

# CITY COUNCIL AGENDA



**DATE** March 23, 2009

Please turn off or place on non-audible all cell phones, PDAs, Blackberrys and pagers during the meeting.

**O Canada  
Silent Prayer  
Disclosure of Pecuniary Interest**

## **CONFIRMATION OF MINUTES** (Councillor Farrelly)

*"THAT the minutes of the Council Meetings held February 17, 23, 25 and March 2, 2009 and the minutes of the Council meetings held in Committee of the Whole on February 17 and 23, 2009 be confirmed as recorded and without being read."*

## **CONSENT REPORTS – ITEMS TO BE EXTRACTED**

Reports from: Emergency Services, Community Services & Operations  
Finance, Administration & Corporate Services  
Governance  
Council as Committee of the Whole  
Council Consent

Resolution to adopt the Consent Agenda

*"THAT the balance of the March 23, 2009 Consent Agenda be adopted."*

## **PRESENTATION**

- a) Ontario Public Works Association award for the Victoria Road Bridge Replacement
- b) Presentation of City of Guelph medals to the Special Olympics Team Canada Floor Hockey Team which won Provincial gold medals and won silver medals at the 2009 Winter Games in Boise, Idaho: Andrew McTaggart, Ben Tinholt, Dan Jamieson, Doug Dunk, Edgar Riel, Jamie Walker, Jeff Tromp, Jim Hamill, Mark Jamieson, Michael Farley, Patric Seeds, Paul McTaggart, Scott Tennant, Stephen Slezsak, Graham Tosh, Paul Turner – Head Coach; Shawn Turner, Assistant Coach; and Mark Cullen, Assistant Coach
- c) Jim Bruzzese of BMA Management Consulting Inc.: - results of the financial condition assessment recently completed to identify key trends and compare city's financial status against a peer group of

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municipal comparators and industry standards.

**DELEGATIONS** (Councillor Findlay)

**"THAT** *persons desiring to address Council be permitted to do so at this time.*"  
(limited to a maximum of five minutes)

- a) No requests to appear as a delegation has been received at the time of printing.

**COMMITTEE OF THE WHOLE** (Councillor Hofland)

**"THAT** *Council now go into Committee of the Whole to consider reports and correspondence.*"

**ITEMS EXTRACTED FROM REPORTS FROM COMMITTEES OF COUNCIL AND OTHER COMMITTEES**

- b) Emergency Services, Community Services and Operations Committee  
**"THAT** *the Second Report of the Emergency Services, Community Services & Operations Committee be received and adopted.*"
- c) Finance, Administration and Corporate Services Committee  
**"THAT** *the First Consent Report of the Finance, Administration & Corporate Services Committee be received and adopted.*"
- d) Governance and Economic Development Committee  
**"THAT** *the First Consent Report of the Governance and Economic Development Committee be received and adopted.*"
- e) Council as Committee of the Whole  
**"THAT** *the Second Consent Report of the Council as Committee of the Whole be received and adopted.*"

**ITEMS EXTRACTED FROM CONSENT AGENDA**

- a) Reports from Administrative Staff
- b) Items for Direction of Council
- c) Items for Information of Council

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Resolution – (Councillor Kovach)

***"THAT the Committee rise with leave to sit again."***

Resolution – (Councillor Laidlaw)

***"THAT the action taken in Committee of the Whole in considering reports and correspondence, be confirmed by this Council."***

## **SPECIAL RESOLUTIONS**

### **BY-LAWS**

Resolution – Adoption of By-laws (Councillor Piper)

## **QUESTIONS**

### **MAYOR'S ANNOUNCEMENTS**

Please provide any announcements, to the Mayor in writing, by 12 noon on the day of the Council meeting.

## **NOTICE OF MOTION**

## **ADJOURNMENT**

Council Chambers  
February 17, 2009 7:00 p.m.

**A meeting of Guelph City Council.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. H. Loewig, Chief Administrative Officer; Mr. M. Amorosi, Director of Human Resources; Ms. M. Neubauer, Director of Finance; Mr. D. McCaughan, Director of Operations; Mr. J. Riddell, Director of Community Design & Development Services; Mr. P. Cartwright, General Manager of Economic Development Services; Mr. D. Corks, Downtown Economic Development Manager; Mr. I. Panabaker, Urban Design Program Manager; Ms. A. Pappert, Director of Community Services; Mr. S. Hannah, Manager of Development & Parks Planning; Mr. R. Henry, City Engineer; Mr. J. Stokes, Manager of Realty Services; Ms. T. Agnello, Deputy City Clerk; and Ms. D. Black, Assistant Council Committee Co-ordinator

**DECLARATIONS UNDER MUNICIPAL CONFLICT OF INTEREST ACT**

There was no declaration of pecuniary interest.

**PLANNING PUBLIC MEETING**

Mayor Farbridge announced that in accordance with The Planning Act, Council was now holding a public meeting.

**Proposed Downtown Guelph Community Improvement Plan**

Mr. David Corks, Downtown Economic Development Manager provided information regarding the process to date. He stated that the map included within the report is the currently recognized downtown core within the City's Official Plan. He outlined the different phases of the plan. He then explained various financial aspects and incentives of the plan. He listed the next steps.

He advised that the Downtown CIP boundaries will be changed when the Downtown boundaries are changed within the City's Official Plan.

They will also consider neglected properties that need

restoration and address various means to handle them.

Staff advised that the Secondary plan will be looking at design polices and urban policies.

Ms. Jane Londerville, Chair, Wellington County Housing Committee strongly supports residential intensification in the core. She is supportive of incentives but wants housing for all incomes, rentals, and ownership so there will be housing available for lower income households. She has concerns that the City is becoming a developer, buying & selling and the potential conflict of interest that would create. She suggested that development should best rest with the private sector.

The Mayor asked if there were any delegations in attendance with respect to the planning matter listed on the agenda.

Staff will address the issues raised tonight and those included within the correspondence received.

1. Moved by Councillor Findlay  
Seconded by Councillor Burcher

Mr. P. Cartwright

THAT Report 09.03 regarding the proposed Downtown Guelph Community Improvement Plan from Economic Development and Tourism Services dated February 17, 2009 be received.

VOTING FOR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

### **Baker Street Redevelopment**

Mr. P. Cartwright, explained the purpose of the three phases of the redevelopment plan. He stated Council needs to give direction of their preferred options to allow staff to move forward. He advised Council of the various interest groups and consultants that were involved in the process to date. He also detailed the various areas of focus and criteria used to determine the proposed options.

Mr. Corks provided information regarding the process to date. He listed the items contained within the technical review and advised of the seven guiding documents used to determine the options being presented.

Mr. Ian Panabaker addressed the Urban Design components of the plan. He stated the key anchor in the north end of the development will be developed by the private sector. At a later date, a new street and smaller blocks may be introduced. He advised that they are proposing an entrance onto Wyndham Street and outlined the three development concepts. Staff believes that Concept C2 attached to the report provided the best library potential, the best streetscape potential, the most residential/commercial options and the most flexibility in implementation. He then advised the first step was to acquire lands and then outlined the steps to follow.

He advised that the costs for the 20,000 sq. ft of commercial space and the access route are not included in the cost estimates provided. He added that traffic studies indicated a need for road access to Wyndham Street.

Staff advised they will be providing information regarding:

- the loss of taxation revenue and the impact of the new residential unit pertaining to costs to develop the property and tax rates.
- the number of jobs being lost and impact on new job creation – including those resulting from the other components of the plan
- the immediate and sustainable impact and the potential cost to connection to Yarmouth Street.

Mr. Cartwright advised the connection to Yarmouth Street is not integral to this phase of the plan, but may happen at a later date. The estimated cost for land assembly is \$9 million dollars.

Mr. N. McLeod, Chief Librarian advised that location is the key factor when building a library. Visibility, access and parking are three criteria necessary for a library and he stated the concept plan addresses these three criteria. He stated the library is the most used City-owned facility on a regular basis and the high profile proposed is appropriate. He stated the library is in support of the concept plan and looks forward to working with staff and Council.

3. Moved by Councilor Piper  
Seconded by Councilor Burcher

THAT persons wishing to address Council be permitted to do so at this time.

Ms. J. Londerville, Chair, Wellington County Housing Committee stated concern regarding the acquisition of the properties which would cause thirty people to lose their affordable homes. She would like to see an affordable housing component built into the development.

Mr. Gary Grewal stated that he is concerned about the financial hardship for owners being unable to rent properties and would like Council to give consideration to the impact the development will have on current tenants.

Mr. Ray Mitchell, owner of the Family Thrift Store outlined the various services he provides from his store and stated he believes he provides invaluable contributions to the community at large. He was concerned about the loss of commercial space, parking and affordable housing. He believes his property is of heritage interest as well. He provides reduced costs, free delivery to many people and space for musicians and artists. He also expressed concern with the notification process.

Ms. Jennifer Mackie, on behalf of Guelph Downtown Business Association advised the association endorses the concept plan and considers the plan as pivotal to developing the north end of the downtown. She believes that moving quickly in assembling the required properties, plan with growth in mind for the library is a key factor to the plan being successful. She offered assistance from the Association with communications, assisting businesses to relocate and support of the mitigation plan. They are offering additional resources, time and funds to work with the Economic Development officer in relation to marketing, meeting space and also offering their expertise with developing business plans to all types of businesses.

Mr. Randy White was not present.

Ms. Jennie Mitchell, the daughter of the owner of The Family Thrift Store reiterated the services and activities her father provides for the various artists, students and customers. She believes his contributions to the downtown would create a large gap in services to artists, students and visitors. She does not believe tearing down the building to create open space is the right thing to do. She also expressed concern with the notification process. Stated the tenants were not informed. She does not see the point in demolishing buildings downtown and believes the downtown will lose customers that would not return.

