

City Council Information Items



August 6, 2021

Items for information is a weekly publication for the public and members of City Council. Members of City Council may request that any item appearing on this publication be placed onto the next available Committee of the Whole meeting for discussion.

	Pages
1. Information Reports	
1.1. 2020 Ontario Ombudsman Complaints and Investigations Regarding the City of Guelph - 2021-230	2
1.2. Hanlon Creek Business Park – Agreement of Purchase and Sale Execution - 2021-247	6
2. Intergovernmental Information	
2.1. City of Guelph Response: Proposed Amendments to Wastewater Operator Licensing Regulation	11
2.2. City of Guelph Response: Proposed Amendments to Drinking Water Operator and Water Quality Analyst Certification	14
2.3. Provincial Consultation: Guideline to Address Odour Mixtures in Ontario	17
2.4. Provincial Consultation: Modernizing Environmental Compliance Practices of the MECP	18
3. Correspondence	
3.1. Northumberland County Resolution: Municipal Court Managers' Association / POA Advocacy	19
4. Boards and Committees	
Heritage Guelph Advisory Committee - Resignation from Arlin Otto	

Information Report



Service Area	Corporate Services
Date	Friday, July 2, 2021
Subject	April 2019 to March 2021 Ontario Ombudsman Complaints and Investigations Regarding the City of Guelph

Executive Summary

Purpose of Report

To report on complaints received and investigations undertaken by the [Ontario Ombudsman](#) regarding the City of Guelph between April 1, 2019 and March 31, 2021.

Key Findings

Between April 1, 2019 and March 31, 2021, the Ontario Ombudsman received 23 complaints regarding the City of Guelph. All cases have since been closed and no investigations under the Ombudsman Act took place.

Financial Implications

None.

Report

Delegation of Authority to the City Clerk

On [March 22, 2021](#) City Council delegated to the City Clerk the authority to act as the head of the municipality under [section 1.1 of the Ontario Ombudsman Act](#). As the head of the municipality, the City Clerk is notified by the Ontario Ombudsman if an investigation into a complaint received regarding the City is initiated. The City Clerk reports on this delegated authority annually through an information report.

As this is the first such report, it includes two-years' worth of complaint information. Future reports will include one-year worth of information.

The Role of the Ontario Ombudsman

The Ontario Ombudsman is an independent and impartial officer of the Ontario Legislature. The Ombudsman has the authority to review and investigate complaints about the administrative conduct of public sector bodies, including municipalities and councils.

The Ontario Ombudsman has full oversight regarding all of Ontario's 444 municipalities. As identified in the [Ombudsman's Annual Report 2020-2021](#), the primary role of the Ombudsman is to review the fairness of the municipality's

processes and procedures without intervening in political decisions or the authority of locally appointed officers.

As an example, complaints received by the Ombudsman regarding integrity commissioner investigations are reviewed to ensure that a fair process was followed but not to redo the work of integrity commissioner or act as an appeal court for integrity commissioner decisions.

The Ombudsman's Office is an office of last resort – meaning that any complaints must first go through all other existing channels, processes and appeal mechanisms before they will be considered by the Ombudsman.

Closed Meeting Investigations

The Ontario Ombudsman acts as the closed meeting investigator for all municipalities in Ontario except those that have appointed their own closed meeting investigator.

Beginning in 2007 and continuing to present, Guelph City Council has appointed [Local Authority Services](#) as its local closed meeting investigator. Currently, Local Authority Services contracts closed meeting investigations to [Aird and Berlis LLP](#) to conduct closed meeting investigations on its behalf.

As the City has appointed its own investigator, the Ontario Ombudsman does not have oversight over closed meeting investigations in the City of Guelph.

Cases received between April 1, 2019 and March 31, 2020

Between April 1, 2019 and March 31, 2020, the Ontario Ombudsman Office received 16 complaints regarding the City of Guelph. All cases have since been closed and no investigations under the Ombudsman Act took place. The numbers and general subject areas of the complaints have been provided by the Ombudsman's Office. To respect complainant confidentiality, as required under [section 7.3 \(1\) of the Ombudsman Act](#), no specific details on these cases can be released to City of Guelph staff or the public. The subject areas are provided by the Ombudsman's Office and do not necessarily correlate with specific City departments or divisions.

