

COMMITTEE AGENDA



TO **Corporate Administration, Finance and Emergency Services
Committee**

DATE March 14, 2011

LOCATION Council Committee Room (Room 112)

TIME 5 p.m.

DISCLOSURE OF PECUNIARY INTEREST

CONFIRMATION OF MINUTES – January 18, 2011

PRESENTATIONS (Items with no accompanying report)

a)

CONSENT AGENDA

The following resolutions have been prepared to facilitate the Committee's consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with separately. The balance of the Corporate Administration, Finance & Emergency Services Committee Consent Agenda will be approved in one resolution.

ITEM	CITY PRESENTATION	DELEGATIONS	TO BE EXTRACTED
CAFES-6 Guelph Junction Express Update			
CAFES-7 Economic Development & Tourism Services: 2010 Accomplishments – 2011 Work Plan	<ul style="list-style-type: none">Peter Cartwright, General Manager of Economic Development & Tourism		√
CAFES-8 Litigation Status Report Dated March 7, 2011			

Resolution to adopt the balance of the Corporate Administration, Finance & Emergency Services Committee Consent Agenda.

ITEMS EXTRACTED FROM CONSENT AGENDA

Once extracted items are identified, they will be dealt with in the following order:

-
- 1) delegations (may include presentations)
 - 2) staff presentations only
 - 3) all others.

OTHER BUSINESS

NEXT MEETING – April 11, 2011 at 5 p.m.

**The Corporation of the City of Guelph
Corporate Administration, Finance, and Emergency Services
Committee
Tuesday, January 18, 2011, 5:00 p.m.**

A meeting of the Corporate Administration, Finance and Emergency Services Committee was held on Tuesday, January 18, 2011 in the Council Committee Room (Room 112) at 5:00 p.m.

Present: Councillors Dennis, Hofland, Kovach, Wettstein and Mayor Farbridge

Also Present: Councillors Bell, Furfaro, Guthrie and Van Hellemond

Staff Present: Mr. H. Loewig, Chief Administrative Officer; Ms. M. Neubauer, Chief Financial Officer/City Treasurer; Mr. M. Amorosi, Executive Director Human Resources and Legal Services; Dr. J. Laird, Executive Director, Planning, Engineering and Environmental Services; Ms. A. Pappert, Executive Director, Community & Social Services; Mr. D. McCaughan, Executive Director, Operations & Transit; Mrs. L.A. Giles, General Manager of Information Services/Clerk; and Ms. D. Black, Assistant Council Committee Co-ordinator

There was no disclosure of pecuniary interest.

1. Moved by Councillor Kovach
Seconded by Councillor Wettstein
THAT the minutes of the Finance, Administration and Corporate Services Committee meeting held on September 13, 2010 be confirmed as recorded and without being read.

Carried

Consent Agenda

Councillor Hofland advised that the presentation from the Guelph and District Multicultural Festival will be made as part of the 2011 budget process.

The following items were extracted from Corporate Administration, Finance & Emergency Services Committee January 18, 2011 Consent Agenda:

- CAFES-2011 A.1 Finance Department Operational Review
- CAFES-2011 A.3 City of Guelph Emergency Response Plan & Emergency Management Program
- CAFES-2011 A.4 Non-Union Termination Policy
- CAFES-2011 B.2 Guelph Junction Express

2. Moved by Mayor Farbridge
Seconded by Councillor Dennis

THAT the balance of the Corporate Administration, Finance & Emergency Services Committee January 18, 2011 Consent Agenda, as identified below, be adopted:

a) Committee Mandate and Charter

REPORT

THAT the Corporate Administration, Finance and Emergency Services Committee Mandate and Charter be amended as follows:

- deleting "in the event consensus cannot be achieved on recommendations to be made to Council, the normal voting process will occur consistent with approved by-laws";
- changing "the Chair shall vote on any motion" to "the Chair shall vote on all motions";
- adding "members of Council who are not committee members are encouraged to attend meetings and participate in debate, but may not vote on motions"

AND THAT the Corporate Administration, Finance & Emergency Services Committee Mandate and Charter be approved as amended."

Carried

Presentation

Financial Condition Assessment

Mr. J. Bruzzese, BMA Consulting provided an overview of the 2010 Financial Condition Assessment including growth-related indicators, taxation and affordability, reserve, debt and other financial indicators.

Consent Agenda

Finance Department Operational Review

Mr. J. Bruzzese, BMA Consulting, provided an overview of the Finance Department Operational Review which included clarifying the role of the department and addressing feedback, including the financial planning and policy division, purchasing and risk management division, financial reporting accounting and control division, and the taxation and revenue division.

Ms. N. Neubauer

Staff were directed as part of the budget process to provide information on efficiencies to be gained in other departments as a result of the proposed staffing changes in the Finance Department, as

well as statistics showing an analysis of Finance Department staffing levels approved in budgets over the past 8-10 years.

REPORT

3. Moved by Councillor Kovach
Seconded by Mayor Farbridge

THAT Report FIN-11-04 dated January 18, 2011 regarding the Finance Department Operational Review Study prepared by BMA Management Consulting Inc. be received for information purposes.

AND THAT the financial resources required to implement the recommendations of the operational review study be referred to the 2011 budget process.

AND THAT the Chief Financial Officer provide regular reports through the Corporate Administration, Finance and Emergency Services Committee and the Audit Committee regarding on-going progress in reviewing and implementing improvements to accounting processes without budgetary impact as identified in the BMA study.

Carried

Guelph Junction Express

Ms. Rita Carroll on behalf of the Guelph Junction Express tourist train operation, outlined their milestones since 2008 and addressed current operating issues. She provided their recommendations to resolve their hydro, water and access issues. She then advised of the requirements for infrastructure support and the requested next steps.

Mr. P. Cartwright
Mr. T. Sagaskie

4. Moved by Councillor Kovach
Seconded by Councillor Dennis

THAT staff be directed to enter into discussions with Guelph Junction Railway to explore possibilities of assisting the Guelph Junction Express.

Carried

Mr. P. Cartwright

5. Moved by Mayor Farbridge
Seconded by Councillor Kovach

THAT the Information Report dated January 18, 2011, of the General Manager of Economic Development and Tourism Services regarding City's efforts to support the Guelph Junction Express, be received.

Carried

City of Guelph Emergency Response Plan & Emergency Management Program

REPORT

6. Moved by Councillor Dennis
Seconded by Councillor Kovach
THAT Council adopt the 2011 Emergency Response Plan and Emergency Management Program by by-law.

Carried

Non-Union Termination Policy

Mr. M. Amorosi

7. Moved by Councillor Kovach
Seconded by Mayor Farbridge
THAT the Non-Union Termination Policy dated January 18, 2011 be received for information as amended to add that information also be provided to Council upon request.

Carried

The meeting adjourned at 7:56 p.m.

.....
Chairperson

**CORPORATE ADMINISTRATION, FINANCE & EMERGENCY SERVICES COMMITTEE
CONSENT AGENDA**

March 14, 2011

Members of the Finance, Administration & Corporate Services Committee.

SUMMARY OF REPORTS:

The following resolutions have been prepared to facilitate the Committee’s consideration of the various matters and are suggested for consideration. If the Committee wishes to address a specific report in isolation of the Consent Agenda, please identify the item. The item will be extracted and dealt with immediately. The balance of the Finance, Administration & Corporate Services Committee Consent Agenda will be approved in one resolution.

A Reports from Administrative Staff

REPORT	DIRECTION
<p>CAFES-2011 A.6) GUELPH JUNCTION EXPRESS UPDATE</p> <p>THAT the report ‘Guelph Junction Express Update’ prepared by the General Manager of Economic Development & Tourism Services dated March 14, 2011, be received for information.</p>	Receive
<p>CAFES-2011 A.7) ECONOMIC DEVELOPMENT & TOURISM SERVICES: 2010 ACCOMPLISHMENTS – 2011 WORK PLAN</p> <p>THAT the Information Report dated March 14, 2011, which has been prepared by the General Manager of Economic Development and Tourism Services regarding the 2010 accomplishments and 2011 work plan for Economic Development and Tourism Services, be received.</p>	Receive
<p>CAFES-2011 A.8) LITIGATION STATUS REPORT DATED MARCH 7, 2011</p> <p>THAT the Litigation Status Report dated March 7, 2011, be received for information;</p> <p>AND THAT the report now proceed on a semi-annual basis with an annual report regarding numbers of claims.</p>	Approve

B Items for Direction of Committee

attach.

INFORMATION REPORT



TO Corporate Administration, Finance & Emergency Service Committee

SERVICE AREA Economic Development and Tourism Services

DATE March 14, 2011

SUBJECT Guelph Junction Express Update

REPORT NUMBER

SUMMARY

At the meeting of the Corporate Administrative, Finance & Emergency Services (CAFE) Committee meeting held on January 18, 2011, the following resolution was adopted:

"That staff be directed to enter into discussions with Guelph Junction Railway to explore possibilities of assisting the Guelph Junction Express"

The purpose of this information report is to provide Council with a summary of the activities that have occurred since the January 18th CAFE Committee meeting.

BACKGROUND

The January 18, 2011 CAFE meeting dealt with two items regarding the Guelph Junction Express (GJE).

The first was a presentation made by the GJE requesting infrastructure funding assistance from the City. A copy of this presentation is provided as **Attachment "A"**.

The second item was a staff Information Report which highlighted the business funding restrictions placed on municipalities as per the Municipal Act, 2001 as well as a summary of the Town of Collingwood's business funding relationship with the Credit Valley Express. A copy of this report is provided as **Attachment "B"**.

