeration, vulnerability scores, threats (chemical, pathogen and DNAPL), land use data, and potential future conditions.

Despite the amendments to the Wellhead Protection Areas, no additional threats were identified within the new areas. Due to the changes in vulnerability scores, four existing fuel threats will be removed in Newmarket. No changes to the number of Risk Management Plans (RMPs) are proposed, as the fuel threat sites have other drinking water threats, such as chemical spills. Since no additional threats have been identified as a result of the changes, no policy changes are recommended in the Source Protection Plans as the existing policies adequately protect the new well in Aurora.

The Wellhead Protection Area updates will be addressed during the Town's Official Plan Review

The Town will be undertaking an Official Plan Review, which will include a review for conformity with provincial and regional government legislation and policies, including the *Clean Water Act, 2006*, and associated Source Protection Plan and Assessment Reports. The amendments to the Wellhead Protection Areas will be updated as part of the Official Plan Review.

Advisory Committee Review

Not applicable.

Legal Considerations

Source Protection Plans and policies are a requirement under the *Clean Water Act, 2006*. The Act requires Council endorsement of any proposed changes by affected upper and lower tier municipalities.

Financial Implications

None.

Communications Considerations

No communication is required to advise the general public of the amendment to the Wellhead Protection Area in Aurora. This report recommends that the Town Clerk circulate this report and Council Resolution to the Regional Clerk, Chair of the South Georgian Bay Lake Simcoe Source Protection Committee, Chair of the Credit Valley, Toronto Region and Central Lake Ontario Source Protection Committee.

Link to Strategic Plan

Source Protection Plans and policies are a requirement under the *Clean Water Act, 2006*. However, in implementing the policies of the Source Protection Plans through regional and local Official Plans and Zoning By-laws, the Strategic Plan goal of “Supporting Environmental Stewardship and Sustainability” can be implemented.

Alternative to the Recommendation

None.

Conclusions

The new drinking water source (Aurora Well 7) requires amendments to the Assessment Reports and Source Protection Plans and as required by regulations under the *Safe Drinking Water Act, 2002* and the *Clean Water Act, 2006*.

The amended Plans will allow the Region, the Town of Aurora, and area municipalities to continue to protect the drinking water sources and mitigate potential drinking water quality threats.

November 5, 2019

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Report No. PDS19-091

Attachments

Figure 1: York Region's Two Source Protection Authorities

Figure 2: Town of Aurora Official Plan Schedule "L" Wellhead Protection Areas

Figure 3: Comparison of Existing and Proposed Wellhead Protection Area

Previous Reports

General Committee Report No. PDS18-055, Amendments to the Central Lake Ontario, Toronto Region and Credit Valley (CTC) Source Protection Plan, May 15, 2018.