General Subject Area	Number of Cases
Parks/Recreation/Culture	6
Council/Committees	2
Accountability Officers	1
Boards/Associations/Corporations	1
Building Code	1
Court Administration	1
Infrastructure	1

Parking	1
Permits/Licensing	1
Public Transit	1
Total	16

Cases received between April 1, 2020 and March 31, 2021

Between April 1, 2020 and March 31, 2021, the Ontario Ombudsman Office received seven complaints regarding the City of Guelph. All cases have since been closed and no investigations under the Ombudsman Act took place. The numbers and general subject areas of the complaints have been provided by the Ombudsman's Office. To respect complainant confidentiality, as required under [section 7.3 \(1\) of the Ombudsman Act](#), no specific details on these cases can be released to City of Guelph staff or the public. The subject areas are provided by the Ombudsman's Office and do not necessarily correlate with specific City departments or divisions.

General Subject Area	Number of Cases
Taxes/Fees	2
By-law Enforcement	1
Parking	1
Parks/Recreation/Culture	1
Planning/Zoning/Land Use	1
Public Transit	1
Total	7

Financial Implications

None.

Consultations

None.

Strategic Plan Alignment

This report aligns with the Working Together for our Future pillar of the Strategic Plan as it provides transparency regarding City operations and complaints, which relates to the strategic priority of running effective, fiscally responsible and trusted local government.

Additionally, this report aligns with and achieves the corporate value of integrity by releasing publicly all information regarding complaints and investigations conducted regarding the City of Guelph.

Attachments

None.

Departmental Approval

None.

Report Author

Dylan McMahon, Manager, Legislative Services / Deputy City Clerk

This report was approved by:

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This report was recommended by:

Trevor Lee
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Information Report



Service Area	Infrastructure, Development and Enterprise Services
Date	Friday, August 6, 2021
Subject	Hanlon Creek Business Park – Agreement of Purchase and Sale Execution

Executive Summary

Purpose of Report

In accordance with the authority that City Council has delegated to staff to execute 'Agreement of Purchase and Sales' for City-owned land in the Hanlon Creek Business Park ("HCBP"), this is to advise City Council of the execution of a sale agreement for land within the HCBP.

Key Findings

An Agreement of Purchase and Sale ("APS") for Block 20 within the HCBP was executed on June 14, 2021 by The Corporation of the City of Guelph (the "Vendor"). Details of the executed APS are below:

- Legal Description: Block 20, Plan 61M-169, City of Guelph; Subject to An Easement in Gross Over PT 5, 61 R1 1613 AS IN WC314921.
- Total acreage: 7.58
- The "Purchaser", as defined in the APS, is a new business relocating to Guelph because of a new partnership with an existing Guelph business.
- A 5% deposit as per the executed APS.
- Conditional Date: September 16th, 2021.
- Closing Date: October 29th, 2021, if the conditions are waived

Financial Implications

Council will be advised of the specific financial details (i.e. sale price, commission, deposit amount) contained in the executed 'Agreement of Purchase and Sale', by Information Report, following closing.

Following closing, the proceeds of the sale would be transferred to the Industrial Land Reserve #332 as per the Council approved [Reserve Policy](#).

Report

Details

In accordance with Council's HCBP land sale approval process, which delegates authority to staff to negotiate and execute agreements of purchase and sale for City-owned land in the Hanlon Creek Business Park, the City has entered into an agreement as follows:

1. The "Purchaser" as defined in the APS, will purchase Block 20, Plan 61M-169, City of Guelph; Subject to An Easement in Gross Over PT 5, 61 R1 1613 AS IN WC314921, with an acreage of 7.58 acres, as shown and highlighted in Attachment 1. The Purchaser is proposing to construct a new office and commercial development for their new head office location. This is a new business who wishes to relocate within the Hanlon Creek Business Park. A 5% deposit was received as per the executed APS requirements. The sale will be conditional until September 16th, 2021 and is expected to close on October 29th, 2021, if the conditions are waived.

Financial Implications

Council will be advised of the specific financial details (i.e. sale price, commission, deposit amount) contained in the executed 'Agreement of Purchase and Sale', through an information report following closing.

Following closing, the proceeds of the sale would be transferred to the Industrial Land Reserve #332 as per the Council approved [Reserve Policy](#).

Consultations

None

Strategic Plan Alignment

The sale of City-owned Hanlon Creek Business Park lands aligns with the Powering Our Future priority – by supporting an innovation economy, helping business succeed and adapting to workforce needs. It also aligns with Building Our Future by maintaining, securing, and activating community assets such as the City-owned lands in the Hanlon Creek Business Park.