REPORT

As directed by the CAFE Committee, a meeting was convened on January 26th between the GJE, Economic Development and Tourism Services staff, Guelph Junction Railway (GJR) and the Chamber of Commerce. Councillors Furfaro and VanHellemond also attended.

The meeting considered a number of matters raised by the GJE in order to continue its operation. They included:

1. The requirement of water and hydro infrastructure at the Arkell Rail Yard.

The hydro and water infrastructure operating issues have been well documented by the GJE. The GJE again confirmed that this infrastructure is required to operate the train throughout the year, especially through the winter months.

The cost estimate provided by the GJE to install these services at the Arkell rail yard, which is leased from GJR, is in the order of \$40,000. The payment of this cost was the main issue discussed. No resolution was found with respect to how this cost would be funded.

2. The need for a new contract between the GJE, GJR and the Ontario Southland Railway (OSR).

The original two year contract between the GJE, GJR and OSR terminated in late 2010. The structure of the contract was intended to allow the GJE an opportunity to establish its share of the tourism and visitor market.

The original contract permitted the GJE to run primarily run weekend excursions, with the opportunity of running some weekday services so long as the GJR did not have any conflicting freight contracts.

The GJE indicated that it would like to see a new contract which included an increase to the number of weekday excursions.

The GJR indicated that it may enter into a new contract with the GJE as long as it made business sense to the GJR. Therefore it would require a more formal and detailed business case from the GJE.

3. The need for a dedicated passenger loading venue.

The GJE indicated that in order to provide continuity to its clients it requires one venue to load its passengers. In the past it used the River Run Centre (RRC) location as well as the Youth Music Centre (YMC). This situation has created problems for the GJE in the marketing and operation of its excursions.

The use of both sites has also resulted in logistic issues for the GJE, the RRC and the YMC, most notable around the coordination of event schedules as well as providing disability access to the excursion train for some of its clients.

At the conclusion of this meeting it was agreed that a business model which addressed all of the above issues needed to be developed. The Chamber of Commerce therefore offered its assistance to explore with the GJE alternate business models which might comprehensively address the above matters.

On January 28th the Chamber of Commerce presented on behalf of the GJE a conceptual business model to Economic Development and Tourism Services as well and Community and Social Services.

Community and Social Services was brought into the discussions because the model was based on a contractual business relationship between the GJE and the River Run Centre. In summary the main points of the concept are as follows. Staff's comments to these points are provided further in the report.

1. The RRC to be used as the GJE's principle boarding location.

As previously indicated, the GJE has indicated a need to operate from a consistent boarding location. The GJE has for sometime viewed the RRC as its preferred location due to its proximity to the downtown, parking as well as access to the RRC's amenities and services. The GJE has made it clear that no other location within the City of Guelph is suitable.

2. The RRC to provide GJE access to its hydro and water service.

The GJE is proposing that the RRC provide access to its hydro and water service. This would negate the cost to install these services at the Arkell site. It is uncertain if the current RRC water and hydro services could accommodate the GJE's demands. Further investigation would be required.

3. The RRC to contract excursion services and the leasing of cars with the GJE.

The GJE is proposing that the RRC enter into a contract for the GJE to provide excursion services for the 2011 season. As well the GJE is proposing that the RRC lease a number of its cars.

4. The sale of GJE tickets to be managed through the RRC.

The proposal also calls for the RRC to administer and manage ticket sales for the 2011 season. The proposal provides for the RRC to re-coup its contractual and overhead costs through ticket sales.

5. The term of the contract to commence in March 2011.

The GJE has indicated that it needs an agreement as soon as possible to allow it to commence operations this March. Should an agreement not be possible the GJE would have to lease or sell its rail cars. It is understood that there are tentative agreements from others to acquire the GJE's rail cars.

In providing comments, staff acknowledges that the proposal is conceptual in nature. Additional financial detail from GJE would be required to conduct a thorough assessment. Without this information it is not possible to provide definitive commentary on the financial viability to implement this model.

Having stated this, staff of Economic Development and Tourism Services and Community and Social Services would like to provide the following comments regarding the concept proposed.

The use of the RRC as the principle loading venue for the GJE has been discussed with the GJE over the last twelve months. One of the major issues raised in using the RRC is the need to install a wheel chair accessible ramp or lift at the east lobby exit. Both the GJE and RRC acknowledge the need for clients with disabilities to access the train.

Detailed assessment has been carried out to determine if a ramp can be constructed and it has been determined by both the RRC and the GJE that it is not possible to construct a ramp due to area constraints. As well such a construction would result in fire code issues.

Staff have proposed that the installation of an external lift beside the RRC may be viable. However the GJE has indicated this would not be acceptable due to the slow time it would take to load passengers. On this point there appears to be no compromise from the GJE.

The proposal to use the RRC as the GJE's principle loading venue also raises logistic issues with respect to coordinating the operating schedules between the RRC and the GJE. Currently, the RRC staggers the curtain times for the Co-Operators' Hall and the Main Stage, as occupancy limits in the shared lobby is limited by fire code. It will further impact the operation of the RRC's theatres to incorporate a third scheduling of GJE bookings at the same time, due to the limited area and the volume of patrons.

While there may be sporadic opportunities to increase revenues by combining RRC events with GJE excursions, it appears that such opportunities will be limited.

Due to these logistic concerns it is staff's opinion that the RRC cannot be used as the GJE's principle boarding location.

With respect to the RRC providing both hydro and water service it is uncertain if adequate hydro service is available. Further assessment would be required. The RRC would be seeking the GJE to pay for any required upgrades to these services as well as paying for its share of its use.

As stated earlier, no financial data or projections for this proposal have been provided by the GJE. As Council is aware, the RRC operates as a corporate business unit with the objective of turning a profit. Having stated this staff have identified a number of financial matters relating to this proposal.

It is anticipated that the GJE's use of the RRC would result in additional staffing and operational costs to the RRC. As previously stated should the GJE have access to the RRC it would be outside the times of other events. Due to union contracts there would be a requirement to staff the facility, the costs of which

would be charged to the GJE. Currently the rate to lease the RRC would be \$2,000 per day or \$1,200 per half day. Even if rent was waived, staff costs would still apply which is estimated to be \$100.00 for a 2 hour train ride.

The proposed concept would also increase front end costs and risk due as a result of the RRC contracting excursion services and lease cars from the GJE.

With respect to the GJE's proposal that the RRC sell tickets and retain a portion of the proceeds to offset the RRC's contractual and operational costs it is simply impossible for staff to understand the financial consequences until such time that a proper business plan and proforma is developed.

It is staff's opinion that the GJE requires a revised long term business plan which would address its needs to operate on a sustainable long term basis. Given the complexity of issues that need to be addressed there is simply not enough time or resources to negotiate the details of these agreements in time for a March start up. Staff therefore did indicate that it would be willing to work with GJE on developing a long term plan for its continued operation.

In responding to our comments and concerns the GJE has expressed its concern that it has run out of time to prepare a comprehensive plan. It therefore is considering selling off its assets and will not be operating in 2011.

At this time no further discussions or meetings are planned.

CORPORATE STRATEGIC PLAN

N/A

FINANCIAL IMPLICATIONS

N/A

DEPARTMENTAL CONSULTATION/CONCURRENCE

Community and Social Services
Economic Development & Tourism Services
Guelph Junction Railway
Guelph Chamber of Commerce

COMMUNICATIONS

N/A

ATTACHMENTS

Attachment "A" – Guelph Junction Express Presentation – January 16, 2011 CAFE Committee Meeting

Attachment "B" – January 16, 2011 CAFE Committee meeting Information Report



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Guelph Junction Express

Funding Requirements



What is the Guelph Junction Express

- Lunch, Dinner + Bar service
- stainless steel climate controlled passenger cars
- capacity of 228 passengers with option to expand
- Passengers board and disembark in the heart of downtown Guelph
- Ability to operate year-round.

Milestones

- September 20, 2008 - Official Launch.
- Nov & Dec, 2008 - Shared resources with Downtown Guelph Business Association to run our first Santa Express Trains.
- April 2009 - GHRA Rare-Mileage Tour (Sold Out)
 - Drew Rail-fans from 3 Provinces and 5 U.S. States
 - Raised over \$7,000 for the GHRA
- May 2009 – Guelph Chamber Breakfast (Sold Out)
- May 2009 – First Mothers Day Excursion (Sold Out)

Milestones continued...