Ms. Sarah Mangle, was concerned that a lot of affordable housing, band practice space, discounts and services for students and other services will be permanently lost if the Family Thrift Store is demolished.

Ms. Katie McVicker concurred with Ms. Mangle and questioned why the most expensive and intrusive plan was picked.

Mr. Ricky Tichborne does not agree with the development and also concurred with the previous delegates.

Mr. David Renaud was concerned with the residential component. He stated that a majority of the residential units are 1 or 2 plus bedroom units because there is such a high vacancy rate of units that size. He believes there needs to be a closer examination of the local buyers' market and would like to see this component more closely studied.

Ms. Arden Hagedorn, member of the Central Student Association, University of Guelph wanted to provide a perspective of the value of the Family Thrift Store to university students. She expressed concern that the meeting was held when most students are away for reading week and urged the City to hold another public meeting to allow for more students to be able to attest to the value of the Family Thrift Store.

Staff advised that notice was placed in the papers and on the website as well as a courtesy notice distributed door-to-door once the report was ready.

Staff advised a mitigation plan will be coming back to Council which would include both owners and tenants.

Staff was directed to explore the options and densities in various building heights.

Staff advised they do not know at this point if the Official Plan amendment regarding building height would be site specific or if it would include more of the downtown area.

Staff was encouraged to get Community Improvement Plan (CIP) incentives in place before any demolitions take place to help with the mitigation strategies. Staff advised they could assemble properties and allow the existing tenants to continue operating while the CIP program is being developed. This information is to be included within the mitigation report.

Staff will provide information regarding the possibly of providing for the cultural space needs for the artists within the downtown core.

Council requested that the clauses be voted on separately.

Mr. P. Cartwright 3. Moved by Councillor Findlay  
Seconded by Councillor Burcher  
THAT Report 09.02 regarding the Baker Street Redevelopment Concepts from Economic Development and Tourism Services dated February 17, 2009 be received.

VOTING FOR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

Mr. P. Cartwright 4. Moved by Councillor Findlay  
Seconded by Councillor Burcher  
THAT "Concept C2" as described in Report 09.02 be adopted as the preferred redevelopment concept for a mixed use development including a new central library.

VOTING FOR: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

VOTING AGAINST: Councillors Billings and Kovach (2)

Carried

Mr. P. Cartwright  
Ms. M. Neubauer 5. Moved by Councillor Findlay  
Seconded by Councillor Burcher  
THAT staff be directed to report back with a review and recommendations regarding the funding, implementation and delivery method of "Concept C2" Phase 1;

VOTING FOR: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (12)

VOTING AGAINST: Councillors Billings (1)

Carried

6. Moved by Councillor Findlay

Mr. P. Cartwright  
Ms. L. E. Payne

Seconded by Councillor Burcher  
THAT staff be authorized to negotiate the acquisition of the lands required to implement "Concept C2" as described in Report 09.02 with funding to come from debt.

VOTING FOR: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

VOTING AGAINST: Councillors Billings and Kovach (2)

Carried

Mr. P. Cartwright  
Ms. J. Mackie

7. Moved by Councillor Findlay  
Seconded by Councillor Burcher  
THAT staff be directed to work with the Guelph Downtown Business Association and the owners of businesses and tenants being displaced to find suitable new locations within the downtown core.

VOTING FOR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

The meeting recessed at 9:54 p.m.

The meeting reconvened at 10:00 p.m.

### **2009 Federal Infrastructure Funding**

Mr. H. Loewig, Chief Administrative Officer, provided some highlights with respect to the new infrastructure stimulus funding. He advised there are four different categories. Although criteria have not yet been provided, the Senior Management Team has established a list of projects they have identified for the various funding programs. He advised that once the criteria is made available the list will be re-evaluated accordingly.

Ms. M. Neubauer

8. Moved by Councillor Burcher  
Seconded by Councillor Hofland  
THAT Council endorses the Report Fin-09-07 dated February 17, 2009 entitled '2009 Federal Infrastructure Stimulus Funding'.

AND THAT Mayor Farbridge be directed to write a letter to the Minister regarding the infrastructure projects and

include the Infrastructure Funding report.

VOTING FOR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

9. Moved by Councillor Billings  
Seconded by Councillor Burcher

THAT Council now hold a meeting that is closed to the public, pursuant to Section 239(2)(d) of the Municipal Act with respect to:

- labour relations or employee negotiations

Carried

The remainder of the meeting was held In-Camera.

Council Committee Room B  
February 17, 2009 10:25 p.m.

**Council reconvened in Committee of the Whole.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. H. Loewig, Chief Administrative Officer; Mr. M. Amorosi, Director of Human Resources, Mr. G. Hunt, Manager, Employee/Employer Relations, Assistant Director of HR; Mr. D. Bush, Labour Relations Specialist.

Mr. Amorosi and Mr. Hunt provided information with respect to labour relations or employee negotiations.

1. Moved by Councillor Findlay  
Seconded by Councillor Laidlaw

Mr. M. Amorosi

THAT direction be given to staff regarding a matter with respect to labour relations or employee negotiations.

VOTING FOR: Councillors Beard, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury and Mayor Farbridge (9)

VOTING AGAINST: Councillors Bell, Billings, Kovach and Wettstein (4)

Carried

**ADJOURNMENT**

The meeting adjourned at 10:44 o'clock p.m.

Minutes read and confirmed March 23, 2009.

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Mayor

.....  
Deputy City Clerk

Council Committee Room B  
February 23, 2009 5:30 p.m.

**A meeting of Guelph City Council.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. H. Loewig, Chief Administrative Officer; Dr. J. Laird, Director of Environmental Services; Mr. B. Coutts, Manger of Court Services; Ms. T. Sinclair, Manager of Legal Services; Ms. S. Smith, Associate Solicitor; Mrs. L.A. Giles, Director of Information Services/City Clerk; and Ms. J. Sweeney, Council Committee Co-ordinator

1. Moved by Councillor Hofland  
Seconded by Councillor Burcher  
THAT the Council of the City of Guelph now hold a meeting that is closed to the public, pursuant to Section 239 (2) (b) and (e) of the Municipal Act, with respect to:
  - personal matters about identifiable individuals;
  - litigation or potential litigation.

Carried

The meeting adjourned at 5:31 o'clock p.m.

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Mayor

.....  
Clerk

Council Committee Room B  
February 23, 2009 5:32 p.m.

**A meeting of Guelph City Council meeting in Committee of the Whole.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. H. Loewig, Chief Administrative Officer; Dr. J. Laird, Director of Environmental Services; Mr. B. Coutts, Manger of Court Services; Ms. T. Sinclair, Manager of Legal Services; Ms. S. Smith, Associate Solicitor; Mrs. L.A. Giles, Director of Information Services/City Clerk; and Ms. J. Sweeney, Council Committee Co-ordinator

**DECLARATIONS UNDER MUNICIPAL CONFLICT OF INTEREST ACT**

There were no declarations of pecuniary interest.

- Ms. L. E. Payne
1. Moved by Councillor Beard  
Seconded by Councillor Burcher  
THAT staff be given direction with respect to a litigation or potential litigation matter.

Carried

The Director of Information Services/City Clerk provided an update on a litigation matter.

The Manager of Legal Services and the Director of Environmental Services provided the Committee with an update regarding a potential litigation matter.

- REPORT
2. Moved by Councillor Burcher  
Seconded by Councillor Piper  
THAT Anna Bortolon and Katharine Demolder-Carere be appointed to the Eastview Public Liaison Committee for a term ending November, 2009.

Carried

- REPORT
3. Moved by Councillor Burcher  
Seconded by Councillor Salisbury  
THAT Karen Chisholme and Dan McDonell be appointed to the River Systems Advisory Committee for a term ending November, 2009.

Carried

- REPORT
4. Moved by Councillor Hofland  
Seconded by Councillor Findlay  
THAT Jordon Willcox be appointed to the River Run Centre Board of Directors for a term ending November, 2009.

Carried

The Manager of Legal Services updated the Committee on a litigation matter.

The meeting adjourned at 6:00 o'clock p.m.

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Mayor

.....  
Clerk

Council Chambers  
February 23, 2009

**Council reconvened in formal session at 7:00 p.m.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. H. Loewig, Chief Administrative Officer; Dr. J. Laird, Director of Environmental Services; Mr. D. McCaughan, Director of Operations; Ms. M. Neubauer, Director of Finance; Ms. A. Pappert, Director of Community Services; Mr. J. Riddell, Director of Community Design and Development Services; Ms. T. Sinclair, Manager of Legal Services; Mrs. L.A. Giles, Director of Information Services/City Clerk; and Ms. J. Sweeney, Council Committee Co-ordinator

**DECLARATIONS UNDER MUNICIPAL CONFLICT OF INTEREST ACT**

There was no declaration of pecuniary interest.

1. Moved by Councillor Salisbury  
Seconded by Councillor Hofland

THAT the minutes of the Council Meetings held January 19 and 26, 2009 and the minutes of the Council meetings held in Committee of the Whole on October 20, 2008 and January 26 and February 2 and 9, 2009 be confirmed as recorded and without being read;

AND THAT the minutes of the following Council minutes be amended (corrections were advised after minutes had

been adopted):

December 15, 2008 – Delegation of Jane Cabral on behalf of the Neighbourhood Support Coalition requesting \$50,000 for a total of \$175,000

- Resolution #26 to reflect a 2009 Tax Supported Capital Budget in the amount of \$80,678,000

- Resolution #27 – to reflect the 2010-2018 Tax Supported Capital Forecast (Ten year total in the amount of \$785,660,000.

December 22, 2008 reflect that Ann Pappert was not in attendance for the 7 p.m. Council meeting.

