



**Stratford City Council
Regular Council Open Session
AGENDA**

Meeting #: 4669th
Date: October 25, 2021
Time: 3:00 P.M.
Location: Electronic Meeting

Council Present: Mayor Mathieson - Chair Presiding, Councillor Beatty, Councillor Bunting, Councillor Burbach, Councillor Clifford, Councillor Gaffney, Councillor Henderson, Councillor Ingram, Councillor Ritsma, Councillor Sebben, Councillor Vassilakos

Staff Present: Joan Thomson - Chief Administrative Officer, Tatiana Dafoe - City Clerk, David St. Louis - Director of Community Services, Kim McElroy - Director of Social Services, John Paradis - Fire Chief, Taylor Crinklaw - Director of Infrastructure and Development Services, Karmen Krueger - Acting Director of Corporate Services, Anne Kircos - Acting Director of Human Resources, Chris Bantock - Deputy Clerk, Jodi Akins - Council Clerk Secretary

To watch the Council meeting live, please click the following link: <https://stratford-ca.zoom.us/j/84953823304?pwd=bIEwaGVqd1VpRFRvM1NRSEN2SWZaUT09>

A video recording of the meeting will also be available through a link on the City's website at <https://www.stratford.ca/en/index.aspx> following the meeting.

Pages

1. Call to Order:

Mayor Mathieson, Chair presiding, to call the Council meeting to order.

Moment of Silent Reflection

2. Declarations of Pecuniary Interest and the General Nature Thereof:

The *Municipal Conflict of Interest Act* requires any member of Council declaring

a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and to otherwise comply with the *Act*.

Name, Item and General Nature of Pecuniary Interest

3. Adoption of the Minutes:

14 - 42

Motion by _____

THAT the Minutes of the Regular Meeting dated October 12, 2021 and the Special Meeting dated October 18, 2021 of Council of The Corporation of the City of Stratford be adopted as printed.

4. Adoption of the Addendum/Addenda to the Agenda:

Motion by _____

THAT the Addendum/Addenda to the Regular Agenda of Council and Standing Committees dated October 25, 2021 be added to the Agenda as printed.

5. Report of the Committee of the Whole In-Camera Session:

5.1. At the September 27, 2021, Session, under the Municipal Act, 2001, as amended, a matter concerning the following item was considered:

4.1 City Industrial Land Pricing Policy – Annual Review - Proposed or pending acquisition or disposal of land by the municipality or local board (section 239.(2)(c)) (includes municipal property leased for more than 21 years).

Motion by _____

THAT the Industrial Land Prices Policy E.1.2, be amended as follows:

- the price per acre in Phase 2 of the Wright Business Park be increased from \$125,000 per acre to \$135,000 per acre effective April 1, 2022 for any remaining unsold lots or effective June 1, 2022 if the lands are in reserve status;
- the price per acre in the Crane West Business Park be increased from \$145,000 per acre to \$155,000 per acre effective April 1, 2022 for any remaining unsold lots or effective June 1, 2022 if the lands are in reserve status;
- the remaining 12 acre parcel in Phase 1 of the Wright Business Park be increased by \$10,000 to \$120,000 per acre and sold at a

set price of \$1,440,000 effective April 1, 2022 if the lands remain unsold or effective June 1, 2022 if the lands are in reserve status;

AND THAT the Industrial Land Prices Policy E.1.2, be reviewed as part of any new City industrial lands being made available for sale to ensure that the price per acre between new and remaining/existing lands are adjusted and balanced accordingly.

5.2. At the October 12, 2021 Session, under the Municipal Act, 2001, as amended, a matter concerning the following item was considered:

4.1 Proposed Disposition of Land in the Crane West Business Park - Proposed or pending acquisition or disposal of land by the municipality or local board (section 239.(2)(c)) (includes municipal property leased for more than 21 years).

Motion by _____

THAT The Corporation of the City of Stratford hereby consents to the sale of Lot 1 Plan 44R-5904 designated as Part of Lot 2, Concession 3 (Downie) designated as Parts 6, 7, and 8 on Reference Plan 44R-5904, in the City of Stratford, County of Perth, in the Crane West Business Park, to 2389273 Ontario Limited.

5.3. At the October 18, 2021, Session under the Municipal Act, 2001, as amended, a matter concerning the following item was considered:

3.1 Good Governance Education and Training Session - A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. A, s. 103 (1). (section 239.(3.1))].

As the purpose of the In-camera Session was to provide education and training no direction was given.

5.4. At the October 25, 2021, Session, under the Municipal Act, 2001, as amended, matters concerning the following items were considered:

4.1 Appointments to Stratford Public Library Board - Personal matters about an identifiable individual(s) including municipal employees or local

board employees (section 239.(2)(b));

5.1 Administrative Salary Review - Labour relations or employee negotiations (section 239.(2)(d));

6.1 Proposed Renewable Natural Gas Project Update - Information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them (section 239.(2)(h)); A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization (section 239.(2)(i)); and A position, plan, procedure, criteria, or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board (section 239.(2)(k)).

6. Hearings of Deputations and Presentations:

None scheduled.

7. Orders of the Day:

- | | |
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| 7.1. Correspondence - OLT File No. LC120027 | 43 - 151 |
| <p>A decision was rendered by the Ontario Land Tribunal (OLT) in File No. LC120027 regarding 1353837 Ontario Incorporated v. Stratford (City).</p> <p>For the information of Council.</p> | |
| 7.2. Correspondence - Perth County Municipal Association Annual Meeting | 152 |
| <p>The annual Perth County Municipal Association meeting will be held on November 17, 2021 beginning at 8:30 a.m. The deadline to register is November 12, 2021 and further information is included on the attached invitation.</p> <p>For the information of Council.</p> | |
| 7.3. Resolution - Albert Street Road Widening (COU21-106) | 153 - 155 |
| <p>Motion by _____</p> <p>Staff Recommendation: THAT The Corporation of the City of Stratford accept Part 5 Plan 44R-5881 as public highway and dedicate it as forming part of Albert Street.</p> | |

7.4. Resolution - Employment Services Transformation – Call for Proposal and Consortium Agreement (COU21-107) 156 - 160

Motion by _____

Staff Recommendation: THAT Council of The Corporation of the City of Stratford authorize the entering into of the Consortium Agreement between the four Consolidated Municipal Service Managers in the Stratford-Bruce Peninsula Economic region, including the County of Huron, County of Bruce, and Grey County, with Bruce County acting as the lead agency;

THAT the Mayor and Clerk, or their respective delegates be authorized to sign the Consortium Agreement on behalf of the municipal corporation;

THAT staff be authorized to complete the Provincial Call for Proposal to formally be considered for the role of Service System Manager for community-based employment and training services within the Stratford-Bruce Peninsula economic region;

THAT any proposed final agreement between the Province of Ontario and consortium be signed by Bruce County, as the Consortium lead, subject to the program being 100% funded by the Province of Ontario and cost neutral to the City of Stratford;

AND THAT the proposed Service System Manager agreement be established on business and legal terms satisfactory to all members of the Consortium and their governing bodies; with final approval for a Provincial agreement being subject to Council approval at a future date.

7.5. Resolution - Community Transportation: Update and Program Extension (COU21-108) 161 - 167

Motion by _____

Staff Recommendation: THAT staff be authorized to submit revised budget documents to the Ministry of Transportation for the continuation of the Community Transportation Pilot Program to 31 March 2025 at current service levels;

THAT the Mayor, City Clerk and Chief Administrative Officer, or their respective delegates, be authorized to execute the Transfer Payment Agreement and other necessary documentation/reports with the Ministry of Transportation as required for the purpose of extending the Community Transportation Pilot Program to 31 March 2025;

AND THAT staff be directed to work with Metrolinx, municipal and community partners, and key stakeholders to build a business case for

increased GO Train frequency and service sustainability.

7.6. Resolution - Veterans Affairs Canada Community War Memorial Application – Memorial Gardens Restoration (COU21-109)

168 - 172

Motion by _____

Staff Recommendation: THAT City staff be authorized to apply to the Veterans Affairs Canada's Community War Memorial Fund for Stratford Memorial Gardens restoration and accessibility upgrades;

THAT the City's share of the Memorial Gardens restoration funding be allocated through the Parks facilities improvement budget subject to approval of the City's VAC grant application by Veterans Affairs Canada;

THAT the Mayor and Clerk, or their respective delegates, be authorized to enter into a Contribution Agreement with Veterans Affairs Canada to carry out the Memorial Gardens restoration project subject to approval of the City's VAC grant application by Veterans Affairs Canada;

AND THAT an exemption be granted from the Purchasing Policy under section 42.1 to award the restoration work directly to Andersons Cemetery Contracting subject to approval of the City's VAC grant application by Veterans Affairs Canada.

7.7. Resolution - Follow-up on Action Taken in Response to the Closed Meeting Investigation Report 2020-01 (COU21-110)

173 - 179

Motion by _____

Staff Recommendation: THAT the report entitled "Follow-up on Action Taken in Response to the Closed Meeting Investigation Report 2020-01" (COU21-110), be received for information.

8. Business for Which Previous Notice Has Been Given:

8.1. Declaration of 51 McNab Street as Surplus and Disposition of Municipal Property

Notice of Intent to Declare Surplus and to Dispose of 51 McNab Street was given in accordance with Policy P.3.1. on October 14 and 16, 2021 in the Town Crier and under Section 10 - Notice of Intent on the October 12, 2021, Regular Council agenda.

Motion by _____

THAT City Council hereby declares Part Lot 2, Plan 86, Stratford as in STF56501, except R230008, R286303, R152207, City of Stratford, County of Perth, being all of PIN 53109-0103 (LT), save and except for a road widening and daylight triangle, being vacant city-owned land known

municipally as 51 McNab Street, to be surplus to the needs of The Corporation of the City of Stratford;

AND THAT the method of disposal of the surplus land be by direct sale to an abutting property owner with a condition of the sale that the land is to be purchased in its entirety and in the same name that is on title.

9. Reports of the Standing Committees:

9.1. Report of the Infrastructure, Transportation and Safety Committee:

Motion by _____

THAT the Report of the Infrastructure, Transportation and Safety Committee dated October 25, 2021 be adopted as printed.

9.1.1. Climate Change Planning Update (ITS21-036) 180 - 271

THAT the Greenhouse Gas Reduction Plan be adopted;

THAT the City of Stratford set a target to reduce greenhouse gas emissions of 30% by 2030 and net-zero by 2050;

THAT a review be conducted annually on the status of the City's emissions reduction targets;

AND THAT the City of Stratford adopt the One Planet Living Principles.

9.1.2. Climate Change Planning Update (ITS21-036)

THAT a Climate Change Implementation Plan, including a green standards policy, be developed;

THAT the contract of the Shared Climate Change Coordinator be referred to staff for review;

AND THAT a Climate Change Coordinator position for the City of Stratford be referred to 2022 budget deliberations.

9.1.3. Traffic and Parking By-law Amendments (ITS21-029) 272 - 274

THAT Traffic and Parking By-law 159-2008 as amended, be further amended to include:

- City Parking Lots, unless otherwise designated, under Section 8(1)(j); and,
- additional provisions in which towing is permitted under Section 82.

AND THAT the Clerk be directed to bring forward a by-law to amend the Traffic and Parking By-law to give effect to the proposed changes contained in Report ITS21-029.

9.1.4. Cooper Lot Free Permit Program (ITS21-030) 275 - 277

THAT Traffic and Parking By-law 159-2008 as amended, be further amended to include 30, 72-hour permit parking for downtown residents in the Cooper Lot;

AND THAT the Clerk be directed to bring forward a by-law to amend the Traffic and Parking By-law to give effect to the proposed changes contained in Report ITS21-030.

9.1.5. Cooper Lot Free Permit Program (ITS21-030)

THAT a monthly permit program for the Cooper or Downie parking lots be referred to staff for review.

9.1.6. Milton Street and Nile Street All-Way Stop Request (ITS21-035) 278 - 280

THAT the Report on the Milton Street and Nile Street All-Way Stop Request (ITS21-035) be received for information.

9.1.7. Milton Street and Nile Street All-Way Stop Request (ITS21-035)

THAT staff be requested to review the reduction of the 50 km/hour speed limit to 40 km/hour on local streets and to bring a report back to Sub-committee.

9.1.8. Walnut Street Safety Concerns 281 - 282

THAT staff add the installation of a sidewalk on Walnut Street between Dufferin and Nelson Street to the list of required sidewalks.

9.1.9. 2021 Fluoride Action Plan Update (ITS21-032) 283 - 287

THAT the report entitled 2021 Fluoride Action Plan Update (ITS21-032) be received by for information.

9.1.10. Upper Thames River Conservation Authority (UTRCA) Risk Management Services Progress Report 2021 (ITS21-033) 288 - 301

THAT the Upper Thames River Conservation Authority Risk Management Services Progress Report for 2021 be received for information.

9.1.11. Fireworks Alternatives (ITS21-034) 302 - 306

THAT the report from the Fire Chief on fireworks alternatives (ITS21-034) be received for information;

AND THAT Report ITS21-034 be shared with the City organizations that produce annual fireworks shows.

9.1.12. Request to Consider Fully or Partially Subsidizing the Humane Society Surrender Fee (ITS21-031) 307 - 311

THAT the report entitled "Request to Consider Fully or Partially Subsidizing the Humane Society Surrender Fee" (ITS21-031) be received for information;

AND THAT the request to partially or fully subsidize surrender fees be filed.

9.2. Report of the Planning and Heritage Committee:

Motion by _____

THAT the Report of the Planning and Heritage Committee dated October 25, 2021 be adopted as printed.

9.2.1. Planning Report, Zoning By-law Amendment Application Z09-21, 379 Ontario Street (PLA21-022) 312 - 323

THAT Application Z09-21 to amend the zoning on 379 Ontario Street located on the south side of Ontario Street from a Mixed Use Residential (MUR) Zone to a site-specific Mixed Use Residential (MUR) Zone to permit a hobby shop BE APPROVED for the following reasons:

1. Public interest was considered;
2. The request is consistent with the Provincial Policy Statement and conforms with the Official Plan; and
3. The request will facilitate development that is appropriate for the lands, is compatible with the surrounding lands and is good planning.

9.2.2. Sign Permit – Ground Sign to be Erected in Place of Existing Ground Sign, 166-194 Ontario Street (PLA21-016) 324 - 325

THAT the variance request by the owner of 166-194 Ontario Street to erect a new ground/pylon sign in the current location be approved.

- 9.2.3. Proposed Exemption from Sign By-law 159-2004 Section 13.0, 925 Ontario Street (PLA21-020)** 326 - 327

THAT the request by Florence Signs, on behalf of City Pizza, for a Sign By-law exemption to erect a fascia sign at 925 Ontario Street exceeding the 20% coverage, be approved.

- 9.2.4. Annual Building Permit Fee Report 2020 (PLA21-019)** 328 - 330

THAT a one-time transfer from the Special Projects Reserve of \$90,998.85 to the Building Reserve be authorized;

AND THAT funding of the remaining 2020 Building Inspection Admin G-251-2400 deficit of \$156,456.73 with the Building Permit Reserve G-07-BSUR-0000 be approved.

9.3. Report of the Finance and Labour Relations Committee:

Motion by _____

THAT the Report of the Finance and Labour Relations Committee dated October 25, 2021 be adopted as printed.

- 9.3.1. Financial Statements and Commentary for Festival Hydro Inc. (FHI) for Q2 ending June 30, 2021 (FIN21-023)** 331 - 340

THAT the Festival Hydro Inc. financial statements and commentary for the period ending June 30, 2021, be received for information.

- 9.3.2. Financial Statements and Commentary for Rhizome (Festival Hydro Services Inc.-FHSI) for Q2 ending June 30, 2021 (FIN21-024)** 341 - 349

THAT the Festival Hydro Services Inc. financial statements and commentary for the period ending June 30, 2021, be received for information.

10. Notice of Intent:

None scheduled.

11. Reading of the By-laws:

The following By-laws require First and Second Readings and Third and Final Readings and could be taken collectively upon unanimous vote of Council present:

Motion by _____

THAT By-laws 11.1 to 11.8 be taken collectively.

Motion by _____

THAT By-laws 11.1 to 11.8 be read a First and Second Time.

Motion by _____

THAT By-laws 11.1 to 11.8 be read a Third Time and Finally Passed.

- | | | |
|--------------|--|-----------|
| 11.1. | Amend Zoning By-law 201-2000 to Rezone Lands Known Municipally as 379 Ontario Street | 350 - 352 |
| | To amend By-law 201-2000 as amended, with respect to zone change application Z09-21, to rezone the lands known municipally as 379 Ontario Street located on the south side of Ontario Street between Front Street and Queen Street in the City of Stratford to allow for a site-specific Mixed Use Residential (MUR) Zone. | |
| 11.2. | Execution of Consortium Agreement for Employment Services Transformation | 353 - 354 |
| | To authorize the execution of the Consortium Agreement between The Corporation of the City of Stratford, The Corporation of the County of Bruce, The Corporation of the County of Grey, and The Corporation of the County of Huron. | |
| 11.3. | Authorize Transfer to 2389273 Ontario Limited of Parts 6, 7 and 8, Plan 44R-5904 in the Crane West Business Park | 355 - 356 |
| | To authorize the transfer (conveyance) to 2389273 Ontario Limited of Parts 6, 7 and 8, Plan 44R-5904, in the Crane West Business Park. | |
| 11.4. | Accept Transfer from JDR Properties Inc. of Part 5, Plan 44R-5881 | 357 |
| | To accept the transfer (conveyance) from JDR Properties Inc. of Part 5, Reference Plan 44R-5881 as a condition of consent application B04-21 for 362 Albert Street. | |
| 11.5. | Dedication of Part 5, Plan 44R-5881 as Public Highway | 358 |
| | To dedicate Part 5 on Reference Plan 44R-5881, as a public highway forming part of Albert Street in the City of Stratford. | |
| 11.6. | Amend Traffic and Parking By-law 159-2009 Section 82, Towing of Illegally Parked Vehicles | 359 - 360 |
| | To amend Section 8(1)(j), No Parking in Unposted Locations, and | |

Section 82, Towing of Illegally Parked Vehicles, of the Traffic and Parking By-law 159-2008, as amended.

11.7. Amend Traffic and Parking By-law 159-2008, Schedule 19, Parking Permits 361

To amend Schedule 19, Parking Permits, of the Traffic and Parking By-law 159-2008, as amended, to provide for 30 permits allowing a maximum of 72-hour parking time limit for permit holders in the Cooper Lot.

11.8. Authorize Execution of Transfer Payment Agreement to Extend the Community Transportation Pilot Program 362 - 363

To authorize the execution of the Transfer Payment Agreement and other related documents between Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Transportation and The Corporation of the City of Stratford, to extend the Community Transportation Pilot Program to March 31, 2025.

12. Consent Agenda: CA-2021-129 to CA-2021-133 364 - 372

Council to advise if they wish to consider any items listed on the Consent Agenda.

13. New Business:

14. Adjournment to Standing Committees:

The next Regular Council meeting is November 8, 2021 at 3:00 p.m.

Motion by _____

THAT the Council meeting adjourn to convene into Standing Committees as follows:

- **Planning and Heritage Committee [7:15 p.m. or thereafter following the Regular Council meeting];**
- **Social Services Committee [7:20 p.m. or thereafter following the Regular Council meeting]; and**

and to Committee of the Whole if necessary, and to reconvene into Council.

15. Council Reconvene:

15.1. Declarations of Pecuniary Interest made at Standing Committees

The Municipal Conflict of Interest Act requires any member of Council

declaring a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and otherwise comply with the Act.

Declarations of Pecuniary Interest made at Standing Committee meetings held on October 25, 2021 with respect to the following Items and re-stated at the reconvene portion of the Council meeting:

Name, Item and General Nature of Pecuniary Interest

15.2. Reading of the By-laws (reconvene):

373

The following By-law requires First and Second Readings and Third and Final Readings:

By-law 11.9 Confirmatory By-law

To confirm the proceedings of Council of The Corporation of the City of Stratford at its meeting held on October 25, 2021.

Motion by _____

THAT By-law 11.9 be read a First and Second Time.

Motion by _____

THAT By-law 11.9 be read a Third Time and Finally Passed.

15.3. Adjournment of Council Meeting

Meeting Start Time:

Meeting End Time:

Motion by _____

THAT the October 25, 2021 Regular Council meeting adjourn.



Stratford City Council Regular Council Open Session MINUTES

Meeting #:	4667th
Date:	Tuesday, October 12, 2021
Time:	3:00 P.M.
Location:	Electronic Meeting
Council Present in Council Chambers:	*Mayor Mathieson - Chair Presiding
Council Present Electronically:	Councillor Beatty, Councillor Bunting, Councillor Burbach, Councillor Clifford, Councillor Gaffney, Councillor Henderson, Councillor Ritsma, Councillor Vassilakos
Regrets:	Councillor Ingram, Councillor Sebben
Staff Present in Council Chambers:	Joan Thomson - Chief Administrative Officer, Tatiana Dafoe - City Clerk, Chris Bantock - Deputy Clerk
Staff Present Electronically:	David St. Louis - Director of Community Services, Kim McElroy - Director of Social Services, John Paradis - Fire Chief, Taylor Crinklaw - Director of Infrastructure and Development Services, Karmen Krueger - Acting Director of Corporate Services, Jodi Akins - Council Clerk Secretary, Alyssa Bridge – Manager of Planning, Mike Mousley – Manager of Transit, Nathaniel Smith – Supervisor of Transit, Jeff Bannon – Planner, Amara Kartick – Shared Climate Change Coordinator
Also Present:	Members of the public and media

1. Call to Order:

Mayor Mathieson, Chair presiding, called the Council meeting to order.

Councillor Ingram and Councillor Sebben provided regrets for this meeting.

Moment of Silent Reflection

2. Declarations of Pecuniary Interest and the General Nature Thereof:

The *Municipal Conflict of Interest Act* requires any member of Council declaring a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and to otherwise comply with the *Act*.

Name, Item and General Nature of Pecuniary Interest

No declarations of pecuniary interest were made by a member at the October 12, 2021, Regular Council meeting.

3. Adoption of the Minutes:

R2021-443

Motion by Councillor Ritsma

Seconded by Councillor Henderson

THAT the Minutes of the Regular Meeting dated September 27, 2021 and the Special Meeting dated September 30, 2021 of Council of The Corporation of the City of Stratford be adopted as printed.

Carried

4. Adoption of the Addendum to the Agenda:

R2021-444

Motion by Councillor Burbach

Seconded by Councillor Gaffney

THAT the Addendum to the Regular Agenda of Council and Standing Committees dated October 12, 2021, to add delegations and receipt of correspondence to the Infrastructure, Transportation and Safety agenda, be added to the Agenda as printed.

Carried

5. Report of the Committee of the Whole In-Camera Session:

5.1 At the September 27, 2021, Session, under the Municipal Act, 2001, as amended, a matter concerning the following item was considered:

6.1 Proposed Acquisition of Property - Part 2 on 44R-3969 - Proposed or pending acquisition or disposal of land by the municipality or local board (section 239.(2)(c)) (includes municipal property leased for more than 21 years).

R2021-445

Motion by Councillor Vassilakos

Seconded by Councillor Clifford

THAT the Mayor and Clerk, or their respective delegates, be authorized to execute an Agreement of Purchase and Sale for the undivided 50% share of Part 2 on Reference Plan 44R-3969 from Frank J. Walsh;

AND THAT The Corporation of the City of Stratford accept the transfer (conveyance) from Frank J. Walsh of an undivided 50% share of Part 2 on Reference Plan 44R-3969.

Carried

5.2 At the October 12, 2021, Session, under the Municipal Act, 2001, as amended, matters concerning the following items were considered:

4.1 Proposed Disposition of Land in the Crane West Business Park - Proposed or pending acquisition or disposal of land by the municipality or local board (section 239.(2)(c)) (includes municipal property leased for more than 21 years);

5.1 Purchase of Service Agreement - Advice that is subject to solicitor-client privilege including communications necessary for that purpose (section 239.(2)(f)).

At the In-camera Session direction was given on both items.

6. Hearings of Deputations and Presentations:

6.1 Presentation by the Stratford Pride Community Centre

R2021-446

Motion by Councillor Ritsma

Seconded by Councillor Henderson

THAT the delegation by Bruce Skeaff regarding the Stratford Pride Community Centre be heard.

Carried

Bruce Skeaff, Chief Organizer of the Stratford Pride Community Centre, thanked Council for the opportunity to speak. Mr. Skeaff spoke about the work, completed outside City Hall, to repaint the crosswalk into the international rainbow colors of the LGBTQ2S+ pride movement. Following completion, the crosswalk was defaced with a bucket of paint. Mr. Skeaff stated that the fact someone was so afraid that they would go to such extremes demonstrates the power of this symbol. The public response demonstrates belief in the power of this symbol and what it stands for.

Mr. Skeaff identified a PHD student at Western who is a resident of St. Marys that prepared a dissertation of what it is like to be LGBTQ person in Stratford. 25 residents were interviewed to discover and analyze their tolerance, visibility and whether they had a sense of a safe place in Stratford. Mr. Skeaff advised he spent Canada Day this year reading this and encouraged anyone interested in social welfare to read it. The study found that those interviewed were feeling disconnected and that there is no clear community in Stratford.

While there is more visibility in June during Pride Month, concerns were expressed with visibility for the remainder of the year. Mr. Skeaff stated that there is a need for centralized accessible information about community in the area, beyond social media.

Mr. Skeaff stated that there is specifically a lack of networking, support, and resources. Support networks are central to people's ability to survive and thrive, and to be confident and unaffected by potential intolerance such as the defacing of the crosswalk. He expressed the importance of having a dedicated space that is not a bar and not shared with others. He believes the current lack of space is tied to cost and lack of funding and support especially in cold months for booking indoor space. The limited population also makes it difficult to get numbers together for organized events. He stated that the underlying points are not staged events but having more space and connections for people looking for community and support.

Mr. Skeaff provided information on the work being undertaken by the charitable organization that he represents. He discussed the Stratford Pride Guide which will contain everything one needs to know for those that live here, visit here, or are looking to move here, and is accessible every day of the year. Mr. Skeaff advised there is a campaign being launched shortly to include businesses in the Pride Guide and participating businesses would receive a sticker for their window. He further advised that the plan is for this to be implemented next season.

Mr. Skeaff discussed the plans for a brick and mortar Stratford Pride Community Centre. This facility, once established, will be a safe space where people can meet for coffee, meet new friends, watch movies, or host a drag queen brunch. This is the queer space that residents have been asking for and it will be open as many days as community financial support will allow. He advised that strong and active connections have been made with the businesses and social service organizations in the area, including top level connections at the Festival.

Mr. Skeaff advised that starting in 2023 over the Valentine's Day weekend, a Saturday night black tie event would be held at Tom Patterson Theatre as a fundraiser to benefit the Stratford Pride Guide and community centre. The Festival has advised they'd be providing the space for free and it will be a posh, romantic weekend in Stratford and become a new highlight for the City. Mr. Skeaff stated that they are not eligible for a community grant until a year from now and other government grants not presently available as they must be at least one year into operating prior to applying. Mr. Skeaff asked for support from Mayor and Council to tell people about the organization, to encourage support from others, and to work with the organization and help fulfill the promise of the rainbow outside City Hall's front doors.

Mayor Mathieson expressed regret on behalf of Council related to the actions of those who defaced the rainbow crosswalk. He thanked the volunteers, businesses, and staff for their work to help install and cleanup the crosswalk. He stated that Council looks forward to working with Stratford Pride on future events.

7. Orders of the Day:

7.1 Resolution - Response to Calls to Action in the Truth and Reconciliation Commission Report (COU21-104)

R2021-447

Motion by Councillor Vassilakos

Seconded by Councillor Burbach

**THAT Loreena McKennitt on behalf of Wise Communities
Stratford be heard.**

Carried

Loreena McKennitt outlined that her request is to designate September 30th as a statutory holiday for employees, but that this should be clarified and broadened. Ms. McKennitt stated that the call on this day is to be taken as observance, learning and reconciliation. The Government of Canada has led as designating this day as such with hope that provinces and municipalities would do the same. She advised she has reviewed the report published by the City and agreed it falls in line with what other communities are doing. She also located additional documents to help municipalities and will forward these to staff.

Ms. McKennitt stated that just designating a day is only the first step. To complete the calls to action is to facilitate broad education and it deserves to go on around the calendar year. There are many constituents that would benefit from this including indigenous children currently in foster care and community members harmed in residential school systems where they lost families, culture, language, and connection with land and endure intergenerational trauma. Many are working hard to reclaim that which was lost or taken, and they must be supported. Ms. McKennitt further stated that non-indigenous individuals also feel failed or betrayed by an education system that did not provide information on this part of Canada's history. There are significant roles for schools and education moving forward.

Ms. McKennitt advised the connection of the environment to indigenous cultures is also needed. The City is in the path of dealing with a response to climate change and the city will need to learn from and work together with indigenous communities across the country and around the world to do so. She encouraged steps to be taken to reduce emissions.

Ms. McKennitt requested that Council adopt the recommendations of the staff report for the calls to action without delay. September 30th is an annual day to reassert our commitment to observe, learn and build a path of truth and reconciliation for many years to come. For all that was and is

endured, and the connection of environmental catastrophe, to embark on this path seems meaningful.

The Chief Administrative Officer advised that the staff report before Council today has been put together in response to the Truth and Reconciliation Commission's recommendations. The City has started work that is needed to identify barriers and gaps and how we will meet our obligations and responsibilities with respect to truth and reconciliation and diversity and inclusiveness. DiversiPro has been retained to help internally with the work required. The report today is only a part of the work underway and observing September 30th as a statutory holiday will be reviewed.

R2021-448

Motion by Councillor Gaffney

Seconded by Councillor Burbach

THAT the City of Stratford Response to the Truth and Reconciliation Commission Calls to Action be approved as the Corporation's official action plan;

AND THAT staff be directed to develop an action plan in response to the Calls for Justice related to municipalities as recommended by the National Inquiry into Missing and Murdered Indigenous Women and Girls.

A question and answer period ensued with respect to:

- adding additional wording to the action plan that making September 30th a statutory holiday for employees is being investigated;
- staff currently consulting with indigenous organizations and communities on the territorial land acknowledgement and bringing this back to Council for approval; and,
- the need for a community type space to be investigated for indigenous residents.

Mayor Mathieson called the question on the motion.

Carried

R2021-449

Motion by Councillor Burbach

Seconded by Councillor Henderson

THAT the creation of a community space to gather indoors for Indigenous Persons and the development of a medicine garden be referred to staff in Community Services for review.

Carried

7.2 Resolution - Investing in Canada Infrastructure Program (ICIP) COVID-19 Resilience Infrastructure Stream – Local Government Intake – Transfer Payment Agreement (COU21-103)

R2021-450

Motion by Councillor Vassilakos

Seconded by Councillor Bunting

THAT the Mayor and Clerk be authorized to execute the Transfer Payment Agreement for the Investing in Canada Infrastructure Program COVID-19 Resilience Infrastructure Stream, Local Government Intake, on behalf of The Corporation of the City of Stratford.

Carried

7.3 Proclamation - Light It Up! for NDEAM Day

R2021-451

Motion by Councillor Ritsma

Seconded by Councillor Vassilakos

THAT Stratford City Council hereby proclaims October 21, 2021 as "Light It Up! For NDEAM Day" in the City of Stratford in recognition of National Disability Employment Awareness Month (NDEAM) and the many ways people who have a disability contribute to businesses and communities across Canada.

Carried

8. Business for Which Previous Notice Has Been Given:

None scheduled.

9. Reports of the Standing Committees:

9.1 Report of the Social Services Committee

R2021-452

Motion by Councillor Henderson

Seconded by Councillor Vassilakos

THAT the Report of the Social Services Committee dated October 12, 2021 be adopted as printed.

Carried

9.1.1 2021 Homeless Enumeration (SOC21-010)

THAT the report titled "2021 Homeless Enumeration" (SOC21-010) be received for information.

9.1.2 Update on the Ontario Works Caseload and Caseload Forecast for 2022-23 (SOC21-009)

THAT the report titled "Update on the Ontario Works Caseload and Caseload Forecast for 2022-23" (SOC21-009) be received for information.

9.2 Report of the Community Services Committee

R2021-453

Motion by Councillor Beatty

Seconded by Councillor Bunting

THAT the Report of the Community Services Committee dated October 12, 2021 be adopted as printed.

Carried

9.2.1 Request to Reduce the Number of Citizen Representative Positions on the Communities in Bloom Advisory Committee (COM21-009)

THAT the Terms of Reference for the Communities in Bloom Advisory Committee be amended to reduce the composition of citizen representatives from eight (8) to six (6) positions.

9.2.2 Saturday On-Demand Transit Service Update (COM21-010)

THAT the Management Report titled Saturday On-Demand Transit Service Update (COM21-010) be received for information.

9.2.3 Ad-Hoc Transit Committee Update (COM21-012)

THAT the Management report titled Ad Hoc Transit Committee Update (COM21-012) be received for information;

AND THAT the Ad-Hoc Transit Committee be disbanded, and any future operational matters concerning transit be brought to the

attention of staff or governance related matters to the Community Services Sub-committee.

9.2.4 Request to develop a Strategic Master Plan for Recreational Services

THAT the development of a Strategic Master Plan for Recreational Services be referred to staff and to the 2022 budget deliberations.

9.2.5 Distribution of rentable use of the Stratford Agriplex Fieldhouse (COM21-013)

THAT Council refer the negotiation of the Stratford Basketball Association's use of the Agriplex Fieldhouse back to staff;

AND THAT staff move to develop a facility allocation policy, in consultation with user groups.

9.2.6 Stratford Pickleball Association Youth Initiative (COM21-011)

THAT Council refer the Youth Initiative request from the Stratford Pickleball Association to staff for further review and analysis, and for the public to be consulted as part of the review.

10. Notice of Intent:

10.1 Notice of Intent to Declare as Surplus and Dispose

At the October 25, 2021 Regular Council meeting, City Council intends to declare the following city-owned land as surplus to the needs of The Corporation of the City of Stratford and to dispose of the land:

- Part Lot 2, Plan 86, known municipally as 51 McNab Street

The city-owned land is vacant, measuring 33 ft. by 76 ft. for total square footage of 2,508 ft². The property is zoned Residential Second Density R2(1) and bordered by McNab and Brydges Streets. The property is not a buildable lot on its own.

The Council meeting begins at 3:00 pm via Zoom. Questions about the subject land may be made to the City Clerk at clerks@stratford.ca before October 19, 2021.

11. Reading of the By-laws:

The following By-laws required First and Second Readings and Third and Final Readings and were taken collectively upon unanimous vote of Council present:

R2021-454

Motion by Councillor Beatty

Seconded by Councillor Burbach

THAT By-laws 131-2021 to 133-2021 be taken collectively.

Carried unanimously

R2021-455

Motion by Councillor Henderson

Seconded by Councillor Vassilakos

THAT By-laws 131-2021 to 133-2021 be read a First and Second Time.

Carried two-thirds support

R2021-456

Motion by Councillor Gaffney

Seconded by Councillor Bunting

THAT By-laws 131-2021 to 133-2021 be read a Third Time and Finally Passed.

Carried

11.1 Authorize Execution of Transfer Payment Agreement for Canada Infrastructure Program Funding - By-law 131-2021

To authorize the execution of the Transfer Payment Agreement and other related documents for funding under the Investing in Canada Infrastructure Program COVID-19 Resilience Infrastructure Stream, Local Government Intake, between Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Infrastructure and The Corporation of the City of Stratford, to convert the T.J. Dolan Drive into a multi-use trail.

11.2 Authorize Execution of an Agreement of Purchase and Sale with Frank Walsh - By-law 132-2021

To authorize the execution of an Agreement of Purchase and Sale with Frank J. Walsh for an undivided 50% share of Part 2 on Reference Plan 44R-3969.

11.3 Authorize Acceptance of Conveyance from Frank Walsh - By-law 133-2021

To authorize acceptance of the transfer (conveyance) from Frank J. Walsh of an undivided 50% share of Part 2 on Reference Plan 44R-3969.

12. Consent Agenda: CA-2021-122 to CA-2021-128

R2021-457

Motion by Councillor Bunting

Seconded by Councillor Burbach

THAT CA-2021-124, being a resolution from the Town of Kingsville in support of "Save Eye Care in Ontario", be endorsed.

Carried

13. New Business:

13.1 Participation of Delegations via Video

A member requested that staff review having delegations join zoom meetings via video in order to present to Council face to face. The City Clerk advised that presently delegations are only permitted to speak via telephone because not everyone can participate via video. To make it fair to all members of the public this has only been offered over the phone and not brought in via video at this time.

R2021-458

Motion by Councillor Henderson

Seconded by Councillor Burbach

THAT a review of permitting delegations to participate via video or the telephone during Council, Committee and Sub-committee meetings, be referred to the City Clerk.

Discussion ensued with respect to:

- offering both telephone and video options;
- reviewing technical requirements ahead of the meeting with those choosing to participate via video;
- those who cannot join via video being at a disadvantage; and,
- offering video as an option to make the experience as close to an in-person meeting as possible.

Mayor Mathieson called the question on the motion.

Carried

13.2 COVID-19 Vaccination Policy Reconsideration

R2021-459

Motion by Councillor Gaffney

Seconded by Councillor Clifford

THAT the COVID-19 Vaccination Policy H.1.33 be reconsidered.

Carried two-thirds support

A member advised that the need to reconsider the City's COVID-19 Vaccination policy is due to feedback from the public on the strictness of the policy and the risk of exposure to the public by unvaccinated staff.

The Chief Administrative Officer advised that the policy was put together based on a mandate from the province for licensed day cares. The policy requires disclosure of vaccination status and that those who are not fully vaccinated require testing. Other requirements are also in place for health and safety, barriers, PPE, social distancing, and hand sanitizer stations. It was further advised that union executives were consulted with prior to rolling out the policy and that the deadline is approaching for employees to disclose their status. The daycare is already in full compliance with the policy and both education and testing, in addition to all other requirements, are being used to protect employees and those coming into City facilities.

The Acting Director of Human Resources clarified that once there is a better understanding of who is not vaccinated then the City will be able to determine the risk to public interaction. Any refusals will result in disciplinary processes as set out in the policy. It was further advised that a mandatory mask policy is also in effect for staff and those entering City facilities.

A question and answer period ensued between members and staff with respect to:

- vaccination policies for municipalities not being mandated at this time and presenting inconsistencies in those that have been implemented;
- staff presenting a risk to the public by not being vaccinated and potentially being able to work somewhere without risk to the public;
- and,

- rapid testing practices being implemented for employees that remain unvaccinated.

R2021-460

Motion by Councillor Vassilakos

Seconded by Councillor Burbach

THAT following a return to in-person Council meetings, members of Council, staff and the public be required to show proof of full COVID-19 vaccination to attend in-person;

AND THAT members of Council, staff and the public that do not disclose proof of vaccination shall be required to participate in meetings remotely.

Discussion ensued with respect to in-person Council meetings and anyone in attendance being required to show proof of vaccination to attend.

Mayor Mathieson called the question on the motion.

Carried

It was questioned whether the City is reviewing COVID-19 vaccination policies for outside boards and committees. The Chief Administrative Officer advised that staff will follow up with these groups to request and review any current policies in place.

13.3 Communities in Bloom Update

A member provided an update on the work of the Communities in Bloom Advisory Committee. Last Thursday, the virtual National Annual Symposium was held and a Hope is Growing Challenge was put out this year for local groups to participate in. Stratford's Communities in Bloom looked at the national competition for best front yard and an application was submitted after a review of front yards in the City. The front yard of Bernie Van Herk was selected and Mr. Herk received best front yard in Canada.

14. Adjournment to Standing Committees:

The next Regular Council meeting is October 25, 2021.

R2021-461

Motion by Councillor Bunting

Seconded by Councillor Burbach

THAT the Council meeting adjourn to convene into Standing Committees as follows:

- **Planning and Heritage Committee [3:05 p.m. or thereafter following the Regular Council meeting];**
- **Infrastructure, Transportation and Safety Committee [3:10 p.m. or thereafter following the Regular Council meeting];**
- **Finance and Labour Relations Committee [3:15 p.m. or thereafter following the Regular Council meeting];**

and to Committee of the Whole if necessary, and to reconvene into Council.

Carried

15. Council Reconvene:

*As Mayor Mathieson had not returned to the meeting, Deputy Mayor Ritsma assumed the role as Chair.

15.1 Declarations of Pecuniary Interest made at Standing Committees

The Municipal Conflict of Interest Act requires any member of Council declaring a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and otherwise comply with the Act.

Declarations of Pecuniary Interest made at Standing Committee meetings held on October 12, 2021 with respect to the following Items and re-stated at the reconvene portion of the Council meeting:

Name, Item and General Nature of Pecuniary Interest

No declarations of pecuniary interest were made by a member at the October 12, 2021, Reconvene Council meeting.

15.2 Committee Reports:

15.2.1 Planning and Heritage Committee

R2021-462

Motion by Councillor Bunting

Seconded by Councillor Henderson

THAT Item 5.2 of the Planning and Heritage Committee meeting dated October 12, 2021 be adopted as follows:

5.2 Modification to Draft Approved Plan of Subdivision 31T18-001A, 40, 48, 50, 60, 66 and 72 Daly Avenue Revised Conditions of Draft Approval (PLA21-021)

THAT Plan of Subdivision application 31T18-001A, submitted by Baker Planning Group, on behalf of Larson Properties Partnership Corp., prepared by NA Geomatics Inc., certified by David J. Raithby O.L.S., Drawing No. 18-6002-CH3_DRAFT PLAN Ba dated MAY 14/21,

known municipally as 40, 48, 50, 60, 66 and 72 Daly Avenue, legally described as Lots 7, 8, 9, 10, 11 and 12, Registered Plan 74, be approved by the City of Stratford pursuant to Section 51(31) of the Planning Act subject to the revised conditions listed below for the following reasons:

- **the proposed plan of subdivision is consistent with the Provincial Policy Statement;**
- **The proposed plan of subdivision conforms with the City of Stratford Official Plan;**
- **The application was circulated to the public and regard for their response was had in the recommended plan and conditions of approval;**
- **The proposed plan of subdivision will result in sound land use planning and is considered appropriate for the development of the land.**

Conditions of Draft Approval

That the City of Stratford pursuant to Section 51(31) of the Planning Act grant draft approval to Plan of Subdivision 31T18-001A subject to the following conditions:

- 1. This draft approval applies to the draft plan submitted by Baker Planning Group, on behalf of Larson Properties Partnership Corp., prepared by NA Geomatics Inc.,**

certified by David J. Raithby O.L.S., Drawing No. 18-6002-CH3_DRAFT PLAN_Ba dated MAY 14/21, which shows a total of 2 single detached dwelling lots, 7 semi-detached dwelling lots and 2 duplex dwelling lots.

- 2. This approval of the draft plan applies for five years, and if final approval is not given by that date, the draft approval shall lapse, except in the case where an extension has been granted by the Approval Authority.**
- 3. The municipal addresses shall be assigned to the satisfaction of the Manager of Planning.**
- 4. Prior to final approval, the Owner shall submit to the Approval Authority a digital file of the plan to be registered in a format compiled to the satisfaction of the City of Stratford and referenced to NAD83UTM Zone 17 horizon control network for the City of Stratford mapping program.**
- 5. Prior to final approval, appropriate zoning shall be in effect for this proposed subdivision.**
- 6. The Owner shall satisfy all the requirements, financial and otherwise, of the City of Stratford in order to implement the conditions of this draft approval.**
- 7. The subdivision agreement between the Owner and the City of Stratford shall be registered against the lands to which it applies.**
- 8. That prior to the City executing the Subdivision Agreement, the Owner shall conduct a pre-construction vibration assessment to establish a baseline for vibration levels. The Owner shall implement recommendations of the vibration assessment and complete and implement any reports or controls arising from the assessment.**
- 9. The Owner shall grant to the appropriate authorities such easements and/or land dedications as may be required for utility, road, drainage or other municipal purposes.**

- 10. This subdivision shall be registered in one (1) phase.**
- 11. In conjunction with the submission of Engineering drawings, the Owner shall submit an erosion/sediment control plan that will identify all erosion and sediment control measures for the subject lands in accordance with City of Stratford and Ministry of Environment standards and requirements, all to the satisfaction of the City. This plan is to include measures to be used during all phases of construction. Prior to any work on the site, the Owner shall implement these measures satisfactory to the Director of Infrastructure and Development Services.**
- 12. The Owner's professional engineer shall provide inspection services for all work required for the development of the plan, and have its professional engineer supply the City with a certificate of compliance upon completion in accordance with the plans approved by the Director of Infrastructure and Development Services. The Owner's professional engineer shall provide full time inspection for all underground works.**
- 13. The Owner shall comply with all City of Stratford standards, guidelines and requirements in the design of this draft plan including required engineering drawings. Any deviation to the City's standards, guidelines, or requirements shall be completed to the satisfaction of the Director of Infrastructure and Development Services.**
- 14. The Owner shall pay in full all Engineering Administration fees, as determined by the Director of Infrastructure and Development Services, prior to any construction activity on the site.**
- 15. That prior to final approval the Owner shall pay in full all financial obligations/encumbrances owing to the City on the said lands, including property taxes and local improvement charges.**

- 16. Should temporary measures be required for this subdivision, construction costs for these temporary measures shall be borne by the Owner and any cost to remove the temporary measure shall be borne by the Owner.**
- 17. Should municipal services be required, the Owner shall construct all municipal services for the subject lands at the sole expense of the Owner.**

PARKLAND

- 18. Prior to the City executing the Subdivision Agreement, the Owner shall make a cash payment in lieu of the 5% parkland dedication pursuant to City of Stratford. In order to determine the value of the land, the Owner shall submit an appraisal completed by a qualified individual to the satisfaction of the City.**

SANITARY SERVICING

- 19. The Owner shall construct and connect to the existing sanitary sewer on Worsley Street to the satisfaction of the Director of Infrastructure and Development Services.**
- 20. The Owner shall obtain the necessary private access agreements for services and is to provide the City copy of said private access agreement for their file.**
- 21. The Owner shall have its consulting professional engineer design and supervise the construction of the sanitary servicing works, including any temporary works, to the satisfaction of the Director of Infrastructure and Development Services.**
- 22. The Owner shall operate, monitor and maintain the works. The Owner shall ensure that any removal and disposal of sediment is to an approved site satisfactory to the Director of Infrastructure and Development Services.**

- 23. The Owner shall not connect any weeping tile connections into the sanitary sewers within this plan.**

STORMWATER SERVICING

- 24. In conjunction with the submission of the engineering drawings, the Owner shall have their consulting engineer submit a stormwater servicing report/plan satisfactory to the Director of Infrastructure and Development Services. This report shall propose either the Daly Avenue lots should have a storm service installed to the property line for future connection to a future new storm sewer or that the lots be serviced to Worsley Street; include identification of the major and minor stormwater overland flow routes; easement widths; and stormwater quality control all to the satisfaction of the Director of Infrastructure and Development Services.**
- 25. The Owner shall obtain the necessary private access agreements for drainage and services and is to provide the City copy of said private access agreement for their file.**
- 26. Prior to the Manager of Engineering providing confirmation to the Chief Building Official that municipal services are in place, the Owner shall construct and have operational stormwater servicing works including major and minor overland flow routes and stormwater quality control measures satisfactory to the Director of Infrastructure and Development Services.**
- 27. The Owner shall have its consulting professional engineer design and supervise the construction of the stormwater servicing works, including any temporary works, to the satisfaction of the Director of Infrastructure and Development Services.**
- 28. The Owner shall address forthwith any deficiencies of the stormwater works and/or monitoring program.**

- 29. Prior to assumption, the Owner shall operate, monitor and maintain the works. The Owner shall ensure that any removal and disposal of sediment is to an approved site satisfactory to the Director of Infrastructure and Development Services.**

TRANSPORTATION/ROADS

- 30. The Owner shall construct a 1.5 metre (5') sidewalk on the outside of the frontage of the following streets within a time-frame as directed by the Director of Infrastructure and Development:**
- 1. Daly Avenue**
 - 2. Worsley Street**
- 31. The Owner shall provide a 3.35 m working easement along the Worsley Street frontage to the City of Stratford.**

FIRE

- 32. The Owner shall not burn any materials on site.**

UTRCA

- 33. Prior to undertaking any works or site alteration including filling, grading, or construction in a Conservation Regulated Area, the Owner shall obtain a permit or receive clearance from Upper Thames River Conservation Authority.**

OTHER UTILITIES

- 34. Prior to the entering into a subdivision agreement, the Owner shall obtain approval from the City and Festival Hydro. Any new addition and/or relocation of existing electrical infrastructure will be at the Owner's expense.**
- 35. In conjunction with the submission of Engineering drawings, the Owner may be required to submit a street lighting plan for approval by both the City and either Festival Hydro or Hydro One.**

- 36. The subdivision agreement shall make provision for the planting of trees in the boulevard to the satisfaction of the Director of Community Services.**
- 37. The subdivision agreement shall make provision for the physical location of Community Mail Boxes which satisfies the requirements of Canada Post.**

OTHER

- 38. That the subdivision agreement includes a clause requiring the Owner to prepare an information package outlining the use and purpose of all easements and overland flow routes on the property, to the satisfaction of the Manager of Engineering Services and include a copy of the information package in all agreements of purchase and sale.**
- 39. That the subdivision agreement includes a clause requiring that all future dwelling units on the subject lands be constructed with a front porch, a pitched roof and masonry building products and that the subdivision agreement include a clause requiring that all offers or purchase and sale include a clause advising the future purchaser of these requirements to the satisfaction of the Manager of Planning.**
- 40. That the subdivision agreement includes a clause requiring that all offers of purchase and sale and lease agreements for the lots with frontage on Worsley Street include a clause advising that on street parking along Worsley Street is not permitted and that limited parking is available on each on Worsley Street.**
- 41. Prior to final approval, for the purposes of satisfying any of the conditions of draft approval herein contained, the Owner shall file with the Approval Authority a complete submission consisting of all required clearances, fees, and final plans, and to advise the Approval Authority in writing how each of the conditions of draft approval has been, or will be, satisfied. The Owner acknowledges that, in the event**

that the final approval package does not include the complete information required by the Approval Authority, such submission will be returned to the Owner without detailed review by the City.

Clearance Conditions

- 1. That prior to the signing of the final plan by the Mayor and Clerk, the City is to be advised by the Upper Thames River Conservation Authority that condition 33 has been carried out to their satisfaction.**
- 2. That prior to the signing of the final plan by the Mayor and Clerk, the City is to be advised by Festival Hydro that conditions 34 and 35 have been carried out to their satisfaction.**
- 3. That prior to the signing of the final plan by the Mayor and Clerk, the City is to be advised by Canada Post that condition 37 has been carried out to their satisfaction.**

NOTES TO DRAFT APPROVAL

- 1. The applicant is directed to Section 51(39) and 51(43) of the Planning Act, R.S.O. 1990 as amended, regarding referral of any imposed conditions to the Local Planning Appeals Tribunal. Requests for referrals are to be directed to the Subdivision Approval Authority of the City of Stratford.**
- 2. It is the applicant's responsibility to fulfill the conditions for draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the City of Stratford, to the attention of the Manager of Planning, Infrastructure and Development Services Department, City of Stratford, quoting the above-noted file number.**
- 3. All plans are to be prepared using total station survey and compatible with the latest version of AutoCAD. The**

final plan submitted for final approval, engineered design drawings and construction record drawings are to be provided in print and digital format referenced to a control network compiled to the satisfaction of the City of Stratford Engineering Department in accordance with Ontario Basic Mapping (U.T.M. Grid 1:2000), for future use within the City's geographical information system.

- 4. The Owner/developer is advised that the provisions of the Development Charge By-law apply to this draft approval.**
- 5. Required agreements with the municipality will be prepared by the City of Stratford upon written request being received by the Manager of Engineering of the City of Stratford Infrastructure and Development Services Department from the applicant.**
- 6. The applicant should consult with an Ontario Land Surveyor for this proposed plan concerning final approval requirements relative to the Certification of Titles Act.**
- 7. The final plan approved by Corporation of the City of Stratford must be registered within thirty (30) days or the Corporation may withdraw its approval under Section 51(59) of the Planning Act, R.S.O. 1990 as amended.**
- 8. All plans of subdivision are to be prepared and presented in metric units.**
- 9. Easements required for utility or drainage purposes should be granted to the appropriate authority. Contact Infrastructure and Development Services Department prior to any transfer of easements to the City of Stratford.**
- 10. Some of the conditions of draft approval will be cleared through the inclusion of appropriate**

requirements in the subdivision agreement, where acceptable to the City of Stratford.

- 11. An electrical distribution line operating at below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 - Proximity - of the Regulations for construction Projects in the Occupational Health and Safety Act, requires that no object be brought closer than 3 metres (10 feet) to the energized conductor. It is the proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors can raise or lower without warning, depending on the electrical demand placed on the line. Warning signs should be posted on wooden poles supporting the conductors stating "DANGER - Overhead Electrical Wires" in all locations where personnel and construction vehicles might come in close proximity to the conductors.**
- 12. Privacy fences shall be placed on private properties. Fencing designs will be consistent with City standards and shall be the responsibility of the individual property Owners.**

Carried

15.3 Reading of the By-laws (reconvene):

The following By-law required First and Second Readings and Third and Final Readings:

By-law 11.4 Confirmatory By-law - By-law 134-2021

To confirm the proceedings of Council of The Corporation of the City of Stratford at its meeting held on October 12, 2021.

A member requested a motion related to the discussion on the review of COVID-19 policies for outside boards and committees.

R2021-463

Motion by Councillor Gaffney

Seconded by Councillor Vassilakos

THAT a review of COVID-19 policies with the City's external boards and committees be referred to the Chief Administrative Officer and Acting Director of Human Resources.

Carried

R2021-464

Motion by Councillor Clifford

Seconded by Councillor Bunting

THAT By-law 134-2021 be read a First and Second Time.

Carried two-thirds support

R2021-465

Motion by Councillor Henderson

Seconded by Councillor Beatty

THAT By-law 134-2021 be read a Third Time and Finally Passed.

Carried

15.4 Adjournment of Council Meeting

R2021-466

Motion by Councillor Vassilakos

Seconded by Councillor Burbach

THAT the October 12, 2021 Regular Council meeting adjourn.

Carried

Meeting Start Time: 3:00 P.M.

Meeting End Time: 4:00 P.M.

Reconvene Meeting Start Time: 6:16 P.M.

Reconvene Meeting End Time: 6:20 P.M.

Mayor - Daniel B. Mathieson

Clerk - Tatiana Dafoe



Stratford City Council Special Council Open Session MINUTES

Meeting #:	4668th
Date:	Monday, October 18, 2021
Time:	5:00 P.M.
Location:	Electronic Meeting
Council Present in Council Chambers:	Mayor Mathieson - Chair Presiding
Council Present Electronically:	Councillor Beatty, Councillor Bunting, Councillor Burbach, Councillor Clifford, Councillor Gaffney, Councillor Henderson, Councillor Ingram, Councillor Ritsma, Councillor Vassilakos
Regrets:	Councillor Sebben
Staff Present in Council Chambers:	Joan Thomson - Chief Administrative Officer, Tatiana Dafoe - City Clerk, Chris Bantock - Deputy Clerk
Staff Present Electronically:	David St. Louis - Director of Community Services, John Paradis - Fire Chief, Karmen Krueger - Acting Director of Corporate Services, Anne Kircos - Acting Director of Human Resources, Taylor Crinklaw - Director of Infrastructure and Development Services, Alyssa Bridge - Manager of Planning, Rachel Bossie - Planner, Nancy Bridges - Recording Secretary

1. Call to Order:

Mayor Mathieson, Chair presiding, called the Council meeting to order.

Councillor Sebben provided regrets for this meeting.

2. **Declarations of Pecuniary Interest and the General Nature Thereof:**

The *Municipal Conflict of Interest Act* requires any member of Council declaring a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and to otherwise comply with the *Act*.

Name, Item and General Nature Thereof

No declarations of pecuniary interest were made by a member at the October 18, 2021 Special Council meeting.

3. **Adjournment to Public Meeting under the Planning Act:**

R2021-467

Motion by Councillor Burbach

Seconded by Councillor Ingram

THAT the Special Council Meeting adjourn to a Public Meeting under the Planning Act, to hear from members of the public with respect to the following planning matter:

- **Zone Change Application Z12-21 for 7 and 9 Cobourg Street to reconvene following the Public Meeting.**

Carried

The Special Council meeting adjourned to a Public Meeting at 5:01 p.m., and reconvened at 5:13 p.m.

4. **Reading of the By-laws:**

The following By-law required First and Second Readings and Third and Final Readings:

4.1 Confirmatory By-law 135-2021

To confirm the proceedings of Council of The Corporation of the City of Stratford at its meeting held on October 18, 2021.

R2021-468

Motion by Councillor Vassilakos

Seconded by Councillor Ingram

THAT By-law 135-2021 be read a First and Second Time.

Carried two-thirds support

R2021-469

Motion by Councillor Gaffney

Seconded by Councillor Beatty

THAT By-law 135-2021 be read a Third Time and Finally Passed.

Carried

5. Adjournment:

R2021-470

Motion by Councillor Clifford

Seconded by Councillor Burbach

THAT the October 18, 2021 Special Council Meeting adjourn.

Carried

Meeting Start Time: 5:00 P.M.

Meeting End Time: 5:14 P.M.

Mayor - Daniel B. Mathieson

Clerk - Tatiana Dafoe

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 15, 2021

CASE NO(S): LC120027

PROCEEDING COMMENCED UNDER subsection 26(b) of the *Expropriations Act*,
R.S.O. 1990, c. E.26, as amended

Claimant:	1353837 Ontario Inc.
Respondent:	City of Stratford
Subject:	Land Compensation
Property Address/ Description:	Parts 13, 16 and 17 on Registered Plan 44R-3154
Municipality:	City of Stratford
OLT Case No.:	LC120027
OLT File No.:	LC120027
OLT Case Name:	1353837 Ontario Incorporated v. Stratford (City)

Heard: April 26-30; May 3-7, 10-14, 17-21, 25-28; and
June 10-11, 2021 by video hearing

APPEARANCES:

Parties

Counsel

1353837 Ontario Inc.

J. S. Doherty
R. D. Aburto
J. Minnes
T. Neill
K. Duquette

City of Stratford

C. J. Williams
T. J. Hill
A. J. Skinner
H. Wong

DECISION DELIVERED BY S. JACOBS AND ORDER OF THE TRIBUNAL

[1] Before it became home to its well-known Shakespearean festival, Stratford was an important rail hub in Canada. The Grand Trunk Railway chose Stratford as the

location for its machine and repair shops in 1870. It established these at its property located in downtown Stratford and continued to develop the property to keep pace with the evolving rail industry, most notably culminating in the 1909 opening of its locomotive repair shop. An architectural feat for its time, the massive repair shop consisted of steel trusses and a travelling crane system that could lift and move 350 tonne locomotives across the large structure.

[2] The building still stands as a reminder of Stratford's rail history. The property changed hands many times in its century-long life—to the Canadian National Railway, then to Cooper-Bessemer for its factory, to the City of Stratford (the "City"), and then to a series of numbered companies with plans to redevelop the property. In 2009, the City acquired the property one final time by expropriation, which is what brings this matter to the Tribunal.

[3] At the time of expropriation, the property was owned by 1353837 Ontario Inc. ("135" or "Claimant") with Lawrence Ryan as its sole shareholder, director, and officer. Mr. Ryan envisioned a project to redevelop the property into a mixed-use destination by reusing the existing building for a waterpark, retail "heritage street", dance barn, and movie theatre, and by constructing a new tower to house a hotel and condominium. Mr. Ryan passed suddenly and unexpectedly in 2019 and his widow, Wendy Ryan, became president of 135. Mr. Ryan's vision for the property was carried into this compensation hearing by his immediate family and the consultants he worked with over the years.

[4] The Tribunal is tasked with determining the amount of compensation the City owes to 135 in accordance with the *Expropriations Act*, R.S.O. 1990, c. E.26, as amended (the "Act"). There are two main issues for the Tribunal to decide in this case:

1. What is the market value of the subject property?
2. What, if any, disturbance damages are owed to 135?

[5] At the heart of the dispute between the parties is the value of the former locomotive repair shop (the “building” or the “main building”). The Claimant sees significant value in the building—it was central to 135’s project—and the City sees none. There is no question that at the time of expropriation the building required significant repairs. The property, given its history, was also known to be contaminated and would require remediation for any redevelopment, though the parties disagree on the likely costs of remediation. All of this leads to a significant rift between the parties of more than \$22 million for market value: the City believes the property was worth \$290,000 at the time of its 2009 expropriation, while 135 claims a value of \$22,700,000.

[6] The parties’ disagreement on disturbance damages is also significant. 135 claims a total of \$1,062,569 for business losses, wasted development costs, and executive time.¹ The City denies the claims for business losses and executive time and submits that, at most, \$51,683 is owed to 135 to compensate for wasted development costs.

[7] Before addressing the two main issues, it is necessary to provide context for this Claim. The road to this compensation hearing was long, complicated, and hindered by many factors. These two parties have long been involved in litigation outside of this proceeding, including before the Ontario Superior Court of Justice, the Ontario Labour Relations Board, and the Health Services Appeal Board. There were many procedural steps requiring the Tribunal’s adjudication to bring this Claim to a compensation hearing.

[8] The Tribunal will therefore first provide a description of the subject property and its surrounding area, followed by a description of 135’s involvement in the property, including its project. The Tribunal will then summarize the expropriation process, and next will outline the procedural history at the Tribunal from the time the Claim arrived in 2012. Finally, to complete its introduction, the Tribunal will provide a description of the compensation hearing including key rulings made throughout.

¹ There were revisions to these figures during the hearing. This figure reflects the Claimant’s closing submissions and is comprised of a claim of \$268,000 for wasted development costs, \$638,889 for lost profits, and \$155,680 for executive time (\$155,000 for Mr. Ryan and \$3,680 for Mrs. Ryan).

The Expropriated Lands and Surrounding Area

[9] Situated just outside Stratford's central business district, the subject property is 11.42 acres in area—by far the largest single land assembly in the downtown core. The site is located at 350 Downie Street and has an irregular shape owing to previously being part of the property to the north. Those adjacent lands are the subject of ongoing litigation between the parties and are referred to in the record as the "St Patrick Street Parking Lot" or the "Disputed Lands". The Disputed Lands are now home to a University of Waterloo campus and sit between the subject property and St. Patrick Street, leaving the Expropriated Lands with access to Downie Street at its south east corner.²

[10] On its southern side, the Goderich-Exeter Railway runs the length of the site, parallel to St. David Street. There is a short road, Cooper Street, off St. Patrick Street that partially flanks the Expropriated Lands on the west side, and the Tribunal understands there is a difference in grading between Cooper Street and the property. While Cooper Street and Downie Street are currently the only means to access the property, it historically enjoyed access to St. Patrick Street when part of the larger parcel with the Disputed Lands. Access was a minor point of dispute between the parties and will be discussed later in this Decision.

[11] At the time of expropriation, the immediately surrounding area consisted of the St. Patrick Street parking lot and a YMCA building to the north. There is a residential area to the south of the property on the other side of St. David Street with single detached homes.

[12] Beyond St. Patrick Street, the downtown core is to the north and largely consists of two to three-storey buildings with a variety of shops, restaurants, and services at the street level and some residential units in upper levels. The City's civic centre is also located in the downtown core, a short walk or drive from the Expropriated Lands. The

² There are references throughout the record to the "Cooper Site" or the "CNR Site" as the former site that included the Disputed Lands and the Expropriated Lands. For clarity, any references in this Decision to the "Expropriated Lands" or "subject property" or "site" means the land actually taken by the City. These lands are comprised of Part 13, 16, and 17 on Plan 44R-3154, and also defined as Parts 1 to 4 inclusive on the expropriation plan registered as Plan PC71878 on June 15, 2009.

land use planning experts in this hearing agreed that Stratford boasts a model downtown, one that has successfully conserved its history through a heritage conservation district and in which a variety of shops and restaurants thrive.

[13] The location of the property, its irregular shape, and its extraordinary size in downtown Stratford are best captured on the following figure:

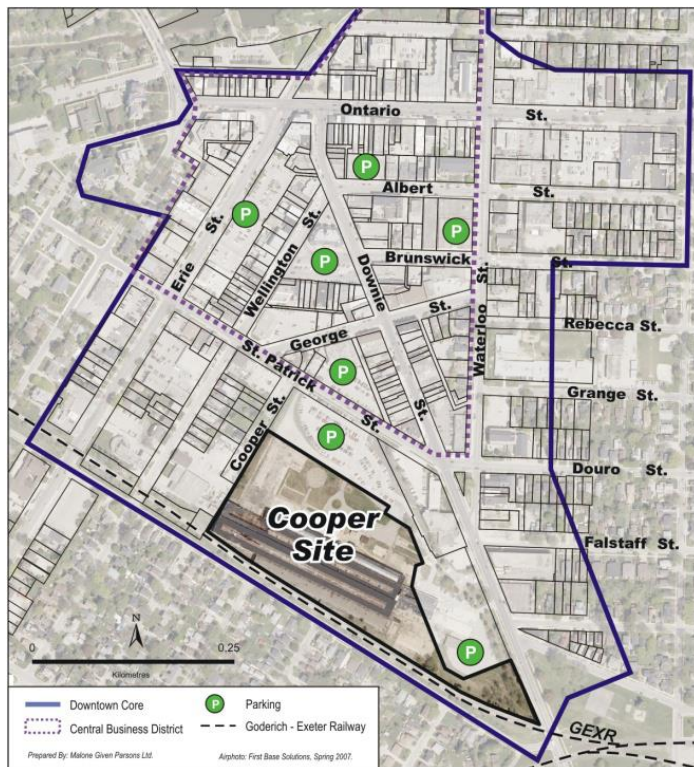


Figure 1: Location Map (from Malone Given Parsons' Land Use Evaluation; Exhibit 7C at p. 164)

[14] There have been several buildings on the Expropriated Lands as part of its rail history and later occupation by Cooper-Bessemer. A fire destroyed part of the building, the former tender shop, in 2003. The main building remained at the date of expropriation, along with an attached wooden structure that once housed a tube shop. The City demolished the former tube shop building after the expropriation. The buildings are shown on Figure 2 for ease of reference.

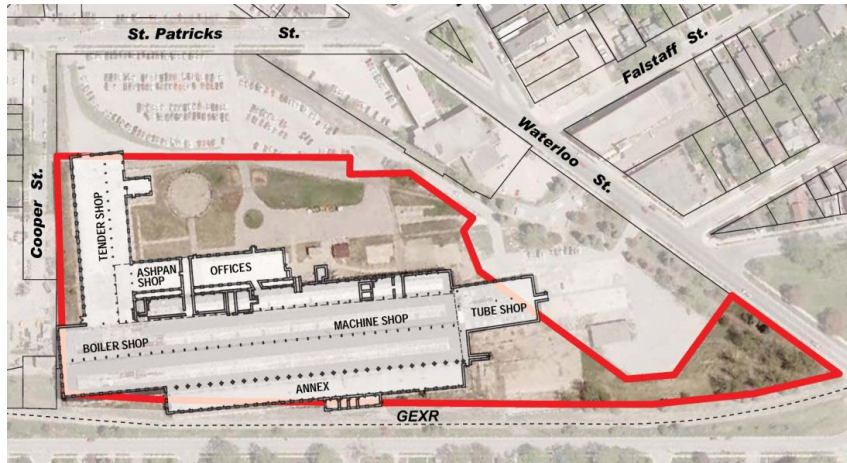


Figure 2: Former locomotive shop on the Expropriated Lands (from Exhibit 7C at p. 167)

[15] Constructed of riveted steel between 1907-1909, the main building contains some 160,000 square feet of open space with steel columns, trusses, and at least one mezzanine level. There is an addition to the main building along its southern edge that was constructed in 1949.

[16] In addition to the active rail line and some partially covered tracks that would bring locomotives into the property for servicing, a rail turntable remained at the site at the date of expropriation as a reminder of the property's rail history.

135's Involvement in the Expropriated Lands and its Project

[17] There were many changes in ownership in the Expropriated Lands since Cooper-Bessemer vacated the property in 1989. As the Claimant in this proceeding, 135's ownership of the Expropriated Lands is most relevant to the Tribunal. However, Mr. Ryan's involvement with previous owners of the property and their various development plans for the Expropriated Lands were discussed frequently throughout the hearing. In that regard, the following ownership timeline provides useful context:

1996: The City sold the Expropriated Lands to 1101644 Ontario Limited ("110"). Mr. Ryan was involved with 110 as a project manager to advance its plans to redevelop the property as the "Stratford Resort and Spa".

1997: 110 defaulted on its loan obligations and its interest in the Expropriated Lands was transferred to 1221025 Ontario Limited (“122”) pursuant to power of sale proceedings. 122 entered into an agreement with 135, Mr. Ryan’s corporation, for the management of 122’s development project.

2001: 122 defaulted on its loan obligations and 135, as a creditor of 122, acquired its interest in the property through foreclosure proceedings.

2005: 135 received a mortgage, registered against the Expropriated Lands for \$5,000,000 by Republic Mortgage Investment Corporation (“Republic”).

[18] There were various redevelopment concepts for the property that evolved with its changing ownership. None came to fruition.

[19] Mr. Ryan had his own vision for the redevelopment of the property. He worked on a concept—referred to as the “CNR Centre” or “Ryan’s Railway Centre” throughout the hearing—that centred around the reuse of the main building. It also contemplated construction of a new tower building over the former tender shop area to house a hotel and condominium units, which was the subject of some discussion between Mr. Ryan and Marriott Hotels of Canada (“Marriott”).

[20] Though it appears that the project components changed over time, they consistently included the adaptive reuse of the main and tube shop buildings to house a variety of uses. Mr. Ryan envisioned the main building to include an indoor shopping area in the form of a “heritage street” with retail and service shops along an interior corridor with office space above. The corridor would also be able to host events, for example, antique car shows. At the eastern end of the building, the former tube shop space would house a farmer’s market.

[21] Walking along the interior corridor toward the former tender shop area, one would find a movie theatre, a dance barn and—the subject of much debate during this hearing—an indoor water park. A food court would connect the main building and its

heritage street to the 16-storey hotel and condominium tower, which would include five levels of underground parking. There was also an outdoor concert stage contemplated. Throughout the development, Mr. Ryan intended interactive museum elements to pay homage to the property's rail history.

[22] There were two visual exhibits frequently referred to during the hearing that best illustrate what Mr. Ryan had in mind. The first is an elevation drawing:



Figure 3: East Elevation of Ryan's Railway Centre (from Exhibit 23 at p. 14)

The second is a concept floor plan showing the variety of uses contemplated:

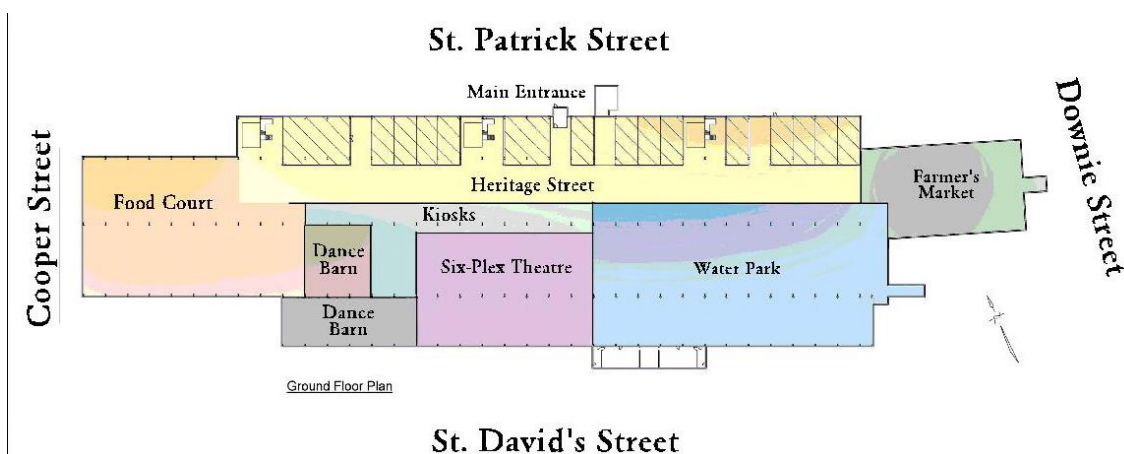


Figure 4: Concept floor plan for Ryan's Railway Centre (from Exhibit 23 at p. 18)

[23] The project never came to be for reasons that will be discussed in the analysis of this Decision. Though counsel for the Claimant and City disagree on the feasibility of the project, they, and every witness who encountered Mr. Ryan, agree on this: his enthusiasm for this project and his tenacity in pursuing it are undeniable. It was unfortunate not to be able to hear from Mr. Ryan himself during this hearing. His enthusiasm for the project was clear to the Tribunal from the testimony of his family members and consultants.

The Expropriation Process

[24] The process of expropriation is often a lengthy one. In this case that process was the subject of previous adjudication by the Tribunal in its Decision issued on October 14, 2016 (the “October 2016 Decision”). There the Tribunal determined that the scheme of expropriation—the City’s purpose in acquiring the lands—was to develop a University of Waterloo campus (the “UW Campus”). The Tribunal also determined that the start date of the scheme could be no earlier than October 16, 2006, and that the precise date would be determined in this compensation hearing. Accordingly, the Tribunal will outline the chronology of events leading to the expropriation, beginning with the UW Campus opportunity.

The UW Campus Opportunity

[25] The City, the Stratford Shakespearean Festival of Canada (the “Festival”), and the University of Waterloo (“UW”) entered into a Memorandum of Understanding on October 16, 2006. It indicated that the parties would jointly explore: (i) the possibility of establishing a UW Campus in Stratford; (ii) opportunities to acquire land and secure capital for construction; and (iii) opportunities to establish academic programs on the new campus.