- June 2009 – Great Train Caper (Train Robbery)
 - Raised \$7,000 for Guelph Community Foundation
- August 2009 – John Galt Day over 600 passengers
- August 2009 – Hydro Pension Group (Sold Out)
- October 2009 – Ladies Red Hat Society (Sold Out)
- December 2009 – First New Year's Eve Train (Sold-Out)
- February 2010 – Haiti Earthquake Relief Train
 - Raised over \$10,000 for Doctors Without Borders

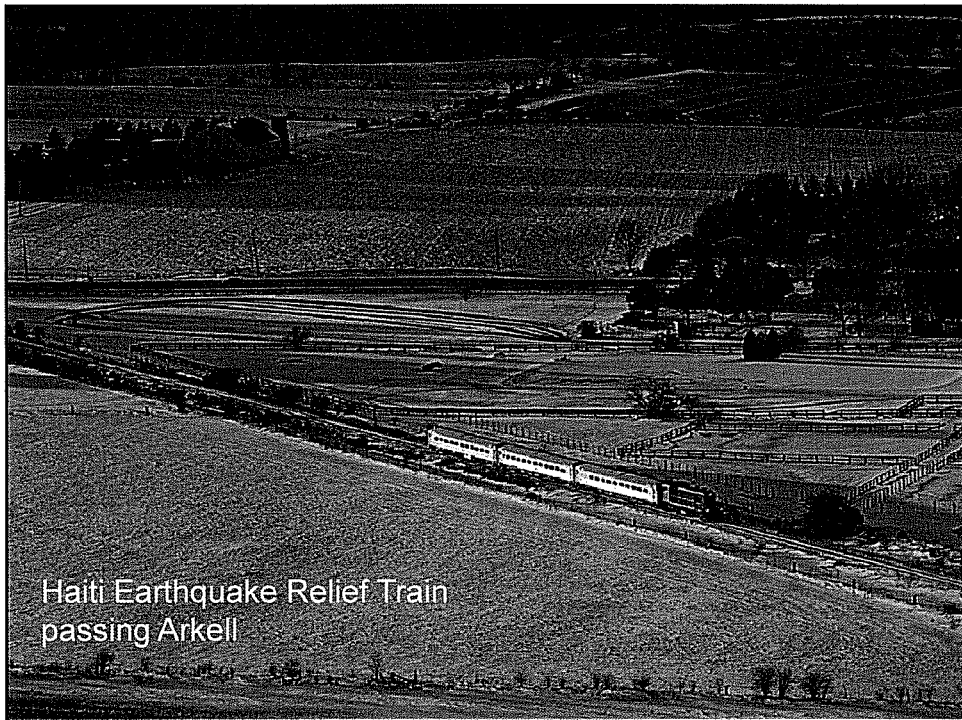
Milestones continued...

- February 2010 – GSO Valentine’s Love Train (Sold Out)
 - First excursion in conjunction with a River Run show
- September 2010 – Guelph Legion Veterans Train
 - Honour our local War Veterans
 - Featured Fly-By of Canadian Forces CF-18 Fighter Jet

Santa Express Trains

- Steady climb in popularity
- Nov/Dec 2008 – 639 Passengers
- Nov/Dec 2009 - 1,098 Passengers
 - (some times slots sold-out)
- Nov/Dec 2010 – 1,320 Passengers
 - All trains Sold Out one month in advance
 - 65% of passengers from out of town
 - Becoming very popular in 416/905 area codes

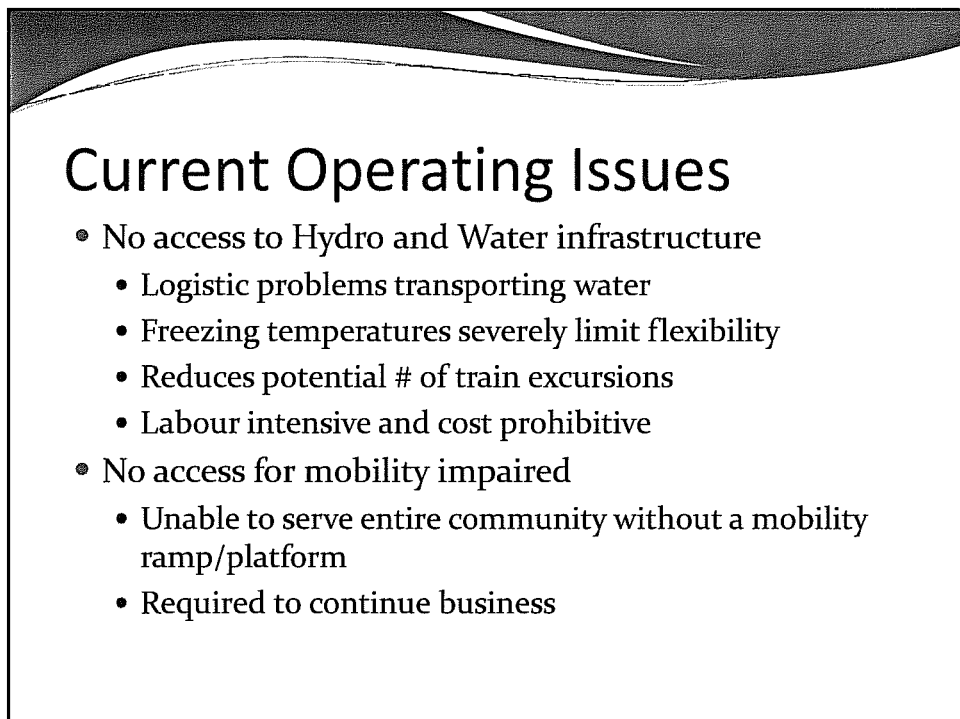




Haiti Earthquake Relief Train
passing Arkell



Veteran Appreciation Train
during fly-by salute



Current Operating Issues cont...

- Parking limitations
 - Lack of parking near boarding area (River Run)
 - Parking unavailable during events at River Run and Sleeman Centre
 - 3 hour on street parking required at GYMC (Cardigan Street)
 - Arkell unusable in wet weather
- Boarding Issues
 - Lack of shelter (wind, rain, snow)
 - Snow clearing on sidewalk and along tracks

Business Plan

- GJE needs the ability to operate year-round to be successful
- Railcars are capable of operating year-round with proper hydro plug-in (shore power) to keep systems from freezing during winter months
- Attempts to re-establish former GO power at Guelph Junction from Canadian Pacific Railway failed
- Cars moved to current site (GJR property) in Arkell in hopes of securing stimulus funding for hydro/water
- Interim operating plan established for winter
- We have already invested over \$10,000 in site improvements on GJR land in Arkell

Current Pre-Excursion Operating Procedures (Winter)

- Portable generator must run for at least 5 hours to power block heater on our railcar generator before it can be started
- Main generator is then started and run for 2 hours to heat cars and allow for catering setup
- During this time 40 gallons of water is transported in to fill the first washroom water tank with an electric pump
 - Process is repeated again to fill second 40 gallon tank

Post-Excursion Operating Procedures (Winter)

- All remaining water in washroom tanks must be dumped after excursions
- Warm-up procedures must be followed again a few days later to allow cleaning crew to work

Winter Operating Issues

- Wasted fuel with excessive running of portable generator
- Wasted fuel with excessive running of main generator
- Wasted fuel to transport water from home (2 trips)
- Wasted water after each excursion
- Even with dumping all remaining water after excursions plumbing has still been damaged and waste tanks often freeze before they have time to process
- Labour involved is not practical or cost effective

Shoulder Season (Spring & Fall)

- Evening temperatures drop below 10°C
 - Freon can migrate into A/C compressors
- Daytime temperatures reach 12°C+
 - Railcars will call for air-conditioning
- If compressor attempts to start it can be damaged and must be replaced (\$4,000 + labour)
- Crankcase heaters need to be powered for 24 hours before operating air-conditioning compressors
 - Portable generator must run all night to power heaters...

Hydro Solution

- Installation of 480v 200 amp service will provide ability to plug-in rail cars to:
 - Prevent systems from freezing
 - Power block heater all night prior to excursions
 - Power crankcase heaters with a automatic thermostat
 - Allow operation of onboard HVAC at anytime to:
 - Load catering
 - Cleaning of railcars
 - Perform maintenance repairs
 - All using less expensive grid power

Water Solution

- Drilling of well and installation of pump to provide source for filling water tanks onsite
- House pump inside a shipping container with 480v transformer to keep from freezing
- Shipping container and transformer is already onsite

Access Solution

- Erect a semi-permanent access ramp and boarding platform
 - Ideally close to parking
- Provides safe efficient boarding for anyone not able to navigate stairs
- Roof canopy to shelter waiting passengers
- Currently no location available to install ramp

Ideal Solution

- Same as what the CVE currently has in Orangeville:
 - Railcars could be stored with required infrastructure
 - Paved compound with adequate parking onsite
 - Access ramp with proper boarding platform and shelter canopy
- Arkell site could work but would not be ideal for city from tourism prospective

Requirements for Infrastructure Support

- Infrastructure on city/GJR owned property
 - Hydro/water access would be available to any GJE customer including OSR
 - Mobility boarding
 - Parking and access solutions
- Determine relationship between Orangeville and CVE and how funding is structured

Other Option

- City could buy/lease railcars and run Guelph Junction Express

Next Steps

- If committee is supportive of the tourist train then refer the matter to City's legal staff for their assessment:
 - As to how infrastructure funding could occur to GJR (i.e. Non bonusing)
 - If required, modify GJR shareholder declaration to include in its mandate tourism and other passenger movement

Guelph Junction Express

Questions?



INFORMATION REPORT

TO **Corporate Administration, Finance & Emergency Services Committee**

SERVICE AREA Economic Development & Tourism Services
DATE January 18, 2011

SUBJECT Guelph Junction Express
REPORT NUMBER

RECOMMENDATION

"That the Information Report dated January 18, 2011, which has been prepared by the General Manager of Economic Development and Tourism Services regarding the Corporation of the City of Guelph's efforts to support the Guelph Junction Express **BE RECEIVED**".

BACKGROUND

The Guelph Junction Express (GJE) is a privately owned and operated tourist train that has been in service since September 2008.

In 2008 the train entered into a two year commercial contract with the Guelph Junction Railway (GJR). The GJR is a commercial, federally chartered railway currently owned by the City of Guelph for the purpose of providing transportation logistic services to Guelph's manufacturing, product distribution and commodity sectors.

This contract permitted GJE to operate on GJR's track system following a route from downtown Guelph east to Guelph Junction near Campbellville. The contract also included provisions to use GJR equipment as well as to house the GJE passenger cars at GJR's Arkell site.