Carried

### **CONSENT AGENDAS**

The following items were extracted from the Consent Agendas to be voted on separately:

Community Development & Environmental Services:-

- Eastview Community Park Update Report
- Trans Canada Trail Update
- Heritage Redevelopment Reserve Application Update: The Gummer Building, 1 Douglas Street

Consent Agenda:

- Municipal Court in Old City Hall
- City of Guelph and Guelph Hydro Inc. Steering Committee Mandate and Charter
- Mountford Drive Affordable Housing (development charge late payment agreement) / Acquisition of Land for Expansion of Peter Misersky Park

### **Balance of Community Development & Environmental Services Committee Consent Report**

2. Moved by Councillor Burcher  
Seconded by Councillor Bell

THAT the balance of the February 23, 2009 Community Development & Environmental Services Consent Report as identified below, be adopted:

#### **a) Sign By-law Variance for Days Inn at 785 Gordon Street**

Mr. J. Riddell  
Mr. B. Poole

THAT Report 09-16, regarding a sign variance for 785 Gordon Street from Community Design and Development Services, dated February 17, 2009, be received;

AND THAT, the request for a variance from the Sign By-law for 785 Gordon Street to permit one building sign to

be situated on the 2<sup>nd</sup> storey of the building face in lieu of the by-law requirement of the 1<sup>st</sup> storey only, be approved.

b) **Alternative Development Standards**

Mr. J. Riddell

THAT the Community Design and Development Services Report 09-08, dated February 17, 2009, on 'Alternative Development Standards Review' be received;

AND THAT staff be authorized to undertake the proposed Alternative Development Standards Review as presented in this report 09-08 dated February 17, 2009.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

**Emergency Services, Community Services & Operations Committee Consent Report**

3. Moved by Councillor Hofland  
Seconded by Councillor Findlay

THAT the February 23, 2009 Emergency Services, Community Services & Operations Committee Consent Report as identified below, be adopted:

a) **Local Immigration Partnership (LIP) Contribution Agreement**

Mr. K. Kakonge  
Ms. A. Pappert

THAT Report No. CS-AD-0902 entitled "Local Immigration Partnership (LIP) – Contribution Agreement be received;

AND THAT the City of Guelph enters into a Contribution Agreement with the Government of Canada to receive funding as per the Local Immigration Partnership File #IB08043;

AND THAT the Mayor and Clerk be authorized to sign the agreement, subject to the satisfaction of the City Solicitor.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

## **Consent Agenda**

4. Moved by Councillor Findlay  
Seconded by Councillor Hofland  
THAT the balance of the February 23, 2009 Consent Agenda as identified below, be adopted:

a) **Proposed Demolition of 117 Liverpool Street**

Mr. J. Riddell  
Mr. B. Poole

THAT Report 09-21 regarding the proposed demolition of a detached dwelling at 117 Liverpool Street, City of Guelph, from Community Design and Development Services dated February 23, 2009, be received;

AND THAT the proposed demolition of the detached dwelling at 117 Liverpool Street, be approved.

b) **City Hall and POA Courthouse Project Update**

Ms. L.E. Payne

THAT the report of the Director of Corporate Services/City Solicitor with respect to City Hall and POA Courthouse Project Update, dated February 23, 2009, be received for information.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

## **PRESENTATIONS**

### **2009 Water Conservation & Efficiency Awards**

The Mayor presented the 2009 Water Conservation & Efficiency Awards:

- Residential Award to: Dr. Khosrow Farahbakhsh
- Community/Educational Award to: Guelph Campus Co-op

### **2009 Heritage Plaques**

Susan Ratcliffe highlighted the various properties being recognized and the Mayor presented the 2009 Heritage Plaques to:

- Brownlow/Gummer Building - 1 Douglas Street:- Jason Ashdown (owner)
- McLean House - 21 Nottingham St.:- Julia Grady (owner)

- Mavis Bank - 74 Arthur St. N.: - Paul Ross, Chair of Heritage Guelph, accepting on behalf of David Ottens (owner)
- Robert Stewart Lumber Mill:- Jeff Scarfone (developer of project and condominium unit owner)
- Victoria Hotel – 67 Wyndham St.: - Jason Ashdown (owner)
- Woodside – 40 Spring:- Janet Pocock (owner)

The Manager of Corporate Property Services provided an update on the status of the New City Hall. He advised that staff will begin moving into the facility March 17. He further noted that April 21 will be the ceremonial opening of the new Chambers and on April 25 the facility will be open to the public as part of Doors Open Guelph.

5. Moved by Councillor Wettstein  
Seconded by Councillor Farrelly

THAT persons wishing to address Council be permitted to do so at this time.

Carried

## **REGULAR MEETING**

### **DELEGATIONS**

Jan Ciuciura on behalf of Options for Homes was present and responded to questions with respect to the Mountford Drive Affordable Housing project. He provided information with respect to the impact the new development charges would have on the financial assistance to proposed homeowners.

### **Mountford Drive Affordable Housing (Development Charge Late Payment Agreement) / Acquisition of Land for Expansion of Peter Misersky Park**

6. Moved by Councillor Findlay  
Seconded by Councillor Hofland

THAT the Mayor and Clerk be authorized to execute an amending agreement in a form satisfactory to the City Solicitor, to change the date at which the rates for development charges is calculated to be February 23, 2009 in respect of the Development Charge Late Payment Agreement dated February 22, 2008 between Maple Grove Co-operative Development Corporation, Home Ownership Alternatives Non-Profit Corporation (Greater Toronto Area), and The City of Guelph;

AND THAT the Mayor and Clerk be authorized to execute an amending agreement, in a form satisfactory to the City

Solicitor, to allow the School Board to reserve easements for access, infrastructure, and maintenance, in support of the affordable housing project at 35 Mountford Drive, in the lands being sold to the City for parks purposes in respect of the agreement dated February 26, 2008 between the Upper Grand District School Board and The City of Guelph.

7. Moved in Amendment by Councillor Billings  
Seconded by Councillor Kovach

THAT the following be added to the first paragraph following February 23, 2009 "for the affordable housing units only".

VOTING IN FAVOUR: Councillors Billings and Kovach (2)

VOTING AGAINST: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

Carried

8. Moved by Councillor Findlay  
Seconded by Councillor Hofland

Mr. J. Riddell  
Ms. L.E. Payne  
Ms. M. Neubauer

THAT the Mayor and Clerk be authorized to execute an amending agreement in a form satisfactory to the City Solicitor, to change the date at which the rates for development charges is calculated to be February 23, 2009 in respect of the Development Charge Late Payment Agreement dated February 22, 2008 between Maple Grove Co-operative Development Corporation, Home Ownership Alternatives Non-Profit Corporation (Greater Toronto Area), and The City of Guelph;

AND THAT the Mayor and Clerk be authorized to execute an amending agreement, in a form satisfactory to the City Solicitor, to allow the School Board to reserve easements for access, infrastructure, and maintenance, in support of the affordable housing project at 35 Mountford Drive, in the lands being sold to the City for parks purposes in respect of the agreement dated February 26, 2008 between the Upper Grand District School Board and The City of Guelph.

VOTING IN FAVOUR: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

VOTING AGAINST: Councillors Billings and Kovach (2)

Carried

9. Moved by Councillor Beard  
Seconded by Councillor Farrelly  
THAT Council now go into the Committee of the Whole to consider reports and correspondence.

Carried

**Councillor Burcher presented the Clauses that were extracted from the Community Development & Environmental Services Committee First Consent Report.**

**Eastview Community Park: Update Report**

Mr. J. Riddell  
Ms. L.E. Payne  
Ms. M. Neubauer

10. Moved by Councillor Burcher  
Seconded by Councillor Piper  
THAT the Community Design and Development Services Update Report 09-09 dated February 17, 2009, pertaining to the Proposed Eastview Community Park be received;

AND THAT the proposal for the use of the clay capped land-filled part of the site to develop a Pollinator Park, as outlined in Community Design and Development Services Report 09-09 dated February 17, 2009 be approved;

AND THAT the Mayor and Clerk be authorized to sign a license agreement between Pollination Guelph and the City as outlined in Community Design and Development Services Report 09-09 dated February 17, 2009, subject to the form and content being satisfactory to the Director of Community Design and Development Services and the City Solicitor, prior to the implementation of the Pollinator Park Master Plan.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

Mr. J. Riddell  
Ms. L.E. Payne  
Ms. M. Neubauer

11. Moved by Councillor Burcher  
Seconded by Councillor Piper  
THAT staff be directed to identify additional funding needs in the 10 year capital forecast, for the implementation of the Master Plan, for the Eastview Community Park, during the 2010 budget process to ensure a timely implementation of all phases of the plan.

VOTING IN FAVOUR: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

VOTING AGAINST: Councillors Billings and Kovach (2)

Carried

### **Trans Canada Trail Update**

In response to questions, Rory Templeton, Parks Planner provided information with respect to the proposed trail.

12. Moved by Councillor Burcher

Seconded by Councillor Piper

THAT the Community Design and Development Services Report 09-14 dated February 17, 2009, be received;

AND THAT the Conceptual Alignment of the Trans Canada Trail Project Design be approved as outlined in Report 09-14, dated February 17<sup>th</sup>, 2009, in keeping with Segment A (Appendix 8), Segment B (Appendix 9) and Option #1 for Segment C and Segment D (Appendix 10);

AND THAT staff include a public consultation component with respect to landscaping and buffering;

AND THAT the Mayor and Clerk be authorized to sign any agreements regarding Conditions of Use and Maintenance for the proposed trail, with Guelph Junction Railway (GJR) and the City, to the satisfaction of the City Solicitor.

13. Moved by Councillor Bell

Seconded by Councillor Farrelly

THAT staff be directed to contact the property owner on the east side of the railway track to see if they are interested in entering into an agreement for a portion of the Trans Canada Trail to go across their property;

AND THAT staff be directed to obtain the costs of moving a portion of the railway line between Marcon Street and Pipe Street by ten feet to enable the trail to be placed on the east side of the railway tracks.