Attachments

Attachment-1: Property Legal Description and Plan

Departmental Approval

Brent Andreychuk, Corporate Analyst, Finance, Client Services

Patricia Zukowski, Senior Corporate Analyst, Finance, Financial Strategy

Terri MacCulloch, Law Clerk, Legal, Realty and Court Services

Report Author

Tyson McMann, Economic Development Officer, Investment Attraction and Real Estate, Economic Development and Tourism

This report was approved by:

John Regan

General Manager, Economic Development and Tourism

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This report was recommended by:

Jayne Holmes, P.Eng., PMP

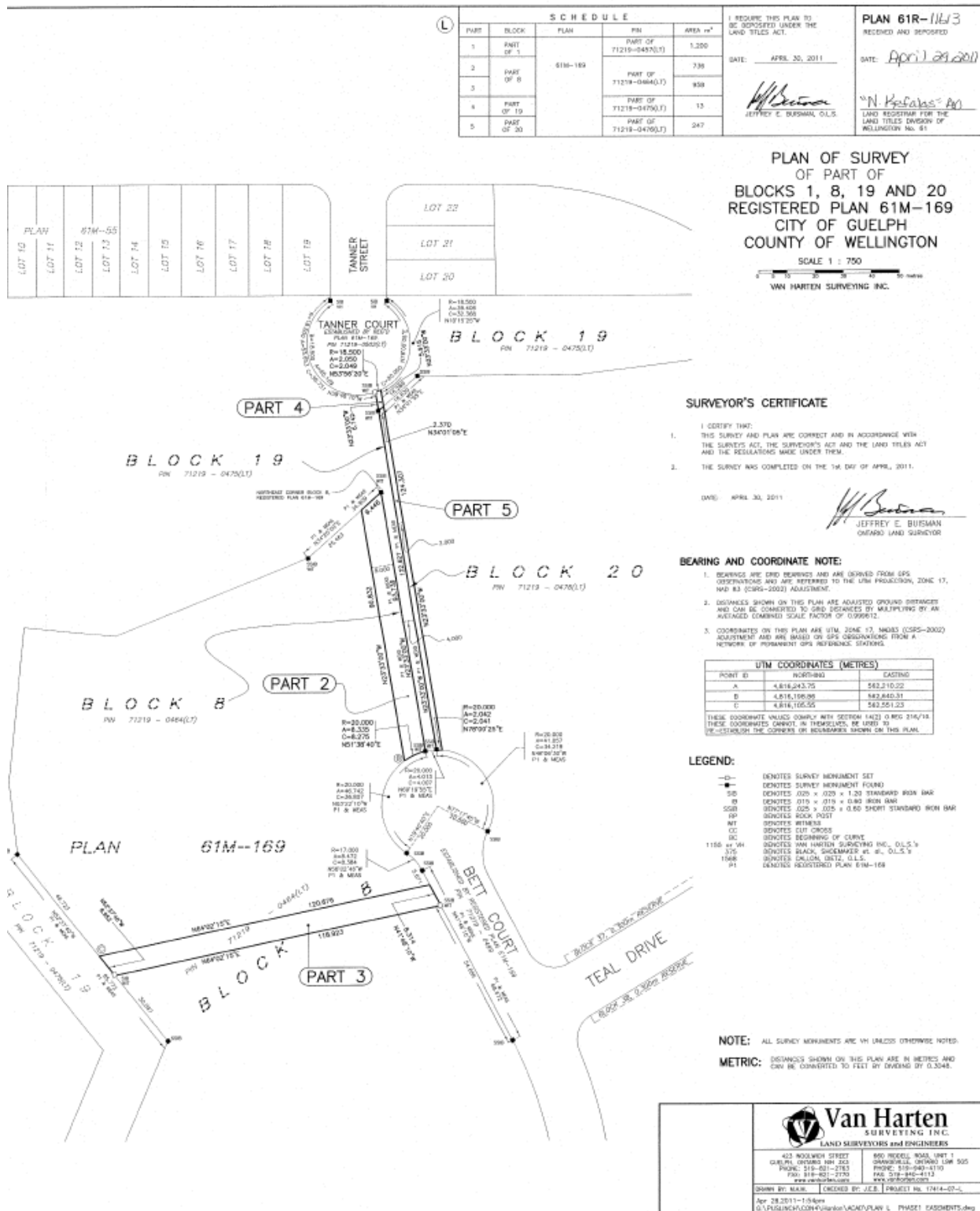
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Intergovernmental Submission



ERO 019-3515 Proposed amendments to wastewater operator licensing regulation to address impacts of emergencies

Ministry/Department

Ministry of Environment, Conservation, and Parks

Date Submitted

Tuesday, June 29, 2021

Summary

The City commented on the proposed amendments to the wastewater operator licensing regulation on the impacts of emergencies.