The train operated largely on weekends, offering lunch and dinner excursions to customers purchasing advance tickets. The owners also worked with corporate clients and associations to offer charter tours during weekday afternoons when the GJR track is available. GJE has hosted over 10,000 riders since it began operation.

During the period of 2008 to 2010 the GJE made numerous requests for financial and other assistance to City of Guelph staff. A summary of the requests and staff responses were highlighted in the memo of August 19, 2010 from the General Manager, Economic Development and Tourism Services to the City's Chief

Administrative Officer. **Attachment #1** provides a copy of this memo. As stated in this memo staff attempted to respond to GJE's requests within the authority granted by the Municipal Act, 2001.

Recently, the GJE announced that it is considering terminating its business operations and selling its assets to a potential American purchaser. This action would result in Guelph losing this tourism asset. GJE has publically stated that this is due in part to the City of Guelph not providing funds to upgrade the water and hydro service at GJR's Arkell siding site. GJE has also indicated that the Town of Orangeville provides financial support to Orangeville's tourism train. This has raised questions as to why the City of Guelph cannot do the same for the GJE.

The purpose of this report is to provide background information to Council on the sections of the Municipal Act that relate to Municipal Economic Development, specifically with respect to municipal limitations in providing financial assistance to private commercial businesses. The report will also touch briefly on the relationship of the Town of Orangeville to its tourism train, the Credit Valley Explorer and compare this to the City of Guelph and the GJE. As well possible next steps to assist the GJE are proposed.

REPORT

As stated previously in this report, the GJE has made numerous requests to City staff for financial and other assistance. The requests made are not unique to GJE as City staff annually receives numerous requests for similar financial and other assistance. In all cases staff makes sincere best efforts to work with these businesses within the authority provided in Section 106 of the *Municipal Act, 2001*.

Section 106 of the *Municipal Act, 2001* addresses the matter of municipalities providing financial assistance (commonly referred to as "bonusing") to commercial businesses. In summary Section 106 of the *Municipal Act, 2001* sets out prohibition as follows:

- (1) **Assistance prohibited** - Despite any Act, a municipality shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose.
- (2) **Same** - Without limiting subsection (1), the municipality shall not grant assistance by, a) giving or lending any property of the municipality, including money; b) guaranteeing borrowing; c) leasing or selling any property of the municipality at below fair market value; or d) giving a total or partial exemption from any levy, charge or fee.
- (3) **Exception** - Subsection (1) does not apply to a council exercising its authority under subsection 28(6), (7) or (7.2) of the Planning Act or under Section 365.1 of this Act.

Generally Section 28 of the *Planning Act* allows municipalities with provisions in their official plans relating to community improvement to designate by by-law a "community improvement project area" and prepare and adopt a community improvement plan and business incentives for the community improvement project area.

With respect to Section 365.1 of the *Municipal Act, 2001* municipalities are permitted to pass a by-law providing tax assistance to an eligible property in the form of a deferral or cancellation of part or all of the taxes levied on that property for municipal and education purposes during the rehabilitation period and the development period of the property.

In addition to the exceptions noted in Subsection 106 (3) of the *Municipal Act, 2001*, there are occasions within this Act that provides instances when certain forms of assistance may be provided by a municipality. In summary they include:

- **Section 107 (1): General power to make grants** - Despite any provision of this or any other Act relating to the giving of grants or aid by a municipality, subject to section 106, a municipality may make grants, on such terms as to security and otherwise as the council considers appropriate, to any person, group or body, including a fund, within or outside the boundaries of the municipality for any purpose that council considers to be in the interests of the municipality.
- **Section 108 (1): Small business counselling** - Despite section 106, a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality.
- 1. **Section 110 (3): Assistance by municipality** - Despite section 106, a municipality may provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to provide facilities under this section and such assistance may include,
 - (a) Giving or lending money and charging interest;
 - (b) Giving, lending, leasing or selling property;
 - (c) Guaranteeing borrowing; and
 - (d) Providing the services of employees of the municipality.

It is through this legislative framework that staff has responded to requests for assistance from commercial operators such as the GJE.

In light of this legislative framework it has been suggested by others that the Town of Orangeville provides funding assistance to the operator of the town's tourism train attraction, the Credit Valley Explorer.

In discussing this matter with the Town of Orangeville the following information was provided.

In 2000 the Orangeville Railway Development Corporation (ORDC), a business corporation incorporated by the Town, purchased from the Canadian Pacific Railway (CPR) a 55-kilometre section of the Owen Sound Subdivision that connects Orangeville to the CPR mainline in Streetsville/Mississauga. The main purpose for this acquisition was to ensure continued freight service for local industries as well as to provide tourism excursions through the establishment of the Credit Valley Explorer.

The ORDC and a private company, Cando Contracting Ltd (Cando), have entered into a contractual relationship to operate both the freight and tourism rail services. While the details of this business relationship are not known it appears that the ORDC has agreed to certain obligations to support the continued operation of the freight and tourism operations while Cando has taken on certain obligations to support the rail operations and infrastructure. Cando is a commercial company from Manitoba that provides specialized rail services and solutions on a contract basis to a wide range of rail clients throughout Canada. It is also understood that the Town of Orangeville provides financial support to the ORDC.

In summary the comparison of the GJE to that of the Credit Valley Explorer is as follows:

- a) The GJE is a privately owned commercially operated company. Neither the City of Guelph nor the Guelph Junction Railway has a financial or management relationship with the Guelph Junction Express.
- b) The operation of the Credit Valley Express and the local freight service was established and is managed through the Orangeville Rail Development Corporation, an entity that was established by the Town of Orangeville. The operation of the Credit Valley Express is done through a contractual partnership between the ORDA and Cando Contracting Ltd.
- c) It appears that the Credit Valley Express is jointly owned by ORDA and Cando Contracting Ltd.
- d) The Town of Orangeville appears to have a financial and management relationship with the ORDA.
- e) The Guelph Junction Railway is owned by the City of Guelph for the purpose of delivering rail freight service to Guelph's manufacturing, product distribution and commodity sectors. Its business mandate does not include providing tourism excursions.
- f) The Orangeville Rail Development Corporation was established by the Town of Orangeville as an asset to implement its economic development strategy and has the mandate to provide industrial rail freight services as well as tourism excursions.

g) Based on the information provided by the Town of Orangeville it appears that through the ORDC the Town has a much closer ownership and management relationship with the Credit Valley Explorer than is the case of the GJE and the City of Guelph.

It is unfortunate that the GJE may terminate its Guelph operations as it has proved itself as a valuable local tourism attraction. While there does not appear to be short term solution in addressing the GJE's funding requirements, it is staff's opinion that the GJE may wish to propose a longer term business proposal to the GJR's Board of Directors. This would be consistent with the Credit Valley Explorer's relationship with the ORDC.

If requested by the GJE and the GJR, Economic Development and Tourism would be pleased to assist in attempting to broker a business deal between the two companies. As well, the Chamber of Commerce has indicated that it would be pleased to become involved in trying to find a solution to this situation.

Finally, should there be any funding assistant programs offered by the Province of Ontario and/or Government of Canada, staff will be pleased to support the GJE's efforts in securing such funds.

ATTACHMENTS

Attachment 1 – Memo dated August 19, 2010 from the General Manager to Chief Administrative Office summarizing the requests and staff responses to GJE.



Prepared By:

Peter J. Cartwright
General Manager
Economic Development and Tourism Services

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INTERNAL MEMO

DATE August 19, 2010

TO Hans Loewig

FROM Peter Cartwright, General Manager

DEPARTMENT Economic Development and Tourism Services

SUBJECT Economic Development and Tourism Services' Support of the Guelph Junction Express Tourist Train Operation

INTRODUCTION:

As you are aware, this past week the operators of the Guelph Junction Express emailed members of Guelph City Council, the local Member of Provincial Parliament, the local Federal Member of Parliament as well as others. In this email the City is being accused of not supporting the efforts of Guelph Junction Express, which may result in the operator losing business and selling off assets.

The City has recognized the need for viable local tourism attractions such as the Guelph Junction Express. The City has therefore, in my opinion, attempted to provide support to this business operator. By way of this memo I feel it is necessary to document the support offered by the City to the Guelph Junction Express.

BACKGROUND:

The Guelph Junction Express, a tourist train operation developed and operated by owners, John and Rita Carroll, has been in service since September 2008. The train runs on the Guelph Junction Railway track system following a route from downtown Guelph east to Guelph Junction near Campbellville. The train operates largely on weekends, offering lunch and dinner excursions to customers purchasing advance tickets. The owners also work with corporate clients and associations to offer charter tours during the weekday afternoons when the track is available. Guelph Junction Express has hosted over 10,000 riders since it began operation.

Both the Guelph Junction Railway and the City of Guelph through Economic Development and Tourism Services have worked with the Guelph Junction Express since the inception of the train's operation in a variety of ways to support their business.

On numerous occasions Economic Development and Tourism Services has facilitated meetings with other City Departments including Operations, Community Design and Development, Corporate Property and Community Services to address issues brought forward by the operator.

Where it was possible staff was able to assist the operator with their issues. However many of the operator's requests included the need for funding or various permits and approvals that were outside the control or influence of staff. The following is a summary of the requests received from the operator and staff's involvement.