VOTING IN FAVOUR: Councillors Beard, Billings, Burcher, Findlay, Hofland, Kovach, Laidlaw, Wettstein and Mayor Farbridge (9)

VOTING AGAINST: Councillors Bell, Farrelly, Piper and Salisbury (4)

February 23, 2009

Page No. 11  
Carried

Mr. J. Riddell  
Ms. L.E. Payne  
Ms. M. Neubauer

14. Moved by Councillor Burcher  
Seconded by Councillor Piper  
THAT the Community Design and Development Services  
Report 09-14 dated February 17, 2009, be received;

AND THAT the Conceptual Alignment of the Trans Canada  
Trail Project Design be approved as outlined in Report 09-  
14, dated February 17<sup>th</sup>, 2009, in keeping with Segment  
A (Appendix 8), Segment B (Appendix 9) and Option #1  
for Segment C and Segment D (Appendix 10);

AND THAT staff include a public consultation component  
with respect to landscaping and buffering;

AND THAT the Mayor and Clerk be authorized to sign any  
agreements regarding Conditions of Use and Maintenance  
for the proposed trail, with Guelph Junction Railway (GJR)  
and the City, to the satisfaction of the City Solicitor.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings,  
Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper,  
Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

Mr. J. Riddell

15. Moved by Councillor Piper  
Seconded by Councillor Burcher  
THAT staff be directed to investigate an easement, the  
cost and funding, of a secondary or tertiary trail on the  
east side of the railway line;

AND THAT staff report back through the Council priority  
setting session.

VOTING IN FAVOUR: Councillors Bell, Burcher, Farrelly,  
Findlay, Laidlaw, Piper and Salisbury (7)

VOTING AGAINST: Councillors Beard, Billings, Hofland,  
Kovach, Wettstein and Mayor Farbridge (6)

Carried

**Heritage Redevelopment Reserve Application  
Update: The Gummer Building, 1 Douglas Street**

Mr. J. Riddell  
Ms. L.E. Payne

16. Moved by Councillor Burcher  
Seconded by Councillor Piper  
THAT the Heritage Redevelopment Reserve grant for the  
property known as 1 Douglas Street, The Gummer

Building, be increased to an upset limit of \$2.05M over a ten year period following completion of the project;

AND THAT the Finance Department reallocate \$30,000 per year from the Brownfields Reserve to the Heritage Redevelopment Reserve to accommodate the increase in the 1 Douglas Street grant;

AND THAT, subject to the final form and content of the agreements being satisfactory to the Director of Community Design and Development Services and the City Solicitor; the Mayor and City Clerk be authorized to execute the Financial Assistance Agreement, in substantially the form attached to the October 15, 2007 report (07-102) but including the updated terms outlined in this report (09-024), and the execution of the Heritage Easement Agreement based on the revised project which now includes the restoration of 65 Wyndham Street North, 67-71 Wyndham Street North and 1-7 Douglas Street.

VOTING IN FAVOUR: Councillors Beard, Bell, Burcher, Farrelly, Findlay, Hofland, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

VOTING AGAINST: Councillors Billings and Kovach (2)

Carried

17. Moved by Councillor Burcher  
Seconded by Councillor Piper

Mr. J. Riddell  
Ms. L.E. Payne  
Ms. M. Neubauer

THAT staff ensure that the Financial Assistance Agreement for 1 Douglas Street be structured so that the release of funds from the Reserve does not start until the increased assessment value has been added to the assessment roll and has been billed accordingly.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

### **Extracted Consent Reports**

#### **Municipal Court in Old City Hall**

18. Moved by Councillor Burcher  
Seconded by Councillor Wettstein

THAT the matter of the Municipal Court being located in

the Old City Hall be re-opened.

VOTING IN FAVOUR: Councillor Burcher (1)

VOTING AGAINST: Councillors Beard, Bell, Billings, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (12)

Carried

19. Moved by Councillor Burcher  
Seconded by Councillor Piper

Ms. L.E. Payne  
Ms. M. Neubauer  
Mr. H. Loewig

THAT the report regarding the Municipal Court in old City Hall dated February 23, 2009, be received for information.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

### **City of Guelph and Guelph Hydro Inc. Steering Committee Mandate and Charter**

20. Moved by Councillor Kovach  
Seconded by Councillor Piper

Ms. B. Boisvert  
Mr. H. Loewig

THAT the Steering Committee Mandate and Charter that will guide the work of the City of Guelph and Guelph Hydro Inc. Steering Committee be amended by replacing Section 6 Reporting with the following:

"The Committee will report to Council with recommendations for review, debate and discussion and approval as necessary by Council, throughout the course of the Committee deliberations and upon completion of their work."

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

21. Moved by Councillor Bell  
Seconded by Councillor Findlay

THAT the Committee rise with leave to sit again.

Carried

22. Moved by Councillor Billings  
 Seconded by Councillor Burcher  
 THAT the action taken in Committee of the Whole in considering reports and correspondence, be confirmed by this Council.

Carried

**BY-LAWS**

23. Moved by Councillor Burcher  
 Seconded by Councillor Wettstein  
 THAT By-laws Numbered (2009)-18733 to (2009)-18747, inclusive, are hereby passed.

Carried

**QUESTIONS**

In response to questions by Councillor Salisbury on the new consent format, the Mayor advised that she will speak with the Chairs of the Standing Committees and the Director of Information Services/City Clerk on the best way to provide the public with information on what Council has approved under the Consents.

**NOTICE OF MOTION**

Councillor Laidlaw advised that she will be presenting a notice of motion with respect to the egg purchasing policy in City owned facilities.

**ADJOURNMENT**

The meeting adjourned at 10:05 o'clock p.m.

Minutes read and confirmed March 23, 2009.

.....  
 Mayor

.....  
 Clerk

Council Chambers  
February 25, 2009 6:00 p.m.

**A meeting of Guelph City Council.**

Present: Mayor Farbridge, Councillors Beard (arrived at 6:25pm), Bell Billings, Burcher, Farrelly, Findlay (arrived at 6:25pm), Hofland, Kovach (arrived at 7:40pm), Piper (arrived at 6:25pm), Salisbury, and Wettstein

Absent: Councillor Laidlaw  
Staff Present: Janet Laird, Director of Environmental Services; Wayne Galliher, Water Conservation Project Manager; Tina Agnello, Deputy Clerk

**DECLARATIONS UNDER MUNICIPAL CONFLICT OF INTEREST ACT**

There were no declarations of pecuniary interest.

**INFORMATION SESSION:- WATER CONSERVATION & EFFICIENCY STRATEGY UPDATE**

Janet Laird gave an overview of the strategy and the links to city Initiatives.

Wayne Galliher provided information on current city initiatives, including but not limited to the following:

Royal Flush Toilet Program  
Smart Wash Clothes Washer Rebate Pilot  
ICI Capacity Buyback Program  
Outside Water Use Program  
Landscape Assessment Pilot Program  
Facility Water Efficiency Retrofits  
Public Education and Outreach

He gave a water conservation program savings overview and explained that the goal of the strategy is to best meet the water reduction goals of the Guelph Water Supply Master Plan within a 20-year planning horizon.

Michael Brooks of Resource Management Strategies Inc. provided information regarding water consumption over the years and forecasted future per capita consumption and that based on grey water and rain harvesting. He also reviewed the Water Loss Mitigation measures and the influences on leakage.

He reviewed the public process and the process used for

determining initiatives to be implemented by the city based on screening of measures including financial benefits of implementation.

He reviewed the policy based recommendations and provided a ten year capital plan, maintenance plan and monitoring plan and resources required to do so.

The meeting adjourned at 7:55 o'clock p.m.

.....  
Mayor

.....  
Deputy Clerk

Council Chambers  
March 2, 2009 7:00 p.m.

**A meeting of Guelph City Council.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Piper, Salisbury and Wettstein

Absent: Councillor Laidlaw

Staff Present: Mr. J. Riddell, Director of Community Design & Development Services; Mr. S. Hannah, Manager of Development & Parks Planning; Mr. C. DeVriendt, Senior Development Planner; Mr. A. Hearne, Senior Development Planner; Mr. R. Henry, City Engineer; Ms. T. Agnello, Deputy City Clerk and Ms. D. Black, Assistant Council Committee Coordinator

**DECLARATIONS UNDER MUNICIPAL CONFLICT OF INTEREST ACT**

There was no declaration of pecuniary interest.

- The Mayor announced that Mr. Rick Henry, City Engineer has received the "Elaine Robinson Volunteer of the Year Award. She advised the award recognizes an individual who has made an invaluable and outstanding contribution to the municipal sector and to the OGRA (Ontario Good Roads Association).

**PLANNING PUBLIC MEETING**

**1440-1448 Gordon Street: Proposed Official Plan Amendment and Zoning By-law Amendment (File: OP0802/ZC0807) – Ward 6**

Mr. C. DeVriendt advised that the subject site is currently designated medium density residential and zoned Residential Single Detached. He stated that the applicant is requesting the subject lands be designated to high density residential to permit the proposed 86 unit residential apartment building with a minimum net density of 100 units per hectare and a maximum net density of 125 units per hectare. He also advised that the proposed zoning by-law amendment would be to add a Specialized General Apartment Zone to permit:

- a maximum density of 125 units per hectare, where the zoning bylaw permits a maximum of 100 units per hectare

- a minimum side yard of 6 metres, where the zoning by-law requires a minimum side yard of 7.5 metres where windows to a habitable room face onto a side yard;
- a maximum building height of 4 storeys, where the zoning by-law permits 8 storeys;
- a minimum common amenity area of 1,656 square metres, where the zoning by-law requires a minimum of 1,920 square metres.