[26] Because the development of the UW Campus was subject to obtaining funding, the City began the work of securing funding commitments from the Federal and Provincial governments. This continued through 2007, and it was not until March 31,

2008 that the Provincial government confirmed a capital grant to support the development of the campus.

[27] Meanwhile, the City reviewed potential sites for the campus. It began this task in 2006 by reviewing a list of its available industrial land, both publicly and privately owned, which included the 17-acre Cooper Site, consisting of the 11.42-acre subject property and the Disputed Lands.

[28] The City and UW held a public information meeting on December 7, 2006. Mr. Ryan attended that meeting and, as the minutes reflect, “offered to discuss a partnership for the new campus involving his land.”

[29] Following the public information meeting, City and UW representatives met on January 29, 2007 to discuss the campus. Ronald Shaw, the City’s Chief Administrative Officer at the time, recalled, and his meeting notes reflect, that of the potential sites discussed, the Stratford fairgrounds site seemed to make the most sense. He did not recall any discussion about the Cooper Site at that meeting. A City Engineering and Public Works Memorandum dated February 1, 2007 discusses the three sites reviewed during the meeting, which did not include the Expropriated Lands.

[30] The City’s then Director of Building and Planning, Barb Dembek, prepared a planning and servicing analysis of those potential sites and reviewed them with UW representatives during a meeting on or about February 14, 2007. It appears, from Mr. Shaw’s review of Ms. Dembek’s file, that there was a discussion about the Cooper Site as a potential location for the UW Campus during that meeting.

[31] There was more discussion about the Cooper Site as a potential location on April 27, 2007, in a meeting with City and UW representatives, which Mr. Shaw attended. The UW representatives were interested in the site because of its downtown location. Mr. Shaw testified that the possibility of expropriation was discussed and that he had reservations about considering that site because of the difficulties of the expropriation process. Mr. Shaw recalls, and his notes reflect, that the University was still interested

in the property, and that City staff would continue to look into other potential sites.

The City's Decision to Expropriate

[32] Nearly one year later, on April 3, 2008 during an *in camera* meeting, the City's Committee of the Whole determined that the Cooper Site was the preferred site for the UW Campus, based on its size and downtown location. The Committee directed City staff to authorize an agent to prepare an offer to purchase 135's property.

[33] Mr. Shaw explained that because the City was already involved in other litigation with 135, it decided to retain a law firm to make an anonymous offer to purchase the property. The City's anonymous offer was made on or about April 22, 2008 to purchase the property for \$5 million, subject to review of the site for environmental issues. The offer was neither accepted nor answered with a counter-offer. Mr. Shaw reported back to the Committee of the Whole on May 12, 2008 in another *in camera* meeting and made no recommendation at that time.

[34] It appears that 135 received other offers during this time period from various corporate entities, in a similar purchase price range. While 135 insists that the City was behind these offers, the City denies this. There was no evidence during the hearing to link those offers to the City.

[35] The University continued to express a strong preference for a downtown location for its Stratford campus. On December 8, 2008, City Council instructed its legal counsel to prepare the materials necessary to commence expropriation proceedings for 135's property. Mr. Shaw testified, and the record reflects, that this was the first public notice of the City's intention to expropriate 135's lands. Mr. Ryan was notified by email the next day of the City's intention to expropriate.

[36] The following day, December 10, 2008, 135 commenced a motion in the Superior Court of Justice seeking an injunction to prevent the City from proceeding with the expropriation. That motion was later adjourned at Mr. Ryan's request.

[37] On December 15, 2008, the City passed a by-law to authorize an application for approval to expropriate the property as the Act requires. Notice of the application for approval was provided to the registered owners on January 23, 2009 and was published in the newspaper during the week of January 26, 2009.

[38] The litigation between the parties continued to unfold during this time. However, because 135 did not request a hearing of necessity under the Act, as it is permitted to do, the City continued with the expropriation process.

[39] Despite its earlier motion for an injunction, 135 served a motion on May 5, 2009 asking the Court to expedite the expropriation process and to require the City to make a minimum offer of \$5 million in compensation.

[40] City Council passed a by-law to expropriate 135's lands on May 25, 2009. The Plan of Expropriation was registered on June 15, 2009, with the City serving its Notice of Possession on June 16, 2009 (indicating a possession date of September 18, 2009). The Court dismissed 135's motion to expedite the expropriation process on June 23, 2009.

[41] The City served 135 with an offer of compensation in the amount of \$500,000 on or about September 11, 2009. This amount was based on an appraisal report prepared by Mr. Bower.

Events Following Expropriation

[42] On September 17, 2009, the day before the City was to take possession of the property, 135 commenced an application in the Superior Court of Justice in Kitchener to extend the possession date indefinitely. The City commenced a counter-application in Stratford on October 22, 2009, requesting the Court to set a firm possession date of no later than December 1, 2009. 135 was unsuccessful in a motion to strike the City's counter-application, and the City was successful in its motion to consolidate 135's possession application with the counter-application and have it transferred to Stratford.

[43] The City and 135 ultimately resolved these applications through Minutes of Settlement on January 10, 2010 (the “Minutes”). The Minutes also included Republic because it held a mortgage against the Expropriated Lands. Pursuant to the Minutes, the City paid \$4.5 million in respect of the expropriation, without prejudice to a final determination of compensation by the Tribunal.

[44] Of the \$4.5 million compensation plus interest required by the Minutes, the City paid \$589,208.84 to 135 and \$4,277,920.84 to Republic.

[45] Republic released its claim for compensation under the Act and was not a party to this proceeding.

[46] The City took possession of the Expropriated Lands on February 9, 2010.

The Claim and its Procedural History

[47] This Claim has nearly a decade-long history, having been filed with the Ontario Municipal Board (“OMB” or “Board”) in 2012. Since that time, the Tribunal has issued 18 decisions on a variety of procedural matters and motions. This Member issued 14 of those decisions since becoming involved in case management of the file in 2015, and later becoming seized following a partial summary judgment disposition in the October 2016 Decision.

[48] The procedural road to this compensation hearing has been unusually long for several reasons.

[49] There were many unique procedural steps and requests made of the Tribunal, beginning with the former Executive Chair ordering a stay in the proceeding so that the parties could attend at the Board of Negotiation. When the parties returned to the Tribunal, there was a series of Case Management Conferences (“CMCs”) and motions before the former Executive Chair, who ordered that 135’s Notice of Arbitration and Statement of Claim be stricken and replaced with an Amended Notice of Arbitration and

Statement of Claim that did not seek compensation for the Disputed Lands.

[50] The former Executive Chair held another teleconference to settle a dispute as to whether the Claimant complied with the Board's earlier order in its over 400-paragraph Notice of Arbitration and Statement of Claim. The Board found that it did and required the City to file its Reply.

[51] This Member began case managing the file in June 2015. At that time, the City brought an unsuccessful motion to stay the proceeding (due to proceedings in the Ontario Superior Court of Justice), and the Claimant also brought a motion to establish the Procedural Order. The City advised of its intent to bring a motion for partial summary judgment, and the Tribunal provided direction in that regard.

[52] The motion for partial summary judgment was heard over two days in December 2015 and January 2016 and resulted in the October 2016 Decision. A key finding in that decision was that the scheme, or purpose, of the expropriation was to establish a Stratford campus for the UW Campus. The Tribunal also found that this scheme could have commenced no earlier than October 16, 2006, the day the City, UW, and the Festival entered into a Memorandum of Understanding with respect to the campus. The precise date of the scheme was left to be determined in this compensation hearing.

[53] The Tribunal dismissed the following allegations and claims as set out at paragraph 60 of the October 2016 Decision:

- a. All allegations and claims for losses arising from alleged damages or interference with the Expropriated Lands that pre-date October 16, 2006, are dismissed.
- b. All allegations and claims that the City breached and / or interfered with the 1996 Agreements are dismissed. All allegations and claims relating to the 'Project' are amended to include only the Expropriated Lands;

- c. All allegations and claims asserted that City and other officials wrongfully interfered with the Claimant's use and development of its lands are dismissed.

[54] The proceeding was then held in abeyance for two years while the Claimant pursued appeals of the October 2016 Decision. The Divisional Court released its decision dismissing the appeal on January 3, 2018. After the Ontario Court of Appeal denied leave to appeal the Divisional Court's decision, the Claim resumed at the Tribunal with a CMC in November 2018.

[55] During that CMC, the Tribunal scheduled dates for the compensation hearing and provided direction on the Procedural Order. The parties later required another CMC for adjudication of various clauses and dates in the Procedural Order, which the Tribunal provided in its Decision issued in April 2019. They also advised the Tribunal that they could not agree on a Discovery Plan, and the Tribunal directed them to file written motion materials on the disputed issues. The Tribunal issued its Decision establishing the Discovery Plan in May 2019 to enable the parties to proceed to discoveries as planned later that month.

[56] Each party filed a motion to compel following discoveries. These motions required the Tribunal's disposition on some 100 refusals, undertakings, and under advisements. Those motions were filed in September 2019, prior Mr. Ryan's death in December 2019. The Tribunal's Decision on the motions was issued in June 2020. In that Decision, the Tribunal put the parties on notice that the Province's Emergency Order and suspension of timelines due to the global pandemic would not apply in this case. The Tribunal scheduled a CMC with the parties in September 2020 to reschedule the hearing and to revise dates as necessary in the Procedural Order.

[57] Three more CMCs were necessary to resolve procedural matters leading to this compensation hearing. The first took place in December 2020 arising from a mutually missed date for exchange of witness statements and expert reports: the City had its reports ready and declined to exchange them when it learned the Claimant's reports

were not ready. The Tribunal directed witness statements and expert reports to be exchanged within two weeks and declined to entertain the possibility of adjourning the scheduled hearing.

[58] The Procedural Order contemplated the next CMC to settle the hearing format and related logistics, given the ongoing uncertainty around the pandemic.

[59] The Tribunal held one final CMC in April 2021, shortly before the compensation hearing, to assist the parties in finalizing a hearing plan. It continued the CMC over a second day in order to provide its disposition on 135's motion to admit and grant leave to read in certain portions of Mr. Ryan's affidavit evidence and certain answers given on examinations for discovery.

[60] Another complication during the life of this Claim was the parties' involvement in litigation before the courts and other tribunals. Of note in this proceeding is the parties' litigation in the Superior Court of Justice regarding the Disputed Lands, which prompted the City to bring a motion to stay this proceeding in 2015. The acrimony between these parties was pronounced at nearly every stage of this proceeding, including within the large volumes of correspondence counsel would copy to the Tribunal prior to every hearing event.

[61] Finally, circumstances beyond the control of the parties have delayed this hearing. Mr. Ryan's sudden passing caused understandable complications for the Claimant. The pandemic then resulted in a cancellation of Tribunal hearings, including this one, which was originally scheduled for June 2020.

[62] Despite the Claim's procedural history, the Tribunal was impressed by the collaborative efforts of all counsel to prepare for an organized, efficient, and successful video hearing. Counsel prepared a detailed Electronic Hearing Protocol that was essential for this five-week hearing involving the remote testimony of 31 witnesses. They also prepared a detailed hearing plan for the five weeks and adhered to the schedule. Their organization of tens of thousands of pages of digital documents—with

the use of well-organized joint document briefs, compendiums, and a reasonable and mutually agreeable protocol for cross-examination documents—was exemplary.

This Compensation Hearing

[63] The Tribunal heard testimony from 31 witnesses and two days of closing submissions in this 26-day video hearing. Of the witnesses, the Tribunal qualified 19 to provide expert opinion evidence. Two groups of experts testified in panels. For ease of reference the witnesses are listed below, in the order in which they testified, with their qualification or testimony as a fact witness noted.

<i>Witnesses called by the Claimant</i>	
Wendy Ryan	Fact witness: Spouse of Mr. Ryan and President of 135.
Patrick Ryan	Fact witness: Son of Mr. and Mrs. Ryan
Robert Ritz	Fact witness: Architect involved in 110's project for the subject property (the Stratford Resort & Spa).
Grant Diemert	Fact witness: Architect who worked with 135 when it owned the property.
Dean Robinson	Fact witness: Journalist and local historian who has written about Stratford's rail history.
Dennis Gauthier	Fact witness: Vice President of Project Development at Rosati Construction Inc.; the Rosati Group was involved in discussions about 135's project and proposed to be its construction manager.
Jeff Wilmer	Fact witness: A retired professional planner who worked with 135 on the project in the early 2000s.
Robert Dragicevic	Qualified by the Tribunal to provide opinion evidence in the area of land use planning.
Richard Rush and Tom Williams (XCG Consulting Limited or "XCG")	Qualified by the Tribunal to provide opinion evidence with respect to environmental engineering and remediation, and testified as a panel.
Gary Eagleson	Fact witness: Formerly with the Business Development Bank of Canada and prepared a feasibility report and business plan for the Stratford Resort & Spa.
James Tate	Qualified by the Tribunal to provide opinion evidence in the areas of market analysis and market opportunity assessment.

Guy Lefebvre	Qualified by the Tribunal to provide opinion evidence in the area of architectural and building surveying.
Jeffrey Price and James Theodorlis (Morrison Hershfield or "MH")	Qualified by the Tribunal to provide opinion evidence in structural engineering matters, including assessing building condition and to the <i>Ontario Building Code</i> , and testified as a panel.
Farooq Arshad	Qualified by the Tribunal to provide opinion evidence in the areas of infrastructure engineering and municipal servicing.
Paul Harris	Fact witness: An engineer formerly with Thomas P. Rylett Limited Consulting Engineers ("Rylett"), who, at Mr. Ryan's request, had prepared two estimates for the cost of replacement of the building.
Jim Ryan	Qualified by the Tribunal to provide opinion evidence as a quantity surveyor with respect to cost consulting.
John Porter	Fact witness: The Tribunal declined to qualify Mr. Porter to provide opinion evidence regarding construction cost estimating, for the reasons following this table.
Beverly Climie	Fact witness: An accountant who has provided services to 135.
Dawson Coneybeare	Qualified by the Tribunal to provide opinion evidence regarding business loss valuation matters.
John Simmons	Qualified by the Tribunal to provide opinion evidence with respect to real estate appraisal and land valuation.
<i>Witnesses called by the City</i>	
David Atlin	Qualified by the Tribunal to provide opinion evidence in the area of real estate valuation and appraisal, with particular expertise in expropriation appraisal matters.
Glenn Tautrimis	Qualified by the Tribunal to provide opinion evidence in the areas of business valuation and accounting.
Michael Pond (Read Jones Christofferson or "RJC")	Qualified by the Tribunal to provide opinion evidence in the area of structural engineering including as it relates to the assessment, rehabilitation and adaptive reuse of existing and historic buildings and the <i>Ontario Building Code</i> .
Gregory Brooks (GHD Limited or "GHD")	Qualified by the Tribunal to provide opinion evidence in the area of environmental engineering, including with respect to remediation of contaminated properties.

Edward Dujlovic	Qualified by the Tribunal to provide opinion evidence in the area of infrastructure engineering, municipal engineering and municipal servicing.
Lee Parsons	Qualified by the Tribunal to provide opinion evidence in two areas: (1) land use planning; and (2) market analysis and market economy.
Qaiser Mian	Qualified by the Tribunal to provide opinion evidence in the area of hotel market and as a financial analyst.
Ronald Shaw	Fact witness: The City's Chief Administrative Officer at the time of expropriation.
Ray Bower	Qualified by the Tribunal to provide opinion evidence in the area of real estate appraisal.

[64] There were several objections throughout the hearing. Many of them related to witnesses who were not on 135's original witness list and therefore were not involved in the exchange of witness statements as required by the Procedural Order. This matter was discussed in the final CMC held five days before this hearing. In that CMC, the Tribunal provided direction on the hearing plan, which included the new witnesses. The Tribunal declined to rule on the merit of including the new witnesses at that late stage, as it appeared they could be scheduled within the allotted hearing time and the City's concerns could be partially resolved by allowing it to file a reply witness statement from Mr. Dujlovic. The parties proceeded to the hearing on this basis, with the City reserving its right to make related objections during the hearing. Those objections and the Tribunal's rulings are summarized in the next sections.

Mr. Porter

[65] Mr. Porter was one of the witnesses who was not included on the Claimant's original witness list and in the December exchange of witness statements and reports. The Claimant filed a witness statement for Mr. Porter as part of its reply filings on March 12, 2021, entitled 'Expected Testimony of John Porter'. It appeared, from this six-paragraph statement, that Mr. Porter would testify as a fact witness. There was no indication otherwise in the statement nor was there a curriculum vitae or Acknowledgement of Expert's Duty form filed for Mr. Porter.

[66] When Mr. Porter was called to testify, Mr. Doherty requested that the Tribunal qualify Mr. Porter to provide opinion evidence regarding construction cost estimating. Mr. Williams objected on the basis that Mr. Porter was put forward as a fact witness and that the City had only received notice of the Claimant's intention to qualify Mr. Porter as an expert a short time before the hearing. Mr. Doherty indicated that Claimant's counsel assumed the City took no issue with the qualification, as they had not indicated an objection leading up to the hearing. He also submitted that this was a similar situation to Mr. Arshad, another of the Claimant's witnesses, who had also filed an expert report only in reply in order to respond to issues raised by the City's witnesses in their reports.

[67] The Tribunal declined to qualify Mr. Porter to provide opinion evidence. Like counsel for the City, the Tribunal had assumed, based on the filings, that Mr. Porter was proposed as a fact witness. The Tribunal found that to qualify Mr. Porter would undermine the purpose of the Procedural Order, as there was no expert report from Mr. Porter and therefore no opportunity for the other experts to review and respond to his report. Qualifying him would also be contrary to the purpose of experts' meetings, which are intended to identify areas of agreement and narrow the scope of issues for the Tribunal's adjudication. Unlike Mr. Arshad, who had filed an expert report in reply, and to which the City was permitted to file a reply from Mr. Dujlovic, Mr. Porter's opinion evidence would be prejudicial to the City. The Tribunal therefore allowed Mr. Porter to testify only as a fact witness.

[68] Based on Mr. Porter's witness statement, which contained proposed figures for construction cost estimates, the City later introduced a pro forma prepared by Mr. Parsons that used Mr. Porter's figures. The Tribunal admitted the pro forma over the objection of Claimant's counsel. The Tribunal did so on the basis that the pro forma was an update to Mr. Parsons' earlier filed witness statement that used information from Mr. Porter that was not available when Mr. Parsons prepared his original and reply witness statements.

Mrs. Climie's Financial Statements

[69] The next significant objection from the City related to the Claimant's compendium for Mrs. Climie's examination-in-chief. As 135's accountant, Mrs. Climie prepared various financial statements for the business, including general ledgers and balance sheets. Some of these were included with her originally filed witness statement in December 2020 and the business valuation experts had the benefit of these when they prepared their Agreed Statement of Facts and their own witness statements. The Claimant's compendium, however, appeared to include revised versions of some of these financial statements, as well as documents the City had not seen, meaning that the City's business valuation expert, Mr. Tautrimis, did not have an opportunity to review and comment on them.

[70] Each party provided detailed submissions on this issue and the Tribunal stood down the hearing to allow time for counsel to: (1) determine the dates of the documents in question; (2) identify whether any of these documents were also included in the Joint Book of Financial Statements filed prior to the hearing; and (3) identify whether any of these documents were referred to by the Claimant's business valuation expert, Mr. Coneybeare. The Tribunal then heard submissions from counsel on these three points, which revealed an unfortunate oversight by counsel for the City at the root of the objection.

[71] The Claimant's counsel wrote to the City's counsel in January of 2021, following the December exchange of witness statements, indicating that it would be serving a supplementary affidavit of documents including documents relied upon in the December expert reports. Claimant's counsel took a similar approach in March 2021, which was after experts' meetings in February 2021. The Tribunal ruled that if an expert relied on any of Mrs. Climie's documents for their report filed in December 2020, such documents should be admitted into evidence. Specifically, the Tribunal found that the documents served pursuant to counsel's January 2021 correspondence should be admitted because they related to the December reports. To the extent that an expert may have relied on these documents, the Tribunal found them relevant to the testing of that

expert's opinion evidence before the Tribunal.

[72] Throughout the hearing and its rulings on similar objections, the Tribunal acknowledged that there is a natural evolution and, ideally, a narrowing of issues before the Tribunal as the evidence unfolds, including an expert's response to testimony of another expert and the compilation or tabulation of previously tendered evidence for ease of reference. This acknowledgement formed the basis of the next two categories of the Tribunal's rulings.

Summaries and Calculations

[73] During its cross-examination of Mr. Simmons, the Claimant's appraiser, the City introduced a table prepared by its environmental engineer, Mr. Brooks. This table summarized the several environmental reports regarding contamination and proposed remediation of the Expropriated Lands. The document showed, in table form, the author of each environmental report, the estimated cost of remediation, a descriptive summary of each report, and whether the report was based on the building remaining or being removed. Counsel for the Claimant objected to the document on the basis that it was a new document that went beyond a mere tabling of already available information, and that it appeared to include commentary from Mr. Brooks, who had not yet testified in the hearing.

[74] The City confirmed that the table contained some of Mr. Brooks' commentary in the fourth column. On that basis, the Tribunal ruled that the table could be admitted as a reference aid with the column containing Mr. Brooks' commentary redacted. The full document with commentary could be introduced during Mr. Brooks' testimony, subject to objection from the Claimant. It was later introduced through Mr. Brooks without objection, and the redacted version was used during Mr. Simmons' cross-examination.

[75] Counsel for the Claimant also objected to two sets of calculations performed by the City's witnesses. The first was admitted by the Tribunal as described in the previous section—Mr. Parsons' updated pro forma using Mr. Porter's construction cost estimate

figures. The second was a set of calculations Mr. Atlin performed based on Mr. Porter's numbers as well as numbers that were included in Mr. Simmons' reply witness statement. These were included in the City's compendium for Mr. Atlin's examination-in-chief. Mr. Aburto objected on the basis that Mr. Simmons had already testified and that these calculations had not been put to him. The Tribunal ruled that the calculations based on Mr. Porter's figures, which were not previously available to Mr. Atlin, could be admitted. However, the Tribunal agreed with Mr. Aburto with respect to the calculations that had not been put to Mr. Simmons and directed the City to remove those calculations from the document.

Plans, Drawings, and Reply

[76] During the course of the hearing, Mr. Parsons prepared two drawings based on a development scenario Mr. Simmons relied on in his appraisal. The first was a conceptual graphic to demonstrate where density could be deployed on the site. The second was an overlay to show the boundary of the Expropriated Lands as compared to the concept plan prepared by Grant Diemert, which related to one of Mr. Simmons' development scenarios. The Tribunal admitted these drawings as graphic depictions of information provided in the previously filed witness statements, and on the basis that there was an opportunity for the Claimant to reply, if necessary.

[77] Mr. Aburto requested Mr. Parsons' notes during examination-in-chief, based on the Electronic Hearing Protocol that is incorporated into the Procedural Order. Paragraph 1.6 prohibits expert witnesses from including new evidence in their outline and indicates that the outline may be required to be produced to the parties and Tribunal upon request. The Tribunal did not require Mr. Parsons to produce his notes, given that Mr. Parsons was referring to information provided during the course of the hearing. Like all witnesses in this proceeding, Mr. Parsons was asked questions about the testimony of other witnesses and responded to same. The Tribunal found that this is not the type of situation anticipated in the Electronic Hearing Protocol that would justify the production of expert notes.

[78] A group of the Claimant's witnesses collaborated to prepare a new plan in response to Mr. Parsons' drawings, which was the focus of the Claimant's reply case. Counsel for the City expressed great concern about the new Diemert plan being admitted into evidence when it was put to Mr. Parsons in his cross-examination. The Tribunal admitted that plan over the City's objections to recognize the evolving nature of issues over the course of a hearing and to allow a response to the new drawings prepared by Mr. Parsons.

[79] Four witnesses were called in the Claimant's reply case: Messrs. Diemert, Dragicevic, Williams, and Simmons. The City's concerns about the new plan prepared by Mr. Diemert grew during the reply case. Ultimately, the Tribunal ruled that the reply witnesses—who appeared to have input into and knowledge of the Diemert plan—would testify as a panel, such that they would each complete their evidence-in-chief, and the City would cross-examine each reply witness individually with the others excluded. Neither party objected to this approach.

ISSUES AND ANALYSIS

[80] The compensation 135 claims for the City's expropriation relates to the market value of the Expropriated Lands and to disturbance damages. These categories of compensation are established in s. 13 of the Act:

Compensation

13 (1) Where land is expropriated, the expropriating authority shall pay the owner such compensation as is determined in accordance with this Act.

Idem

(2) Where the land of an owner is expropriated, the compensation payable to the owner shall be based upon,

- (a) the market value of the land;
- (b) the damages attributable to disturbance;
- (c) damages for injurious affection; and
- (d) any special difficulties in relocation,

but, where the market value is based upon a use of the land other than the existing use, no compensation shall be paid under clause (b) for damages attributable to disturbance that would have been incurred by the owner in using the land for such other use.

Subsections 13(2)(a) and (b) are applicable in this case. There is no claim for injurious affection nor relocation.

[81] As will be described in more detail in the Tribunal's analysis, compensation for market value requires the Tribunal to determine the amount the land might be sold for in a transaction between a willing seller and a willing buyer, in accordance with s. 14 of the Act. This entails a determination of the highest and best use of an expropriated property, which is the use that is legally permissible, physically possible, financially feasible, and maximally productive.

[82] Disturbance damages are compensation for costs that are the natural and reasonable consequences of the expropriation. In this case, the Claimant is requesting three categories of those damages. The first is for business losses, based on 135's lost profits from rents it might have collected had it not been for the expropriation. This category of losses requires the Tribunal to determine the start date for the scheme of the expropriation, the UW Campus, in order to establish the date from which business losses are compensable. The second category of disturbance damages 135 claims is for costs it spent on its development that became wasted because of the expropriation. The third category is a claim for executive time for Mr. and Mrs. Ryan, as 135 claims that they diverted time from the business because of the expropriation.

[83] Therefore, the issues the Tribunal must determine to arrive at compensation in this case are as follows:

1. **What was the market value of the Expropriated Lands as of the date of expropriation, June 15, 2009?**
 - a. ***What is the highest and best use of the subject property, based on uses that are***

- i. Legally permissible;*
- ii. Physically possible;*
- iii. Financially feasible; and*
- iv. Maximally productive?*

b. What is the appropriate market value based on the highest and best use?

2. What damages, if any, are compensable for disturbance?

- a. What is the start date of the scheme of the expropriation and what is the amount of business losses suffered by the 135 due to the expropriation?***
- b. What is the amount of costs thrown away on 135's project due to the expropriation?***
- c. What is the amount compensable to Mr. and Mrs. Ryan for executive time?***

3. If interest is owed, should the Tribunal exercise its discretion to vary the statutory interest rate?

[84] The Tribunal will first address the issues and sub-issues related to market value.

1. Market Value

[85] Market value is defined in s. 14 of the Act as the price a property might realize in a market transaction between a willing seller and a willing buyer:

Market value

14 (1) The market value of land expropriated is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

There is an important qualification in s. 14(4)(b), which provides that the scheme, or purpose of the expropriation, should be disregarded when determining market value:

Idem

(4) In determining the market value of land, no account shall be taken of,

- (a) the special use to which the expropriating authority will put the land;
- (b) **any increase or decrease in the value of the land resulting from the development or the imminence of the development in respect of which the expropriation is made or from any expropriation or imminent prospect of expropriation; or**
- (c) any increase in the value of the land resulting from the land being put to a use that could be restrained by any court or is contrary to law or is detrimental to the health of the occupants of the land or to the public health. [Emphasis added].

This means that the Tribunal must disregard any increase or decrease in value of the Expropriated Lands due to the development of the UW campus.

[86] Appraisers rely on definitions of market value that elaborate on s. 14 of the Act, including from the Canadian Uniform Standards of Professional Appraisal Practice (“CUSPAP”) and International Valuation Standards. CUSPAP refers to a prudent and knowledgeable buyer and seller:

The most probable price which a property should bring in a competitive and open market as of the specified date under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

The International Valuation Standards’ definition is similar and refers to an arms-length transaction:

Market value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing

wherein the parties had each acted knowledgeably, prudently and without compulsion.

[87] In determining market value, the Tribunal has the benefit of the opinion evidence of two appraisers: Mr. Simmons for the Claimant, and Mr. Bower for the City. Mr. Bower prepared an appraisal report in 2009 to produce his opinion of value as of the date of expropriation. While Mr. Simmons was retained by 135 in 2009, his involvement at that time was limited to a technical review of Mr. Bower's report. His appraisal report with his opinion of value was prepared in 2020. In addition to Mr. Bower and Mr. Simmons, the Tribunal heard from Mr. Atlin, who was called by the City to comment on Mr. Simmons' appraisal report. Mr. Atlin's report provided his commentary on Mr. Simmons' report and did not include an opinion of value.

[88] There is more than a 22 million dollar difference in opinion in this case on the market value of the Expropriated Lands. Mr. Simmons, the Claimant's appraiser, believes that the property is valued at \$22,700,000. Mr. Bower, the City's appraiser, arrived at a market value of \$4,300,000, assuming that there were no environmental issues associated with the property and that it was available for immediate development in 2009. Once he accounted for the costs of environmental remediation on the property, he arrived at a negative market value. He then developed a speculative value for the property based on its prior transactions, leading to his final opinion value of \$290,000.

[89] Despite the chasm between the appraisers, Messrs. Simmons and Bower share some important areas of agreement. They generally agreed on the principles of appraisal to be followed in arriving at an opinion of value, including definitions for market value and the highest and best use of a property. They also both used a direct comparison approach to analyze sales of comparable properties and arrive at a value for the Expropriated Lands, even using several of the same comparables.

[90] They agreed that the property is contaminated and that remediation costs should be deducted in arriving at an opinion of value. At a high level, they even agreed that the highest and best use of the Expropriated Lands is for some form of mixed-use commercial and residential development, and that a typical purchaser would therefore

likely be a developer.

[91] The principal point of disagreement between Messrs. Simmons and Bower is the value of the building. Mr. Simmons attributes significant value to the structure which leads him to a highest and best use of the property that includes the building (“as improved”). Mr. Bower reached the opposite conclusion and valued the property without the building (“as vacant”). This disagreement—about whether the building has any value—is a significant fork in the road, with each appraiser choosing a different route and employing a unique approach to arriving at his opinion of value.

[92] The Tribunal therefore finds it most useful to begin its analysis with the broader concepts of market value and highest and best use upon which these appraisers agreed, which then leads to a discussion of each appraiser’s approach.

a. *Highest and Best Use*

[93] The highest and best use is based on the idea that the price paid for a property reflects its most profitable use. All three appraisers referred the Tribunal to similar definitions, all of which include four criteria to be considered in determining the highest and best use. These are concisely set out in a definition from the Appraisal Institute:

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the Highest and Best Use must meet are legal permissibility, physical possibility, financial feasibility and maximum profitability.

The appraisers agreed that a highest and best use analysis must consider what is legally permissible, physically possible, and financially feasible on a property. Once those uses are identified, the appraisers agreed that the fourth criterion, the use that is maximally productive—the most profitable one—can be identified. As Mr. Atlin described it, the highest and best use analysis is like a three-legged stool: if one of the legs of legally permissible, physically possible, or financially feasible is kicked out, the stool will fail and the most profitable use cannot be identified.

[94] The appraisers also agreed that an analysis of highest and best use must consider the property as vacant (without the building) and also as improved (with the building). Both Messrs. Simmons and Bower followed this approach to consider highest and best use as vacant and as improved. They arrived at opposite conclusions. Mr. Simmons concluded that the highest and best use is as improved, that is, it includes the building, while Mr. Bower sees no value in the building and believes the highest and best use is as vacant.

[95] Although Messrs. Simmons and Bower agreed that the highest and best use of the Expropriated Lands is for a mixed-use development involving commercial and residential components, they part ways significantly on the details of such a development and the inclusion of the building. Mr. Bower opted for a general description of a mixed-use development. In contrast, Mr. Simmons put forward three possible development scenarios.

[96] All three scenarios are similar to 135's project and contemplate development of approximately 1.5 million square feet over phases. Each scenario includes the reuse of the building and a mix of uses similar to what Mr. Ryan envisioned. The Claimant submitted that it was only Mr. Simmons' second scenario that was based on 135's project. This second scenario is the one Mr. Simmons prefers, as, in his view, it makes the most sense. Having reviewed Mr. Simmons' reports and testimony in detail, the Tribunal finds this to be a distinction without a difference. The slight differences among the three scenarios become apparent only when Mr. Simmons assesses their market value. Mr. Simmons does indeed indicate that only his second scenario is based on 135's project. However, it is clear in his reports and testimony that he is referring to 135's project throughout his highest and best use analysis. Therefore, any references to 135's project and Mr. Simmons' development scenarios in the Tribunal's analysis should be taken as one and the same.

[97] Mr. Atlin's comparison of the highest and best use analysis to a three-legged stool was referenced frequently during the hearing as a useful analogy. In the context of

this case, the Tribunal views each leg of the stool as a composite of evidence from multiple witnesses in a variety of disciplines in support of the appraisal evidence. The legally permissible leg consists of the opinion evidence of the two land use planning witnesses. The physically possible leg is wider-ranging, involving evidence regarding site access and servicing, structural engineering, and environmental remediation. The financial feasibility leg includes evidence on the economic conditions at the time of expropriation, and the market for the highest and best use proposed by each appraiser, including the hotel market.

[98] There are many areas in which the appraisers disagreed in this case, but the critical one in is the value they place on the opinions of other experts in their respective highest and best use analysis. Mr. Bower relied on the expert reports that were available at the time of expropriation, when he completed his report, and accepted those opinions because they were beyond his area of expertise. By contrast, Mr. Simmons was critical of Mr. Bower's acceptance of expert opinions. It became apparent during Mr. Simmons' testimony that he relied on no experts and merely referred to their reports as supportive of his own conclusions.

[99] The difference in approach between Mr. Simmons and Mr. Bower is apparent at every stage of the highest and best use analysis, beginning with what is legally permissible on the property.

i. Legally Permissible

[100] To understand what is legally permissible on a property, it is necessary to consider the land use planning policies and controls in place at the date of expropriation. The City of Stratford's Official Plan and Zoning By-law in force at the time of the 2009 expropriation governed what could legally be developed on this property.

[101] There was generally agreement among the experts in this hearing that this 11.42 acre property in downtown Stratford enjoys broad planning permissions and is ripe for redevelopment. The two land use planning witnesses—Mr. Dragicevic for the Claimant

and Mr. Parsons for the City—agreed that Stratford is blessed with a vibrant and thriving downtown, with a variety of shops, restaurants, and small businesses, and successful conservation of its low-scale historic buildings. This compact, walkable, and bustling downtown is a model of a healthy core area in southwestern Ontario.

[102] This rare downtown site is essentially a blank canvas. Mr. Dragicevic envisioned two general scenarios for the site's redevelopment. The first aligns with 135's project involving adaptive reuse of the building and a new hotel building. The second contemplates demolishing the building and including a mix of uses on the site to achieve its maximum density potential. He repeatedly emphasized that these are general development concepts and that he has not analyzed nor prepared a specific development plan. Mr. Parsons agreed that the site offers many opportunities, though he disagreed as to whether developing the site to its maximum density potential would represent good land use planning. He also believed, from a market perspective, that such development is not feasible, as will be discussed in the financial feasibility section of this Decision.

[103] Messrs. Dragicevic and Parsons agreed that while the site presents a broad range of possibilities there are three important caveats to its redevelopment. First, any development would need to take into account the existing rail line; the planning experts agreed that specific noise and attenuation measures would depend on the development plan and that these would be implemented through the site plan approval process. Second, there may be a need for an amendment to the Zoning By-law or a minor variance application for relief from the By-law's height and parking requirements, again dependent on a specific development plan. Third, any development plan would need to either comply with the restrictive covenant registered against the property, or receive waiver or amendment from its requirements. There was little dispute about the application of the covenant among the experts, and so the Tribunal will discuss it first before moving to the more contentious matters of the rail line and Zoning By-law.

The Restrictive Covenant

[104] When the City transferred the property to 110 in 1996, it put a restrictive covenant in place to limit the type and square footage of retail and other development that could be undertaken. It reads as follows:

That the lands hereby transferred shall be used by the transferee, and its successors and assigns in title to the lands, only for hotel, spa, theatre, conference centre, restaurant, lounge, office, shop and retail purposes, such shop and retail purposes not to exceed 35,000 square feet in aggregate, and with no single shop or retail use being greater than 5,000 square feet.

[105] Mr. Dragicevic and Mr. Parsons agreed that the covenant was intended to protect existing businesses in the downtown core while encouraging redevelopment of this site. They agreed that the covenant's restriction on retail space reflected the City's interest in maintaining a healthy economy by restricting new retail that could negatively affect the existing downtown retail function. In other words, the covenant was the City's attempt to achieve economic balance in its downtown.

[106] They and the appraisers also agreed that the City would likely amend or waive this covenant if presented with an appropriate redevelopment proposal. They further agreed that the amendment or waiver of the covenant is entirely at the City's discretion and would require a resolution of its Council.

[107] The covenant therefore did not impact the opinion of value of either appraiser. It becomes relevant only in the broader discussion of what could occur on this property from a land use planning perspective.

The Rail Line

[108] Messrs. Dragicevic and Parsons arrived at a significant point of agreement regarding the rail line in their Statement of Agreed Facts. They agreed that development located along the rail line would be required to account for its presence. Notably, they agreed that public safety requires consideration of a setback from the rail line for any

sensitive uses. They also agreed that the area adjacent to the rail line—an area currently occupied in part by the main building—could be used for a range of uses, including structured parking.

[109] Section 8.2 of the City's Official Plan was applicable at the time of expropriation. After describing the three rail lines that pass through the City, including the GEXR line adjacent to the Expropriated Lands that is not classified, the section provides context for the policies that follow. It discusses the Rail Noise, Vibration and Safety Impact Policy that was jointly formulated by CN Rail and Canadian Pacific Railways, noting that

[i]ncreasingly, CN insists municipalities incorporate its measures into their official plans...to ensure that residential development and places of public assembly are adequately protected from the potential impacts associated with the development of lands lying in close proximity to railway corridors.

The introduction goes on to reference setbacks, berming, fencing, building design and construction standards as potential measures to mitigate rail impacts.

[110] There are then two goals and objectives for lands adjacent to railways. Both seek to address railway impacts on nearby residents and places of public assembly:

- i) To mitigate the impact of railway noise and vibration on nearby residents and places of public assembly.
- ii) To minimize the possible impact from train operations which may affect nearby occupied dwellings or other places of public assembly.

[111] There are five sections of policy that flow from these goals and objectives. The first, policy 8.2.1, requires attenuation measures to buffer new residential development and places of public assembly from railway uses in noise sensitive and vibration sensitive areas. The next two policy sections, 8.2.2 and 8.2.3, identify the noise and vibration sensitivity areas, respectively.

[112] Both noise and vibration sensitivity areas are shown on Schedule "D" to the OP and both are clearly depicted to apply to the Expropriated Lands. Policy 8.2.2 refers to noise sensitivity areas as lying within 300 metres ("m") of the CN railway as shown on

Schedule “D”. There are references to the “CN railway” in the rest of the section 8.2 policies. While the Tribunal notes that the GEXR rail line adjacent to the Expropriated Lands was sold by CN in 1992, a contextual reading of section 8.2 of the OP, along with the depiction on Schedule “D”, makes clear that these policies also apply to the GEXR. This interpretation is consistent with the evidence of both land use planning witnesses during the hearing.

[113] The whole of the Expropriated Lands is within the noise sensitivity area, which has two implications for potential development. First, the City would consult with the Ministry of the Environment and Energy and the owner / operator of the railway, and would then determine whether the proponent should undertake a noise evaluation study, including recommendations for any necessary noise reduction measures (policy 8.2.2(a)). Second, a proponent would have to submit a detailed acoustical design study as a condition to the approval of residential development or a place of public assembly where the noise evaluation demonstrated such a need, and that design study must be included in an applicable subdivision condominium agreement (policy 8.2.2(b)).

[114] Part of the Expropriated Lands is also within a vibration sensitivity area as it is within 75 m of the railway. In accordance with policy 8.2.3, the City has discretion to require the proponent to provide an engineering study regarding ground-borne vibration levels, including identifying vibration impacts and mitigation measures “to be applied in consultation with and to the satisfaction of the owner / operator of the railway” (policy 8.2.3(a)). Any necessary attenuation measures are required to be provided for in draft plan of subdivision or condominium approval (and any related agreement) or other development agreement (policy 8.2.3(b)).

[115] Policy 8.2.4 lists additional mitigation and safety measures that may be required for proposed residential development or places of public assembly within 300 m of the railway. These include, as examples listed in the policy, increased setbacks, berms, and security fencing. There is also potential for a warning clause to be registered on title to the property, in accordance with policy 8.2.5 to alert future owners that rail operations

“may adversely affect the living environment and enjoyment of the residents.”

[116] Neither planner provided a detailed analysis of the implications of the rail line on the deployment of a development on the site for one important reason: there was no detailed development plan for them to analyze. This was not part of their scope in determining generally what could be done on the site, given provincial policy, the Official Plan, and Zoning By-law provisions in place at the time of the expropriation. Their planning opinion evidence was proffered in support of the highest and best use analysis and appropriately focused on general development concepts that could work on the site.

[117] Mr. Parsons, however, did conduct a site analysis to arrive at an estimated building envelope for the property. He has significant experience working with rail operators and their proximity guidelines. Based on the guidelines, it is his opinion that a minimum building setback of 30 m and a berm height of 2.5 m would be required for the development of the Expropriated Lands. This would impact approximately 3.2 acres of the 11.42 acre property, resulting in a building envelope of 6.77 acres. Mr. Parsons illustrates this in Figure 9 of his report, noting two irregularly shaped areas of the property that, in his opinion, have insufficient site geometry and should not be included in the envelope. The figure also illustrates other setbacks as required in the Zoning By-law that are within the 30 m setback. While the resulting building envelope is 6.77 acres, Mr. Parsons explained that the developable area is actually larger because surface parking could be located behind the safety berm.

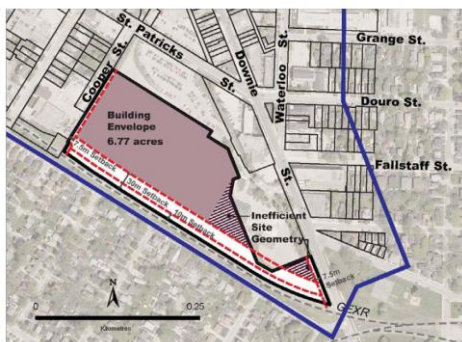


Figure 5: Mr. Parsons' proposed building envelope (Exhibit 7C at p. 176)

[118] Despite the agreement of the planning witnesses that the rail line would need to be addressed in a development proposal, there was a bewildering argument that arose late in the hearing, during Mr. Aburto's cross-examination of Mr. Parsons. The proposition appeared to be that since the GEXR line is not classified in the Official Plan, it would not be considered a secondary line (as Mr. Parsons indicated in his report) and therefore the noise and attenuation measures would not apply.

[119] Claimant's counsel advanced a related theory that, because the rail attenuation measures are contained in the OP, they would not be triggered through a site plan application. The Tribunal finds these arguments to be overly technical and without merit because they run contrary to the agreed upon evidence of the planning witnesses. Both planning witnesses spoke about the safety concerns of an adjacent railway that became even more pronounced after a fatal crash in Mississauga. They agreed that the rail line would need to be considered in a development proposal and that this would happen at the site plan stage.

[120] The Tribunal also notes that if a development proposal required a Zoning By-law amendment—be it for height or parking—that amendment would be required to conform with the OP by virtue of s. 24 of the *Planning Act*. Even if relief from height or parking standards could be achieved through a minor variance application, variances are required to maintain the general intent and purpose of the OP in accordance with s. 45(1) of the *Planning Act*. Given this Tribunal's frequent adjudication and expertise in land use planning matters, it cannot imagine a scenario in which ignoring an adjacent and active rail line in a development proposal could be considered good land use planning in the public interest.

[121] The Tribunal accepts, based on the evidence of both Mr. Dragicevic and Mr. Parsons, and its reading of the applicable OP policies, that the rail line would need to be taken into account in any redevelopment of this site. Turning now to the appraisal evidence on this aspect of the legally permissible part of the highest and best use test, there is another critical difference of opinion.

[122] Mr. Bower acknowledges that the rail line would need to be considered in a development proposal with attenuation and mitigation measures put into place. He noted that while there would be implications for setback areas, that there are a variety of possibilities to appropriately distance any development on the site from the rail line and to potentially use setback areas for parking, access, or open space. This is in line with what the Tribunal heard from the two planning witnesses. Mr. Bower accordingly assumed that the proximity to the rail line would not have any negative effect on the value of the Expropriated Lands.

[123] In contrast, Mr. Simmons makes two very different assumptions about the rail line that, in significant part, lead to his decision to rely on an “as improved” highest and best use that retains the building. First, he assumes that the presence of the rail line essentially sterilizes the site from any meaningful amount of new development. Second, he then assumes that if the building remains, the rail line would not need to be addressed because the existing building is immune from the OP noise and attenuation policies put in place long after its construction. He supports his opinion not by reference to the land use planning experts, but by his own assessment, including a telephone call he made to GEXR in which he learned that the line traffic consists of one train a day travelling at a speed of no more than 40 kilometres per hour.

[124] Based on the consistent land use planning opinion evidence regarding the rail line, the Tribunal finds that Mr. Simmons’ assumptions about the rail line are deeply flawed. During cross-examination, Mr. Dragicevic was questioned about this very issue, that is, whether the rail line would need to be considered if the building remained and was adaptively reused. He agreed that several of the uses proposed in 135’s project, and therefore Mr. Simmons’ development scenarios, are places of public assembly that would trigger the implementation of the OP rail policies. The dance barn, movie theatre, water park, and indoor shopping area would all require some measures to address noise and safety, as would any residential or hotel component.

The Zoning By-law

[125] The Zoning By-law permits a variety of uses on the subject property in its Central Commercial (C3-2) designation. These include retail, restaurants, services, offices, hotel, theatre, recreation, entertainment, apartment, institutional and warehouse uses. Though an exception to the Zoning By-law also permits industrial uses on the property, the planning witnesses and appraisers agreed that this downtown location is not suited to modern industrial use, which requires convenient highway access. Nor does industry fit within the City's Official Plan vision for its downtown core.

[126] In addition to its broad array of permitted uses, the Zoning By-law does not place any limit on the density of development on the site. As both planners pointed out, the form and scale of development is informed by the Zoning By-law's performance standards. Generally speaking, a zoning by-law requires minimum setback areas from adjacent properties, a minimum amount of parking spaces depending on the use of the property, and a maximum height. The By-law's requirements regarding height and parking were relevant and disputed in this case—though not by the land use planning witnesses.

[127] The dispute related to whether Mr. Simmons' second and preferred development scenario could provide the By-law's minimum required parking spaces and whether it would require an amendment to the By-law for height. Once again, the Tribunal must point out that the land use planners discussed general development concepts that did not get into the details of height and parking. It was not until the Claimant's reply case that the Tribunal was presented with a concept drawing to demonstrate how Mr. Simmons' chosen development scenario could be achieved on the site.

[128] The Tribunal agrees with Messrs. Dragicevic and Parsons that there a variety of ways in which development could be deployed on the site. Some may require relief from the Zoning By-law and others might not. Mr. Simmons' second development scenario, which is 135's project, most certainly would.

[129] The scenario contemplates 1.5 million square feet of development on the site. The existing main building accounts for approximately 190,000 square feet of that figure. In the plan Mr. Diemert prepared late in the hearing, in consultation with Messrs. Dragicevic and Williams, a 17-storey hotel condominium building is contemplated, as well as two 5-storey parking buildings, a 5-storey residential building, and a 5-storey commercial building. The plan shows that 1001 parking spaces are required by the Zoning By-law and 1009 are provided, though some calculation errors were brought out in Mr. Dragicevic's cross-examination during reply.

[130] The Tribunal accords little weight to this plan that appeared to be hastily prepared in response to Mr. Parsons' evidence. It is, just like all of Mr. Simmons' development scenarios, a concept or idea for the site. The Tribunal accepts that the amount of development Mr. Simmons contemplates can be achieved on the site. That does not mean that it should be done, or that a knowledgeable, prudent and willing buyer would wish it to be done. It may be possible. However, considering the history of the site, the restrictive covenant, and the applicable statutory and policy land use planning framework, the Tribunal does not find such a development to be probable (See *Re Farlinger Developments Ltd. v. Borough of East York*, 1975 CarswellOnt 455, 61 D.L.R. (3d) 193).

[131] There is an open question as to whether a zoning by-law amendment would be required for 135's project and Mr. Simmons' preferred scenario, which involves a 16- or 17-storey hotel and condominium tower. Mr. Parsons' opinion is that a zoning by-law amendment would certainly be required for the height, as the maximum permitted height is 15 m or four storeys. Mr. Dragicevic was careful not to express an opinion on this issue, only going so far as to say that it is a matter of legal interpretation as to whether a zoning by-law amendment would be required. He indicated that one may be required depending on the chosen legal interpretation, or that it may be possible to obtain relief through a minor variance.

[132] Despite not having an interpretation from its land use planning witness, the

Claimant advanced the theory that the site enjoys an exception to the 15 m height limit. The exception would allow a tower of any height to be constructed, so long as it no more than five per cent of the lot area or, if it is attached to the roof of a building, it is no more than 10 per cent of that roof area. The Claimant bases this interpretation on the site-specific exception set out in s. 14.4.2(d) of the Zoning By-law:

Height Exceptions

Nothing in this By-law shall apply to restrict the height of the following structures:

- i. an antenna
- ii. a barn
- iii. a belfry
- iv. a chimney
- v. a church spire
- vi. a clock tower
- vii. an elevator or stairway penthouse
- viii. a flag pole
- ix. a hydro-electric transmission tower
- x. an ornamental structure
- xi. a radio antenna
- xii. a silo
- xiii. a steeple
- xiv. a structure containing heating, cooling, or other mechanized equipment pertaining to a building
- xv. a tower
- xvi. a water tower, or
- xvii. a windmill

provided that no such structure, other than a public use, occupies in excess of five (5) per cent of the lot area of the lot where such structure is located or, where such structure is located on the roof of a building, ten (10) per cent of the area of such roof.

[133] This site-specific exception for “towers” was the result of a settlement between the City and the Claimant in a 2002 OMB appeal concerning the City’s new comprehensive Zoning By-law. Prior to that new by-law, the City’s 1979 Zoning By-law listed “a tower” as a structure that would be exempted from height restrictions. The new comprehensive Zoning By-law changed the word “tower” to “tele-communications tower”. 135 appealed the City’s passing of the new Zoning By-law, leading to the 2002 OMB hearing.

[134] In the 2002 OMB hearing, the City and 135 agreed to a site-specific exemption. The effect was that, for 135's property, the list of structures exempt from the by-law's height restrictions would include "a tower" instead of "tele-communications tower". It is clear from the record and testimony during this hearing that 135 took the position that this meant a hotel and condominium tower could be constructed of unlimited height, provided it met the five and ten percent coverage requirements. Neither the planning evidence before the Tribunal nor the Tribunal's own reading of the Zoning By-law support such an interpretation.

[135] As Mr. Parsons explains, the Zoning By-law defines a 'building' as a structure with walls and a roof that is used for people, animals, or items:

2.17 BUILDING means any structure, or part thereof, consisting of walls and a roof which is used or intended to be used for the shelter, accommodation or enclosure of persons, animals or chattels, and includes any structure defined as a building in the Building Code Act, or in the Corporation's Building By-law, but does not include any vehicle as defined herein other than a vehicle which has been permanently placed on land and is not intended for use as a vehicle.

The Zoning By-law, in Mr. Parsons' opinion, clearly distinguishes between a building and a structure, with a structure being more generally defined in s. 2.160:

2.160 STRUCTURE means anything constructed or erected, in whole or in part, which is located on, or in, the ground, or attached to something located on, or in, the ground, and includes anything pre-made or prefabricated, but does not include a fence, sign, railway line, or any hard surface located directly on the ground.

He notes that while there are certain structures identified in the s. 14.4.2(d) site-specific exemptions, it is not apparent that these would be classified as buildings as defined elsewhere in the Zoning By-law.

[136] There are additional provisions that support Mr. Parsons' interpretation. Section 14.2 sets out the required performance standards for the zone and refers to a "Maximum Building Height" of 15 m. The definition section of lists 'Building Height' and refers the reader to 'Height' for that definition. That definition then refers to buildings and

structures as separate items, noting that there can be exceptions for height in the Zoning By-law:

2.71 HEIGHT, when used in reference to a building or structure or any part thereof specifically referred to herein, means the vertical dimension between the average grade at the base of such building or structure and the highest point of such building or structure or part thereof, exclusive of any height exceptions as referred to herein.

[137] The Tribunal agrees with Mr. Parsons that the Zoning By-law's different treatment of 'building' and 'structure' is significant. When reading these provisions together, the Tribunal finds that the height exceptions apply to a specific list of structures that are not buildings with four walls and a roof intended to accommodate people, animals, or things. The maximum building height is 15 m with exceptions for a list of structures that may be attached to a building or affixed to the property itself.

[138] These site-specific exceptions include the list used in the City's 1979 Zoning By-law. It is inconceivable to the Tribunal that the City of Stratford, with a population of approximately 32,000 in 2009, would have been contemplating and intending buildings of unlimited height in its 1979 Zoning By-law. The Tribunal notes that while the Board approved the site-specific exemption put to it on consent of the parties in the 2002 hearing, there was no adjudication or consideration of this interpretation issue in the Decision. Having reviewed the Zoning By-law applicable at the time of expropriation and Mr. Parsons' evidence, the Tribunal concludes that any redevelopment of the site with a building height exceeding 15 m would not comply with the Zoning By-law.

[139] The question then becomes whether a proposed height greater than 15 m could be handled by way of a minor variance application or a zoning by-law amendment. The planning witnesses agreed, and the Tribunal concurs, that either is possible and depends on the specific proposal. In this case, the proposal at issue is Mr. Simmons' preferred development scenario, based on 135's project, which seems to include a height of 16 or 17 storeys. This is 12 or 13 storeys higher than what the Zoning By-law allows.

[140] The City Planning Department had advised Mr. Ryan on at least one occasion that a zoning by-law amendment would be required. The Tribunal, again based on its experience in adjudication of minor variance and zoning by-law amendment appeals, has difficulty imagining a three-fold height increase being considered a minor variance to the Zoning By-law.

[141] It is not unusual for the Tribunal to be required to undertake a hypothetical land use planning exercise in a highest and best use analysis. In this case, the land use planning evidence only generally and briefly addressed the question of whether such a zoning by-law amendment would be approved. Mr. Dragicevic indicated that he could envision either of his options for redevelopment (one that included reuse of the building and one that did not) as being deployed in a way that constituted good land use planning. Admittedly, he was not assessing scenarios with specific heights attached to them. Even when called in reply to comment on the new concept plan Mr. Diemert prepared, Mr. Dragicevic expressed no opinion as to whether the concept represented good land use planning. He emphasized that the plan is a concept, one that, in his view, demonstrates one of many possibilities that could work on a site with such broad planning permissions.

[142] Mr. Parsons, when presented with the Claimant's concept plan during his cross-examination, had very little time to review it. His reaction, however, was the same as he articulated in his 2009 report when he considered 135's project. He considered it to be overdevelopment of the site that in no way represented good land use planning. From a compatibility perspective, Mr. Parsons explained that this is a downtown characterized by two- to three-storey buildings abutting the street with small shops, restaurants, and services. Any development of this site would need to consider this downtown fabric in its siting and building design elements.

[143] The Tribunal appreciates that 135's project, be it through the pre-expropriation iterations of the concept or the revised concept presented late in this hearing, is still at the concept stage. It is not at the stage of detailed design that would consider fit and

transition with its low-scale downtown surroundings, as well as the single detached residences to the south. The Tribunal also understands that architectural elements of a tall building, including deployment of its podium, tower, massing, setbacks and stepbacks, can go a long way to provide an acceptable transition to adjacent buildings to mitigate adverse impacts. Bearing that in mind, to envision approval of a 16- or 17-storey building in low-scale downtown Stratford requires an extraordinary stretch of the land use planning imagination.

[144] It is safe to assume, based on the City Planning Department's advice to Mr. Ryan as reflected in the record and discussed during the hearing, that the City would have refused an application to amend the Zoning By-law for a height of 16- or 17-storeys. That refusal would likely have been appealed to the Tribunal (or, more accurately at the time of expropriation, its predecessor, the Ontario Municipal Board). For all of the reasons discussed above, the Tribunal finds that such an appeal would have been unlikely to succeed.

[145] Messrs. Simmons and Bower agreed that a zoning by-law amendment may be required for a height exceeding four storeys, though Mr. Simmons spends some time in his report discussing the 2002 OMB hearing and the Claimant's theory that tower height is not limited by the Zoning By-law.

[146] The Tribunal finds that the appraisers' high level agreement of a highest and best use of a mixed commercial and residential development is supported by the land use planning evidence and is legally permissible. Though Mr. Simmons' preferred development scenario is not, the Tribunal appreciates that this is a development concept. A potential purchaser may choose to pursue a different concept. However, the Tribunal also notes that the only illustration to demonstrate how Mr. Simmons' 1.5 million square feet of development can be achieved on the site contemplates a 17-storey hotel and condominium tower. This was the plan Mr. Diemert prepared during the hearing.

[147] There is no question that there are broad planning permissions for this unique

downtown property. All three appraisers agreed that the prudent and knowledgeable buyer—in this case, a developer interested in redeveloping the Expropriated Lands—would want to build to the maximum permissions as supported by the market. The Tribunal will discuss this in the third component of the highest and best use analysis, financial feasibility. Before that, the Tribunal will consider the physically possible component of the highest and best use analysis.

ii. Physically Possible (Access and Servicing, Structure, and Environment)

[148] This second criterion of the highest and best use analysis looks at the size, shape, area, terrain, soils, and accessibility of the subject property and how those elements affect potential development. It also considers the built elements of an improved property to consider whether their present use should continue or be adapted.

[149] In this case, there is agreement among the experts that any of the development concepts, including 135's project and Mr. Simmons' related scenarios, are physically possible. The issue is the cost associated with them, and this relates to three specific areas: access and servicing, the reuse of the building, and environmental remediation.

Access and Servicing

[150] Access and servicing was the least contentious issue in this hearing. While there was initial debate about the existence of a prescriptive easement in favour of the Expropriated Lands over the Disputed Lands, it became clear by the end of the hearing that this is a determination the Tribunal need not make. The parties generally agree on access, servicing, and their implications in the highest and best use analysis.

[151] With respect to access, the Expropriated Lands have access at Downie Street. Cooper Street is another possible access point, though it is at a different level than the property and access would take some grading work. Depending on the type of development, access to St. Patrick Street, as the property historically enjoyed, would be ideal. All agreed that this could be negotiated with the City in the face of an appropriate development.

[152] Servicing is available at the site but it is an open question whether existing services could support the type of development Mr. Simmons contemplates. At best it could, and at worst there would be required upgrades and a cost associated with them. Appropriate servicing is physically possible and it may come at an additional cost. There would also be some negotiation with the City with respect to servicing for the site, which could include easements from the City for servicing to be run from St. Patrick Street.

[153] The Tribunal heard nothing about servicing that would deter a potential purchaser, especially a developer who would be accustomed to dealing with municipal servicing requirements in a project. Neither appraiser deducted for this possibility and the Tribunal sees no need to go any further to analyze potential costs of servicing associated with an undetermined development scenario.

Reuse of the Building

[154] The building that remains on the Expropriated Lands is, by all accounts, a unique structure. With a footprint of approximately 160,000 square feet, it is exceptionally large. It is constructed generally of riveted steel and arranged with four large bays that are open from the ground to the roof structure, except for the north bay, which contains a mezzanine level. Each bay has a long rectangular footprint, ranging from 580 to 780 feet in length. The highest bay is 67 feet to its peak, with two of the bays 50 feet high to their peaks and the 1949 addition bay, next to the highest bay, at 38 feet tall. This addition is constructed of rolled structural steel sections, as compared with the other bays that are riveted built-up steel construction.

[155] There are main roof trusses spanning in the north-south direction across each bay supported by steel column sections, spaced approximately 22 feet apart along the length of the building. The roof deck is supported by purlins that span between the trusses. There are large plate girders remaining in the building that would have supported the locomotive carrying cranes.

[156] Although the building is generally constructed above grade, there are several pits

of unknown depths throughout its footprint. Some of the pits are filled with sand and train rails. The floor slab consists of both unreinforced and reinforced concrete with thicknesses that vary between 8 and 20 inches.

[157] The exterior of the building appeared to have originally been constructed with concrete walls tied to the building columns with large window openings. At the time of expropriation, many windows had been removed and boarded with plywood. The window openings near the west end of the building were filled with concrete blocks and a brick veneer installed on the north face of the building from grade level to half the height of the building. In areas where other sections of adjoining building had been demolished, corrugated metal siding was installed to enclose those areas.

[158] The structural and environmental engineering experts agreed that the building contains flaking lead based paint and asbestos. Both would need to be abated if the building were reused, and asbestos would need to be abated even if the building were demolished.

[159] While the utility and value of this building is at the core of the dispute between the parties, there is some high level agreement among their experts respecting the building. All agreed that reuse of the building is physically possible. They disagreed on two intertwined points: (1) the extent of repairs and upgrades required for reuse of the building; and (2) the costs of those repairs and how this relates to the value of the building. The second point relates more to the financial feasibility criterion and will be discussed there. This section of the Tribunal's analysis will focus on the state of the structure itself and the repairs required for its reuse, including the estimated costs of such repairs, without dealing with how those costs relate to feasibility.

[160] The Tribunal heard from three structural engineering experts. Messrs. Theodorlis and Price, from Morrison Hershfield Limited ("MH"), were retained by the Claimant and testified as a panel. Mr. Pond is with Read Jones Christofferson Ltd. ("RJC"), retained by the City. Both firms prepared reports regarding the building.

[161] RJC prepared two reports: a 2010 report assessing the physical condition of the east building (the former tube shop) that is now demolished as recommended by that report; and a 2012 “Building Condition Assessment Report,” for which Mr. Pond was the engineer-of-record.

[162] MH also prepared two reports, both authored by Mr. Theodorlis in 2009, after the expropriation. The first was a “Structural Overview of Building” and the second was a “Structural Building Condition Report – Steel Structure & Concrete Exterior Frame.” Mr. Theodorlis testified as to his walk through of the building and related 2009 reports, and Mr. Price testified as to MH’s review of the many structural engineering reports that have been prepared for this property.

[163] There are several points of agreement among the structural engineering experts. The first, and most significant, is that they agreed that RJC’s 2012 Building Condition Report involved a more thorough study of the building’s structural condition, including deterioration and damage to structural elements. As a result, MH took no exception to any of RJC’s factual field observations.

[164] Next, the structural engineers agreed that the October 2003 fire that destroyed the tender shop affected only the northwest portion of the main building. They agree that the structural damage caused by the fire appears to have included loss of wood roof decking, warping of steel roof purlins and some steel truss top chords. In their shared opinion, the structural damage caused by the fire affected approximately 10 per cent of the main building’s roof area.

[165] They agreed that overall, with the exception of the fire-damaged area of the main building, the levels of deterioration and damage RJC observed in 2012 did not pose an immediate structural safety hazard. There was no dispute that the east building was in a poor condition and should have been demolished, though it was planned to be a farmer’s market as part of 135’s project.

[166] One of the difficulties with the structural engineering reports is that while MH

prepared reports in 2009 just after the expropriation, there was no detailed field study of the building until RJC's 2012 report, three years after the expropriation. This makes the Tribunal's task—to recreate the conditions at the time of the expropriation in order to contemplate what a willing seller and buyer would have done at that time—a challenging one.

[167] The structural engineering experts openly acknowledged this difficulty and attempted to find some areas of agreement pertaining to this in their Agreed Statement of Facts. They agreed that there was no evidence of any settlement of the building foundations between 2009 and 2012. They also agreed that, aside from the fire damaged area, the building's principal deficiency in 2009 was a lack of protection. As they explain in their Agreed Statement of Facts, the absence of a watertight roofing system would have led to continued deterioration of the steel structure from environmental exposure.

[168] They then agreed that for the interior areas of the building that were protected from the weather and elements, it is likely there was little change in the structural condition between 2009 and 2012. In areas that were not protected, they agree that there was likely some incremental ongoing deterioration of the structure. They also agreed that the precise amount and type of deterioration for exposed areas between 2009 and 2012 cannot be determined. Accordingly, the Tribunal was presented with no evidence on that point. Mr. Pond's opinion is that the extent of deterioration between 2009 and 2012 was not likely to have been substantially different. The MH witnesses questioned his opinion but offered no contrary evidence.

[169] Finally, they agreed that the technical feasibility of reusing the existing building structure without structural modifications and perhaps reinforcing depends on the proposed use.

[170] They generally agreed that if the use of the building were to change or the building renovated, the Ontario Building Code (the "Code") would require a structural adequacy check to determine if the structural performance level would be reduced.

Although Mr. Price and Mr. Pond disagreed as to whether the building would have been required to be updated to meet the version of the Code in effect in 2009, they agree that this is entirely dependent on a specific development plan.

[171] It also became clear during Mr. Pond's cross-examination that he was not making a blanket statement about the building having to be upgraded to meet the Code. He explained that some elements of the repair strategy, such as the roof, would require approval by the building department and may then engage the Code. He agreed with Mr. Price's evidence that if the load were not changing and the roof were being replaced, Code compliance may not be required. He also explained that in his experience a new roof for this century-old building would likely weigh more than the old one. This is an extensive renovation with implications for building load, which would require Code compliance.

[172] The key findings in RJC's report were undisturbed through the MH witness' testimony and in Mr. Pond's cross-examination. The only question raised about RJC's findings related to the assumed material yield strength used to test the structural adequacy of the existing steel purlins. Yield strength is the stress level at which large deformations will occur in the steel under constant stress. Mr. Price likened steel to an elastic band; when it reaches the yield level it stretches constantly and is no longer elastic. Simply put, load levels need to be kept below that yield level. As Mr. Pond explained, steel begins to yield, or deform, before it actually breaks. The break is called an ultimate strength and the yield strength is something less than that.

[173] MH tested the steel in 2009 to determine whether the tender shop fire had reduced its strength. In finding that it had not, MH identified a yield strength of between 37.9 to 43.9 kips per square inch of pressure ("ksi"). RJC performed similar tests to determine the steel yield strength, however it did not report an actual yield strength and instead assumed one of 28.9 ksi. Mr. Price explained that MH had no concern with the value RJC used and agreed it was a reasonable assumption in the absence of testing. He simply noted that it would have been interesting to see what would have happened if

RJC had used a more favourable value.

[174] Mr. Pond testified that RJC relied on a specification for historic steel, which identified using 50 per cent of the ultimate strength to establish the yield strength. Mr. Pond testified that when he reviewed the reports from RJC's material lab testing, he noticed that yield strengths higher than 50 per cent were reported in the building. He could not recall why RJC chose to retain the 50 per cent ultimate strength. His theory was that they would have erred on the side of caution, as engineers do when dealing with historic buildings, as there are significant implications for safety and liability.

[175] Regardless of RJC's rationale for using the more conservative figure, there was no evidence nor suggestion that it undermines any of RJC's findings. On the contrary, MH agreed with the findings in RJC's report, acknowledging that RJC conducted a more thorough study of the building. Mr. Price testified that RJC's level of detail compared to MH was not surprising, given that RJC had spent days closely examining the building's structural elements, while Mr. Theodorlis had just done a walk-through of the building when he visited in 2009.

[176] The structural engineering experts agreed that the warping of purlins and trussing in the fire damaged part of the building—approximately 10 per cent of the building's roof area—is structurally significant. They also agree that this would certainly need to be addressed as part of the reuse of the building.

[177] Mr. Pond was the only witness to provide evidence concerning the repairs required to bring the building back to a state of occupancy. He presented three strategies to address RJC's observed levels of deterioration in the main building and estimated costs for each. He explained that RJC arrived at its estimated costs by using past costing information it keeps in a database. Using that data, he prepared a Class D cost estimate that includes a 20 per cent contingency. During cross-examination, Mr. Pond acknowledged that a Class D estimate can vary significantly.

[178] The first option was essentially to do nothing but install a perimeter security fence

around the property. This would allow the building to continue to deteriorate while addressing public safety. RJC estimated this cost to be \$375,000 in its 2010 report. The City installed a fence in 2015 for \$100,000. Though this is post-expropriation information that would not have been available to a potential purchaser in 2009, Mr. Pond explained that he was not involved in the actual fencing project and could not speak to the cost.

[179] The second option was to rehabilitate the building and is broken into two sub-options. Both assume that there would be no change in use of the building, meaning that it would be suitable for industrial or a similar use. The first sub-option would simply mitigate any further deterioration by addressing all observed levels of deterioration, and re-cladding or re-roofing the building, for an estimated cost of \$4,372,375 in 2009. To bring the building to a state of occupancy requires an additional estimated cost of \$9,159,373 in order to introduce new power, lighting, conditioning, and plumbing. Therefore, for the building to be occupied for an industrial or similar use, Mr. Pond estimated a total cost of \$13,531,748.

[180] The third option called for demolition of the main building. This is the option RJC recommended in its report, acknowledging the current state of the building and its limited salvage value. To demolish the entire building—including the foundations and the above grade superstructure—is a 2009 estimated cost of \$1,130,786. The majority of that amount is for the demolition of the building slab. RJC estimated, in its 2012 report, that if the slab were retained, the demolition cost would decrease to \$470,000.

[181] Mr. Pond testified that any adaptive reuse of the building would require significant upgrades well beyond the costs contemplated in RJC's option to bring the building to basic occupancy. The Tribunal heard evidence on this from Mr. Parsons, as will be discussed in the financial feasibility analysis.

[182] In summary, the evidence before the Tribunal regarding the 2009 state of the building was that it needed significant repairs. The experts agreed that these repairs are structurally significant. Mr. Pond's evidence regarding the structural state of the building was not contradicted and the Tribunal accepts it as such. Probable costs of repair will

be addressed in the financial feasibility section, following the discussion regarding environmental remediation.

Environmental Remediation

[183] This is a contaminated property. The three environmental engineers who testified agreed on the types of contaminants and their extent of contamination on the Expropriated Lands. They also agreed that the cost of remediation depends on the specific development plan for the property because that plan will dictate how much contaminated soil can be reused on site and how much must be removed and trucked away to a disposal site. Perhaps their most significant point of agreement is that the use of a risk assessment is the most cost effective approach to address the site's environmental conditions.

[184] They mainly disagreed on the impact of the contamination on the actions of a knowledgeable and prudent purchaser. This relates to the extent of remediation they believe a purchaser would wish to undertake, including its related costs. While they agreed that there is also contamination on the adjacent Festival Hydro property, they disagreed as to whether the source of it was Festival Hydro's own underground fuel storage tanks or the Expropriated Lands. This led them to disagree as to whether a potential purchaser would discount the remediation costs for the Festival Hydro property from the purchase price for the subject property. They also disagreed as to whether a purchaser would have relied on brownfield funding to compensate for some of the remediation costs.

[185] The Tribunal will first outline the background relevant to the site's contamination, the proposed risk assessment strategy, and will finally turn to the estimated costs of remediation and how they might have influenced a transaction between a willing buyer and willing purchaser. It is important to note that the remediation strategy is also tied to whether the building is retained; the environmental engineers agreed that preserving the building itself is a risk management strategy in that there would be no need to excavate and dispose of the contaminated soils beneath.

History of the Expropriated Lands and its Contamination

[186] Several consultants have prepared reports regarding remediation of the Expropriated Lands, some of which date back to the City's prior ownership of the property in the early 1990s. Mr. Ryan retained XCG Consultants Ltd. ("XCG") in 2009 to conduct a review of these many studies. Mr. Rush took the lead on that project and report, and Mr. Williams provided oversight; they testified as a panel during this hearing.

[187] Mr. Brooks, who was called as a witness for the City, was also retained in 2009 regarding the Expropriated Lands. At that time he was with Conestoga-Rovers & Associates Limited ("CRA"), which later merged with GHD Limited ("GHD"). The scope of his retainer was to provide a peer review of a remedial cost estimate for the Expropriated Lands prepared by R.J. Burnside & Associates Limited ("Burnside").

[188] The environmental engineers agreed that the past operations at the site resulted in contamination. These were the Grand Trunk Railway's locomotive repair shop beginning in 1871, followed in 1959 by Cooper-Bessmer's fabrication and maintenance of large internal combustion and jet turbine engines for the oil and gas pipeline industry until 1989. There were a number of underground and aboveground storage tanks on the property for petroleum hydrocarbons. Based on previous environmental investigations, it was known at the time of expropriation that the operation of these storage tanks had contaminated soil and groundwater in some areas of the property.

[189] In addition to the storage tanks, there were also many floor pits in the building (as noted by RJC). These would have housed machining equipment and their associated chemicals and wastes, including petroleum hydrocarbons, solvents, and other chemicals.

[190] The resulting contamination of soil and groundwater is above the applicable Ministry of the Environment ("MOE") standards. Fill material across the property contains slag, cinders, coal, brick fragments, metal debris, glass, and wood—all of which Mr. Brooks described as being typical of old railway lands.

Risk assessment and Remediation of the Expropriated Lands

[191] Like many of the issues in this compensation hearing, the potential remediation of the Expropriated Lands is intertwined with the building and whether it would be retained by a purchaser. Mr. Brooks and Burnside in all of their 2009 reports assumed that the existing building would be removed. In contrast, XCG, when it was retained by 135 in 2009, assumed that the building would remain as contemplated in 135's project. GHD, in its reply to XCG's witness statement, considered three remediation strategies based on the building remaining. Before discussing the remediation strategies, the Tribunal finds it helpful to review the common ground between XCG and GHD regarding risk assessment and remediation.