GUELPH JUNCTION EXPRESS REQUESTS/ASSISTANCE:

1) December 2008

The owners submitted to city staff a "wish list" of items that they were seeking financial support from the City. Economic Development and Tourism Services coordinated a meeting between the owners and City staff from relevant departments to discuss alternate solutions to their issues which included:

1. Construction of a semi-permanent loading platform and roof covering for passengers trackside at the River Run Centre;
2. Providing snow clearing, salting/sanding along the River Run Centre sidewalk during winter months;
3. Providing signage to clearly show passenger where to board the train;
4. Contributing to costs to provide shore-power at Guelph Junction Railway's yard. (Shore-power is the ability to plug train cars into a power source when they are parked to prevent onboard washrooms from freezing).

With respect to the above requests staff indicated to the owners that the Municipal Act prohibits municipalities from providing direct subsidies to commercial operators. Having stated this, staff did offer the following alternatives.

1. While the City could not provide funds for the construction of the temporary platform and roof, it would assist in expediting any site plan or building permit approvals that may be required.
2. While the Operations Department and the River Run did not have it in their respective budgets to clear the River Run sidewalk, Economic Development offered to do so for the remainder of the 2008/2009 winter season. This would allow the operator to continue to operate from the River Run for the remainder of the 2008 season and to budget for subsequent seasons.

3. At the time of the request for directional signage the operator was advised that the City could not directly pay for individual business signage. However it should be noted that in June 2009, a directional sign for the Guelph Junction Express was installed on MacDonnell Street and paid by Economic Development and Tourism Services.
4. Staff informed the operator that the estimated \$20,000 capital cost for installing shore power at Guelph Junction could not be considered for the 2009 budget as this would be considered "bonusing" and prohibited by the Municipal Act. Staff did indicate that it would work with the operator to explore alternate funding sources for this item.

In general the owners were not satisfied with these responses. With respect to items 1 and 2, the operator subsequently moved the loading of the train to the Guelph Youth Music Centre. However, once the weather improved, loading was moved back to the River Run. The City funding of Item 3 has caused some public complaints; however the sign remains installed. Item 4 remains unresolved. It is our understanding that the owners did apply for, but did not receive funding for item 4 from the Federal Government's Infrastructure Stimulus Programs. City staff was not requested to be involved with these applications.

2) April 2009

The owners presented to Economic Development and Tourism Services an issue relating to the municipal parking costs that would be charged to group charters. Staff from Economic Development and Tourism, Parking and Traffic prepared and submitted a proposal to the operator which would reduce these charges through the purchase of pre-paid parking passes for the West Parkade. The owners accepted this proposal.

3) Spring/Summer 2009

Tourism Services worked with the owners to promote the Guelph Junction Express to local and visitor audiences. Website listings, event listings, website banner advertising and other promotions were provided by Tourism Services to the Guelph Junction Express. In addition, Tourism Services worked in cooperation with the owners to provide a familiarization tour to 44 tourism industry professionals during National Tourism Week in June 2009. This program included Guelph Junction Express discounting ticket prices for the tourism industry representatives while Economic Development and Tourism Services funded the activities to promote the train as a new and valued attraction.

4) September 2009

The owners again approached Economic Development and Tourism Services regarding the funding of a semi-permanent loading ramp at River Run Centre. Staff consulted Ms. Leanne Warren, Administrator of Disability Services, and Ms. Colleen Clack, River Run Centre Manager, on this matter. Ms. Warren and Ms. Clack examined the proposed area and specifications for the ramp and concluded that a better option would be to install a portable lift device in a small code-locked garage near River Run Centre. The estimated cost for purchasing the lift and the storage unit was approximately \$30,000 and it was felt that this may be a reasonable investment of city funding since it could be used for other city functions. The operator was not satisfied with this alternative and did not pursue this matter any further in 2009.

5) December 2009

Guelph Junction Express purchased a basic 2010 Tourism partnership package with Tourism Services and received the package benefits which included enhanced website listing, brochure placement and event listings. As well Tourism Services provided at no cost to the operator additional promotion for the Guelph Junction Express Christmas excursions, Haiti Earthquake Relief Train and a special Valentine's package with the Guelph Symphony. During the winter of 2009-2010, train loading took place at the Guelph Youth Music Centre.

6) April 2010

The owners reiterated their need for the city to provide capital investment to their train operation, providing an example of the Credit Valley Explorer, a tourist train financially supported by the Town of Orangeville's in-house rail system. It should be noted that staff contacted the Town of Orangeville and it appears that the financial support is funded through plans to expand Orangeville's GO Train program. We are attempting to gain more information on Orangeville's support of its tourism train.

Economic Development and Tourism Services convened a meeting with the operator, Guelph Junction Railway and the Guelph Chamber of Commerce. Municipal Councillors Vicki Beard and Christine Billings also attended. The owners presented a summary of their past 18 months of operation and made a request for city funding of \$40,000 to cover the costs of installing shore power and water service at the train storage location in Arkell, and installing a portable ramp and creating a sheltered area for passengers at the River Run Centre. As previously noted, the owners indicated that they had been unsuccessful in applying for federal infrastructure funding for their capital needs and coming to the city with their request was their last recourse.

The operator was again advised that due to provincial legislation, the city cannot provide direct financial contributions to commercial businesses; however there may be alternate funding sources that the city might be able to assist accessing. The outcome of this meeting was an agreement between the City, Guelph Junction Railway and the Chamber of Commerce to explore options and reconvene a meeting with the operator.

Guelph Junction Railway indicated that it might consider contributing funds to some of the capital upgrades in which they would also receive a benefit. The city also contacted Mr. David Reynolds, a professional funding application writer for his advice. Mr. Reynolds suggested there may be limited funding programs for the operator to access for marketing purposes, which if successful could be used to re-allocate the operator's current marketing budget for capital improvements. Mr. Reynolds indicated that he would be pleased to assist with such applications at no cost to his company. The Chamber of Commerce also indicated that it would support

any such applications since they usually require a not for profit partner to match funds through cash or in-kind contributions. Economic Development and Tourism Services was prepared to also provide in-kind marketing contributions to support any applications.

The above proposal was presented to the owners, who did not appear to be comfortable with the possibility of receiving funds from Guelph Junction Railway.. Guelph Junction Railway indicated to staff that any funding considered would have to benefit the Guelph Junction Railway and be approved by its Board. The owner also did not feel that applying to funding programs and reallocating current marketing funds would be a viable option. In any event, Mr. Carroll was not prepared to explore this option and reiterated that the City should pay for such costs.

With respect to the request to construction of a portable ramp and shelter at the River Run Centre the operator was advised that various approvals and permits may be required. On this matter Economic Development and Tourism Services convened a meeting between the operator, Ann Pappert, Director of Community Services and Colleen Clack, General Manager of the River Run Centre to explore options and to discuss staff concerns regarding the scheduling of train and River Run events.

One of the major issues identified by staff was potential insurance liability and fire code matters. Primarily due to these issues Community Services and the River Run Centre were not in favour of allowing the ramp to be built as proposed by the operator. As well it was mutually concluded that there were scheduling issues and few marketing/operational synergies between the two businesses. The owner then proposed that a better option may be to construct the ramp and shelter at the Guelph Youth Music Centre. EDTS staff offered to assist the operator with this option by arranging a meeting with staff from Community Design and Development Services. In preparation for such a meeting and the possible requirement for a building permit and/or site plan approval, staff suggested that the operator should prepare a plan showing the location and dimensions of the ramp and shelter. The operator was adamant that such documentation was not required as Mr. Carroll was advised by a friend who constructs ramps that no permit would be required. Therefore no further assistance was requested by the owners and EDTS left this matter with Guelph Junction Express.

7) June 2010

Tourism Services offered the Guelph Junction Express new marketing support through the newly created Tourism Region 4 organization. As a result of Guelph Tourism Services working role in this new regional body, the Guelph Junction Express was given free of charge a prominent presence in the Region 4 Summer Timeout Campaign which included radio ads, print and web advertising in the Greater Toronto Area and Southern Ontario. The marketing support provided to Guelph Junction Express in this campaign is valued at \$7000. One specific ad promoting the train in the Metro News in Toronto generated over 100 calls to Destiny Tours during its run.

8) July 2010

Guelph Junction Express arranged a meeting with City Park Planner, Helen White, on site at the Guelph Youth Music Centre to review possible locations to erect a temporary ramp for loading patrons on the train. Given EDTS staff was not invited to this meeting it is our understanding from Ms. White that two possible locations were identified on Guelph Junction Railway land. We also understand that Ms. White informed Guelph Junction Express that it would require a building permit for a temporary ramp. We also believe that Ms. White understood from the owners that they were going to submit a building permit application.

9) August 2010

On August 11, 2010 Tourism Services received an email from Guelph Junction Express which was addressed to MP Frank Valeriote and copied to Councillor Christine Billings and Chamber of Commerce President Lloyd Longfield, regarding a Veterans excursion planned for late September. The email accuses the City of not supporting the efforts of Guelph Junction Express in addressing its wheelchair accessibility issues and as such the company would lose business. The email specifically states that the City will not approve the issuance of a permit, or the construction of a temporary ramp. It is our understanding from CDDS that no permit application has been submitted. Also, the operator has not advised EDTS of any issues relating to the issuance of a building permit.

EDTS staff followed up immediately with Guelph Junction Express to inquire what issues would prohibit the issuance of a building permit and if there were other options that staff could assist with. Staff was advised by Guelph Junction Express that it no longer viewed the veterans excursion accessibility matter as its issue and that future communications from the city should be addressed to their client the Guelph Legion. Staff followed up with the Legion's Public Relations Officer Joanne Ware, who advised that the Legion had decided to not pursue this matter any further with Guelph Junction Express and would also not be addressing accessibility options for its members. The excursion is still planned for late September; however some of its members will not be able to participate because of this accessibility matter. Ms. Ware thanked staff for the offer to assist with accessing rental equipment to load wheelchair veterans on the train.