He also advised the building includes associated surface and underground parking to accommodate a total of 113 spaces along with landscaped and common amenity areas.

Staff was directed to determine whether pedestrian access could be accommodated for walking through the site.

Ms. Astrid J. Clos, advised that Mr. DeVriendt had covered the key points she wanted to address. She stated that she was present to represent the owners and they were present also and willing to answer questions.

1. Moved by Councillor Kovach

Seconded by Councillor Billings

Mr. J. Riddell

THAT Report 09-18 regarding a Proposed Official Plan Amendment and Zoning By-law Amendment to permit the development of a four storey apartment building with a maximum net density of 125 dwelling units per hectare applying to property municipally known as 1440-1448 Gordon Street, and legally described as Part Lot 7, Concession 8, City of Guelph, from Community Design and Development Services dated March 2, 2009, be received.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Piper, Salisbury, Wettstein and Mayor Farbridge (12)

VOTING AGAINST: (0)

Carried

**340 CLAIR ROAD EAST: Proposed Draft Plan of Residential Subdivision and Associated Zoning By-law Amendment (File 23T-02502/ZC0706) – Ward 6**

Mr. Jeff Robinson, on behalf of Reid's Heritage Homes provided a history of the draft plan of subdivision application. As a result of previous public meetings, the

density of the application has changed to meet the Places to Grow legislation. He believes that excluding the lands south of Frederick Drive from the approval will expose them to risks. He stated that Frederick Drive is an access point and believes both sides of the street should be allowed to develop simultaneously. He believes the recommendation by staff is too restrictive. The applicant would prefer Clair Road and Victoria Road to be the site zoned for Commercial Residential rather than the staff recommended section of Frederick Drive.

Ms. Robin-Lee Norris stated the applicant does not want the lands south of Frederick Drive to be deferred and they want a decision immediately. She advised that a land exchange south of Frederick Street is part of the process and by not approving the lands south of Frederick Drive, the entire application may be in jeopardy. She stated that the application meets all provincial policy statements and exceeds the Places to Grow legislation. The applicant believes that part approval accomplishes nothing. She then advised that the principals of the company engaging in the development are also present to answer questions.

Mr. A. Hearne, Senior Development Planner advised that staff was not in receipt of the applicant's new proposal and the applicant was previously asked to scale back the size of the subdivision to comply with City development policies. He advised that staff is not satisfied that there has been sufficient planning on the south side of Frederick Drive to give approval at this time. He stated that commercial uses may need to be introduced and a change to the Official Plan may be required. Staff is recommending the specialized block at the Frederick Drive location because it is at a main entrance, on the right hand side and provides convenient access.

Staff stands by their recommendation that all lands south of Frederick Drive are not included in the Subdivision Plan or Zoning approval. A 700 unit development imposes a strain on the sewage capacity and is not in keeping with the Development Priorities Plan. He stated there are concerns regarding building height and there needs to be convenience commercial uses introduced for the residents or live/work units in a townhouse unit form. Staff do not wish to see freestanding residential units on the block.

Staff advised that sewage capacity is a key factor and the greenfields and built boundary allocations need to be given consideration.

Staff were directed to ensure that the school boards receive a copy of the Development Priorities Plan.

2. Moved by Councillor Burcher  
Seconded by Councillor Kovach

Mr. J. Robinson  
Mr. J. Riddell  
Mr. D. McCaughan  
Ms. L.E. Payne  
Ms. M. Neubauer

THAT Report 09-20 regarding a revised Draft Plan of Residential Subdivision and associated Zoning By-law Amendment application applying to Phase 4 of the Westminister Woods East Subdivision (File 23T-02502/ZC0706) at property municipally known as 340 Clair Road East, City of Guelph, from Community Design and Development Services dated March 2, 2009, be received, as amended to include an addition to Condition 41 of Schedule 2, as follows:

- "Purchasers and/or tenants of all lots or units located in the subdivision plan are advised that active agricultural lands and activities are located adjacent to the subdivision on the east side of Victoria Road."

AND THAT the application by Westminister Woods Limited for approval of a Draft Plan of Residential Subdivision to permit Phase 4 of the Westminister Woods East Plan of Subdivision on land legally described as Part of Lots 9 and 10, Concession 8, formerly Township of Puslinch, City of Guelph, be approved in part, subject to the revisions and conditions outlined in Schedule 2 of the Community Design and Development Services Report 09-20 dated March 2, 2009, as amended, hereto attached;

AND THAT the application by Westminister Woods Limited for approval of an associated Zoning By-law Amendment to rezone the lands from the 'Agriculture' Zone under the Puslinch Township Zoning By-law 19/85, to the Specialized R.1B-24 (Single-Detached Residential) Zone, the R.1C (Single-Detached Residential) Zone, the R.1D (Single-Detached Residential) Zone, a Specialized R.3A/R.4A (Townhouse/Apartment) Zone, a Specialized CR Commercial/Residential) Zone and the I.1 (Institutional) Zone to implement Phase 4 of the Westminister Woods East Draft Plan of Residential Subdivision, be approved in part, in the revised form outlined in Schedule 2 of the Community Design and Development Services Report 09-20 dated March 2, 2009, as amended, hereto attached;

AND THAT Guelph City Council has determined that no further public notice is required with respect to the proposed Draft Plan of Residential Subdivision and Zoning By-law Amendment applications (File 23T-02502/

ZC0706) in accordance with Section 34(17) of The Planning Act.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Piper, Salisbury, Wettstein and Mayor Farbridge (12)

VOTING AGAINST: (0)

Carried

### **FCM MISSION TO MOZAMBIQUE**

Mr. Riddell advised that the purpose of the mission is to provide technical support and build a partnership with the two municipalities and there is one year left in the partnership. He stated the scope of the project has been narrowed down to implementing the GIS system but there may be opportunities for future projects.

In response to a question regarding Councillor attendance proposed to be the representative because of the significant commitment she has invested in this program to date was a factor. Also, the continuity of keeping Councillor Burcher on the project would be helpful.

3. Moved by Councillor Hofland  
Seconded by Councillor Beard

Councillor Burcher  
Mr. J. Riddell

THAT Councillor Lise Burcher participate in the next FCM mission to Mozambique between March 13 and March 23, 2009, as the City of Guelph council representative. Her contribution will assist in the ongoing capacity development initiatives and projects identified through earlier work with Guelph and the communities of Xai Xai and Moatize, Mozambique as well as initiatives towards the mobilization of community resources to aid in community development.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Piper, Salisbury, Wettstein and Mayor Farbridge (11)

VOTING AGAINST: Councillor Kovach (1)

Carried

4. Moved by Councillor Salisbury  
Seconded by Councillor Wettstein

Mrs. L.A. Giles

THAT staff be directed to report back to the Governance Committee with regard to the process for appointing

Council delegations to various exchange programs.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Piper, Salisbury, Wettstein and Mayor Farbridge (12)

VOTING AGAINST: (0)

Carried

**ADJOURNMENT**

The meeting adjourned at 8:35 p.m.

Minutes read and confirmed March 23, 2009.

.....  
Mayor

.....  
Deputy Clerk

## **Schedule 2 Recommended Conditions and Zoning**

### **SUBDIVISION**

THAT the application by Westminister Woods Limited for approval of a Draft Plan of Residential Subdivision to permit Phase 4 of the Westminister Woods East Plan of Subdivision on land legally described as Part of Lots 9 and 10, Concession 8, formerly Township of Puslinch, City of Guelph, be approved in part, subject to the following revisions and conditions:

### **CITY CONDITIONS**

1. That this approval applies to the draft plan of subdivision prepared by Design Plan Services Inc., dated January 29, 2009, further revised by the City as outlined in Schedule 2 of the Community Design and Development Services Report 09-20 dated March 2, 2009, identifying a minimum of 316 dwelling units (85 single-detached lots + 225+6 townhouses and apartments on Blocks 86 and 89).

### **Conditions to be met prior to grading and site alteration**

2. The Developer shall complete a **revised tree inventory and conservation plan**, satisfactory to the City Engineer in accordance with City of Guelph Bylaw (1986)-12229 prior to any grading, tree removal or construction on the site. (Engineering)
3. The Developer shall obtain a **Site Alteration Permit** in accordance with City of Guelph By-law (2007)-18420 to the satisfaction of the City Engineer and the GRCA.
4. The Developer shall prepare and implement a **construction traffic access and control plan** for all phases of servicing and building construction to the satisfaction of the City Engineer. Any costs related to the implementation of such a plan shall be borne by the Developer.
5. The Developer agrees that no work, including, but not limited to **tree removal, grading or construction**, will occur on the lands until such time as the Developer has obtained written permission from the City Engineer or has entered into a Subdivision Agreement with the City.
6. The Developer shall enter into an **Engineering Services Agreement** with the City, satisfactory to the City Engineer.
7. The Developer shall prepare an overall **site drainage and grading plan**, satisfactory to the City Engineer, for the entire subdivision. Such a plan will be used as the basis for a detailed lot grading plan to be submitted prior to the issuance of any building permit within the subdivision.