[192] GHD and XCG agree that a potential purchaser, in the normal course of due diligence in June 2009, would have assessed the property's soil and groundwater conditions in the context of Ontario Regulation 153/04 (the "Regulation"). This means that the applicable soil and groundwater standards are the Regulation's Table 2 standards. They agree that the Regulation allows for the use of a risk assessment approach to set property-specific standards and that this is the most cost effective approach to address the property's environmental conditions. The approach is more cost effective because it allows for a tailoring of risk-based site specific cleanup criteria rather than relying on the more generic Table 2 standards.

[193] Both consulting teams agreed that a potential purchaser would retain an environmental engineering consultant to complete the following tasks prior to closing on a purchase of the property:

- Complete an updated or new Phase I Environmental Site Assessment ("ESA") in accordance with the *Canadian Standards Association Phase I ESA Standards, Z768-01*;
- Complete a Phase II ESA in accordance with the *Canadian Standards Association Phase II ESA Standards, Z769-00*;

- Develop cost estimates to remediate the property to meet the Regulation's applicable Table 2 soil and groundwater standard; and
- Evaluate the benefit of conducting a risk assessment to develop property specific soil and groundwater standards.

GHD and XCG are reasonably close in their cost estimates for these four items, with GHD at \$330,000 and XCG at \$271,000. The difference is that GHD's figure includes the cost of a remedial action plan and XCG's does not.

[194] They next agreed that the development of the property would require the filing of a Record of Site Condition ("RSC") in accordance with the Regulation. Their estimated costs for this are in line. GHD estimates \$260,000, very nearly the midpoint of XCG's estimated range of \$214,000 to \$314,000.

[195] GHD and XCG agreed that a potential purchaser planning to restore the building would need to plan on asbestos and lead based paint abatement. XCG did not provide a cost for these items because they assumed the costs were accounted for by another expert and they did not want to double count them. They are addressed in Pelican Woodcliff's estimate, which was prepared for a different purpose, and will be discussed in the financial feasibility analysis.

[196] GHD's uncontradicted estimate for sandblasting and abatement of lead based paint is \$600,000. Of that, the abatement cost is \$100,000 and sandblasting is \$500,000. These costs would only be incurred if a purchaser wished to restore the building.

[197] Regardless of restoration or demolition, a potential purchaser would need to account for asbestos abatement, which GHD estimates at \$250,000. This figure was also uncontradicted.

[198] Therefore, a potential purchaser who is interested in keeping the building and

doing no excavation is looking at costs in the range of \$1,335,000 (XCG's low estimate) and \$1,440,000 (GHD's estimate). This is before the purchaser decides how they might develop the rest of the site.

[199] A purchaser not interested in keeping the building would deduct the \$600,000 related to lead based paint sandblasting and abatement and would incur Mr. Pond's demolition costs (\$1,130,786), plus Mr. Brooks' \$250,000 for asbestos abatement. Where the costs go from there depends on the development plan for the site.

[200] In this regard, the environmental engineering experts agree on the following points:

- Any below grade development, including underground parking structures, would require excavation of contaminated soils and disposal off site, or on-site management if possible;
- A potential developer's chosen remediation approach to address the property's known soil and groundwater impacts depends entirely on the nature of the development; and
- The remedial cost estimates prepared by both XCG and GHD are not dependent on the property being redeveloped for residential use.

[201] When XCG and GHD prepared their Agreement Statement of Facts, they had each prepared a witness statement that relied on an opposing premise: XCG assumed the building would be retained, and GHD assumed it would not. As a result, their initial cost estimates could not be meaningfully compared.

[202] Their estimates evolved by the time of the hearing. GHD's reply report provided cost estimates based on restoring the building—as contemplated in 135's project and Mr. Simmons' development scenarios, and as relied upon by XCG. XCG revised its estimates in its reply to address Mr. Simmons' chosen development scenario.

Specifically, XCG had not accounted for the remediation costs associated with the below grade excavation 135's project would require for the hotel building and its levels of underground parking. They still did not account for asbestos and lead based paint abatement, even in reply, because they believed it was accounted for by another expert.

[203] The environmental engineering experts' reply estimates are most helpful to the Tribunal as an "apples to apples" comparison. Here again, at a high level, there is not a significant difference in the cost estimates for remediation based on the first phase of Mr. Simmons' development scenario (the main building and new hotel and condominium tower with underground parking). Mr. Brooks estimates remediation costs of approximately \$4.3 million, including costs for disposal of contaminated soil from the proposed underground parking structure. The Tribunal understands from Mr. Williams' testimony that XCG's estimate, once accounting for asbestos and lead based paint abatement, is between \$3.8 – 4.2 million, in line with GHD.

[204] XCG seems to end its analysis there, while Mr. Brooks goes on to consider the implications of Mr. Simmons' second phase of development, which anticipates development of an additional 897,717 square feet of space. Mr. Brooks' estimates approximately \$6.6 million for costs for disposal of contaminated soils for construction of the underground parking structure and the additional second phase building area.

[205] XCG questioned Mr. Brooks' estimates but provided no evidence to the contrary. Mr. Williams emphasized that there are many options available to a developer to use contaminated soil on site instead of the more expensive option of removing it and disposing of it off site. He testified that the approach is entirely dependent on a detailed development plan, including analysis of various grading options. As an example, he described the possibility of raising the whole or portions of the site to a higher level using the excavated contaminated soils, as well as using it for a berm if one is required adjacent to the rail line.

[206] Mr. Brooks agreed that some of the excavated contaminated soil could be used for a berm, and to that end he undertook detailed calculations to estimate how much soil

could be used in such a berm. The result, in his opinion, is that there would still be a significant amount of contaminated soil to account for in Mr. Simmons' scenario. He disagreed with Mr. Williams that the contaminated soil could be used to raise the level of the site through grading when the question was put to him in cross-examination. He explained that the fill materials consist of coal, slag, brick, debris, and glass—all materials that have no geotechnical properties to lend the necessary stability to sustain the loads of buildings or other site elements, such as an interior road.

[207] Mr. Brooks emphasized the difference between an owner's view of what it can and should do with a contaminated property and that of a developer who acquires the property to build a significant project. In his experience, developers will spend effort to manage soil on a property to the extent that it is reasonable. Mr. Brooks' opinion is that to build a site, it is necessary to have good, clean, compactable engineered fill materials. Beyond that structural concern, he could not see a developer building a marquis project, like that envisioned by Mr. Ryan and relied on by Mr. Simmons, and then spread contaminated fill all around the project. This is related to the notion of stigma, which was a significant point for Mr. Bower and Mr. Parsons in their evidence.

[208] Mr. Brooks was comprehensive and reasonable in his testimony. The Tribunal found his testimony to be more convincing than Mr. Williams' because it was more detailed and no flaw was identified in his cost estimates, even when he was accounting for the remediation costs associated with 135's project. While both Mr. Brooks and Mr. Williams have extensive experience in the development industry, there were critical errors and oversights in XCG's estimates. They did not account for asbestos and lead based paint, based on a misunderstanding of the purpose of Pelican Woodcliff's evidence, which led to an incorrect assumption that those figures were already accounted for. Overall, the Tribunal finds Mr. Brooks' cost estimates to be more reliable.

[209] Mr. Brooks was the only witness to provide any evidence on the cost of environmental remediation if the building were to be demolished, whereas XCG took it as a given that the building would remain. This reflected the scope of their retainer,

having been retained by 135 in 2009 to provide a review of the various environmental studies and reports with 135's project in mind. Even with that limited scope, XCG failed to fully consider the implications of 135's project—and by extension Mr. Simmons' chosen scenario—on environmental remediation. Accordingly, the Tribunal prefers Mr. Brooks' evidence on the costs of remediation.

[210] With respect to the remediation options if the building were to be demolished, the Tribunal accepts Mr. Brooks' uncontradicted estimates. Mr. Williams testified that Mr. Brooks' assumptions and corresponding estimates seemed reasonable, except for Mr. Brooks' assumption in his second approach that 50 per cent of the contaminated soil (34,500 cubic metres) would need to be disposed of off site. Mr. Williams did not disagree with any of Mr. Brooks' calculations, but pointed out that he could not calculate these figures without a detailed grading plan for the site. Mr. Brooks' three approaches and their corresponding estimates in 2009 dollars are as follows:

- **Approach 1 - \$16,916,900:** Remediation of the site to a "clean" condition involving excavation and off-site disposal of all of the fill material down to the underlying native clay silt, and remediation of groundwater to MOE Standards.
- **Approach 2 - \$10,140,900:** Risk assessment with 50 per cent of contaminated fill material disposed of off site (to reflect Mr. Parsons' opinion that a developer would likely target a 50 per cent building coverage ratio).
- **Approach 3 - \$7,108,750:** Risk assessment with a screening berm constructed with 19,500 cubic metres of contaminated fill along the rail line boundary of the site and 18,750 cubic metres of contaminated soil disposed of off site (again assuming a 50 per cent building coverage ratio).

[211] Mr. Brooks testified that these estimates are based on the environmental reports that were available prior to the date of expropriation. He advised the Tribunal that the post-expropriation environmental information a prudent purchaser would have obtained during their due diligence period resulted in a slight increase to the above estimates.

This is due to a post-2009 identification of more asbestos, based on an asbestos survey, than previously thought and the discovery that petroleum hydrocarbons in the groundwater were less than previously identified, which then removed the cost of their remediation. The net result is a slight increase in the estimates, which would range from \$7,163,750 to \$16,641,900 in 2009 dollars.

[212] Each of GHD's three approaches include the remediation costs related to the neighbouring Festival Hydro property, estimated at \$900,000. This is based on Mr. Brooks' opinion that a prudent and knowledgeable purchaser would account for the risk of this offsite contamination when arriving at a purchase price, as discussed in the next section.

[213] The environmental engineers had very different ideas on what environmental contamination would mean to a prospective buyer. Mr. Williams assumes that a developer will take the lowest cost approach to remediation. While cost is no doubt a significant factor, looking at cost alone disregards other critical considerations as raised by Mr. Brooks, including the feasibility of building a structure or interior road on contaminated fill from a structural standpoint. Stigma is another factor Mr. Brooks considered, as did Messrs. Bower and Parsons.

[214] The Tribunal finds compelling Mr. Brooks' point that the perspective of an owner of a contaminated property—in this case 135 when it retained XCG in 2009—differs considerably from that of a prospective purchaser, or developer, who is contemplating purchasing the contaminated property and accepting the associated risk. A developer who does not yet own the liability, according to Mr. Brooks, is likely to take a conservative approach to remediation. He explained that it is well known in the development industry that remediation costs typically exceed what is estimated. While the engineers rely on testing samples, they are just that, and Mr. Brooks testified that it can be a completely different story once the ground is opened. He also testified as to the financing implications, which may not be a consideration for an owner because they already own the property, but a developer would likely have to secure financing and

satisfy its lender regarding remediation. The notion of the risks a buyer might be willing to take is an important consideration in the next area of disagreement, regarding offsite contamination.

Offsite Contamination: The Festival Hydro Property

[215] There are also known petroleum hydrocarbons in the soil and groundwater at the southwest corner of the Expropriated Lands along its boundary with Festival Hydro . The difficulty here is that there are potential sources of petroleum hydrocarbons existing on both properties. In 2005, the MOE prepared a letter indicating that it was not possible to determine the source.

[216] Mr. Brooks took the Tribunal through a detailed analysis of the applicable test pit logs in support of his opinion that it is very likely there is offsite migration of contaminants from the Expropriated Lands to the neighbouring Festival Hydro. His opinion is that the petroleum hydrocarbons, or “free product”, extend from the west end of pit 7 and pit 6, the part of the main building closest to the Festival Hydro property. Mr. Brooks believes that there could have been leaks from these pits that caused a groundwater impact, based on groundwater flows in this area of the property.

[217] He noted in particular the testing logs for test pit 50, located just to the north west of pit 7, which shows a total petroleum hydrocarbon concentration of 14,232 per kilogram above the water table. He explained that the groundwater in this area exists at a depth of 2.6 m below grade, and so seeing such a concentration of petroleum hydrocarbons above the water table strongly suggests they emanated from the Expropriated Lands. Based on the existence of the pits, old lines with greasy material, petroleum hydrocarbons above the water table, and groundwater that flows onto the Festival Hydro property, Mr. Brooks believes it would be prudent to advise a purchaser that there is very likely some offsite contamination from the Expropriated Lands.

[218] Mr. Brooks was thoroughly tested on his opinion during Mr. Doherty’s cross-examination, which involved an extensive review of bore hole and test pit logs. These

show more significant hydrocarbon impacts on the Festival Hydro property. Mr. Doherty asked Mr. Brooks how he reconciles that information with his conclusion that pits 6 and 7—located on the Expropriated Lands—caused the contamination on the Festival Hydro property and went nowhere else on the Expropriated Lands. Mr. Brooks maintained his opinion that the contaminants are flowing in the direction of the groundwater, meaning that the three or four test pits in that direction show the most significant amount of contamination, as he would expect. In contrast, he would expect borehole 15 to be clean, as it is, because it is located to the east of pit 7 and upgradient.

[219] XCG believes that the source is more likely to be the storage tank on the Festival Hydro property. Mr. Rush testified that, in preparing his review report in 2009, he reached the conclusion based on the many reports he reviewed that it was unlikely, if not impossible, that the source of petroleum hydrocarbons could be identified. However, XCG would not advise a potential purchaser to consider the cost of offsite remediation in their purchase price. During cross-examination by Ms. Skinner, Mr. Rush testified, based on his review of every borehole log, groundwater flow cannot be predicted in the traditional sense because this is not a consistent, gravelly aquifer. There are pockets of oily substance within the soil structure in the southwest corner of the Expropriated Lands, which he explains as providing preferential pathways that the hydrocarbons can use to flow in the opposite direction of groundwater.

[220] Mr. Brooks disagreed for two reasons: (1) petroleum hydrocarbons flow in the direction of groundwater and it would mean they have travelled uphill to get to the Expropriated Lands; and (2) there was no evidence of a leak from the Festival Hydro tank when it was replaced in 1988.

[221] During the Claimant's reply case, Mr. Williams presented a new theory to the Tribunal. He considered the speed at which the groundwater travels in the impacted area, based on Burnside's reports, and concluded that it would take 200 years for the groundwater to travel from pit 7 to the Festival Hydro property, and 100 years for it to travel from Pit 6. He agreed on cross-examination that there are higher flow velocities in

permeable areas, meaning that groundwater at the top of the till could travel faster. However, in his opinion, even though boreholes 14 and 15 in the impacted area show that the groundwater level is in the till, he believes this might be perched water table that is not travelling anywhere.

[222] The Tribunal finds it troubling that Mr. Williams raised this theory in reply. Certainly, it is within the scope of proper reply in answer to Mr. Brooks' testimony about the offsite contamination, which was more detailed than in his witness statement. However, Mr. Rush was responsible for studying and reviewing all of the previous environmental reports, including studying all of the borehole and test pit logs and this theory did not arise during his testimony. Additionally, Mr. Williams' 100-year travel estimate from Pit 6 does not resolve the issue of offsite contamination, given that the Grand Trunk Railway was in operation at the site in 1871 and no evidence was proffered to indicate specific activities taking place on the site at that time that may or may not have resulted in contamination.

[223] Having reviewed all of the evidence relevant to offsite contamination, the Tribunal concludes that there would be uncertainty for a potential purchaser. In 2009, many environmental reports would have been available to the purchaser, none of which determined the source of offsite contamination. On the contrary, the conclusion was that it was very unlikely to be determined, or even impossible to determine.

[224] Mr. Rush acknowledged this in his evidence but expressed his own opinion that the contamination is more likely to be from the Festival Hydro property. Mr. Brooks concludes the opposite, but not definitively. Rather, Mr. Brooks conducted a careful analysis of the issue in order to consider what his advice would be to a potential purchaser. He concluded that there is a risk that the offsite contamination is from the Expropriated Lands, and there may be associated remediation costs. The implication is that at some future time, the purchaser could be facing remediation costs or even legal action. The Tribunal agrees with Mr. Brooks that a knowledgeable and prudent purchaser would consider this in arriving at a purchase price. There was no dispute

about Mr. Brooks' estimate of \$900,000 for the costs associated with remediating the offsite contamination.

Brownfield Funding

[225] XCG and GHD also discussed whether a prudent and knowledgeable purchaser would count on receiving brownfield funding. The City had a funding program in place in 2009 through its Brownfield Community Improvement Program but it had not been yet been used. Mr. Williams testified that a developer would factor brownfield funding into what they were considering spending on remediation but would ultimately consider it to be a bonus. Mr. Brooks disagreed, testifying that in his experience, brownfield programs were in their infancy in 2009 and that he did not have any developer clients who would have counted on brownfield funding, as he did not know of any who had received such funding in 2009.

[226] Neither XCG nor GHD accounted for brownfield funding in their cost estimates. While there was much speculation during the hearing as to whether a developer for this property in 2009 would have been successful in obtaining brownfield funding, the Tribunal finds that this is not a material issue. Neither Mr. Simmons nor Mr. Bower accounted for brownfield funding in their opinions of value. They agreed, as did Mr. Atlin, that a developer would consider the funding a bonus after purchasing the property and would not account for it in negotiating a purchase price. There is therefore no need for the Tribunal to make any determination with respect to brownfield funding.

[227] To summarize on the physically possible aspect of the highest and best use test, the structural deficiencies in the building and the environmental contamination can all be remedied. It is physically possible, though there are significant costs involved. This leads to the third component of the highest and best use analysis, financial feasibility.

iii. Financially Feasible

[228] At this stage of the highest and best use analysis it is necessary to consider potential or existing uses of the Expropriated Lands to determine which are likely to

produce a return equal to or greater than expenses and financial obligations. Any use that would produce a positive return is considered financially feasible. Again, at a high level, there is agreement that a mixed-use commercial and residential highest and best use is financially feasible. The dispute about financial feasibility relates to Mr. Simmons' development scenarios.

[229] There was no feasibility study tendered in support of the Claimant's case. Mr. Tate provided a 'Market Opportunity Assessment' and agreed that he did not assess the financial viability of 135's project. Mr. Tate further agreed that Mr. Parsons did assess the financial viability of the Project. There were in fact only two pieces of evidence in the Claimant's case that came anywhere near addressing feasibility: (1) an internal feasibility pro forma prepared by Marriott in 2003 for a 104-room Residence Inn that went no further; and (2) figures that were included in Mr. Simmons' reply witness statement and subsequently analyzed by Mr. Atlin. Mr. Parsons, as part of his dual qualification in this hearing, provided evidence on the market analysis and market economy (in addition to land use planning) as part of the City's case. The City also called Mr. Mian to testify as to the 2009 hotel market.

[230] The Tribunal will address feasibility in more detail following a discussion of the 2009 economic conditions that provide context for the feasibility analysis.

Economic Conditions in 2009

[231] In considering the price the expropriated land might be expected to realize in a transaction between a willing seller and willing buyer, it is necessary to look at the market conditions at the time of expropriation. The appraisers considered the national, regional, and local markets, as did Mr. Parsons in his market analysis.

[232] There was much discussion during the hearing about economic events in the United States and whether they would have influenced a prospective developer of the Expropriated Lands. Mr. Parsons described the economic crisis in detail in his witness statement and testimony. He describes the growth of subprime mortgage credit as the

cause, driven by demand from Wall Street investors for mortgages, which led to a high amount of unregulated mortgage lending. The catalyst was the bankruptcy of Lehman Brothers on September 15, 2008, the largest bankruptcy filing in history. Failures of prominent American and European banks followed.

[233] As Mr. Parsons describes it, from there was a ripple effect in the US and Canadian economies. He referenced the US government's bailout of General Motors, Ford, and Chrysler in 2008, followed by Chrysler filing for bankruptcy in April 2009 and General Motors following suit in June 2009.

[234] In an effort to reverse the downturn in Canada, the government unveiled a two-year stimulus package of \$35 billion to encourage spending and investment, introduced six months prior to the expropriation in January 2009. There was a significant drop in the number of building permits issued for new residential units in Canada in 2009—down 19.9% from 2008, and 32.5% from 2004, a peak construction year. The number of new residential units in the first quarter of 2009 was at a low not seen since 1996. Non-residential construction fared a little better, with a modest increase in institutional and commercial building construction in April 2009.

[235] Mr. Bower also noted declines of real gross domestic product (GDP) in 2009 leading to the time of expropriation, with decreases of 0.1 percent in February, 0.3 per cent in March, and 0.1 per cent in April. He testified that there is typically a three-month lag in GDP reporting, meaning that the April figure is the most recent one a potential purchaser would have in June 2009. There were more pronounced declines between November 2008 and January 2009. He explains that declines in the manufacturing, energy, and retail sectors contributed to the April decrease but that increases in the activities of real estate agents and brokers and wholesale trade mitigated the drop.

[236] Mr. Bower attributes the increase in real estate activities to a healthy home resale market, which increased the output of real estate agents and brokers by 8.2 per cent in April. This was a 28 per cent gain from January 2009, but still six per cent below this industry's September 2008 peak level. Residential building construction fell 1.1 per

cent in April 2009, though non-residential construction increased by 1.2 per cent. Mr. Bower testified that he did not know whether this national increase continued into June 2009. Regardless, taken as a whole, he testified that all of the major indicators with respect to GDP pointed to a stalling Canadian economy.

[237] There were impacts at the provincial level as well, which differed in some ways from the national picture. Employment dropped in Ontario by 243,000 between October 2008 and May 2009. This was the province's largest seven-month decline since the early 1990s recession. Mr. Simmons cites an increase in Ontario's unemployment rate to 7.2 per cent by the end of 2008, with the national rate at 6.6 per cent.

[238] Ontario's real GDP declined significantly in the fourth quarter of 2008 due to the sudden downturn of the global economy, by 1.4 per cent (5.6 per cent annualized), as compared to the Canadian GDP decrease of 0.8 per cent (3.4 per cent annualized). By way of comparison, the US decline for the same quarter was 1.6 per cent (6.2 per cent annualized). In Ontario, the decline corresponded to drops in consumer spending, residential construction investment spending, and non-residential construction business investment.

[239] Mr. Bower notes that the decline of real consumer spending was the first in five years, falling one per cent in the fourth quarter of 2008. The drop in residential construction investment spending was 7.2 per cent, due in large part to a 26 per cent decline in real estate transfer costs. This, Mr. Bower explains, reflects the sharp drop-off in home resales in Ontario, a difference from the national picture. Residential construction investment fell one per cent overall in 2008, which was the first annual decline since 1998. Though there was a significant decline in home resales, there was a 1.8 per cent gain in new housing construction and a 2.1 per cent increase in renovation spending.

[240] Non-residential construction spending also declined in Ontario, by 2.7 per cent in the final quarter of 2008. It had declined in each quarter that year, due to weaker building construction investment. The annual decline was 0.5 per cent, which followed

three years of growth due in part to investments in major engineering projects in the electrical utilities sector.

[241] What did all of this mean for Stratford? The appraisers agreed that Stratford has enjoyed a relatively stable economy as compared to the provincial picture. Its economic base is diversified, but consists of two main and unique components: manufacturing and tourism. The Stratford Festival is well known and is a significant tourist draw in the spring and summer months. It brings some 500,000 people to the city during its season.

[242] Stratford is also home to several international companies that manufacture a variety of products, including automotive parts, aerospace components, precision bearings and industrial machinery.

[243] Despite its relative economic stability, Stratford was not immune to the effects of the 2008 economic downturn. The Festival ran an operational deficit of \$2.6 million that year, its first in 15 years. Residential and commercial construction activity decreased in 2008 as reflected in a decreased number of issued building permits. Though overall, the 2008 value of construction was similar to, and in some cases higher than, the 2007 value. For example, only 75 new residential permits were issued in 2008 and these reflected a construction value of approximately \$39.7 million, significantly higher than the 2007 construction value of \$22.2 million for 105 permits.

[244] There was also a slight decrease in the total commercial square feet created in 2008 from the previous year. However, what is more telling is the annual average of new commercial square footage created in Stratford. Mr. Bower undertook this analysis looking at how much commercial space was created and demolished in each year between 2000 to 2008. He found that on annual average, approximately 33,587 square feet of commercial space is created in Stratford. Put another way, it can be safely assumed that Stratford's economy can absorb that amount of commercial space in a given year.

[245] Mr. Simmons notes that commercial development in Stratford has been

inconsistent in growth, and that there is limited demand for commercial development. As he indicates on page 18 of his witness statement, “[t]here is a limit to the market demand for additional restaurants, Wal-Mart’s, chain food and hardware stores, and shopping centres, etc.”

[246] All of this, in Messers. Bower and Parsons’ shared opinion, created uncertainty in the marketplace. A potential purchaser in June 2009 would see an economy in decline and would have no certainty as to when the trend would move upward. They agreed that a developer would not see this as a time to take on a large-scale, risky development. Mr. Simmons disagreed. This difference of opinion is reflected in how each of the appraisers address financial feasibility in their respective opinions of value.

Financial Feasibility of Potential Developments on the Expropriated Lands

[247] Both Mr. Simmons and Mr. Bower each considered a highest and best use that was vacant and as improved (including the building), each reaching an opposite conclusion as to whether the highest and best use included the building.

Feasibility of the “As Improved” Property (Retaining the Building)

[248] The appraisers agreed that it is not financially feasible to continue the existing industrial use of the building because there is no longer demand for industrial use at this downtown location. The land use planning witnesses also agreed that industrial use does not make sense on this property. The question is whether it is financially feasible to modify the existing building to suit a new use.

[249] In his financial feasibility analysis, Mr. Simmons cites the great confidence Mr. Ryan had in the concepts he developed and pursued for the property over a ten-year period. He noted the history of previous owners who had also pursued a concept for a major hotel including entertainment and spa facilities. He notes that there were no major chain hotels in Stratford and that Mr. Ryan saw this as a great opportunity.

[250] Mr. Simmons emphasizes the water park component of the concept, noting that Mr. Ryan had consulted with a water park company over the years. He then cites two examples of water park and hotel developments, Great Wolf Lodge in Niagara Falls and the now closed Wheels Inn in Chatham. He also mentions a water park in Windsor. Mr. Simmons discusses Stratford's tourist draw and concludes that a water park and hotel concept would attract additional tourists to Stratford.

[251] In support of his conclusion, Mr. Simmons refers to discussions Mr. Ryan had with Marriott. He refers to a 2008 letter of intent from Sonoma Hospitality Group LLC to manage a 72-room Marriott Residence Inn, noting again the owner's confidence in the project, at page 63 of his witness statement:

Clearly, the owner had full confidence in the economic viability of their project, despite the numerous setbacks over many years. Based upon information provided by the owner, the first phase of the proposed development appeared to be financially feasible. It would take full advantage of the contributory value and significance of the existing building shell.

[252] Marriott's interest in developing a hotel on the property never materialized. It appears from correspondence in the record that Marriott required a detailed feasibility study. No feasibility study was in evidence in this hearing, though there was an invoice that referred to a feasibility study. The sole basis for Mr. Simmons' opinion that a branded hotel would be financially feasible on the subject property was Mr. Ryan's confidence in the project.

[253] The Tribunal heard testimony from Mr. Mian, an expert in the hotel market, who was called by the City. He provided a useful overview of the hotel industry and trends in the decade leading up to the expropriation. Based on his analysis of the relevant data from that time, he concluded that a 72-room Residence Inn would not have been viable from a qualified demand perspective. He testified that the hotel industry—on the whole and in southern Ontario—was also impacted by the 2008 economic downturn.

[254] Mr. Mian explained that while there is a high level of seasonal demand for hotel

rooms in Stratford during the Festival's season, there is a low level of occupancy overall, meaning that there is an oversupply of hotel rooms in the city. Mr. Mian completed an analysis of a competitive set of 14 branded hotels in London—less than an hour's drive from Stratford—as there were no branded hotels in Stratford at the time of expropriation. He noted that demand for hotel rooms declined in 2009 because of the financial crisis. Overall, he concluded that Stratford, with an average occupancy rate of 40 per cent, could not compete with the competitive set of branded hotels because a healthy hotel market requires 60 to 65 per cent occupancy.

[255] Mr. Mian also testified that during the financial crisis, financing was only available to the very best hotel projects. Even in downtown Toronto, he noted, hotel projects were delayed or cancelled during that time.

[256] Although Mr. Tate concluded that there would be opportunity for a new hotel in Stratford in 2009, he focussed only on existing hotel inventory. He did not consider the occupancy of these hotels nor the demand for hotel rooms in 2009. The Tribunal therefore prefers Mr. Mian's more detailed evidence, which was wholly undisturbed during cross-examination.

[257] Mr. Simmons also cites Mr. Tate's report as support for the financial viability of 135's project. Mr. Tate himself agreed that he did not assess the financial viability of the project, and that Mr. Parsons did. When questioned on this point during cross-examination by Mr. Williams, Mr. Simmons agreed that Mr. Tate's report does not refer to feasibility. He also clarified that he did not actually rely on Mr. Tate's report in support of his own conclusion on financial feasibility. Rather, he found it to confirm his own conclusion that the project was feasible.

[258] Though Mr. Simmons concludes that the as improved highest and best use of the property is for the restoration and repurposing of the main building with a mixed-use tower form of development, in line with 135's project, he acknowledges that a theoretical buyer may not necessarily share those plans. He notes that the Official Plan and Zoning By-law provide for a broad range of opportunities on the site.

[259] The first time Mr. Simmons makes an attempt at more closely considering financial feasibility of this as improved use of the property is in his reply report. At paragraph 5.24 of his report he refers to some example figures, including a cost of \$175 per square foot to include hard and soft construction costs. He gets to a net rent of \$16.50 per square foot using a capitalization rate of 7.5 per cent. That is the extent of his analysis. He indicates that once a developer knows their construction costs, including their profit margin, and the market rental rate, they can estimate how much they can afford to pay for the site by deduction.

[260] Mr. Atlin completed calculations based on Mr. Simmons' figures, but used a lower per square foot construction rate as suggested by Mr. Porter, at \$150 per square foot. Mr. Atlin's opinion is that construction costs are much higher, but he performed the calculation using Mr. Porter's lower figure to test the reasonableness of Mr. Simmons' conclusion that the as improved use is financially feasible. He arrived at a negative implied land value: -\$43.00 per square foot. This supports his conclusion that Mr. Simmons has not met the financial feasibility component of the highest and best use analysis.

[261] Mr. Bower also reached the conclusion that the as improved use of the property is not financially feasible due to demand and the expense of repurposing the building. From a demand perspective, he emphasized Stratford's annual average of 33,000 new commercial square feet. He found the 181,000 square feet of commercial space entailed in reuse of the building to be highly improbable in a city that sees less than one-fifth of that amount of new commercial space in a given year. Mr. Bower also relied on Mr. Parsons' conclusion that 135's project was not financially viable.

[262] Mr. Parsons' estimates for adaptive reuse of the structure range from \$200-300 per square foot, resulting in a total cost between \$34 million and \$51 million. Mr. Parsons testified that these figures came from publicly available data regarding other adaptive reuse projects, including Toronto's Wychwood Barns and Brickworks. He pointed out that the Brickworks project was originally estimated at \$250 per square foot

and was completed at approximately \$1000 per square foot. He acknowledged that while there could have been changes in direction during the project, there is often uncertainty and higher costs associated with adaptive reuse projects.

[263] Mr. Parsons was questioned about this extensively during cross-examination, but his testimony was undisturbed. The Tribunal also notes that, while Mr. Bower did not have RJC's report available to him when he prepared his 2009 appraisal, RJC estimated significant costs of approximately \$13.5 million just to bring the building to a state of occupancy. Mr. Pond was clear that this does not anticipate any adaptive reuse of the building, which, based on his experience with adaptive reuse projects, would be considerably more expensive.

[264] Mr. Simmons' perceived value of the main building appeared to the Tribunal to weigh heavily in his opinion that the as improved condition of the property is a financially feasible use. In support of this he first referenced the historic value of the building, which in his view makes it worthy of restoration. Undoubtedly the building played an important role in the rail industry in this part of Ontario. However, it has not been designated by the City under the *Ontario Heritage Act*. The Expropriated Lands in fact lie just outside of a heritage conservation district that encompasses the city's historic core.

[265] Mr. Simmons also relied on the Rylett reports in determining that the building contributes to the market value of the property ("contributory value"). Mr. Harris of Rylett had prepared two reports, both at 135's request, to estimate the cost to construct a building of the same type and construction. In 1997, he estimated that cost to be between \$17 and \$18 million. He provided a subsequent report in 2000 for the same purpose, this time concluding that the estimated construction cost of the existing building would be approximately \$9.5 million. From these reports Mr. Simmons derived a \$7.5 million contributory value for the main building.

[266] Mr. Harris testified under summons in this hearing. Though he is an engineer, he testified as a fact witness. The Tribunal found him to be genuine in his testimony and

quite candid about what he simply could not recall. He testified that it was puzzling to him that the two reports, which appeared to conduct the same exercise, had vastly different estimates over a three-year period. He could not recall why that would have been, and he advised the Tribunal that he wished he could shed more light on this issue. Given the unexplained difference in the cost estimates in these reports, the Tribunal finds them to be unreliable.

[267] Despite Mr. Harris' testimony, Mr. Simmons continued to lend some credence to the Rylett reports throughout the hearing. He also acknowledged, in his reply witness statement, a more recent report prepared by Mr. Jim Ryan of Pelican Woodcliff, a quantity surveyor with experience in cost consulting.

[268] Mr. Jim Ryan was retained by the Claimant to determine a cost benefit of the existing building shell for an owner wanting to reuse the building. He relied on the three dimensional steel survey that Mr. Lefebvre had conducted and on the information in RJC's report to arrive at his cost estimate. He ultimately arrived at a net benefit of \$5.8 million dollars for an owner who wished to reuse the existing building rather than starting over and constructing the same building. This final figure was adjusted only slightly from his original estimate of \$5.9 million at the time witness statements were exchanged. He revised it when he learned of lead based paint in the building. His original estimate already included sandblasting the steel, and so he added \$130,000 for abatement. This is consistent with Mr. Pond's and Mr. Brooks' figures.

[269] Mr. Jim Ryan's testimony was compelling and unchallenged in cross-examination. He was forthcoming about the fact that the entire exercise he performed is premised on the assumption that an owner of the property would want to have a building just like the existing main building, and would therefore consider the cost savings in using the elements of the structure that can be reused. He offered no opinion as to whether a prudent purchaser would take this position, as that was not part of the scope of his work. The Tribunal accepts that an owner with the goal of having the same building on the Expropriated Lands would consider this \$5.8 million to be a cost savings

over new construction.

[270] Mr. Simmons had not reviewed Pelican Woodcliff's report and did not consult with Mr. Jim Ryan when he prepared his original witness statement. He addressed Pelican Woodcliff's estimate in his reply report by taking the midpoint between their original \$5.9 million and Mr. Simmons' \$7.5 million from his original witness statement to arrive at a figure of \$6.7 million for contributory value of the main building shell and footings.

[271] There is a flaw in Mr. Simmons' logic, in that he assumes a potential purchaser would want to repurpose the building. In making this assumption, he has no regard for the costs of doing so.

[272] As Mr. Atlin testified during cross-examination, when Mr. Aburto put the notion of contributory value to him, the potential for contributory value is an economic test. He explained that first, a developer would need to know the financial viability of their project, and would then need to know if the building contributes to the viability, and to what extent. To accomplish this and understand if the building has any economic value, a developer would need to do a financial feasibility analysis. This is not an exercise Mr. Simmons undertook. He testified repeatedly that such an analysis would be nothing more than a "fun with numbers exercise." The only feasibility analysis was in the form of Mr. Parsons' pro forma, which Mr. Simmons dismissed as irrelevant to his analysis. Mr. Simmons also testified that feasibility was built into his analysis by virtue of the comparable sales, a concept the Tribunal will discuss later with reference to the those sales.

[273] Like Mr. Atlin's calculations using Mr. Simmons' and Mr. Porter's figures, Mr. Parsons' pro forma results in a negative net present value when assessing the potential costs associated with repurposing the building for 135's project against the projected income from commercial uses, including the hotel and water park, and the sale of condominium units. He projects a total of approximately \$112 million in capitalized value of all sales and rental income. On the expense side, he calculates the development

costs at approximately \$201.3 million (excluding land value), to arrive at the negative net present value of \$89.2 million.

[274] Even when Mr. Parsons' uses Mr. Porter's lower construction figure of \$150 per square foot, the net present value ends up in the negative by \$59.75 million. Either way, as Mr. Parsons testified, this project still ends up being out "on the money".

[275] Mr. Parsons' estimates were not contradicted. His assumptions were generous and weighed in favour of a successful project. Most significantly, he assumed that there would be a market for 135's project, when, in his opinion, there is not a market for this type of project in Stratford.

[276] Mr. Parsons' market opinion is based on detailed analysis of retail, hotel, office, and other commercial activity in Stratford. He also has significant experience in Stratford, having been retained to complete a retail market study and his related involvement in an OMB hearing pertaining to the development of a Wal-Mart in Stratford. The Tribunal accepts Mr. Parsons' conclusion that the redevelopment of the Expropriated Lands in 2009 would have presented opportunities to build on the strengths of the downtown with small-scale retail shops, restaurants, and services. To recognize this exceptional downtown, the redevelopment would need careful attention to design, ideally with exterior, street-facing shops.

[277] On that point, Mr. Parsons believes there would be no market in Stratford for the 'heritage street' 135 envisioned in its project. Stratford already enjoys a walkable, low-scale downtown with a variety of shops and restaurants in its authentic historic buildings. He also cited the many failed examples of downtown shopping malls in Ontario. The Tribunal agrees with Mr. Parsons that shoppers in Stratford's downtown are unlikely to be attracted to an interior shopping area that is attempting to replicate authentic buildings that exist minutes away.

[278] The Tribunal also accepts Mr. Parsons' and Mr. Mian's shared opinion that a hotel at this location in 2009 was unlikely to succeed. There was no evidence to the

contrary.

[279] Mr. Parsons also testified that the high density residential market is relatively limited and weak. Stratford averages 34 such units per year. The Tribunal agrees with Mr. Parsons that it is unlikely the Stratford market would absorb a large-scale high-density development on the subject property.

[280] Similarly, the overall size of 135's project, at 1.5 million square feet as articulated by Mr. Simmons, is difficult to imagine in downtown Stratford. To put this into context, as Mr. Atlin did: Toronto's Yorkdale Shopping Centre is approximately 2 million square feet in area, and Bramalea Centre is 1.5 million square feet. Though Stratford sees some 500,000 tourists during Festival season, this was a city with a population of approximately 32,000 people in 2009. As Ms. Skinner submitted, Mr. Simmons' preferred scenario includes more commercial space than the whole of downtown Stratford, clearly contrary to the intent of the City's restrictive covenant.

[281] The Tribunal finds Mr. Bower's conclusion, that it is highly unlikely a purchaser would consider renovating the existing structure, to be sound. Mr. Simmons did not perform any analysis of the estimates and figures available in other expert reports in concluding that an as improved use is financially feasible. Instead, he relied on blanket assumptions about tourism and on Mr. Ryan's confidence in his project.

Feasibility of the Use of the Property "As Vacant" (Building Demolished)

[282] Messrs. Simmons and Bower agreed that some form of mixed-use redevelopment on the Expropriated Lands—without the building—could be financially feasible and meet the highest and best use test. Mr. Simmons, however, notes that the high cost of demolition and site preparation would be the primary deterrent to a viable development.

[283] These two appraisers also agreed that it is not possible to develop the precise financial feasibility in a vacant scenario because there are too many possibilities for

redevelopment. As Mr. Bower explains, the large site could accommodate several independent but compatible uses. It could also be divided into smaller parcels. Like Mr. Simmons, Mr. Bower acknowledges that there would be costs to demolish the building and remediate the property. However, Mr. Bower notes that development would occur at time when physically possible and financially feasible.

[284] The Tribunal agrees with the appraisers that an as vacant scenario yields broad possibilities for a financially feasible mixed-use development.

iv. Maximally Productive

[285] Once the uses that are legally permissible, physically possible, and financially feasible are identified, the use that produces the highest land value consistent with the market rate of return is selected as the maximally productive use. Again, both appraisers agreed at a high level that some form of mixed-use development meets the first three components of highest and best use, and therefore would be maximally productive.

[286] Mr. Atlin's three-legged stool analogy is helpful at this stage of the analysis. As he explained, if one of the three legs fails, the stool will fail. All three appraisers agreed that the order of analysis is important. An appraiser must consider the first three elements—legally permissible, physically possible, and financially feasible—before they can select the maximally productive use.

[287] Mr. Simmons, in both his as vacant and as improved analyses considered the maximally productive component before addressing feasibility. He testified that this was a simple error, that the sections were inadvertently reversed in his witness statement. The Tribunal can accept that this may have been an error in the organization of the document. However, it is apparent that Mr. Simmons did not consider financial feasibility before determining that 135's project is the maximally productive highest and best use, for the reasons earlier discussed. Nowhere does he justify, from a financial perspective, the feasibility of a 1.5 million square foot redevelopment of the subject property.

b. Value Conclusion

[288] Having considered all of the evidence relevant to the four criteria in the highest and best use analysis, the Tribunal now turns to the appraisers' opinions of value in order to determine the market value of the Expropriated Lands. The Tribunal must first settle the issue as to whether the highest and best use is as vacant or as improved, and then will examine each appraiser's valuation approach.

Vacant or Improved?

[289] As discussed in the highest and best use analysis, Mr. Simmons relied on a number of incorrect assumptions in arriving at his conclusion that the highest and best use is as improved with the existing building and as intended for 135's project. The Tribunal's overall impression of Mr. Simmons' evidence—both as reflected in his written witness statements and his testimony—was it that it did not consider the perspectives of a prudent and knowledgeable buyer and seller. Instead, his evidence was narrowly focused on the perspective of one particular seller: Mr. Ryan. This is contrary to the Tribunal's task pursuant to the Act, which must consider both the willing seller and the willing buyer and, as the appraisers agreed, assume that both are knowledgeable and prudent.

[290] Mr. Simmons was so committed to Mr. Ryan's vision for the property that it led him to disregard key components in the highest and best use analysis. He disregarded land use planning evidence and made an incorrect assumption about the rail line, that it would nearly sterilize the property from development if the building were removed. He made no attempt to assess financial feasibility of a specifically defined project in his highest and best use analysis, instead assuming that it was feasible because Mr. Ryan thought so. He did not consider any potential costs of repurposing the building and made incorrect assumptions about its contributory value and the cost of demolition. Mr. Simmons had very little interest in the evidence of other witnesses in this hearing and held rigidly to his positions. He similarly did not show much interest in the opinions of the Claimant's own experts. He merely referenced their reports to confirm his already

formed conclusions.

[291] The Tribunal also found that during Mr. Simmons' lengthy cross-examination by Mr. Williams, spanning three days of the hearing, he was rigid in his conclusions even when confronted with evidence that contradicted them. Many of his recollections were vague and unreliable. His review of expert reports relevant to the highest and best use analysis was cursory, at best, and led to incorrect assumptions.

[292] Overall, the Tribunal found Mr. Bower to be more comprehensive and reasonable in his analysis and testimony. The Tribunal agrees with Mr. Bower that a prudent and knowledgeable purchaser—in this case, a developer—would not see value in the main building after investigating the costs of reuse. The relatively low cost of remediation if the building is retained (approximately \$1.4 million without any excavation) is nowhere near enough to compensate for the cost to bring the structure back to a state where it can be occupied for an industrial or similar use (approximately \$13.5 million), let alone adaptively reused as a mixed-use development (estimated at more than \$34 million).

[293] Certainly, the Tribunal can imagine that there could be a motivated developer who appreciates the building's history and would like to invest in its reuse. The previous owners of the property, including Mr. Ryan, fit into this category. Yet such a project never happened. Mr. Ritz, who was the architect involved in planning the Stratford Resort and Spa, testified as to how the estimated costs had nearly tripled during his involvement with that project. Neither he nor Mr. Eagleson, who looked at feasibility on behalf of the Business Development Bank of Canada, were surprised the project did not happen. The Tribunal credits Mr. Ryan and the previous owners with an impressive and creative vision. It was unfortunately one that could not be realized; it was not feasible—neither from a land use planning nor a financial perspective.

[294] The Tribunal agrees with Mr. Bower that the highest and best use of the property is as vacant. Although the Tribunal has identified its reservations about Mr. Simmons' evidence, he did provide an opinion of value for the land alone, and so the Tribunal will proceed with its analysis of each appraiser's valuation.

Valuation Approach

[295] Both Mr. Simmons and Mr. Bower chose the direct sales comparison approach to value. This is the most common technique for valuing land and it is the preferred method when comparable sales are available. This is problematic for a property that all three appraisers agreed is atypical. There were no sales that were similar to this property prior to the date of expropriation. As a result, both Messrs. Simmons and Bower had to look mainly to properties beyond Stratford in southwestern Ontario. They used many of the same properties as their comparables, including two sites in Windsor that were developed for big box retail (a Lowe's and Home Depot), and a site in Leamington, a town with a similar population to Stratford and a summer tourist draw. There were also two properties in Stratford that both appraisers used, but they agreed that these were not ideal comparisons for the subject property.

[296] Mr. Atlin articulated the difficulty in using the direct sales comparison approach in a case like this one. He testified that in most cases, the approach works well. The comparisons are similar to the subject, which then allows the appraiser to assume that the feasibility analysis is built into those comparable sales. In other words, the purchaser of those properties has already conducted their own feasibility analysis and has negotiated a purchase price that corresponds to their conclusion that their intended use of the property is feasible. They have figured out their costs and their rate of return, and arrived at a price for the land based on that assessment.

[297] The problem in an atypical case—when none of the comparables really compare to the subject—is that the appraiser cannot assume the feasibility analysis is built into the comparable sales. This is obvious in a case like this, where the subject is an 11.42 acre property in downtown Stratford, and many of the comparables were for big box retail developments in mid-sized cities. They simply do not compare. As Mr. Atlin explained it, the appraiser, likely with a team of experts, must conduct a more detailed feasibility analysis for an atypical property like this one.

[298] The other difficulty in this case is that, while Mr. Simmons purported to use the

direct sales comparison approach, he significantly modified it from the traditional approach. He did this to account for the uniqueness of the property. In fact, Mr. Simmons' attribution of value to the main building as a separate item resembled the cost approach, which, as Mr. Simmons defines it, estimates the reproduction cost of the building, then deducts for physical depreciation, functional obsolescence, and economic obsolescence. It is an approach that both he and Mr. Bower expressly rejected in their appraisal reports as being inappropriate for this property. However, it appeared, as Mr. Atlin pointed out, that Mr. Simmons has actually undertaken an incomplete cost approach by including a value for the building.

[299] Messrs. Simmons and Bower also used different units of comparison within their respective direct sales comparison approaches. Mr. Bower used a price per acre because that is the basis upon which the comparable sales traded. Mr. Simmons used a price per buildable square foot to reflect the as-built density of the comparable sales, and then he added to that the potential density that could be achieved on that site (if such information was available for the comparable).

[300] All three appraisers testified that the buildable square foot approach is typically reserved for high-density developments in large cities. It is a common approach in Toronto, for example. Mr. Simmons testified that while he did not recall using such an approach for a town the size of Stratford, he thought it was the best fit for a property in a downtown area with significant density potential.

[301] Mr. Atlin agreed with Mr. Bower that the unit of comparison should reflect market activity: if the properties were sold on a per acre basis, then the unit of comparison is per acre. In this case, all of the comparable sales, which reflect what was happening in the market at the time of the expropriation, were priced on a per acre basis. This means that willing sellers were selling by the acre, and willing buyers were buying by the acre. There can be no clearer indication of what a knowledgeable and prudent seller and buyer would be considering when negotiating a price. There is no indication that they would have considered a price per buildable square foot in the 2009 market.

[302] Messrs. Simmons and Bower's selections of different units of comparison is part of what leads to the dramatic difference between their respective opinions of market value. Mr. Simmons also made adjustments to the comparables, which is an acceptable approach, adjusting for both time (because the sales pre-dated the June 2009 valuation date) and making more subjective adjustments acknowledging comparable properties' inferior or superior elements (for example, adjusting upward for a corner property).

[303] Based on the comparable sales, Mr. Simmons arrived at an average of \$45 per buildable square foot of development in a first phase. For each of his three development scenarios, he multiplied this amount by the total anticipated area for the first phase. He discounted this amount in his second scenario to account for the five years it would likely take to complete the first phase of development. He then used a \$25 per buildable square foot for the subsequent phases of development in each scenario, discounting by 10 per cent for a five-year build out, and by 12 per cent for a third phase in a likely 30-year build out. He then added the amounts for each phase to arrive at a value for each scenario. The values range from \$17.9 to \$19.2 million. He selected the lower end of that range, \$18 million as his land value.

[304] He then added his \$6.7 million contributory value for the building. From that Mr. Simmons deducted \$2,000,000 for environmental remediation, which he had rounded up from XCG's original estimate and did not modify during the hearing. His total estimated market value is \$22,700,000.

[305] Mr. Bower opted not to adjust for time, noting the difficulty in doing this when the comparables are located in different real estate markets that may have different economic conditions. He also preferred not to consider subjective adjustments based on the inferior or superior elements of the comparable properties. Instead he used statistical analysis on his twelve comparables to average them. From the twelve, he decided on nine that were most comparable to the subject property, then ultimately five. His opinion was that his two comparables in Leamington were most comparable to the subject property, given the town's similar size and tourist draw when compared with

Stratford.

[306] To arrive at his market value, Mr. Bower focused on his five emphasized sales. One was located in Stratford, one was in Windsor, two were in Leamington, and one was in Woodstock. They have an average per acre price of \$304,975 and a median of \$336,032. Based on those figures, Mr. Bower rounded up and assumed a per acre value range between \$350,000 to \$400,000. When multiplied by the subject property's 11.42 acres, it results in a range of \$3,997,350 to \$4,568,400. Mr. Bower took the midpoint and rounded up to arrive at his \$4,300,000. This value assumes that the property is free of environmental contaminants and is ready for immediate development.

[307] Mr. Bower spent considerable time in his report and testimony discussing defective properties and the stigma associated with contaminated properties. Mr. Parsons discussed stigma as well, as a potential problem when it comes to marketing the property, even after its eventual redevelopment. Mr. Brooks also discussed this, based on his experience of developers and lenders sometimes preferring an entirely clean site.

[308] There is no dispute that environmental remediation costs should be deducted from market value and this is an approach the Tribunal has taken before (*Masae Ltd. v. Toronto (Metropolitan)*, 1992 CarswellOnt 4725, 49 L.C.R. 1 (*Masae*)). Once Mr. Bower factored in the potential costs of remediation, based on the Burnside and CRA estimates that were available to him when he prepared his 2009 report, he realized that even the lowest estimate for environmental remediation put his market value in the negative.

[309] Mr. Bower did not have the benefit of the updated environmental engineering evidence when he prepared his 2009 report. At that time the remediation estimates ranged from \$6.3 to \$20.3 million, and clearly put his \$4.3 million market value in the negative once deducted. It therefore was not necessary for him to also deduct building demolition costs, which is also acceptable practice in an expropriation case (*Masae*). However, though GHD's updated figures range lower than CRA's 2009 figures, between

\$7.1 to \$16.9 million, these would have the same effect on Mr. Bower's market value by putting it in the negative, regardless of which remediation option a potential purchaser selected.

[310] The Tribunal accordingly agrees with Mr. Bower that a speculative value is appropriate for this property. Mr. Bower explained that speculative value is significantly less than the value of the property as though free of contaminates, but it recognizes that the possibility of protecting the purchaser from liability beyond their initial capital investment. He testified that a developer may purchase a property with a speculative value because they think that they will be in a position to solve the environmental problem in the future, or that there could later be a less expensive method of remediation identified.

[311] Mr. Bower acknowledged a problem with the speculative value when questioned by the Tribunal. There are no standards or guidelines as to how an appraiser should arrive at one. Mr. Bower testified that he struggled with this.

[312] Speculative values have sometimes been accepted by the Tribunal and sometimes they have not. There are two other cases, both in Windsor, where Mr. Bower proposed a speculative value. The Tribunal accepted his value in the *Shergar* case, which involved an atypical property, a former rail property, with a water lot component and no road access.³ It rejected his approach in the *Paciorka* case, which turned on the applicability of the *Provincial Policy Statement* and the scheme of the expropriation.⁴ The facts of neither case are analogous to this one. The Tribunal only infers from them that whether a speculative value is acceptable is entirely dependent on the circumstances of the case and the property being valued.

[313] The Claimant submits that the Tribunal should reject Mr. Bower's methods

³ *Canadian Pacific Railway Company v. Windsor (City)*, 2016 CarswellOnt 8507, 1 L.C.R. (2d) 280. A portion of the *Shergar* decision—dealing with costs and interest—was reheard by a different panel of the Board. The rehearing decision did not disturb the Board's award of compensation based on a speculative value.

⁴ *Paciorka Leaseholds Limited v. Windsor (City)*, 2020 CarswellOnt 1765 (*Paciorka*).

because they were rejected by the *Paciorka* panel. Given the entirely different circumstances in *Paciorka*, the Tribunal sees no basis to reject Mr. Bower's opinion in this case. The findings of the *Paciorka* panel were necessarily relevant to that case and the Tribunal does not find that panel's preference of another appraiser's evidence over Mr. Bower's to be an outright rejection of his appraisal methods.

[314] To arrive at his speculative value in this case, Mr. Bower analyzed two former transactions for the property that he considered speculative. He noted that both occasions appeared to acknowledge the fact that the property has a significant environmental problem.

[315] The first transaction was from Tara (Oxford) Inc. to 122 for \$225,000 in 1997. The second was the foreclosure in which 135 took possession in 2002. In doing so, Mr. Ryan signed the land transfer tax affidavit to indicate a value of \$250,000. Based on these two transactions, Mr. Bower indexed them using the Ontario Consumer Price Index, which indicates an increase of approximately 16 per cent and leads to his speculative value of \$290,000.

[316] Counsel for 135 argued that these two transactions were not arms-length and should not be considered. It is true that Mr. Ryan was involved in both numbered companies. However, to accept the Claimant's submission would also require the Tribunal to accept that Mr. Ryan was intentionally dishonest in the land transfer tax affidavit. The Tribunal also understands that the assessed value of the property at the time of expropriation was \$323,000. Its assessed value had decreased by almost half of its 2003 assessed value of \$635,000. There were suggestions during the hearing that this was due to the tender shop fire and the condition of the building. While the appraisers agreed that assessed value is not the same as market value, the significant decrease in this property's assessed value is notable.

[317] The costs that a knowledgeable and prudent purchaser would incur to redevelop this property are extraordinary. The purchaser would have to be a developer, and likely a sophisticated one at that. In the unsteady economic climate following the 2008

financial crisis, it seems to the Tribunal likely that a developer would purchase this property at a speculative value and wait for an improved economic situation while refining its plans for the site. The Tribunal therefore accepts Mr. Bower's speculative value of \$290,000.

Summary on Market Value

[318] As the Tribunal noted early on, the parties' disagreement as to the value of the building itself explains much of their difference with respect to market value. The Claimant fervently argued that the Tribunal must find contributory value for the building. Because the Tribunal in previous cases has accounted for building conditions and demolition costs (*Masae*), it must, in the Claimant's submission, also consider the positive value of the building. No doubt such value existed for Mr. Ryan, who dreamed of a project that would restore and bring new life to the building. Mr. Ryan's perceived value infiltrated Mr. Simmons' appraisal. The problem with this approach is that it narrowly focuses on the perspective of one potential seller: Mr. Ryan. It has no regard for the willing, knowledgeable, and prudent buyer and seller that the Act demands.

[319] To accept the Claimant's position on market value would require the Tribunal to imagine a knowledgeable and prudent buyer with Mr. Ryan's vision for the property and unlimited resources to see it through. That buyer would have to be willing to advance a project larger and more complex than Stratford had seen in 2009. The buyer would have to be prepared to pursue a project that exceeds not only the commercial space in downtown Stratford but also the amount of such space Stratford absorbs in a given year. That buyer would have to accept the potential risk associated with contamination on a neighbouring property. The buyer would be doing all of this following a financial crisis and a time of economic uncertainty. By no means could such a buyer be described as prudent.

[320] On the whole, the Tribunal finds the City's evidence to appropriately reflect the task the Tribunal has been given under the Act. Mr. Bower was more comprehensive than Mr. Simmons in considering the information that would be available to a purchaser

in 2009. He carefully considered the implications of the state of the building and the extent of environmental remediation. He relied on Mr. Parsons' assessment of the market and feasibility in ruling out an as improved scenario. While he did rely on a structural engineering report that was questionable⁵, in that no inspection of the building had been done and it included only aerial photographs, this was what Mr. Bower had available to him at the time of the expropriation. More importantly, the RJC report, which is the most thorough of the structural engineering reports available to the Tribunal, did not paint a better picture of the building's condition with respect to the costs involved to bring it back to occupancy.

[321] Mr. Simmons, in contrast, was uninterested in the opinions of other experts. He referred to them only when they confirmed his own conclusions. His understanding of some of the key components within the legally permissible and physically possible criteria of the highest and best use analysis was incorrect. He incorrectly assumed that if the building were retained, the existence of the rail line could be ignored in the redevelopment of the site. He made vague references to the expense associated with demolition without having reviewed or considered the detailed estimates provided by RJC.

[322] Most troubling of all was Mr. Simmons' assumption that his highest and best use was feasible based on Mr. Ryan's enthusiasm for the project and a past discussion with Marriott that yielded no results. Mr. Simmons also inferred feasibility from the comparable sales, which, in a typical case where the comparables are similar to the subject, is an acceptable approach. All three appraisers agreed that the subject property is atypical and that the comparables do not compare to the subject. The Tribunal finds Mr. Atlin's testimony compelling with respect to atypical properties, and in particular his caution that feasibility cannot be inferred in a case like this. There must be more detailed feasibility work for an atypical property. In this case, the only feasibility analysis came from the City's witnesses. That evidence demonstrates that an as improved highest and best use for the property is not feasible, nor are any of Mr. Simmons'

⁵ This report was completed by Jablonsky Ast. The report was in evidence, however the author did not testify during the hearing.

development scenarios, which contemplate approximately 1.5 million square feet of development.

[323] The Tribunal necessarily accepts Mr. Bower's as vacant opinion of value for the property. It is notable that Mr. Simmons and Mr. Bower agreed that the as vacant highest and best use is some form of mixed-use development. The Tribunal also accepts Mr. Bower's opinion of value, based on a per acre price that reflects 2009 market activity. However, the Tribunal also agrees that it is necessary to deduct the costs of environmental remediation and demolition. The Tribunal prefers Mr. Brooks' more thorough evidence regarding environmental remediation and its likely costs. The Tribunal found that he considered the perspective of a knowledgeable and prudent buyer and seller, whereas XCG was focused on 135's project. If the Tribunal were to rely on Mr. Brooks' lowest cost estimate, even it would yield a negative market value before deducting the costs of demolition, just as Mr. Bower found when he relied on the previous environmental reports in 2009.

[324] In these circumstances, the Tribunal agrees with Mr. Bower that a willing seller and buyer in 2009 would likely have arrived at a speculative value. The Tribunal accepts the \$290,000 Mr. Bower proposed for this value.

[325] Having determined the market value for the property, the Tribunal now turns to 135's claim for disturbance damages.

2. Disturbance Damages

[326] The Act entitles a claimant to disturbance damages, defined in s. 18 as "reasonable costs as are the natural and reasonable consequences of the expropriation."

[327] In this case, 135 claims \$1,055,680 in disturbance damages broken down into these three categories:

- Lost profits (lost rents) in the amount of \$638,889;
- Wasted development costs in the amount of \$268,000; and
- Executive time in the amount of \$155,680 (\$152,000 for Mr. Ryan and \$3,680 for Mrs. Ryan).

[328] The Tribunal's determination of disturbance damages in this case is complicated by a lack of financial records. By all accounts, 135 did not maintain organized and complete financial records. Mrs. Clime, who, during the hearing itself, was still trying to piece together 135's financial picture, testified as to the many difficulties she encountered as the company's accountant. She explained that Mr. Ryan held much of 135's financial information in his head. He was selective about the information he provided to the accounting firm, which Mrs. Clime believed was due to the ongoing litigation in which 135 was involved. She also testified as to the use of company funds for the expenses of Mr. Ryan's other companies, the Ryan family farm, and personal expenses.

[329] There was also a lack of specificity in 135's claim for disturbance damages leading up to this hearing. The wasted development costs and lost profits eventually came through Mr. Coneybeare's reports and testimony. The claim for executive time was particularized in a letter from Mr. Doherty. There are no records or timesheets in support of the claim for executive time.

[330] The Tribunal will discuss each category of claimed disturbance damages separately. Because, as will be discussed below, the issues of the commencement date of the scheme and business losses are intertwined, the Tribunal will discuss them together.

a. Commencement of the Scheme and Business Losses

[331] The Courts and Tribunal have recognized that the expropriation process is a

lengthy one. There is often a long period of time between when the threat of expropriation becomes known and when the land is actually taken. This “shadow period”, or delay in the expropriation process, can result in damages for a claimant and these are compensable under the Act.

[332] The application of this principle is best illustrated by the Supreme Court of Canada’s decision in *Dell Holdings Ltd. v. Toronto Area Transit Operating Authority*, [1997] 78 1 S.C.R. 32 (*Dell*), which relied on a Privy Council decision in *Director of Buildings & Lands v. Shun Fung Ironworks Ltd.*, [1995] 2 A.C. 111 (*Shun Fung*).

[333] The *Dell* Court upheld the Ontario Municipal Board’s determination that the claimant’s damages resulting from the delay in the expropriation process were recoverable as disturbance damages under the Act. Dell Holdings planned to develop land it owned in Mississauga and sought approvals from the municipality for a residential development. The municipality withheld the approvals because GO Transit was considering using part of Dell’s land for a new transit station. This had the effect of freezing Dell’s development for more than two years, and the Court relied on the reasoning in *Shun Fung* to allow damages:

The situation described in [*Shun Fung*] is very similar to the one at bar. Dell suffered damages because its development business was curtailed for more than two years while the Authority determined which portion of its land was needed for the GO Station. The increased costs of Dell’s development business during the waiting period between the announcement of potential expropriation and the actual taking of the land were caused by the expropriation. (para. 45)

[334] Counsel for the Claimant correctly points out the purpose of the Act, as articulated by the *Dell* Court and underpinning the reasoning in cases that have followed. The Act is intended to make the claimant, who has been subject to one of the ultimate exercises of governmental authority, whole:

The whole purpose of the *Expropriations Act* is to provide full and fair compensation to the person whose land is expropriated. It is the taking of the land which triggers and gives rise to the right to compensation. (*Dell*, at para. 33).

[335] The Board applied the reasoning in *Dell* to award a claimant disturbance damages for lost rents in *Pitblado v. Oakville (Town)*, 2005 CarswellOnt 6382; 88 L.C.R. 121 (*Pitblado*). That claimant, who owned a commercial plaza, sought disturbance damages dating back to the early 1970s, arguing that was when his rentals started to be impacted by the imminence of expropriation. The Town responded that the threat of expropriation could not have been earlier than 1982, when the Town sent a form letter to owners, including the claimant, advising of potential acquisition of their properties. In making an award for the lost rents, the Board found that because the Town published its first formal notice of its intent to expropriate in 1989, it would award damages for lost rents starting in that year.

[336] The Board distinguished between 1982 as “the first time owners would have come to appreciate, beyond rumour and speculation, that their lands *might* be needed and perhaps the subject of an expropriation” (para. 75; emphasis in original) and 1989 as the formal notice of the Town’s intention to actually expropriate. It is also important to note that there was evidence in that case that the plaza generally enjoyed full occupancy as reflected in both signed and unsigned leases.

[337] As in *Dell* and the cases that followed, it is necessary to determine when the threat of expropriation or shadow period begins, in order to determine the amount of disturbance damages that are recoverable. The start date of the scheme was a matter left for this hearing, though the Tribunal decided in the October 2016 Decision that it could be no earlier than October 16, 2006. 135 argues that that is the date when the scheme commenced, while the City submits that scheme commenced no earlier than April 2008, when the City made an anonymous offer to purchase the property from 135, and that no shadow was actually cast over the property until December 2008, when the City publicly announced its intention to expropriate.

[338] Mr. Coneybeare took the October 16, 2006 date as given in his witness statements, and during cross-examination testified that he is aware that date is yet to be determined by the Tribunal. He calculated lost rents in the amount of \$638,889 between

October 16, 2006 and the 2009 expropriation. Because 135 did not actually have tenants during this time period, Mr. Coneybeare used a proposed rental agreement, dated in 2005 and between Sifto Salt and 122, to calculate what 135 could have earned in rent for this nearly three-year period. The agreement was unsigned and drafted by CBRE, a leasing company retained by 135. That lease never came to be and Mr. Coneybeare testified during cross-examination that he had no knowledge of whether Sifto ever intended to enter the agreement.

[339] Mr. Coneybeare and Mr. Tautrimis agreed that the property had no tenants and no rental or other income of any significance. There appears to have been one tenant in 2003, Tom Finlay, who stopped payment on his rent cheques in the spring of 2003 for unknown reasons. It is also unclear what rent he ever paid, though Mr. Ryan, in a 2005 examination for discovery, speculated that the amount was not much, perhaps \$500 or \$1000 per month.⁶

[340] Even if the Tribunal were to accept 135's submission that the scheme commenced in October 2006, it cannot in the law find any justification to award the damages it claims for business losses. 135 had no tenants nor rents to speak of at any time in its alleged shadow period. Nor could it have. The property suffered damage as a result of the tender shop fire in October 2003. The main building was left open to the elements in areas. It was not connected to municipal services. These circumstances existed independently of the expropriation or the threat of expropriation.

[341] The Tribunal is charged with making the claimant whole under the Act. What exists in this case is a Claimant who owned a damaged building with no tenants long before the possibility of expropriation was on the horizon. Counsel for the Claimant argues that the actual rents are irrelevant, as 135 lost the opportunity of renting the property due to the threat of expropriation. There is no legal authority in support of such a proposition, nor are there any facts to support such a finding. In fact, the Tribunal finds that making such a leap would be contrary to the Act and to *Dell*. It would require this

⁶ Exhibit 40, Tab 7, Questions 438-448.

Tribunal to imagine a building capable of being rented to a hypothetical tenant and would result in a significant windfall to the Claimant. That is clearly not the intent of the Act.

[342] Additionally, the Claimant cannot point to a date when a shadow actually materialized on the property. While the Tribunal appreciates Mr. Doherty's submission that it is difficult to determine this without Mr. Ryan, the Act and authorities interpreting it require this missing connection. There must be a clear link between the threat of expropriation and the damage it causes—for example, the costs of delay in *Dell*, or the lost rents in *Pitblado*. There is no such connection in this case.

[343] The Claimant offered no evidence in support of the scheme commencing on October 16, 2006. While that is the date that the City, the Festival, and UW entered into the Memorandum of Understanding to establish a campus in Stratford, there is no mention of 135's property in that document. The first mention came from Mr. Ryan himself, at a public meeting on December 7, 2006, where he suggested a potential partnership with UW involving his land. 135 submits that because Mr. Ryan was then precluded from discussions with UW, this supports the Memorandum of Understanding as the scheme commencement date, or in the alternative, December 2006 at the latest.

[344] Mr. Shaw, the City's former CAO, was the only witness to offer a detailed chronology of events, summarized earlier in this Decision. His evidence on the timing of events related to the expropriation was not challenged during cross-examination. The Tribunal accepts his evidence that City staff were internally reviewing sites for the campus through 2007 and began considering 135's property as a potential site during that time.

[345] There is no evidence that Mr. Ryan nor the public would have been aware of these discussions and the potential interest in 135's property. 135 argues that it became aware when UW was no longer interested in pursuing discussions of a partnership with Mr. Ryan. 135 then received the anonymous offer (from the City) to purchase the property in April 2008 and a series of other offers. The Tribunal can accept that, by

then, Mr. Ryan may have suspected that the City might attempt to acquire his lands by other means, including expropriation, just as the claimant in *Pitblado* may have suspected the possibility of expropriation based on the Town's form letter.

[346] In this case, the City did not decide to attempt to acquire 135's property until April 3, 2008 during an *in camera* meeting. The anonymous offer followed and was not publicly known; it was known only to 135.

[347] Even so, this did not stop 135 from pursuing its plans for the property through 2008, including:

- Purchasing a sign to advertise leasing of the property in May 2008;
- Hiring Rosati Construction to build a stage at the site during the summer of 2008 as part of the Ryan's Railway Centre plan;
- Continuing an engagement with DTZ Barnicke to market for tenants; and
- Planning by Mr. Patrick Ryan to open a paintball club at the property.

[348] Based on its review of the record and testimony during the hearing, the Tribunal accepts the City's submission that the scheme commenced when it decided to acquire the property in April 2008 and sent an anonymous offer to the Claimant. However, unlike in *Pitblado*, there is no evidence of a shadow ever materializing over 135's property. There were no rents to be lost and no possibility of tenants on the horizon. The threat of expropriation clearly had no impact on 135's activities on the property because it continued to pursue its project until the City announced its intention to expropriate. Accordingly, the Tribunal rejects 135's claim for business losses.

b. Costs Thrown Away / Wasted Development Costs

[349] Disturbance damages can also include costs incurred by a claimant pursuing

development on its property that later become costs thrown away because the property is expropriated. This is where 135's lack of financial record-keeping and comingling of funds among various corporate entities and personal funds makes matters complicated. Many of 135's accounts remained unpaid at the time of this hearing. The fact that Mrs. Clime was still reconstructing 135's financial records means that both business loss experts—Mr. Coneybeare for the Claimant and Mr. Tautrimis for the City—were having to review and revise estimates during the hearing.

[350] While 135 originally claimed \$314,000 in wasted development costs, Mr. Coneybeare reduced the figure to \$268,000 after meeting with Mr. Tautrimis.

[351] Mr. Tautrimis originally estimated 135's wasted development costs at \$5,644. He allowed \$4,220 for an invoice from Scutt Signs. Mr. Tautrimis allowed this expense on the assumption that the sign, used to advertise the property for leasing, was related to 135's development. He also allowed an invoice for \$1,424 for the purchase of landscaping stones because the purchase relates to the exterior of the building.

[352] It was not until this hearing that Mr. Tautrimis received Mrs. Clime's updated financial statements. He reviewed those statements and provided an alternative calculation to allow any amounts that Mrs. Clime had indicated were paid. Based on his review of those statements, his opinion is that 135 is eligible for, at most, \$51,683 in wasted development costs. He cautioned the Tribunal that this assumes that the invoices were actually paid and that they related to 135's development, though many of the invoices were addressed to other individuals or corporate entities.

[353] For the purpose of arriving at an alternative figure, he assumed Mrs. Clime's ledger was done correctly, though he noted Mrs. Clime's repeated caution that these documents were still in draft form. They are subject to change because she is still missing bank statements and is seeking Mrs. Ryan's assistance in properly classifying the expenses. This is significant because many of the invoices were addressed to Mr. Ryan personally, to other corporate entities, and some were to 'cash' or unidentified. There is no way to determine whether they were used for 135's project.

[354] Much was made in the Claimant's submissions of Mr. Tautrimis adjusting his figure. Given the gaps in 135's financial records as described by Mrs. Climie, the Tribunal appreciates the difficulty in piecing together 135's financial picture. The financial records were being updated even during the course of this hearing and the Tribunal cannot draw a negative inference from either Mr. Coneybeare or Mr. Tautrimis adjusting their figures as Mrs. Climie provided new financial information. Nor does the Tribunal fault Mrs. Climie for working with the deficient records she had been given.

[355] Mr. Coneybeare's \$268,000 in wasted development costs can be divided into two categories:

- a) \$131,000 in expenses he believes are supported by invoices and detailed on Schedule 5R of his report; and
- b) \$137,000 for expenses incurred using advances under the Republic mortgage and reflected in Schedule 6R of his report.

[356] With respect to the first category, Messrs. Coneybeare and Tautrimis agreed that these expenses should be supported by invoices. They have two major areas of disagreement within this category. The first relates to equipment purchases and the second relates to expenses that Mr. Tautrimis believes were required to attract tenants and do not qualify as wasted development costs.

[357] The equipment consists of a scissor lift and a Bobcat, with a total claimed value of \$23,999. Both were purchased by the Ryan's farm company, Sydenham Deer Farm, and may have been used at the Expropriated Lands. The Ryan family is still in possession of the lift but Mrs. Ryan believes the Bobcat was left at the Expropriated Lands. Because the purchaser of this equipment was not 135 and the Ryan family is still in possession of the lift, the Tribunal agrees with Mr. Tautrimis that the cost of equipment cannot be characterized as a wasted development cost for 135 and is therefore not compensable under the Act.

[358] The expenses that Mr. Tautrimis believes were required to attract tenants are for cleaning the building, generator / diesel fuel, signage, advertising, printing, and other expenses (including drilling a well for the property). After receiving Mrs. Climie's ledger's Mr. Tautrimis noted the amounts that were alleged to be paid for each of those expense categories. He also accounted for \$19,020 in sales of salvaged material from the building that is shown in the ledgers and deducted them, noting that he and Mr. Coneybeare agreed that it is necessary to account for any revenues associated with claimed costs.

[359] Because Mr. Coneybeare is of the opinion that all of the expenses related to 135's development plans—and not to attract tenants—Mr. Tautrimis proposed that 50% of the costs could be compensable as wasted development costs, which is a total of \$51,683. He cautioned that the Tribunal would have to find that 135's development was feasible in order to compensate for those expenses.