CONCLUSION

Economic Development and Tourism and other city staff have devoted considerable meeting and consultation time to address Guelph Junction Express issues and have provided substantial value in marketing support over the past 22 months. It is our opinion that the City has attempted to provide support within its authority. Staff has also made concerted efforts to assist this small business operator during its start up phase. Short of funding Guelph Junction Express' capital needs it is my belief that staff has sincerely attempted to address the many issues raised by the Guelph Junction Express. EDTS has also made sincere efforts to market and promote this local tourism attraction in the hope that it becomes economically sustainable.

Economic Development and Tourism staff will continue to work with this operator to assist, where appropriate, the needs of the business. As is the case with other tourism operators, Economic Development and Tourism Service's involvement with Guelph Junction Express will continue to be focused on assisting with marketing, various permitting matters as well as identifying government funding programs and supporting any such applications.

Should you wish, please feel free to share this memo with members of the Executive Team and Guelph City Council.



Peter J. Cartwright, General Manager
Economic Development and Tourism Services
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Guelph, Ontario N1H 2E1
519-822-1260 ext 2820

Cc: Mayor Farbridge
Sue Treise

COMMITTEE REPORT



TO **Corporate Administration, Finance & Emergency Services Committee**

SERVICE AREA Economic Development and Tourism Services
DATE March 14, 2011

SUBJECT 2010 Accomplishments – 2011 Work plan
REPORT NUMBER

RECOMMENDATION

"That the Information Report dated March 14, 2011, which has been prepared by the General Manager of Economic Development and Tourism Services regarding the 2010 accomplishments and 2011 work plan for Economic Development and Tourism Services **BE RECEIVED**".

BACKGROUND

The purpose of Economic Development and Tourism Services (EDTS) is to: assist local businesses in their efforts to maintain and expand their operations; attract new business investment to increase the City's tax assessment and employment base; develop and implement initiatives to ensure that the City is strategically positioned in the market place; and to work with businesses and other City departments in coordinating the needs of the City and the business community.

EDTS' activities are influenced and directed by: Guelph City Council's 2010 Strategic Priorities; Prosperity 2020 – Strategic Directions for Economic Development & Tourism; 2010 Employment Land Strategy; Places to Grow Legislation; Community Energy Initiative; as well as the City of Guelph's Growth Management Strategy.

EDTS is housed within the office of the Chief Administrative Officer for the City of Guelph. The program resources include 9.5 full time employees and a 2010 operating budget of \$1,107,500. EDTS supplements this budget through various grant programs offered by the Government of Canada and the Province of Ontario. EDTS also leverages partnership funds from other economic development programs.

The program also receives input on strategic matters from the Guelph Economic Development Advisory Committee, an advisory committee established by Guelph City Council.

EDTS participates in a number of joint venture programs with the: Chamber of Commerce; University of Guelph; Province of Ontario; Small Business Enterprise Centre; Regional Tourism Zone 4; Ontario Clean Technology Alliance; as well as the Ontario Agri-food Technology Alliance.

EDTS has also established economic development investment networks with the Ontario Ministry of Economic Development and Trade; Ontario Ministry of Agriculture, Food and Rural Affairs; Ontario Ministry of Tourism and Culture; Innovation Guelph; Industrial, Institutional and Commercial (ICI) real estate brokers; ICI land developers; as well as Foreign Affairs and Investment Canada.

REPORT

Within the background provided, EDTS is pleased to provide the following summary of its 2010 activities and results as well as its 2011 work plan.

2010 Activities & Results

<u>Activity</u>	<u>Results</u>
<u>1.0 Hanlon Creek Business Park</u>	
1.1 Phase 1 & 2 Environmental Implementation Report	Final Approval obtained in August 2010
1.2 Phase 1 Cost Sharing & Land Exchange Agreement	Agreement was negotiated & executed
1.3 Phase 1 Tender/Construction	Contract issued and commenced
1.4 Phase 1 – Land Sales of 3.6m negotiated	Letter of Intent was negotiated & executed
1.5 Phase 1 – Early Development Charge Payment Agreement-\$370k	Agreement was negotiated & executed
1.6 Phase 2 – Land Sales to Guelph Land Holdings Inc.- \$5.7m	Agreement was negotiated & executed
1.7 Infrastructure Stimulus Funding Grant- \$600k	Final funding received
1.8 Phase 3 Environmental Implementation Report	Environmental assessment commenced
<u>2.0 Guelph Innovation District</u>	
2.1 City/Province Memorandum of Understanding (MOU)	MOU was negotiated & executed
2.2 Development Opportunities Assessment	Assessment was completed
<u>3.0 Business Attraction</u>	
3.1 Successfully responded to 5 new investment inquiries	Creation of approx. 620 new jobs
<u>4.0 Business Expansion & Retention</u>	
4.1 Successfully attended to the needs of 5 companies	Various Building Permits, Site Plans approved/issued
<u>5.0 Strategic & Operational Programs</u>	
5.1 Prosperity 2020 – New Economic Development Strategy	Strategy & Priorities Approved by Council
5.2 Ec Dev, Engineering, Planning, Building Services Joint Service & Operational Review	Phase 1 of the review was commenced
5.3 Guelph Connects – Alignment of local Ec. Dev. Programs	Commenced with Chamber & University
5.4 Ontario Clean Tech Alliance – JV Marketing Program	Commenced with Ontario Municipalities
5.5 Ontario Agri-food Tech Alliance – JV Marketing Program	Commenced with Ontario Municipalities
5.6 Grow Guelph Marketing Program	Commenced with University of Guelph
<u>6.0 Tourism</u>	
6.1 Regional Tourism Organization (RTO Zone 4) Established	Coordinated Guelph’s involvement.
6.2 Attracted Four Major Tourism Events to Guelph	1,750 new room nights
6.3 Marketing Campaigns	5 Major Campaigns Initiated
6.4 Tourism Product Development	2 new local events developed

2011 Work Plan

<u>Activity</u>	<u>Targeted Results</u>
<u>1.0 Hanlon Creek Business Park</u>	
1.1 Registration of Phase 1 at Land Titles	To be achieved by 31/03/11
1.2 Phase 1 Land Sales (City Land)	20 acres to be sold by 31/12/11
1.3 New Tax Assessment (City Land)	\$1.6 million new annual assessment
1.4 New Development Charges (City Land)	\$ 731,800 for 2011
1.5 Phase 3 Environmental Implementation Report	Report to be finalized and approved
<u>2.0 Guelph Innovation District</u>	
2.1 Secondary Plan – Coordinate with the Province/City	Draft to be completed by 31/12/11
2.2 Development Permit Process – Assess with Planning	Recommendations to Council by 31/12/11
2.3 Marketing Programs – Coordinate with the Province	Develop and implement – On-going
2.4 Expression of Interest – Coordinated with the Province	Develop and implement by 31/12/11
<u>3.0 Tourism</u>	
3.1 Regional Tourism Organization 4 Marketing	Develop, Promote & Coordinate Campaigns & Strategic Plan
3.2 Investment Strategy	New City Grant Program – Council Recommendations by 31/12/11 New Tourism Sponsorship Program - Council Recommendations by 31/12/11
3.3 Event Development	3 New Events – 600 Room Nights Downtown Guelph Food Festival Support Existing Events
3.4 Marketing Programs (Meetings, Conferences, Sports)	One new product for each area.
3.5 Product Development (Culinary, Heritage, Waterway)	
<u>4.0 Business Attraction & Foreign Direct Investment</u>	
4.1 Clean Tech Sector Marketing Program	Participate in 4 Trade Shows Establish 8 New Leads
4.1 Agri-Tech/Bio Tech Marketing Program	Participate in 4 Trade Shows Establish 8 New Leads
<u>5.0 Strategic & Operational</u>	
5.1 Operational Review (One Window)	Completed and Recommendations to Council by midsummer 2011
5.2 Guelph Connects (Alignment of Local Ec Dev Programs)	Completed and Recommendations to Council by midsummer 2011
5.3 Innovation Guelph (Innovation Sector)	Support as Required – on-going

With respect to the 2011 work plan it is the intention of Economic Development Tourism Services with the assistance of the Guelph Economic Development Advisory Committee to provide Guelph City Council and the public with regular updates on the status of the noted activities, as well as any new initiatives that may materialize throughout 2011.

CORPORATE STRATEGIC PLAN

Goal 1 – An Attractive, Well-Functioning and Sustainable City

Goal 3 – A Diverse and Prosperous Local Economy

FINANCIAL IMPLICATIONS

N/A

**DEPARTMENTAL CONSULTATION/CONCURRENCE
COMMUNICATIONS**

N/A



“original signed by Hans Loewig”

Prepared By:

Peter J. Cartwright
General Manager,
Economic Development & Tourism Services

Recommended By:

Hans Loewig
Chief Administrative Officer

“original signed by Carol Tyler”

Recommended By:

Carol L. Tyler
Chair
GEDAC Committee

INFORMATION REPORT



TO Corporate Administration, Finance and Emergency Services

SERVICE AREA Human Resources and Legal Services

DATE March 14, 2011

SUBJECT Litigation Status Report Dated March 7, 2011

RECOMMENDATION

THAT the Litigation Status Report dated March 7, 2011 be received for information.

AND THAT this report now proceed on a semi-annual basis with an annual report regarding numbers of claims.