Lead

Environmental Services

Attachments

Attachment-1 Guelph response to 019-3515 Proposed amendments to wastewater operator licensing regulation to address emergencies.pdf

Contact Information

Intergovernmental Services

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Tuesday, June 29, 2021

Neil Chisholm
Certification Officer
Certification and Licensing Programs Office
40 St. Clair Avenue West
3rd floor
Toronto, ON M4V 1M2

Dear Mr. Chisholm,

RE: ERO 019-3515 Proposed amendments to wastewater operator licensing regulation to address impacts of emergencies

The City of Guelph (City) appreciates the opportunity to comment on the proposed amendments to wastewater operator licensing regulation to address impacts of emergencies.

The City has a keen interest in the efforts of the Ministry of Environment, Conservation and Parks (MECP) proposing specific changes to [O. Reg. 129/04: Licensing of Sewage Works Operators](#) made under the [Ontario Water Resources Act, R.S.O. 1990, c. O.40](#).

The City's primary comments on the proposed amendments to wastewater operator licensing regulation are as follows:

Emergencies

- The City supports adding a definition of emergency to the regulation and also supports the exceptional situations that could trigger the use of the proposed emergency. The city also supports extending the wastewater operator's certificate for up to 12 months if needed to help systems focus on emergency response.
- The City also supports allowing owners and operating authorities to temporarily employ certain knowledgeable, experienced, but non-certified personnel to operate a wastewater facility to help ensure its continuity of operations in emergency situations
- The City supports the approach to average the training hours for operators over 3 years.
- Further clarification would be helpful in the case where a local emergency is declared by the Mayor of the municipality. In this case, clarifying the proposed process defined by the MECP to enact the emergency declaration process would be beneficial for a locally declared emergency.

- The City's wastewater operators are CUPE members and the proposed changes would conflict with the City's collective agreement. It is recommended that the MECP engage CUPE National to gain an understanding of possible conflicts with collective agreements in these types of situations.

Proposed administrative amendments

- The City support harmonizing the circumstances in which a ministry director may revoke a wastewater operator's license.

Proposed strike and lock-out related amendments

- The City supports the formalization and clarification of the process through which an owner or operating authority of a wastewater facility may request the Ministry Director's direction to allow a temporary exemption from operator certification related requirements during a strike or lock-out.
- Additional time for the deadline for initial submission of the strike-plan would be helpful to allow for proper implementation of the strike-plan.

Sincerely,

Jennifer Rose, General Manager

Environmental Services, **Infrastructure, Development and Enterprise**

Location: 1 Carden Street, Guelph ON

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Intergovernmental Submission



City of Guelph response to 019-3513 Proposed amendments to drinking water operator and water quality analyst certification regulation

Ministry/Department

Ministry of Environment, Conservation, and Parks (MECP)

Date Submitted

Tuesday, June 29, 2021

Summary

The City of Guelph commented on the proposed amendments to the drinking water operator and water quality analyst certification regulation.

Lead

Environmental Services

Attachments

Attachment-1 Guelph response to 019-3513 Proposed amendments to drinking water operator and water quality analyst regulation.pdf

Contact Information

Intergovernmental Services

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Tuesday, June 29, 2021

Neil Chisholm
Certification Officer
Certification and Licensing Programs Office
40 St. Clair Avenue West
3rd floor
Toronto, ON M4V 1M2

Dear Mr. Chisholm,

RE: ERO 019-3513 Proposed amendments to drinking water operator and water quality analyst certification regulation to address impacts of emergencies

The City of Guelph (City) appreciates the opportunity to comment on the proposed amendments to drinking water operator and water quality analyst certification regulation to address impacts of emergencies.

The City has a keen interest in the efforts of the Ministry of Environment, Conservation and Parks (MECP) specific changes to [O. Reg. 128/04: Certification of Drinking Water System Operators and Water Quality Analysts](#) made under the [Safe Drinking Water Act, 2002, S.O. 2002, c. 32](#).

The City's comments on the proposed amendments to drinking water operator and water quality analyst certification regulations are described below:

Emergencies

- The City supports adding a definition of emergency to the regulation and also supports the exceptional situations that could trigger the use of the proposed emergency. The City also supports extending the drinking water operator's certificate or water quality analyst's certificate for up to 12 months, if needed, to help systems focus on emergency response. In this case, the City also agrees with extending the maximum duration of temporary certificate renewals from 6 months to up to 12 months and postponing completion of mandatory training.
- The City also supports allowing owners and operating authorities to temporarily employ certain knowledgeable, experienced, but non-certified personnel to operate a drinking water subsystem to help ensure its continuity of operations in emergency situations
- Further clarification would be helpful in the case where a local emergency is declared by the Mayor of the municipality. In this case, clarifying the proposed process defined by the MECP to enact the emergency declaration process would be beneficial for a locally declared emergency.