[360] The Tribunal finds Mr. Tautrimis' analysis of these expenses to be more thorough than that of Mr. Coneybeare. Mr. Tautrimis scrutinized the ledgers and invoices in a way that Mr. Coneybeare did not. Significantly, Mr. Coneybeare did not concern himself with the fact that many invoices are not addressed to 135. He also took as given that all of the invoices have been paid when there is no evidence that many of them have been paid. If the Tribunal were to accept Mr. Coneybeare's approach and his proposed figure, it would very likely be compensating 135 for costs it did not incur, contrary to the Act.

[361] Mr. Coneybeare similarly made a blanket assumption that all expenses for cleaning the building related to 135's development.

[362] In Mr. Tautrimis' opinion, the costs associated with cleaning up after a fire, as well as for a generator and diesel fuel, and drilling a well are the normal costs of doing business. Mr. Coneybeare believes otherwise, that these costs were necessarily incurred by 135 to pursue its development plan.

[363] The Tribunal finds Mr. Gauthier's evidence to be of assistance here. He testified

that Rosati and Mr. Ryan planned a phased renovation and build-out, where they would complete a unit, lease it, then move onto the next. The plan was to start with a general store, and while closing off the rest of the building, to use the completed portion to attract future tenants. It is an approach that Rosati has previously used, and the Tribunal accepts that Rosati and Mr. Ryan believed the approach could work.

[364] The Tribunal must take care not to import the feasibility requirements of the highest and best use analysis into its analysis of wasted development costs. It is true that the Tribunal determined the project not to be feasible in the context of the highest and best use analysis, which has at its core a hypothetical knowledgeable and prudent buyer and seller. The same scrutiny does not apply to an actual owner's expenses on a development plan it believes feasible.

[365] It is also necessary to recognize—as many witnesses testified—that 135's plan was in the concept stage. The development process is an iterative one. Plans change. It is possible that if 135 and Rosati proceeded to work on the building, the plans for the project would have evolved.

[366] There is also the problem of the building being used for other purposes unrelated to the development. Mr. Patrick Ryan lived in the building for a period of time to provide security services. There is no breakdown to indicate the costs associated with his habitation and use of the building, nor for the storage uses that occurred in the building.

[367] 135's financial picture is incomplete at best. Because of 135's disorganized record keeping and practice of comingling funds, it is impossible to determine whether invoices addressed to parties other than 135 were used for 135's project. For example, several invoices were addressed to the Ryans' farm corporation and others to Bemar Construction, another of Mr. Ryan's companies, which was involved in other projects and in litigation.

[368] The Tribunal therefore accepts that only some of the claimed expenses were incurred to advance 135's project and finds that Mr. Tautrim's alternative total of

\$51,683 is an appropriate amount to award for wasted development costs.

[369] The second category Mr. Coneybeare claims are advances for the Republic mortgage. Republic advanced over \$2 million in funds and of that Mr. Coneybeare identified about \$71,000 that he thought might relate to wasted development costs. Both Mr. Coneybeare and Mr. Tautrimis referred to a lack of records to demonstrate where the Republic funds went.

[370] Of the \$71,062 Mr. Coneybeare identified as potentially wasted development costs, Mr. Tautrimis points out that \$54,000 were payments made to cash. There is no evidence to show where those funds went, let alone to demonstrate that they were used for 135's project. If they were used for the project, it is possible that they were used to pay invoices that were otherwise claimed in Mr. Coneybeare's expense category and would be double counted if allowed. The remainder of the Republic advances consists of amounts paid to law firms and other consultants. The Tribunal agrees with the City that there is no evidence these amounts in any way related to 135's project.

[371] Therefore, the total compensable as wasted development costs is \$51,683.

[372] The Claimant advances an unusual alternative claim for interest. It submits that if interest is not awarded on the market value of the land pursuant to s. 33 of the Act, it should be awarded additional disturbance damages of at least \$633,000 in financing costs incurred by the Ryans' related farm properties as a result of the expropriation. These are interest costs paid by the farm companies on behalf of 135 after the expropriation. Mr. Coneybeare included four short paragraphs regarding this claim in his report, noting that he did not include this in the claim for disturbance damages because interest owing pursuant to s. 33 of the Act would exceed and possibly duplicate the interest expenses incurred after the date of the expropriation. Mr. Coneybeare provided no justification for such an award, nor did he expressly endorse it in his testimony.

[373] The Tribunal agrees with the City that there is no basis in the law for such an

award. There is no entitlement to interest on disturbance damages in the Act. Even if the financing costs of the farm companies were somehow compensable under the Act, the Tribunal was presented with no evidence to demonstrate that these expenses were a natural and reasonable consequence of the expropriation.

c. Executive Time

[374] Though the Act does not specifically provide compensation for executive time, it has been accepted by the Tribunal and its predecessors as a type of disturbance damage. Awards of executive time are discretionary and often nominal. Their purpose is to compensate a claimant for time it had to divert from running its business to deal with the expropriation.

[375] At the high end, the Tribunal has awarded \$26,000 for executive time where a claimant sought \$79,600 (*Paciorka Leaseholds Ltd. v. Windsor (City)*, 2009 CarswellOnt 7738, 99 L.C.R. 269). That claim was supported by a detailed time log showing 796 hours, at a value of \$100 per hour, spent over seven years. The Board found only one-third of the amount reasonable because the balance was a duplication of efforts to attend legal and expert meetings.

[376] The Board awarded a similar amount of compensation for executive time in a case where there was no suggestion that the claim was inflated, giving the claimant \$26,865 for executive time at a value of \$100 per hour (*Captain Developments Ltd. v. Ontario (Ministry of Transportation)*, 1993 CarswellOnt 5166, 50 L.C.R. 176).

[377] At the other extreme, the Tribunal has denied claims for executive time when there is no evidence that time was lost from the business. (See *Foisy et al. v. City of Glouster*, 1985 CarswellOnt 2158, 34 L.C.R. 350 and *Bernard Homes Ltd. v. York Catholic District School Board*, 2004 CarswellOnt 3008, 83 L.C.R. 176). Claims for executive time have also been reduced when the claimed hourly rate is found to be inflated (*Moto-Match Centres Ltd. v. Toronto (Metropolitan)* 1984 CarswellOnt 1869, 30 L.C.R. 326).

[378] In this case, 135 claims executive time for both Mr. Ryan (\$152,000, consisting of 2000 hours at \$76 per hour) and Mrs. Ryan (\$3680, being 160 hours at \$23 per hour). The City submits that there is a threshold problem here, that is, that the corporate claimant cannot claim executive time for individuals. Beyond that, the City submits there is no evidence that 135 was paying for the Ryans' time or that it incurred any losses because their time was diverted from the business.

[379] The City relies on Board's decision in *Moto-Match*. In that case, the corporate claimant's secretary and president each made a claim for executive time. The Board allowed the claim, at a reduced amount, for the company secretary who had drawn an annual salary from the company. The reduced amount the Board awarded was based on the hourly rate it calculated from the annual salary and the number of hours worked per week. Conversely, the Board denied the claim for executive time for the company president (Mr. Gutmann), who had never drawn, nor was he entitled to, any remuneration from the company. In making its finding, the Board acknowledged that while Mr. Gutmann had performed work for the company, his time cost the claimant nothing (para. 23).

[380] It is true that both cases involved had only one claimant—a corporation. However, there are three key distinctions between the facts in *Moto-Match* and this case. The first distinction is that 135 had a sole shareholder, director, and officer, Mr. Ryan (and Mrs. Ryan as President since the time of his death). The corporate claimant in *Moto-Match* had two individuals with positions in the corporation; one drew a salary and one did not, and that distinction factored into the Board's decision to compensate executive time to the salaried one and not the other.

[381] In this case, Mr. Ryan was 135. He was its sole officer, shareholder, and director. There were no employees to perform the function of the business and pursue 135's project. Mr. Ryan was it.

[382] The second distinction is that the *Moto-Match* panel had evidence that one of the individuals claiming executive time drew a salary, and from that was able to arrive at an

appropriate award for executive time. There are no such records in this case. The Tribunal can only infer that some of the transferring of funds among various corporate entities and the Ryans personally was an attempt at compensation for work done. Mr. Ryan referred to reimbursement for his in-kind work in affidavits and examinations for discovery transcripts. Here again, the deficiency in 135's record-keeping and its practice of comingling corporate and personal funds is a problem.

[383] The third distinction is that the claims for executive time in *Moto-Match* included some attempt to quantify the hours spent away from the business on matters related to the expropriation. In that case, and in many of the submitted authorities, there was at least some attempt to explain what the individuals spent the time on and how that caused a loss for the business. None of that exists in this case.

[384] In this case, the Tribunal does not find the corporate status of the Claimant to preclude a claim for executive time by an individual involved in the corporation. Mr. and Mrs. Ryan could be eligible for executive time as named officers in the corporation. However, the Tribunal does find that the nature of 135's business precludes such a claim.

[385] By Mr. Ryan's own affidavit evidence, and as confirmed by testimony of witnesses during the hearing, 135 had a single purpose: to advance the project. The project was synonymous with the Expropriated Lands, in particular the building. Without the property, there could be no project. From the time of expropriation 135 had no business to attend to. There can therefore be no evidence to show that the expropriation caused Mr. or Mrs. Ryan to divert their attention from any of 135's business.

[386] Even if there were such evidence, the details of the executive time claim in this case are sparse and wholly unreliable. Mr. Coneybeare calculated the amounts claimed for Mr. and Mrs. Ryan, not based on what they were paid by 135, but by what he believes they should be paid for the functions they performed and their respective levels of experience.

[387] There is a complete absence of evidence regarding Mr. and Mrs. Ryan's duties with the business and how they were diverted from those duties because of the expropriation. Mrs. Climie and Mrs. Ryan testified generally as to the time Mr. Ryan spent "on the expropriation," indicating that he always seemed to be doing something relating to the expropriation. Mrs. Ryan testified that Mr. Ryan would often miss holidays, birthdays, and family functions because he was working on something to do with the expropriation. No doubt this was a difficult circumstance for the family.

[388] The problem, however, is that Mr. Ryan (and 135) was involved in a multitude of litigation outside this expropriation proceeding. Some of that litigation relates to the subject property but not to the expropriation. Undoubtedly there would have been overlap. When combined with a complete absence of accounting for Mr. and Mrs. Ryan's time, the Tribunal cannot accept that the 2000 hours claimed for Mr. Ryan related only to the expropriation. The Tribunal sees no reliable basis upon which to exercise its discretion to allow compensation for executive time.

3. Costs and Interest

[389] Costs awards are determined in accordance with s. 32 of the Act and are dependent on the amount offered by the authority. Where the Tribunal awards an owner 85% or more of the amount offered by the authority, s. 32(1) requires the Tribunal to make an order directing the authority to pay the reasonable legal, appraisal and other costs incurred by the owner for the purpose of determining compensation.

[390] Conversely, where the amount awarded by the Tribunal is less than 85% of the amount offered by the authority, s. 32(2) affords the Tribunal discretion to make an order for the payment of costs as it considers appropriate.

[391] The parties agreed that submissions regarding the applicability of s. 32 shall be made following the Tribunal's determination of compensation in this Decision. The Tribunal will remain seized for the purpose of determining costs in accordance with s. 32 of the Act and will establish the procedure, including a hearing date, to fix the

costs associated with this Claim.

[392] The parties also made submissions regarding interest in the event interest is owed on an amount outstanding for the market value of the property. Section 33 of the Act sets the interest rate at 6%, but it allows the Tribunal to vary the interest rate where it is of the opinion that any delay in determining compensation is attributable to either the owner or the expropriating authority.

[393] There would be no amount outstanding based on the market value the Tribunal has determined in this case. The amount is less than the \$589,208.84 the City paid to the Claimant on February 9, 2010, which does not include the more than \$4 million it paid to Republic Mortgage. The City indicated, in its submissions, that out of respect for Mrs. Ryan and her family, it is not taking the position that it be repaid any overpaid funds.

[394] Even if the determination of market value resulted in interest owed, the Tribunal has difficulties with the City's request to vary the statutory interest rate because of delays occasioned by the Claimant. If the Tribunal were to entertain such a request, it would require a month by month accounting and analysis of the source of every delay in this decade-old Claim. The Tribunal agrees with Mr. Aburto's submission that this is not the intent of the Act. Having been seized of the matter for six years, the Tribunal has observed delays occasioned by both parties, as well as delays beyond the control of either of the parties or the Tribunal.

CONCLUSION

[395] In arriving at its decision, the Tribunal has carefully considered the evidence and submissions it heard during the hearing, as well as the extensive record. While the Tribunal acknowledges the tremendous tenacity of Mr. Ryan in pursuing 135's project, it is necessarily focused on its obligations under the Act. The reliance of many of the Claimant's witnesses on Mr. Ryan's confidence and enthusiasm for the project provided a very narrow perspective to the Tribunal; far narrower than the Act requires when

considering a hypothetical transaction between a willing seller and buyer.

[396] By focussing on Mr. Ryan's perspective, the Claimant's key witness, Mr. Simmons, overlooked the structural repairs and downplayed the environmental remediation the property requires. These would most certainly give pause to a knowledgeable and prudent buyer and would have to be taken into account in their negotiations with a knowledgeable and prudent seller.

[397] With respect to the claim for disturbance damages, 135's evidence was lacking. There was no evidence of any business loss nor executive time. The state of 135's financial records made it difficult to determine a precise amount for wasted development costs, and so the Tribunal accepted Mr. Tautrim's alternative approach – to allow some of the claimed costs as relating to the development rather than the cost of doing business—as a reasonable one in the unusual circumstances of this case.

ORDER

[398] The Tribunal makes the following award of compensation:

<i>Market Value</i>	\$290,000
<i>Disturbance Damages</i>	
Business Loss	nil
Wasted Development Costs	\$51,683
Executive Time for Lawrence Ryan	nil
Executive Time for Wendy Ryan	nil
Total	\$341,683

“S. Jacobs”

S. JACOBS
VICE-CHAIR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Perth County Municipal Association 73rd Annual Meeting

Wednesday, November 17th, 2021 – Virtual Meeting

Hosted by the Municipality of North Perth

THEME: YOUTH ATTRACTION, ENGAGEMENT, AND RETENTION

The 73rd annual meeting for the Perth County Municipal Association will be held at:

- Virtual Meeting
- Wednesday, November 17, 2021
- Program begins at 8:30 AM EST

KEYNOTE SPEAKERS:

- **Sammie Orr**, Highschool Student and Youth Activist
- **Carol Young**, Coordinator at Camp Bimini

FEATURED PANELISTS:

- **Jolande Oudshoorn**
 - President, Huron Perth Junior Farmers
- **Audrey Ansell**
 - Director of Community Attraction & Promotion, Chatham-Kent
- **Craig Boddy**
 - Manager of the Fusion Youth Centre, Town of Ingersoll
- **United Way Representative**
 - United Way Perth Huron, Youth in Action

REGISTRATION DETAILS:

Register for **FREE** at the **EventBrite** link below. After registering, you will receive a confirmation email containing information to join the webinar. An event program will be sent directly to your email address prior to the meeting.

Deadline to register is November 12, 2021

<https://www.eventbrite.ca/e/73rd-annual-meeting-of-the-perth-county-municipal-association-tickets-176339926467>

PERTH COUNTY MUNICIPAL ASSOCIATION MEMBERS





MANAGEMENT REPORT

Date: October 25, 2021
To: Mayor and Council
From: Nancy Roulston, Manager of Engineering
Report#: COU21-106
Attachments: Plan 44R-5881

Title: Albert Street Road Widening

Objective: To accept and declare as a public highway, a road widening on Albert Street, as required by Consent Application B04-21.

Background: Consent Application B04-21 for 362 Albert Street allows the owner to sever their property for the development of two new single detached dwellings. One of the requirements of the consent is that the owner dedicate a portion of lands fronting Albert Street as a road widening. The owner has prepared a reference plan to describe the road widening.

Analysis: The road widening, Part 5 Plan 44R-5881, is required as a condition of Consent Application B04-21, and complies with the City's policy of obtaining road widenings where existing streets do not have the minimum recommended width.

Financial Impact: All fees associated with registration of the documents are the responsibility of the owner, as per the conditions of the Consent.

Alignment with Strategic Priorities:

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Staff Recommendation: THAT The Corporation of the City of Stratford accept Part 5 Plan 44R-5881 as public highway and dedicate it as forming part of Albert Street.



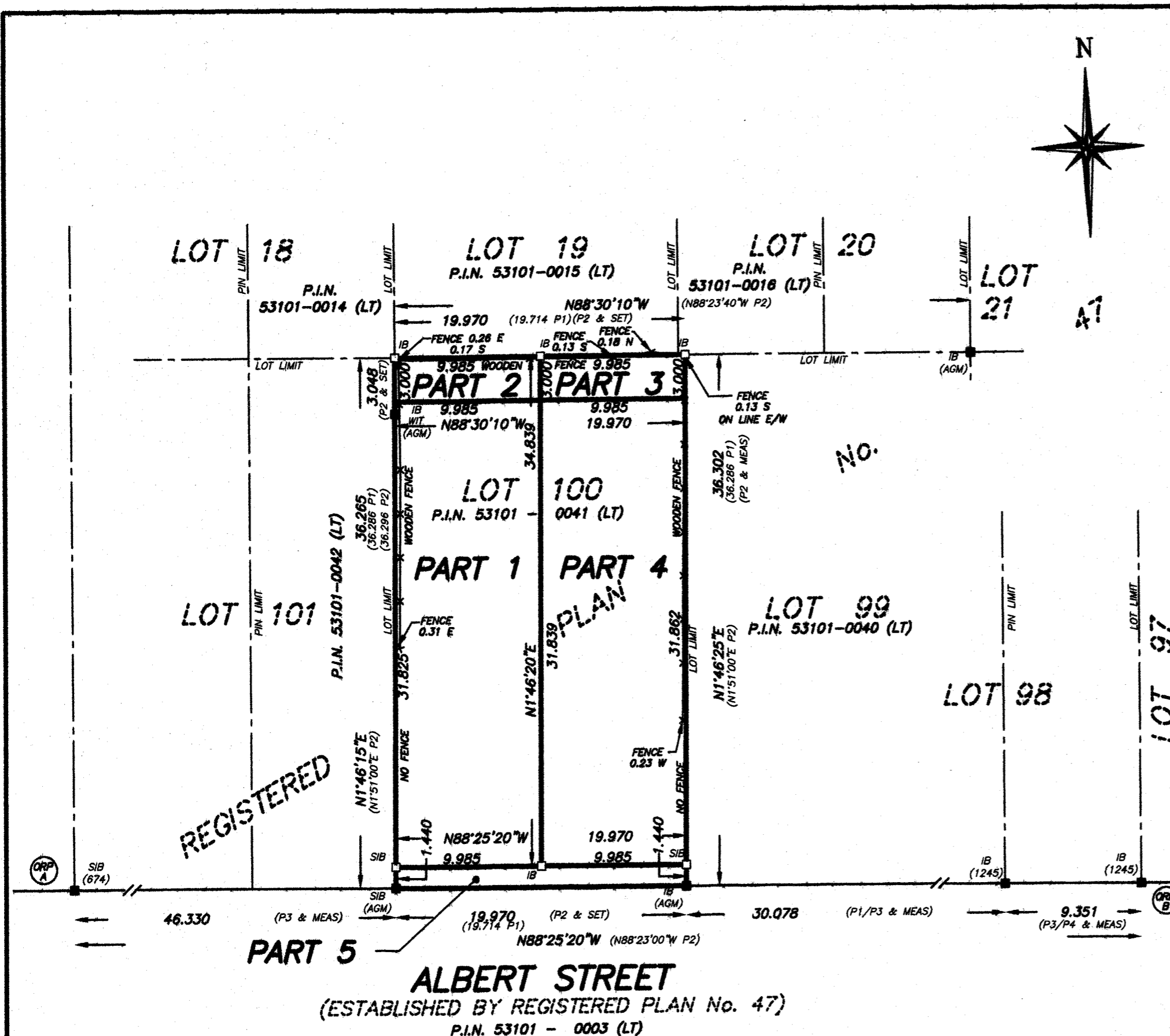
Nancy Roulston, Manager of Engineering



Taylor Crinklaw, Director of Infrastructure and Development Services



Joan Thomson, Chief Administrative Officer



I REQUIRE THIS PLAN TO
BE DEPOSITED UNDER THE
LAND TITLES ACT

PLAN 44R-5881

RECEIVED AND DEPOSITED

DATE MAY 20 2021

DATE 2021-05-21

PETER G. MORETON, O.L.S.

REPRESENTATIVE FOR LAND
REGISTRAR FOR THE LAND TITLES
DIVISION OF PERTH (No. 44)

SCHEDULE

PART	LOT	REG'D PLAN	P.I.N.	AREA (m ²)
1	PT OF 100	47	PT OF 53101-0041 (LT)	317.7
2	PT OF 100	47	PT OF 53101-0041 (LT)	30.0
3	PT OF 100	47	PT OF 53101-0041 (LT)	30.0
4	PT OF 100	47	PT OF 53101-0041 (LT)	318.0
5	PT OF 100	47	PT OF 53101-0041 (LT)	28.8

PARTS 1, 2, 3, 4 & 5 COMPRISE ALL OF P.I.N. 53101-0041 (LT)

PLAN OF SURVEY

OF ALL OF

LOT 100

REGISTERED PLAN No. 47

IN THE

CITY OF STRATFORD

COUNTY OF PERTH

SCALE 1:300



MTE OLS LTD.

ONTARIO LAND SURVEYORS

METRIC:

DISTANCES AND CO-ORDINATES SHOWN ON THIS PLAN ARE IN
METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

SURVEYOR'S CERTIFICATE:

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE 10TH DAY OF MAY, 2021.

MAY 20 2021
DATE

PETER G. MORETON
ONTARIO LAND SURVEYOR

NOTES:

BEARINGS ARE UTM GRID, DERIVED FROM GPS OBSERVATIONS USING THE CAN-NET NETWORK AND ARE REFERRED TO UTM ZONE 17, NAD83 (CSRS v6) EPOCH 2010.00.

DISTANCES ON THIS PLAN ARE GROUND DISTANCES AND CAN BE CONVERTED TO GRID DISTANCES BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9996.

ALL COORDINATES ARE DERIVED FROM GPS OBSERVATIONS USING THE CAN-NET NETWORK AND ARE REFERRED TO UTM ZONE 17, NAD83 (CSRS v6) EPOCH 2010.00 TO AN URBAN ACCURACY IN ACCORDANCE WITH SEC. 14 (2) OF O.REG. 216/10

POINT ID	NORTHING	EASTING
ORP A	4801955.494	502492.650
ORP B	4801952.583	502598.299

COORDINATES CANNOT, IN THEMSELVES, BE USED TO
RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN

LEGEND:

- DENOTES PLANTED MONUMENT
- DENOTES FOUND MONUMENT
- SIB DENOTES STANDARD IRON BAR
- SSIB DENOTES SHORT STANDARD IRON BAR
- IB DENOTES IRON BAR
- IB# DENOTES ROUND IRON BAR
- OU DENOTES ORIGIN UNKNOWN
- NTS DENOTES NOT TO SCALE
- WIT DENOTES WITNESS
- MEAS DENOTES MEASURED
- 1245 DENOTES DONALD W.J. McNEIL LIMITED, O.L.S.'s
- 674 DENOTES F.J.S. PEARCE, O.L.S.
- AGM DENOTES ARCHIBALD, GRAY & McKAY, O.L.S.'s
- P1 DENOTES REGISTERED PLAN No. 47
- P2 DENOTES AGM PLAN S-2451 DATED MAY 21, 1998
- P3 DENOTES McNEIL FILE 87-2694 DATED JULY 9, 1987
- P4 DENOTES McNEIL FILE 87-2858 DATED NOVEMBER 19 1987



MTE ONTARIO LAND SURVEYORS LTD.
365 HOME STREET
STRATFORD, ONTARIO, N5A 2A5
TEL: 519-271-7952

Cad File: P:\P\48747\100\48747-100-R1.DWG

COGO: 48747-100-UTMGROUND.ASC

Drawn By: C. PERKS

Checked By: P. MORETON, OLS

File No: 48747-100-R1 (M)



MANAGEMENT REPORT

Date: October 25, 2021
To: Mayor and Council
From: Alex Burgess, Manager of Ontario Works
 Kim McElroy, Director of Social Services
Report#: COU21-107
Attachments: Consortium Agreement

Title: Employment Services Transformation – Call for Proposal and Consortium Agreement

Objective: To provide Council with an update regarding the Employment Services Transformation project and next steps in the submission process and to obtain Council approval to submit the Call for Proposal to become the Service System Manager for the Stratford-Bruce Peninsula economic region. Furthermore, Council approval is required to enter into a formal Consortium Agreement, requiring signature by the Mayor and City Clerk, with the County of Bruce, County of Huron, and Grey County.

Background: As detailed in previous report **COU21-081**, the City of Stratford in partnership with Grey County, Bruce County and Huron County (herein referred to as the “counties”) submitted a request for qualifications to become the Service System Manager (SSM) for the Stratford-Bruce Peninsula economic region, delivering employment and training services across the catchment area. The purpose of the RFQ was to determine if there are qualified applicants interested in and capable of managing the delivery of employment services the identified catchment areas. The RFQ was open to any public, not-for-profit, and private sector organization, as well as municipalities and municipal service delivery organizations. The four counties in our region collaboratively submitted a Request for Qualification, as detailed in the report. On September 10, 2021, Bruce County, whom has been identified as the Consortium lead, received notification from the Ministry of Labour, Training and Skills Development (MLTSD) that the submission was approved, and we were successful in qualifying for the next stage.

The sequencing of individual catchment areas was be based on complexity, competitiveness, and municipal engagement. On September 13 the Province announced that the Stratford-Bruce Peninsula Economic region was identified as lower complexity

and agreements for Employment Service Transformation will be in place for April 2022. The competitive process for the remaining catchments with higher levels of complexity such as Toronto and the two northern catchments will occur in 2023.

The second stage is a Call for Proposal (CFP) process for those in select catchment areas who were deemed qualified following the first round. The CFP was released on September 14, 2021 and will close on November 8, 2021. The successful SSMs in these catchment areas will be identified by Spring 2022, with Ministry agreements and Transfer Payment Agreements in place before April 2022. From April 2022 until the formal launch of the new program in April 2023, the successful applicant will undertake a transition of all employment and training services. The transition period has been flagged by the prototype areas as the one of the most integral pieces of a successful implementation, as it highlighted the gaps that had not been foreseen when the transition period was first planned.

Analysis: The City of Stratford Social Services Department has remained engaged with the partnering municipalities in the proposed consortium since the CFP was released. The CFP requires detailed information regarding service strategies, linkages to community partners and expected volumes of clients to be supported as well as a commercial envelope that details proposed funding for the delivery of the program. Bruce County, as the consortium lead, will be working through these documents with support from the other consortium members.

The CFP does not bind the corporation into a Provincial agreement, but rather allows the consortium to move into the next stage of the bidding process. If the consortium is successful in the CFP, then it will be eligible to be the SSM once the province conducts final interviews with all prospective applicants. During this time, further details will be brought forth to Council regarding service system implementation and changes that will impact local municipalities.

The agreement outlines the consortium's role and structure, ensuring that all members have an equal voice. The consortium agreement outlines specific responsibilities of each member municipality, as well as those of the lead agency. The purpose of the consortium is to provide system-wide integrated employment services in a timely, effective, and efficient manner which is responsive to the needs of each Member Municipality's service area and within the broader Service Area. It clearly outlines a decision-making protocol that will help guide the consortium through any contentious matters. There is a clause in place to ensure that the agreement may be amended, and the agreement highlights the process by which amendments will occur, in writing. Because the consortium has not yet been approved, it is expected there may be changes if the consortium is successful once the agreement is received. The agreement further defines the expectations of each member municipality and the committees in which each municipality will participate, as well as how they are to be structured. A clause in the agreement ensures that there is no new net-cost for each member municipality arising from its participation in the consortium, though there may be costs

related to the development of the proposal such as consultant fees. Any approved expenses will be within the parameters set forth in the City of Stratford's purchasing policy. The consortium, by way of this agreement, will ensure strong public accountability and transparency – both locally and provincially – while ensuring it is governed in a collaborative manner that is compliant with all relevant legislation.

The expectation for staff commitment in the consortium agreement is two-fold; there will be required participation in the Executive Steering Committee and the Regional Advisory Committee by two Director-level staff at the Corporation who will help inform the strategic direction of the consortium. Furthermore, Management-level participation in the Employment Services Implementation Team will be required on an ongoing basis. These members will assist with the development of the implementation plan and monitoring the ongoing work being completed within the employment and training services system. The roles and expectations are outlined in the agreement and terms of reference will be completed for all committee's if the consortium is successful in its proposal.

The consortium agreement has been reviewed by legal counsel and members of the Social Services management team prior to being put forth to Council on this date. Any further amendments will be reviewed by legal counsel at the applicable time. The agreement ensures compliance with the Municipal Act, 2001 and sets forth clear guidelines for the members to follow as the consortium continues in our application to become the SSM for the Stratford-Bruce Peninsula.

Further updates will be brought forth to Council as they are made available.

Financial Impact: The estimated annual budget allocation and client volumes for the Stratford-Bruce Peninsula economic region is \$12.3 million with an estimated annual client volume of 4,700. Three core components of funding model include:

Operational Funding	Direct delivery and/or subcontracted delivery of the components of the project, including supporting administration, utilities and other operational costs for service delivery.
Performance-Based Funding	Performance-based funding payments to SSMs will occur when clients meet certain employment parameters at checkpoints that occur as part of the client monitoring process.
Employment-related Financial Supports for Job Seekers and Employers	Provided to support clients and employers by addressing temporary financial barriers to participation in employment or employment-related activities.

The Transfer Payment Agreement (TPA) term for the SSM will be initially three years with two additional one-year terms possible (total potential of five years).

There is no direct financial impact to complete the consortium agreement. To complete the Call for Proposal, the four counties have agreed to hire a consultant for a total cost of \$6,250 to each municipality, which will be funded from the 2021 Ontario Works administrative budget. There is no increase to the 2021 Ontario Works budget to cover this cost, as this amount falls within the already allocated expenses. The full proposal is expected to have no impact to the City of Stratford, as the funding provided with the TPA is expected to be 100% of the costs to operate as the Service System Manager.

A further report will be brought forth once the full impact of the new system on the City of Stratford's Ontario Works budget is recognized and further detail is provided by the Province of Ontario.

Alignment with Strategic Priorities:

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Widening our Economic Opportunities

Strengthening Stratford's economy by developing, attracting, and retaining a diversity of businesses and talent.

Staff Recommendation: THAT Council of The Corporation of the City of Stratford authorize the entering into of the Consortium Agreement between the four Consolidated Municipal Service Managers in the Stratford-Bruce Peninsula Economic region, including the County of Huron, County of Bruce, and Grey County, with Bruce County acting as the lead agency;

THAT the Mayor and Clerk, or their respective delegates be authorized to sign the Consortium Agreement on behalf of the municipal corporation;

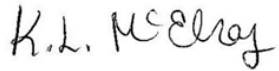
THAT staff be authorized to complete the Provincial Call for Proposal to formally be considered for the role of Service System Manager for community-based employment and training services within the Stratford-Bruce Peninsula economic region;

THAT any proposed final agreement between the Province of Ontario and consortium be signed by Bruce County, as the Consortium lead, subject to the program being 100% funded by the Province of Ontario and cost neutral to the City of Stratford;

AND THAT the proposed Service System Manager agreement be established on business and legal terms satisfactory to all members of the Consortium and their governing bodies; with final approval for a Provincial agreement being subject to Council approval at a future date.



Alex Burgess, Manager of Ontario Works



Kim McElroy, Director of Social Services



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: October 25, 2021
To: Mayor and Council
From: Mike Mousley, Manager of Transit;
 Stephanie Potter, Policy and Research Associate
Report#: COU21-108
Attachments: None

Title: Community Transportation: Update and Program Extension

Objective: To update Council on the Community Transportation Program, GO Train service integration, and to seek direction on a program extension to 31 March 2025.

Background:

A) GO Train Service Expansion – Stratford and St. Marys

On 15 September, the Ministry of Transportation (MTO) announced the extension of GO Train services to London, St. Marys, and Stratford beginning on 18 October 2021. GO service allows residents and visitors to connect to/from London, Kitchener-Waterloo, and Toronto. Staff have had several follow up meetings with Metrolinx for clarification on the program and the potential for increased service frequency. Metrolinx confirmed that their intention is to slowly introduce service to our region with a similar process used in Niagara Region (i.e. introduce one train and slowly build service levels). Metrolinx GO Train [fare structure](#) to and from Stratford as follows:

London-Stratford	\$12.50
St. Marys-Stratford	\$7.50
Kitchener-Stratford	\$12.50
Guelph	\$16
Toronto-Stratford	\$25

Scheduling is as follows:	Eastbound	Westbound
London	5:20am	8:17pm
St. Marys	6:13am	7:27pm

Stratford	6:43am	6:55pm
Kitchener	7:32am	6:06pm
Guelph	7:53am	5:41pm
Toronto (Union)	9:17am	4:19pm

Staff continue to meet with Metrolinx and our regional municipal partners (including London and Waterloo Region) to determine how best to integrate PC Connect into this new transit service. Our intent is to work with Metrolinx, regional partners, and community stakeholders to build a business case for continued GO Train expansion in our region.

B) Community Transportation Program Extension

The County of Perth and City of Stratford (in partnership with North Perth and St. Marys) launched our PC Connect Intercommunity Transit service on 16 November 2020¹ with support from the MTO Community Transportation (CT) program. The CT program was originally intended to be a 5-year pilot program, however, our project launch was substantially delayed by the 2019 provincial election and the 2020 outbreak of COVID-19, which reduced program duration to two and a half years (to 31 March 2023). In summer 2021, MTO announced that Community Transportation grant recipients would receive a two-year pilot program extension with additional funding. Stratford received \$611,936.91 to continue PC Connect until 31 March 2025. We have an exciting opportunity to continue this important program with additional funding – however, a substantial municipal investment will be required to extend the program.

C) PC Connect Update

i) Ridership

Since our service launch, PC Connect has experienced two province-wide lockdowns which included stay-at-home orders. During these periods, riders were advised to utilize the service for essential travel only. Since Ontario began reopening in late spring/early Summer 2021, we have seen a steady increase in ridership as follows:

Month 2020-2021	Route 1: KW to Listowel	Route 2: KW to St.Marys	Route 3: London to Stratford	Route A: Perth County North	Route B: Perth County South	TOTAL
November	9	37	N/A	20	19	85
December	20	59	N/A	48	22	149
January	4	13	6	43	10	76
February	11	20	29	73	13	146
March	11	57	59	158	23	308

¹ Route 3 launched on 18 January 2021.

Month 2020-2021	Route 1: KW to Listowel	Route 2: KW to St.Marys	Route 3: London to Stratford	Route A: Perth County North	Route B: Perth County South	TOTAL
April	7	10	33	135	11	196
May	6	39	36	62	20	163
June	12	85	47	50	29	223
July	46	108	91	80	29	354
August	34	116	143	81	44	418
September	91	119	144	87	118	559
TOTAL	251	663	588	837	338	2,677

PC Connect continues to operate at 50% capacity to accommodate physical distancing on board the bus. Passengers are required to wear a mask, drivers are masked, and hand sanitizer is available on board. Passengers are instructed not to ride if they are feeling ill.

ii) Fare Booking

City staff have contracted a digital media company to create a digital booking platform for PC Connect that will allow riders to book their trips using their smart phones and pay digitally in advance. Service notifications will also be sent out through this platform, and bus locations can be tracked in real time. The app is expected to launch in mid-November. Riders without access to smart phones can still call 1-888-465-0783 to book their ride in advance, and cash fares are still being accepted.

iii) Routes, Stops, and Schedules

A new stop is being added to Route 2 in Shakespeare and new stops are being considered on Route 1. The St. Mary's downtown stop is being reconsidered due to parking challenges outside of Town Hall; options for moving the stop to the St. Marys VIA Station are under review. GO Train service will impact scheduling on Route 3 – our current early morning start is being reconsidered in favour of a later running time, as our Route 3 bus departing from London 6:00am on weekdays duplicates service unnecessarily. Options are being discussed with municipal partners and our service provider. At present, we are considering operating Route 3 on the [Saturday schedule](#) with a 9:00am start time, 6 days a week.

iv) Public Consultation

Staff intend to undertake a public consultation process as we approach the anniversary of our PC Connect launch to inform service improvements and help us determine how best to integrate GO Train services and greater connectivity. The results will also help us begin building a business case for increased regional GO service.

Analysis: Staff have held several follow-up meetings with the Ministry of Transportation since the CT program extension announcement to request more information regarding our funding allocation, including an AMO Conference delegation meeting with the Minister of Transportation. MTO has confirmed that the extension in 2023-25 will be more flexible than our previous grant (e.g. we are able to reduce service levels with no reduction to our funding allocation if one of our contributing partners no longer wishes to participate in the program). MTO has requested that a project budget be submitted that will be used to generate a Transfer Payment Agreement for Stratford to consider signing by the end of 2021. Staff have expressed concern with the proposed timing as we approach the 2022 municipal election. MTO has confirmed that we are able to execute the transfer payment agreement with MTO and cancel the program extension in 2023 and/or adjust service levels if our circumstances change. MTO has confirmed that the \$611,936 funding allocation will remain unchanged if we reduce service levels and/or lose one of our contributing partners.

Through continued investment in the PC Connect pilot program into 2025, we have a unique opportunity to build a strong business case for continued GO Train expansion in our region with PC Connect ridership data. Our intent is to fill GO Train service gaps with PC Connect service until 31 March 2025 and use the ridership data to build a business case for increased GO frequency. It is hoped that increased frequency could be in place by 2025; thereafter, GO service would replace PC Connect for long-distance connectivity to London and Kitchener-Waterloo; and PC Connect could maintain intra-county service.

Staff are working with Stratford Transit and our municipal and community partners/stakeholders to support GO ridership with existing services as much as possible, and to build a business case for increased GO service in our region.

Financial Impact:

Under our transfer payment agreement with MTO, Community Transportation grant installments for PC Connect are received as follows:

CURRENT TERM	PAYMENT FREQUENCY	AMOUNT	TOTAL
1 April-31 March 2020	Quarterly	\$75,455.50	\$301,822
1 April-31 March 2021	Quarterly	\$93,955.25	\$375,821
1 April-31 March 2022	Quarterly	\$95,309.50	\$381,238
1 April-31 March 2023	On or before 30 April 2022	\$195,232.00	\$195,232.00
1 April-30 April 2023	On or before 30 April 2023	\$195,232.00	\$195,232.00
TOTAL			<u>\$1,449,345</u>

PROPOSED EXTENSION	PAYMENT FREQUENCY	AMOUNT	TOTAL
April 2023-March 2024	April 2023-March 2024	\$305,968.45	\$305,968.45
April 2024-March 2025	April 2024-March 2025	\$305,968.45	\$305,968.45
TOTAL			<u>\$611,936.91</u>
PROGRAM TOTAL			<u>\$2,061,281.91</u>

Our revised project budget for 2022-25 is as follows:

REVENUE	2020	2021 YTD	2021 Projection	2022	2023	2024	2025*
MTO Funding	\$301,822.00	\$461,960.10	\$652,579.10	\$290,541.50	357,386.62	305,968.44	\$152,984.22
Transit Fares		\$10,725.60	\$10,725.60				
Transfers from Reserves			\$54,914.60	\$149,476.25			
Recoverable from North Perth & St. Marys				\$212,654.83	\$278,408.92	\$312,687.71	\$18,010.52
TOTAL Program Funding	301,822.00	\$472,865.70	\$718,219.00	\$652,672.58	\$635,795.54	\$618,656.15	\$170,994.74
EXPENSES	2020	2021 YTD	2021 Projection	2022	2023	2024	2025
Advertising	\$2,405.77	\$16,528.12	\$37,650.00	\$40,000	\$40,000	\$40,000	\$3,000
Booking App			\$5,900	\$40,000	\$40,000	\$40,000	\$7,000
Service Contract	\$58,758.64	\$417,828.07	\$659,405.00	\$659,000.00	\$680,000	\$680,000	\$170,000
Legal	\$19,038.57	\$363.79	\$15,264.00	\$20,000	\$15,000	\$15,000	
Transfers to Reserves	\$204,390.55						
Other	\$17,228.47						
TOTAL Program Expenses	\$97,431.45	\$434,719.98	\$718,219.00	\$759,000.00	\$775,000.00	\$775,000.00	\$180,000.00
TOTAL Expenses for each Municipality				\$106,327.42	\$139,204.46	\$156,343.85	\$9,005.26
Stratford				\$106,327.42	\$139,204.46	\$156,343.85	\$9,005.26
North Perth				\$106,327.42	\$139,204.46	\$156,343.85	\$9,005.26
St Marys				\$106,327.42	\$139,204.46	\$156,343.85	\$9,005.26

Please note the following:

- MTO funding year ends 31 March;
- Per the terms of our Local Partnership Agreement, program expenses are to be split 33.3% between Stratford, North Perth, and St. Marys until 31 March

2023. If our partners wish to continue with the project into March 2025, the above budget assumes that total project expenses will continue to be split evenly between Stratford, North Perth, and St. Marys. If one or both partners do not wish to participate, service levels can be reduced or eliminated in those areas with no loss of CT funding;

- Because the program was delayed by the 2019 election and COVID-19, our transfer payments have been much higher at the beginning of the program than they will be beginning in 2022, thus we have not yet incurred a deficit and therefore we have not invoiced our partners in North Perth and St. Marys for their share of program expenses. We will begin to run a deficit in 2022 and will begin invoicing our partners quarterly. Expenses will be reconciled at the end of the year;
- If we proceed with the program extension from 31 March 2023-25, we expect to incur additional legal costs for extending current bus stop agreements and amending and/or extending current partnership agreements;
- Advertising budgets have been increased to encourage ridership;
- Our current service provider, Voyago, is contracted until 31 March 2023. Voyago has confirmed that they expect our current hourly service rate to increase by 3% if we extend the program to 2025;
- The budget **does not factor in any ridership revenue** projections in order to present Council with a full understanding of the risk associated with this project. Any revenue from ridership would reduce the total project cost (at present, Voyago invoices us monthly, after deducting any ridership revenue from the total invoice. Total ridership revenue for September 2021 amounted to \$4,012.00).

Alignment with Strategic Priorities:

Mobility, Accessibility and Design Excellence

Improving ways to get around, to and from Stratford by public transit, active transportation and private vehicle.

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Widening our Economic Opportunities

Strengthening Stratford's economy by developing, attracting and retaining a diversity of businesses and talent.

Staff Recommendation: THAT staff be authorized to submit revised budget documents to the Ministry of Transportation for the continuation of the Community Transportation Pilot Program to 31 March 2025 at current service levels;

THAT the Mayor, City Clerk and Chief Administrative Officer, or their respective delegates, be authorized to execute the Transfer Payment Agreement and other necessary documentation/reports with the Ministry of Transportation as required for the purpose of extending the Community Transportation Pilot Program to 31 March 2025;

AND THAT staff be directed to work with Metrolinx, municipal and community partners, and key stakeholders to build a business case for increased GO Train frequency and service sustainability.



Stephanie Potter, Policy and Research Associate



Michael Mousley, Manager of Transit



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: October 25, 2021
To: Mayor and Council
From: Stephanie Potter, Policy and Research Associate
Report#: COU21-109
Attachments: Quote – Andersons Cemetery Contracting

Title: Veterans Affairs Canada Community War Memorial Application – Memorial Gardens Restoration

Objective: To request Council authorization to apply for the Veterans Affairs Canada (VAC) Community War Memorial Program grant for Stratford Memorial Gardens restoration and accessibility upgrades and to seek an exemption from the Purchasing Policy.

Background: In 2019, the City of Stratford received a VAC Community War Memorial grant for the repair and restoration of our Cenotaph. The Stratford branch of the Royal Canadian Legion has recommended that we submit a second application to the program for the restoration and repair of Stratford Memorial Gardens, which commemorates the service of the Perth Regiment. This project would include accessibility upgrades to improve access to the site. Details are provided in the attached estimate provided by Anderson's Cemetery Contracting. The application deadline is 1 November 2021 for projects that begin on or after 1 April 2022.

Analysis: Memorial Gardens is in need of restoration and repair, as the existing caulking and mortar is deteriorating, and the memorial plaques need cleaning and restoration. The two smaller staircases to the east and west of the Memorial Garden would be replaced by accessible ramps to improve barrier-free access to the memorial features per the specifications outlined in the Accessibility for Ontarians with Disabilities Act (photos and descriptions are linked in the attached quote).

The revitalization of Stratford Memorial Gardens is important to honouring the memory of those who served in the Perth Regiment (1866-1964). The Memorial Gardens were dedicated on 10 September 1972. It is directly across the street from our Cenotaph, and is a frequent stop for residents and visitors in the heart of our downtown core. The

City would like to improve access to the Memorial Gardens and continue to emphasize the Memorial's central importance to our downtown core.

If approved by Council, it is recommended that this restoration work be awarded directly to Andersons Cemetery Contracting. The technical team at Veterans Affairs Canada who will review application have specific guidelines with respect to the method of cleaning and the type of mortar that can be used for restoration projects to ensure its compatibility with the original material. Similarly, plaque work is extremely sensitive, and the plaques in Memorial Gardens cannot be removed – they must be restored on site. Veterans Affairs Canada wants to ensure that the work is carried out appropriately while ensuring the preservation and longevity of the monument. Andersons carried out the 2020 restoration of the Cenotaph; the work was deemed to be in compliance with VAC guidelines, and we would like both projects to be consistent. Finally, because the City is required to submit a quote with our application and the grant has not yet been approved, it was not put out to public quote as per the Purchasing Policy. Therefore, staff request an exemption from the Purchasing Policy under Section 42.1, to award the work directly to Andersons Cemetery Contracting should our grant application be successful.

Financial Impact: The VAC Community War Memorial would provide up to 50% funding for memorial restoration projects. The attached quote from Andersons was received in June 2021. Total project costs are estimated at \$50,900. If our application is successful, the City would be responsible for paying approximately \$25,000 in project costs.

It is recommended that the City's share of the restoration project be funded through the Community Services Department's parks facilities improvement budget. Please note that any landscaping we wish to undertake is not an eligible program cost and would have to be undertaken at the City's own expense.

If our VAC grant application is not successful, the restoration work will not proceed at this time.

Alignment with Strategic Priorities:

Mobility, Accessibility and Design Excellence

Improving ways to get around, to and from Stratford by public transit, active transportation and private vehicle.

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Staff Recommendation: THAT City staff be authorized to apply to the Veterans Affairs Canada's Community War Memorial Fund for Stratford Memorial Gardens restoration and accessibility upgrades;

THAT the City's share of the Memorial Gardens restoration funding be allocated through the Parks facilities improvement budget subject to approval of the City's VAC grant application by Veterans Affairs Canada;

THAT the Mayor and Clerk, or their respective delegates, be authorized to enter into a Contribution Agreement with Veterans Affairs Canada to carry out the Memorial Gardens restoration project subject to approval of the City's VAC grant application by Veterans Affairs Canada;

AND THAT an exemption be granted from the Purchasing Policy under section 42.1 to award the restoration work directly to Andersons Cemetery Contracting subject to approval of the City's VAC grant application by Veterans Affairs Canada.



Stephanie Potter, Policy and Research Associate



Joan Thomson, Chief Administrative Officer

ANDERSON's CEMETERY CONTRACTING LTD.**133 NELSON STREET****STRATFORD, ONTARIO N5A 2J6****Phone (519) 508-0541 Fax (519) 508-3202****Toll Free 1(877) 508-0541**

GST registration # 891713968rt0001

acc@wightman.cawww.cemeterycontracting.com**June 2021****Submitted to: City of Stratford****Attention: Quin Malott****Regarding: Memorial Garden Restoration Stratford**

The following proposals have been made for the restoration of the Memorial Gardens in downtown Stratford. During out site visits, we have made the following recommendations for restoring the memorials and surrounding areas.

Install new hydro lines for electric source at centre feature routed under the existing inlaid concrete band. Provide four new accent lights at locations of existing lights which were removed. New concrete band will be installed overtop of new hydro service line after installation.

\$5,800.00 Plus HST

There are a total of eight non removable bronze plaques, as well as the Memorial Gardens bronze letters which need to be refurbished on site. Backgrounds need to be sand blasted clean, recoloured, and raised letters and graphics need to be polished, and entire plaques clear coated.

\$19,000 Plus HST

Restoration wash of the monument centre feature and all perimeter vertical and top portions of the retaining walls including walls up the stairway to Ontario Street. Soaking, low pressure washing 50 P.S.I and hand brushing. If stains are persistent increase water pressure as required not exceeding 400 P.S.I.

\$4,800.00 Plus HST

Install centre handrail from upper level of Ontario Street down to lower level to memorial garden on the large set of stairs. Code conforming constructed of 1.5" diameter tubing legged to stairs, built using galvanized tubing and finished in black powder coat. Rails to match previously installed railings done at cenotaph.

\$5,900.00 Plus HST

There are two sets of stairs on the East (two steps) and West (single step) entries of the Memorial entrances. These steps are to be taken out and replaced with concrete wheelchair access ramps from either side. The perimeter of the memorial level has a brick boarder which needs certain bricks to be repaired and replaced on the North and South sides at two locations shown in photos. Relace two concrete bands running to the memorial.

\$15,400.00 Plus HST

Total: \$50,900 Plus HST

Not included is any costing for permits if they are required.

Attached is a link to a google photo gallery which has a description of the required work in each photo. Please feel free to ask any questions. <https://photos.app.goo.gl/xSYKBPeYeDqMtRYa7>

Thanks very much,

Sincerely William Anderson
Anderson Cemetery Contracting

**Providing Professional Contracting Services to Monument Companies, Municipal and Private Cemeteries.
New Monument Foundations – Restorations and Repairs of Existing Monuments-
Long Term Maintenance and Repair Strategies.**



MANAGEMENT REPORT

Date: October 25, 2021
To: Mayor and Council
From: Tatiana Dafoe, City Clerk
Report#: COU21-110
Attachments: None

Title: Follow-up on Action Taken in Response to the Closed Meeting Investigation Report 2020-01

Objective: To provide information on the actions taken to date by the City in response to the Closed Meeting Investigation Report 2020-01.

Background: At the June 14, 2021, Regular Council meeting, the following recommendations were made:

R2021-257

THAT the Closed Meeting Investigation Report 2020-01 dated May 11, 2021, be received;

AND THAT, in response to the recommendations contained in the Closed Meeting Investigation Report, the City commit to undertaking a review of the following:

- **Training on the closed meeting exceptions, the types of situations to which the exceptions apply, and the process to bring a matter before closed session.**
- **Inclusion of a brief closed meeting agenda item title, along with the section 239 exception, where necessary and if possible, in the resolution to adjourn into closed session and in the resolution used for reporting out following a closed session.**

R2021-258

THAT a review of in-camera meetings since 2018 to determine the matters considered in-camera and the ability for the City to include a general description of the matters considered in the agendas and minutes be referred to the City Solicitor.

The purpose of this report is to provide information on action taken to date in response to the Closed Meeting Investigation Report 2020-01 and to the above noted recommendations.

Analysis: Following receipt of the Closed Meeting Investigation 2020-01 report, the City has revised the agendas to include a brief closed meeting agenda item title. The title, along with identifying the specific section 239 exception, where necessary and if possible, are included in the resolution to adjourn into closed session and in the resolution used for reporting out following a closed session.

Staff are also in the process of securing a trainer to provide education on the closed meeting exceptions, the types of situations to which the exceptions apply, and the process to bring a matter before closed session. The intent is to complete this initial training session in the fourth quarter of 2021 or first quarter in 2022. To date it has been difficult finding a trainer which meets the needs and requirements for providing these services to Council.

With respect to the request to:

- (a) review in-camera meetings since 2018 to determine the matters considered in-camera, and
- (b) the ability for the City to include a general description of the matters considered in the agendas and minutes,

consultation with the City Solicitor was completed, along with a review of applicable legislation.

The *Municipal Act, 2001*, recognizes that there may be situations in which matters can be discussed in closed session. Examples of situations include where the privacy of an individual should be respected, or where open meetings would not serve the public interest or the interests of the municipality.

If a subject fits within one of the exceptions outlined in Section 239 of the Act, it can be discussed in a closed meeting, provided that the City follows all procedural rules, including:

- giving notice of the meeting,
- passing a resolution to close the meeting, and
- keeping closed session minutes.

With respect to investigating closed meeting complaints, Closed Meeting investigators, including the Ombudsman, make findings on whether or not municipal meetings complied with the open meeting rules, and may make recommendations or suggest best practices for improvement. It is our understanding recommendations made are suggestions for improvement for future meetings, and not meant to be applied retroactively, nor can such recommendations be applied retroactively.

In accordance with section 239(7) of the *Municipal Act, 2001*, a municipality is required to record, without note or comment, all resolutions, decisions and other proceedings at its meetings, including any closed sessions. Section 228(c) also requires municipalities to appoint a clerk whose duty it is to keep the originals or copies of all by-laws and of all minutes of the proceedings of the council.

Section 3.5 c) and d) of the City's Procedural By-law 140-2007 states that it is the duty of the Clerk to attend all Council meetings, and:

- c) to keep the originals or copies of all by-laws and of all minutes of the proceedings of council
- d) to make such minor clerical, typographical or grammatical corrections in form to any by-law, motion, resolution and/or minutes as may be required for the purpose of ensuring correct and complete implementation of the actions of Council.

This legislative provision confirms that **minor** amendments can be made to ensure that the minutes are correct and complete. It is important to note that attempts to amend minutes that are not minor may result in a finding that the minutes have been falsified and are not accurate. Any such amendments are considered to be a serious contravention of law. In a case relating to the Township of Emo, the minutes of a closed portion of a meeting on April 8 indicated that an in-camera session was held to discuss a personal issue. The minutes of the open session failed to note the resolution for entering into a closed session. These oversights were discussed at a council meeting

on April 22. In order to correct the minutes, the council resolved on April 22 to go in-camera to consider altering the minutes. After the meeting, the April 8 minutes were amended retroactively.

The Ombudsman found that the council's attempt to correct the official record of April 8 resulted in the record being falsified and represented a serious contravention of law and stated:

"Correction of the record of the timing of a resolution, provided that the amendment is accurate, may well be permissible. However, wholesale retroactive amendment of the substance of the resolution is another matter entirely. This did not represent a mere correction of a minor clerical mistake, but rather a misguided attempt on the part of council to expunge the evidence of a serious contravention of law."

Section 239(4) of the *Municipal Act, 2001*, states that:

"Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2)."

Resolutions authorizing closed meetings cannot be retroactively amended as set out in the Open Meeting Guide for Municipalities prepared by the Ontario Ombudsman which states:

"The municipality, local board, or committee must state by resolution in open session that a closed meeting will be held and state the general nature of each matter to be considered at the closed meeting. **The resolution authorizing a closed meeting must be made in advance and cannot be retroactively amended.**"

Following consultation with legal counsel and a review of applicable legislation, the CAO advises that Council can not direct staff to alter previous agendas/minutes to include a

general description of the matters considered at previous In-camera Sessions. As noted above, this can be seen as falsifying corporate records.

Further, Council cannot direct staff to alter previous agendas/minutes to include a general description of the matters considered at previous In-camera Sessions. We will however undertake and engage in a practice to include a general description on Agendas, including in the resolution to adjourn into In-camera and when reporting out following an In-camera Session moving forward.

With respect to creating a summary of the items discussed at previous In-camera Sessions, Council cannot direct staff to create this document as any summary may omit important information in the minutes based on the writer's own biases and perspective on what should be considered important. As such, this document could be considered falsification of a record and is not recommended.

Staff also remind Council that should there be a concern or complaint that the City has not complied with section 239 of the Act (which sets out the open meeting requirements) or complied with the municipality's procedure by-law in respect of a meeting or a part of a meeting that was closed to the public, that the closed meeting investigation process be followed.

Additional Amendments to be Proposed for Consideration

Staff intend to propose the following additional amendments for Council's consideration at a future meeting:

- Remove "new business" from the Regular Council agenda and replace it with "council update".
 - The intent is to ensure notice is given to members of the public, members of Council and staff of a "new" item to be considered at a future Regular Council meeting. For a new item, members of Council would be required to follow the notice of motion process or submit an item for inclusion on an addendum/addenda if time sensitive and urgent.
 - Updates that could be provided under the council update section would include:
 - information about upcoming events;
 - updates from advisory committees;
 - recognition of projects;
 - Under this section, no motions or votes can be requested.

- New business items would also not be permitted at Sub-committee, Committee or In-camera meetings, unless added to an addendum/addenda prior to the meeting in consultation with the City Clerk and Chief Administrative Officer.
- Amend the Notice of Motion process to require members of Council to fill out a form containing the details of the motion to be listed for consideration and how the matter links to the City's Strategic Priorities and the One Planet Living Principles. If the matter does not meet any of the priorities or principles an explanation would be required.
- Amend the City's Code of Conduct for Members of Council to require mandatory participation in orientation, education and training sessions.

Notice of Report

Staff provided notice that this report would be listed on the October 25, 2021, Regular Council agenda for consideration. This notice was provided by e-mail on Wednesday, October 20 to the following person(s) who previously expressed an interest in the matter:

- Mike Sullivan

Financial Impact: There were minimal costs associated with the legal review that was undertaken. There will be costs associated with the education/training session to be held in 2021 or 2022. These costs will be funded through existing funds in the 2021 budget or through the 2022 budget.

Alignment with Strategic Priorities:

Not applicable: This report has been prepared in order to provide information on action taken to date in response to the Closed Meeting Investigation Report 2020-01 and to the above noted recommendations.

Staff Recommendation: THAT the report entitled "Follow-up on Action Taken in Response to the Closed Meeting Investigation Report 2020-01" (COU21-110), be received for information.



Tatiana Dafoe, City Clerk



Karmen Krueger, Acting Director of Corporate Services



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: October 12, 2021
To: Infrastructure, Transportation and Safety Committee
From: Chris Bantock, Deputy Clerk
Report#: ITS21-036
Attachments: Greenhouse Gas Reduction Plan

Title: Climate Change Planning Update

Objective: To provide an update on the status of the Greenhouse Gas Reduction Plan and to seek adoption of the One Planet Living Principles.

Background: At the February 22, 2021, Regular Council meeting, staff presented a management report entitled "Stratford Greenhouse Gas Emissions Planning (COU21-023)". At the meeting, the following motions were deferred for consideration:

THAT the Corporate and Community Initiatives identified in report (COU21-023) be adopted in principle, subject to a more fulsome review by staff, at the direction of Council, to outline individual implementation plans with specific budget and resource impacts identified;

AND THAT the City of Stratford set a 10% emissions reduction target, based on 2017 levels, by the year 2030.

The following resolution was also passed by Council on February 22, 2021, regarding the above management report:

THAT staff be directed to investigate and report back within 3 months on the following initiatives which could commence in 2021:

- **Review of Idling By-law**
- **Electric Vehicle Charging Stations.**
- **Corporate Adoption of the One Planet Living Principles**

Since this meeting in February, the former shared Climate Change Coordinator resigned and staff have been working with the new shared Climate Change Coordinator, Amara

Kartick, to finalize the Greenhouse Gas Reduction Plan for the City and partner municipalities.

Staff have also reported back through previous management reports to Council on the first two initiatives listed above. The third initiative is proposed to be adopted through the recommendations contained herein.

Analysis:

Greenhouse Gas Reduction Plan

The Greenhouse Gas Reduction Plan, while community focused, contains several goals and actions for mitigating climate change in each municipality, as well as strategies for successful implementation including new working groups and climate focused staff positions. As outlined, next step actions for the City under the Government category could include adopting the use of a climate lens tool, developing an education and awareness page and program for the community, developing a corporate-level climate change plan, and developing a community adaptation plan. With respect to an education and awareness page, staff have already undertaken efforts to create this on the City's climate change webpage, including the display of City initiatives, action items for members of the public, FAQ's, and various resources. Staff will continue to update this webpage as new initiatives or information become available. Other action items in the Plan for consideration to reduce emissions are highlighted under various categories including buildings and land use, business/industry, transportation, waste, natural environment, and agriculture.

As a member of Partners for Climate Protection (PCP), the City is committed to following the PCP milestones and has identified an elected and corporate representative to champion and monitor progress through the program. The next Milestone for completion by the City is to set emissions reduction targets. The Plan identifies that the target set, to be achieved by 2030, should be no lower than 10% below the 2017 baseline year. A target up to 30% below the 2017 baseline is possible, and would be supported by the community, but would require significant commitments from the City from a resource and financial perspective to be successful.

In reviewing actions and targets set to date by other Ontario municipalities, it is not uncommon to see reviewable targets set which can be adjusted as progress is identified and reported. Examples of this can be seen in municipalities such as Kingston where an 8% 2020 target was updated to a 15% 2022 target, an increasing scale of reduction targets for different periods of time in Sault Ste. Marie, or in Whitby where short-, medium-, and long-term targets were set to better assess progress over time. To assist in understanding the impact of various targets set across municipalities, the table below was compiled to show the actual emission reduction amounts to be achieved relative to the baseline year output and the established GHG reduction target:

Municipality	GHG Reduction Target (%)	Baseline Year	Community Emissions Output (t)	Emission reduction (t) based on next target set
Cambridge	80% by 2050	2012	1,500,000	1,200,000
Kingston	15% by 2022 (previously 8% by 2020) Carbon Neutral by 2040	2011	1,349,555	202,433.25
Ottawa	30% by 2025 50% by 2030 100% by 2040	2012	6,951,000	2,085,300
Peterborough	30% by 2031 Net zero by 2050	2011	364,872	109,461.60
Sault Ste. Marie	5% - 2020 to 2030 Net Zero by 2050	2017	1,502,142	75,107.10
Stratford	To be determined	2017	277,156.55	10% = 27,715.65 20% = 55,431.31 30% = 83,146.96
Windsor	20% by 2030 40% by 2041	2014	1,900,000	380,000

For comparator purposes, three different targets have been listed for the City of Stratford to show potential emissions reduction of varying degrees depending on the preferred targets to be set. Following direction from Council on emissions reduction targets for the City, staff will work with the shared Climate Change Coordinator to review and create more specific action plans for the City based on action items from the Greenhouse Gas Reduction Plan, what is needed to achieve our targets, specifics on how certain action items would contribute to emissions reduction in Stratford, and any resource or budgetary requirements or constraints that may be identified. Any action

plans developed by staff will be brought before Council for consideration and adoption to ensure local needs and priorities are being met.

One Planet Living Principles

The One Planet Living framework was created by Bioregional in 2002 with the goal to help ensure that sustainability and climate change was being advanced across the world. This framework contains ten simple principles which cover all aspects of social, environmental, and economic sustainability:

1. Health and Happiness

Encouraging active, social, meaningful lives to promote good health and wellbeing.

2. Equity and Local Economy

Creating safe, equitable places to live and work which support local prosperity and international fair trade.

3. Culture and Community

Nurturing local identity and heritage, empowering communities and promoting a culture of sustainable living.

4. Land and Nature

Protecting and restoring land for the benefit of people and wildlife.

5. Sustainable Water

Using water efficiently, protecting local water resources and reducing flooding and drought.

6. Local and Sustainable Food

Promoting sustainable humane farming and healthy diets high in local, seasonal organic food and vegetable protein.

7. Travel and Transport

Reducing the need to travel, encouraging walking, cycling and low carbon transport.

8. Material and Products

Using materials from sustainable sources and promoting products which help people reduce consumption.

9. Zero Waste

Reducing consumption, reusing and recycling to achieve zero waste and zero pollution.

10. Zero Carbon Energy

Making buildings and manufacturing energy efficient and supplying all energy with renewables.

Staff are recommending that these principles be corporately adopted with the intent of establishing a climate lens tool through which the City can report the applicability of principles to future management reports and decisions of Council. Adopting these principles will also support the Government goal identified in the Plan to “embed climate considerations into all municipalities and provide educational resources”. If approved by Council, an update would be made to the ‘Alignment’ section of the Management Report Template to encourage staff to apply recommendations to One Planet Living Principles, as applicable.

Financial Impact: As outlined in the Plan, several actions do exist which can be completed with minimal financial impact. However, projects which contribute more significantly to emissions reduction, and to the success of reaching set targets, can require substantial financial investments. The City’s ultimate financial impact on climate change planning initiatives will largely depend on preferred emissions reduction targets, actions required to reach set targets, and the available resources and funding opportunities to complete such actions.

Alignment with Strategic Priorities:

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Developing our Resources

Optimizing Stratford’s physical assets and digital resources. Planning a sustainable future for Stratford’s resources and environment.

Staff Recommendation: THAT the Greenhouse Gas Reduction Plan be adopted;

THAT Council provide direction on the setting of emissions reduction targets for the City of Stratford;

AND THAT the City of Stratford adopt the One Planet Living Principles.



Chris Bantock, Deputy Clerk



Karmen Krueger, Acting Director of Corporate Services



Joan Thomson, Chief Administrative Officer



CREATING A HEALTHY ENVIRONMENT

Greenhouse Gas Reduction Plan

Rebecca Garlick & Amara Kartick

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This plan is intended to be a starting point in local climate action.

This is a living document and should be reviewed and updated regularly to prioritize local goals and needs.

This plan will require collaborative efforts to see successful implementation, and should be viewed as a guide.

August 2021

Executive Summary

Purpose of the Plan

Climate is something that impacts our day to day lives. Locally, each municipality has faced the impacts of severe weather, flooding, and increased hot and cold days. The world is on its way to reaching and surpassing the 1.5°C threshold that has been identified as the upper limit of global temperature increase to keep us within a safe range of climate change impacts¹. The world has to stay below this threshold and lower emissions 40% to 50% by 2030, or effects will be long lasting or irreversible¹.

Perth County, North Perth, Perth East, Perth South, West Perth, and Stratford and St. Marys decided to partner together to address the risks and take action on climate change within the communities. There is a mutual understanding that each municipal action impacts one another, so it is important to work together to address the greater impacts that climate change will bring. This plan identifies various actions and strategies to move forward on increasing adaptability and reducing greenhouse gas emissions within the community.

This is a community plan, therefore it requires teamwork and action from everyone and every sector. Everyone plays a role in supporting the community and creating a healthier environment.

Development of the Plan

This plan is unique in that it converges the needs of diverse economies and municipalities. This plan addresses the distinct rural needs of the agricultural communities of Perth County, while also speaking to the unique priorities of the urban communities of Stratford and St. Marys, who more heavily rely on their tourism and industrial sectors to support their economies.

The Plan was developed over two years under the guidance of the Climate Change Coordinator who was hired through funding from the Federation of Canadian Municipalities (FCM) Municipalities for Climate Innovation Program (MCIP). The mitigation planning followed the guidelines from the FCM Partners for Climate Protection's (PCP) five-milestone framework. This plan was developed with the input and contributions of many community members and groups, such as representatives from the Maitland Valley Conservation Authority, the Upper Thames Conservation Authority, the Perth County Federation of Agriculture, Climate Momentum, and various other municipal environmental groups and individual community members.

¹IPCC (2018) Global Warming of 1.5°C. Retrieved from <https://www.ipcc.ch/sr15/>

Community Emissions

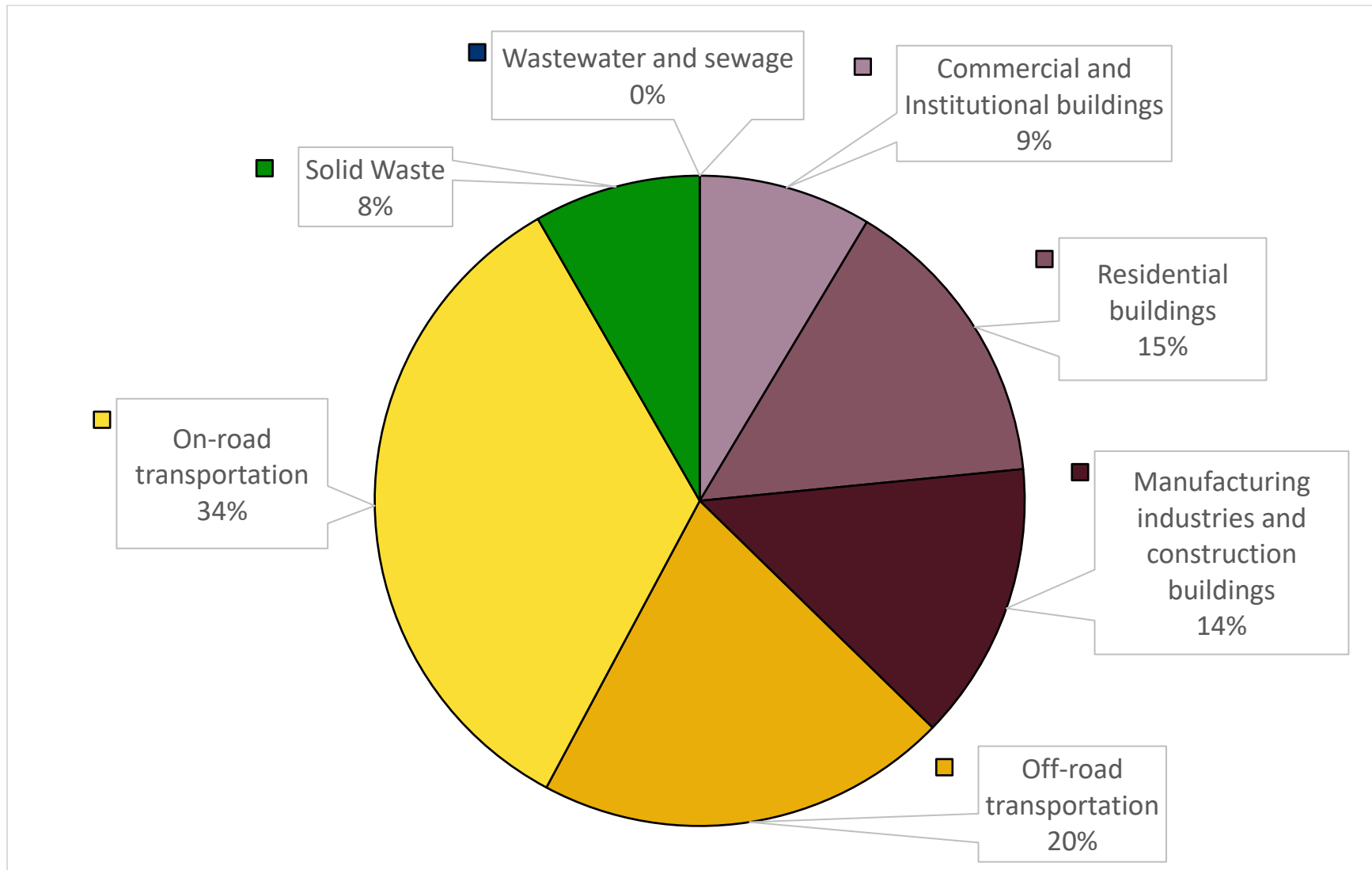


Figure 1 Emission Snapshot

Community Emissions

Figure 1 shows the total combined contribution of each sector. This graph represents all municipalities' emissions, which includes North Perth, Perth East, Perth South, West Perth, St. Marys and Stratford.

The greatest contribution to local emissions is a combination of all transportation. This includes on-road transportation (i.e. Personal vehicles) and off-road vehicles (i.e. Tractors, and other agriculture-related vehicles). This makes up approximately 54% of the total emissions.

The second largest contributor in the area is the buildings sector. This makes up approximately 38% of the total emissions. Majority of emissions from this source come from the natural gas, propane and fuel oil which is consumed to heat buildings. A small portion of emissions from buildings comes from electricity, as Ontario's electricity grid is considered quite clean because most electricity production has been transitioned away from coal burning to nuclear and hydroelectricity.

The third contributor of emissions is from solid waste. Solid waste emissions in the area are produced generally by the more urban municipalities, as the rural towns tend to not send as much tonnes of waste to the landfill. Regardless, biodegradable materials constitutes approximately 40% of residential waste². Therefore, communities must establish effective waste management solutions for both urban and rural areas within the communities.

² Environment Canada (2013) Technical Documentation on Municipal Solid Waste Organics Processing. Retrieved from https://www.ec.gc.ca/gdd-mw/3E8CF6C7-F214-4BA2-A1A3-163978EE9D6E/13-047-ID-458-PDF_accessible_ANG_R2-reduced%20size.pdf

Vision, Goals and Actions

Vision:

We will mitigate climate change risks by ambitiously reducing local greenhouse gas emissions, and will ensure a more resilient and healthy future for our communities.

The vision will be supported through the proposed goals and strategies for action throughout this plan. The goals and strategies are supported through this plan with education, financing and partnership opportunities and suggestions, while also explaining the potential greenhouse gas reduction or social impacts of each goal and strategy. Next steps will be to solidify the suggested partnerships for action.

The vision will aim to work towards achieving the United Nations Sustainable Development Goals (SDGs). These will help to focus climate actions in a more holistic approach, and will encourage Council, staff, and the community to consider all aspects and impacts related to climate change, ensuring a fair and just approach to implementation on climate action.

Sustainable Development Goals

In order to ensure that this greenhouse gas reduction plan is also addressing social and economic issues, it will consider how each action meets a sustainable development goal. There are 17 sustainable development goals that this plan will be aiming to target in one form or another, so that each municipality can be part of the advancement of the UN SDGs and help in transforming our world.

The sustainable development goals were developed by the United Nations to develop a “universal call to action to end poverty, protect the planet and improve the lives and prospects of everyone, everywhere.”³ These were developed and adopted by UN Member States in 2015, and are intended to be achieved by the year 2030.