REPORT

As part of the City’s ongoing efforts toward accountability and transparency, the Litigation Status Report will be provided to Council as an Information Report.

Staff are recommending that this report proceed from this point on a semi-annual basis, unless there are circumstances that arise that require updates prior to this schedule.

In addition, staff will report on an annual basis a summary of the number of claims against the City.

CORPORATE STRATEGIC PLAN

The Litigation Status Report supports the City’s Strategic Goal of community focused, responsive and accountable government.

ATTACHMENTS

Litigation Status Report dated March 7, 2011.

“original signed by Donna Jaques”

“original signed by Mark Amorosi”

Recommended By:

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General Manager of Legal Services/
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Submitted By:

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LITIGATION STATUS REPORT
March 7, 2011

COURT ACTIONS			
Matter	Description	Current Status	History
Wm. J. Gies Construction Limited v. City of Guelph Ontario Superior Court of Justice Court File No. 342/99	This is an application for a declaration that Gies, the owner of the land at the southwest corner of Downey Road and the Hanlon Parkway, has prescriptive easements or rights-of-way over adjacent City owned lands. These proceedings are related to an Ontario Municipal Board zoning matter wherein Gies seeks approval for a 288 unit apartment development. Cross-Examination of City witnesses were held on January 26, 2006. The City completed responding to undertakings on January 12, 2007. Cross-Examination of Gies witnesses were held on January 24, 2008.	Matter not currently being pursued	April 27, 1999 – Notice of Application by Gies May 12, 1999 – Notice of Appearance by City June 18, 1999 – Gies' Application Record December 8, 2000 – City's Application Record June 21, 2005 – Further Affidavit served and filed by the City
Wm. J. Gies Construction Limited v. City of Guelph Ontario Superior Court of Justice Court File No. 1234/99	This matter relates to the same property as above. This is an Application under section 298 of the former Municipal Act (the provision was repealed by Bill 130) which provides that a road closing by-law may not be passed if it would deprive a person of access to the person's land. The proceedings relate to By-law (1971)-7810, a by-law to close parts of Kortright Road (now Downey Road)	Matter not currently being pursued	October 25, 1999 – Notice of Application by Gies October 27, 2000 – Notice of Appearance by City
Turner and Campbell v. City of Guelph Ontario Superior Court of Justice Court File No. 111/08	This is an action by two individuals who claim to be heirs of John McCrae. They claim ownership of five McCrae medals, a medallion and a plaque ("medals") at the McCrae Museum. In 1997 six of the seven medals were donated to the Museum by Mr. Lee and the seventh medal, the Memorial Cross, was donated in 2005 anonymously. The Plaintiffs seek the return of the seven medals.	Ongoing	March 10, 2008 – City Served with Notice of Action and Statement of Claim April 9, 2008 – City's Statement of Defence served and filed August 25, 2009 – City's Affidavit of Documents served February 1, 2010 – City Served with Plaintiffs' Affidavits of Documents

LITIGATION STATUS REPORT
March 7, 2011

COURT ACTIONS			
Matter	Description	Current Status	History
Urbacon Buildings Group Corp. v. City of Guelph Ontario Superior Court of Justice Court File No. 866/08 (main action)	<p>On October 9, 2008, Urbacon Buildings Group Corp. served a Statement of Claim against the City pursuant to the Construction Lien Act. In the claim, Urbacon seeks damages in the amount of \$12,164,181.71 (this being the amount of the construction lien registered against the new City Hall property on September 26, 2008) and damages for alleged delay, loss of revenue and profits, unjust enrichment, punitive and other damages, totalling over \$7,000,000.00.</p> <p>In addition to serving a Statement of Defence and Counterclaim, a related action was brought by the City against Urbacon for reimbursement of amounts paid to certain sub-trades. There are also some actions by sub-trades connected to the main action by Urbacon.</p> <p>An Order was issued by the Court on July 19, 2010 for the partial distribution of holdback money to subcontractors.</p>	Next Case Management Supervision hearing to be scheduled in April, 2011	<p>October 9, 2008 – Served with Statement of Claim</p> <p>October 29, 2008 – City’s Statement of Defence and Counterclaim served on Urbacon</p> <p>October 8, 2010 – Case Management Supervision meeting held</p>
City of Guelph v. Aviva Insurance Company of Canada Ontario Superior Court of Justice Court File No. 1002/08	On November 20, 2008 the City served a Statement of Claim against Aviva declaring that pursuant to its obligations under the performance bond, Aviva is obliged to indemnify the City from and against all damages suffered as a result of Aviva’s breach of its obligations under that bond. In the Claim, the City seeks damages in the amount of \$5,000,000.	Matter following along with Urbacon	<p>November 20, 2008 – City served Statement of Claim on Aviva</p> <p>January 13, 2009 – Statement of Defence of Aviva was received.</p>
Erica Davis v. The City of Guelph Ontario Superior Court of Justice Court File No. 564/09	<p>This is an appeal by Ms. Davis from a decision of the Property Standards Committee confirming an order requiring structural repairs to the swimming pool at 8 Terrace Lane, Guelph.</p> <p>The Court released its Decision on February 18, 2011, quashing the Order of the PSO.</p>	Staff are reviewing the decision that was released February 18, 2011	<p>July 7, 2007 – Notice of Appeal received</p> <p>July 17, 2009 – City filed Notice of Appearance</p> <p>Hearing set for October 27, 2009 – adjourned to December 15, 2009, further adjourned to January 19, March 9, and June 14, 2010</p> <p>February 18, 2011 – Decision released</p>

LITIGATION STATUS REPORT
March 7, 2011

COURT ACTIONS			
Matter	Description	Current Status	History
<p>City of Guelph et al v. Soltys et al Ontario Superior Court of Justice Court File No. 636/09</p>	<p>This matter was commenced by the City by way of a motion for an injunction regarding the defendants protesting at the Hanlon Creek Business Park ("HCBP"). This motion and the defendants' motion to enjoin the City from continuing construction were heard by Mr. Justice Gray on August 10, 2009. In his decision issued on August 13th, Gray J. granted the City's request for an order restraining persons from trespassing and from interfering with construction at the HCPB Phase 1 Lands. The Court also agreed with the City that the Ministry of Natural Resources has authority under the Endangered Species Act, 2007 and the Minister was allowed up to 30 days within which to consider these matters. On August 20th, each party served upon the other party a motion seeking leave to appeal Mr. Justice Gray's Order regarding the injunction against the defendants. Subsequently each party agreed to withdraw these motions.</p> <p>In the City's subsequent Statement of Claim, the City is claiming damages of \$5 million dollars as well as other relief.</p>	<p>Pleadings have been served and filed by both parties</p>	<p>July 31, 2009 – City's (Plaintiff's) Notice of Motion for an injunction served</p> <p>July 31, 2009 – City served and filed Notice of Action</p> <p>August 7, 2009 – Defendants' Notice of Motion to enjoin continuing construction served upon City</p> <p>August 10, 2009 – Hearing held after being adjourned on August 4</p> <p>August 12, 2009 – Defendants served Notice of Intent to Defend</p> <p>August 13, 2009 – Decision of Gray J. issued regarding motions heard on August 10, 2009</p> <p>August 28, 2009 – City filed Statement of Claim</p> <p>February 24, 2010 – City served and filed Amended Statement of Claim</p> <p>March 24, 2010 – Defendants served Statement of Defence</p>
<p>Wyndham Corporate Centre Inc. v. City of Guelph Ontario Superior Court of Justice - Court File No. CV 09 09638600</p>	<p>The Plaintiff is seeking damages in the amount of \$225,000 and aggravated damages in the amount of \$150,000 for a total of \$375,000 relating to the alleged failure of the City to remove carpets from the property at 2 Wyndham Street following expiration of the lease.</p>	<p>City waiting on response from Plaintiff</p>	<p>September 29, 2009 – City served with Statement of Claim</p> <p>October 15, 2010 - City served Statement of Defence</p>

LITIGATION STATUS REPORT
March 7, 2011

COURT ACTIONS			
Matter	Description	Current Status	History
County of Wellington v. City of Guelph Ontario Superior Court of Justice Court File No. CV 09 00374309	On October 14, 2009, the City was served with a Notice of Action and Statement of Claim by the County of Wellington. The County's claim against the City is in the amount of \$4,000,000.00 for what the County alleges is the City's breach of contract in failing to pay amounts owing from 2006 to date in respect of Wellington Terrace.	City waiting on response from Plaintiff	October 14, 2009 – City served with Notice of Action and Statement of Claim January 4, 2010 – City's Notice of Intent to Defend served May 25, 2010 – City's Statement of Defence and Counterclaim served
1266304 et al. v. City of Guelph Ontario Superior Court of Justice Court File No. 90/10	This claim by 14 builders/developers is for damages in the amount of \$2,000,000 for breach of contract (subdivision agreements), negligent misrepresentation, unjust enrichment and breach of trust relating to allegations of "additional" development charges being improperly imposed for "hard" services. A motion for summary judgment was brought by the City and heard November 8, 2010. The judge dismissed the City's motion. The City brought a motion for leave to appeal that decision which was heard on January 17, 2011. The motion for leave to appeal re summary judgment was denied.	Ongoing	February 8, 2010 – City served with Statement of Claim February 16, 2010 – City's Notice of Intent to Defend served and filed March 10, 2010 – City's Statement of Defence served and filed November 8, 2010 – Motion heard January 17, 2011 – Motion for leave to Appeal heard
Warren et al. v. City of Guelph et al. Ontario Superior Court of Justice Court File No. 422/10	This is an action by the Warren family and the estate of Isabel Warren in connection with the fatal accident at the South End Community Park. Other defendants named are Lloyd Grinham and L. Alan Grinham Architect Incorporated (architect), Larry Argue and R.J. Burnside & Associates Limited (engineer), and Harrington Construction Incorporated (constructed washroom buildings).	Matter has settled	June 14, 2010 – City Served with Statement of Claim August 19, 2010 – Statement of Defence and Crossclaim of the Defendants Lloyd Grinham and L. Alan Grinham Architect Incorporated was served upon the City
1431633 Ontario Inc. (Rona) v. City of Guelph et al. Ontario Superior Court of Justice Court File No. C-903-10	This is a construction lien claim regarding the South End Emergency Services Station located at 160 Clair Road West.	City waiting on response from Plaintiff	November 5, 2010 – City served with Statement of Claim November 25, 2010 – City's Statement of Defence and Crossclaim served and filed