8. The Developer shall construct, install and maintain **erosion and sediment control** facilities, satisfactory to the City Engineer, in accordance with a plan that has been submitted to and approved by the City Engineer and the GRCA.
9. The Developer shall provide a qualified **environmental inspector**, satisfactory to the Director of Community Design and Development Services, to inspect the site during all phases of development and construction including grading, servicing and building construction. The environmental inspector shall monitor and inspect the erosion and sediment control measures and procedures, and compliance with the Environment Impact Study. The environmental inspector shall report on their findings to the City as recommended by the Environmental Impact Study. (Planning)
10. The Developer shall submit a detailed **Storm Water Management Report and Plans** to the satisfaction of the City Engineer which shows how storm water will be controlled and conveyed to the receiving water body. The report and plan shall address the issue of water quantity and quality in accordance with recognized best management practices, Provincial Guidelines, the City's "Design Principles for Storm Water Management Facilities" and the Storm Water Management Design Report for the applicable watershed. Maintenance and operational requirements for any control and/or conveyance facilities must be described.
11. The Developer shall ensure that any **domestic wells located within the lands be properly decommissioned** in accordance with current Ministry of the Environment Regulations and Guidelines to the satisfaction of the City Engineer. Any **boreholes** drilled for hydrogeological or geotechnical investigations must also be properly abandoned.
12. The Developer shall ensure that the **height of any proposed retaining wall** does not exceed 1.0 metre to the satisfaction of the City Engineer.
13. The Developer shall **stabilize all disturbed soil** within 90 days of being disturbed, control all noxious weeds and keep ground cover to a maximum height of 150 mm (6 inches) until the release of the development agreement on the block/lot so disturbed.

#### **Conditions to be met prior to execution of subdivision agreement**

14. That any dead ends and open sides of road allowances created by the draft plan be terminated in **0.3 metre reserves**, which shall be conveyed to the City at the expense of the Developer.
15. That with the exception of any share determined by the City to be the City's share in accordance with its by-laws and policies, the Developer is responsible for the total **cost of the design and construction of all municipal services** within and external to the subdivision that are required by the City to service the lands within the plan of subdivision including such works as sanitary facilities, storm facilities, water facilities,

walkways and road works including sidewalks, boulevards and curbs, with the distance, size and alignment of such services to be determined by the City. In addition, the Developer will be required to pay

the cost of the design, construction and removal of any works of a temporary nature including temporary cul-de-sacs, sewers, stormwater management facilities, watermains and emergency accesses.

16. The Developer shall pay to the City a share of the **cost of all existing services** abutting the subdivision as determined by the City Engineer including, but not limited to, a share of the cost of the existing watermain on Clair Road and Victoria Road and a share of the cost of road improvements on Clair Road and Victoria Road. (Engineering)
17. The Developer shall submit a **Geotechnical Report** to the satisfaction of the City Engineer which describes the potential impacts of groundwater and provides recommendations for pavement design and pipe bedding.
18. The Developer shall pay the cost of supplying and erecting **street name and traffic control signs** in the subdivision, to the satisfaction of the City.
19. The Developer shall pay to the City the flat rate charge established by the City per metre of road frontage to be applied to **street tree planting** within the proposed subdivision.
20. The Developer shall pay to the City the cost of installing **bus stop pads** at locations to be determined by Guelph Transit.
21. The Developer shall provide an **On-Street Parking Plan** for the subdivision to the satisfaction of the City Engineer.
22. The site plans for all **corner building lots**, as determined by the City, shall be submitted to the City for approval of driveway location.
23. The Developer shall pay the cost of the installation of one Second Order **Geodetic Benchmark** within the proposed subdivision to the satisfaction of City Engineer.
24. The Developer shall phase the subdivision to the satisfaction of the City of Guelph. Such **phasing** shall conform to the current Development Priorities Plan.
25. The Developer shall provide Community Design and Development Services with a **digital file** in either AutoCAD - DWG format or DXF format containing the following final approved information: parcel fabric, street network, grades/contours and existing vegetation.

**Conditions to be met prior to registration of the plan**

26. The Developer shall obtain approval of the City with respect to the availability of **adequate water supply and sewage treatment capacity**, prior to the registration of the plan, or any part thereof.
27. The Developer acknowledges and agrees that the suitability of the land for the proposed uses is the responsibility of the landowner. The Developer shall retain a Qualified Person (QP) as defined in Ontario Regulation 153/04 to prepare and submit a **Phase 1 Environmental Site Assessment** (and any other subsequent phases required), to assess any real property to be conveyed to the City to ensure that such property is free of contamination. If contamination is found, the consultant will determine its nature and the requirements for its removal and disposal at the Developer's expense. Prior to the registration of the plan, a Qualified Person shall certify that all properties to be conveyed to the City are free of contamination.
28. Prior to the City accepting any real property interests, if contamination is found, the Developer shall:
- submit all environmental assessment reports prepared in accordance with the **Record of Site Condition** (O. Reg. 153/04) describing the current conditions of the land to be conveyed to the City and the proposed remedial action plan to the satisfaction of the Manager of Reality Services;
  - complete any necessary remediation work in accordance with the accepted remedial action plan and submit certification from a Qualified Person that the lands to be conveyed to the City meet the Site Condition Standards of the intended land use; and
  - file a Record of Site Condition (RSC) on the Provincial Environmental Registry for lands to be conveyed to the City.
29. The Developer shall enter into a **Subdivision Agreement**, to be registered on title, satisfactory to the City Solicitor, which includes all requirements, financial and otherwise to the satisfaction of the City of Guelph.
30. That the **road allowances** included in the draft plan be shown and dedicated at the expense of the Developer as public highways and that prior to the registration of any phase of the subdivision, the City shall receive a letter from the O.L.S. preparing the plan that certifies that the layout of the roads in the plan conforms to the City's "Geometric Design Criteria – July 23, 1993".
31. The Developer shall build the proposed transit route of Colonial Drive with a roadway having a minimum **pavement width** of 10 metres and sidewalk on both side of the street to the satisfaction of the City. (Engineering)
32. That all **easements, blocks and rights-of-way** required within or adjacent to the proposed subdivision be conveyed clear

of encumbrance to the satisfaction of the City of Guelph, Guelph Hydro Electric Systems Inc. and other Guelph utilities. Every Transfer Easement shall be accompanied by a Postponement, satisfactory to the City Solicitor, for any mortgage, charge or lease and such Postponement shall be registered on title by the City at the expense of the Developer.

- 33.** The Developer shall pay any **outstanding debts** owed to the City.
- 34.** The Developer shall pay **development charges** to the City in accordance with By-law Number (2004) - 17361, as amended from time to time, or any successor thereof and in accordance with the Education Development Charges By-laws of the Upper Grand District School Board (Wellington County) and the Wellington Catholic District School Board as amended from time to time, or any successor by-laws thereto.
- 35.** The Developer shall erect and maintain **signs** at specified entrances to the subdivision showing the proposed land uses and zoning of all the lots and blocks within the proposed subdivision and predominantly place on such signs the wording "For the Zoning of all lands abutting the subdivision, inquiries should be directed to Community Design and Development Services, City Hall". Further, the signs shall be resistant to weathering and vandalism.
- 36.** The Developer shall place the following **notifications** in all offers of purchase and sale for all lots and/or dwelling units and agrees that these same notifications shall be placed in the City's subdivision agreement to be registered on title (Planning):
- "Purchasers and/or tenants of advised that the Stormwater Management Block has been vegetated to create a natural setting. Be advised that the City will not carry out routine maintenance such as grass cutting. Some maintenance may occur in the areas that are developed by the City for public walkways, bikeways and trails."
  - "Purchasers and/or tenants of all lots are advised that the Open Space Block has been retained in its natural condition. Be advised that the City will not carry out regular maintenance such as grass cutting. Periodic maintenance may occur from time to time to support the open space function and public trail system."
  - "Purchasers and/or tenants of all lots are advised that the Park Block has been designed for active public use and may include sports fields, playgrounds, trails and other park amenities. Be advised that the City may carry out regular maintenance such as grass cutting. Periodic maintenance may also occur from time to time to support the park functions."
  - "Purchasers and/or tenants of all lots or units are advised that the

boundaries of the open space, stormwater management and park blocks will be demarcated in accordance with the City of Guelph Property Demarcation Policy. This demarcation will consist of living fences and property demarcation markers adjacent to certain lot numbers and black vinyl chain link fence adjacent to other lot numbers." The Developer shall also send written notification of proposed demarcation types to any existing homeowners in lots adjacent to open space, stormwater management and park blocks.

37. The Developer shall ensure that all **telephone service and cable TV service** in the plan shall be underground. The Developer shall enter into a servicing agreement with the appropriate service providers to provide for the installation of underground utility services for the Lands.

38. The Developer shall ensure that **street lighting** and underground wiring shall be provided throughout the subdivision at the Developer's expense and in accordance with the policies of the City of Guelph and Guelph Hydro Electric Systems Inc.
39. The Developer shall pay to the City, the total cost of reproduction and distribution of the **Guelph Residents Environmental Handbook**, to all future residents within the plan, with such payment based on a cost of one handbook per residential dwelling unit as determined by the City.
40. The Developer agrees to eliminate the use of any covenants that would restrict the use of **clotheslines** and that prior to the registration of all or any portion of the plan, the Developer's lawyer shall certify to the Director of Community Design and Development Services that there are no restrictive covenants which restrict the use of clotheslines.
41. The Developer shall place the following **notifications** in all offers of purchase and sale for all lots and/or dwelling units and agrees that these same notifications shall be placed in the City's subdivision agreement to be registered on title:
- "Purchasers and/or tenants of all lots are advised that sump pumps will be required for every lot unless a gravity outlet for the foundation drain can be provided on the lot in accordance with a certified design by a Professional Engineer. Furthermore, all sump pumps must be discharged to the rear yard."
  - "Purchasers and/or tenants of all lots or units are advised that if any fee has been paid by the purchaser to the Developers for the planting of trees on City boulevards in front of residential units does not obligate the City nor guarantee that a tree will be planted on the boulevard in front or on the side of a particular residential dwelling."
  - "Purchasers and/or tenants of all lots or units are advised that a transit route may be installed on Colonial Drive and Fredrick Drive at the discretion of the City. The location of such route and bus stops will be determined based on the policies and requirements of the City. Such bus stops may be located anywhere along the route, including lot frontages."
  - "Purchasers and/or tenants of all lots or units located in the subdivision plan, are advised prior to the completion of home sales, of the time frame during which construction activities may occur, and the potential for residents to be inconvenienced by construction activities such as noise, dust, dirt, debris, drainage and construction traffic".
  - "Purchasers and/or tenants of all lots or units adjacent to Clair Road and Victoria Road are advised that Clair Road and Victoria Road may be used as a permitted truck route."