Figure 2 UN SDGs (2015) Retrieved from: <https://www.un.org/sustainabledevelopment/blog/2015/12/sustainable-development-goals-kick-off-with-start-of-new-year>

³ United Nations (2020) The Sustainable Development Agenda. Retrieved from: <https://www.un.org/sustainabledevelopment/development-agenda/>

Table 1 Themes, Goals and Actions

Theme	Goals	Actions
Government	<ul style="list-style-type: none"> • Embed climate change actions and considerations into all plans and policies • Support and educate the local economy and citizens in their transition to a sustainable and climate-ready future • Ensure health, and well-being of the community through the preparation of climate change related health concerns and impacts 	<ul style="list-style-type: none"> • Create a corporate-level climate change plan • Provide financing options/support (homes, agricultural project support) • Embed climate considerations into inspections, maintenance and designs of municipal assets (roads, bridges, culverts, buildings, etc.) • Develop education and awareness programs and strategies • Support businesses and tourism in their adaptation to climate impacts • Hire climate change team to focus on implementation and continued development • Adopt the use of a climate lens • Actively work with the Huron Perth Public Health Unit to create strategies for mitigating climate risks and protect residents and vulnerable populations
Buildings and Land Use	<ul style="list-style-type: none"> • Increase energy efficient new builds and sustainable neighbourhoods • Create neighbourhoods that discourage urban sprawl and create greater connectivity • Increase green infrastructure and reduce hardscapes 	<ul style="list-style-type: none"> • Develop a sustainable building standard for residential/commercial/industrial new builds to encourage energy efficiency and climate resiliency • Offer LIC or PACE financing to assist in retrofits in communities to increase efficiency and climate resiliency in existing buildings • Land-use policies should promote compact neighbourhoods that integrate residential, office, retail developments and promote transit use and active transportation options
Businesses	<ul style="list-style-type: none"> • Increase and support sustainability practices in local businesses 	<ul style="list-style-type: none"> • Start/support/join a local Green Business Hub • Develop a small/local business sustainability toolkit with BIA

Theme	Goals	Actions
Agriculture	<ul style="list-style-type: none"> • Increase local resiliency to sustain long-term food security • Enhance agricultural best management practices • Increase capacity for energy production 	<ul style="list-style-type: none"> • Create a Perth County Clean Water Project to improve efficiency and resiliency, which will also assist in removal and storage of GHG emissions in soils • Explore feasibility and programs to support biogas implementation in local grid
Natural Environment	<ul style="list-style-type: none"> • Look after and improve natural environment assets and ecosystems 	<ul style="list-style-type: none"> • Decrease lawn cutting and maintenance by increasing naturalization projects and planting projects on public and private spaces • Partner on a tree management and resilience plan to increase canopy coverage • Increase urban forestry projects • Develop more Low Impact Developments (LIDs) throughout municipalities and on municipal property • Protect local woodlots
Transportation	<ul style="list-style-type: none"> • Support the use of sustainable and low-carbon transportation options • Reduce the risk of transportation interruptions caused by severe weather events 	<ul style="list-style-type: none"> • Implement a Transportation Master Plan • Develop better interconnectivity by improving walkability of neighbourhoods • Support the interest and purchasing of electric/low-emission vehicles through installation of charging stations • Promote and support the use of public transportation • Work collaboratively on active transportation strategies
Waste	<ul style="list-style-type: none"> • Increase waste diversion from the landfill • Become a Zero Waste Community 	<ul style="list-style-type: none"> • Develop a Waste Management Master plan to set yearly targets and goals and long term goals • Implement organics/green bin program to further reduce GHG producing waste going to landfill

Achieving the Sustainable Development Goals

Table 2 Sustainable Development Goals

Sustainable Development Goal (SDG)	Actions that Meets SDG
Goal 1: No Poverty	<ul style="list-style-type: none"> • Ensuring affordable, low-energy homes are built • Encouraging less urban sprawl for those who cannot afford vehicles and increasing accessibility through other means of transportation • Creating jobs through deep retrofit programs • Increasing local food resiliency and supporting farming community/agri-business • Supporting local businesses in resiliency and sustainability
Goal 2: Zero Hunger	<ul style="list-style-type: none"> • Supporting local food resiliency and food security through the Clean Water Project • Supporting access to food through community gardens
Goal 3: Good Health and Well-being	<ul style="list-style-type: none"> • Working with Huron Perth Public Health unit to address climate-related health concerns • Create more walkable communities through reduction of urban sprawl • Affordable housing that is retrofitted for energy efficiency means better air quality in the home • Encouraging uptake of electric vehicles improves local air quality • Increasing green spaces/naturalization projects and planting projects brings community together
Goal 4: Quality Education	<ul style="list-style-type: none"> • Creating a page on official websites to promote climate actions and provide climate education • Create a public forum for climate conversations to continue so new ideas and knowledge can be shared • Develop a community stakeholder group to share ideas and create collaborative relationships
Goal 5: Gender Equality	<ul style="list-style-type: none"> • Identify and remove barriers to ensure participation of all people as projects continue to develop • Ensure a diverse stakeholder group is established

Sustainable Development Goal (SDG)	Actions that Meets SDG
	<ul style="list-style-type: none"> • When possible, host town halls and in-person consultation events along with online events
Goal 6: Clean water and Sanitation	<ul style="list-style-type: none"> • Expanding green infrastructure to reduce flood risk • Continue partnership for drinking water source protection • Implementing a Clean Water Project to support the Agriculture community
Goal 7: Affordable and Clean Energy	<ul style="list-style-type: none"> • Offering financing options for retrofits to ensure affordability • Encouraging new builds to be energy efficient • Develop a sustainable building standard
Goal 8: Decent work and Economic Growth	<ul style="list-style-type: none"> • Encouraging sustainable builds and deep retrofit programs offers new job opportunities • Increasing number of charging stations requires new forms of maintenance • Partnering with surrounding counties and municipalities to create a rural EV network to bring in greater tourism • Supporting local agricultural sector to ensure long-term resiliency
Goal 9: Industry, Innovation and Infrastructure	<ul style="list-style-type: none"> • Embedding climate considerations for municipal/county inspections, maintenance and designs of municipal assets using the climate lens • Help local industry to adapt to and mitigate climate change impacts by expanding membership of Carbon Footprint Initiative or joining and starting a local Green Economy Canada Hub • Help local business to learn of funding opportunities to assist in R&D for sustainable projects
Goal 10: Reduced Inequalities	<ul style="list-style-type: none"> • Implementing a bus system to reduce the need for vehicle ownership • Creating affordable houses that are energy efficient to reduce energy bills • Creating better connected neighbourhoods to allow for walkable and accessible communities
Goal 11: Sustainable Cities and Communities	<ul style="list-style-type: none"> • Connecting communities with sustainable transportation options (buses, walking, electric vehicles, biking infrastructure, etc.)

Sustainable Development Goal (SDG)	Actions that Meets SDG
	<ul style="list-style-type: none"> • Improve low income housing options through energy efficient new builds
Goal 12: Responsible Consumption and Production	<ul style="list-style-type: none"> • Moving to a zero waste community • Implementing a circular economy • Implementing a Clean Water Project to help with more sustainable food production and assist in cleaner water • Work with local manufacturers to implement more sustainable/low emitting tactics
Goal 13: Climate Action	<ul style="list-style-type: none"> • Developing the greenhouse gas reduction plan and implementing meaningful actions • Establishing a corporate-level climate plan
Goal 14: Life below Water	<ul style="list-style-type: none"> • Reducing CO₂ emissions helps to reduce the threat of ocean acidification (Act Local, Think Global) • Reducing waste production will help in ensuring less waste travels outside the country • Moving to zero waste means less plastic pollution that is often disposed in our local lakes
Goal 15: Life on Land	<ul style="list-style-type: none"> • Improving naturalization throughout each municipality • Increase canopy coverage and reforestation to increase biodiversity • Develop LIDs to create more habitat for local wildlife
Goal 16: Peace, Justice and Strong Institutions	<ul style="list-style-type: none"> • Identify and collaborate with all institutions to ensure an inclusive approach to climate change • Development of collaborative relationships with stakeholders
Goal 17: Partnerships for the Goals	<ul style="list-style-type: none"> • Collaborating with local stakeholder groups to ensure successful implementation

Implementation

The plan has effective steps to take to implement the actions within the plan. This will help to ensure that the outcomes are realized, and will be widely supported by all key stakeholders and the community.

The plan is community-wide and will need coordination and collaboration of everyone, including staff, local organizations and individuals throughout each community. The plan explains the tactics that will need to be used to allow all stakeholders to work together successfully to implement the various projects and strategies. By working together, successful implementation will be possible, and impressive reductions in greenhouse gas emissions will be inevitable. Successful implementation will ensure that communities will decrease their contributions to the changing climate.

What is Climate Change?

The Earth's climate has fluctuated naturally for centuries, however, the world is experiencing a rate of global changes to the climate that it has never experienced before due to human activities. These have caused changes to the natural environment, with the reduction of natural carbon absorbers like forests and wetlands and the increased concentration of greenhouse gases (GHGs) from burning fossil fuels like gasoline, natural gas, coal, oil and propane.

As carbon dioxide concentrations continue to rise in the atmosphere, the world is seeing a substantial increase in the global average temperature. The increase in average temperature has been and continues to lead to major global impacts, some of which include: extreme rain and snow, changes to precipitation patterns, increased temperatures and greater number of heat waves, which ultimately have led to droughts and wildfires, less snow and ice, thawing of permafrost, sea level rise, warming oceans, changes to plant life cycle, changes to animal migration patterns and more vector borne diseases.

Canadians continue to emit greenhouse gas emissions on a daily basis through burning fossil fuels to heat, cool and power homes, businesses and vehicles; Vehicles that transport not only ourselves but the goods that we consume. The Earth's atmosphere traps these greenhouse gases, which increases the Earth's temperature, which is referred to as the greenhouse effect. The primary greenhouse gas emissions that cause the

greatest impacts include Carbon Dioxide (CO₂), Methane (CH₄), and Nitrous Oxide (NO₂). To accurately compare these emissions, they are converted to their global warming potential (GWP), which converts them to what their value would be as carbon dioxide emissions (Table 3).

Table 3 Global Warming Potential

Primary GHG Emissions	Global Warming Potential (GWP)
Carbon Dioxide	1
Methane	25
Nitrous Oxide	298

While this table shows that methane and nitrous oxide are both far more powerful in their global warming potential, it is important to note that these greenhouse gases have a shorter lifespan in the atmosphere than carbon dioxide. This means that carbon dioxide has the greatest long term impact on the climate and causes the atmosphere to warm for a longer period than methane and nitrous oxide. Methane and nitrous oxide add fuel to the ever burning fire that carbon dioxide keeps burning in the atmosphere, compounding the concerning issues that come along with climate change.

The last five years have been the hottest on record, and global average temperatures are only expected to increase with the

given rate of global emissions⁴. While climate change is often thought to be a problem of the future, it is becoming more obvious that increased major climate events are happening now.

⁴ World Meteorological Organization. (2020) New climate predictions assess global temperatures in coming five years. Retrieved from: <https://public.wmo.int/en/media/press-release/new-climate-predictions-assess-global-temperatures-coming-five-years>

Climate Change Mitigation

Climate change mitigation focuses on the minimization or prevention of climate change and its impacts. It means actions must be taken to reduce the sources of climate change impacts, therefore decreasing GHG emissions. Mitigation of climate change can be realized by reducing the burning of fossil fuels that are currently used to heat buildings or to run gas or diesel fueled vehicles and equipment. Preserving, planting and restoring natural carbon sinks, such as wetlands, forests, trees and soil, will also help to remove excess emissions from the atmosphere.

The County and each municipality have made the decision to focus, initially, on climate change mitigation actions. The focus of this plan will be to assist in mitigating or reducing climate change impacts through the reduction of greenhouse gases.

Mitigation is an important action to take, as it will help limit and reduce the carbon dioxide and other heat-trapping greenhouse gases being released into the atmosphere. These gases are playing the biggest roles in the climatic changes that are currently being witnessed. While it is crucial that greenhouse gases are reduced significantly over the next ten years, it is equally as important to ensure that citizens are prepared for the impacts that can no longer be reversed by addressing the need for adaptation actions.

Climate Change Adaptation

Climate change adaptation is acknowledging that climate change is happening, and that certain impacts are inevitable or likely to become worse, and there is a need to adjust the way people perform their everyday activities. Adaptation is planning and preparing for climate change impacts. These actions include responses to protect homes from things like flooding, improving emergency response, and upgrading infrastructure so that it can handle future projected climate impacts.

While this plan's focus is on mitigation actions, there are often actions that combine the benefits of both approaches to climate change, and create shared value. Some proposed actions in this plan will overlap and ensure that resilience of the community is achievable, while also reducing climate impacts.

Future planning will include more adaptation projects to protect the local communities from experiencing major disruptions due to climate change. It is necessary moving forward to begin planning adaptation actions to ensure the protection and well-being of the community.

Intergovernmental Panel on Climate Change (IPCC) Report

In 2018, the United Nation's IPCC report stated that global warming must be limited to a 1.5°C limit, opposed to the previously stated limit of 2°C¹. The 1.5°C limit would ensure that society is more sustainable and equitable for all. Currently, we are seeing negative impacts due to a 1°C increase in global average temperature in the forms of increased extreme weather events, rising sea level and decreasing sea ice, just to name a few¹. The IPCC states that limiting warming to 1.5°C versus the 2°C would help in avoiding major climatic impacts¹. An example of the difference between the 0.5°C temperature changes, is that the coral reefs are likely to decline by 70% to 90% with global warming at 1.5°C, where under a 2°C increase in global average temperatures, virtually all coral reefs will be lost¹.

The IPCC has stated that by 2030, emissions must be reduced by nearly 50% from 2010 levels, then by 2050 the world must reach net-zero emissions⁵. Net-zero emissions means that any emissions that are being released from human-sources are being balanced out by the process of removing carbon dioxide from the atmosphere⁶. The important first step, however, is to remove as much of our emission sources as possible, which

means moving away from burning and using fossil fuels. It was recorded during the pandemic emissions decreased around the world, but this was only temporary. Emissions continued to be emitted through the lockdown period because industry continued to burn fossil fuels to generate power and create products. Now is the time to re-establish priorities on the environment and make choices for a better and more resilient future.

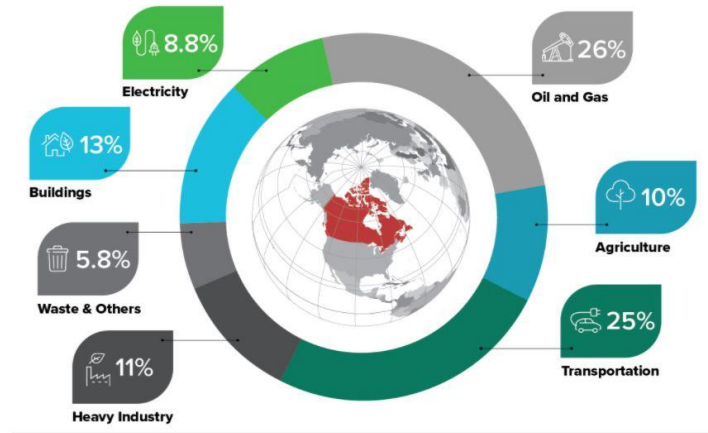
⁵IPCC (2018) Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C approved by governments.

<https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/IP>

⁶ Oxford English Language (2021) Net Zero. *Google Dictionary*.

Federal Climate Change Approaches

Canada's emissions are categorized into seven separate categories. Emissions in Canada come from Electricity, Oil & Gas, Buildings, Waste & Others, Heavy Industry and Agriculture. A breakdown of the emissions are as follows: Electricity emits about 8.8% of total emissions, Transportation contributes 25% of emissions, Buildings contribute 13%, Oil & Gas emit 26% of the total, Waste & Others emit 5.8%, Heavy Industry emits approximately 11% and Agriculture emits a total of 10% of the total Canadian emissions⁷. Currently, the Federal government is taking climate action in these various sectors to reduce Canadian's emissions, and adapt effectively to the inevitable changes in climate.



The Federal government is making plans to help in the reduction of emissions from homes through various approaches. These will include things such as: supporting home and building retrofit programs across Canada, investing in energy efficient social housing, developing model codes for new and existing buildings to improve energy efficiency, there has been more development in energy efficient appliance standards and programs, and a focus has been made on supporting Indigenous communities and governments to help improve energy efficiency of homes and buildings⁷. Another support that is being provided to aid in efficiency in homes is the phasing out of hydrofluorocarbons that are currently used in refrigerators and air conditioning units, which have been previously linked to the hole in the ozone layer.

The federal government is putting an emphasis on transportation emissions with the release of funding for Zero Emission Vehicle Infrastructure to further the feasibility of

⁷ Government of Canada. (2019a) Departmental Results Report 2018 to 2019: Department of Environment, chapter 3. Retrieved from: <https://www.canada.ca/en/environment-climate-change/corporate/transparency/priorities-management/departamental-results-report/2018-2019/results.html>

communities transitioning to electric vehicles⁸. The federal government is committing to more investments in public transit, as well as creating more stringent standards for vehicle emissions so that they can support the development of cleaner fueled vehicles.

With Industries being the backbone of Canada's economy, it also is a major contributor the most to Canada's emissions. The federal government is assisting in the reduction of industry emissions by investing further into clean technology and business solutions, pricing industrial emissions, pushing for a reduction in methane in the oil and gas sector by 40-45%, implementing a Clean Fuel Standard, as well as improving energy efficiency⁹.

The forestry, agriculture and waste sector are also a focus of reduction. Assistance for reduction will be in the form of support for renewable fuels and bio products, developing cleaner innovative agriculture practices, such as zero till agriculture, climate resilient crops, or precision agriculture¹⁰.

There will be support in conserving more nature for carbon sequestration, reforestation and reducing waste which most recently will be targeting plastic pollutions.

Canada is going to reduce emissions from electricity by phasing out the pollution from coal-fired electricity, investing more into renewable energy, investing more into transmission lines and smart grids, and finally, supporting rural and remote communities so reliance on diesel is reduced¹¹. The goal for Canada is to have 90% of electricity coming from non-emitting sources¹¹.

Canada's reduction target is set to reduce emissions by 30% below 2005 levels by the year 2030, and have set the target to become a Net Zero country by the year 2050¹².

⁸ Government of Canada (2019b) Zero Emission Vehicle Infrastructure Program. Retrieved from: <https://www.nrcan.gc.ca/energy-efficiency/energy-efficiency-transportation/zero-emission-vehicle-infrastructure-program/21876>

⁹ Government of Canada (2019c) Clean Fuel Standard. Retrieved from: <https://www.canada.ca/en/environment-climate-change/services/managing-pollution/energy-production/fuel-regulations/clean-fuel-standard.html>

¹⁰ Government of Canada (2020) Agriculture Clean Technology Program. Retrieved from: <https://www.canada.ca/en/agriculture-agri-food/news/2020/10/agricultural-clean-technology-program.html>

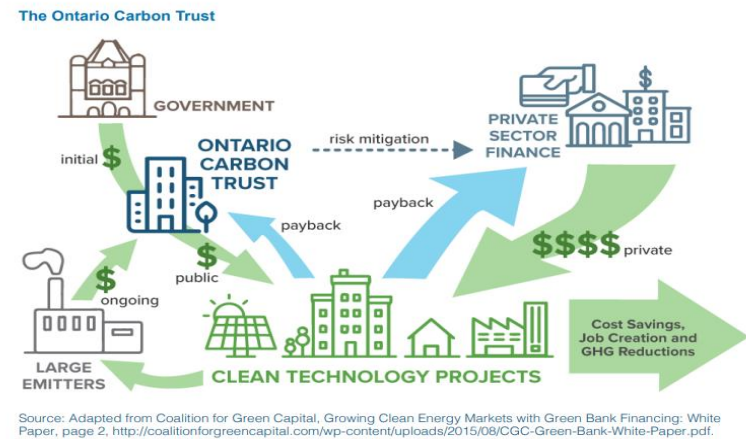
¹¹ Government of Canada (2018) Canada's coal power phase-out reaches another milestone. Retrieved from: <https://www.canada.ca/en/environment-climate-change/news/2018/12/canadas-coal-power-phase-out-reaches-another-milestone.html>

¹² Government of Canada (2020b) Progress towards Canada's greenhouse gas emissions reduction target. Retrieved from: <https://www.canada.ca/en/environment-climate-change/services/environmental-indicators/progress-towards-canada-greenhouse-gas-emissions-reduction-target.html>

Provincial Climate Change Approaches

The Ministry of the Environment, Conservation and Parks has released their Ontario Environment Plan to tackle the climate change issue¹³. The new Made in Ontario Environment Plan addresses both the importance of mitigation and adaptation approaches to ensure cost savings for Ontarians, the protection of natural resources and the well-being of Ontario's population. The Provincial government has set out various priorities which involve ensuring clean air and clean water for the province. The priorities will be targeted through actions such as reducing emissions from heavy-duty vehicles, strengthening collaboration to reduce air pollution that comes from outside of Ontario, continuing to restore and protect the Great Lakes, and helping people to conserve water to reduce their costs and even helping to improve municipal wastewater and stormwater management and reporting methodology¹³. Ontario is still on target to achieve the Paris Agreement Target, which was set to reduce Ontario's emissions by 30% below 2005 levels by the year 2030. The closure of coal plants within Ontario has helped substantially to reduce emissions, and with the continued actions being proposed, such as low carbon vehicles, clean fuels, natural gas conservation, and the promotion of

innovation within Ontario, this target can be easily achievable.



Ontario has set plans to make polluters accountable, which is particularly important because the industrial sector accounted for nearly 30% of Ontario's emissions in 2016¹³. The Province will hold industry accountable for their emissions through an emission performance standard, which will ensure that they achieve a greenhouse gas reduction through demonstrated compliance on a regular basis¹³. This proposed program will likely also include compliance flexibility, which could include offset credits or payment of an amount to achieve compliance.

The provincial government has set out a plan to activate the private sector to encourage more innovative clean-tech to help in the transition to a low-carbon economy. They will also strive to enable consistent disclosures about financial risks associated

¹³Government of Ontario (2018) Made in Ontario Environment Plan. Retrieved from: <https://prod-environmental-registry.s3.amazonaws.com/2018-11/EnvironmentPlan.pdf>

with climate change. There are also plans to launch an emission reduction fund called The Ontario Carbon Trust, which will implement a reverse auction to encourage the investment in clean technology solutions¹³.

Another major area that the province is focusing their resources on is to address the solid waste issues that are occurring across the province. The goal is to develop a specific day where schools, businesses and the general public go out and clean up and reduce the litter in parks and other public spaces in the hopes to raise awareness of the littering issues and the major environmental impacts that littering has¹³. The Province has stated that they will make producers responsible

for their products and the disposal of their products, which will further reduce unnecessary resource use, and reduce the issues that Ontario is facing in disposing waste. Recently, the Ontario government has announced that they will be implementing a consistent recycling program across the province, as well. The logical next step is to ensure that Ontario is keeping their recycling inside of the province, which ensures a consistent market and ability to implement a stable recycling program across the province. The province is also encouraging that the Federal government create a consistent program across the country, because currently 89% of Canadian plastics put in the recycling bin are being sent to the landfill¹⁴.

¹⁴ Recycling Council of Ontario. (2019) <https://rco.on.ca/canada-recycles-just-9-per-cent-of-its-plastics/>

Current Climate and Future Projections

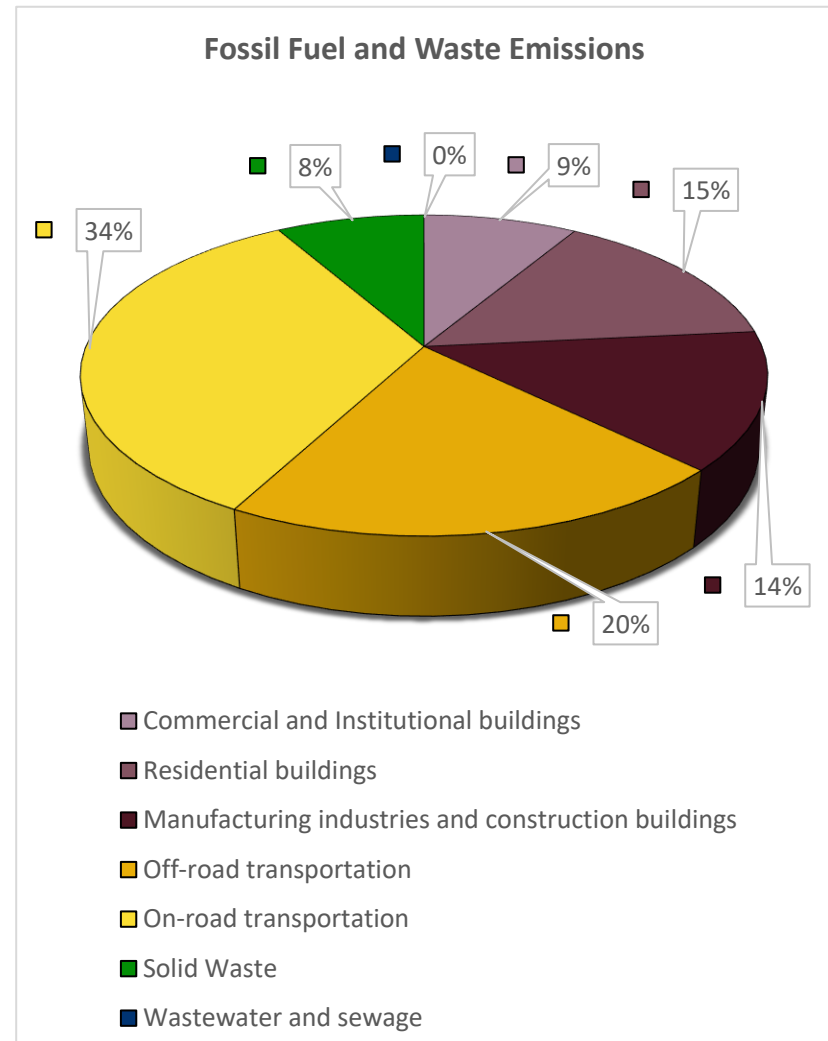
The inventory for each municipality was completed for the year 2017. In 2017, the municipalities within the county emitted approximately 706,000 tonnes of greenhouse gases. In 2017, there were approximately 76,796 residents within the geographic boundary of Perth County, Stratford and St. Marys included. This means that each resident emitted approximately 9.19 tonnes of CO₂e each in 2017. This total includes emissions from electricity and fuel consumption of buildings and transportation, and waste generated within the municipal boundaries.

The population is growing across the County which means that there is likely going to be an increase in emissions due to new builds, more single-occupancy vehicles and more waste production. While it is important to address the initial baseline emissions, it is also important to put in place actions that will prevent emissions from increasing due to this projected growth.

The agricultural emissions will be reviewed later in this document. This sector is an important part of the local economy and will be a major part of sequestering and reducing emissions across the County.

It is becoming increasingly important for all municipalities across Canada to start taking meaningful actions to reduce emissions. Canada has set a target to be Net Zero for 2050, and in order for the country to achieve this target, municipalities

need to be the leaders. Without the help of local governments, the provinces and the country will continue to see an increase in emissions and negative impacts of climate change.

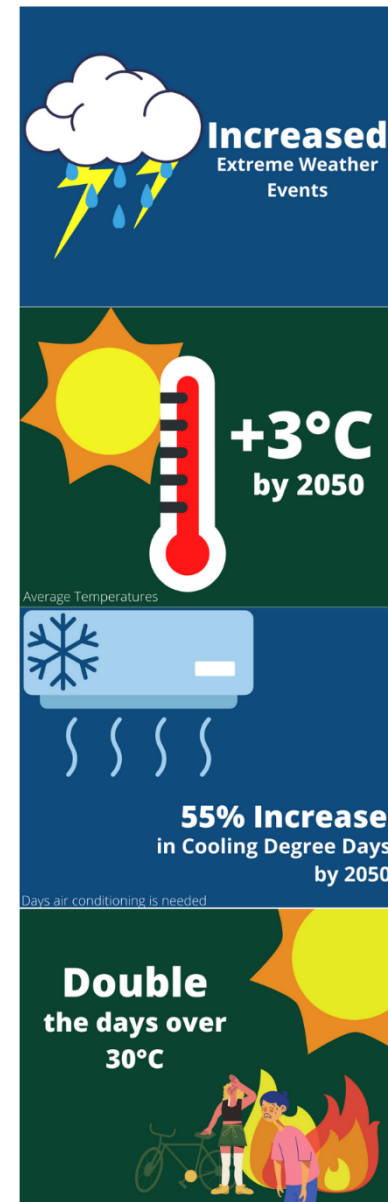


If the local municipalities do not take action to reduce their greenhouse gas emissions and set significant reduction targets, substantial changes in the local climate are expected. The projections for future climate changes for the year 2050, if no action is taken to reduce local emissions are:

- Increasing temperatures
- Temperature extremes, both hot and cold
- Increased invasive species, diseases and viruses
- Frequent and intense rainfall
- Extreme weather events (heat days, freezing rain, ice storms, etc.)
- Increased growing season and stress on water supplies

These changes in the climate will ultimately impact all areas of the municipality's economy, recreation and tourism industries and result in the following:

- Lower crop yields
- Damage to infrastructure like roads, culverts or bridges
- Damage to power lines, or other power system failures
- Public building and facility closures
- Runoff from agricultural land, increasing nutrient, sediment and contaminant loads in the rivers and lakes
- Increased need for salting, leading to increased wear on infrastructure
- Loss of outdoor winter recreation activities



Introduction

Climate change impacts are becoming more apparent around the world, across Canada, throughout Ontario and within Perth County. The time for action and avoiding serious climate impacts is narrowing, the effects are already being seen with increased droughts, heat waves, flooding, severe storms, and widespread loss of plant species and animals. Canada has been increasing in temperature twice as fast as the rest of the world, and the urgency for action is greater than ever before¹⁵. To stay below the 1.5°C threshold that scientists and the United Nations deem to be the 'safe' upper limit for global warming, emissions must peak and decline within the next 10 years, globally¹.

This plan is intended to assist the municipalities and the County in doing their part in ensuring that emissions are reduced, and that all residents are able to live in a healthy and thriving environment for many years to come.

Commitment

The municipalities within the county have all joined the Partners for Climate Protection (PCP), and have committed to reducing their emissions by following along with the PCP Milestones.



Figure 3 Partners for Climate Protection Milestones

There are five milestones that need to be completed within the next 10 years. Each municipality and the County have completed the first three Milestones through the PCP Milestone program, and are well on their way to completing Milestone 4 and 5.

The municipalities and the County partnered together to hire their first Climate Change Coordinator through funding from the Municipal Climate Innovation Program (MCIP) provided by the Federation of Canadian Municipalities (FCM). In April 2019, the municipalities joined the commitment to develop their greenhouse gas reduction plans through the PCP Program.

¹⁵ Government of Canada (2019) Canada's climate is warming twice as fast as global average. Retrieved from: <https://www.canada.ca/en/environment-climate-change/news/2019/04/canadas-climate-is-warming-twice-as-fast-as-global-average.html>

Goals, Actions and Targets

Government

In order for this plan to be successfully implemented, it will need the support and assistance from the local governments. Each municipality and the County have committed to addressing climate change, and will play a critical part in the success of the climate change plan.

It is well-known that local governments will be the biggest change makers when it comes to implementing climate actions. They are the front line workers and are responsible for a wide array of decisions that impact provincial, national and even international strategies on climate action. The UNDP estimates that more than 70% of climate mitigation and up to 90% of adaptation measures are taken at the local level of government¹⁶. It is important that municipal and local governments are the ones assisting in implementation as they have an understanding of the local concerns, limitations and abilities, so solutions can be better tailored for effective results.

Municipal and County governments are also capable of effectively engaging the local community on climate change, local action and resiliency projects. The local government can properly engage the community so that they are able to make real change and be part of the decision making within their community. Often, at international climate conferences, local communities are not able to be actively involved or considered, so allowing them to have a voice on actions that immediately affect them at the municipal level will be more impactful. The local government can be the missing link between those international conversations and the community, ensuring priorities are set to succeed through broader, international and national support. If local governments receive national and international support, especially financially, this can make projects easier to develop and implement. Projects like green infrastructure or green energy developments can require substantial financial investments, but they also help to reduce local emissions and create more jobs, creating a stronger and more diverse economy, and with funding or grants from upper level governments, it makes ambitious and necessary projects more feasible on the local level, where the real changes happen.

There are many goals that the local governments need to support within the community, and should also implement within their own priorities and plans as well.

¹⁶ The Guardian (2015) Local authorities are the real trailblazers in the fight against climate change. Retrieved from: <https://www.theguardian.com/public-leaders-network/2015/dec/10/local-authorities-climate-change-fight-paris-agreement>

Action 1: Adopt the use of a climate lens tool

A climate lens tool is designed to assess municipal decisions and how they impact the climate and if the decision will be affected by climate change (ie. Increased temperatures or extreme weather events). The Clean Air Partnership has developed a climate lens tool that allows all staff to be able to assess their decisions, even if they do not have expertise in climate change. This tool provides resources to ensure proper considerations are made to assess all climate impacts associated with decisions¹⁷. The tool is important to use if the municipalities and the County are planning to continue to prioritize climate change. This does not provide a detailed qualitative analysis, but provides a high-level probability evaluation of the decision that is being made, and encourages discussions between departments so climate change is considered throughout the organization¹⁷. This will also allow senior staff and management to review decisions so that they can implement climate related decisions that align best with their departmental priorities. It will also be important to assess the positions within each department and evaluate how the work will impact the climate and how their work will be impacted by climate change.

Action 2: Develop an education and awareness page and program for the community

A simple but effective way to get more education out and to continue to garner support from the community is through the creation of a climate change page on the official municipal and county websites. This page should communicate climate change actions, the progress that is going on surrounding the climate change plan, and should provide education, suggestions and resources for actions. This page should provide easy tips for residents to get started on their climate action journey, and should provide insight on how this will help them and their community and to reach the reduction target. This page should communicate the successes the municipality and the County are experiencing with implementation of the climate change plan, and how it has helped reduce emissions, reduced costs and has pushed them forward to reaching or even surpassing their GHG reduction target. The page should also provide links to programs that the municipality and County are offering to help support local businesses, community members and the agri-business sector. There should be resources available on this page for all members of the community to explore to learn of funding opportunities for home upgrades, vehicle upgrades, any webinars or new resources, from the local government, provincial government or the federal government. Another key feature of this page should be a carbon footprint calculator. This will allow individuals to keep track of their own actions and how they contribute to their local emission count.

Action 3: Develop a corporate-level climate change plan

With municipalities being leaders in climate action, it is also important to develop a focus on corporate actions to combat climate change and increase local resiliency. Municipal services will all be impacted by climate change, and have the potential to also

¹⁷ Clean Air Partnership (2020) Municipal Climate Lens Tool. Retrieved from: <https://www.cleanairpartnership.org/projects/climatelens/>

contribute to local emissions, therefore making a corporate climate change plan a priority moving forward. All levels of staff need to be engaged on this topic, and an understanding of climate impacts should be well integrated into each department. This corporate climate change plan should focus on mitigation and adaptation to prepare the municipalities and County for reducing their own emissions while also ensuring they are considering actions to protect their assets and assess areas of vulnerability within their work and services. This will also allow the municipalities to gain a greater understanding of their own climate change impacts and how their services can better support the implementation of the community climate change plan.

Action 4: Develop a community adaptation plan

The initial focus of this plan is to speak to greenhouse gas reduction opportunities, and did not explore a vulnerability assessment to see the areas of major concern across the county. Developing or adding to this plan to put more focus on adaptation and the vulnerabilities across the county is an important step when dealing with climate change. This will ensure that actions and considerations are taken to reduce the risks that are going to be associated with climate change. Due to the emissions that have been released over the past decade, there are impacts that are going to be inevitable, and it is crucial that the municipalities and the County be prepared and prepare their citizens for those inevitable impacts. Ensuring that all vulnerabilities are being assessed and actions to protect citizens are successfully implemented, Perth County and the municipalities within the boundaries of the county can be more resilient to climate impacts long term.

Goal: Embed climate considerations into all municipalities and provide educational resources

Action	Timeline	Cost	Indicators of Success
Adopt Climate Lens	Ongoing	No cost	<ul style="list-style-type: none"> Considering climate change while making municipal/county decisions
Develop an education and awareness page and campaign	Ongoing	Low cost	<ul style="list-style-type: none"> Increased numbers of online traffic to webpage Increased uptake of sustainable and climate change actions Public use of the online GHG Calculator
Develop a corporate-level climate change plan	Short term to ongoing	No/Low cost	<ul style="list-style-type: none"> Adoption of climate plan Implementation of internal climate strategies
Develop a climate change adaptation plan	Short term to ongoing	No/Low cost	<ul style="list-style-type: none"> Adoption of climate plan Implementation of adaptive strategies to increase adaptive capacity Decrease in vulnerability

Buildings and Land Use

As local populations continue to grow in municipalities across the county, new homes will continue to be built. It is the role of the municipalities to ensure compliance with the Ontario Building Code (OBC) while these new homes are being built, but imagine if they took it a step further and made even better, more sustainable, more energy efficient homes. Over the years, the OBC has updated their requirements for energy efficiency, through actions such as an increase of 15% efficiency, and rough-ins for electric vehicle stations in new homes and non-residential buildings, but much of the OBC is still considered as the minimum effort in regards to energy efficiency¹⁸. This sector emitted a total of approximately 262,800 tonnes of greenhouse gas emissions.

Residential Buildings

In 2016, there were a total of 38,350 single family homes and about 9,585 attached dwellings (townhouses, apartments, etc.)¹⁹. Residential buildings emitted approximately 104,600 tonnes of CO₂e in 2017, about 100,600 tonnes of those came from single-detached homes, while the other approximately 4,000 was emitted from the attached dwellings. There are opportunities to reduce energy consumption from residential buildings through small fixes, and through larger investments. Approximately 40% of emissions from buildings come from the residential sector, mainly from the natural gas, propane and fuel oil consumption across the county. Electricity production in Ontario is known to be clean, therefore emissions associated with this source of energy are low.

Improvements that provide the biggest reductions typically come with a higher cost, but also provide greater savings. Projects such as replacing the siding on your home and adding more insulation in the walls prior to recladding help significantly to reduce your need for heating and cooling. If you combine this with a new heating system, like ground-sourced heat pumps, air-sourced heat pumps or a high efficiency furnace, this helps to nearly eliminate emissions from heating.

Commercial/Institutional Buildings

The community attracts over a million visitors every year, which contributes greatly to the local economy. The arts and tourism sectors represent around 4,000 jobs. This sector of buildings includes the associated tourism-related infrastructure, the University of Waterloo's campus, local schools, and other shopping centres like grocery stores and small businesses.

¹⁸ Ministry of Municipal Affairs and Housing (2016) Supplementary Standard SB-12 "Energy Efficiency for Housing" Amended on July 7, 2016. Retrieved from: <http://www.mah.gov.on.ca/Page15256.aspx>

¹⁹ Statistics Canada (2020) Census Profile, 2016 Census. Retrieved from: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CD&Code1=3531&Geo2=PR&Code2=35&SearchText=Perth&SearchType=Begins&SearchPR=01&B1=All&GeoLevel=P&R&GeoCode=3531&TABID=1&type=0>

The commercial and institutional emissions generated within this sector totaled approximately 60,600 tonnes of greenhouse gases, which is approximately 23% of the total building emissions, and 7% of the total emissions. Similar to the residential sector, there is an opportunity for retrofits and upgrades to take place, whether they are small projects or something more major.

Industrial/Manufacturing buildings

There is a unique set of manufacturers within the area, these include automotive equipment, feed and animal pharmaceuticals, architectural and structural metals, concrete, metal fabrication, engineering and machining, green products and technology, Agri-food products and textiles²⁰. Perth County also has a strong Agri-business sector where they have food processing and handling facilities, farm equipment and part manufacturing, green energy and bio-crops, bio-based materials and product manufacturing and genetics and research facilities.

The industrial and manufacturing sector emitted approximately 67,600 tonnes of greenhouse gases, which represents 37% of the total emissions from buildings, and about 12% of total emissions within the county.

Energy efficiency for the industrial sector is known to improve by 1 to 2% in Canada per year because of continued education and training programs, networking programs, and capacity-building opportunities. It will be important for the community to ensure that industrial and manufacturing companies are being held accountable, and are being open and honest about their emissions and are actively reporting and working towards lowering their emissions to help with community reduction targets. It is strongly recommended that a relationship be established with industrial, manufacturing and commercial industries in the municipalities to keep an open relationship on sustainability efforts and greenhouse gas reduction strategies.

²⁰ Perth County (2017) Community Profile. Retrieved from: <https://www.perthcounty.ca/en/doing-business/resources/files/Accessibility-Update---Edited-PDFS/Business/Perth-County-Community-Profile---accessibility.pdf>

Emissions from Buildings

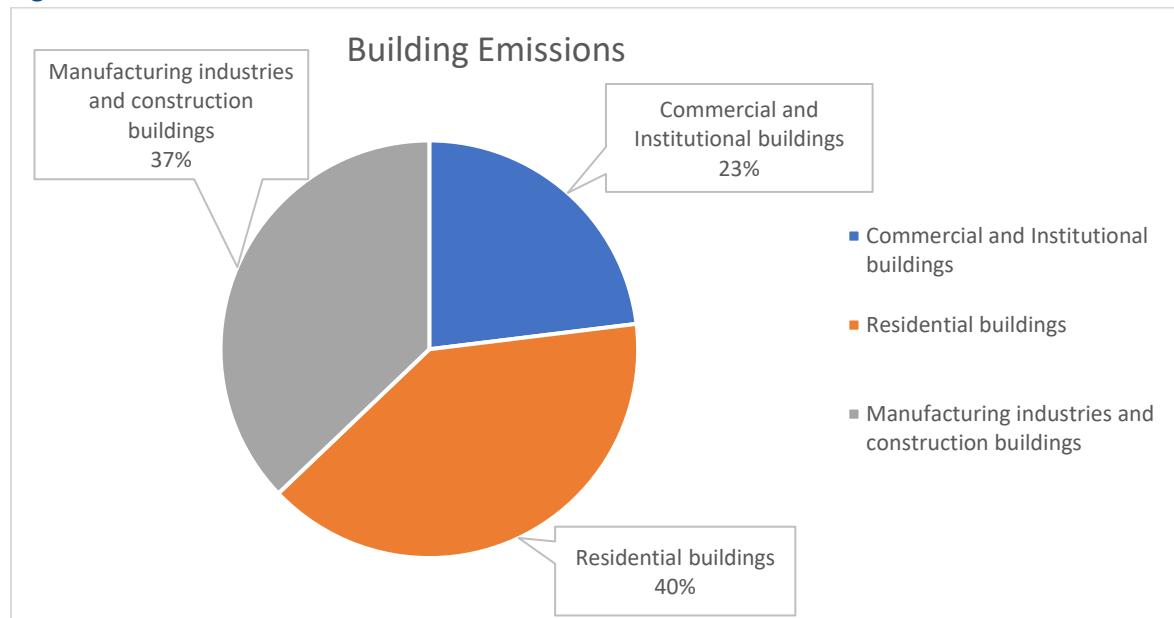


Figure 4 Building Emissions

In the community, building emissions make up approximately 32% of the total emissions. These building emissions include the residential, commercial, institutional and industrial buildings. However, it is important to note that some consumption data is missing for the emissions, as propane, fuel oil and other types of fuels apart from natural gas and electricity do not provide overall consumption data for municipalities. Therefore this sector likely emits more emissions than this initial calculation. Future exploration will need to be done to establish more accurate emissions counts.

As mentioned previously, the residential buildings across this community make up approximately 40% of the emissions from

buildings, and 14% of the total emissions. Small improvements such as sealing or caulking areas of leakage which are typically found around windows will substantially reduce heat loss, adding insulation to your attic, or an unfinished basement will also reduce heat loss. These small improvements are known to not only reduce emissions, but also reduce your energy consumption and therefore your bills. Old gas hot water heaters are also known to consume a substantial amount of energy within the home. There are new and efficient alternatives to heating hot water, things that include solar hot water heaters which preheat the water while using your electric or gas hot water heater, which results in greenhouse gas reductions as well.

Action 1: Sustainable Building Standard

As populations continue to increase within the municipal boundaries, housing development continues to rise. Across Ontario, housing has been proceeding at increased rates, sprawling communities continue to sprout up all across Southern Ontario, and increased need for a vehicle continues to climb.

These new homes have impacts on more than just local land use, they consume energy and water and generate waste, pollutants and greenhouse gases, and also increase stresses on the local municipal energy infrastructure. Knowing that new homes contribute to the climate challenge but are often not thought about or considered, it is important for local municipalities to address this area of future emissions. New builds create the best opportunity to address future emissions. Often the focus is on how emissions can be lowered through retrofits, rather than building energy efficient homes and buildings in the first place. As building stocks increase, many without zero or low carbon performances, the municipality will have to invest more into these homes to retrofit them in the future, which is more costly and difficult.

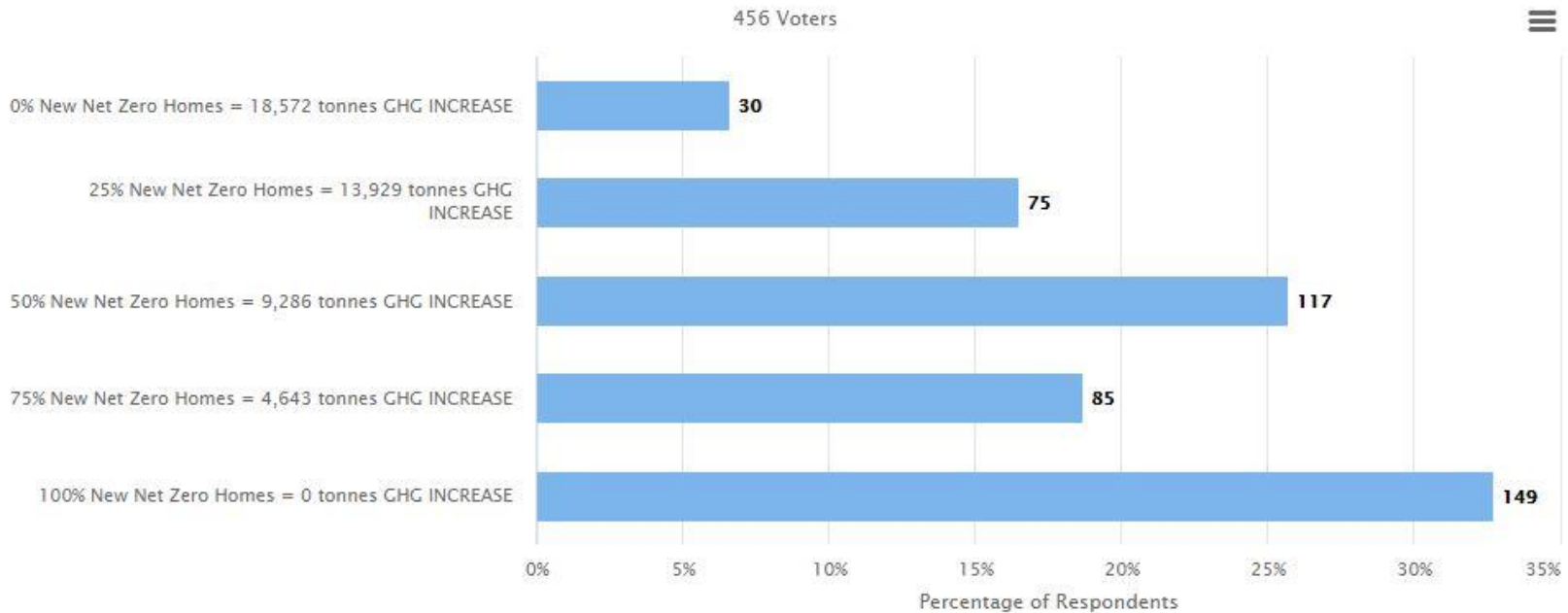
A Green Building Standard creates the opportunity to guide developers in creating homes that are more efficient than those that strictly follow the Ontario Building Code. The ability for municipalities to use their guidance in local economic development provides them the means to have authority over local planning decisions, making them a key leader in this action. A Green Building Standard not only helps to boost the local economy, but also addresses the priorities that have been set through the development of this plan: air quality, energy efficiency, water quality and solid waste. The development standard usually promotes adaptive measures that ensure long term infrastructure resiliency, increases the number of energy efficient homes, promotes building smart, dense and mixed-use neighbourhoods to reduce urban sprawl reducing the need for vehicles, and helps increase green infrastructure and reduces hardscapes, which not only improves stormwater management but also reduces the impacts of the heat island effect. The heat island effect is caused by large surfaces of concrete that hold heat and release it in local neighbourhoods, which leads to increases in local temperatures.

As the community continues to grow, it is important to consider more than the typical considerations of new development, it is necessary to be considering public health, climate change, energy consumption and consumption of resources. The Clean Air Partnership has developed a tool that helps municipalities develop their own Green Development Standard.²¹ This tool was created

²¹ Clean Air Partnership (2020) Why Standards for Green Development Should be a Standard Part of Municipal Climate Action. Retrieved from: <https://www.cleanairpartnership.org/why-standards-for-green-development-should-be-a-standard-part-of-municipal-climate-action/>

to push the considerations around growing a healthy, well-designed community that is well integrated with greenspaces, pedestrian and transit networks, while also providing a variety of housing options, transportation, services and employment options²¹. The tool will remove pressures from population growth and urbanization by ensuring resource efficiency²¹.

How many new builds would you like to see follow a new green building standard in the next 10 years?



Action 2: Develop a Deep Retrofit Program/Guidelines

The residential, commercial and institutional buildings have an opportunity to improve their efficiencies through a voluntary retrofit program. A program that allows the building owners to decrease energy consumption and associated emissions with financial assistance. These programs are appealing to those that are looking to reduce energy costs and improve property value while also increasing their energy efficiency. The program is what is referred to as a deep retrofit program, which assesses the energy performance of the entire home/building versus addressing incremental changes, which leads to significant energy savings. Improvements that this program usually targets focus on heating, cooling, insulation and water heating.

A deep retrofit program can help in managing heat loss in homes and businesses and, reduce energy consumption and help integrate automated controls. It also explores the opportunity to consider elements such as solar PV/thermal, ground source heating, and other features like this to reduce traditional energy usage. This would also help to supplement the local energy supply to not overload the current system with increased electricity consumption. Adding renewables or biofuels will help to transition the community to a more resilient and low emitting community. There is increasing information surrounding biofuels as a great alternative for energy production for rural communities, through burning of wood pellets and other wood or sawdust developed products. Biofuels are a great low-cost alternative, as switching to electricity without renewable supplementation is a costly decision to make in Ontario, currently.

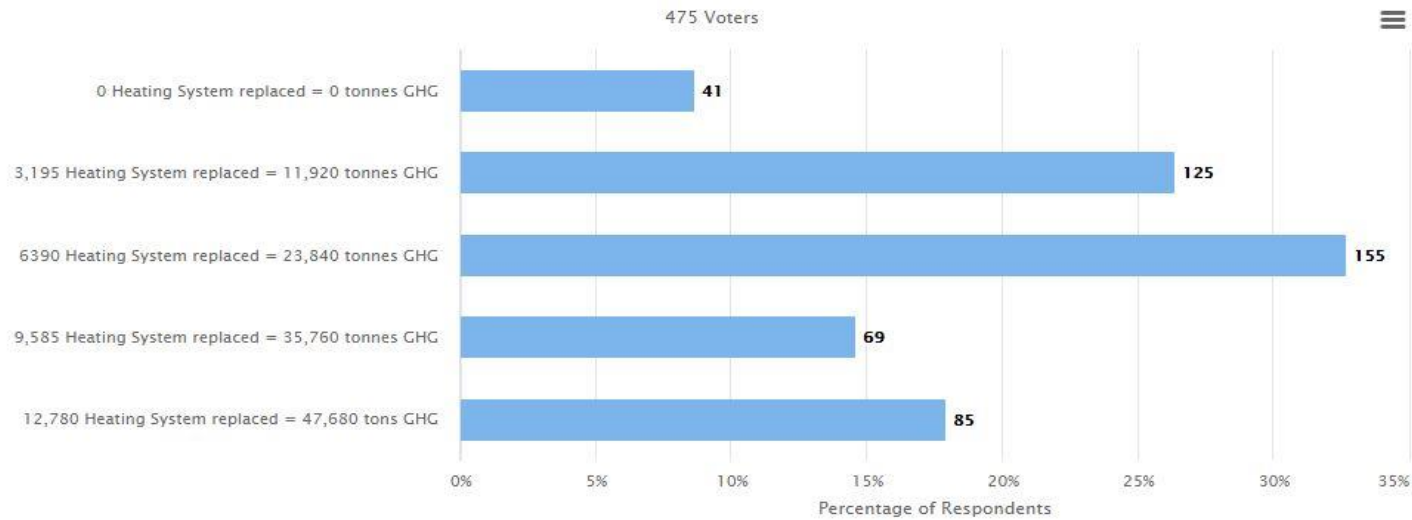
A deep retrofit program will also improve the resiliency of the community, and help reduce urban heat island effect and reduce flood risk by reducing runoff. These programs have included projects like rain gardens, backwater valves, sump pumps, downspout disconnect, regrading or even permeable pavements, which further help with sequestration and adaptation.

The program should also include an energy performance label to showcase the success of this project. This also allows homeowners or those selling property an opportunity to showcase the efforts they put in to increase the efficiency of the home, justifying higher property values.

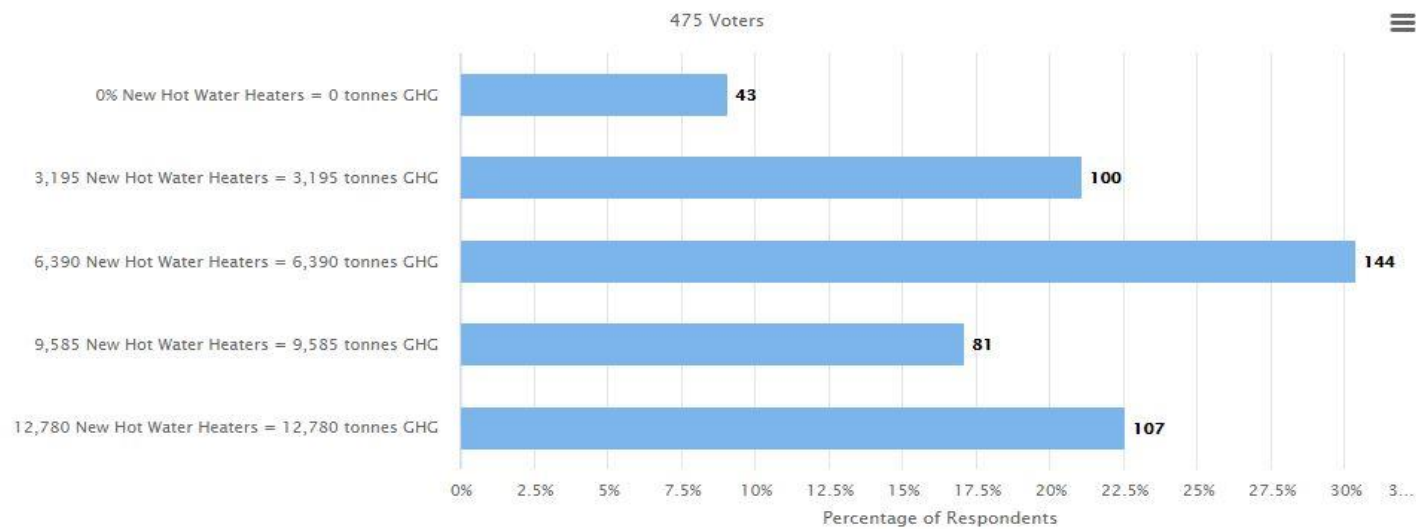
Developing a program like this, allows local contractors, home and business owners the opportunity to explore areas that will not only help them reduce their energy consumption but will also improve the local community and their well-being.

There should also be an assessment of local knowledge on these programs and upgrades so that contractors can implement these more technical renovations. By doing this, it also offers the opportunity for job creation and ultimately feeding more into the local economy.

How many single family homes do you think the residents of Perth County can and should plan to retrofit?



How many single family homes do you think we should or could retrofit with new electric or solar hot water heaters in the next ten years?



Action 3: Offer LIC or PACE financing to assist in deep retrofits

The municipalities have an opportunity to explore the feasibility of implementing a program that helps residents perform the deep retrofits that will help to significantly reduce local emissions. Reducing emissions from homes through retrofits is difficult and can be expensive, and it also requires a large number of participants to see a significant impact.

Many municipalities and regional governments are offering what is called a Local Improvement Charge (LIC), or Property-Assessed Clean Energy (PACE) financing program. These are a temporary charge that is typically added to the homeowners property tax bill so that they may pay for the improvements that benefit the property owner. This means that the municipality helps in paying for the energy retrofit upfront, and the homeowner pays for it over the time of the loan period, therefore operating at no net cost to the municipality while also not using taxpayer money to provide the program. These loans are typically tied to the property, but there are other options that the municipalities can explore as they assess the feasibility of implementing this kind of program.

Municipalities are being offered assistance to implement this program that helps their local communities to complete the deep retrofits that are necessary to achieve ambitious reduction targets. The Clean Air Partnership partnered with the Federation of Canadian Municipalities to provide a toolkit and funding to assist in the development and implementation of this type of program.²² The current toolkit and funding focuses on residential buildings and how municipalities can implement a program that assists homeowners to improve the efficiency of their home.

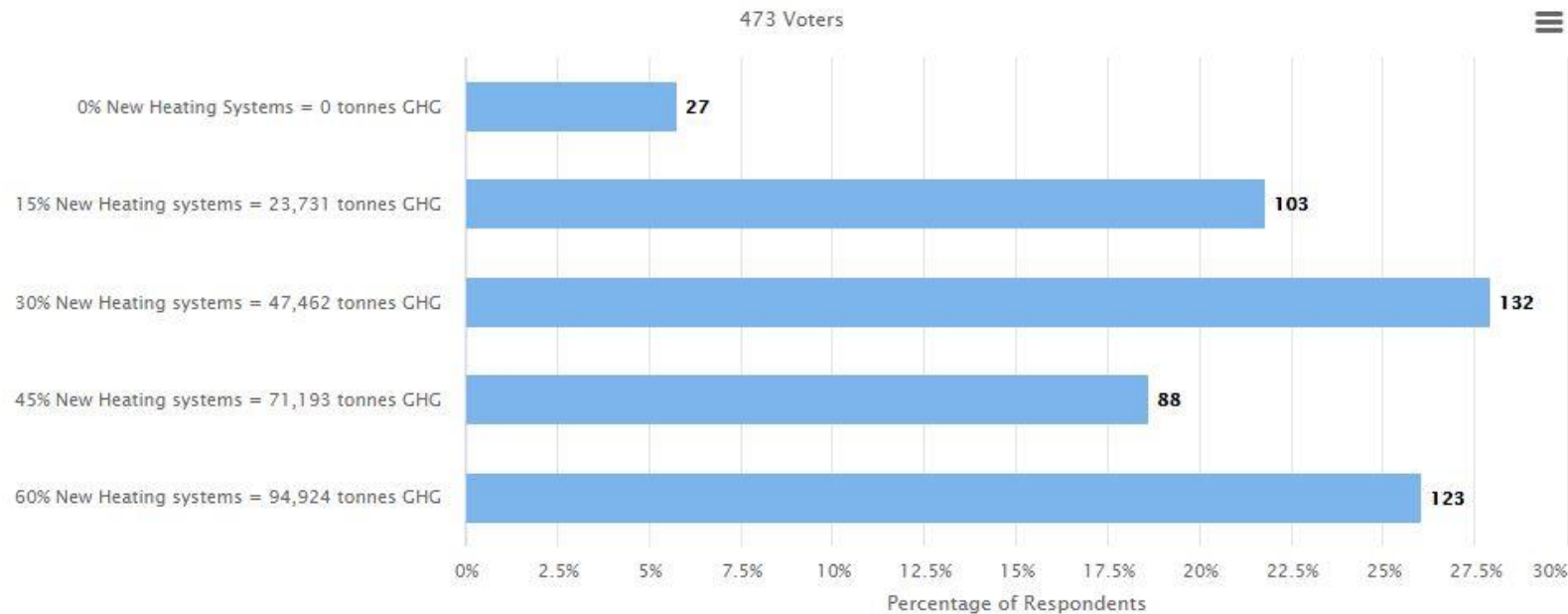
Offering this program will ensure that homeowners are resilient to the upcoming and inevitable climate change impacts, while also bringing older homes up to current Building Codes, reducing energy bills and helping to improve property value and quality of life. These improvements also encourage residents to stay within the community due to the affordability of owning their updated homes. The retrofit projects are typically designed to match loan payments with savings on energy bills, which means it is typical to see no increase in monthly bills, meaning it is more accessible to those living with lower incomes. It also helps to provide increased comfort in the home and living space, which leads to healthier and happier residents.

²² FCM (2020) Learn how to reduce greenhouse gas emissions through energy efficiency retrofit programs. Retrieved from: <https://fcm.ca/en/case-study/mcip/tool-and-case-study-climate-resilient-home-adaption-toolkit>

The exploration of this program is necessary to ensure residents are capable of making impactful changes. Performing a feasibility study is the first step in assessing how this program can be successfully implemented in a low-risk manner. Partnerships should be explored for successful development and implementation of the program.

Future exploration in offering this program to commercial buildings through a C-PACE program should be reviewed. As more national targets are set, it is likely that more grant and funding opportunities will arise to help municipalities implement other ambitious projects like a C-PACE program.

What percentage of emissions do you think we can and should attempt to cut in the next 10 years from the commercial, institutional and industrial buildings, and operations in Perth County?



Goal: Create greener, more sustainable, accessible and energy efficient neighbourhoods

Action	Timeline	Cost	Indicators of Success
Sustainable Building Standard	Ongoing	No cost	<ul style="list-style-type: none"> • Integrate adaptive measures into construction of new buildings, retrofits, and the maintenance of existing infrastructure • Increase the number of new construction and existing infrastructure that are highly energy efficient • Smart, dense, mixed-use growth to reduce sprawl • Increase green infrastructure and reduce hardscaping to improve stormwater management, and reduce the heat island effect • Lower to no new residential emissions
Develop a Deep Retrofit Program	Ongoing	High cost (grants available)	<ul style="list-style-type: none"> • Decrease in residential emissions from current housing stock
Offer LIC or PACE financing to assist in deep retrofits	Ongoing	High cost (grants available)	<ul style="list-style-type: none"> • Community use and buy-in • Lower residential emissions

Businesses/Industry

Businesses are known to contribute a substantial amount of emissions throughout their supply chains, and more pressure is being put on them to improve their sustainability initiatives. Locally, the buildings owned by businesses contribute 19% of total emissions, but are about 60% of emissions associated with buildings across the county. These emissions do not include emissions associated with their manufacturing processes, the vehicles they use for shipping or any other emissions associated with their supply chains. It is the responsibility of local businesses to assess their emissions and to consider sustainable business actions where possible. It is known that implementing sustainable actions into businesses improves business, improves efficiency and reduces costs overall. Of course examples of sustainability initiatives can be seen across the County with sustainability related positions who track and report and engage staff and internal practices, and those who have joined groups such as the Carbon Footprint Initiative, which is a local group of businesses looking to improve their sustainability and measure and reduce their personal impacts.

As mentioned previously, industry/manufacturing is known to be the largest contributor to Canadian emissions. Across the County there are many industrial/manufacturing organizations who contribute to emissions locally and nationally. For emissions to downtrend, it will be important for industrial/manufacturing facilities to work to reduce their emissions throughout their facilities and to keep track and report on their emissions. With the new Federal targets being set, industrial and manufacturing facilities will need to be ambitious and actively work towards reducing and offsetting their emissions. Typically, the Federal government provides training and resources to manufacturing and industrial organizations to assist in reducing emissions, but it is crucial for them to also take the necessary steps in taking their own actions to reduce these emissions in the most impactful manner.

Action 1: Start/join/support a local Green Business Hub

Within the Maitland Watershed there is currently a group of local organizations that have joined together under the guidance and leadership within the Maitland Valley Conservation Authority, to create the Carbon Footprint Initiative. This group is open to all types of organizations, like businesses, companies and municipalities within the Maitland watershed²³. In order to join, the organization must prepare a carbon footprint strategy and provide updates on their continued progress towards their targets. The organization must also participate in sequestration activities like planting projects and restoration projects.

In surrounding communities there are similar groups to the Carbon Footprint Initiative. These have been started through the organization Green Economy Canada²⁴. There are many hubs across Ontario and Canada that are working with local businesses to reduce their carbon footprints and reduce their environmental impacts. Green Economy Canada works with local organizations to launch their own hubs to help support local businesses become more sustainable, they will provide resources and tools for measuring impacts and work to create a larger sustainable community. In London and in Waterloo Region, hubs already exist to help support their businesses transition to sustainable practices. These hubs exist only because of local interest and support, so if there is a desire within the municipalities across the county to improve business practices, there is opportunity to join this growing group of hubs, and to act as leaders not only in Ontario but across the country. Collectively the hubs have helped businesses to reduce about 200,000 tonnes of greenhouse gases and helped them to see the co-benefits of integrating sustainability²⁴. This also offers the opportunity for local industrial/manufacturing organizations to join, assess and work towards reducing their greenhouse gases and environmental impacts in a more holistic manner, considering the social, environmental and economic impacts of sustainability integration.

²³ Maitland Valley Conservation Authority (2020) The Carbon Footprint Initiative Story. Retrieved from: <http://www.mvca.on.ca/stewardship-programs/carbon-footprint-initiative/#:~:text=The%20Carbon%20Footprint%20Initiative%20is,towards%20reducing%20their%20carbon%20footprint.>

²⁴ Green Economy Canada (2020) Green Economy Canada. Retrieved from: <https://greeneconomy.ca/>

Action 2: Sustainability toolkit for small/local businesses

The municipalities can help to support their local businesses by working with them and the BIA to develop a toolkit on sustainability. It will allow conversations to flourish around what partnerships and support can be developed to improve access to sustainability initiatives that fit within the unique approaches of each organization. Across the county there are many different types of small and local businesses that need to start considering sustainable actions to help in reducing their environmental impacts, reduce operation costs and ensure a continued social license to operate. The municipality and businesses can work together to create a toolkit to support the transition to sustainable business operations for all. This toolkit can help local businesses to implement projects to improve their sustainability initiatives and provide them with resources and links to funding and grants. A sustainability toolkit can also offer solutions for adaptation to businesses, so that they are less vulnerable to climate change impacts; this involves assessing the supply chains and the structures in which businesses are running. A toolkit like this offers a transition for many businesses to start the conversation, where they can then assess if joining a local green business hub would offer that extra help in involving their business in more sustainable opportunities.

An example of a sustainability or climate change toolkit can be found through the Sustainable Hamilton Burlington's website, where they showcase their Business Climate Action Toolkit²⁵. This toolkit lays out the steps to assess the businesses' climate impacts and ways to move forward in addressing those. Following a similar path for local businesses in Perth County will hold the various organizations accountable for their local impacts. It will be crucial for local businesses to be part of the development of this toolkit so that it can be tailored to the abilities and various types of businesses across the county and in individual municipalities.

²⁵ <https://businessclimateactiontoolkit.ca/>

Goal: Support sustainability and climate action in local businesses

Action	Timeline	Cost	Indicators of Success
Start/Support/Join a local Green Business Hub	Short term	No cost to Low cost	<ul style="list-style-type: none"> • Increased membership in Carbon Footprint Initiative • Development of other Green Business Hubs • Increased sustainable business
Develop a small/local business toolkit	Ongoing	No cost	<ul style="list-style-type: none"> • Completion of toolkit • Increased sustainable business practices (reduced emissions and environmental impacts)

Transportation

Transportation is one of the largest contributors to local greenhouse gas emissions. There is an opportunity to push the reduction of this sector of emissions through supportive actions and policy implementation.

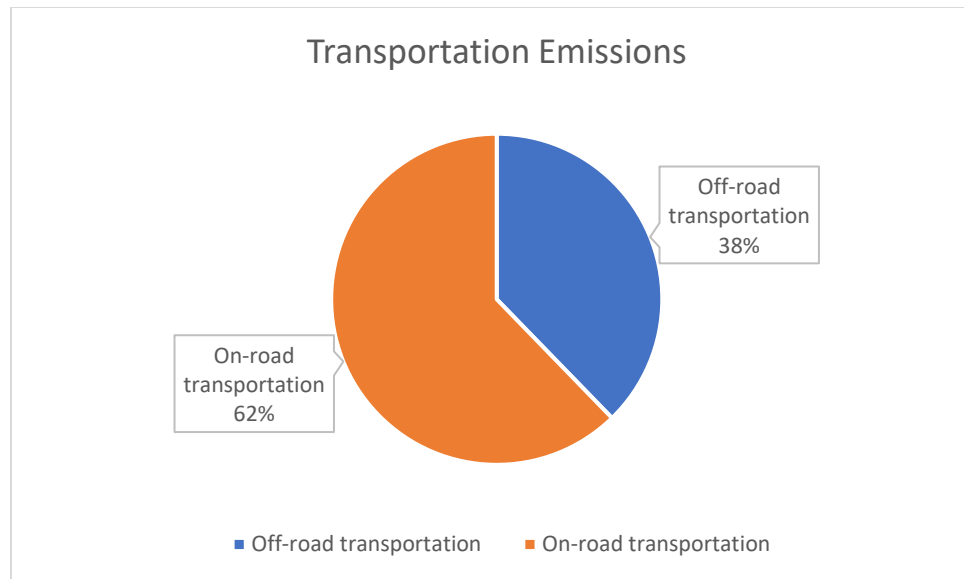
Recently, the County partnered with other municipalities to develop a new transit system called Perth County Connect (PC Connect)²⁶. In November of 2020, PC Connect launched to better connect residents within Perth County, Stratford and St. Marys with each other and surrounding Southwestern Ontario municipalities. The launch offered five fixed routes, with one bus servicing each route. Prior to this launch, Perth County's transit system was non-existent and created issues for residents and those trying to commute throughout the County and outside of it. The Greyhound stopped operating within Perth County, and Via Rail services became limited, therefore the County, Stratford and St. Marys realized the importance of providing transit services for improving local economic development. The City of Stratford already had bus services available within the City limits, which allowed for those living within Stratford to move more easily within the City limits. The City has also made the move to implement On-Demand Transit for Sundays, which allows residents more flexibility and will help to meet the transit demands in a more accessible manner²⁷. Transit is one of those key features within communities that is known to reduce local greenhouse gas emissions, increase movement and accessibility within the community and help in the investment of local businesses.

Perth County, Stratford and St. Marys need to prioritize encouraging residents to take advantage of this new transit system to help reduce local transportation emissions. Another area that needs prioritizing is active transportation; active transportation includes walking, biking, wheeling, in-line skating, skateboarding, and skating in any form. This can be encouraged through better connectivity throughout the municipalities and interconnecting between municipalities.

Encouraging the purchase of electric vehicles is also an opportunity for significant GHG reduction. The common fear when thinking of purchasing an EV is range anxiety and lack of charging infrastructure. This presents an opportunity for the municipalities to invest in infrastructure. Increased accessibility for charging stations will not only ease the range anxiety for residents, but will also encourage tourists to come and explore your local municipality. This is an economic development strategy that is worth exploring.

²⁶Perth County (2020) PC Connect – Your Community Transit System. Retrieved from: <https://www.perthcounty.ca/en/living-here/community-transportation---perth-county-and-stratford.aspx>

²⁷ <https://www.stratford.ca/en/live-here/transit.aspx>



Transportation in Perth County, Stratford and St. Marys makes up approximately 61% of the local fossil-fuel and waste-related emissions. About 62% of that comes from personal-vehicles across the County, and 38% of that from off-road vehicles such as combines and tractors.

As mentioned previously, there are many opportunities to reduce emissions from the transportation sector. As residents continue to upgrade their vehicles over the coming years, it will be important to transition to low emitters like Hybrid/Hybrid Electric and Electric Vehicles (EVs). Over the next few years, it is anticipated that the prices of electric vehicles will continue to lower, the number of electric vehicles and used electric vehicles

are expected to increase, and to add to that there are many manufacturers who have committed to phasing out internal combustion vehicles in their line of vehicles. Municipalities have limited control over what their residents will purchase in the future, but they are set to provide support in a few different ways. The County and the municipalities will have to play a major role in reducing the number and length of single-occupancy vehicle trips through a transit system, supporting and encouraging carpooling, and ensuring the active transportation options are safe and convenient. This ultimately will lead to better air quality, less congestion and an overall better quality of life for residents.

Action 1: Implement a Transportation Master Plan

All residents need to get around the county and municipalities, and it is the job of the municipality and the County to make sure that the necessary local travel is as simple and safe as possible. A transportation master plan is intended to guide work and direction on how local travel options can be improved by focusing on pedestrian, cycling, and transit and roadway infrastructure. This plan will help prepare the community for a well integrated system that includes the various travel options available across the county. The goal of a Transportation Master Plan is to reduce emissions, improve local air quality, increase alternative travel/commute choices, lower the cost and energy consumption of personal transportation options, improve the community's health, and to reduce the need to unsustainably expand roadway infrastructure. This plan can also help address any needs related to parking infrastructure due to increased levels of tourism.

The Transportation Master Plan will help the County and municipalities know when and how to invest in the proper infrastructure to ensure traveling throughout the County and municipalities is as smooth as possible. This ensures that the demands for travel now is being met, while also preparing for future demands. Having a set plan also ensures that trends within transportation are being assessed and new technologies can be considered where feasible and reasonable.