LITIGATION STATUS REPORT
March 7, 2011

COURT ACTIONS			
Matter	Description	Current Status	History
Ardi Inc. v. Devlan Construction Ltd. and City of Guelph Ontario Superior Court of Justice Court File No. 746/10	This is a construction lien claim regarding the South End Emergency Services Station located at 160 Clair Road West.	City not currently an active party to this matter	November 29, 2010 – City served with Statement of Claim
Debono et al. v. City of Guelph et al. Ontario Superior Court of Justice Court File No. 749/10	This is an action by the Debono family in connection with the fatal accident at the South End Community Park. Other defendants named are Larry Argue, R.J. Burnside & Associates Limited, Lloyd Grinham, L. Alan Grinham Architect Incorporated, and Harrington Construction Incorporated	Matter being handled by the City's insurer	December 3, 2010 – City served with Statement of Claim
T.D.C. Excavating Ltd. v. City of Guelph Guelph Small Claims Court Claim No. 10-855	This is a claim against the City by T.D.C. Excavating Ltd. relating to work at 4 Zaduk Place, Guelph.	City's defence to be filed by March 10, 2011	February 18, 2011 – City served with Plaintiff's Claim

OMB MATTERS			
Matter	Description	Current Status	History
Wm. J. Gies Construction Limited Southwest corner of Downey Rd. and Hanlon Pkwy (Inactive)	These long outstanding zoning appeals relate to the two court matters.	Matter not currently being pursued	
580 Paisley Road – Armel Corporation	This is an appeal by the owner, Armel Corporation, of a decision not to approve a site plan application for a proposed gas bar, car wash and kiosk. The main issue relates to site access. A hearing date has not yet been set.	Matter not currently being pursued	October 1, 2008 – Appeal received
Development Charges By-law (2009) – 18729 – Guelph Wellington Development Association and 11 local home builders	The GWDA and 11 local home builders appealed the by-law on a number of grounds - overestimate service requirements, certain capital projects not growth related, improper increase level of service, improper growth/non-growth allocation, failure to apply DC funds to projects to reduce growth share, capital costs overstated for projects, and capital cost for ineligible projects are included.	Mediation scheduled to continue on March 23, 2011	March 9, 2009 – Appeal filed January 21, 2010 – Mediation held

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March 7, 2011

OMB MATTERS			
Matter	Description	Current Status	History
23 Fairview Blvd	This is an appeal by Robert and Leslie Smejkal from the decision of the Committee of Adjustment to approve a severance and associated minor variances. To date, no hearing date has been set.	Waiting for OMB mediation to be scheduled	June 28, 2010 – Appeal filed
146 Downey Road	This is an appeal by Hugh Whiteley from Council's passing of a Zoning By-law Amendment rezoning 146 Downey Road from the UR (Urban Reserve) Zone to a Specialized R.3A (Townhouse) Zone to permit residential intensification in the form of townhouses and multiple attached dwellings. The appellant seeks to have the eastern portion of the property rezoned to the P.1 (Conservation Land) Zone for conservation lands and a gas pipeline easement.	Hearing scheduled to continue June 20 – 24, 2011	July 28, 2010 – Appeal received January 31 – February 7, 2011 – hearing scheduled – adjourned
381-385 Elmira Road North	This is an appeal by the Ontario Dairy Herd Improvement Corporation from certain conditions requested by City staff and imposed by the Committee of Adjustment as part of its decision approving a minor variance to permit the establishment of a transportation depot for outdoor storage and light maintenance of school buses. The conditions from which the owner has appealed relate to compliance with a previously approved site plan for the property. The hearing scheduled for January 5, 2011 was adjourned	Ongoing	January 5, 2011 – hearing scheduled – adjourned
Zoning By-law amendment – Shared Rental Housing	This is an appeal by Stewart Schinbein of By-law (2010)-19076. Mr. Schinbein is objecting to the 100m minimum separation distance applying to a building with an accessory apartment with six or more bedrooms from any building with an accessory apartment.	Pre-hearing scheduled for May 18, 2011	October 13, 2010 – Appeal received
Zoning By-law amendment – Shared Rental Housing	This is an appeal by Donna Haley of By-law (2010)-19076. Ms. Haley is objecting to the 100m minimum separation distance and alleges that the process was unfair and biased.	Pre-hearing scheduled for May 18, 2011	October 13, 2010 – Appeal received
133 Grange Street	This is an appeal by David Copeland from the Committee of Adjustment's refusal of a minor variance to allow a maximum driveway width of 5 metres (45.57% of the front yard) when the By-law requires the driveway to have a maximum width equal to 40%	Hearing scheduled for April 12, 2011, the City is not a party at the upcoming hearing	December 8, 2010 – Appeal received

LITIGATION STATUS REPORT
March 7, 2011

OMB MATTERS			
Matter	Description	Current Status	History
(continued) 133 Grange Street	of the front yard (4.4 metres), in order to provide the required off-street parking spaces to establish an accessory apartment in the existing dwelling. The City is not a party.		
83 Rodgers Road	This is an appeal by Kimberly McCaw from the Committee of Adjustment's refusal of a minor variance to extend the permitted driveway width by 0.6 metres (2 feet) resulting in a total driveway width of 4.09 metres (13.42 feet), when the By-law requires that the driveway width shall not exceed the garage width of the unit (3.48 metres/11.42 feet).	Report going to Council March 7, 2011	January 4, 2011 – Appeal received
129 Baxter Drive	This is an appeal by Asim Ali Mir of a Committee of Adjustment decision refusing to allow a minor variance from the Interim Control By-law to allow an accessory apartment. No hearing date has been set.	Waiting for hearing date to be set	January 26, 2011 – Appeal received

OTHER MATTERS			
Matter	Description	Current Status	History
Human Rights Tribunal of Ontario (HRTO)	This is an application to the HRTO requesting additional accessible parking beside the applicant's business, removal of time limitations for parking and adequate snow removal for access to and from accessible parking spaces. The applicant requests that rules and by-laws which have an adverse impact be modified for persons with disabilities, and that Operations staff, including Parking and Enforcement, be required to develop a policy and procedure on anti-discrimination and the duty to accommodate in the designation of accessible parking spaces, the formulation of neutral rules and the application of those rules to persons with a disability. The applicant also seeks damages for mental anguish in the amount of \$10,000. The parties are working to finalize a settlement.	Ongoing	December 23, 2008 – Notice of Application received January 27, 2009 – City's Response filed February 19, 2009 – Reply by Applicant received May 1, 2009 – Mediation held April 6-8 & 27-29, 2010 – Hearing rescheduled - cancelled

LITIGATION STATUS REPORT
March 7, 2011

OTHER MATTERS			
Matter	Description	Current Status	History
Human Rights Tribunal of Ontario (HRTO)	<p>This is an application to the HRTO relating to availability of priority seating and kneeling features on the City's Low Floor Buses. The application seeks an Order that the City's transit drivers be required to lower the bus as required, to ensure that priority seating is made available when required, and to ensure that passengers are seated before moving the bus. The applicant has not sought a financial remedy as part of this application.</p> <p>On January 31, 2011, the applicant served a Statement of Claim on the City seeking damages of 2 million for alleged negligence by the City relating to one of the incidents that is also the subject of the HRTO Application.</p>	<p>HRTO hearing has not yet been scheduled</p> <p>Claim received on January 31, 2011 being handled by City's insurers</p>	<p>July 8, 2009 – Notice of Application received</p> <p>August 7, 2009 – City's Response filed</p> <p>August 28, 2009 – Applicant's Reply to the City's Response received</p> <p>May 14, 2010 – Mediation scheduled – adjourned at the request of Applicant</p>
Charges under the Occupational Health and Safety Act: Ontario Court of Justice Ministry of Labour v. City of Guelph	<p>On April 27, 2010, the City of Guelph was charged with three offences under the Occupational Health and Safety Act ("OHSA"). The charges relate to the washroom building at the South End Community Park. The architect, L. Alan Grinham, and the engineer, Larry Argue (of Burnside consulting engineers) are each charged with one count under the OHSA.</p>	<p>Pre trial scheduled to resume on March 29, 2011</p>	<p>April 27, 2010 – Charges received</p> <p>June 16, 2010 – First Appearance scheduled</p> <p>January 11, 2011 – Pre-trial scheduled</p>
Section 20 Development Charge Complaint	<p>On December 16, 2010, the City of Guelph received a complaint from the owner of 60 Cardigan Street in respect of the calculation of development charges under the City's Development Charge By-law.</p>	<p>A hearing before Council has been scheduled for April 4, 2011 at 5:00 p.m.</p>	<p>December 16, 2010 – Complaint received</p>