Pre-submission Review

Agenda Management Team review on October 16, 2019

Departmental Approval

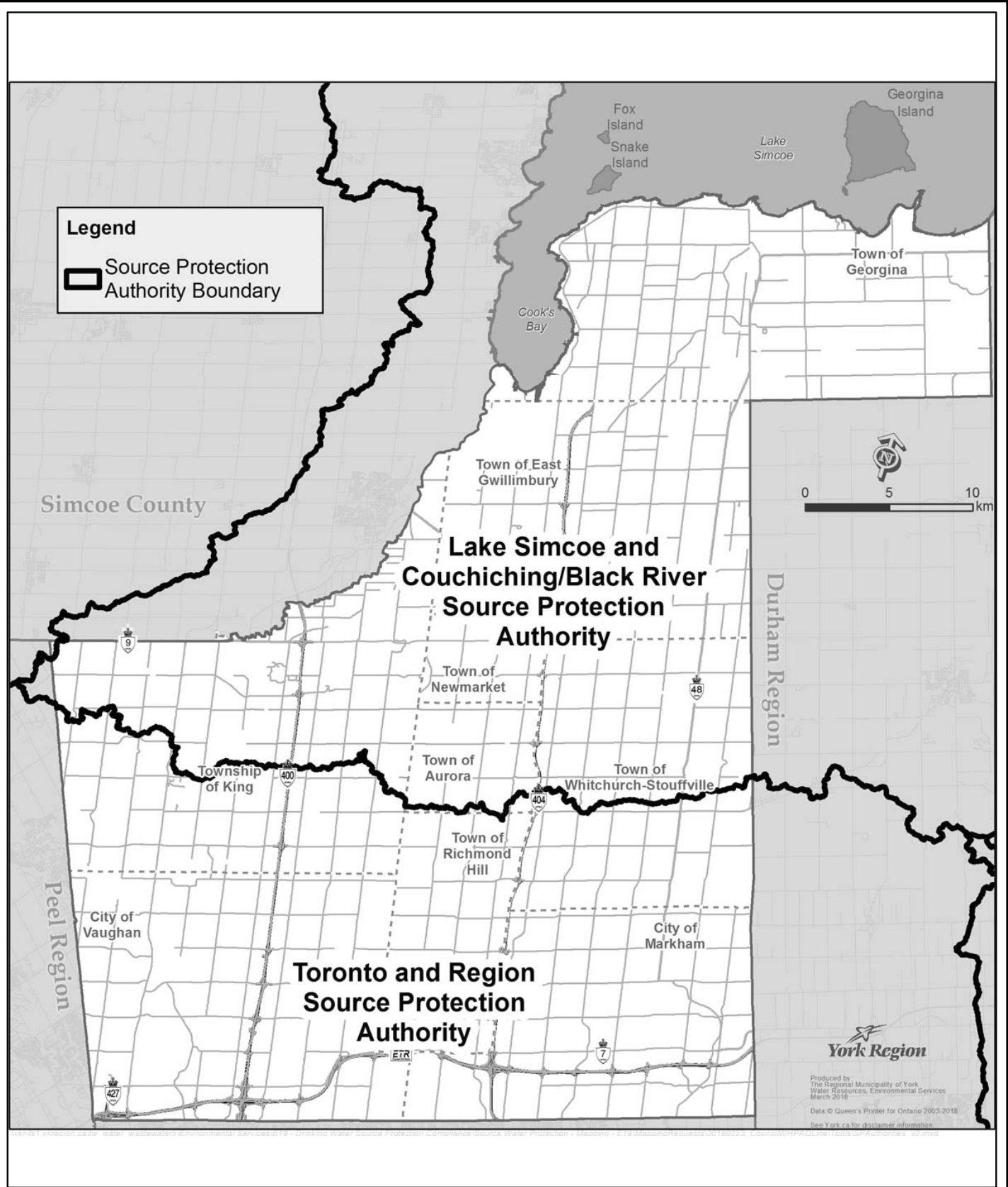


**David Waters, MCIP, RPP, PLE
Director
Planning and Development Services**

Approved for Agenda



**Doug Nadorozny
Chief Administrative Officer**



York Region's Two Source Protection Authorities



FIGURE 1

Map created by the Town of Aurora Planning & Building Services Department, October 3, 2019. Base data provided by York Region & the Town of Aurora.

Wellhead Protection Areas

- Active Wellhead
- 100 Metre Zone
- 0-2 Year Zone
- 2-5 Year Zone
- 5-10 Year Zone
- 10-25 Year Zone