- "Purchasers and/or tenants of all lots or units located in the subdivision plan are advised that active agricultural lands and activities are located adjacent to the subdivision on the east side of Victoria Road."

### **Conditions to be met prior to the issuance of a building permit**

42. The Developer shall submit a report prepared by a Professional Engineer to the satisfaction of the Chief Building Official certifying that all **fill** placed below proposed building locations has adequate structural capacity to support the proposed building. All fill placed within the allowable zoning bylaw envelope for building construction shall be certified to a maximum distance of 30 metres from the street line. This report shall include the following information; lot number, depth of fill, top elevation of fill and the area approved for building construction from the street line.
43. The Developer shall submit a report prepared by a Professional Engineer to the satisfaction of the Chief Building Official providing an opinion on the presence of **soil gases (Radon and Methane)** in the plan in accordance with applicable provisions contained in the Ontario Building Code.

### **Conditions to be met prior to site plan approval**

44. All **Stage 1 Services** are to be constructed to the satisfaction of the City Engineer.
45. The Developer shall provide the City with written confirmation from the Engineering Department of **Guelph Hydro** that the subdivision hydro servicing has been completed to the satisfaction of Guelph Hydro.
46. The owner shall, to support the **Community Energy Plan** to the satisfaction of the Director of Community Design and Development Services, prior to the issuance of site plan approval, provide the City with evidence that:
- a) *The owner shall participate with the City and Guelph Hydro Electric Systems Inc. to explore and demonstrate building energy efficiency options for the development that will further contribute to the peak reduction of electrical power in the subdivision.*
  - b) *The Owner acknowledges and agrees that the dwelling units in the subdivision will be constructed to the ENERGY STAR standard that promotes energy efficiency to comply with the Community Energy Plan, to the satisfaction of the City.*
  - c) The owner shall participate in a study to review the possibilities for neighbourhood energy integration at or including the subdivision lands to the satisfaction of the City.
47. The Owner acknowledges and agrees that all landscape drawings submitted for site plan approval for the lots and blocks in the subdivision shall illustrate

**native trees and shrubs** wherever possible, to the satisfaction of the City.

**AGENCY CONDITIONS:**

48. The Developer shall ensure that all **telephone service and cable TV service** in the plan shall be underground. The Developer shall enter into a servicing agreement with the appropriate service providers to provide for the installation of underground utility services for the Lands.
49. The Developer and the **Wellington District Catholic School Board** shall reach an agreement regarding the conveyance of Block 90 to the Wellington District Catholic School Board.
50. The Developer and the **Wellington Catholic School Board** shall reach an agreement regarding the supply and erection of signage, at the developer's expense, affixed to the subdivision sign advising potential Separate School supporters of the location of schools serving the area and the current practice of busing students outside the immediate area should schools in the area be at capacity.
51. The Developer agrees to provide the **Upper Grand District School Board** with a digital file of the plan of subdivision in either ARC/INFO export or DXF format containing the following information: parcel fabric and street network.
52. The Developer and the **Upper Grand District School Board** shall reach an agreement regarding the supply and erection of a sign (at the developer's expense and according to Upper Grand District School Board specifications) affixed to the permanent development sign advising perspective residents that students may be directed to schools outside the neighbourhood.
53. The Developer shall satisfy all requirements and conditions of **Canada Post** including advisories and suitable mailbox locations. The developer shall ensure that the eventual lot/home owner is advised in writing by the developer/subdivider/builder that Canada Post has selected the municipal easement to their lot for a Community Mail Box installation and the developer shall be responsible for the installation of concrete pads in accordance with the requirements of Canada Post, in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes. The concrete pads are to be poured at the time of curb installation within each phase of the subdivision.
54. That this **Draft Plan Approval shall lapse** at the expiration of 3 years from the date of issuance of the extension of Draft Plan approval.
55. That prior to the registration of all or any portion of the plan, the **Wellington District Catholic District School Board** shall advise the City in writing how conditions 49 and 50 have been satisfied.
56. That prior to the registration of all or any portion of the plan, **Upper Grand District School Board** shall advise the City in writing how conditions 51 and 52 have been satisfied.

57. That prior to the registration of all or any portion of the plan, **Guelph Hydro Electric Systems Inc**, shall advise the City in writing how condition 45 has been satisfied.

58. That prior to the registration of all or any portion of the plan, **Canada Post** shall advise the City in writing how condition 53 has been satisfied.

59. That prior to the registration of all or any portion of the plan, the **GRCA** shall advise the City in writing how conditions 3 and 8 have been satisfied.

AND

**PART B**

*"That the Zoning By-law amendment application be approved in part as revised and recommended by the City as outlined in Schedule 2 of the Community Design and Development Services Report 09-20 dated March 2, 2009 and that City Staff be instructed to prepare the necessary amendment to Zoning By-law Number (1995)-14864, as amended, to transfer the subject lands to the following zoning categories:*

<b>Lots / Blocks</b>	<b>Land Use</b>	<b>Zoning</b>
Lots 1-5; 23-39; 55-61	Single Detached Residential Min. Frontage of 12 metres	R.1C
Lots 6-22; 40	Single Detached Residential Min. Frontage of 15 metres and sideyard of 1.2 metres	R.1B-24
Lots 41-54; 62-85	Single Detached Residential Min. Frontage of 9 metres	R.1D
Block 86	Medium Density townhouses and apartments	R.3A-? / R.4A-? Specialized Holding Zone – See Below
Block 89	Specialized CR (Commercial Residential) permitting convenience commercial, live- work units in townhouse form and apartments in the same building as the commercial	CR-? Specialized Holding Zone – See Below
Block90	Institutional –Elementary School	I.1

**R.3A-?/R.4A-? SPECIALIZED (Holding) ZONE – BLOCK 86  
PERMITTED USES**

- Townhouse Dwellings – Cluster & Stacked
- Apartment Dwellings
- Accessory Uses

**REGULATIONS**

Minimum Dwelling Units

A minimum of 240 Dwelling Units shall be constructed in this zone.

Minimum Number of Apartment Dwellings

A minimum of 120 Apartment Dwelling Units shall be constructed in this zone.

Minimum Gross Floor Area (per unit)

50 square metres

Minimum Front Yard

- a) From a public Street – 4.5 metres
- b) From a private Street – 4.5 metres from the nearest sidewalk

Maximum Building Height

4 Storeys with the exception that all buildings and structures located within 30 metres of the north property line of Block 86 shall be a maximum of 2 storeys in height.

Maximum Block Coverage

No more than 40% of the lot or block area shall be covered by buildings or structures.

Minimum Common Amenity Area

An amount not less than 15m<sup>2</sup> per dwelling unit shall be provided and aggregated into areas of not less than 50m<sup>2</sup>. Amenity area shall be designed and located so that the length does not exceed 4 times the width.

Minimum Landscaped Open Space Area (% of Block Area)

30% of the Block Area

Minimum Off-Street Parking for Each Dwelling Unit

Townhouse - 1.5 spaces  
Apartment – 1.25 spaces

Separation Distance Requirements for Townhouses and Apartment Buildings

The distance between any two buildings shall in no case be less than 4.0m and meet OBC requirements.

Frontage on a Street

Despite section 4.1, access from a Building to a public street may be provided by way of a private street.

Maximum Number of Dwelling Units in a Row

12 Dwelling Units

'H' Holding Provisions

- the registration of the subdivision or partial subdivision phase
- the timing and allocation of units is supported by the approved DPP
- the City's confirmation of full municipal services to support the development
- the registration of a site plan agreement

**Specialized CR (Commercial/Residential) Zone – Block 89**

**PERMITTED USES**

- Convenience Store
- Dry Cleaning Outlet
- Financial Establishment
- Florist
- Laundry
- Library
- Medical Office
- Office
- Personal Service Establishment
- Restaurant
- Restaurant (take-out)
- Veterinary Service
- Day Care Centre
- Video Rental Outlet
- ~~Gas Bar~~ (Staff Comment: Incompatible land use)
- ~~Art Gallery~~ (Staff Comment: Not convenience commercial)
- Dwelling Units with permitted commercial uses in the same building in accordance with Section 4.15.2
- Live-Work Units in the form of Townhouse Dwelling Units
- Accessory Use

(Note: Freestanding residential dwelling units are not permitted in this zone.)

The following definition shall apply:

A 'Live-Work Unit' shall mean a dwelling unit, part of which may be used as a business establishment and the dwelling unit is the principal residence of the business operator.

**REGULATIONS**

Minimum Dwelling Units

A minimum of 6 Dwelling Units (apartments with commercial or live-work townhouses) shall be constructed in this zone.

Minimum Gross Floor Area (per dwelling unit)

50 square metres

Maximum Gross Floor Area – Commercial

300 m<sup>2</sup> (3,200 sq. ft.) in accordance with the Official Plan

Maximum Building Height

4 Storeys

Maximum Block Coverage

No more than 45% of the lot or block area shall be covered by buildings or structures.

Minimum Common Amenity Area

An amount not less than 15m<sup>2</sup> per dwelling unit shall be provided and aggregated into areas of not less than 50m<sup>2</sup>. Amenity area shall be designed and located so that the length does not exceed 4 times the width.

Minimum Landscaped Open Space Area (% of Block Area)

30% of the Block Area

Minimum Off-Street Parking for Each Unit

Live-work Townhouse - 1.5 spaces

Apartment - 1.25 spaces

Commercial - 1 space per 75 m<sup>2</sup> of gross floor area

Frontage on a Street

Despite section 4.1, access from a Building to a public street may be provided by way of a private street."