Mobility is something that impacts everyone, residents, businesses and visitors, this is why a plan around transportation is crucial for the well-being and economic success of the County and municipalities. This will allow for each municipality to begin focusing on sustainable development within their boundaries, and will support sustainable growth in the rural and urban areas of the County, Stratford and St. Marys. The plan should also include a risk assessment to transportation infrastructure so that the municipalities and the County can work to reduce the increasing threat of transportation related interruptions due to climate change and the associated severe weather events. More resilient infrastructure can be explored and smarter and climate-ready investments can therefore be made.

Typically these include a plan for changes over the next few decades, which should encourage ambitious targets and changes to the local transportation options, and will showcase to the community that municipalities and the County are ready to support ambitious and meaningful climate change actions.

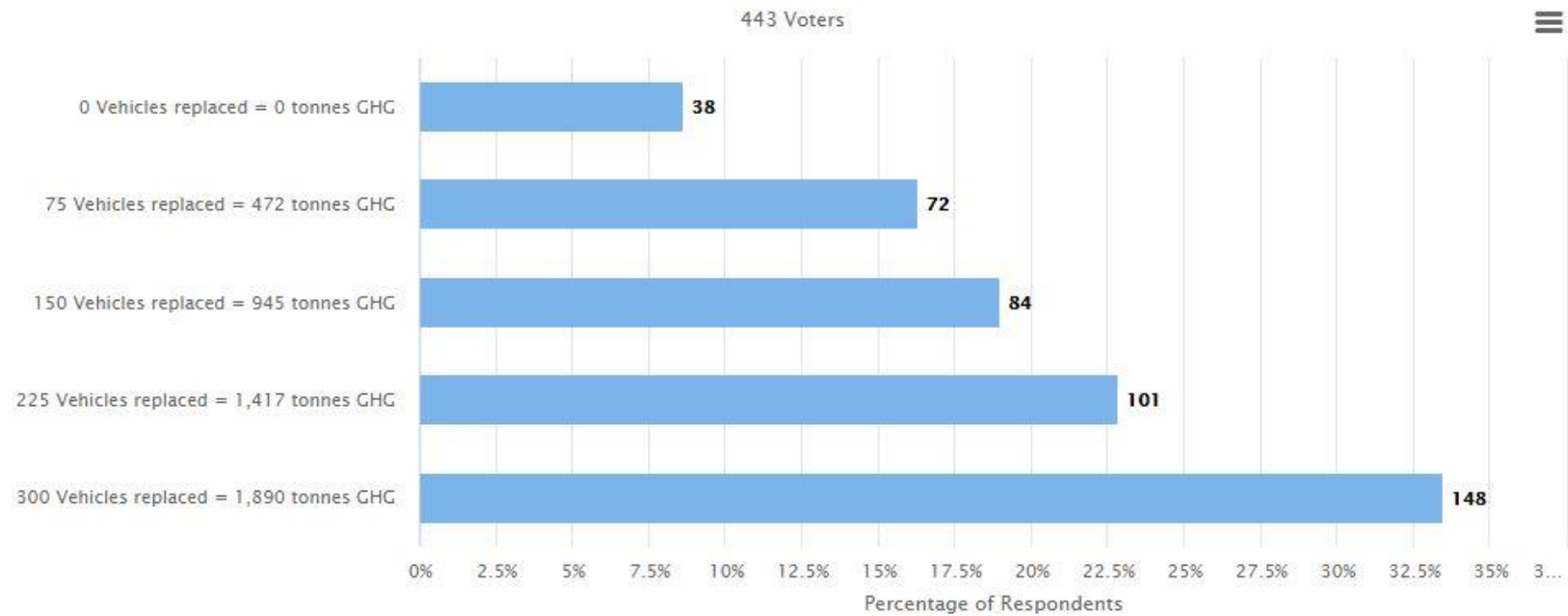
Action 2: Develop better connectivity and promote active transportation

Encouraging the uptake of cycling, walking, or any other form of active transportation will be a necessary step in reducing local greenhouse gas emissions. By promoting neighbourhoods to be built with sidewalks and bike lanes that connect to the inner city areas and main city centres, and connecting to parks and other outdoor destinations will allow for local residents to safely walk/cycle/etc. throughout the municipalities and county. The implementation of bike lanes between the municipalities and within the municipal boundaries also presents an opportunity to explore more businesses and attractions. There are many cyclists in each municipality and if residents do not need a vehicle to explore surrounding areas, it will help to promote the use of active transportation options.

This action will not only help to reduce local emission sources, but will also help to improve local air quality, and improve the health and well-being of the local community. A priority within the Perth Huron Health Unit is to encourage the uptake of active transportation and working to make this safer and a more viable option. The Health Unit, the municipalities and County should work together to encourage active transportation, and develop a strategy for successful implementation. Active transportation is not only good for the local environment, it is also good for local health and wellness, and it encourages an active lifestyle for families, and encourages residents to explore alternative means of transportation. As work is done to encourage active transportation options, a more in-depth exploration is needed to ensure it is inclusive to all residents to ensure there are no barriers for anyone to participate.

During the pandemic, record bike sales were recorded. Community members were choosing to bike to work, avoiding transit systems and were overall looking for an opportunity to spend time outdoors in an entertaining and healthy way. If the community continues to invest in ways that better connect their residents to one another, it will also encourage the uptake of cycling throughout the county and can encourage growth in the cycling movement. This is not only a positive experience for those living within the municipalities, but it will also encourage greater numbers of tourists and cyclists to travel throughout the community. Knowing there are safe routes connecting cyclists and other active transportation users to various destinations makes those trips much more desirable and well known within the cycling and active transportation groups.

How much do you think we should increase cycling infrastructure?



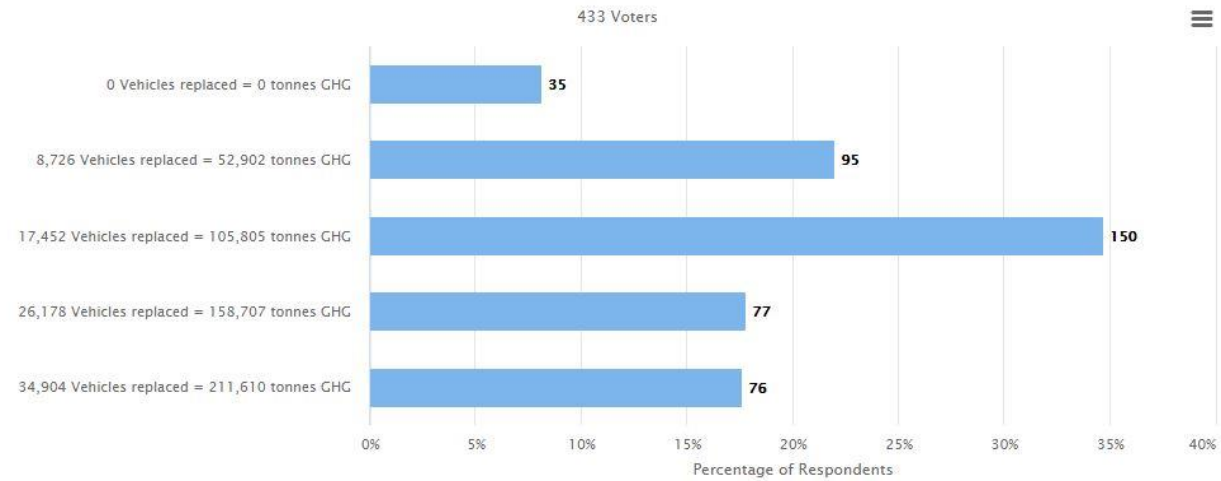
Action 3: Install charging stations

In order for the municipalities and the County to support an uptake in electric vehicle use, there is a need to increase investment in electric vehicle charging stations. A common fear amongst those who do not have EVs is the issue of range anxiety and the lack of charging infrastructure in their communities and places of work. An easy way to solve this is through the investment of charging stations, and there are many opportunities for municipalities to increase their charging capacity.

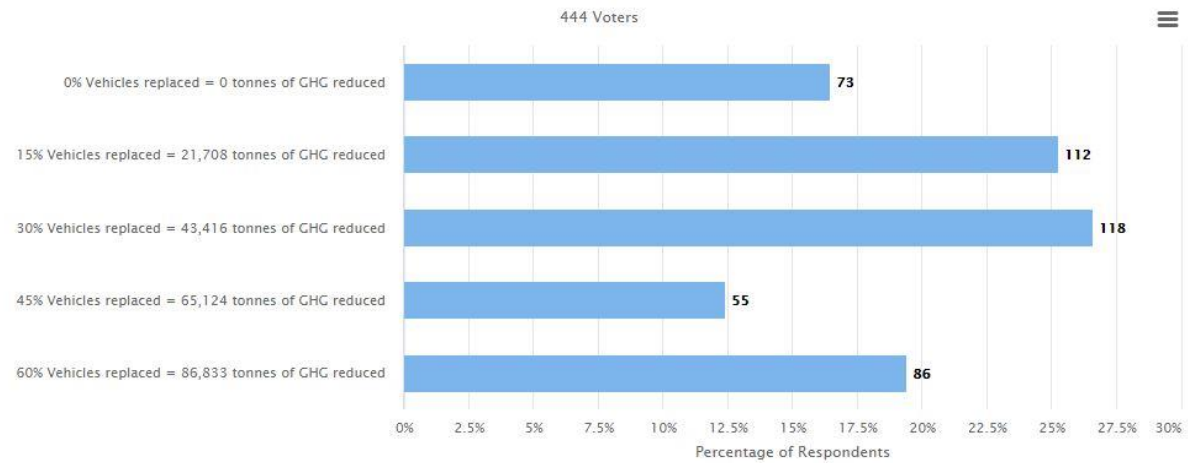
There are countless benefits that come along with public charging stations in municipalities. The increase in tourism and economic development is the first and most important municipal benefit. With the installation of Level 2 and fast/Level 3 charging stations, these often require EV owners to stop by and charge for an hour or so, and sometimes just to top up on their trips, but these encourage the municipality to be a destination choice for EV owners. This allows those who need to charge their vehicles the opportunity to explore the municipality, whether it be for a quick shopping trip or a bite to eat, it all helps to invest in the local economy and the small local businesses. This is a particularly interesting idea for more urban centres where tourists can walk freely, or in areas where there are parks and walking trails. Currently, there is an opportunity to partner with some surrounding municipalities and Counties, to work towards developing a rural EV corridor for improvements to tourism. This will also offer the opportunity to lower the overall cost of implementation of EV charging stations, while also increasing the desirability for tourism. There is a gap in southern Ontario in EV charging stations, and this results in being a deterrent for tourists with EVs to drive through the local municipalities. Taking the opportunity to explore a regional network and working collectively on this corridor will not only increase tourism, but will significantly reduce emissions. This opportunity will also explore opportunities for collaboration with Conservation Authorities, and the local utility companies, and other private industries for economic support. The utility companies should be consulted in the manner of what is the local energy capacity, answering questions like how much capacity can the local grid hold for charging station installation, are there any areas that should be avoided when installing chargers due to cost, and how do we increase local capacity in a sustainable manner, just to name a few considerations.

When choosing the locations of the charging stations, it will be important to speak to the public about the best and most desirable locations as well. If the expectation is for community members to transition to EV's, then it is important to consult with them to understand the places they feel would be most beneficial to have charging stations to reduce any range anxiety or fear of not being able to charge when they need to. This will ensure that all areas that are possible for charging stations can be considered fairly.

How many vehicles should and could we switch to electric within the next 10 years?

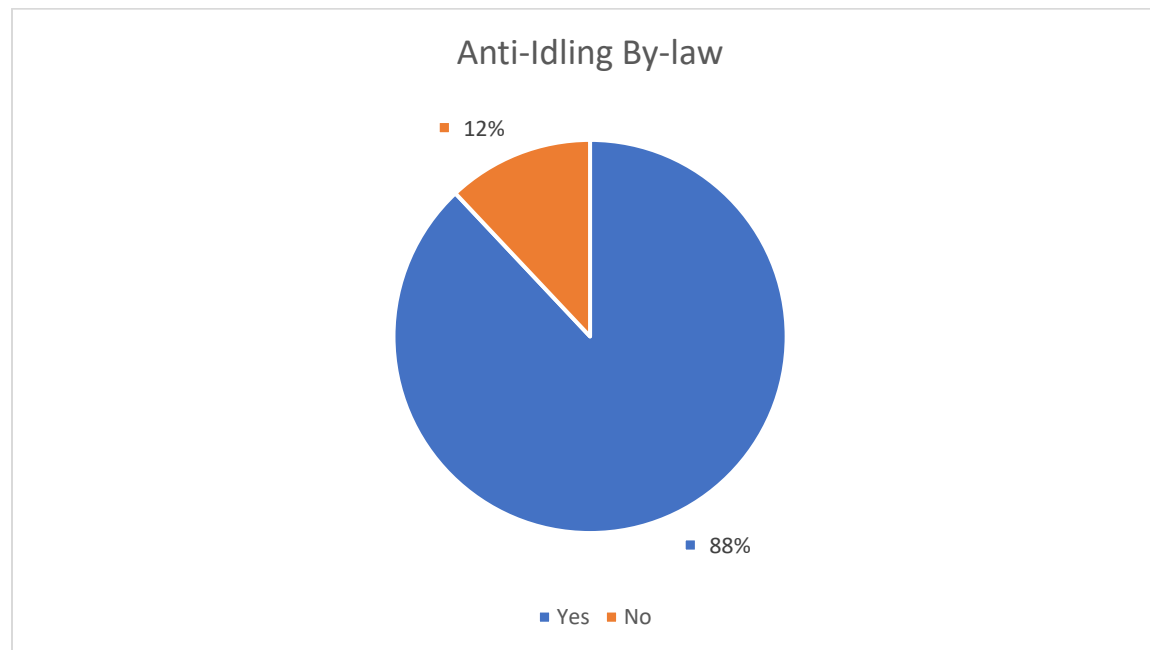


How much do you think we could and should decrease emissions from farm vehicles?



Action 4: Implement an anti-idling by-law

Idling contributes substantially to emissions across Canada and in the local community. It substantially contributes to lowering the local air quality as well. Natural Resources Canada has stated that if Canadians avoided idling for only three minutes everyday for one year, it would reduce national emissions by nearly 1.4 million tonnes of CO₂. Most commonly, idling is seen on school properties as parents drop off or pick up their children. The local Health Unit has expressed how this could cause concern for children and their health and well-being. Air pollution is known to cause many health-related issues, particularly in the most vulnerable age groups, such as youth and the elderly. It has been attributed to headaches and anxiety, impacting the central nervous system, irritation to the nose, eyes and throat, it leads to breathing problems, cardiovascular issues, it has even led to issues with the spleen, kidneys, blood and the reproductive system.²⁸ There are many serious impacts related to not only the health and wellness of the community but also related to the natural environment and habitats. It is well known that the burning of fossil fuels adds to environmental impacts and increases climate change impacts, therefore lowering the possibility for more fossil fuels to burn is a key step in combatting climate change. Implementing an anti-idling by-law is a quick and easy way to discourage residents from leaving their cars running unnecessarily.



²⁸ <https://www.mfe.govt.nz/more/environmental-reporting/air/air-domain-report-2014/why-good-air-quality-important>

Goal: Support and plan for future transportation changes, needs and priorities

Action	Timeline	Cost	Indicators of Success
Develop and Implement a Transportation Master Plan	Ongoing	Low	<ul style="list-style-type: none"> • Implementation and support of plan • Regular updates based on shifting priorities
Develop better interconnectivity and promote active transportation	Long term	Mid to high	<ul style="list-style-type: none"> • Increased uptake of active transportation • Increased connection between homes and major local destinations
Install charging stations	Medium to long term	Mid to high (grants, funding and partnerships available)	<ul style="list-style-type: none"> • Increased charging stations • Increased use of charging infrastructure • Increased number of tourists
Implement an anti-idling bylaw	Short term	Low	<ul style="list-style-type: none"> • Reduced idling, particularly in areas like school zones

Waste

Waste emissions across the county make up approximately 7% of the total emissions. Emissions from waste are generated by sending organic materials to the landfill. Landfills are anaerobic, meaning there is no oxygen in them, and so when organic material breaks down in the landfill, it does so through an anaerobic process which is what creates methane and the smell. It also takes a long time for organic material to break down in a landfill because of the lack of oxygen, which shortens the lifespan of the landfill as it fills quicker. The process of closing and opening a new landfill is incredibly difficult and creates a lot of environmental and economic issues. Locating a new space, digging a new landfill and closing an old landfill is an incredibly costly thing for municipalities to do, and is also incredibly damaging to the local ecology. Landfills are very large and require a lot of space around them, therefore locating a new space for the landfill removes quality ecosystems, and often pushes municipalities to the edge of their boundaries to find the appropriate location. Landfills cannot be too close to residential buildings due to the risk of leaking leachate, the smell and the noise associated with the work.

Over the past couple of years, Canada's recycling issues have come to light, with other countries closing their borders to plastic waste. This heightened issues with local recycling programs as it limited the types of plastics that could be accepted in recycling programs. Ultimately the ideal solution in this scenario is creating local markets, or moving to a zero waste community and supporting a transition to a circular economy. Municipalities are not able to deal with their plastic waste and often it is sent to the landfill because there is no other way to deal with the waste that is currently building up across Canada. With work, the community can support the move to zero waste, while also considering the needs of those who require tools like plastic straws or other typically disposable items.

Producer responsibility will help with the recycling-related issues but this does not address food waste or organics going to the landfill and producing methane emissions. It's important to realize that as more people move into the community, the more waste is expected to increase. This creates an opportunity for municipalities to develop new and innovative programs that help divert waste from landfills.

Action 1: Implement a Waste Management Master Plan

The development and implementation of a Waste Management Master Plan will specifically help to target and plan for waste related changes and projects into the coming years in each municipality. This plan helps to set targets for waste diversion and waste reduction, which are both crucial in reducing the waste that goes into the landfill. Landfills are known to emit greenhouse gases due to the organic waste (food, leaf and yard waste) that is often sent to the landfill where it breaks down and releases methane. The ideal goal of the waste management plan should be to focus on ways that the municipalities can reach zero waste and implement a circular economy.

By reviewing this document every year, the municipalities can explore opportunities to assist residents in reducing their waste, therefore reducing emissions associated with this sector. By committing to review resources and opportunities every year, it will allow the community to be leaders in ambitious and innovative approaches to waste management and reduction. Priorities within the Province and the Country are changing and targets for waste minimization are increasing in their ambition, therefore municipalities need to be ready for the upcoming changes.

As the community continues to grow, and more variations of multi-residential buildings are put up, it will be important to ensure that those living in multi-residential buildings have the opportunity to participate in the waste diversion programs. This will also offer the opportunity to explore options for those living in multi-residential buildings, who often are left out of conversations surrounding organics programs. Often, this is an area where many have to throw their food waste into the garbage and send it to the local landfill, but if there is an alternative composting option that works for small units, then this should be explored. Multi-residential buildings are known to often be excluded from municipal waste diversion programs due to the difficulty of monitoring and implementation, and how contracts work on private properties. This plan will need to ensure inclusive and comprehensive education is offered to all residents.

This plan should also focus on how to support producer responsibility to ensure that all waste entering the municipality is properly disposed of and not simply sent to the landfill. The municipalities and County can advocate for broad implementation of a producer responsibility program, which will ensure local residents have the opportunity to buy better made or packaged products that are less wasteful.

Action 2: Implement an Organics Program

An organics program can look different for every municipality. Knowing that the City of Stratford has implemented a new green bin program and watching the success of diversion, and ultimately lowering the emissions associated with their landfilled waste, it only makes sense for those municipalities still sending organics to their landfill to implement solutions that their residents can easily use. Landfills release emissions due to organic materials being sent to the landfill by residents. Therefore it is important for each municipality to encourage and measure the success of their diversion programs, like an organics program.

The City of Stratford implemented a new organics green bin program in early 2020, with the plan to move forward on the development of a renewable natural gas facility. Regular monitoring in Stratford is being done on the diversion of organic waste, which will significantly reduce greenhouse gas emissions coming from Stratford's landfill long term. It is expected that through Stratford's implementation of an organics program that emissions related to waste will decrease substantially, moving closer to the reduction target.

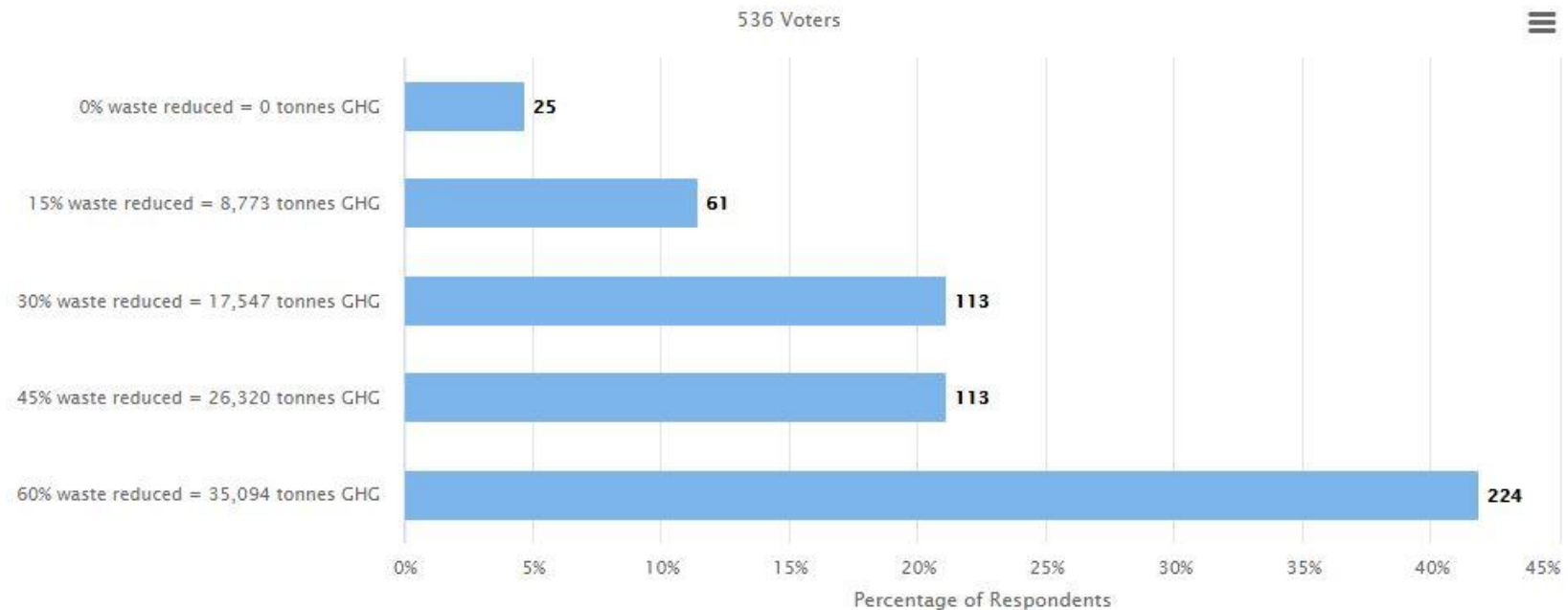
As new residents continue moving into the county, expectations for organics programs continue to mount. There has been an increase in residents moving from larger surrounding cities that already have organics programs implemented, and they look for that continued program in their new home, as there is an understanding of the benefits and they have chosen to make it part of their everyday habits. The implementation of a program like this will also help the community move towards a goal of becoming zero waste. As organics programs become more and more popular, there are many more options available to tailor to the diverse needs within each municipality.

This can either be a county-wide initiative, where municipalities work together to implement a successful organics program, or the municipalities can independently assess the feasibility of an organics program within their own municipal boundaries. If a county-wide approach is taken, a larger organics facility could be explored, where organic material collected throughout the County is taken to a local facility, and compost could be created through this process and given back to residents and the local farmers to encourage a cyclical approach to local waste disposal. Further exploration of this type of facility is needed, and a feasibility study can be completed to assess the effectiveness of this type of program. Individual municipal options vary greatly, and can still offer the same cyclical understanding of food waste. There are new technology options available that allow individuals to create their own nutrient-rich soil

amendments that they can use at their own homes, in their own gardens, or this at home product can be picked up or dropped off at a facility for bulk processing²⁹.

Another opportunity is to explore partnerships with local farmers who already use their own organic waste on their own property. This could be another opportunity to produce biogas at a local level, developing a cleaner grid and also supporting the development of the local economy. Mixing manure and food waste in a co-digester is known to increase the production of methane, and be a more stable process than using just food waste in a digester to create bio-gas³⁰. This is known to be a more efficient method and should be further explored with the local agriculture community to further gauge possible partnerships and interest in this type of project.

How much do you think our county can and should increase composting?



²⁹ Food Cycler (2021) Food Cycler. Retrieved from: <https://www.foodcycler.com/>

³⁰ <https://www.nature.com/articles/s41598-017-15784-w>

Goal: Reduce waste going to landfill to become a Zero Waste community

Action	Timeline	Cost	Indicators of Success
Develop and Implement a Waste Management Master Plan	Ongoing	Low	<ul style="list-style-type: none"> • Implementation and support of plan • Regular updates based on shifting priorities and goals
Implement an Organics Program	Medium-term	Mid to high (grants, funding and partnerships available)	<ul style="list-style-type: none"> • Reducing the organics going to landfill

Natural Environment

While it is first and foremost important to reduce the emissions by ending the burning of fossil fuels, it will also be important to sequester the emissions already released in the community and work to sequester emissions that just cannot be stopped yet. The environment and the biodiversity within the County is important to preserve, and also to restore. It is common practice for people to remove the naturally growing native species of plants to put in lawns, or more traditional flower gardens, however, these native species are meant to grow in our local climates, they are meant to be resilient and ensure strong biodiversity across the county. Society needs to learn to listen to the Earth and understand what it needs to prosper. Taking on a more holistic lens will be important moving forward on climate actions.

There are many projects that could be implemented across the region to increase naturalization and sequestration opportunities. Planting and re-naturalizing have many co-benefits. For example, when planting next to rivers and lakes, this helps to stop the banks from eroding as the soil quality improves in those areas due to a strong root system, this also helps reduce nutrient runoff from agricultural lands which are known to add high levels of phosphorus and metals, which can sometimes lead to water contamination issues. This will also help to keep rivers and lakes cool, which also leads to increased dissolved oxygen levels in the water which is important for aquatic animals and habitats to thrive. Naturalizing is also an effective way to implement flood risk management, with increased root systems throughout the municipalities, this significantly reduces the risks associated with flooding. Not only that, but naturalizing parks and municipally owned properties also leads to reduced lawn maintenance. That leads to less mowing, which means less fossil fuel burning equipment for municipalities.

Other opportunities for planting projects could be related to community gardens. A community garden is a great way to not only help in sequestering emissions, but also a great way to build community, improve access to food, improve local intake of fruits and vegetables, and reduces health risks through increased activities and access to fresh produce. This is a great opportunity to allow those who are lower income to have improved access to fresh produce. There are so many more benefits related to how the community feels as well, it helps to improve mental health and promotes relaxation in caring for this space. This type of project also encourages useful ways to fill vacant land in the municipality.

The local Conservation Authorities advocate for another type of natural or green infrastructure, which is a Low Impact Development (LID). These are defined as being systems or practices that tend to mimic natural processes and lead to infiltration, or evapotranspiration. They can also use stormwater, which assists in protecting water quality and the aquatic habitat. There are a few LIDs around the municipalities, typically seen in the form of stormwater ponds. Examples of LIDs that can be put on private property

or in parks around the municipality could be in forms of rain gardens, permeable pavement or rainwater catchment systems. LIDs are known to help increase property value, and are known to lower costs associated with government clean-ups after flood events.

Not only will this help to reduce the cost of clean up, increase property value, but it also helps to improve mental health and wellness. Increasing the number of plants throughout the community helps them to be more beautiful and appealing to live in, which also encourages an increase in local property value. Increasing naturalization across the county will benefit everyone, the environment, and native species.

Action 1: Decrease lawn cutting and maintenance by increasing naturalization projects and planting projects on public and private spaces

In parks across the county, the main form of vegetation is grass. Grass requires a lot of maintenance like mowing, which burns a substantial amount of fossil fuels per year. A quick way to reduce the lawn maintenance is to move towards implementing naturalization projects in public parks. This would help municipalities reduce their costs associated with lawn maintenance practices and begin to put a focus on ways to continue to beautify and naturalize more of the municipality. It allows opportunity for education as well, as it showcases what kind of plants and species are native to the local area, and can showcase biodiversity and natural ecosystems. Naturalization projects can often be assisted by local schools to encourage a deeper connection to the environment and allows an opportunity to teach about biodiversity and land use. The naturalization of spaces is important as it allows for the natural and native biodiversity and ecosystems in the community to return and thrive. Ecosystems and biodiversity are incredibly important and have intrinsic value, as they provide ecological life support, provide clean air and water and many other ecosystem services. Biodiversity also provides local resiliency and allows for quick recovery in cases of a variety of disasters, such as flooding for example.

Action 2: Partner on a tree management and resilience plan to increase canopy coverage

Canopy coverage across the county is known to be low. This raises concerns for municipalities because of the many issues with low levels of green space and trees and the associated socioeconomic and environmental impacts that come along with a lack of natural space. The natural habitat of southern Ontario is a more naturalized, wooded, swamp/marshland, so increasing canopy coverage and protecting naturalized land is very important for local biodiversity and ecosystems. Trees help to improve local air quality by removing carbon, they improve soil quality by adding nutrients into the ground, they help in replenishing groundwater, they provide natural fertilizer and habitat through the loss of their leaves and needles, and improve the well-being of the local community.

The municipalities have their own tree planting programs, but forested areas have not been actively protected, and canopy coverage has not grown. Priorities should be on preservation of forested land and protecting trees and growth throughout the municipalities, while also continuing to plant new but native species of trees. Municipalities should partner together to create an overarching goal of canopy coverage, and work together on developing bylaws for protecting trees. Exploration of a local private tree by-law should also be done to protect native species on private land.

This program needs to ensure that native species are only considered for planting, and there is a management program for trees that are diseased. This should be consistent across the county.

Action 3: Develop more LIDs throughout municipalities and on municipal property

A way for municipalities and the county to increase local resiliency and sequestration is through the development of more low impact development (LID) projects. LIDs can vary greatly in project types, but are known to be a land use planning and engineered design to manage storm water runoff. LIDs can be small projects that residents can have on their properties, or can be larger projects that the municipalities or the County can invest in. Working with the local Conservation Authorities on locations and best practices for increased LID projects is a crucial partnership to maintain. LIDs not only help to increase the local community's resiliency to climate change impacts by reducing risks associated with flooding, they usually help to increase sequestration, particularly when implementing LIDs like rain gardens, but they also help to benefit the municipality and county in other ways as well. Other benefits from LIDs are things like infrastructure savings, improved tourism and recreation opportunities, reduced heat-island effect, and increased public health, livability and walkable communities³¹. In the neighbouring Region of Waterloo, an organization called Reep Green Solutions, which is an environmental not-for-profit, helps local residents put rain gardens on their properties to increase local resiliency and beautify neighbourhoods.

³¹ City of Hamilton (2017) Low Impact Development (LID) – Stormwater Management. Retrieved from: <https://www.hamilton.ca/home-property-and-development/water-sewer/low-impact-development-lid-stormwater-management>

Goal: Preserve and improve natural ecosystems and assets

Action	Timeline	Cost	Indicators of Success
Increase naturalization projects	Ongoing	Mid	<ul style="list-style-type: none"> • Increased naturalized spaces • Increased number of native species
Increase canopy coverage	Ongoing	Mid	<ul style="list-style-type: none"> • Higher percentage of canopy coverage across the county
Develop more LIDs	Ongoing	Mid	<ul style="list-style-type: none"> • Increased number of LIDs

Agriculture

Agriculture is a large part of the local economy and culture of the county. In 2016, there were approximately 2,231 farms with a total of approximately 518,023 acres, this sector produced over \$838 million in cash farm receipts.³² Agricultural land has decreased across the province due to increased urbanization, which continues to increase this sector's vulnerability.

Farmers are known to be environmental stewards because of their reliance on the environment and climate for success of their business. The agri-business sector has had to adapt and change their practices to be more resilient to adjust to the changing climate. Technology associated with this sector has also seen substantial improvements which has also led to a reduction in emissions.

Climate change creates not only risks for the agricultural community, but also opportunities. It is well-known that increasing temperatures means a longer growing period, however this also leads to risks of water stress due to increased risk of flooding and drought. Increased temperatures may lead to longer growing seasons, but this can also mean problems for those who have livestock. Livestock, such as chickens and cattle can be very sensitive to temperature changes, which ultimately can impact the bottom line of many farmers, and risk the well-being of the livestock. The agri-business sector in Perth County will have to explore more adaptive measures to ensure their resiliency. Adaptive measures that are currently in place, are things such as crop selection, and soil and water management, all of which have helped many farms in the area in the past. However, more measures will need to be explored as the climate continues to change. The agricultural community has continued to adapt their best management practices and will need to do so to promote enhanced production, resiliency and efficient use of their resources.

This community will be an imperative part in the fight against climate change. Farmers are already taking action through best management practices like reduced tillage, expanding their crop rotations, planting cover crops and reintegrating livestock into crop production systems. These and many other best management practices, currently being done across the county, are known to reduce emissions associated with agriculture practices that burn fossil fuels, but also help to improve soil health, and increase the ability to grow food locally into the future. These practices also help to sequester emissions from other industries as well. It is important for the municipalities and the County to gain a better understanding of the current efforts going on within the county so that measurements on sequestration can be done.

³² Perth County (2017) Perth County Community Profile. Retrieved from: <https://www.perthcounty.ca/en/doing-business/resources/files/Accessibility-Update--Edited-PDFS/Business/Perth-County-Community-Profile---accessibility.pdf>

Another opportunity that the agriculture community presents is the increasing feasibility and ease of using methane capture systems and using the biogas to generate energy and electricity. Currently, across the US, there are many farmers who utilize methane capture systems, such as digesters, and it is widely recognized as efficient, effective and even revenue-generating for farmers. With the right partnerships, the agricultural sector can more easily explore digester usage as a feasible option. Digesters are known to be costly, but there are many businesses in the US that partner with farmers to assist them with projects like this. They help supplement the upfront costs and find funding opportunities for farmers to have greater access to implementing these types of emission reducing and energy producing projects. This creates an opportunity within the county to utilize the strong livestock sectors to generate electricity in a way that is considered to not have emissions associated with it, referred to as a biogas. Biogas is considered to be a carbon-neutral gas, but only if it is captured and used for energy sources.

Over the coming years, more funding opportunities will arise as Canada's ambitions to become Net Zero continue. It is expected that an increase in resources and funding will be available to help support the agriculture community continue to be leaders in climate change actions.

It is important to note that agriculture emissions and the calculations associated with them have high levels of uncertainty, as there are many variables to consider, for example, how livestock plays a role in the natural carbon cycle, if a farm tills or does not, the type of crops that are grown or if cover crops are used, and the list goes on. Continued research on the differences between biogenic methane and fossil fuel produced methane is being done, and how biogenic methane is viewed as cyclical, while fossil fuel methane is a one way trip to increased emissions and climate impacts³³. This is why the emission total is not included in the main inventory. More data collection on the local level needs to be done to understand the level of sequestration the farming community already does. It is also crucial that the focus be on the fossil fuel consumption of the community first and foremost, while supporting the agriculture community in assisting with sequestration efforts.

This community has shown that they are capable of making the necessary changes to increase resiliency while ensuring the viability of their business. However, it is important to offer further support if they are also expected to take on more action across the county to help with increased sequestration. These actions will help the agricultural community reduce their emissions related to fossil fuel burning, while also increasing their capacity in sequestering emissions from other sectors' fossil fuel burning sources.

³³AgriLand (2020) Latest science on methane emissions 'ignored' by media – Dr. Mitloehner. Retrieved from: <https://www.agriland.ie/farming-news/latest-science-on-methane-emissions-ignored-by-media-dr-mitloehner/>

Action 1: Develop a Perth County Clean Water Project

Currently, across Ontario there are a number of programs in place to ensure the farming community has access to funding and resources to implement resiliency projects, projects that reduce runoff and in turn improve local water quality. These programs are offered through partnerships with the local Conservation Authorities and the municipalities or the County. There is currently a clean water program that is strictly offered by the local conservation authorities in Perth County, but there is an opportunity for the County and municipalities to take action and help to offer greater support to this sector.

The neighbouring Counties of Huron, Wellington and Dufferin, have developed and successfully implemented their own Clean Water Projects in partnership with their local Conservation Authorities. They have seen many successful projects, such as tree planting programs, windbreaks, upgraded wells, decommissioning of unused wells, decommissioning of liquid manure storage, erosion control projects, Forest Management Plans, livestock restriction fences around streams, and cover crop plantings. These programs offers financial and technical assistance to implement successful projects.

Projects that are being considered in Perth County should be reviewed and assessed with the local Conservation Authorities, and the farmers living within the County. These projects will not only ensure long term resiliency of the agricultural community within Perth, but will also help to remove greenhouse gases and improve the agri-business community, economically. These projects also help to ensure that the community will have long term food-security.

This is a program that is reliant on farmers to move forward and implement on their properties, so collaboration and consultation will be necessary for effective development and implementation. Developing a stakeholder group on how this could be successfully developed and implemented will be necessary to meet the needs of local farmers.

The Clean Water Project will work with the Conservation Authorities and the local farming community to maximize the local best management practices to implement successful sequestration and resiliency projects. The local Conservation Authorities have many resources and knowledge to share to support these agriculture best management practices, and the local farming community also has the resources and knowledge to put these practices into action in the most impactful manner.

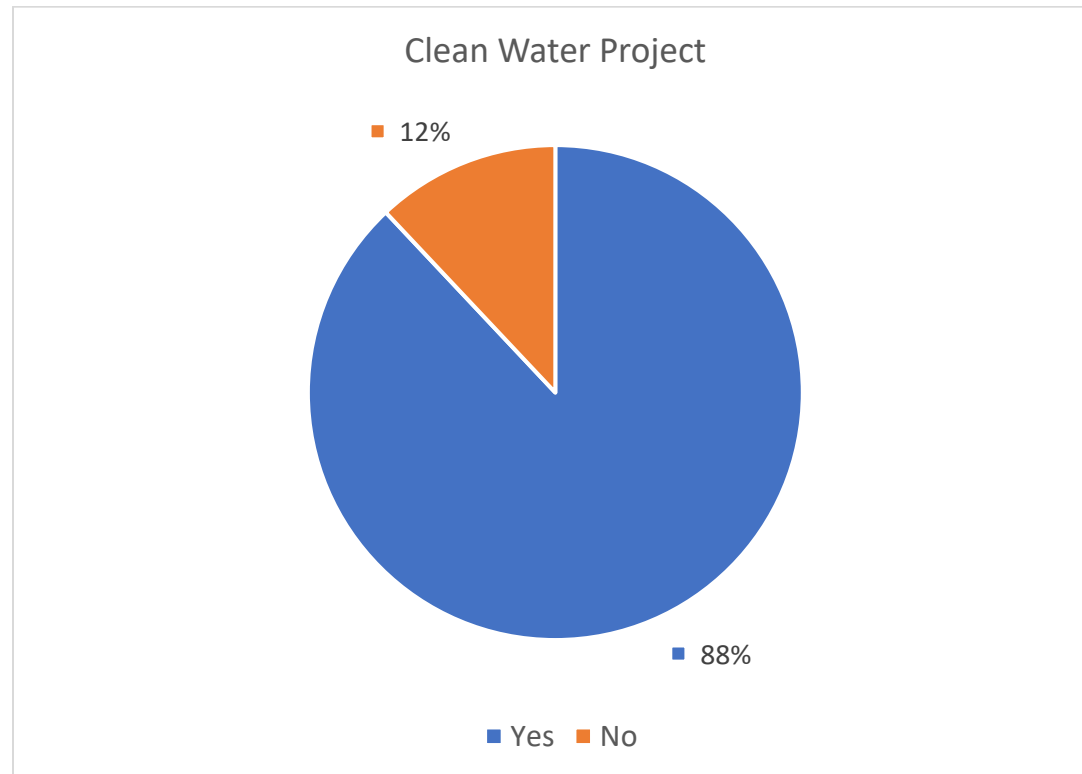


Figure 5 Survey responses for the development of the Perth County Clean Water Project

Action 2: Form an Agriculture Committee

To ensure the successful development and progression of the Clean Water Project, and any future agriculture-related programs or policies, it is important to develop an agriculture committee. There are many benefits associated with the development of this committee. Benefits include an increase in information and data sharing to better understand the work already being done within the agriculture community to sequester emissions, an increase in programs and policies to support this part of the local economy, an increase in the number of farms being able to participate in best management practices that increase carbon sequestration and improve soil health, providing resiliency to the farming community against climate change impacts, and an increased likelihood of government support and funding. Understanding the local needs of the agricultural community will ensure long term food security, long term economic success and improved relationships and partnerships. There is a vast wealth of knowledge of environmental best practices that the farming community has, and allowing the opportunity to use that knowledge and support its successful implementation will not only help the local economy, but will also help in ensuring resiliency of this important local sector. Perth County relies on the success of their farmers, and involving them in this type of work within the community is incredibly critical to long term success and economic stability. The agricultural community is part of the solution, and should be actively involved and consulted.

Goal: Support local Agriculture resiliency and mitigation projects

Action	Timeline	Cost	Indicators of Success
Develop a Perth County Clean Water Project	Ongoing	Mid to high Assess and split between municipalities, County and Conservation Authorities <i>Assess yearly</i>	<ul style="list-style-type: none"> • Buy-in from local farmers • Use of the program
Form an Agricultural Committee	Ongoing	No cost	<ul style="list-style-type: none"> • Local farmers joining • Shared data and information on local best practices • Increased resiliency and lowering risk to local farmers

Reduction Target

The minimum reduction target that should be achieved by 2030, is 10% below the 2017 baseline year. This reduction target was set in consideration of the Paris Agreement targets and goals.

Based on the results of the survey, the community is supportive of a 30% reduction target for 2030 (based on the 2017 baseline emissions). This is an ambitious target, and will require strong community involvement and support from community leaders if the community plans to actively work to achieve this target by 2030.

Long term targets need to be assessed and set as progress is made towards the initial greenhouse gas reduction target.

The ideal long term target is to reach Net Zero by or before 2050, to help in ensuring the global target of not surpassing 1.5°C.

Exploration of developing a Carbon Budget would be a good next step to assess the rate at which the partners should be reducing their emissions to the 2050 target, with interim targets set between. This will ensure an equitable approach to reducing emissions across the county.

Implementation Strategies

This greenhouse gas reduction plan was created to guide each municipality and the County, as well as their communities to reduce their greenhouse gas emissions and create a healthier and prosperous place to live. There are many steps involved with successful implementation of this plan, and will need strong collaborative relationships in order to be successful.

Governance

This plan is intended to be a support for the community to lead in climate action, and led by the municipalities. This implementation strategy will allow the municipalities and the County to be leaders in the climate actions, while also allowing for shared responsibility of implementation. It will be important to leverage the capacity, knowledge and capital of the community for any strategies that are beyond what the municipality or the County can be responsible for.

Council

Council is responsible for the approval and adoption the plan. Council will also be responsible for approval of future annual work plans as they are developed. Members of Council should also be included in the review of future work plans to provide feedback based on local needs and priorities.

External Working Group

A working group should be formed to assist in the continued implementation of projects and goals. This group should include individuals from those that will play key roles in implementation of the plan's strategies. These could include members from staff, conservation authorities, utility companies, members from the school board, members from any municipal environmental committees, members from the OFA, OMAFRA and the Perth County Federation of Agriculture, Builders Associations, Rotary Clubs and many other local stakeholder organizations, and should also welcome those members of the general public who are interested in local climate change action. The working group should be facilitated by the climate change staff to ensure realistic and achievable work plans are formulated, and actions for the year work synergistically. The climate change staff will also have a better understanding of funding availability and can therefore assist further in the implementation.

This group should meet periodically throughout the year to develop their work plan for the year and to report on the progress that they are making. It is anticipated that at minimum, this group should meet twice a year, however to start the steps towards successful implementation, meetings should be more frequent to establish clear goals and a work plan for the coming year.

It will also be important to form working groups for many of the separate actions throughout the plan, because implementation will be made easier with groups of relevant stakeholders for those actions. As implementation moves forward, this can be assessed on an action by action basis depending on the needs associated with it. This decision to form smaller and separate working groups should be collaboratively decided based on the actions being implemented year by year by the working group.

Internal Working Group

Each municipality and the county should organize an internal working group. People in this group should be from the Public Works, Finance and Asset Management, Parks and Recreation, Building and Planning, and Transit/Transportation departments, or any other individuals within the municipality that are interested in working on ways to reduce municipal and county energy consumption and reduce GHG emissions. This group should be working to be champions for the Conservation and Demand Management plans, and should work on reducing municipal energy consumption. The CAO should also be a member in this group, and should champion the movement to reduce corporate energy and emissions.

Climate Change Staff

To ensure success in the implementation of the plan and ensure future iterations of the climate change plan, it is recommended that new climate focused positions be put in place across the partners. It is recommended that three new positions be created to maintain and ensure climate actions are continuing into the future across the county. The scope of the work across the municipalities is large, and will therefore need resources to ensure success. The extra staff members may not be necessary for the first few years of implementation, but will be necessary for long term success and commitment in ensuring a climate-ready community. Performing a cost-benefit analysis as the plan moves forward into implementation will be necessary to evaluate when to bring in a larger team, and developing a business plan and case around these roles should be developed. These roles can and should be shared amongst the partnering communities to ensure broad and successful implementation while keeping costs at a manageable and low level.

Climate Change Coordinator

The Climate Change Coordinator will be the lead staff member on climate change projects. They will ensure that the Engagement Coordinator and the Energy Manager are moving forward in their actions and projects, and will be in charge of setting scope and goals for each municipality and the County. This role will also be the collaborative point of contact between the Engagement Coordinator and Energy Manager, and will ensure corporate and community plans are organized and completed in a comprehensive and interconnected manner. This position will be in charge of the main interactions with decision makers and presenting plans and updates to Council, to ensure that progress is continuing.

The Climate Change Coordinator will be in charge of completing the community greenhouse gas inventories, and collecting data and submitting progress through the PCP Tool. They will be the lead on updating future iterations of the greenhouse gas reduction plan, and will also begin the process of developing an adaptation plan for each of the communities, and assess their vulnerability and each municipality and their assets with collaboration within each municipal department.

The Climate Change Coordinator will also be in charge of identifying funding opportunities for projects and plans to increase the likelihood of successful implementation. This role will also be required to work with the working groups and committees to communicate priorities, and provide updates on progress, and will be the key communicator for all climate work.

Engagement Coordinator

The Engagement Coordinator is crucial for community and corporate plan development and implementation. Having a role to focus on engaging staff and community members in climate actions will ensure that climate change considerations are embedded and

considered in everyone's decisions and actions. This role will help to keep climate change action at the top of mind and will focus on ensuring equitable involvement for the community.

The Engagement Coordinator will be in charge of facilitating and leading working group meetings. This role will act as the main liaison between the general public and the climate change staff team. This position will also be in charge of developing outreach and education content with the public and staff to ensure thorough engagement and input is completed.

Energy Manager

The Energy Manager position is an important role for ensuring the assessment and completion of a corporate climate change plan. This role will assist in the integration of climate action into processes within the municipalities and the county.

The Energy Manager will focus on corporate emissions and assist in corporate decisions to reduce emissions in buildings and fleet. This position will be in charge of keeping track of the municipal and county corporate emissions, and completing the emissions inventories for each municipality and the County. The person in this role will be in charge of assessing corporate owned buildings and their efficiencies, and will provide recommendations on ways to decrease energy consumption and increase sustainability.

This role will have a strong understanding of building science and how energy systems work within buildings, to assist further in yearly reporting and internal energy saving and emission reducing actions.

Importance of Partnerships

With this greenhouse gas reduction plan having a focus on the community, it is important that the municipalities and the County rely on the expertise of external organizations to partner with to ensure successful implementation. Not every action relies solely on the role of the municipality, so it's important to identify key players that could take on lead roles in particular actions.

A list of partners should be thoroughly developed when moving forward on implementing actions. These partners could and should include:

- Conservation Authorities
- Enbridge
- HydroOne
- Festival Hydro

- Erth
- IESO
- Perth County Federation of Agriculture
- Ministry of Agriculture, Food and Rural Affairs
- Ontario Soil and Crop Association
- Conestoga College
- University of Waterloo
- The Huron Perth Public Health Unit
- Environment and Energy Committee
- Trails, Forestry and Environment Committee
- Green Committee, etc.
- Building associations

Integrating with Business Plans and Budgets

Climate change impacts the way governing bodies can deliver services. Understanding that it takes time to integrate these strategies into the municipal and county plans and budgets, it will be important to identify those first few steps that can be implemented at no or low-cost, so implementation can begin right away. It is also important to identify those actions that need more budgeting so they can be prioritized to include in the upcoming budget cycles. It will be up to the municipalities, the County and other lead partners to identify the cost of strategies and actions proposed in this plan, as there may be funding and partnership opportunities to assist in implementation in the coming years.

Integrating Municipality, City & Township Plans and Policies

Municipal and County staff should take this opportunity to identify strategies on how to integrate this plan into their own plans, policies and initiatives. This could be seen in many facets:

- Reassessing procurement processes to understand GHG emissions and the climate risks associated with particular products, services and vendors, so that supply chains support the climate change objectives
- Adding low carbon, climate resiliency considerations and plans for any expansion of EV charging infrastructure development and development applications into Official Plans

- Integrate ecosystems and green infrastructure into Asset Management Plans
- Integrate climate risks and strategies into Emergency plans and procedures
- Incorporating climate change projections and any flood risks in the Stormwater Management planning
- Train staff on climate change and how it impacts their jobs and community

Potential Funding Avenues

Federation of Canadian Municipalities (Green Municipal Fund)

Canada Revenue Agency tax incentive for industrial investments in energy conservation and clean energy generation

Infrastructure Canada

IESO (Conservation Fund)

Ontario Ministry of Agriculture, Food and Rural Affairs

The Federal Canadian Industry Program for Energy Conservation

Federal Governments Climate Action Fund

EcoAction Community Funding Program (to partner with community groups/not-for-profits)

Ministry of Environment and Climate Change Funding Programs

Communication and Education

In order to ensure successful implementation occurs, it will be important to engage the communities (community groups, residents, visitors, staff members) in the climate change conversation, and how reducing impacts will help in improving their own and their community's well-being. Effectively communicating the benefits of climate action will ensure long-term success of implementation of projects and other future actions. It is important to continue to educate both the community and staff on how to decrease their impacts on the environment, and what kinds of risks will be associated with the changing climate.

The community should be actively involved in the conversation of this plan and the yearly planning goals for the continued implementation process of the plan. It is important to let the community know what kind of progress is being made on this plan and where targets will be set for future years.

Reporting and Renewal

There will always be changes to governments, population growth projections and technological advances, so it is important to continue to update this plan to change with those variations. The plan should be renewed the year following a municipal election to ensure that new targets and actions can be developed for the following four years.

The plan's progress should be reported to Council by the External Working Group and their reporting process that they will have established. This progress report should indicate what has been done, and how these actions have assisted in GHG reductions, and what next steps will be taken to further reduce emissions.

The municipalities and the County should hold a yearly event surrounding the accomplished climate actions, and to celebrate the continued progress of the municipality/county and its community members. This would also offer opportunity for public input on future goals and actions for the following years.

All municipalities and the County should work together to make this a large community event to ensure everyone is included in celebrating progress and supporting future climate change actions. It is important to showcase how the communities are all connected and working together to create a healthier and more prosperous future. Individual municipalities may also host their own events to celebrate actions and to gather information directly related to their municipalities and their goals for reducing emissions and increasing resiliency.

Municipal and County Emission Breakdown

Geographic Perth County

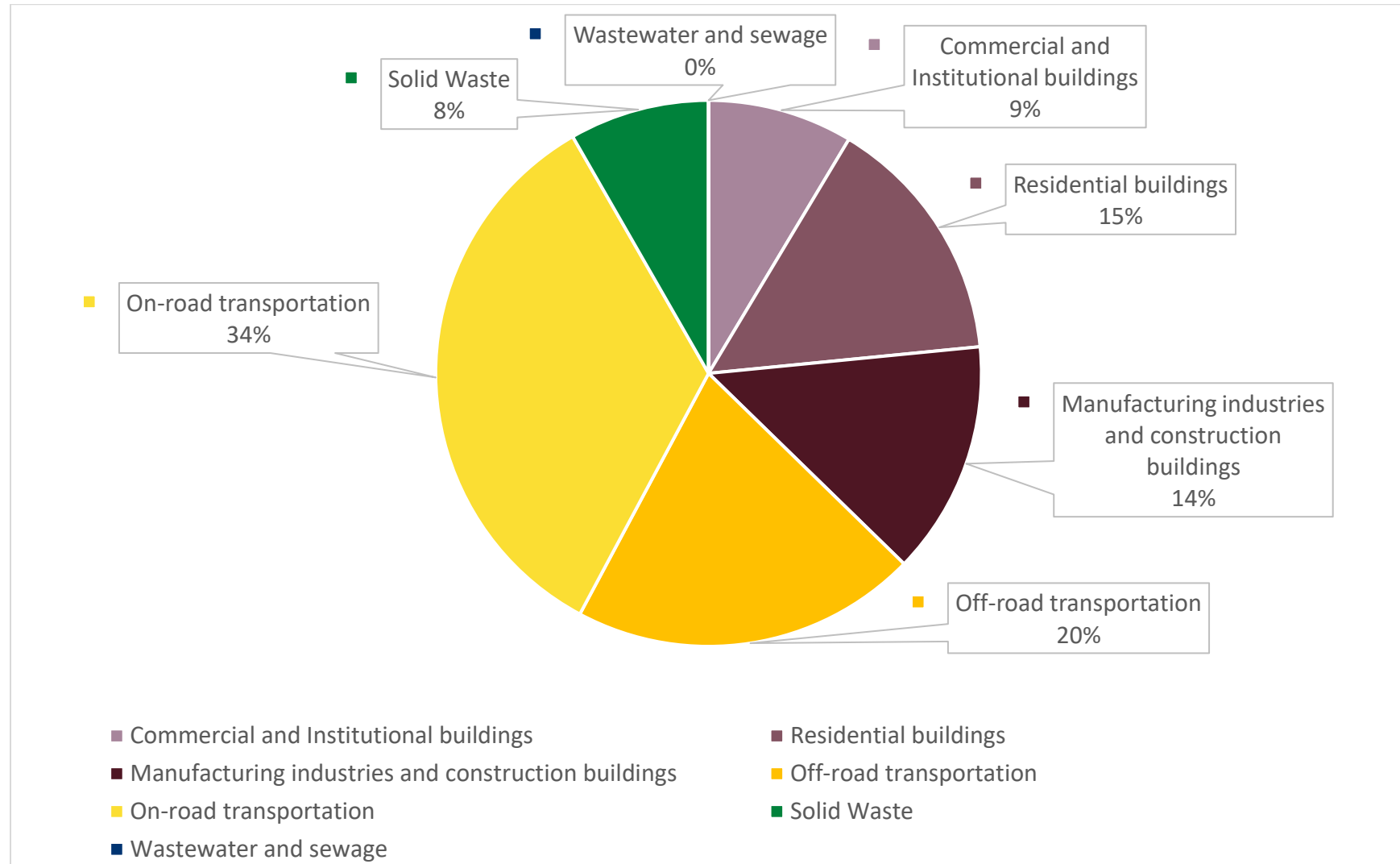
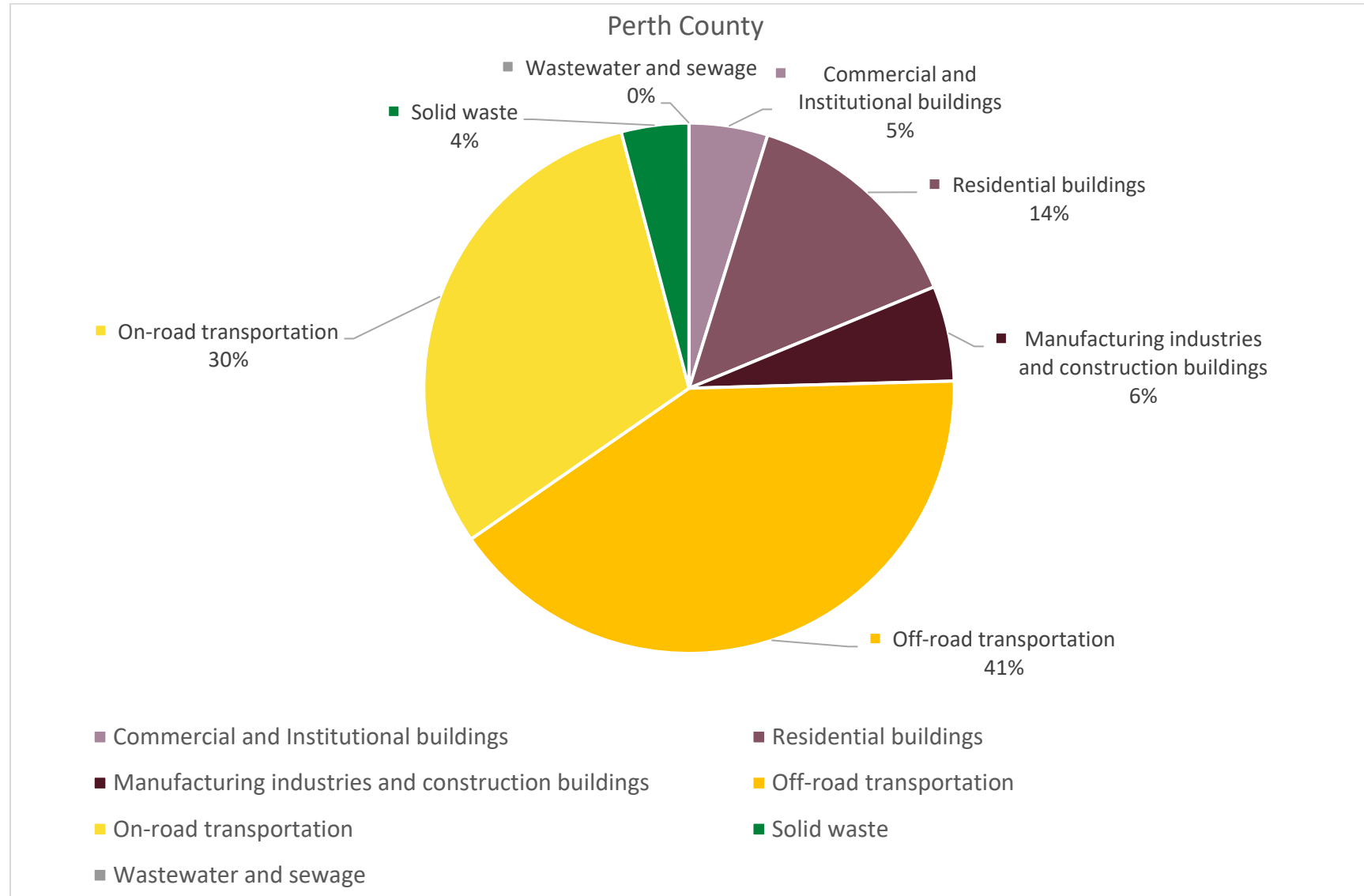
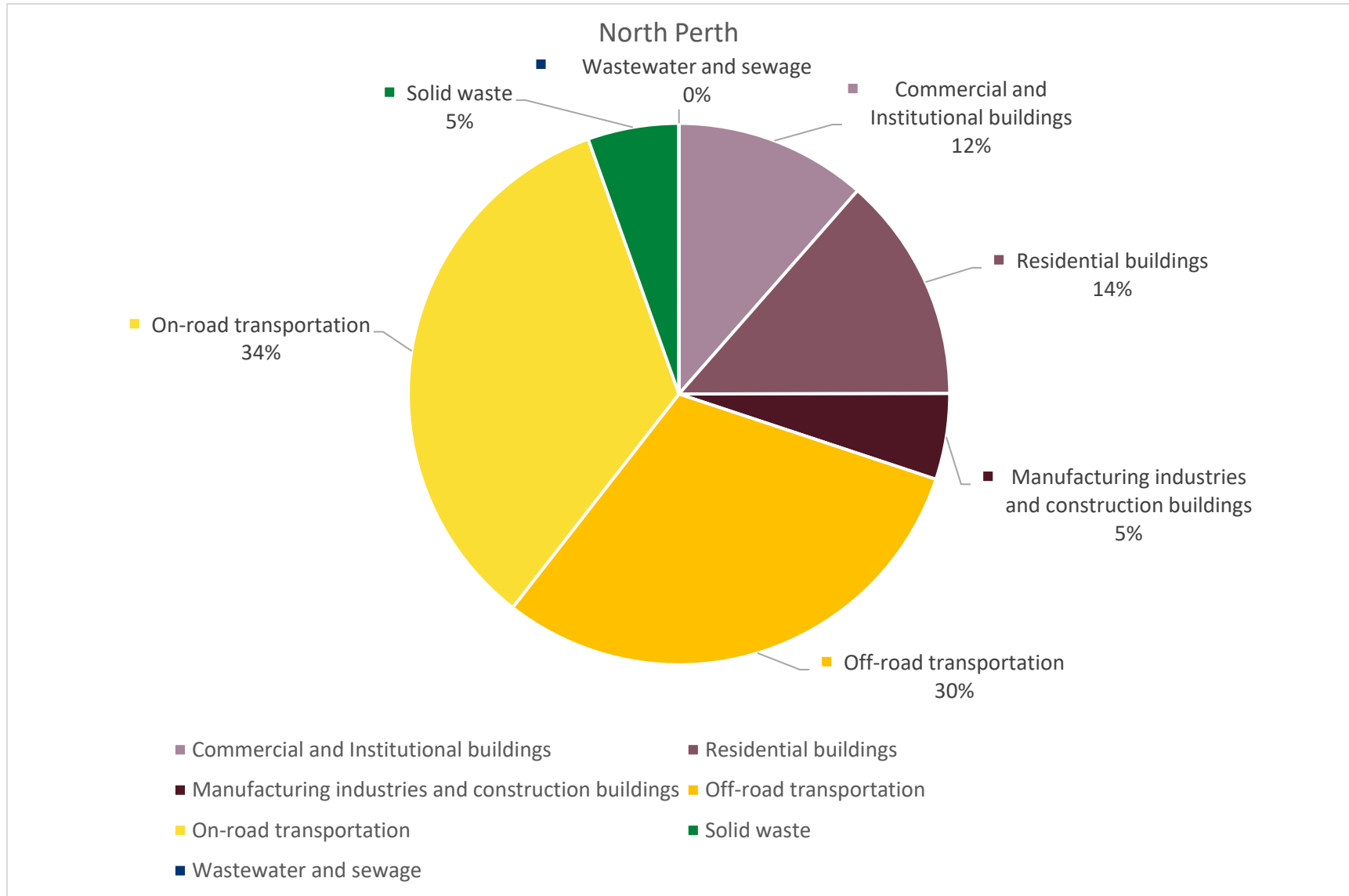


Figure 6 Regional Emission Contributions

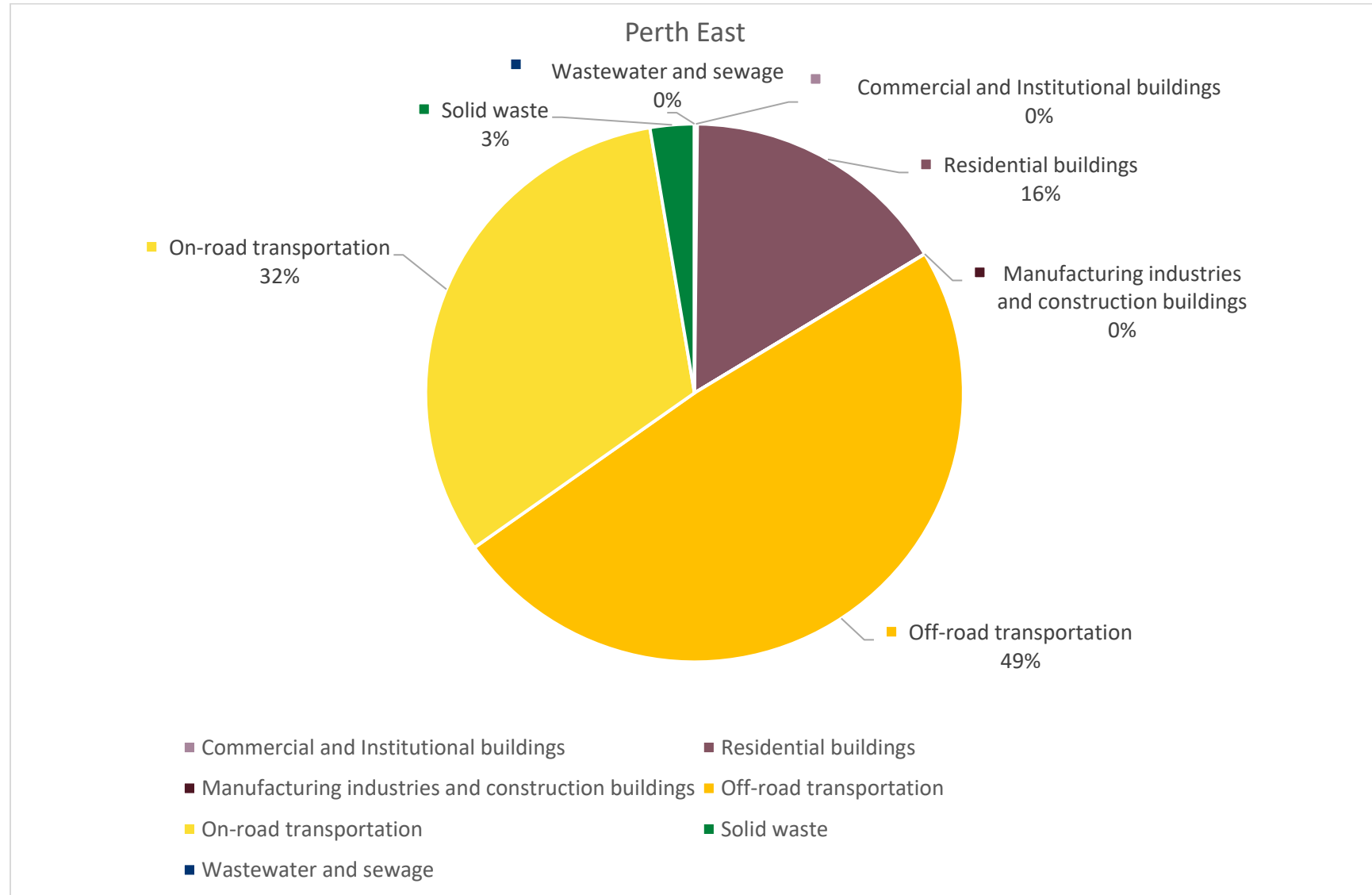
Perth County



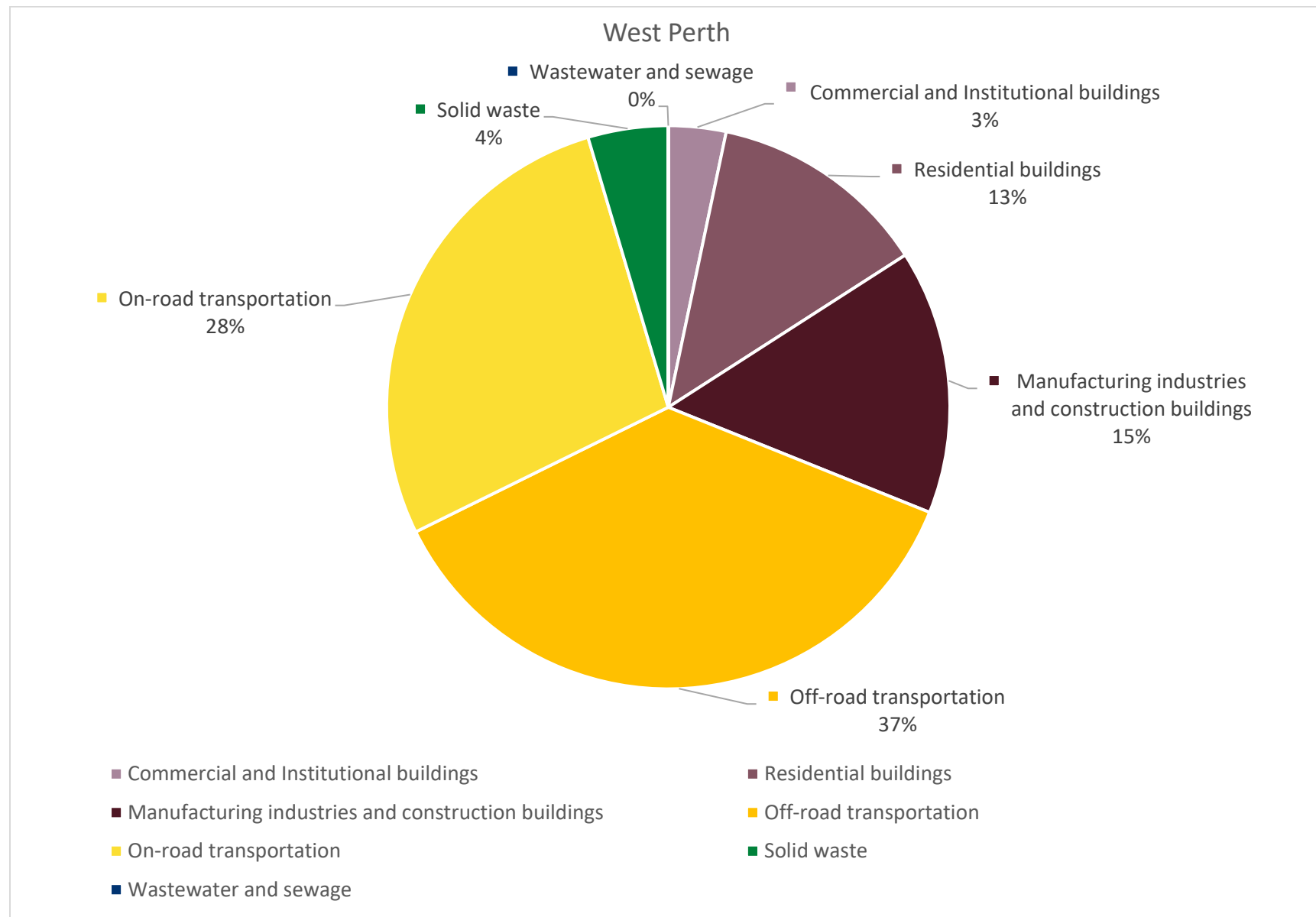
North Perth



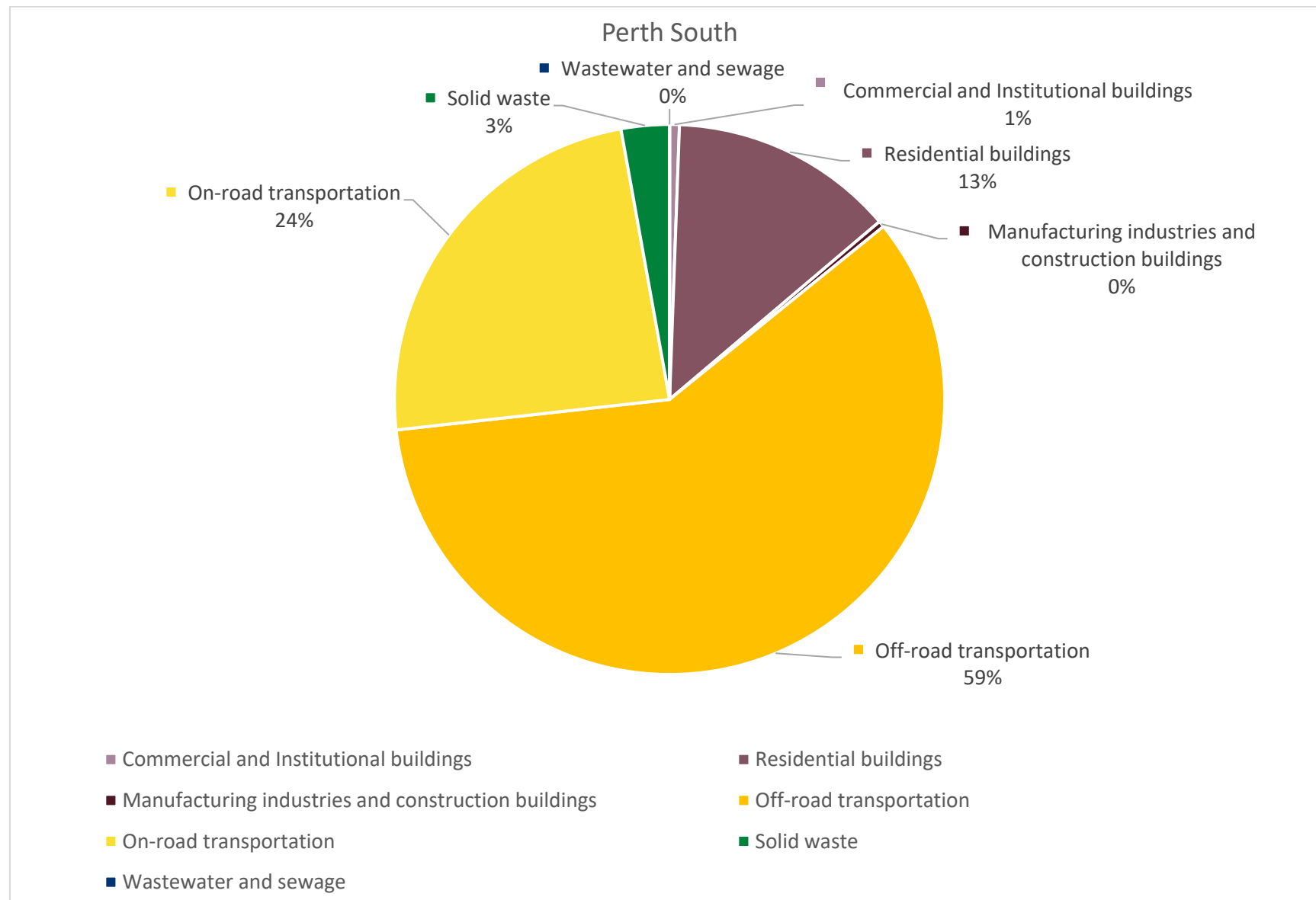
Perth East



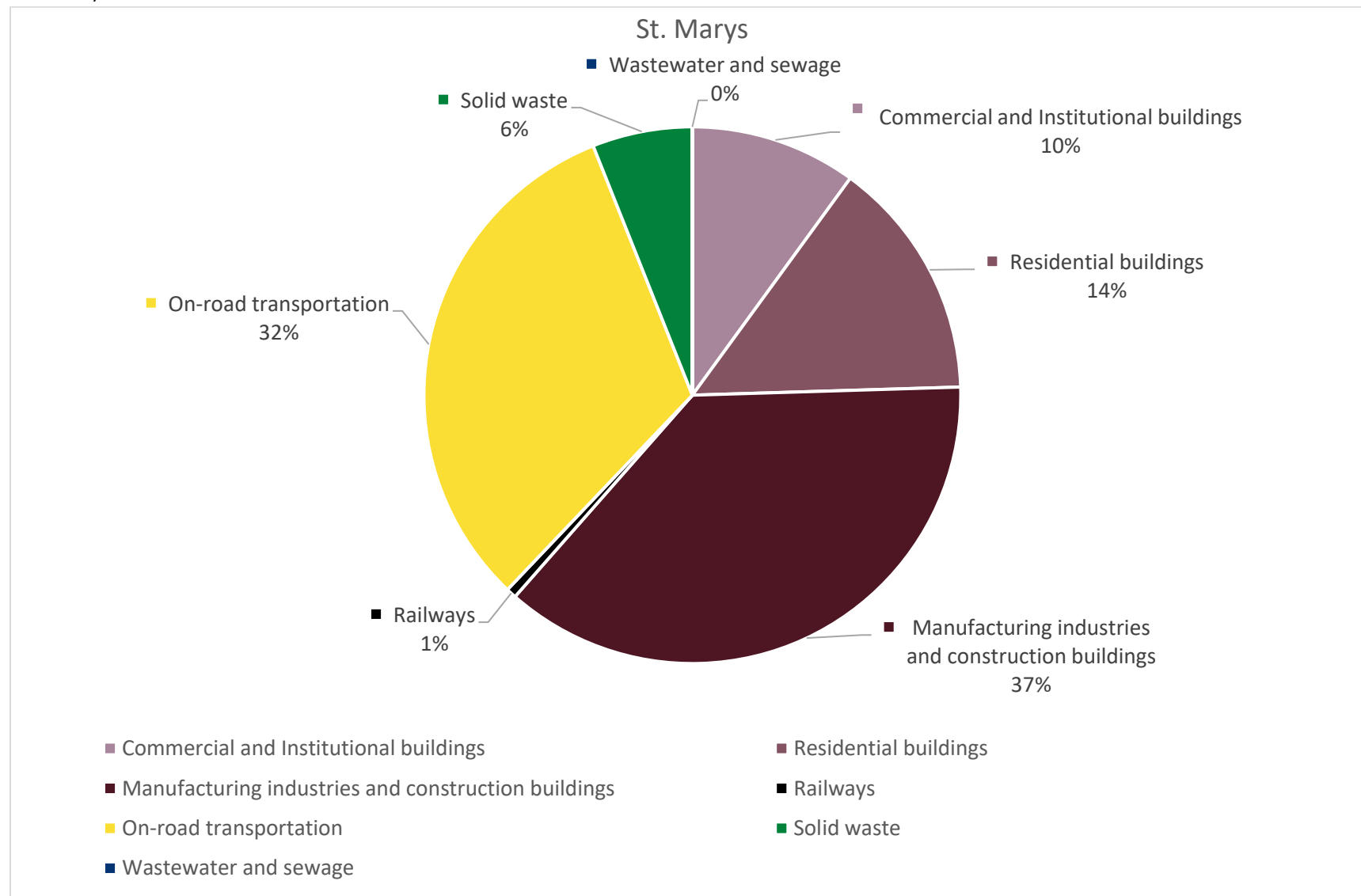
West Perth



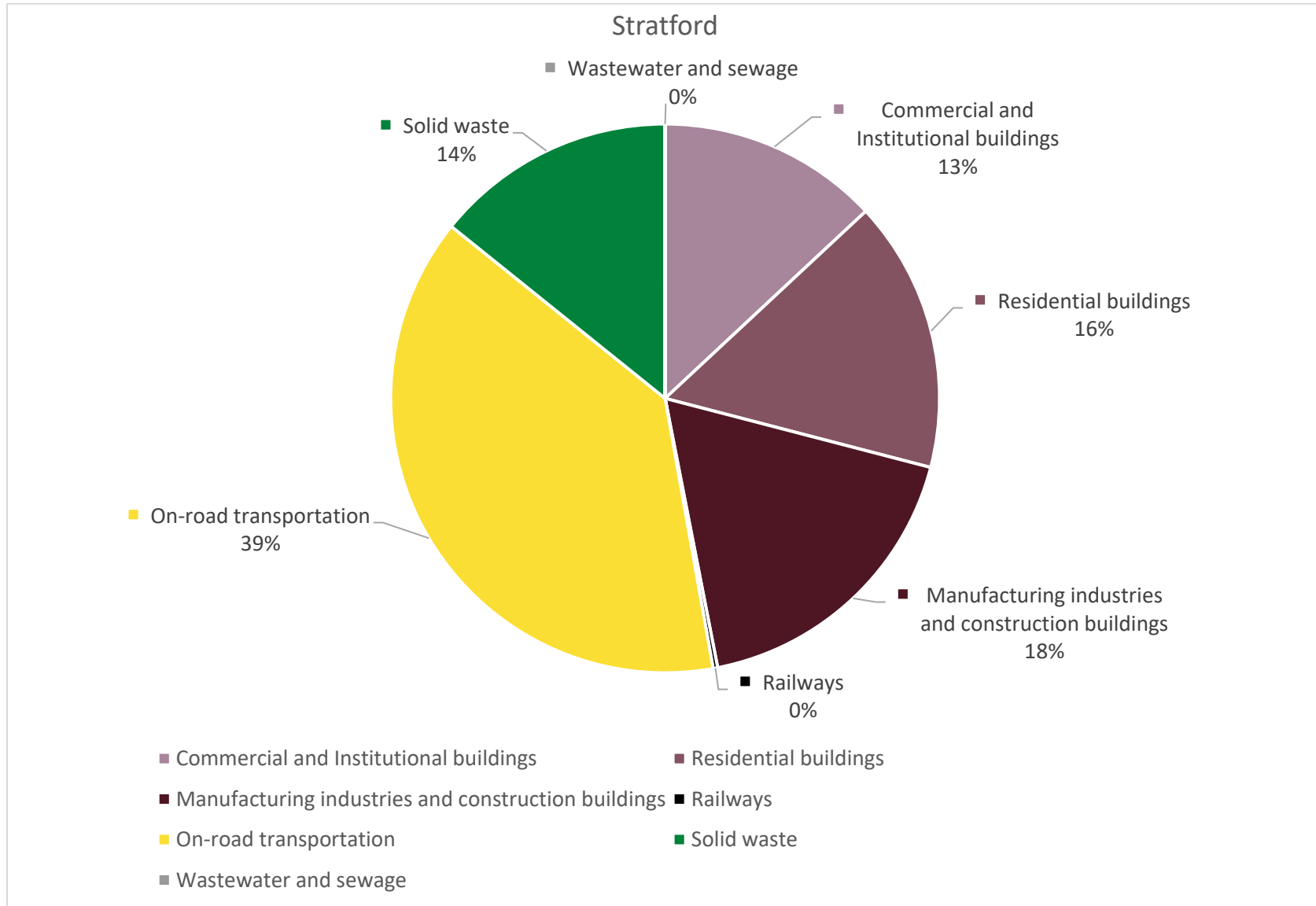
Perth South



St. Marys



Stratford





MANAGEMENT REPORT

Date: September 29, 2021
To: Infrastructure, Transportation and Safety Sub-committee
From: Chris Bantock, Deputy Clerk
Report#: ITS21-029
Attachments: None

Title: Traffic and Parking By-law Amendments

Objective: To receive approval to amend Traffic and Parking By-law 159-2008, as follows:

- add City parking lots in the no parking provision between 2:00 a.m. to 6:00 a.m.; and,
- adjust provisions for the towing of illegally parked vehicles that are interfering with City construction or maintenance activities.