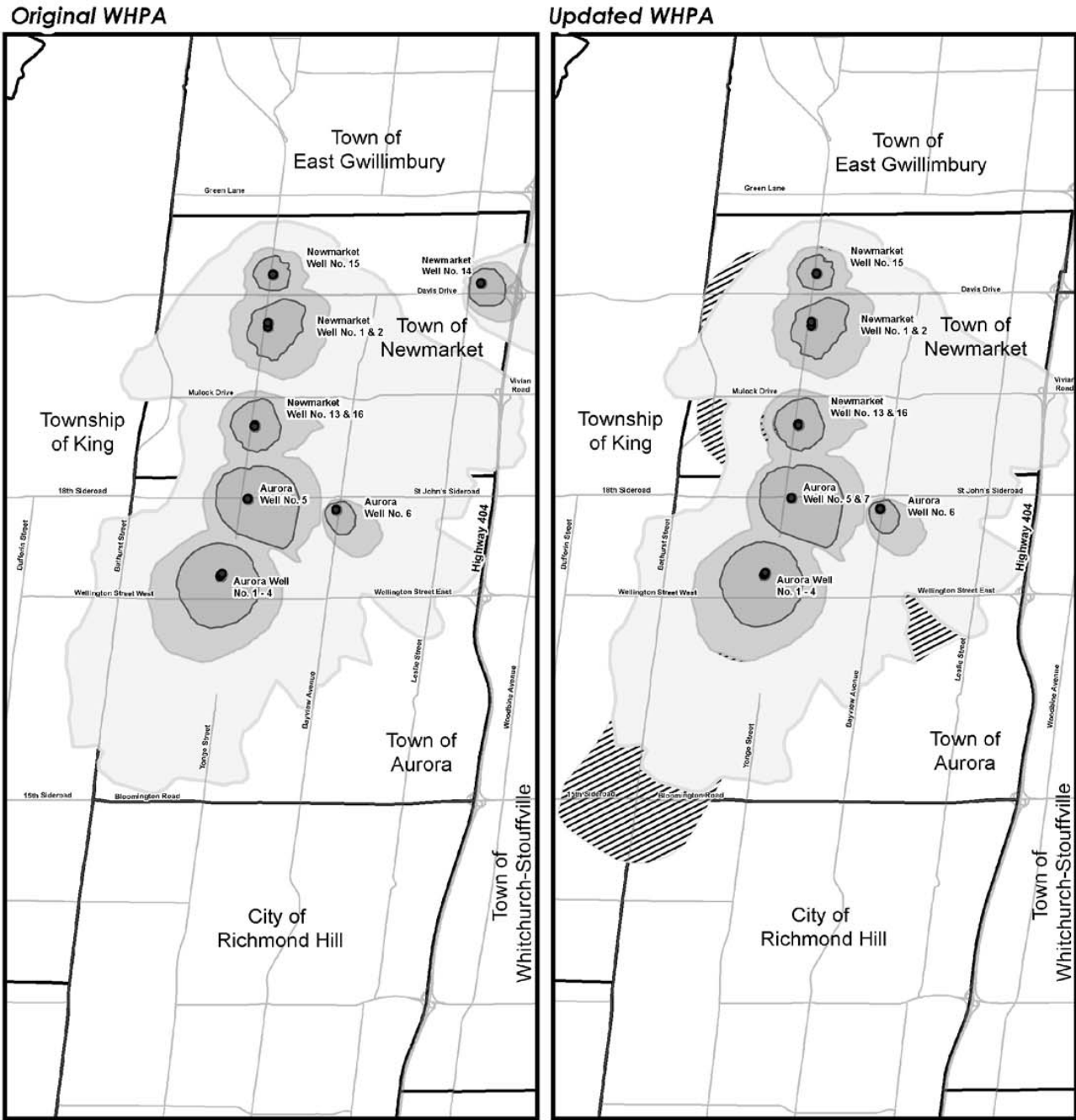
TOWN OF AURORA, OFFICIAL PLAN SCHEDULE "L" WELLHEAD PROTECTION AREAS

	Municipal Boundary		Railway		ORMCP Non Settlement Area Boundary		Oak Ridges Moraine Conservation Plan Area Subject to By-Law 4469-03.D
	Parcel		Hydro Corridor				



FIGURE 2

Map created by the Town of Aurora Planning and Development Services Department; October 4, 2019. Base data provided by York Region and Town of Aurora.



Wellhead Protection Area (WHPA) Comparison - Newmarket/ Aurora Wells

Produced by:
The Regional Municipality of York
Environmental Services
Environmental Promotion & Protection,
Source Water Protection, October 2019

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Imagery: See York.ca for disclaimer information.

● Production Well	■ Existing WHPA-A
— Regional Road	■ Existing WHPA-B
▨ Updated WHPA	■ Existing WHPA-C
□ Municipal Boundary	■ Existing WHPA-D

N

0 1 2 4
Kilometers

Comparison of Existing and Proposed Wellhead Protection Area



FIGURE 3

Map created by the Town of Aurora Planning & Building Services Department, October 4, 2019. Base data provided by York Region & the Town of Aurora.



Notice of Motion

Mayor Tom Mrakas

Date: November 5, 2019
To: Members of Council
From: Mayor Mrakas
Re: **Development Charges Exemption**

Whereas Goal #1 in the Town of Aurora's Economic Development Strategic Plan is – Targeting Growth Sectors and Attracting New Investment; and

Whereas Growing the economy through new investment is essential to sustaining long term economic sustainability for the community; and

Whereas attracting Class A office development will help encourage employment and related economic benefits for the Town of Aurora; and

Whereas the way in which municipalities treat non-residential development charges may play a significant role in the attraction of industrial, commercial and institutional development; and

Whereas a number of municipalities provide development charge exemptions for particular types of non-residential development to address job creation and economic growth in their municipality;

1. Now Therefore Be It Hereby Resolved That staff bring forward a by-law to amend the Development Charges By-law to exempt The Town of Aurora's portion of Development Charges for "major office development" which is defined as a free standing building with a minimum height of three floors and a minimum gross floor area of 75,000 square feet; and
2. Be It Further Resolved That the ability to take advantage of the exemption would begin at Council approval and end three years later; and
3. Be It Further Resolved That the total eligible gross floor area to be considered for the exemption to be capped at 300,000 square feet.