- The City's water operators are CUPE members and the proposed changes would conflict with the City's collective agreement. It is recommended that the MECP engage CUPE National to gain an understanding of possible conflicts with collective agreements in these types of situations.
- The City agrees that substitute personnel who would be performing water testing be trained by a certified operator, work under the supervision of a certified operator and immediately inform the supervising operator of the test results.

Proposed strike and lock-out related amendments

- The City supports the formalization and clarification of the process through which an owner or operating authority of a drinking water subsystem may request the Ministry Director's direction to allow a temporary exemption from operator certification related requirements during a strike or lock-out.
- Additional time for the deadline for initial submission of the strike-plan would be helpful to allow for proper implementation of the strike-plan.

Sincerely,

Jennifer Rose, General Manager

Environmental Services, **Infrastructure, Development and Enterprise**

City of Guelph

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Intergovernmental Consultation



Guideline to address odour mixtures in Ontario

Ministry/Department

Ministry of the Environment, Conservation, and Parks.

Consultation Deadline

Friday, August 6, 2021

Summary

Ontario is proposing guidance on how the Ministry of the Environment, Conservation and Parks, and the regulated community can anticipate, prevent and address odour issues that could be of concern to local residences.

Proposed Form of Input

Submission on the Environmental Registry of Ontario

Rationale

The City of Guelph is responding to the MECP's consultation, offering guidance to the province regarding how odour issues that concern local residents can be prevented and addressed.

Lead

Environmental Services

Link to Ministry Website

Link to consultation titled *Guideline to Address Odour Mixtures in Ontario*:
<https://ero.ontario.ca/notice/019-2768>

Contact Information

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Intergovernmental Consultation



Modernizing environmental compliance practices of the Ministry of the Environment, Conservation and Parks

Ministry/Department

Ministry of Environment, Conservation, and Parks

Consultation Deadline

Friday, August 6, 2021

Summary

The MECP is proposing to update its compliance policy to focus more resources on incidents and complaints from the public that pose a higher risk to the environment and/or human health and on holding polluters accountable.

Proposed Form of Input

Submission on the Environmental Registry of Ontario

Rationale

To comment on the MECP's proposed updates to its compliance policy and address whether Guelph supports the focus of resources on incidents and complaints from the public.

Lead

Environmental Services

Link to Ministry Website

Modernizing environmental compliance practices of the Ministry of the Environment, Conservation and Parks: <https://ero.ontario.ca/notice/019-2972>

Contact Information

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Finance & Audit Committee Resolution

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

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

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

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

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

Carried 
Committee Chair's Signature

Defeated _____
Committee Chair's Signature

Deferred _____
Committee Chair's Signature

Council Resolution

Moved By J. Henderson

Seconded By S. Arthur

Agenda
Item 10

Resolution Number
2021-07-21-491

Council Date: July 21, 2021

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

Recorded Vote
Requested by

Councillor's Name

Carried



Warden's Signature

Deferred

Warden's Signature

Defeated

Warden's Signature

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Report 2021-115

Report Title: Municipal Court Managers' Association / POA Advocacy

Committee Name: Finance and Audit Committee

Committee Meeting Date: July 3, 2021

Prepared by: Randy Horne, Court Services Manager

Reviewed by: Glenn Dees, Director of Finance/Treasurer

Approved by: Jennifer Moore, CAO

Council Meeting Date: July 21, 2021

Strategic Plan Priorities: Leadership in Change

Recommendation

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

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

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

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

Purpose

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

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

Background

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

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

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

Consultations

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

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

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

Legislative Authority/Risk Considerations

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

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

Discussion/Options

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

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

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

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

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

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

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

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

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

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

Bill 177 aims to modernize and streamline the Provincial Offences Courts

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

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

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

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

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

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

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

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

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

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

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

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

Financial Impact

The recommendations contained in this report have no financial impact.

Member Municipality Impacts

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

Conclusion/Outcomes

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

Attachments

1. Letter: MCMA Request for Joint Advocacy



Municipal Court Managers' Association of Ontario

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

May 6, 2021

Dear Members,

Re: POA Streamlining and Modernization

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

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

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

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

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

Lisa Brooks
MCMA President

"Excellence in Court Administration"