Background: Over the last number of months staff have identified amendments believed necessary to the City's Traffic and Parking By-law due to realized gaps in enforcement. To efficiently address these items, staff have prepared this report to request approval of the proposed amendments through a single update to the Traffic and Parking By-law.

Analysis:

No Parking Provisions in City Parking Lots:

Section 8(1)(j) of the Traffic and Parking By-law currently states:

8 (1) No person shall park a vehicle in any of the following places during the specified times:

(j) on any roadway or shoulder between 2:00 a.m. and 6:00 a.m.

Past practice when interpreting this section has been to apply it equally to City parking lots even though it is not explicitly written.

Concerns have been raised by Community Services staff with respect to vehicles being parked in the Rotary Complex lot overnight. To address this from an enforcement perspective and to provide clarification, staff are proposing that Section 8(1)(j) of the Traffic and Parking By-law be amended to read as follows:

(j) on any roadway, shoulder, or City parking lot between 2:00 a.m. and 6:00 a.m., unless otherwise designated.

Should this amendment be approved, overnight parking would still be permitted in the City's 24-hour parking lots at Cooper and Downie, as designated, in addition to downtown residents with a valid permit for the York lot.

Towing of Illegally Parked Vehicles:

Issues were encountered this past winter with respect to parked vehicles impeding winter maintenance activities. During the winter, every effort is made to clear snow and ice from around parked vehicles. Unfortunately, vehicles which stay longer than permitted often leave behind patches of ice and snow surrounding the occupied parking space. Despite the efforts of staff, this has the tendency to present a safety hazard to individuals that may be walking through the lot. Beyond ticketing the vehicle in question for parking over the maximum permitted time period, the Traffic and Parking By-law as currently written does not provide staff with the authority to tow vehicles which may be impeding lot maintenance activities. Similarly, during spring and summer months, there are often resurfacing or reconstruction projects taking place in different lots each year and staff have struggled in the past to have vehicles moved for work to commence. As a result, staff are proposing that Section 82 of the Traffic and Parking By-law be amended to read as follows:

82. Where a vehicle has been left parked, standing, or stopped and is:

- a. in contravention of any of the provisions of this by-law;
- b. interfering with a street event where streets and/or parking lots are closed;
- c. interfering with snow removal and/or winter maintenance activities; or,
- d. interfering with road or parking lot maintenance and/or construction being undertaken by the City or its contractor;

a police officer/by-law enforcement officer/parking enforcement officer may, in addition to attaching a parking infraction notice to the vehicle, cause the vehicle to be taken to and placed in storage in a suitable place and all costs and charges for removing, care and storage thereof, if any, shall be a lien upon the vehicle which may be enforced pursuant to the Repair and Storage Liens Act R.S.O. 1990, c. R 25 as amended or any successor legislation.

In considering these changes to the by-law for increased authority to tow illegally parked vehicles, Stratford Police Services was consulted and had no concerns with the proposed amendments.

Financial Impact: There are no financial implications to be reported as a result of this report.

Alignment with Strategic Priorities:

Not applicable.

This report recommends amendments to the City's Traffic and Parking By-law which clarifies and enhances parking restrictions.

Staff Recommendation: THAT Traffic and Parking By-law 159-2008 as amended, be further amended to include:

- **City Parking Lots, unless otherwise designated, under Section 8(1)(j); and,**
- **additional provisions in which towing is permitted under Section 82.**

AND THAT the Clerk be directed to bring forward a by-law to amend the Traffic and Parking By-law to give effect to the proposed changes contained in Report ITS21-029.



Chris Bantock, Deputy Clerk



Karmen Krueger, Acting Director of Corporate Services



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: September 29, 2021
To: Infrastructure, Transportation and Safety Sub-committee
From: Chris Bantock, Deputy Clerk
Report#: ITS21-030
Attachments: None

Title: Cooper Lot Free Permit Program

Objective: To increase parking opportunities in the downtown core for downtown residents.

Background: There are currently three long term parking options available to downtown residents who do not have their own private parking solution:

1. Pay \$113.75 per month for a York Lot Permit;
2. Free parking in the Cooper Lot for a maximum of 24 hours; or,
3. Free parking in the Downie Lot for a maximum of 24 hours.

On July 23, 2018, Council passed a resolution to reduce the maximum parking time limit in the Cooper and Downie Parking Lots from 72 hours to 24 hours. The reason for this change was due to the impact on construction works at the site to ensure issues were not created with cars left parked in construction areas.

Concerns are commonly expressed by downtown residents with respect to having to move their vehicles every 24 hours when parked in either the Cooper or the Downie Lot.

To increase parking flexibility, a free permit program in the Cooper Lot is being proposed for downtown residents which would allow permit holders to park for up to 72 consecutive hours.

Analysis: In accordance with the City's Traffic and Parking By-law 159-2008, the Cooper Lot is currently free to park for a maximum of 24 hours. Under these provisions, parking enforcement has historically taken the approach to allow the movement of a vehicle to a different spot in the lot to reset the 24-hour time limit. However, residents who live and work in the downtown without their own private parking option often find

it difficult to move their vehicle each day to avoid being ticketed in either the Cooper or Downie Lots.

One of the most significant concerns with long term parking and impeding lot maintenance remains the inability to contact vehicle owners for moving of the vehicle. The introduction of a free permit program for downtown residents in the Cooper Lot would resolve this by collecting contact information specifically for this purpose. As a result, while those registered in the program would gain flexibility in maximum parking time, staff can get in touch with owners of parked vehicles at a moments notice should scheduled maintenance be required, an emergency occur, or they exceed the 72-hour maximum parking time.

From an enforcement perspective to carry out this program, staff have confirmed that parking enforcement officers do have the ability to monitor and track parking times up to 72 hours within their handheld devices. Staff have also explored and sourced plastic permit holders which can hang from the visor or rear-view mirror of a vehicle so that parking enforcement officers can easily identify valid permit holders. For efficient tracking of program participants, all issued permits under this program would expire semi-annually on June 30th and December 31st, regardless of date of issuance. Permit holders will be required to park in the upper portion of the Cooper Lot to ensure that parking closer to the entrance of the lot remains available and is turned over more frequently. Staff will accommodate requests from program participants with a valid accessible parking permit should they prefer to park in the lower portion of the lot. The number of permits available will also be limited to no more than 10% of the lot capacity (30 total). Should this total be reached, staff will maintain a waiting list of interested persons for future availability.

Should Council approve this program, Schedule 19 – Parking Permits, to the Traffic and Parking By-law shall be updated to add the following:

- Cooper Lot – 30 permits for Downtown Residents Only

Column 4 (Maximum Limit) in Table 5 under Section 62 of the Traffic and Parking By-law will also require an amendment to reflect the availability of 72-hour permit parking for Lot Number 11 (Cooper Lot).

Financial Impact: The only cost required for initiating this program is the purchase of new plastic permit holders to be issued by the Clerk's Office. These have been sourced by staff at a cost of \$1.20 each or \$120 for a package of 100. The paper permits to be inserted are \$0.13 each. Program participants will not be required to pay for a permit holder as the program is free, however, replacements for damaged or lost holders may be charged back to the participant.

Alignment with Strategic Priorities:

Mobility, Accessibility and Design Excellence

Improving ways to get around, to and from Stratford by public transit, active transportation and private vehicle.

Staff Recommendation: THAT Traffic and Parking By-law 159-2008 as amended, be further amended to include 30, 72-hour permit parking for downtown residents in the Cooper Lot;

AND THAT the Clerk be directed to bring forward a by-law to amend the Traffic and Parking By-law to give effect to the proposed changes contained in Report ITS21-030.



Chris Bantock, Deputy Clerk



Karmen Krueger, Acting Director of Corporate Services



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: September 29, 2021
To: Infrastructure, Transportation and Safety Sub-committee
From: Taylor Crinklaw
Report#: ITS21-035
Attachments: None

Title: Milton Street and Nile Street All-Way Stop Request

Objective: To review the request for an all-way stop at Milton Street at Nile Street.

Background: Residents on Milton Street reported a concern of high traffic speeds and requested that an all-way stop be installed to address the issue. At the June 14, 2021 Regular Council Meeting, Council adopted the following resolution:

THAT the petition from Jeremy Moore requesting a 4-way stop at the intersection of Milton Street and Nile Street be received.

Following the concerns, analysis of the intersection was completed.

Analysis: Transportation practitioners look to the Ministry of Transportation's Ontario Traffic Manual (OTM) for guidance on how to address traffic movements. This manual promotes uniformity of treatment in the design, application and operation of traffic control devices and systems across Ontario. The OTM objective is to create safe driving behaviour, achieved by a predictable roadway environment through the consistent, appropriate application of traffic control devices.

One topic identified in the manual is the inappropriate use of all-way stops to slow traffic. Specifically, OTM Book 5 notes that an all-way stop control should not be used as follows:

- As a speed control device;
- To protect pedestrians, especially school-aged children; and
- Where any other traffic device controlling right-of-way is permanently in place within 250m, with the exception of a yield sign.

Additionally, the following are negative impacts of all-way stop sign misuse:

- Environmental impacts: increased vehicle emissions, fuel consumption and noise;
- Increased average speeds within mid-block sections;
- Inconvenience to local residents who appropriately use the roadway;
- Negative impacts on transit routes (if applicable);
- Cost of installation; and
- Provides a false sense of security to pedestrians as drivers tend to roll through the intersection or fail to stop if it is perceived to be unnecessary (i.e. little or infrequent side street traffic encounters).

In the cases where an all-way stop is desired, it can be evaluated by two main characteristics: vehicle volumes and collisions.

Regarding collisions, the minimum warrant for traffic collisions is three per year. Collision reports for Nile Street and Milton Street intersection indicate that there have been a total of three collisions reported in a five-year period.

The minimum warrant identified for vehicle volume on all intersection approaches is in excess of 350 for the highest recorded hour. For this intersection, the highest estimated equivalent vehicle count is less than half the warranted amount. It should also be noted that the 85% for vehicle speed was 49.6 km/h and the 95% vehicle speed was 54.1 km/h.

Based on the information collected and the analysis conduct, no changes to this intersection are recommended at this time.

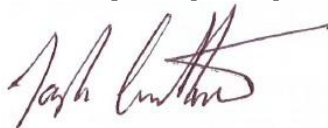
Financial Impact: No financial impact.

Alignment with Strategic Priorities:

Mobility, Accessibility and Design Excellence

Improving ways to get around, to and from Stratford by public transit, active transportation and private vehicle.

Staff Recommendation: THAT the Report on the Milton Street and Nile Street All-Way Stop Request (ITS21-035) be received for information.



Taylor Crinklaw, Director of Infrastructure and Development Services

A handwritten signature in cursive script, reading "Joan Thomson".

Joan Thomson, Chief Administrative Officer

To Whom it May Concern:

We live on Walnut Street in Stratford. There are no sidewalks and it is a throughway for traffic from Dufferin St. to Erie St. It is also a speedway. A lot of pedestrians walk along Walnut St and many are small children going to and from the park at Dufferin arena. We have witnessed several close calls involving pedestrians and a vehicle speeding around the corner from Nelson and Duffering Streets, only to slam on their brakes at the last minute. Recently, a father was pushing a baby in a stroller and I saw a car come around the corner, slam on the brakes and thankfully, he was able to go around the pedestrians without hitting them. We are asking if we can have a speed bump placed halfway down Walnut St from Dufferin St. to Nelson St., and one halfway down Walnut at the far end from Nelson to Railway Ave. Or, can you make the Nelson/Walnut St intersections a four way stop. We appreciate your consideration in this matter as we are very concerned that there is going to be a fatality one day. It is worse in the Winter as pedestrians have no choice but to walk on the road due to lack of a sidewalk. Thank you for your time, and we look forward to hearing from you soon.

Regards, Laura & Jack Brooks

■ Walnut St.

■

There is a designated playground and ball diamond at the Dufferin Arena
The playground is very busy both summer and even in Winter

Traffic is busy on Dufferin St and cars that are already speeding when they turn onto Walnut and hit their gas, speeding all the way to Railway Ave.

During ball season, cars are parked along Dufferin and Walnut with pedestrians coming and going. This does not slow traffic down.

Traffic coming from Erie St turn onto Chestnut, barely yielding at railway and then turn right onto Walnut. From there it is a race to Dufferin St.

Since moving here in April 2019, We have seen many close calls involving cars speeding around corners and almost hitting pedestrians.

There are no sidewalks on Walnut St forcing people to walk either on the road or up on the grass.

During winter months pedestrians are forced to walk on the road and many are pulling sleighs with babies.

We are asking that a crosswalk be installed coming out of the Dufferin playground, crossing to the Walnut side. Also, a three way stop at that intersection and a four way at the Nelson/Walnut St intersection which will force traffic to slow down on all 3 streets.

Please let there not be a fatality before these issues are addressed and corrected.

Regards, Laura & Jack Brooks



MANAGEMENT REPORT

Date: September 29, 2021
To: Infrastructure, Transportation and Safety Sub-committee
From: Johnny Bowes, Manager of Environmental Services
Report#: ITS21-032
Attachments: 2020 & 2021 Fluoride Data – City of Stratford

Title: 2021 Fluoride Action Plan Update

Objective: To provide Council with an annual update of the City of Stratford's drinking water fluoride data.

Background: In March of 2019, staff was asked to develop and implement a plan, in consultation with the Health Unit, to increase public notice about possible risks regarding fluoride in the City's water, particularly to new parents.

In 2020, a management report was submitted to Council which detailed Public Health recommendations to raise public awareness and education related to fluoride in drinking water. One of the recommendations was an annual report to Council on the latest fluoride sample results in the City of Stratford drinking water and identify or confirm any data trends. This report will satisfy that recommendation.

Analysis: The City of Stratford obtains its source water from 11 deep wells. The natural fluoride levels in Stratford water varies from 1.8 mg/L to 2.2 mg/L. Under Ontario Regulation 170/03, the operating authority is required to report Fluoride exceedances (>1.5 mg/L) to the Ministry of Environment, Conservation and Parks, and is required to notify the Medical Officer of Health, every 57 months. Annual fluoride results are included in the City of Stratford Annual Water Quality Report, available by February 28 of each year.

After reviewing the most recent data from 2020 and 2021, staff has determined that there have been no major variances or changes in the fluoride data trends. The most recent annual raw water and treated distribution fluoride data is consistent with the levels from 2019 and prior.

In addition to this report, it should be noted that all the Public Health recommendations from the 2020 Fluoride Action Plan report continue to be followed in 2021.

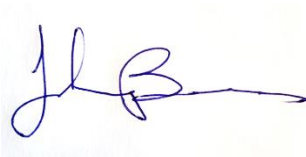
Financial Impact: There is no additional funding required to analyze/interpret the data and generate a report.

Alignment with Strategic Priorities:

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Staff Recommendation: THAT the report entitled 2021 Fluoride Action Plan Update (ITS21-032) be received for information.



Johnny Bowes, Manager of Environmental Services



Taylor Crinklaw, Director of Infrastructure and Development Services



Joan Thomson, Chief Administrative Officer



SGS Engage – Analysis Crosstab

Analysis: Water – Metals and Inorganics

Analyte: Fluoride

Unit: mg/L

Job Code	Client Sample Id	Lab Sample Id	Matrix	Receive/Analysis date	Level
CA15102-SEP20	DW Dufferin Tower	CA15102-SEP20-015	Distribution	09/03/2020	2.13 #MAC
CA16517-DEC19	DW Dufferin Tower	CA16517-DEC19-015	Distribution	12/9/2019	2.08 #MAC
CA16666-MAR21	DW Dufferin Tower	CA16666-MAR21-015	Distribution	03/09/2021	1.85 #MAC
CA16771-JUN20	DW Dufferin Tower	CA16771-JUN20-015	Distribution	06/09/2020	2.06 #MAC
CA17876-FEB20	DW Dufferin Tower	CA17876-FEB20-015	Distribution	2/18/2020	2.02 #MAC
CA18844-JUN21	DW Dufferin Tower	CA18844-JUN21-015	Distribution	6/22/2021	2.05 #MAC
CA30260-DEC20	DW Dufferin Tower	CA30260-DEC20-016	Distribution	12/15/2020	1.98 #MAC
CA15102-SEP20	DW Forman Tower	CA15102-SEP20-014	Distribution	09/03/2020	2.13 #MAC
CA16666-MAR21	DW Forman Tower	CA16666-MAR21-014	Distribution	03/09/2021	1.93 #MAC
CA16771-JUN20	DW Forman Tower	CA16771-JUN20-014	Distribution	06/09/2020	2.04 #MAC
CA17876-FEB20	DW Forman Tower	CA17876-FEB20-014	Distribution	2/18/2020	2.06 #MAC
CA18844-JUN21	DW Forman Tower	CA18844-JUN21-014	Distribution	6/22/2021	2.06 #MAC
CA30260-DEC20	DW Forman Tower	CA30260-DEC20-015	Distribution	12/15/2020	2.03 #MAC
CA17166-MAR21	DW Hydrant Hydrant #178 Taylor & Perth	CA17166-MAR21-009	Distribution	3/23/2021	-
CA17166-MAR21	DW Hydrant Hydrant #274 Nile & Brunswick	CA17166-MAR21-010	Distribution	3/23/2021	-
CA17166-MAR21	DW Hydrant Hydrant #409 Glastonbury & Somerset	CA17166-MAR21-008	Distribution	3/23/2021	-
CA17166-MAR21	DW Hydrant Hydrant #81 Centre & Shrewsbury	CA17166-MAR21-011	Distribution	3/23/2021	-
CA15102-SEP20	RW Romeo F.W. #1	CA15102-SEP20-009	Raw Water	09/03/2020	1.73
CA16666-MAR21	RW Romeo F.W. #1	CA16666-MAR21-008	Raw Water	03/09/2021	1.43
CA16771-JUN20	RW Romeo F.W. #1	CA16771-JUN20-008	Raw Water	06/09/2020	1.7
CA17876-FEB20	RW Romeo F.W. #1	CA17876-FEB20-008	Raw Water	2/18/2020	1.68
CA18844-JUN21	RW Romeo F.W. #1	CA18844-JUN21-008	Raw Water	6/22/2021	1.64
CA30260-DEC20	RW Romeo F.W. #1	CA30260-DEC20-009	Raw Water	12/15/2020	1.72
CA15102-SEP20	RW Romeo F.W. #2	CA15102-SEP20-010	Raw Water	09/03/2020	1.73
CA16666-MAR21	RW Romeo F.W. #2	CA16666-MAR21-009	Raw Water	03/09/2021	1.42
CA16771-JUN20	RW Romeo F.W. #2	CA16771-JUN20-009	Raw Water	06/09/2020	1.73
CA17876-FEB20	RW Romeo F.W. #2	CA17876-FEB20-009	Raw Water	2/18/2020	1.66
CA18844-JUN21	RW Romeo F.W. #2	CA18844-JUN21-009	Raw Water	6/22/2021	1.64
CA30260-DEC20	RW Romeo F.W. #2	CA30260-DEC20-010	Raw Water	12/15/2020	1.87
CA15102-SEP20	RW Romeo F.W. #3	CA15102-SEP20-011	Raw Water	09/03/2020	1.33
CA16666-MAR21	RW Romeo F.W. #3	CA16666-MAR21-010	Raw Water	03/09/2021	1.37
CA16771-JUN20	RW Romeo F.W. #3	CA16771-JUN20-010	Raw Water	06/09/2020	1.5
CA17876-FEB20	RW Romeo F.W. #3	CA17876-FEB20-010	Raw Water	2/18/2020	1.4
CA18844-JUN21	RW Romeo F.W. #3	CA18844-JUN21-010	Raw Water	6/22/2021	1.5

Job Code	Client Sample Id	Lab Sample Id	Matrix	Receive/Analysis date	Level
CA30260-DEC20	RW Romeo F.W. #3	CA30260-DEC20-011	Raw Water	12/15/2020	1.55
CA16666-MAR21	RW Romeo F.W. #4	CA16666-MAR21-011	Raw Water	03/09/2021	1.26
CA16771-JUN20	RW Romeo F.W. #4	CA16771-JUN20-011	Raw Water	06/09/2020	1.38
CA17876-FEB20	RW Romeo F.W. #4	CA17876-FEB20-011	Raw Water	2/18/2020	1.41
CA18844-JUN21	RW Romeo F.W. #4	CA18844-JUN21-011	Raw Water	6/22/2021	1.43
CA30260-DEC20	RW Romeo F.W. #4	CA30260-DEC20-012	Raw Water	12/15/2020	1.49
CA15102-SEP20	RW Romeo F.W. #6	CA15102-SEP20-012	Raw Water	09/03/2020	1.65
CA16666-MAR21	RW Romeo F.W. #6	CA16666-MAR21-012	Raw Water	03/09/2021	1.45
CA16771-JUN20	RW Romeo F.W. #6	CA16771-JUN20-012	Raw Water	06/09/2020	1.56
CA17876-FEB20	RW Romeo F.W. #6	CA17876-FEB20-012	Raw Water	2/18/2020	1.61
CA18844-JUN21	RW Romeo F.W. #6	CA18844-JUN21-012	Raw Water	6/22/2021	1.56
CA30260-DEC20	RW Romeo F.W. #6	CA30260-DEC20-013	Raw Water	12/15/2020	1.63
CA15102-SEP20	RW Romeo F.W. #7	CA15102-SEP20-013	Raw Water	09/03/2020	1.42
CA16666-MAR21	RW Romeo F.W. #7	CA16666-MAR21-013	Raw Water	03/09/2021	1.33
CA16771-JUN20	RW Romeo F.W. #7	CA16771-JUN20-013	Raw Water	06/09/2020	1.36
CA17876-FEB20	RW Romeo F.W. #7	CA17876-FEB20-013	Raw Water	2/18/2020	1.41
CA18844-JUN21	RW Romeo F.W. #7	CA18844-JUN21-013	Raw Water	6/22/2021	1.34
CA30260-DEC20	RW Romeo F.W. #7	CA30260-DEC20-014	Raw Water	12/15/2020	1.76
CA14818-JUN19	TW Chestnut Well	CA14818-JUN19-017	Treated Water	6/19/2019	1.93 #MAC
CA15102-SEP20	TW Chestnut Well	CA15102-SEP20-017	Treated Water	09/03/2020	2.25 #MAC
CA16666-MAR21	TW Chestnut Well	CA16666-MAR21-017	Treated Water	03/09/2021	2.01 #MAC
CA16771-JUN20	TW Chestnut Well	CA16771-JUN20-017	Treated Water	06/09/2020	2.28 #MAC
CA17876-FEB20	TW Chestnut Well	CA17876-FEB20-017	Treated Water	2/18/2020	2.22 #MAC
CA18844-JUN21	TW Chestnut Well	CA18844-JUN21-017	Treated Water	6/22/2021	2.17 #MAC
CA30260-DEC20	TW Chestnut Well	CA30260-DEC20-018	Treated Water	12/15/2020	2.25 #MAC
CA15102-SEP20	TW Dunn Well	CA15102-SEP20-018	Treated Water	09/03/2020	1.75 #MAC
CA16666-MAR21	TW Dunn Well	CA16666-MAR21-018	Treated Water	03/09/2021	1.54 #MAC
CA16771-JUN20	TW Dunn Well	CA16771-JUN20-018	Treated Water	06/09/2020	1.74 #MAC
CA17876-FEB20	TW Dunn Well	CA17876-FEB20-018	Treated Water	2/18/2020	1.78 #MAC
CA18844-JUN21	TW Dunn Well	CA18844-JUN21-018	Treated Water	6/22/2021	1.70 #MAC
CA30260-DEC20	TW Dunn Well	CA30260-DEC20-019	Treated Water	12/15/2020	1.84 #MAC
CA16666-MAR21	TW Lorne Well	CA16666-MAR21-019	Treated Water	03/09/2021	2.19 #MAC
CA17876-FEB20	TW Lorne Well	CA17876-FEB20-019	Treated Water	2/18/2020	2.22 #MAC
CA18844-JUN21	TW Lorne Well	CA18844-JUN21-019	Treated Water	6/22/2021	2.17 #MAC
CA15102-SEP20	TW Mornington Well	CA15102-SEP20-020	Treated Water	09/03/2020	2.03 #MAC
CA16666-MAR21	TW Mornington Well	CA16666-MAR21-021	Treated Water	03/09/2021	1.84 #MAC
CA16771-JUN20	TW Mornington Well	CA16771-JUN20-020	Treated Water	06/09/2020	1.96 #MAC

Job Code	Client Sample Id	Lab Sample Id	Matrix	Receive/Analysis date	Level
CA17876-FEB20	TW Mornington Well	CA17876-FEB20-021	Treated Water	2/18/2020	2.01 #MAC
CA18844-JUN21	TW Mornington Well	CA18844-JUN21-021	Treated Water	6/22/2021	1.96 #MAC
CA30260-DEC20	TW Mornington Well	CA30260-DEC20-021	Treated Water	12/15/2020	2.05 #MAC
CA15102-SEP20	TW O'Loane Well	CA15102-SEP20-019	Treated Water	09/03/2020	2.25 #MAC
CA16666-MAR21	TW O'Loane Well	CA16666-MAR21-020	Treated Water	03/09/2021	1.96 #MAC
CA16771-JUN20	TW O'Loane Well	CA16771-JUN20-019	Treated Water	06/09/2020	2.11 #MAC
CA17876-FEB20	TW O'Loane Well	CA17876-FEB20-020	Treated Water	2/18/2020	2.04 #MAC
CA18844-JUN21	TW O'Loane Well	CA18844-JUN21-020	Treated Water	6/22/2021	1.88 #MAC
CA30260-DEC20	TW O'Loane Well	CA30260-DEC20-020	Treated Water	12/15/2020	2.11 #MAC
CA15102-SEP20	TW Romeo Well	CA15102-SEP20-016	Treated Water	09/03/2020	1.63 #MAC
CA16666-MAR21	TW Romeo Well	CA16666-MAR21-016	Treated Water	03/09/2021	1.41
CA16771-JUN20	TW Romeo Well	CA16771-JUN20-016	Treated Water	06/09/2020	1.60 #MAC
CA17876-FEB20	TW Romeo Well	CA17876-FEB20-016	Treated Water	2/18/2020	1.61 #MAC
CA18844-JUN21	TW Romeo Well	CA18844-JUN21-016	Treated Water	6/22/2021	1.58 #MAC
CA30260-DEC20	TW Romeo Well	CA30260-DEC20-017	Treated Water	12/15/2020	1.53 #MAC



MANAGEMENT REPORT

Date: September 29, 2021
To: Infrastructure, Transportation and Safety Sub-committee
From: Johnny Bowes, Manager of Environmental Services
Report#: ITS21-033
Attachments: Risk Management Services 2021 Progress Report

Title: Upper Thames River Conservation Authority (UTRCA) Risk Management Services Progress Report 2021

Objective: To provide Council with the UTRCA Risk Management Services Progress Report for 2021.

Background: Under Ontario's Clean Water Act, Source Protection Committees have developed Source Protection Plans (SPP) to identify and assess threats to drinking water sources, thus ensuring the safety and continued viability of local drinking water.

The implementation of the SPP required municipalities to hire a Risk Management Official and a Risk Management Inspector. In 2014, the City of Stratford partnered with the neighbouring municipalities of West Perth, Perth East, Perth South and the City of London for a three year agreement with the UTRCA to perform these duties. This was renewed in 2017 and again in December 2020 for 3 years and is set to expire at the end of 2023.

Under the terms of the agreement, an annual progress report and financial progress report are to be provided to all parties under the agreement. This report fulfills that obligation and supplies detailed information about the services provided to each municipality since the local SPP took effect in 2015.

Analysis: This annual progress report was developed to detail the progress made by the Risk Management Officials (RMO) and the Risk Management Inspectors (RMI) towards the implementation of policies complying with Clean Water Act, 2006, Part IV. The report includes actions taken since the SPP came into effect in 2015, highlights some of the specific actions taken in 2020, and provides information about some of the plans for 2021.

The City of Stratford information should be looked at as stand-alone data and not compared to the other municipalities included within the report. The Stratford data shows significantly higher activity than the other municipalities included in the report. This is a result of two primary factors:

- The City of Stratford has a high number of source wells (11)
- The City of Stratford has a larger population; more residents will be notified

It should be noted that many of the stats from the 2020 report remain unchanged in the 2021 report. This is due to restrictions and limitations that were put in place because of the COVID-19 pandemic. The RMO's and RMI's and the work they do was deemed essential throughout the last year and as such, they had to "adapt and pivot" as they describe it in the report, to meet the expectations of the Risk Management Services Agreement.

UTRCA staff have primarily worked from home since March 15, 2020 and have generated new methods and practices to ensure that monitoring requirements are met. For example, they incorporated municipal drive tours, continued communications with remote and desktop exercises and informal compliance review. There are new statistic lines in the report to reflect these new methods.

When analyzing the current and future state of risk assessment, it is important to note that the SPP is no longer in its infancy. The extensive field and in-person work and data collection required to establish SPP's has already been completed, and therefore the program is currently in a state of continuous monitoring and improvement. This means that the new methods used to continue the program will not be as heavily impacted as they would have been in previous years.

Some of the 2021 report highlights include:

- Since 2015, there have been 127 site visits undertaken and 0 orders issued
- There have been 8 compliance inspections undertaken and 0 orders issued
- 42 clearance letters have been provided
- 2,121 educational packages have been delivered
- 4 municipal drive tours (newly reported statistic)
- 8 informal compliance reviews completed (newly reported statistic)

Financial Impact: All activities undertaken by the RMO/RMI are part of the Joint Risk Management Services Agreement. The contract expires on December 31, 2023, and the current cost per year is \$24,723 from the Water Supply Operating budget G350-4325-4020. As the report indicates, there is an expectation to meet all budget requirements in 2021.

Alignment with Strategic Priorities:

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable

future for Stratford's resources and environment.

Staff Recommendation: THAT the Upper Thames River Conservation Authority Risk Management Services Progress Report for 2021 be received for information.



Johnny Bowes, Manager of Environmental Services



Taylor Crinklaw, Director of Infrastructure and Development Services



Joan Thomson, Chief Administrative Officer



UPPER THAMES RIVER
CONSERVATION AUTHORITY

2021 PROGRESS REPORT

DRINKING WATER SOURCE PROTECTION
RISK MANAGEMENT SERVICES

WORKING TOGETHER TO PROTECT DRINKING WATER SOURCES

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Progress Overview

Source water is the water that we take from the ground, lakes or rivers to supply people with drinking water. Based on the recommendations of the Walkerton Inquiry, the Clean Water Act, 2006 is part of the Ontario government's commitment to protecting municipal drinking water from contamination and overuse. The Clean Water Act led to the implementation of Source Protection Plans (SPPs) across Ontario following an extensive process that included the development of science-based watershed assessments, broad public input, and collaboration with stakeholders. The Thames-Sydenham and Region SPP came into effect on December 31, 2015.

The SPP contains policies written under Part IV of the Clean Water Act, which municipalities are required to implement. These policies ensure that Significant Drinking Water Threat (SDWT) activities identified in vulnerable areas of groundwater wells or surface water intakes will not pose a risk to source water. Part IV policies must be implemented by a specially trained and certified Risk Management Official and/or Risk Management Inspector (RMO/I). Currently, ten municipalities in the Thames-Sydenham and Region have delegated their obligations under Part IV of the Clean Water Act to the Upper Thames River Conservation Authority (UTRCA). Past service agreements expired December 30th, 2020 and terms of service were established or renewed with those municipalities noted above in the new year.

This annual progress report was developed to detail the progress made by our Risk Management Officials and Inspectors towards the implementation of Part IV policies within your municipalities. The report includes actions taken since the SPP came into effect in 2015, highlights some of the specific actions taken in 2020, and provides information about some of our plans for 2021.

Risk Management Plans and Inspections

Negotiation of risk management plans with businesses, farmers and institutions to manage existing threats has continued. Our risk management staff work with land and business owners to build on existing best management practices, and develop practical plans that minimize the impact to business and productivity.

Follow-up compliance monitoring is typically conducted each year following the establishment of a risk management plan, and more thorough compliance inspections are conducted every five years. The monitoring and inspections ensure Risk Management Plans are effectively implemented and all risk management measures have been executed. Failure to implement the plans can lead to formal enforcement action. This can include, if necessary, the issuance of orders to complete work and to pay for any work completed by the Risk Management Official. The number of risk management plans

established, and inspections undertaken by our Risk Management Officials is provided in table format for each municipality in the pages that follow.

Due to the extraordinary challenges and restrictions faced by businesses, farmers and institutions during the pandemic, where appropriate, staff have connected with proponents in more informal manner (i.e. telephone, email exchanges) as an alternative to the more formal review process to ensure compliance with established risk management plans and prohibitions. This approach maintains open communication with proponents and formal compliance processes will be executed as necessary.

Managing Threats from New Development

Some of the policies in the Thames-Sydenham and Region Source Protection Plan were included to ensure new development considers source protection vulnerable areas. Certain development applications within vulnerable areas are sent to our Risk Management Officials for review by municipal building and planning staff to ensure growth is compatible with drinking water protection. The Clean Water Act requires a section 59 notice for developments near municipal wells and intakes to determine if an application has the potential to introduce a new threat to drinking water. A notice is required before planning and building applications can be deemed complete. Information about the number of development applications reviewed, and the number of section 59 notices issued within each municipality is provided in this report.

Pandemic Impact Statement

Work performed by Risk Management Officials and Inspectors are deemed essential during this time. The pandemic has generated many challenges across all risk management programs and services. Staff have primarily worked from home since March 15, 2020 and continue to monitor activities within the significant threat areas of each municipality via drive tours, communications with proponents and desktop exercises; monitoring for businesses closing/opening, new development and any other activities that require action. The eyes and ears of municipal staff have also been invaluable during this time. Staff continues to address Section 59 (Restricted Land Use) inquiries and review applications to ensure required notices are issued in a timely manner.

Businesses/Operations (across all sectors), including landowners are experiencing unprecedented stresses and struggling to adapt to ever changing pandemic response requirements directed at their particular operation. With that in mind, RMOs/RMIs across the province have found this has slowed the progress of "on the ground" threat verification and compliance monitoring. Risk Management Staff have recognized the need to adapt threat verification and compliance approaches to meet the need for contactless interactions where appropriate. Staff are working diligently to adapt risk management plans and compliance documentation to be more interactive in a growing virtual environment.

Nevertheless, our risk management service program is in a good position at this time. For example, Stratford, West Perth, Perth East, St. Marys and Chatham-Kent, have 90-100% of sites with significant threats already verified and risk management plans established prior to the start of the pandemic. We have developed good working relationships with the persons undertaking activities requiring risk management plans and this has been vital for effective compliance monitoring. Risk Management in Point Edward, Plympton Wyoming, Lambton Shores, St. Clair and Sarnia is also progressing well given the recent challenges. Staff are taking steps to complete threat verification via drive by inspection, telephone and email communications and working towards interim risk management plans that will later be amended as on-site visit and/or in-person inspections are appropriate.

Summary

Due to the challenges of the pandemic response, this has been a year of “adapt and pivot”. Staff continues to work with landowners and tenants of properties that had originally been identified as having significant drinking water threats in the original assessment report as well as new properties/threats identified by the Risk Management Officials. Staff have been working collaboratively with residents to verify the existence of these threats and, where required, negotiate and establish risk management plans. An inspection and compliance program has been established in order to monitor properties within vulnerable areas. The following pages provide a numerical breakdown of the risk management services provided by UTRCA for each municipality. Overall, the 2020 operating expenses were on track, we expect to fulfill our current agreement deliverables within budget.

Reports by Municipality

Please note the Risk Management Stats provided within this report represent the cumulative count for each line item completed since the Source Protection Plan took effect; or since UTRCA began providing risk management services for the municipality.

Details regarding risk management services provided for each municipality are displayed in chart form. The chart below provides an explanation of those details to help you interpret the numbers reported.

Risk Management Statistics	Details
Threats enumerated in the 2015 Assessment Report	Total # of individual significant drinking water threats enumerated in the original (2015) Assessment Report (2015).
Sites Identified by Risk Management Official	Additional sites with potential threats identified by a Risk Management Official, not captured in the (2015) Assessment Report.
Map Provided	Map generated for a specific site (via roll #); detailing zone scores and boundaries. In some instances, RMO will detail where the activity of concern is occurring on a site.
Threat Verification Survey	Surveys were mailed out to sites with significant threats enumerated in the original assessment report (2015). The number reported details the number of completed surveys returned to the RMO. Respondents indicated activities currently being undertaken or those that may occur in the future. RMO's followed up to determine if the activities met circumstances requiring a risk management plan (S.58) and/or prohibition (S.57) process.
Clearance Letter	<p>Verifies the parcel noted is within a vulnerable area however, the threat verification process has determined either:</p> <ul style="list-style-type: none"> • a significant threat activity is not occurring under circumstances requiring a risk management plan, or; • a septic system is the only significant drinking water threat on site and the municipality will implement an on-site sewage inspection program as regulated under the Ontario Building Code Act. <p>No risk management plan was required at the time the letter was issued. However, if activities undertaken are modified or new activities are planned in the future, the proponent is directed to contact the Risk Management Official to determine if a risk management plan is required or prohibitions apply.</p>

Risk Management Statistics	Details
S.59 Screening, Inquires, Notice S.59 - 2(a) & 2(b)	<p>Section 59 of the Clean Water Act requires that if a source protection plan designates a land use as a restricted land use in a vulnerable area, a person shall not make an application under the Planning Act, or construct or change the use of a building under the Building Code Act, unless the Risk Management Official issues a notice to that person. The Thames-Syndenham and Region Source Protection Plan identifies all land uses, with the exception of residential uses, as restricted land uses, within the Wellhead Protection Areas A, B and C. Section 59.2(a) notices are issued when neither a prohibition nor a risk management plan apply to the existing or proposed activity. Alternatively, if a prohibition or risk management plan is required, a Section 59.2(b) notice will be issued only after those requirements have been agreed to or established; at such time the notice will indicate the application process may proceed.</p> <p>If a general inquiry or Section 59 screening form is submitted and the Risk Management Official (RMO) reviews the information and confirms a residential exemption applies or the parcel is outside of a significant threat zone, the RMO will advise the municipality and applicant the application can proceed without further review by the RMO.</p>
Risk Management Plan Notice S.58(4) S.58(6) & 58(7)	<p>Section 58(4) - Notice indicates one or more activities engaged in, or proposed to be engaged in, at the noted address has been identified as a significant drinking water threat and requires a risk management plan. Proponent is informed they must contact the Risk Management official by a certain date to begin the risk management plan process and provide any requested information.</p> <p>Section 58(6) - Notice of agreement/negotiation of a risk management plan between the Risk Management Official and Person Engaged in the Activity.</p> <p>Section 58(7) - Notice states that a risk management plan is required. If a risk management plan cannot be agreed to by a certain date, it is the intent of the Risk Management Official to establish one for the identified activities by Order (S.59(1)). Risk Management Officials may use this tool to move the risk management process along if not being achieved in a timely manner.</p>
Risk Management Plan S.58(5) & S.58(10)	<p>Section 58(5) - risk management plan has been negotiated or agreed to between the Risk Management Official and Person Engaged in the Activity.</p> <p>Section 58(10) - risk management plan established by Order of the Risk Management Official.</p> <p>Note: Risk management plans manage one or more significant threats on a particular parcel or parcels. For example, a business which operates on two parcels (adjacent or not) may have a single</p>

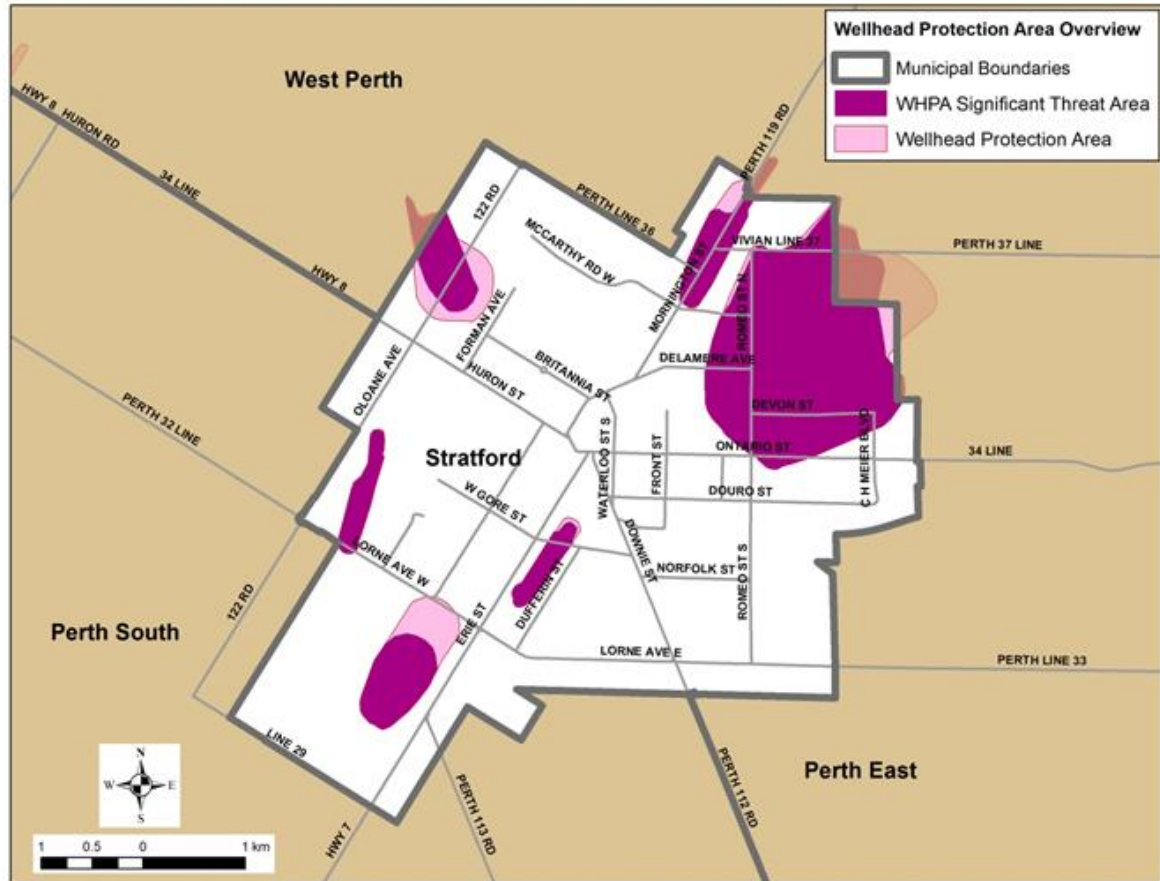
Risk Management Statistics	Details
	risk management plan that manages all significant threat activities associated with both parcels.
Prohibition Letters	Details activities that are prohibited on a parcel; both existing and future.
Order	Confirms agreement on a risk management plan has not been reached by the deadline outlined in the S. 58(7) notice and therefore a risk management plan will be established; including any prohibitions that may apply.
Certificate of Service	Issued under ss. 100(1) of the Clean Water Act, 2006 which states the Risk Management Official has served a true copy of the Order to the Person Engaged in the Activity or person named.
Compliance Review & Inspection	Risk Management Inspectors execute interim reviews of risk management plans with the Person Engaged in the Activity; this process ensures information within the agreement stays accurate and risk management measures are implemented and working effectively. This may or may not include an on-site inspection to ensure all significant threat activities are identified and managed so that it ceases to be, or never becomes, a significant drinking water threat. Additionally, any prohibited activities are also monitored to ensure ongoing compliance.
Site Visits Completed	Risk Management Official / Inspector visited individual sites or completed driving tours with/or without municipal representatives for the purposes of identifying new threats and/or verifying compliance of risk management plan and/or prohibitions.
Sites in Progress	Sites identified in the original Assessment Report (2015) or identified by the Risk Management Official that are in the process of threat verification, risk management plan, policy review/amendment, negotiations and/or prohibition process.
Education & Outreach – Industrial, Commercial & Residential (DNAPL policy)	<p>Policy 2.45 Handling and Storage of DNAPL - Education and Outreach</p> <p>To reduce the risk to municipal drinking water sources from the handling and storage of dense non-aqueous phase liquids in concentrations typical of household use, where this activity is, or would be, a significant drinking water threat, municipalities, in collaboration with the Conservation Authority, the Ministry of Environment, and/or wherever possible other bodies, shall develop and implement an education and outreach program directed at the owners and/or occupants of such properties. The program may include, but not necessarily be limited to, the provision of education material and information about the nature of the threat, how DNAPLs can be identified and handled and disposed of in a manner so that the activity would cease to be or never become a significant drinking water threat. This policy shall be initiated within one (1) year of the effective date of the Source Protection</p>

Risk Management Statistics	Details
	<p>Plan.</p> <p>In response to this policy, the website www.protectingourwater.ca was developed and door hangers with magnets were delivered to all residential properties in the wellhead protection area zones A, B & C. These products direct residents to their local hazardous waste depot, detail how to identify, handle and store hazardous products as well as provide some interesting information about their local drinking water.</p> <p>Additionally, some municipalities identified the need for customized source water protection communication products (i.e. factsheets, letters, etc.) to address a local concern. These products could include distribution to industrial, commercial and/or residential properties.</p>
Source Water Protection Training Package	<p>Every risk management plan requires general source water protection training to be implemented for all applicable staff. Risk Management Officials recognized the benefit of developing and offering accessible training tools that would provide consistent messaging and support the proponent in meeting those requirements.</p> <p>Training package (made available digitally by email or via USB drive) includes: SWP training video, RMO/RMI factsheet and SWP FAQ</p>
Municipal Drive Tours *NEW	<p>Drive tours (whereby an RMO/RMI drives throughout the significant threat policy areas) are an important tool for RMO/RMIs to survey the landscape for new or future threats and also monitor compliance of existing threats where S. 57 prohibitions or S. 58 Risk Management Plans exist. For example, drive tours may identify: changes in business/land ownership, new or proposed development requiring S.59 review or operational changes of a property - all of which may require further threat verification and/or risk management plan amendments or the application of prohibitions.</p>
Informal Compliance Review *NEW	<p>During the pandemic, businesses and landowners in all sectors have faced increased regulatory pressures and conforming with evolving, mandatory pandemic response measures as they relate to their operations. Some shutdown operations temporarily or intermittently throughout; others remained operational but not immune to the unprecedented stress. The RMS office recognized this and adapted our interactions to maintain and encourage on-going communications with proponents as well as limit in-person interactions. Where appropriate, RMO/RMIs reach out to proponents via telephone or email to ensure compliance with risk management plans or prohibitions, carry out threat verification, initiate interim risk management plan negotiations and/or offer assistance in meeting upcoming deadlines of risk management measures.</p>

City of Stratford

Risk Management Statistics	Accumulative Total (Since 2015)	2021 Reporting Period
Threats enumerated in the 2015 Assessment Report	56	NA
Sites Identified by Risk Management Official	35	3
Map Provided	42	0
Threat Verification Survey	15	0
Clearance Letters	42	0
Restricted Land Use S.59 Screening & Inquires	4	1
Restricted Land Use Notice S.59 - 2(a) & 2(b)	3	0
Risk Management Plan Notice S.58.(4), S.58(6) & 58.(7)	14	0
Risk Management Plan S.58(5) & S.58(10)	10	0
Prohibition Letters	1	0
Orders Issued	0	0
Certificate of Service	0	0
Compliance Review & Inspection	8	3
Site Visits Completed	127	0
Sites in Progress	2	3
Education & Outreach - Industrial, Commercial & Residential (DNAPL policy)	2121	NA
Source Water Protection Training Package	10	0
Municipal Drive Tours		4
Informal Compliance Reviews		8

Map: Stratford Wellhead Protection Area Overview





MANAGEMENT REPORT

Date: September 7, 2021
To: Infrastructure, Transportation, and Safety Sub-committee
From: Fire Chief, John Paradis
Report#: ITS21-034
Attachments: 1. Drone Light Show Images, 2. Laser Light Show Images

Title: Fireworks Alternatives

Objective: To provide information on fireworks alternatives.

Background: At the July 2021 Infrastructure, Transportation, and Safety Sub-committee meeting, direction was given for staff to research and provide a report on fireworks alternatives being used in other municipalities.

Analysis: Staff began research into what other municipalities have considered across Canada for fireworks alternatives. Three themes were found; noiseless fireworks (also known as reduced noise fireworks), drone light shows, and laser light shows. Municipalities that have done research into fireworks alternatives stated they did so due to the effects of loud bangs on wildlife, people with Autism, and people suffering from PTSD.

Noiseless/Reduced Noise Fireworks:

The term noiseless fireworks is not factual but a casual term for reduced noise fireworks. After consulting with the Explosives Regulatory Division of Ontario, the following information was provided:

"Aerial fireworks by nature of their construction produce loud noises since it requires a large amount of quick energy to break open the firework and ignite all the effects inside. That is the large boom that you hear when you can see the firework in the sky during a fireworks display. This is the noise that seems problematic for some communities. There are quieter effects such as fountains, mines, comets or waterfalls since they do not have "break charges" that are required to reliably break open the shell and ignite their effects. They reach low to mid level heights (i.e. Some can reach up to 200ft).

Noise levels for consumer and commercial (display) fireworks:

- Consumer fireworks must not exceed a noise level higher than 140 dB(AI) within a 5-m radius
- Display Fireworks must not exceed an impulsive noise level higher than 140 dB(A) within a distance of 25m and at a height of 1.5m or have a continuous noise level higher than 122 dB(A) within a distance of 25m and at a height of 1.5m."

Whether normal or reduced noise fireworks are used, there will still be a noise from black powder launching the firework. Typical fireworks reach heights up to 600 feet where reduced noise fireworks can be as low as 200 feet. Due to the lower height and less choice of fireworks, some will find a reduced noise firework display underwhelming. Fireworks are manufactured as standard types and models. Our past providers of fireworks displays were contacted. In order to custom build a reduced noise display package, the cost will be significantly higher.

Drone Light Shows:

Drone light shows are starting to become popular. Due to being "greener", more customizable, and without loud bangs, more and more venues are being advertised with this type of display. A typical drone lightshow display can use 50-500 drones depending on the package chosen. Although there are no loud bangs, there is a low audible hum from the blades of the drones. Drone light shows can display unique shapes and words in the sky, as well, can also be accompanied with some type of audible sound, such as music or an announcer over a PA system. Transport Canada approval for drone usage is managed by the drone light show company and would be required to ensure air traffic is not disrupted. Drone light shows are becoming extremely popular across Canada and must be booked well in advance.

Laser Light Shows:

Research into laser light shows found them to be another green alternative but with limitations. Laser light shows can be exciting and are typically accompanied with some type of music or an announcer over a PA system. Laser light shows also require some type of backdrop to properly provide anything other than thin streams of light going straight up into the sky. Backdrops can include or be created from smoke machines, a building, trees, water walls, or even a hillside or mountain side. Backdrops would need to be high enough for all attending the venue to clearly see the display. Without the lasers being terminated onto a back drop, Transport Canada approval would be required to ensure air traffic is not disrupted. Average length of a laser show is 12-20 minutes but longer is optional.

Financial Impact: Reduced noise fireworks: significantly higher cost due to customization required from standard models. Fireworks providers stated to expect to pay at least double what a normal fireworks display would cost.

Drone light show: customer must work with the provider to design the customized show. Costs depend on length and customization. Prices can vary from approximately \$16,000-\$196,000 before taxes or surcharges for special statutory holidays.

Laser light show: customer must work with the provider to design the customized show. Costs depend on length and customization. Average customization cost starts at \$12,500.

Alignment with Strategic Priorities (delete any that do not apply):

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Staff Recommendation: THAT the report from the Fire Chief on fireworks alternatives (ITS21-034) be received for information.



John Paradis, Fire Chief

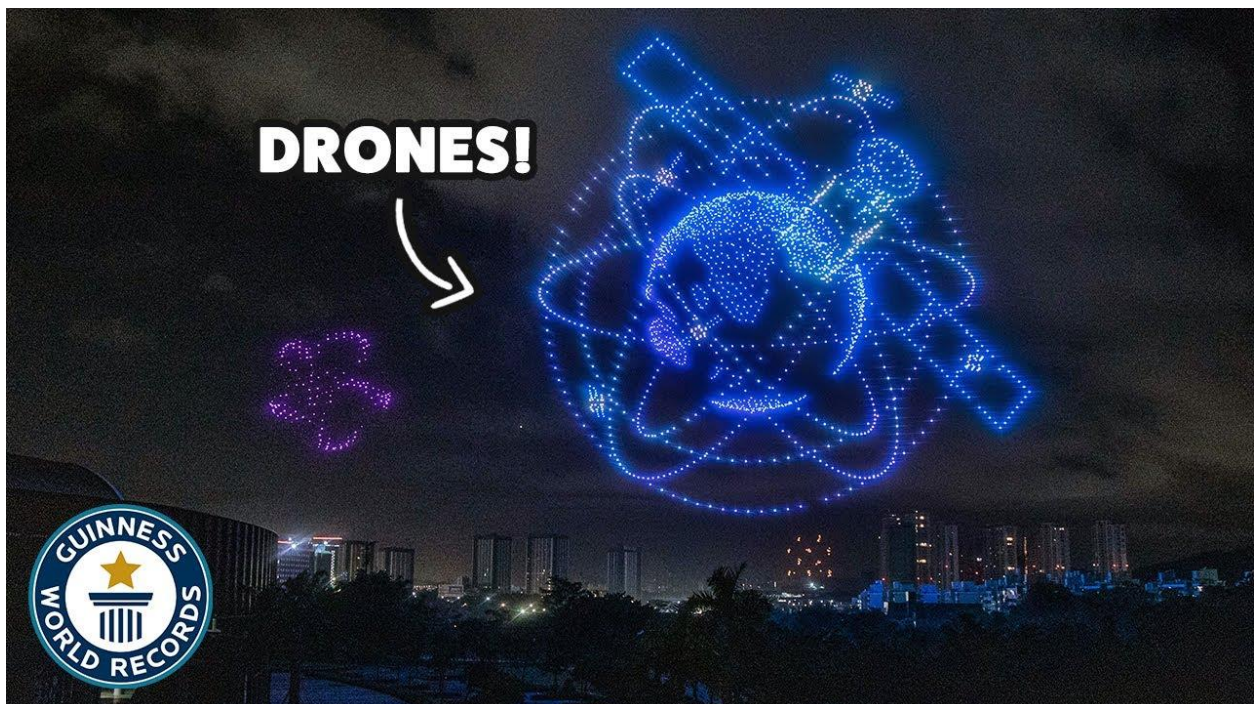


Joan Thomson, Chief Administrative Officer

Drone Light Show 1



Drone Light Show 2



Laser Light Show 1



Laser Light Show 2





MANAGEMENT REPORT

Date: September 29, 2021
To: Infrastructure, Transportation and Safety Sub-committee
From: Tatiana Dafoe, City Clerk
Report#: ITS21-031
Attachments: None

Title: Request to Consider Fully or Partially Subsidizing the Humane Society Surrender Fee

Objective: The purpose of this report is to provide information and analysis on the Animal Control Working Group's recommendation that the City of Stratford fully or partially subsidize the cost of the Kitchener Waterloo Stratford Perth Humane Society (KWSPHS) surrender fee.

Background: In 2016 Council appointed an Animal Control Working Group (ACWG) to help the City review the Animal Control By-law 195-2002. The Working Group provided a forum for consultation and an opportunity to review and exchange information regarding the City's Animal Control and (relevant sections) Business Licensing By-law. The recommendations from the Working Group were considered by City Council at the April 9, 2018, Regular Council meeting and several Working Group recommendations were approved.

Several recommendations were referred to staff for review and analysis. This report addresses the following recommendation:

"That the City investigates covering the cost or subsidizing the cost of Humane Society surrender fee."

Analysis:

Surrendering a pet in the City of Stratford

The Working Group expressed concern that the existing "surrender fee" charged by the Kitchener Waterloo Stratford Perth Humane Society (KWSPHS) may deter pet owners from surrendering a pet in a safe and responsible manner.

The four main factors that influence a pet owners' decision to surrender ownership to another person or agency are time, money, behaviour and housing.

One of the primary goals of the KWSPHA is to promote responsible pet ownership. They also provide support to pet owners to enable them to keep their pet in their home when one of the four factors change – making continued pet ownership challenging.

While it is not the responsibility of the City or the Humane Society to take care of a pet that an owner is unable to keep, there are programs available to support responsible pet ownership.

For example, the KWSPHS provides low cost spray/neuter programs, emergency boarding and medical support and under certain circumstances may reduce or waive surrender fees.

The KWSPHS may not be able to accept all pets presented for surrender. If they do not have the resources (i.e. space) or believe that the owner is not surrendering in good faith, they will not accept the pet. Not all pets are suited to a shelter environment.

There were 157 animals, from the City of Stratford, surrendered to the KWSPHA in 2020. Of those surrendered, 125 were cats, 23 were dogs and 9 were small animals. In comparison, there were 168 pets surrendered in the Region of Kitchener Waterloo (41 dogs, 85 cats and 42 small animals) in the same period. The KWSPHS also accepted surrendered birds, gerbils, guinea pigs and rabbits from residents of the City of Stratford.

There have been situations of pet abandonment within the City of Stratford. These cases are referred to the Ontario Animal Protection Call Centre (Ministry of Solicitor General) for investigation under the Provincial Animal Welfare Services Act (PAWS). The KWSPHS may become a location for housing the animal in question until the investigation is complete.

Information on the Ontario Animal Protection Call Centre can be found at the following web address:

https://www.ontario.ca/page/animal-welfare?_ga=2.99672478.1023657325.1631031301-2011833342.1598900034

Estimated Cost to Cover or Subsidize the Surrender Fees:

The cost to surrender an animal can vary depending on the age of the animal and their vaccination status. On average the following fees are applied by the KWSPHS:

- The average surrender fee for a cat is \$75.00
- The average surrender fee for a small animal is \$20.00
- The average surrender fee for a dog is \$125.00

The KWSPHS does not always enforce surrender fees. On a case-by-case basis, the Humane Society may eliminate or reduce the surrender fee for compassionate reasons. In 2020 the KWSPHS waived \$13,370.00 in surrender fees.

The estimated cost to subsidize surrender fees based on 2020 statistics is:

Type of Animal	Total Number Surrendered	Fee	Total
Cats	125	\$75.00	\$9,375.00
Dogs	23	\$125.00	\$2,875.00
Small Animal	9	\$20.00	\$180.00
Total cost for program			\$12,430

The City may consider subsidizing a portion of these estimated cost. It is important to note there are no municipalities in the Kitchener, Waterloo, Stratford or Perth County area (served by the KWSPHS) subsidizing the Humane Society surrender fee.

KWSPHS Feedback

During discussions with the KWSPHS the following feedback was offered:

- The goal of the Humane Society is to promote responsible pet ownership and support owners in keeping pets in their home;
- The Humane Society is not opposed to a program that fully or partially subsidizes pet surrender as long as they retain control over whether or not they accept the animal;
- Not all pets that are presented for surrender are suitable for the shelter environment;
- There may be times that the shelter is full
- The KWSPHS may not have the resources to support some pets. For example, some pets may be palliative, have medical issues, may not be adoptable (i.e. aggressive dog) and they would have to search for a suitable rescue/foster or provide behavioural training. This may result in large expenses not covered by the surrender fee.

Concluding Analysis

Given the following factors, staff recommends against the City of Stratford subsidizing the local Human Society surrender fee:

- The high number of surrenders in the City of Stratford appears to indicate the surrender program is working well;
- The KWSPHS, on a case-by-case basis, already reduces or eliminates the surrender fee for compassionate reasons;
- Neighbouring municipalities do not subsidize surrender fees, putting a City of Stratford program at risk for abuse;

- The cost to fully or partially subsidize the surrender fees would result in an increased level of service that would need to be funded, for example through an increase in dog and cat licensing fees;
- While the KWSPHS may be agreeable to a subsidized surrender program, it must retain the ability to independently decide which pets are accepted into the local shelter. There is no guarantee, even with a fully subsidized program, that all City of Stratford pets presented for surrender would be accepted.

Financial Impact: The estimated cost to subsidize surrender fees for City of Stratford residents based on 2020 statistics is:

Type of Animal	Total Number Surrendered	Fee	Total
Cats	125	\$75.00	\$9,375.00
Dogs	23	\$125.00	\$2,875.00
Small Animal	9	\$20.00	\$180.00
Total cost for program			\$12,430

If a decision is made to fully or partially subsidize the estimated cost of the surrender fee this would need to be included in future budgets.

Alignment with Strategic Priorities:

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Staff Recommendation: THAT the report entitled "Request to Consider Fully or Partially Subsidizing the Humane Society Surrender Fee" (ITS21-031) be received for information;

AND THAT the request to partially or fully subsidize surrender fees be filed.



Tatiana Dafoe, City Clerk

A handwritten signature in black ink, appearing to be 'K. Krueger', with a long horizontal stroke extending to the right.

Karmen Krueger, Acting Director of Corporate Services

A handwritten signature in black ink, appearing to be 'Joan Thomson', written in a cursive style.

Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: October 12, 2021
To: Planning and Heritage Committee
From: Alyssa Bridge, Manager of Planning
Report#: PLA21-022
Attachments: None

Title: Planning Report, Zoning By-law Amendment Application Z09-21, 379 Ontario Street

Objective: The purpose of this report is to describe staff's evaluation and recommendation of Zone Change Amendment application Z09-21, for the lands known municipally as 379 Ontario Street. The purpose of the application is to amend the existing MUR zone to a site-specific MUR zone, to permit a hobby shop as an additional permitted use.

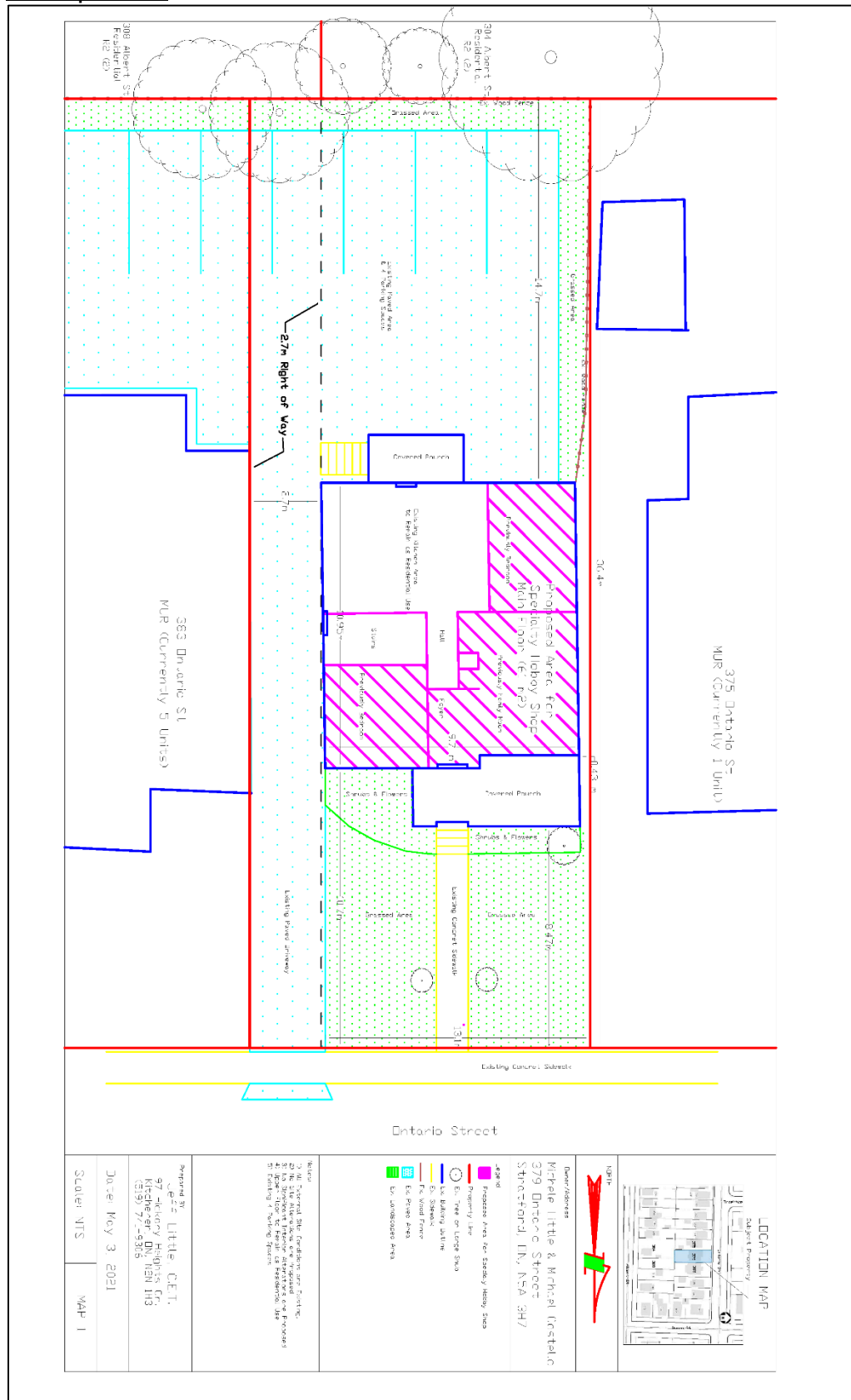
The application was accepted on July 5, 2021.

A proposed site plan outlining the floor area of the proposed use was submitted with the application.

Location Map:



Concept Plan:



Background: The subject property is municipally addressed as 379 Ontario Street, is located on the south side of Ontario Street between Front Street and Queen Street, and has an area of approximately 0.045 hectares (0.112 acres). The subject lands are legally described as PLAN 47 E PT LOT 10 W PT LOT 11 SUBJ TO ROW in the City of Stratford. The application is to rezone the property from a MUR zone to a site-specific MUR zone to permit a hobby shop as an additional permitted use.

Site Characteristics:

Characteristic	Information
Existing Use:	Duplex
Frontage:	13.01m (42.88ft)
Depth	36.4m (119.42ft)
Area	474.56m ² (5108.12ft ²)
Shape	Regular

Surrounding Land Uses:

Direction	Use
North	Vacant Land (Residential)
East	Fiveplex (Residential)
West	Single Detached Dwelling (Residential)
South	Single Detached Dwelling (Residential)

Subject Lands – 379 Ontario Street (Photo taken July 16, 2021):



Agency Comments

The application was circulated to various agencies on July 19, 2021, and the following comments have been received to date:

- Engineering:
 - No objection.
- Community Services:
 - No concerns.
- Upper Thames River Conservation Authority:
 - No objection.

Public Comments

Notice of the application was sent to 108 abutting property owners on July 19, 2021. Notice was also included in the 'Town Crier' published in the Beacon Herald on July 24, 2021. The public meeting was held on August 16, 2021. No public comments have been received to date.

Analysis:

Provincial Policy Statement

All planning decisions in the Province of Ontario shall be consistent with the Provincial Policy Statement (PPS) which came into effect on May 1, 2020. The 2020 PPS provides policy direction on matters of provincial interest relating to Building Strong Healthy Communities, Wise Use and Management of Resources, and Protecting Public Health and Safety.

Building Strong and Healthy Communities can be achieved by encouraging efficient land use and development patterns that support sustainability by promoting resilient communities, environmental protection, and economic growth. The requested zoning would permit a hobby shop that is consistent with the PPS through the efficient use of land and the promotion of economic opportunities in the City of Stratford.

There are no Wise Use and Management of Resources or Protecting Public Health and Safety matters of consistency with the proposed amendment.

The zone change amendment for a hobby shop use is consistent with the 2020 Provincial Policy Statement.

Official Plan Designation

The subject lands are designated as a "Residential Area" in the Official Plan. This permits low and medium density residential uses including single detached, semi-detached, triplex dwellings and townhouses. Existing Residential Areas in the City are characterized by low density, one- and two-unit dwellings whereas medium and higher density forms are developed primarily in or near the Downtown Core.

Section 4.5.1 of the Official Plan sets out goals and objective for Residential Areas, including:

- To maintain in all residential areas the essential neighbourhood qualities of quiet enjoyment, privacy, upkeep, public health and safety and basic municipal services.
- To ensure that where intensification of development is proposed in residential areas, it is compatible in terms of scale, density and design with neighbouring development and adheres to sound planning principles related to servicing, traffic, site design and amenities, provided there is sufficient capacity in the City's municipal services to accommodate that development.
- To achieve a mix of housing types and a minimum average density of housing in the development of new residential areas to provide diversity in the housing stock, more affordable housing opportunities and a more efficient investment and ongoing maintenance of municipal services and facilities.
- To create new residential neighbourhoods which have a sense of identity, which encourage neighbourhood interaction, which are less auto-dependent and which are designed to establish and maintain essential neighbourhood qualities.
- To allow certain non-residential uses in residential areas which are complementary to, or compatible with, the neighbourhood or which meet neighbourhood needs, and which do not individually or cumulatively undermine essential neighbourhood qualities.
- To provide neighbourhood parks and other open space facilities which are within convenient and safe walking distance of residents.

The Zone Change Amendment for the use of a hobby shop contributes to the achievement of the Residential Area goals of the Official Plan as it will maintain essential neighbourhood qualities by providing for a non-residential use which is complementary and compatible with the neighbourhood.

The subject lands are within Special Policy Area 2 as shown on Schedule 'A' of the Official Plan. A mix of residential, commercial and institutional uses are encouraged within this area. Commercial uses will be restricted and generally limited to office uses, specialty retail shops and small restaurants with limited parking requirements. The requested use of a hobby shop would be considered a specialty retail shop and as a result it conforms to the Official Plan's direction for land uses within for Special Policy Area 2.

Excerpt from Official Plan Schedule 'A' – Land Use:



The proposed zoning amendment is consistent with the Official Plan as it contributes to the goals and objectives of Residential Areas while conforming with the policies of Special Policy Area 2.

Zoning By-law

The subject lands are currently zoned Mixed Use Residential (MUR) which permits the following uses:

- boarding house dwelling,
- business office,
- clinic,
- commercial school,
- converted dwelling,
- day nursery,
- duplex dwelling,
- dwelling unit,
- group home,
- home occupation,
- hostel,
- inn,
- nursing home,
- personal care establishment,

- professional office,
- religious institution,
- retirement home/lodge,
- single detached dwelling, existing,
- specialized medical offices; and
- studio.

The Zone Change Amendment is requested to rezone the subject lands from a Mixed Use Residential (MUR) Zone to a site-specific Mixed Use Residential (MUR) Zone. The requested change to a site-specific MUR Zone would permit a portion of the ground floor to be used as a hobby shop. The proposed definition for a hobby shop is: an area of a building in which video games, card games, board games, or similar products are offered for sale.

The Zoning By-law requires a rate of one parking space per dwelling for a duplex and one parking space per 30m² of net floor area for a specialty shop. As a result, two parking spaces are required for the hobby shop and one parking space is required per dwelling unit. The applicant has provided a concept plan showing that there is sufficient space to accommodate the required parking.

Planning staff are of the opinion that the Zone Change to allow for a hobby shop as a permitted use maintains the general intent and purpose of the Zoning By-law.

The Zone Change Amendment is consistent with the PPS, conforms with the Official Plan, maintains the intent of the Zoning By-law, is consistent with the City's Strategic Priorities and represents good planning.

Should the Planning and Heritage Committee not approve the staff recommendation, the motion shall include a statement outlining how the recommendation of the Planning and Heritage Committee complies with the Provincial Policy Statement and the City of Stratford Official Plan and how public input was considered.

Financial Impact: No municipal infrastructure is required for the proposed use.

Alignment with Strategic Priorities:

Strengthening our Plans, Strategies and Partnerships

Partnering with the community to make plans for our collective priorities in arts, culture, heritage and more. Communicating clearly with the public around our plans and activities.

Staff Recommendation: THAT Application Z09-21 to amend the zoning on 379 Ontario Street located on the south side of Ontario Street from a Mixed Use Residential (MUR) Zone to a site-specific Mixed Use Residential (MUR) Zone to permit a hobby shop BE APPROVED for the following reasons:

- I. Public interest was considered;**
- II. The request is consistent with the Provincial Policy Statement and conforms with the Official Plan; and**

- III. The request will facilitate development that is appropriate for the lands, is compatible with the surrounding lands and is good planning.**



Alyssa Bridge, MCIP, RPP, Manager of Planning



Taylor Crinklaw, Director of Infrastructure and Development Services



Joan Thomson, Chief Administrative Officer

Draft By-law

Being a By-law to amend By-law 201-2000 as amended, with respect to zone change application Z09-21, to rezone the lands known municipally as 379 Ontario Street located on the south side of Ontario Street between Front Street and Queen Street in the City of Stratford to allow for a site-specific Mixed Use Residential (MUR) Zone.

WHEREAS authority is given to the Council of The Corporation of the City of Stratford by Section 34 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, to pass this by-law;

AND WHEREAS the said Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

AND WHEREAS the Council of The Corporation of the City of Stratford deems it in the public interest that By-law 201-2000, as amended, known as the Zoning By-law, be further amended.

NOW THEREFORE BE IT ENACTED by the Council of The Corporation of the City of Stratford as follows:

1. That Schedule "A", Map 5 to By-law 201-2000 as amended, is hereby amended:

by changing from Mixed Use Residential (MUR) Zone to a site-specific Mixed Use Residential (MUR) Zone, those lands outlined in heavy solid lines and described as Mixed Use Residential (MUR) on Schedule "A", attached hereto and forming part of this By-law, and more particularly described as PLAN 47 E PT LOT 10 W PT LOT 11 SUBJ TO ROW known municipally as 379 Ontario Street.

2. That By-law 201-2000 as amended, be further amended by adding to Section 10.4, being the Exceptions of the Mixed Use Residential (MUR) Zone the following:

10.4. a) Defined Area (379 Ontario Street)

MUR-__ as shown on Schedule "A", Map 5

b) Permitted Uses:

- Hobby shop
- All other uses permitted in the MUR zone

c) Definition

For the purposes of the Defined Area, the following shall apply:

- i) Hobby shop means an area of a building in which video games, card games, board games, or similar products are offered for sale.

d) Maximum floor area permitted for a Hobby Shop: 61m²

e) Special Use Regulations

A Hobby Shop is restricted to the ground floor only.

3. This By-law shall come into effect upon Final Passage and in accordance with the *Planning Act*.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe

Schedule "A" to By-law ____-2021

Ontario St						
369	371	375	MUR-____ 379	383	389	393



MANAGEMENT REPORT

Date: September 30, 2021
To: Planning and Heritage Sub-committee
From: Greg Rabe, Municipal Law Enforcement Officer
Report#: PLA21-016
Attachments: None

Title: Sign Permit – Ground Sign to be Erected in Place of Existing Ground Sign, 166-194 Ontario Street

Objective: To consider a variance request for the replacement of an existing ground sign with a new sign in the same location.

Background: The owner of 166-194 Ontario Street has applied for a sign permit to replace the existing pylon/ground sign. The new ground sign measures 22.6 feet high and is proposed to be erected in the same location where the existing ground sign is currently located. The location of the sign does not comply with the setbacks noted in the sign by-law and for that reason the owner is requesting a sign variance.



Analysis: The proposed location for the new ground/pylon sign would not be in accordance with the City of Stratford Sign By-law 159-2004 as the location would not

meet minimum street setback of 1m (3.28 ft) from the property line. In accordance with the By-law, Section 13.0, when the existing sign is removed the applicant/owner is required to meet the setback requirements.

Financial Impact: There is no relating financial impact to the City.

Alignment with Strategic Priorities:

Widening our Economic Opportunities

Strengthening Stratford's economy by developing, attracting, and retaining a diversity of businesses and talent.

Staff Recommendation: THAT the variance request by the owner of 166-194 Ontario Street to erect a new ground/pylon sign be denied as the proposed sign does not meet the requirements of the Sign By-law 159-2004.



Greg Rabe, Municipal Law Enforcement Officer



Taylor Crinklaw, Director of Infrastructure and Development Services



Joan Thomson, Chief Administrative Officer

MANAGEMENT REPORT

Date: September 30, 2021
To: Planning and Heritage Sub-committee
From: Kelton Frey, Municipal Law Enforcement Officer
Report#: PLA21-020
Attachments: None

Title: Proposed Exemption from Sign By-law 159-2004 Section 13.0, 925 Ontario Street

Objective: To consider the request for an exemption to the City of Stratford Sign By-law 159-2004, allowing the tenant named "City Pizza" to erect a fascia sign that is over the maximum area, and to be situated on "Food Basics" façade.

Background: Florence Signs, on behalf of City Pizza, has requested a variance to install a fascia sign on the northeast roof overhang used by Food Basics at 925 Ontario Street. This request doesn't comply with the Sign By-law, which indicates a maximum 20% sign area for fascia signs.

After the application for the sign variance was submitted, Florence Signs installed an illegal banner sign in the approximate location where the new fascia sign was proposed to be installed. Staff have contacted the owner and Florence Signs to remove the prohibited sign from the building façade. Florence Signs has complied with the request to remove the signage.



Analysis: The proposed location for the new fascia sign would not be in accordance with the City of Stratford Sign By-law 159-2004 as the location would not meet maximum sign area of 20% of the building face of the first storey.

Financial Impact: A sign variance application fee of \$601, and a sign permit application fee of \$222 have been received for consideration of this exemption.

Alignment with Strategic Priorities:

Widening our Economic Opportunities

Strengthening Stratford's economy by developing, attracting, and retaining a diversity of businesses and talent.

Staff Recommendation: THAT the request by Florence Signs, on behalf of City Pizza, for a Sign By-law exemption to erect a fascia sign at 925 Ontario Street exceeding the 20% coverage, be DECLINED as the proposed sign does not meet the requirements of the Sign By-law 159-2004.



Kelton Frey Municipal Law Enforcement Officer



Taylor Crinklaw Director of Infrastructure and Development



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: September 30, 2021
To: Planning and Heritage Sub-committee
From: Jonathan DeWeerd, Chief Building Official
Report#: PLA21-019
Attachments: None

Title: Annual Building Permit Fee Report 2020

Objective: To consider permit fees collected and operational costs for 2020.

Background: In accordance with subsection 7(4) of the *Building Code Act*, 1992 S.O. 1992, Chapter 23, as amended, the City is required to prepare a report on the permit fees received and the direct and indirect costs to administer and enforce the *Building Code Act* in its area of jurisdiction. A Building Permit Reserve has been established to ensure funds are available to administer and enforce the *Building Code Act* in the event of an economic slowdown. Previously, Council approved the Building Permit Reserve to have a target balance of one year's operating costs (direct and indirect), which is in line with other municipalities.

Currently, Stratford's Building Permit Reserve has a balance of \$156,466.73.

Analysis: The revenue collected in 2020 was consistently lower than previous years but slightly higher than the revenue collected in 2019. The contributing factor to the reduced revenue continues to be the lack of serviced building lots within the City of Stratford.

In November of 2020, serviced lots became available in the subdivisions south of McCarthy Road West, and as a result building permits were issued in the final quarter of 2020. The newly serviced lots and subsequent building permits issued at the end of 2020 contributed to a significant portion of the revenue for 2020. In the first two quarters of 2021 new residential dwelling stock has seen a steady increase within the City of Stratford due to the available serviced building lots. The anticipated consistent supply of developable housing will help stabilize permit revenue going forward.

The following chart indicates the total fees and total costs for the calendar year of January 1 to December 31, 2020.

Total Building Permit fees received in 2020.		\$ 485,308.23
Total Direct Costs (Building Services) to administer and enforce the <i>Building Code Act</i> including the review of applications for permits and inspection of buildings.	\$ 608,501.75	
Total Indirect Costs (Corporate) of administration and enforcement of the <i>Building Code Act</i> including support and overhead costs.	\$ 95,250.00	
Total Direct Costs (Building Services) and Indirect Costs (Corporate).	\$ 703,751.75	\$ 703,751.75
Permit Fees received less Direct and Indirect Costs*		(\$218,443.52)*

*Permit fees were not collected for City projects and basement isolation programs in 2020. In 2021 revisions to the Building By-law now require City projects to pay building permit fees.

December 31, 2019 Building Permit Reserve	\$247,465.58
Amounts used from Reserve for Permitting Software	(90,998.85)
December 31, 2020 Building Permit Reserve	\$ 156,466.73
2020 Permit Fees received less Direct and Indirect Costs	(\$ 218,443.52)
December 31, 2020, Building Permit Shortfall after depleting Building Reserve	(\$ 61,976.79)

Direct and Indirect costs decreased from \$748,982.95 in 2019 to \$703,751.75 in 2020, which is \$45,231.20 or approximately a 6% decrease in overall costs. This decrease was due to reduced spending due, in part to Covid, within the division including a reduction in staff training, legal fees, and a reduced software subscription cost as we transitioned to new permitting software.

The reserve fund is intended to ensure that, even if the building activity in a municipality goes down, building services can continue to be provided for a time without affecting the Municipalities finances and staffing. Money in the reserve fund can only be used for costs of delivering services related to the administration and enforcement of the *Building Code Act* such as staffing for plan review, permit issuance, and inspections.

The reserve balance, if this report is approved, will be at a negative level. City staff are continuing to monitor current revenues for 2021 to ensure that the fees collected are indeed the cost of providing services. A report on building permit fees is expected to be submitted to Council for consideration later this year. City Staff will continue to review this balance in accordance with Bill 124 *Building Code Statute Law Amendment Act*, 2001 to determine what can be done with future deficits or surpluses.

Financial Impact: In 2019, the province granted 'Modernization Funding' to municipalities to assist with projects that would modernize their organizations and processes. The funds were not prescriptive, and unspent monies form part of the Special Projects Reserve (G-R18-SPEC). To date the funds have been partially used for various projects but are not fully committed. Purchasing of software to modernize the permitting process qualifies as appropriate use of the modernization funds, so staff are recommending that the building permitting software purchase be funded by this reserve. This would result in a one-time transfer from the Special Projects Reserve to the Building Reserve of \$90,998.85. Note that this is intended as a one-time transfer and that the building department will continue to budget the operations on a user-pay basis and consistently review fees to ensure that there is sufficient user revenues to cover expenses.

Alignment with Strategic Priorities:

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Staff Recommendation: THAT a one-time transfer from the Special Projects Reserve of \$90,998.85 to the Building Reserve be authorized;

AND THAT funding of the remaining 2020 Building Inspection Admin G-251-2400 deficit of \$156,456.73 with the Building Permit Reserve G-07-BSUR-0000 be approved.



Jonathan DeWeerd, Chief Building Official



Taylor Crinklaw, Director of Infrastructure and Development Services



Joan Thomson, Chief Administrative Officer



MANAGEMENT REPORT

Date: September 21, 2021
To: Finance and Labour Relations Sub-committee
From: Karmen Krueger, Acting Director of Corporate Services
Report#: FIN21-023
Attachments: FHI – Q2 2021 financial statements to June 30 2021

Title: Financial Statements and Commentary for Festival Hydro Inc. (FHI) for Q2 ending June 30, 2021

Objective: To consider the financial reports from FHI for the period ending June 30, 2021.

Background: City Council is updated quarterly on the financial position of FHI.

Analysis: As noted in the attached statements. Representatives from FHI have been invited to attend as a delegation to present the attached report.

Financial Impact: Not applicable.

Alignment with Strategic Priorities (delete any that do not apply):

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Staff Recommendation: THAT the Festival Hydro Inc. financial statements and commentary for the period ending June 30, 2021, be received for information.

A handwritten signature in black ink, appearing to be "K. Krueger", written in a cursive style.

Karmen Krueger, Acting Director of Corporate Services

A handwritten signature in cursive script that reads "Joan Thomson".

Joan Thomson, Chief Administrative Officer



Financial Statements

Prepared For:

Dave Gaffney and the Finance & Labour Relations Committee

September 2021

To: Dave Gaffney and the Finance and Labour Relations Committee

From: Alyson Conrad, CFO

Re: Commentary on FHI Financial Results –
For the period ended June 30, 2021

Net income for the period is \$805K, which is \$255K below the YTD budget, \$234K of this relates to the interest penalty on the disallowed shareholder interest by the Minister of Finance (MoF). Detailed commentary on the balance sheet and statement of operations are noted below:

BALANCE SHEET COMMENTARY:

Accounts Receivable – The accounts receivable balance is \$179K less than it was in June of 2020. This variance is the result of the following:

- Electric receivables are \$349K higher than June 2020, while amounts in arrears has decreased by \$19K compared to the same time period. The \$368K in additional accounts receivables are due to the fact that in the prior year, time of use rates were all set at the lowest TOU price to assist with the pandemic. Electricity rates are back to the market cost of power.
- Water and sewer receivables are \$52K lower than June 2020. Balances that are past due (in arrears) have decreased by \$97K compared to June 2020. This is signaling a positive rebound from the pandemic.
- Lastly there is a decrease in OER receivables because the OER rate decreased on May 1st 2021 from 21.2% to 18.9%.

Electric receivables are being continuously monitored due to pandemic impacts. It has been encouraging that accounts in arrears have decreased from the same time last year. The efforts of the customer service department to assist customers with payment plans while still attempting to collect should be commended. FHI began disconnecting customers after a long disconnection ban on June 7, 2021. The ability to disconnect provides FHI with the opportunity to minimize losses until the next disconnection moratorium starts on December 1st. FHI was allocated \$92,858 of COVID-19 Energy Assistance Program (CEAP) funds and exhausted these funds quickly once the moratorium was lifted. This funding helped customers who were in arrears get their accounts up to date and helped to minimize bad debt.

Due from FHSI – The balance in this account decreased from the March 2021 balance by \$33K. The difference is mainly due to the Q1 Fibre Revenue from Wightman.

Unbilled Revenue – This balance is \$97K lower than the balance in June of 2020. June's electricity consumption has slightly increased compared to the prior year however the global adjustment rate decreased significantly compared to the prior year which accounts for the decrease in unbilled revenue.

Regulatory Assets – The regulatory asset balance has increased by \$565K over the prior year mainly due to IESO billings for whole market charges and network charges being higher than approved that are billed

to customers. The yearend differences between IESO billed amounts and rate order billings are recovered through annual IRM applications. These variances are offset by a decrease in GA rates from the prior year.

A/P and Accrued Liabilities – This balance has increased \$508K from the June 2020 balance. Trade payables and operating accruals have actually decreased by \$263K because large construction payables to Hydro One were included in 2020 and have since been paid. The June 2021 IESO invoice and HST payable were higher than prior year to the amount of \$623K.

Consumer Deposits – Customer deposits have only decreased by \$11K from the prior year. Festival continues to ensure sufficient deposits are on hand as the OEB rules allow in order to minimize risks of bad debt losses.

INCOME STATEMENT COMMENTARY:

Gross Margin on Service Revenue (Distribution Revenue) – The distribution revenue to the end of Q2 2021 is \$17K below budget but \$227K ahead of the prior year. Distribution revenues are ahead of budget for the residential customer class due to a higher number of customers compared to budget projections resulting in \$47K higher revenues. However, >50kW commercial customers are below budget by \$104K. This budget was based on 2019 and 2020 usage however usage is down for this rate class likely due to the pandemic and business closures. Luckily, FHI has not seen large negative impacts to small business and large use customers; they are above budget projections. After the longer than anticipated stay at home order and provincial staged reopening plan we are pleasantly satisfied with the overall financial results.

Although not an impact to distribution revenue and net income, it should be noted that Sale of Electricity (included in Service Revenue) and Cost of Power are both substantially lower than prior year and budget. Global Adjustment costs have been significantly lower than prior years. Monthly decreases in the rate range from 16.7% to 55.3%. After consultation with other utilities, it was noted that they are seeing similar trends as the Global Adjustment rates are set provincially.

Other Revenue – Other revenue is running \$11K below budget at the end of Q2 which is an improvement from Q1 and \$55K higher than the prior year. Other miscellaneous revenues were budgeted based on the average of 2019 and 2020. Billable work order markups are lower in 2021 than the average of 2019 and 2020 by a small margin.

Controllable Costs - Total controllable costs are \$14K more than budget to the end of Q2.

Operating and Maintenance expenses are up overall by \$8K. Some variances are due to timing differences of actual spend versus the budget timing. Decreases in expenses are due to three staffing delays. The Metering Manager was budgeted for a full year but was hired later than planned and the GIS Analyst and Meter Technician hiring have been delayed which has resulted in under spending in the budget. A large portion of these staffing decreases have been offset by increases in overhead and underground lines maintenance specifically for multiple old and leaking transformers that needed repair. In addition, there has been an increase in locate requests compared to prior years which increased locate expenses.

Administration expenses are up overall by \$6K. The increase is due to multiple vacation payouts from employee resignations. These costs are offset by two staffing vacancies. The CFO position was vacant for

most of Q1. In addition, the Customer Service Manager left early in the year and this position was filled internally at the end of March.

As noted, overall net income is behind budget by \$255K with \$234K being due to interest on the MoF's reassessment which disallowed a portion of shareholder interest from 2015 and 2016. FHI will be challenging this reassessment.

CASH FLOW COMMENTARY:

As per the cash flow statement, the June 30 cash balance increased by \$451K since yearend and \$1.61M more than June 2020. Cash from working capital items have increased by \$1.4M. The average overdraft balance has decreased from \$2M in 2020 to \$1.03M in 2021. Cash spent on capital has increased from prior year by \$624K.

LOAN COVENANT RATIOS:

The Loan Covenant liquidity ratios and debt to equity ratios as prescribed by our major lenders, RBC and Infrastructure Ontario are being met.

Presented for information purposes.

FESTIVAL HYDRO INC.

Balance Sheet

For the period ending June 30, 2021

	YTD as at Jun 30, 2020	YTD as at Dec 31, 2020	YTD as at Jun 30, 2021		YTD as at Jun 30, 2020	YTD as at Dec 31, 2020	YTD as at Jun 30, 2021
ASSETS				LIABILITIES			
Current Assets				Current Liabilities			
Accounts Receivable	6,453,068	7,398,302	6,274,057	Bank Indebtedness	2,140,202	977,189	526,191
Inventory	309,267	172,612	309,019	Accounts Payable & Accrued Liabilities	8,216,302	9,597,481	8,723,981
Prepaid Expenses	337,523	389,850	295,752	Current Portion of Consumer Deposits	1,097,402	1,054,198	1,085,980
Due from FHSI	1,316,216	627,071	522,067	Current Portion of Long Term Loans	324,970	664,985	339,536
Corporate PILS Recoverable	232,830	177,937	144,937	Dividends Declared	—	115,211	—
Unbilled Revenue	5,495,176	6,371,221	5,397,811	Promissory Note	15,600,000	15,600,000	15,600,000
	14,144,082	15,136,994	12,943,643		27,378,876	28,009,063	26,275,687
Property, Plant & Equipment	54,502,490	55,447,062	55,669,520	Other Liabilities			
Other Assets				Unrealized loss on interest rate swap	744,234	1,585,033	1,585,033
Intangible Assets	1,940,098	1,955,244	1,849,304	Deferred Revenue	1,891,553	2,227,262	2,291,610
Future payments in lieu of income taxes	(745,865)	(947,981)	(947,981)	Employee Future Benefits	1,472,268	1,492,917	1,492,917
Regulatory Assets	1,280,068	1,267,203	1,844,839	Long Term Debt			
				Consumer Deposits over one year	—	439,796	—
				RBC Loan - LT Portion	10,841,000	10,366,000	10,366,000
				Infrastructure Ontario Loan - LT Portion	936,640	746,654	746,654
				TOTAL LIABILITIES	43,264,571	44,866,726	42,757,901
				EQUITY			
				Share Capital - Common	9,468,388	9,468,388	9,468,388
				Share Capital - Preferred	6,100,000	6,100,000	6,100,000
				Retained Earnings	12,646,358	12,861,751	13,471,379
				Accumulated Other Comprehensive Income	(358,444)	(438,343)	(438,343)
				TOTAL EQUITY	27,856,302	27,991,796	28,601,424
TOTAL ASSETS	71,120,873	72,858,522	71,359,325	TOTAL LIABILITIES AND EQUITY	71,120,873	72,858,522	71,359,325

FESTIVAL HYDRO INC.

Income Statement

For the period ending June 30, 2021

	YTD as at Jun 30, 2020	YTD as at Jun 30, 2021	YTD Budget at Jun 30, 2021	Cur to Bdg YTD Var\$	Cur to Bdg YTD Var%
REVENUE					
Service Revenue	39,563,356	33,726,881	42,067,440	(8,340,559)	(20%)
Cost of Power	34,007,313	27,943,637	36,266,913	(8,323,276)	(23%)
GROSS MARGIN (DISTRIBUTION REVENUE)	5,556,043	5,783,245	5,800,527	(17,282)	(0%)
Other Operating Revenue	496,462	551,524	562,158	(10,634)	(2%)
OPERATING & MAINTENANCE EXPENSE					
Transformer & Distribution Station Expense	61,454	77,766	64,658	13,109	20%
Distribution Lines & Services Overhead	933,024	805,614	751,223	54,391	7%
U/G Distribution Lines & Services	70,373	130,472	92,443	38,029	41%
Distribution Transformers	38,547	60,964	45,238	15,726	35%
Distribution Meters	204,145	129,157	273,389	(144,231)	(53%)
Customer Premises	71,772	104,094	73,484	30,610	42%
TOTAL OPERATING AND MAINTENANCE	1,379,316	1,308,069	1,300,434	7,635	1%
ADMINISTRATION					
Billing, Collecting & Meter Reading	613,242	662,007	682,822	(20,816)	(3%)
Administration	1,205,927	1,286,679	1,259,783	26,896	2%
TOTAL ADMINISTRATION	1,819,169	1,948,685	1,942,605	6,080	0%
Allocated Depreciation	(75,946)	(61,096)	(61,096)	—	—
TOTAL CONTROLLABLE COST	3,122,539	3,195,658	3,181,944	13,715	0%
NET INCOME BEFORE DEP'N, INTEREST & TAX	2,929,966	3,139,111	3,180,741	(41,631)	(1%)
Depreciation	1,285,358	1,195,441	1,195,442	(0)	(0%)
Interest Expense	836,234	784,945	816,908	(31,963)	(4%)
Interest Income	(28,611)	(15,275)	(26,200)	(10,925)	(42%)
NET INCOME BEFORE SWAP, ICM & PBA & INC TAXES	836,985	1,173,999	1,194,592	(20,593)	(2%)
Current Tax	64,916	369,206	135,000	234,206	173%
NET INCOME BEFORE SWAP & ICM	772,069	804,793	1,059,592	(254,799)	(24%)
Unrealized Gain/Loss on Swap	—	—	—	—	—
Marketable Security - recorded as OCI	—	—	—	—	—

Cash Flow Statement

For the period ending June 30, 2021

	YTD as at Dec 31, 2020	YTD as at Jun 30, 2021
Cash from Operations		
Net Income	1,217,939	804,793
Depreciation	2,548,121	1,195,441
Amortization of deferred revenue in other revenue	(56,840)	64,348
Unrealized loss on interest rate swap	840,798	—
Decrease/(Increase) in Receivables	(1,018,060)	1,124,244
Decrease/(Increase) in Inventory	(41,285)	(136,407)
Decrease/(Increase) in Prepaids	33,219	94,098
Decrease/(Increase) in Due from FHSI	(89,088)	105,005
Decrease/(Increase) in PILS	(70,190)	33,000
Decrease/(Increase) in Unbilled Revenues	1,266,905	973,409
Decrease/(Increase) in Future Tax (offsetting entry in payab	202,116	—
Decrease/(Increase) in Regulatory Assets	(693,791)	(577,636)
Increase/(Decrease) in Payables	370,028	(873,500)
Increase/(Decrease) in Dividends Declared	(95,229)	(115,211)
Increase/(Decrease) in Deposits	(168,197)	(408,014)
Increase/(Decrease) in Employee Future Benefits	20,649	—
Contributed Capital	465,541	382,107
Net Cash Provided	4,732,635	2,665,678
Cash from Financing		
Loan Repayments	646,696	325,449
Cash Used - Capital Expenditures	3,224,478	1,694,067
Cash Used - TS expansion	—	—
TS Expansion Construction Loan Proceeds	—	—
Cash Used - Dividends paid current year	505,581	195,165
Cash Used - Dividends declared in prior year	—	—
Net Cash Used	4,376,755	2,214,681
Increase (Decrease) in Cash Position	355,880	450,997
Bank Indebtedness, Beg of Period	(1,333,068)	(977,188)
Bank Indebtedness, End of Period	(977,188)	(526,191)
Line of Credit Analysis	2020	2021
High balance (YTD)	2,452,459	3,245,015
Low Balance (YTD)	(3,306,722)	(3,720,000)
Overdraft interest (annualized)	49,025	25,254
Interest rate (avg annual for period)	2.45%	2.45%
Average overdraft balance	2,001,007	1,030,794

Key Financial Ratios:	Actual Ratio	Required Ratio
RBC Compliance Ratio - Funded Debt to Total Capital	0.50	Less than 0.65
Infrastructure Ont Compliance - Debt to Equity Test	31:69	Less than 75:25
Infrastructure Ont Compliance - Debt Service Ratio	2.11	Not less than 1.30X

FESTIVAL HYDRO INC.

Statement of Capital For the period ending June 30, 2021

	YTD as at Jun 30, 2020	YTD as at Jun 30, 2021	YTD Budget at Jun 30, 2021	Cur to Bdg YTD Var\$	Cur to Bdg YTD Var%
DISTRIBUTION					
Distribution Overhead	162,057	512,073	494,158	17,915	4%
Underground Conductor and Devices	329,279	176,033	428,278	(252,245)	(59%)
Distribution Transformers	136,160	183,065	163,144	19,921	12%
Services	67,368	170,511	—	170,511	(100%)
Distribution Meters	156,696	24,667	122,772	(98,105)	(80%)
SCADA/Distribution Automation	10,674	5,770	27,500	(21,730)	(79%)
Tools and Miscellaneous Equipment	5,664	11,867	15,000	(3,133)	(21%)
TOTAL DISTRIBUTION	867,899	1,083,986	1,250,852	(166,866)	(13%)
OTHER CAPITAL					
Land and Buildings	84,440	267,204	294,195	(26,991)	(9%)
Transformer Station	19,921	70,598	80,730	(10,132)	(13%)
Vehicles and Trailers	—	—	30,000	(30,000)	(100%)
Computer Hardware and Software	97,759	272,279	180,667	91,612	51%
TOTAL OTHER CAPITAL	202,121	610,080	585,592	24,489	4%



MANAGEMENT REPORT

Date: September 21, 2021
To: Finance and Labour Relations Sub-committee
From: Karmen Krueger, Acting Director of Corporate Services
Report#: FIN21-024
Attachments: FHSI – Q2 2021 financial statements – to June 30 2021

Title: Financial Statements and Commentary for Rhyzome (Festival Hydro Services Inc.- FHSI) for Q2 ending June 30, 2021

Objective: To consider the financial reports from FHSI for the period ending June 30, 2021.

Background: City Council is updated quarterly on the financial position of FHSI.

Analysis: As noted in the attached statements. Representatives from FHSI have been invited to attend as a delegation to present the attached report.

Financial Impact: Not applicable.

Alignment with Strategic Priorities:

Developing our Resources

Optimizing Stratford's physical assets and digital resources. Planning a sustainable future for Stratford's resources and environment.

Staff Recommendation: **THAT the Festival Hydro Services Inc. financial statements and commentary for the period ending June 30, 2021, be received for information.**



Karmen Krueger, Acting Director of Corporate Services



Joan Thomson, Chief Administrative Officer



Festival Hydro Services Inc.

Financial Statements

Prepared For:

Dave Gaffney and the Finance & Labour Relations Committee

September 2021

To: Dave Gaffney and the Finance and Labour Relations Committee
From: Alyson Conrad, CFO
Re: Commentary on FHSI Financial Results –
 For the period ended June 30, 2021

The net income for the period was \$90K which is \$2K over budget and \$12K higher than at this point last year. Detailed commentary on the balance sheet, income statement and cash flow are noted below:

Balance Sheet Commentary:

A/R & Prepaids – This balance is higher than Q1 2021 because of prepaid joint pole attachment expenses being billed by FHI in April this year. The prepaids balance is comparable to the Q2 balance from the prior year.

Capital Asset Additions – Additions to the end of June 2021 are \$41K or 54% of budget planned to date. This includes \$27K additions on computer software, \$7.6K on Fibre and \$6.5K on Wi-Fi related projects. Details on the capital spend to date are as noted below:

Computer Hardware/Software: Total spend for FHSI on hardware/software YTD is \$27K of which \$15K was spent on the Internal Network Assessment carried out by Digital Boundaries. \$12K was spent on heatmapping hardware/software which helps to trace Wi-Fi signals. This has already proven helpful when dealing with customer outages.

Wi-Fi Capital: Total YTD spend on Wi-Fi related activity is \$6.5K, the majority of which was used to purchase access point licences for the Wi-Fi Controller and the remaining spent on labour to complete the update of Stratford clusters of AP's to complete the Wi-Fi mesh.

Fibre Capital: Total spend on fibre capital YTD is \$7.6K. A portion was spent on capital costs of connecting a new HOT service and relocating the connection for Invest-Stratford. \$3K was spent on repairing a span of fibre impacted by an issue in Waterloo Street vault and re-connecting the St Mary's firehall. Lastly, \$2K was spent on Wightman expansion costs.

Due to Festival Hydro Inc. – The balance in this account decreased from the March 2021 balance by \$33K. The difference is mainly due to the Q1 Fibre Revenue from Wightman.

Deferred Revenue – this balance has decreased slightly from the March 2021 balance as a portion of the balance has been recognized into revenue for Q2 2021. No new contributions have been received in the year.

Income Statement Commentary:

Revenues – Revenues are \$58K lower than budget in Q2 but \$13K higher than prior year. The dark fibre rental agreement was renegotiated with Hydro One at a higher amount than budgeted, resulting in an increase of \$11K. This increase is offset by the decreases in Wi-Fi and ISP revenues which revenues have not seen the anticipated growth in the amount of \$10K. Consulting Revenue for FHSI employees to do work for FHI is under budget by approximately \$28K, the main reason being staffing delays. Lastly, Other Revenue – Miscellaneous is \$21K below budget mainly due to lower than anticipated growth for collocates.

Operating Expenses – Operating expenses are below budget by \$59K at the end of Q2. As noted above there were staffing changes and delays which decreased overall expenses by \$30K from budget. There are some decreases in Sentinel Lights, Fibre Optics and Wi-Fi maintenance costs; however, these expenses will be incurred through the remainder of the year. The additional decreases are mainly due to administration timing differences and lower expenses caused by Covid-19 limitations such as a training, conferences, and travel.

Cash Flow Commentary:

The cash balance has increased to \$37K from the \$22K March 2021 balance. As discussed above net income is slightly ahead of budget and ahead of the prior year. The variances in cash from year end are due to loan repayments, capital purchases and working capital items.

FESTIVAL HYDRO SERVICES INC.

Balance Sheet

For the period ending June 30, 2021

	YTD as at Jun 30, 2020	YTD as at Dec 31, 2020	YTD as at Jun 30, 2021		YTD as at Jun 30, 2020	YTD as at Dec 31, 2020	YTD as at Jun 30, 2021
ASSETS				LIABILITIES			
Current Assets				Current Liabilities			
Cash	53,879	9,529	36,626	Accounts Payable	(19,371)	33,014	41,795
Accounts Receivable & Prepaids	118,377	60,474	102,577	Due to Festival Hydro Inc.	1,315,431	627,071	522,067
Income Tax Receivable/(Payable)	—	—	—	Current Portion of LTD	152,294	41,707	20,853
Other Assets	—	—	—	Promissory Note	372,000	372,000	372,000
Inventory	8,019	7,773	7,773				
Total Current Assets	180,275	77,776	146,976	Total Current Liabilities	1,820,354	1,073,792	956,715
Fixed Assets				Other Liabilities			
Gross Book Value	5,520,448	5,394,392	5,435,440	Deferred Revenue	247,546	687,600	641,798
Accumulated Depreciation	(2,002,324)	(2,008,348)	(2,191,556)	Deferred Tax Liabilities	202,000	238,000	238,000
Net Book Value	3,518,124	3,386,044	3,243,884				
Other Assets				Long Term Debt			
Investment in QR Fibre Co.	—	—	—	RBC Financing	1	1	—
Investment Tax Credit Receivable	21,000	6,000	6,000	POP Loan Long Term Portion	405,521	363,813	363,813
				TOTAL LIABILITIES	2,675,422	2,363,207	2,200,326
				EQUITY			
				Share Capital	249,236	249,236	249,236
				Retained Earnings	794,742	857,378	947,299
				TOTAL EQUITY	1,043,978	1,106,613	1,196,534
TOTAL ASSETS	3,719,399	3,469,820	3,396,861	TOTAL LIABILITIES AND EQUITY	3,719,399	3,469,820	3,396,861

FESTIVAL HYDRO SERVICES INC.

Statement of Operations For the period ending June 30, 2021

	YTD as at Jun 30, 2020	YTD as at Jun 30, 2021	YTD Budget at Jun 30, 2021	Cur to Bdg YTD Var\$	Cur to Bdg YTD Var%
TOTAL REVENUE	648,900	662,084	719,802	(57,718)	(8%)
TOTAL OPERATING EXPENSES	372,928	363,688	423,125	(59,437)	(14%)
NET INCOME BEFORE DEPRECIATION & INTEREST	275,972	298,396	296,677	1,719	1%
Depreciation	164,867	183,208	183,208	—	—
Interest Expense	33,409	25,341	25,671	(330)	(1%)
Interest Income	(412)	(73)	—	(73)	—
NET INCOME FOR THE PERIOD BEFORE TAXES	78,108	89,920	87,798	2,122	2%
Current Tax Provision	—	—	—	—	—
Future Tax Provision	—	—	—	—	—
NET INCOME(LOSS) FOR THE PERIOD	78,108	89,920	87,798	2,122	2%

FESTIVAL HYDRO SERVICES INC.

Cash Flow Statement

For the period ending June 30, 2021

	YTD as at Dec 31, 2020	YTD as at Jun 30, 2021
Cash from Operations		
Net Income	140,744	89,921
Future tax provision	36,000	—
Current tax provision (ITC portion)	15,000	—
Depreciation	346,015	183,208
Amortization of contributed capital	(45,817)	(36,784)
Amortization of deferred revenue	(18,807)	(9,018)
Accretion of interest	—	—
Investment in QR Fibre Co.	—	—
Net Change in Receivables/Payables	(111,419)	(33,323)
Net Cash Provided	361,716	194,004
Cash from Financing		
Capital expenditures - Festival	(606,328)	(41,048)
Contributed capital received DSRC - AVIN	480,000	—
Loan - Wightman	(40,922)	(20,854)
Loan - RBC	(288,185)	—
Loan from/(repayment to) Festival	89,089	(105,005)
Net Cash Used	(366,346)	(166,907)
Increase (Decrease) in Cash Position	(4,630)	27,097
Cash Beg of Period	14,159	9,529
Cash End of Period	9,529	36,626

FESTIVAL HYDRO SERVICES INC.

Statement of Capital For the period ending June 30, 2021

	YTD as at Jun 30, 2021	YTD Budget at Jun 30, 2021	Cur to Bdg YTD Var\$	Cur to Bdg YTD Var%
CAPITAL				
Office Furniture & Equipment	—	—	—	—
Computer Equipment - Hardware	—	3,000	(3,000)	(100%)
Computer Software	26,938	25,238	1,701	7%
Sentinel Lighting Rental Units	—	—	—	—
Buildings	—	—	—	—
Fibre Capital	7,624	24,500	(16,876)	(69%)
WiFi Capital	6,486	23,500	(17,014)	(72%)
TOTAL CAPITAL	41,048	76,238	(35,189)	(46%)



**BY-LAW NUMBER XXX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to amend By-law 201-2000 as amended, with respect to zone change application Z09-21, to rezone the lands known municipally as 379 Ontario Street located on the south side of Ontario Street between Front Street and Queen Street in the City of Stratford to allow for a site-specific Mixed Use Residential (MUR) Zone.

WHEREAS authority is given to the Council of The Corporation of the City of Stratford by Section 34 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, to pass this by-law;

AND WHEREAS the said Council has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

AND WHEREAS the Council of The Corporation of the City of Stratford deems it in the public interest that By-law 201-2000, as amended, known as the Zoning By-law, be further amended.

NOW THEREFORE BE IT ENACTED by the Council of The Corporation of the City of Stratford as follows:

1. That Schedule "A", Map 5 to By-law 201-2000 as amended, is hereby amended:

by changing from Mixed Use Residential (MUR) Zone to a site-specific Mixed Use Residential (MUR) Zone, those lands outlined in heavy solid lines and described as Mixed Use Residential (MUR) on Schedule "A", attached hereto and forming part of this By-law, and more particularly described as PLAN 47 E PT LOT 10 W PT LOT 11 SUBJ TO ROW known municipally as 379 Ontario Street.

2. That By-law 201-2000 as amended, be further amended by adding to Section 10.4, being the Exceptions of the Mixed Use Residential (MUR) Zone the following:

- | | |
|---------------|--|
| <u>10.4.3</u> | <ol style="list-style-type: none"> a) <u>Defined Area</u> (379 Ontario Street)
MUR-3 as shown on Schedule "A", Map 5 b) <u>Permitted Uses</u>: <ul style="list-style-type: none"> • Hobby shop • All other uses permitted in the MUR zone c) <u>Definition</u> |
|---------------|--|

For the purposes of the Defined Area, the following shall apply:

- i) Hobby shop means an area of a building in which video games, card games, board games, or similar products are offered for sale.
- d) Maximum floor area permitted for a Hobby Shop:
61m²
- e) Special Use Regulations

A Hobby Shop is restricted to the ground floor only.

3. This By-law shall come into effect upon Final Passage and in accordance with the *Planning Act*.

Read a FIRST, SECOND and THIRD time and

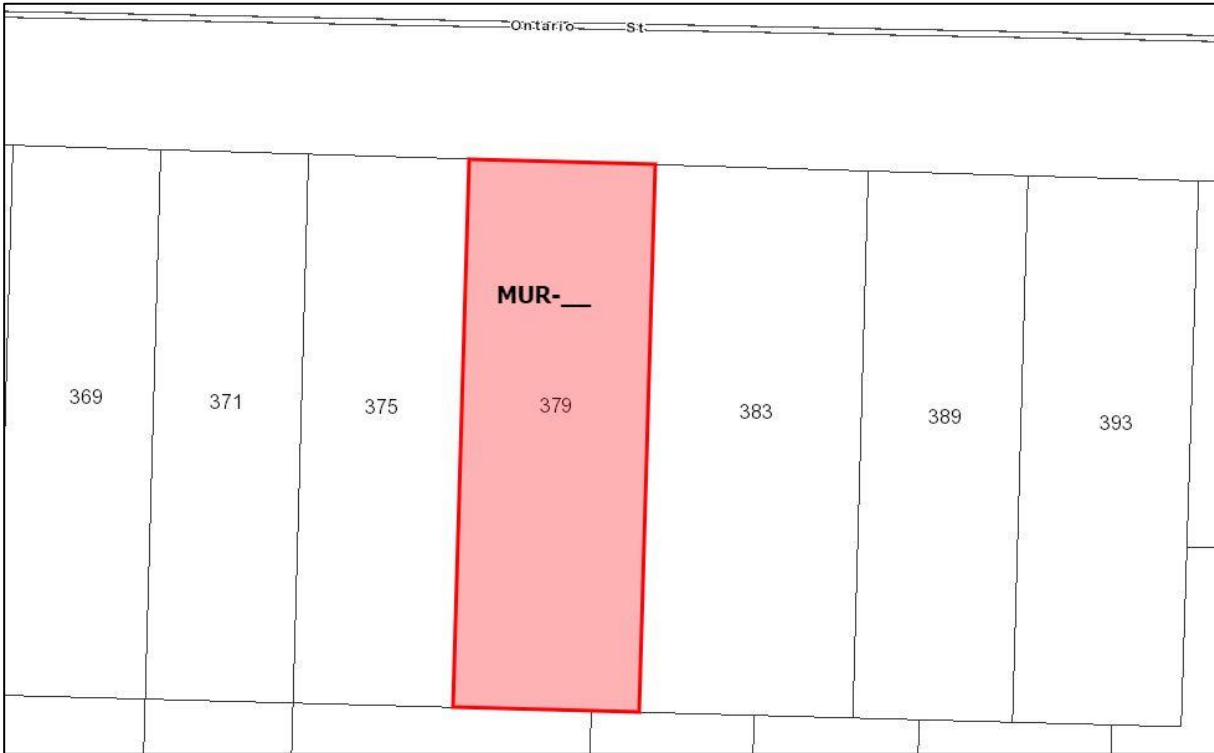
FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe

Schedule "A" to By-law ____-2021

379 Ontario Street, Stratford





**BY-LAW NUMBER XXX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to authorize the execution of the Consortium Agreement between The Corporation of the City of Stratford, The Corporation of the County of Bruce, The Corporation of the County of Grey, and The Corporation of the County of Huron.

WHEREAS Section 8.(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that the powers of a municipality under this or any other Act, shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 20(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, permit a municipality to enter into agreements with one or more municipalities to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own municipal boundaries;

AND WHEREAS Section 20(2) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, permits a municipality to provide the matter outside of its municipal boundary, subject to an agreement with a municipality that has the power to provide the matter;

AND WHEREAS the Consortium has been created in order to oversee the planning, design, and delivery of employment services in a way that is integrated, people-focused, cost-effective, and outcomes-driven within the Stratford-Bruce Peninsula Economic Region's service area (the "Service Area");

AND WHEREAS the Consortium will align its work with Ontario's commitment to find new and innovative ways to deliver employment services while remaining responsible stewards of public resources;

AND WHEREAS the purpose of the Consortium is to provide system-wide integrated employment services in a timely, effective and efficient manner which is responsive to the needs of each member municipality's service area and within the broader Service Area;

AND WHEREAS The Corporation of the City of Stratford, The Corporation of the County of Bruce, The Corporation of the County of Grey, and The Corporation of the County of Huron deem it necessary to enter into the Consortium Agreement;

NOW THEREFORE BE IT ENACTED by the Council of The Corporation of the City of Stratford as follows:

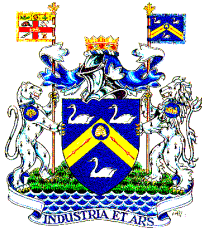
1. That the Mayor and Clerk, or their respective delegates, be authorized to execute the Consortium Agreement between The Corporation of the City of Stratford, The Corporation of the County of Bruce, The Corporation of the County of Grey, and The Corporation of the County of Huron with Bruce County acting as the lead agency.

Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



**BY-LAW NUMBER XXX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to authorize the transfer (conveyance) to
2389273 Ontario Limited of Parts 6, 7 and 8, Plan 44R-
5904, in the Crane West Business Park.

WHEREAS Section 8.(1) of the *Municipal Act, 2001, S.O. 2001, c.25 as amended*, provides that the powers of a municipality under this or any other Act, shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act, 2001*, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 10.(1) of the *Municipal Act 2001* provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Section 10(2) of the *Municipal Act 2001* provides that a single-tier municipality may pass by-laws respecting economic, social and environment well-being of the municipality;

AND WHEREAS the Council of The Corporation of the City of Stratford delegated authority by By-law 135-2017 as amended, to the Chief Administrative Officer to enter into agreements of purchase and sale in accordance with established Council policies, for vacant city-owned land in the Wright Business Park or in city-owned land in an industrial plan of subdivision, or in a city-owned designated business park, under certain conditions;

AND WHEREAS The Corporation of the City of Stratford entered into an Agreement of Purchase and Sale dated the 13th day of October, 2021 with 2389273 Ontario Limited for certain property described in Paragraph 2 herein;

AND WHEREAS a condition of the Agreement of Purchase and Sale is the passage of a by-law to authorize the sale of the property upon the terms and conditions contained in the Agreement by Council of The Corporation of the City of Stratford;

NOW THEREFORE BE IT ENACTED by Council of The Corporation of the City of Stratford as follows:

1. That the lands described in Paragraph 2 herein shall be conveyed to 2389273 Ontario Limited.
2. That the lands referred to in Section 1 hereof are described as:

- a. Part Lot 2, Concession 3 (Downie), now designated as Parts 6, 7 and 8, Plan 44R-5904, subject to a drainage easement over Part 6, Plan 44R-5904 as in R145534, being all of PIN 53264-0091 (LT).
3. That the Mayor and Clerk or their respective delegates, representing The Corporation of the City of Stratford, are hereby authorized to execute all necessary documents to transfer (convey) the lands described in Paragraph 2 herein to 2389273 Ontario Limited that have been prepared by or reviewed by the City's Solicitor.

Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



**BY-LAW NUMBER XXX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to accept the transfer (conveyance) from JDR Properties Inc. of Part 5, Reference Plan 44R-5881 as a condition of consent application B04-21 for 362 Albert Street.

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that the powers of a municipality under this or any other Act, shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act, 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Section 10(1) of the Municipal Act, 2001, provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS a condition of approval of Consent Application B04-21 is the conveyance to The Corporation of the City of Stratford of certain lands described herein;

NOW THEREFORE BE IT ENACTED by Council of The Corporation of the City of Stratford as follows:

1. That The Corporation of the City of Stratford shall accept a conveyance of Part Lot 100, Plan 47 being part of P.I.N 53101-0041 (LT), now designated as Part 5, Plan 44R-5881 for the widening of Albert Street from JDR Properties Inc.
2. That the Mayor and Clerk of The Corporation of the City of Stratford, or their respective delegates, are hereby authorized to execute all documents necessary for this conveyance that have been prepared by or reviewed by the City Solicitor.

READ a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



**BY-LAW NUMBER XXX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to dedicate Part 5 on Reference Plan 44R-5881, as a public highway forming part of Albert Street in the City of Stratford.

WHEREAS Section 8(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that the powers of a municipality under this or any other Act, shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 31(2) of the Municipal Act, 2001, provides that after January 1, 2003, land may only become a highway by virtue of a by-law establishing the highway and not by the activities of the municipality or any other person in relation to the land, including the spending of public money;

AND WHEREAS The Corporation of the City of Stratford is the owner of Part 5 on Reference Plan 44R-5881;

NOW THEREFORE BE IT ENACTED by Council of The Corporation of the City of Stratford as follows:

1. The lands described in Section 2 herein are hereby dedicated as public highway forming part of Albert Street in the City of Stratford.
2. The lands referred to in Section 1 hereof are described as being:

Part Lot 100, Plan 47 being part of P.I.N 53101-0041 (LT), now designated as Part 5 on Plan 44R-5881.
3. That this By-law shall come into force upon registration with the Land Titles Office for Perth County.
4. That the City Solicitor is hereby authorized to register or have registered, this By-law in the Land Titles Office for Perth County.

READ a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



**BY-LAW NUMBER ____-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to amend Section 8(1)(j), No Parking in Unposted Locations, and Section 82, Towing of Illegally Parked Vehicles, of the Traffic and Parking By-law 159-2008, as amended.

WHEREAS Section 10(1) of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Council of the Corporation of the City of Stratford adopted Traffic and Parking By-law 159-2008 to regulate traffic and the parking of motor vehicles in the City of Stratford;

AND WHEREAS Council has amended Traffic and Parking By-law 159-2008 from time to time as necessary to further regulate traffic and parking of motor vehicles;

AND WHEREAS Council deems it necessary to further amend Traffic and Parking By-law 159-2008, to amend Section 8(1)(j), No Parking in Unposted Locations, and Section 82, Towing of Illegally Parked Vehicles, of the Traffic and Parking by-law 159-2008, as amended.

NOW THEREFORE BE IT ENACTED by Council of The Corporation of the City of Stratford as follows:

1. That Section 8(1)(j), No Parking in Unposted Locations, to the Traffic and Parking By-law 159-2008, as amended, be further amended to include City Parking Lots, unless otherwise designated, as follows:

8 (1) No person shall park a vehicle in any of the following places during the specified times:

(j) on any roadway, shoulder, or City Parking Lot, unless otherwise designated, between 2:00 a.m. and 6:00 a.m.

2. That Section 82, Towing of Illegally Parked Vehicles, to the Traffic and Parking By-law 159-2008 as amended, be further amended to include additional provisions in which towing is permitted, as follows:

82. Where a vehicle has been left parked, standing, or stopped and is:

- a. in contravention of any of the provisions of this by-law;
- b. interfering with a street event where streets and/or parking lots are closed;
- c. interfering with snow removal and/or winter maintenance activities; or,

- d. interfering with road or parking lot maintenance and/or construction being undertaken by the City or its contractor;

a police officer/by-law enforcement officer/parking enforcement officer may, in addition to attaching a parking infraction notice to the vehicle, cause the vehicle to be taken to and placed in storage in a suitable place and all costs and charges for removing, care and storage thereof, if any, shall be a lien upon the vehicle which may be enforced pursuant to the Repair and Storage Liens Act R.S.O. 1990, c. R 25 as amended or any successor legislation.

3. The provisions of this By-law shall come into effect upon final passage.
4. All other provisions of the Traffic and Parking By-law 159-2008, as amended, shall remain in force and effect.

READ a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



**BY-LAW NUMBER ____-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to amend Schedule 19, Parking Permits, of the Traffic and Parking By-law 159-2008, as amended, to provide for 30 permits allowing a maximum of 72-hour parking time limit for permit holders in the Cooper Lot.

WHEREAS Section 10(1) of the Municipal Act, 2001, S.O. 2001, c. 25, provides that a single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS Council of the Corporation of the City of Stratford adopted Traffic and Parking By-law 159-2008 to regulate traffic and the parking of motor vehicles in the City of Stratford;

AND WHEREAS Council has amended Traffic and Parking By-law 159-2008 from time to time as necessary to further regulate traffic and parking of motor vehicles;

AND WHEREAS Council deems it necessary to further amend Traffic and Parking By-law 159-2008, to amend Schedule 19, Parking Permits, to provide for 30 permits allowing a maximum of 72-hour parking time limit for permit holders in the Cooper Lot;

NOW THEREFORE BE IT ENACTED by Council of The Corporation of the City of Stratford as follows:

1. That Schedule 19, Parking Permits, to the Traffic and Parking By-law 159-2008, as amended, be further amended to include the following provision:

"Cooper Lot – 30 permits maximum for a maximum parking time limit of 72 hours"

2. The provisions of this By-law shall come into effect upon final passage.
3. All other provisions of the Traffic and Parking By-law 159-2008, as amended, shall remain in force and effect.

READ a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



**BY-LAW NUMBER XXX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to authorize the execution of the Transfer Payment Agreement and other related documents between Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Transportation and The Corporation of the City of Stratford, to extend the Community Transportation Pilot Program to March 31, 2025.

WHEREAS Section 8.(1) of the Municipal Act, 2001, S.O. 2001, c.25 as amended, provides that the powers of a municipality under this or any other Act, shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS it is deemed expedient to authorize the execution of a Transfer Payment Agreement ("Agreement") with Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Transportation to extend the Community Transportation Pilot Program to March 31, 2025;

NOW THEREFORE BE IT ENACTED by Council of The Corporation of the City of Stratford as follows:

1. That the Mayor, Clerk, and Chief Administrative Officer, or their respective delegates, are hereby authorized to execute on behalf of The Corporation of the City of Stratford the Transfer Payment Agreement to extend the Community Transportation Pilot Program to March 31, 2025, between Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Transportation, and The Corporation of the City of Stratford.
2. That the Mayor, Clerk, and Chief Administrative Officer, or their respective delegates, as applicable, and the delegate specified in Schedule "B" of the Agreement are hereby authorized to execute on behalf of The Corporation of the City of Stratford any amendment to the Agreement or ancillary document necessary to fulfil the requirements.
3. That the Mayor, Clerk, or the Chief Administrative Officer, or their respective delegates, have the delegation of authority to execute any and all required documentation, on behalf of The Corporation of the City of Stratford as required under the Agreement.
4. That this By-law shall come into force and effect upon passage.

Read a FIRST, SECOND and THIRD time and
FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe



STRATFORD CITY COUNCIL

CONSENT AGENDA

October 25, 2021

REFERENCE NO. CONSENT AGENDA ITEM

CA-2021-129 Correspondence from the Solicitor General regarding the completed Community Safety and Wellbeing Plan for the City of Stratford, Town of St. Marys and County of Perth.

Attachment – Letter from Solicitor General dated October 12, 2021

For the information of Council.

CA-2021-130 Municipal Information Form for Liquor Licence Application for an indoor area at 5B York Street (Amigo's Café)

Section 2 - To be completed by the City Clerk.

Section 3 – Asking if Council has specific concerns regarding zoning, non-compliance with by-law or general objections to this application

Stratford Police Services, Fire Department and the Infrastructure and Development Department have not expressed concerns with this application.

CA-2021-131 In accordance with By-law 135-2017, the Infrastructure and Development Services Department provides notification that the following streets were temporarily closed to through traffic, local traffic only:

- Wellington Street from Downie Street to Market Place on October 13 for approximately 2 hours to allow for painting of the crosswalk.
- a 220-metre section of Mornington Street just north of Quinlan Road (Line 36) is scheduled to be closed to through traffic starting Tuesday, October 12 for approximately 8 weeks. This temporary closure is to allow for the installation of culverts, a sanitary sewer and watermain to service a new subdivision in the City's north end.

Traffic will be detoured around the work area using Quinlan Line 36 and Road 122, as well as McCarthy Road and Romeo Street.

- TJ Dolan from St. Vincent Street to John Street, Stratford on October 20, 2021 until approximately Friday, November 5, 2021 to facilitate the construction of a multi use trail.
- St. David Street, from TJ Dolan to St. Vincent Street beginning October 20, 2021 until approximately Friday, November 5, 2021 to facilitate the construction of a multi use trail.

CA-2021-132 Resolution from the Municipality of Leamington regarding long term care homes.

Attachment – Letter from Leamington dated October 8, 2021

Endorsement of the resolution is requested.

CA-2021-133 Resolution from the Township of Enniskillen regarding Cannabis Production and Processing Facilities.

Attachment – Letter from Enniskillen dated October 5, 2021

Endorsement of the resolution is requested.

Solicitor General

Office of the Solicitor General

25 Grosvenor Street, 18th Floor
 Toronto ON M7A 1Y6
 Tel: 416 326-5000
 Toll Free: 1-866-517-0571
 SOLGEN.Correspondence@ontario.ca

Solliciteur général

Bureau du solliciteur général

25, rue Grosvenor, 18^e étage
 Toronto ON M7A 1Y6
 Tél. : 416 326-5000
 Sans frais : 1-866-517-0571
 SOLGEN.Correspondence@ontario.ca



132-2021-2655
By email

October 12, 2021

His Worship Dan Mathieson
 Mayor, City of Stratford
 1 Wellington St P.O. Box 818
 Stratford ON N5A 6W1
dmathieson@stratford.ca

Dear Mayor Mathieson:

Thank you for your correspondence and sharing the completed community safety and well-being (CSWB) plan for the City of Stratford, Town of St. Marys and Perth County.

The [Community Safety and Well-being Plan - Roadmap for Collaboration: 2021-2024](#) demonstrates leadership and commitment to proactively addressing crime and complex social issues in your community. To this end, I would like to commend the joint efforts of the City of Stratford, the Town of St. Marys, the municipalities in the county, and all of the multi-sectoral partners for collaborating on the development of this comprehensive plan. As a result of these efforts, the plan will target local priority risks such as system planning and integration, affordable and accessible health, social and recreation services, and social inclusion through the implementation of your identified programs and strategies. As you know, it is by working together that we can truly make our communities safer and healthier.

The positive impacts of CSWB planning are clear. Through this collaborative planning process, communities can ensure better coordination between police services and community partners, not only through crisis response, but through proactive programs and strategies that address locally-identified risks and improve the social determinants of health (e.g., education, housing, mental services). This type of planning can also lead to improvements in service delivery across multiple sectors, benefitting everyone in the community.

Further, by engaging in this holistic approach to CSWB planning, communities can ensure that those in need receive the correct response by the appropriate service provider in a timely manner. In so doing, this will alleviate the long-term reliance on the criminal justice system and the financial burden of crime on society.

His Worship Dan Mathieson
Page 2

Throughout the implementation of your CSWB plan, it will be essential to measure outcomes on an ongoing basis in order to determine progress on addressing local priority risks. Over time, priorities may change as improvements are made to reduce identified risks in the community. Therefore, it will be important to regularly monitor and update your CSWB plan to ensure that the plan continues to be reflective of the needs of the community.

As we move forward with CSWB planning in Ontario, I want to thank you for your continued support and ongoing efforts in helping to build safer, stronger communities in Ontario.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Jones', with a stylized, cursive script.

Sylvia Jones
Solicitor General

c: His Worship Al Strathdee
Mayor, Town of St. Marys

His Worship Todd Kasenberg
Mayor, Municipality of North Perth

His Worship Walter McKenzie
Mayor, Municipality of West Perth

Her Worship Rhonda Ehgoetz
Mayor, Township of Perth East

His Worship Robert Wilhelm
Mayor, Township of Perth South

Jeneane Fast
Housing Stability Policy & Program Coordinator
City of Stratford



Legislative Services
111 Erie Street North
Leamington, ON N8H 2Z9
519-326-5761
clerks@leamington.ca

October 8, 2021

To Whom it May Concern:

Please be advised that the Council of The Corporation of the Municipality of Leamington, at its meeting held Tuesday, September 14, 2021 enacted the following resolution:

No. C-279-21

WHEREAS residents and staff at long-term care (LTC) homes have been disproportionately affected by COVID-19; and

WHEREAS in the first wave of the pandemic (March - July 2020) there were approximately 5,488 resident cases and 2,290 staff cases in Ontario and tragically 1,817 residents and seven staff lost their lives to this disease; and

WHEREAS on 15 April 2020, Premier Ford stated, “we will stop at nothing to protect those who cannot protect themselves. Today we are launching an all-out plan to fight COVID-19 in our long-term care homes. We will fortify the iron ring of protection around our long-term care residents and those who care for them. We’ll go further in our testing, screening, surveillance, targeting the homes facing outbreaks”; and

WHEREAS there have been approximately 9,417 resident cases and 4,217 staff cases in Ontario in the second wave (2 September 2020-16 February 2021) and 1,869 residents and three staff lost their lives, representing an increase of resident deaths from the first to second wave; and

WHEREAS for-profit LTC homes have seen a disproportionate incidence of care failing to meet the standard of the Long-Term Care Act, which states that “...a long-term care home is primarily the home of its residents and is to be operated so that it is a place where they may live with dignity and in security, safety and comfort and have their physical, psychological, social, spiritual and cultural needs adequately met”; and

WHEREAS the Canadian Armed Forces (CAF) report dated 20 May 2020 revealed conditions including inadequate staffing levels and training, limited medical supplies, unsafe medication administration, insufficient procedures to reduce the spread of

COVID-19, poor infection prevention and control standards of practice, deficiencies in infrastructure and significant concerns about standards of care including seniors calling out for help, rotting food, missed meals, seniors left in soiled diapers and linens and cockroach and bug infestations; and

WHEREAS similar conditions were found in the second wave, including ongoing shortages of qualified, trained staff, ineffective use of PPE to prevent COVID-19 transmission, violation of protocols and practices including one instance in which residents who had tested positive for COVID-19 had their door handles removed, physical distancing and isolation challenges from continuing to house several residents in ward rooms with a shared bathroom and ongoing infection prevention and control standard concerns, all problems that were not fixed after the recommendations of the CAF;

WHEREAS the Provincial Government has launched an independent commission to investigate COVID-19 spread within LTC homes, how residents, staff and families were impacted and the adequacy of measures taken by the province and other parties to prevent, isolate and contain the spread; and

WHEREAS the Association of Municipalities of Ontario (AMO) has provided a Board-approved submission, Improving the Long-Term Care Outbreak Response in Ontario: Submission to the Long-Term Care COVID-19 Commission, on 29 January 2021, outlining recommendations to the Commission on behalf of the municipal governments that operate 100 of the 626 long-term care homes in Ontario; and

WHEREAS AMO's submission puts forward 48 recommendations for action in both public and private long-term care homes across nine themes: Vision for Long-Term Care and Leadership Culture, Public Health and Safety, Planning and Communications, Staffing Measures, Care for Residents, Funding, Inspections - Enforcement and Compliance, and Mental Health and Well-Being; and

WHEREAS one of the key recommendations of the AMO submission is that the Ministry of Long-Term Care and Ministry of Health review the adequacy of infection prevention and control programs under the Long-Term Care Homes Act, 2007 in preventing and managing COVID-19 outbreaks, and to institute higher standards with increased funding to homes to implement these standards; and

WHEREAS the Canada Health Act's aim is to protect, promote and restore the physical and mental well-being of residents of Canada, and that the Federal Government provides health care funding to Provinces and Territories through the Canada Health Transfer; and

WHEREAS the Federal Government does not currently provide funding earmarked to support the LTC home sector, and;

WHEREAS the Federation of Canadian Municipalities (FCM) works with and advocates to the Federal Government to secure new tools and empower municipalities to build stronger communities; and

WHEREAS the operation of LTC homes is a municipal responsibility in Ontario but is of significance to the federal-municipal relationship.

NOW THEREFORE BE IT RESOLVED:

THAT Leamington Municipal Council endorses AMO's recommendations contained in its submission to the Long-Term Care COVID-19 Commission;

THAT Leamington Municipal Council strongly urges the Provincial Government to move forward with implementation of these recommendations, including instituting higher standards with increased funding to homes to implement those standards;

THAT Leamington Municipal Council advocate to the Federal Government to enhance federal health care funding to the Provinces and Territories, specifically dedicating funding to long- term care, and to undertake further efforts to protect, promote and restore the physical and mental well-being of long-term care residents in Canada;

THAT Leamington Municipal Council request the FCM to develop a policy and advocacy position on enhanced federal support for long-term care;

THAT this resolution be sent to the Prime Minister of Canada, the Premier of Ontario, the Federal and Provincial Ministers of Health, and FCM for their immediate action and that a copy be sent to AMO, and Windsor-Essex Members of Parliament and Provincial Parliament for their information;

AND that a copy of this resolution be sent to all Ontario upper-tier and single-tier municipalities for their endorsement.

Carried

Dated today, the 8th day of October, 2021.

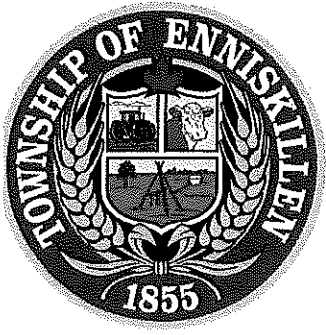
Brenda Percy

Signed with ConsignO Cloud (2021/10/12)
Verify with verifio.com or Adobe Reader.



Brenda Percy, Clerk

The Corporation of the Municipality of Leamington



TOWNSHIP OF ENNISKILLEN
 4465 Rokeby Line
 Petrolia, Ontario
 N0N 1R0
 Phone (519) 882-2490
 Fax (519) 882-3335

Duncan McTavish
 Administrator-Clerk/Treasurer
 Mike Cumming
 Road Superintendent

October 5 2021

Minister of Health
 Patti Hajdu
 House of Commons
 Ottawa ON K1A 0A6

Re: Cannabis Act

Dear Minister:

At the regular meeting of the Council of the Township of Enniskillen of October 4 2021 the following resolution was endorsed:

As the Council of the Corporation of the Township of Enniskillen through a resolution January, 2021 had enacted an Interim Control Bylaw to undertake a review of land use policies related to Cannabis Production & Processing Facilities.

The Township of Enniskillen is considered rural with several settlement areas and is primarily zoned Agricultural and has endured the placement of a cannabis facility in our township since the inception of the *Cannabis Act* with little or no compliance, enforcement or oversight from Health Canada. Furthermore, dealing with the enforcement of nuisances such as odour, lights and noise and having only one recourse which is an appeal to the *Normal Farm Practices Protection Board*. This process is costly, lengthy and, in the meantime, causes negative impacts on neighbouring homeowners and unsatisfactory living conditions with the end results costing ALL of the ratepayers of this municipality.

And Whereas correspondence from Health Canada has stated that licenses have regulatory requirements for producers and Health Canada has a range of enforcement tools at its disposal to verify compliance including regular inspections of license holders. This has been proven ineffective in our municipality with both *medicinal and recreational licensed cannabis*. Health Canada also encouraged to immediately contact our local law enforcement should we suspect illegal activity in our community. Enniskillen, as well as municipalities all across Ontario have incurred extraordinary expenses due to this "encouragement" as the only alternative.

And Whereas with the establishment of cannabis growing operations, and lights, odours and noise are not being properly regulated, and being left up to municipalities to shoulder these concerns, and Health Canada controls the regulations for cannabis growing operations.

THEREFORE, BE IT RESOLVED the Council of the Township of Enniskillen enacts the following:

- ***that Health Canada research more fully when AND before an applicant is issued a license for either medicinal or recreational cannabis***
- ***AND notification and/or communication be given to the appropriate municipality***
- ***AND that regular inspections of these facilities should be MANDATORY to verify compliance by license holders***
- ***AND upon complaints received by Health Canada online reporting should trigger an unannounced inspection.***
- ***AND a comprehensive study of the Cannabis Act be undertaken as many Ontario municipalities have encountered problems.***

AND That copies of this resolution be forwarded to **ALL** Ontario municipalities, and the following:

Federal Minister of Health –
 Provincial Minister of Health – Hon. Christine Elliott
 Minister of Municipal Affairs & Housing – Hon. Steve Clark
 Sarnia-Lambton-Kent MP – Marilyn Gladu
 Sarnia-Lambton-Kent MPP – Bob Bailey
 London West MPP - Peter Fragiskatos

Yours truly,


 Duncan McTavish
 Clerk



**BY-LAW NUMBER XX-2021
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to confirm the proceedings of Council of The Corporation of the City of Stratford at its meeting held on October 25, 2021.

WHEREAS subsection 5(1) of the *Municipal Act, 2001, S.O. 2001 c.25* as amended, provides that the powers of a municipal corporation are to be exercised by its council;

AND WHEREAS subsection 5(3) of the *Act* provides that the powers of council are to be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS it is deemed expedient that the proceedings of the Council of The Corporation of the City of Stratford at this meeting be confirmed and adopted by By-law;

NOW THEREFORE BE IT ENACTED by the Council of The Corporation of the City of Stratford as follows:

1. That the action of the Council at its meeting held on October 25, 2021, in respect of each report, motion, resolution, recommendation or other action passed and taken by the Council at its meeting, is hereby adopted, ratified and confirmed, as if each report, motion, resolution or other action was adopted, ratified and confirmed by its separate by-law.
2. The Mayor of the Council and the proper officers of the City are hereby authorized and directed to do all things necessary to give effect to the said action, to obtain approvals where required, and, except where otherwise provided, to execute all documents necessary in that behalf in accordance with the by-laws of the Council relating thereto.

Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this 25th day of October, 2021.

Mayor – Daniel B. Mathieson

Clerk – Tatiana Dafoe