Council Committee Room B  
March 9, 2009 5:30 p.m.

**A meeting of Guelph City Council.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. M. Amorosi, Director of Human Resources; Ms. M. Neubauer, Director of Finance; Mr. D. Bush, Labour Relations Specialist; Mr. G. Hunt, Manager of Employee/Employer Relations, Assistant Director of Human Resources; and Mrs. L.A. Giles, Director of Information Services/City Clerk

1. Moved by Councillor Laidlaw  
Seconded by Councillor Hofland  
THAT the Council of the City of Guelph now hold a meeting that is closed to the public, pursuant to Section 239 (2) (d) of the Municipal Act, with respect to:
  - labour relations or employee negotiations

Carried

The meeting adjourned at 5:31 o'clock p.m.

.....  
Mayor

.....  
Clerk

Council Committee Room B  
March 9, 2009 5:32 p.m.

**A meeting of Guelph City Council meeting in Committee of the Whole.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. M. Amorosi, Director of Human Resources; Ms. M. Neubauer, Director of Finance; Mr. D.

Bush, Labour Relations Specialist; Mr. G. Hunt, Manager of Employee/Employer Relations, Assistant Director of Human Resources; and Mrs. L.A. Giles, Director of Information Services/City Clerk

The Director of Human Resources provided information with respect to the proposed settlement with CUPE Locals 973 and 241 and staff compensation adjustments.

PASSED IN COUNCIL  
BY SPECIAL  
RESOLUTION

1. Moved by Councillor Laidlaw  
Seconded by Councillor Beard  
THAT the Memorandums of Agreement between the City of Guelph and CUPE Locals 973 and 241 on file with Human Resources be approved;

AND THAT the compensation adjustments for NUME be approved for implementation effective January 1, 2009.

Carried

The meeting adjourned at 5:35 o'clock p.m.

.....  
Mayor

.....  
Clerk

Council Chambers  
March 9, 2009

**Council reconvened in formal session at 5:36 p.m.**

Present: Mayor Farbridge, Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury and Wettstein

Staff Present: Mr. M. Amorosi, Director of Human Resources; Ms. M. Neubauer, Director of Finance; Mr. D. Bush, Labour Relations Specialist; Mr. G. Hunt, Manager of Employee/Employer Relations, Assistant Director of Human Resources; and Mrs. L.A. Giles, Director of

Information Services/City Clerk

Mr. M. Amorosi

- 1. Moved by Councillor Laidlaw  
Seconded by Councillor Farrelly

THAT the Memorandums of Agreement between the City of Guelph and CUPE Locals 973 and 241 on file with Human Resources be approved;

AND THAT the compensation adjustments for NUME be approved for implementation effective January 1, 2009.

VOTING IN FAVOUR: Councillors Beard, Bell, Billings, Burcher, Farrelly, Findlay, Hofland, Kovach, Laidlaw, Piper, Salisbury, Wettstein and Mayor Farbridge (13)

VOTING AGAINST: (0)

Carried

**ADJOURNMENT**

The meeting adjourned at 5:37 o'clock p.m.

Minutes read and confirmed March 23, 2009.

.....  
Mayor

.....  
Clerk

# Financial Condition Assessment

City of Guelph  
Presentation: March 23, 2009

**BMA**  
Management Consulting Inc.

**BMA**  
Management Consulting Inc.

2008 – Financial Condition  
Assessment



City of Guelph

2008 Municipal Study

**BMA**  
Management Consulting Inc.

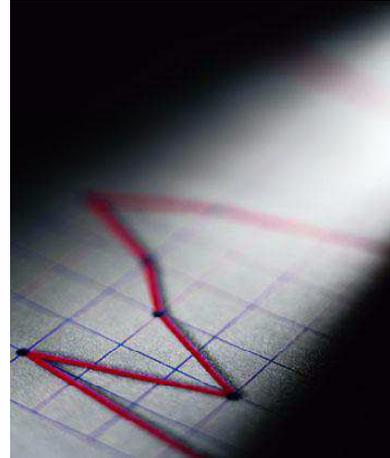
## Presentation

- Provide a financial condition assessment
  - Identify key trends and compare the City's financial status against a peer group of municipal comparators and industry standards
  - Identify areas of strength and challenges

### *Related Indicators*

*Reserve and Debt Financial Indicators*

*Financial Position, Taxation and Affordability*



## Municipal Comparators

	Population 2008	Land Area (sq.km)	Density pop/sq.km	Municipal Tiers	Location	Region
Brantford	92,348	72	1275	single	Southwest	Brant
Barrie	136,393	77	1720	single	Simcoe	Simcoe
Burlington	170,153	186	901	two	GTA	Halton
Cambridge	124,837	113	1087	two	Southwest	Waterloo
Kingston	117,289	450	260	single	Eastern	Frontenac
London	356,271	421	842	single	Southwest	Middlesex
Oakville	174,805	139	1229	two	GTA	Halton
St. Catharines	133,243	96	1381	two	Niagara	Niagara
Waterloo	102,388	64	1559	two	Southwest	Waterloo
Guelph	119,909	87	1355	single	Southwest	Wellington

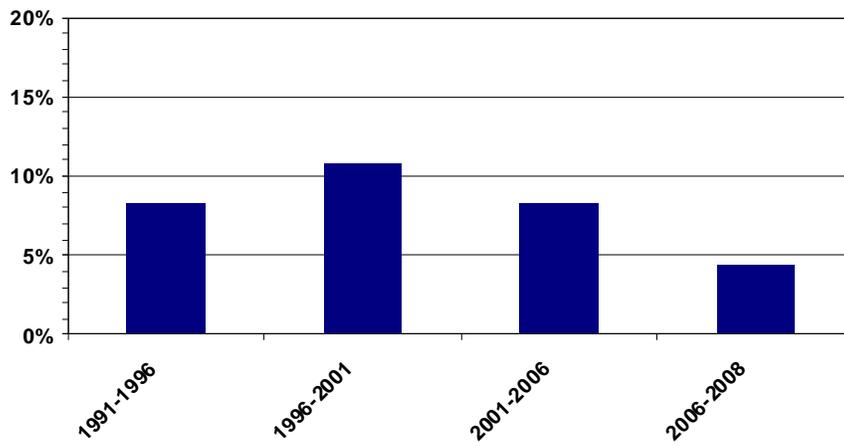
Selected based on a number of parameters including population, growth patterns, location, size and governance structure

*Growth Related  
Indicators*



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increase of 1.97%)

verage

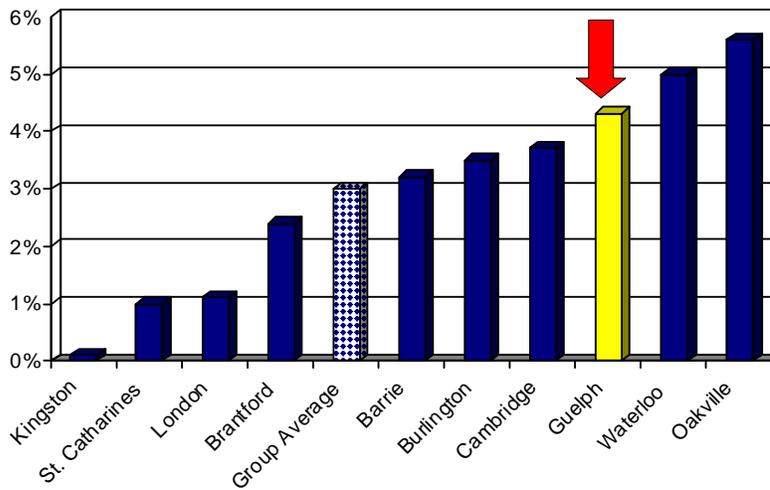
- 2001-2006, Guelph's population increased 8.3% compared with the Ontario average of 6.6% during this same time

Stats Canada and FP Canadian  
Demographics

2008 Municipal Study

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## 2006-2008 Population Percentage Change



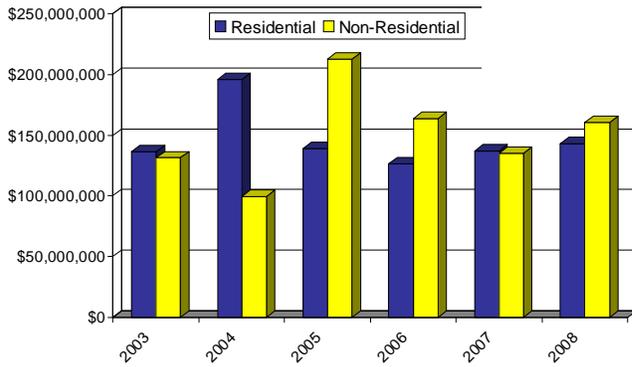
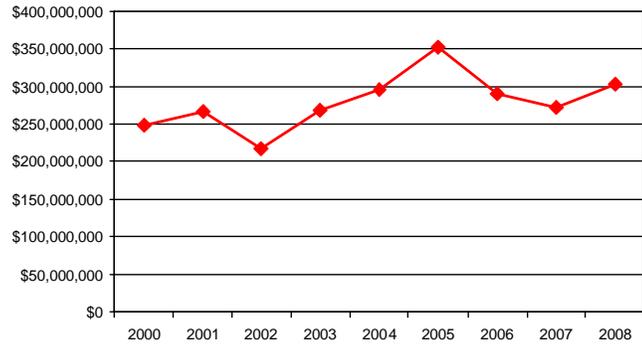
Guelph experienced population growth over the group average at 4.3% from 06-2008

In response to the challenges of managing growth - City Council authorized the preparation of a local Growth Management Strategy

# Guelph's Building Constr

Activity in 2008 continued to be strong

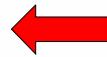
## Building Activity – Construction Values



Good balance between residential and non-residential development

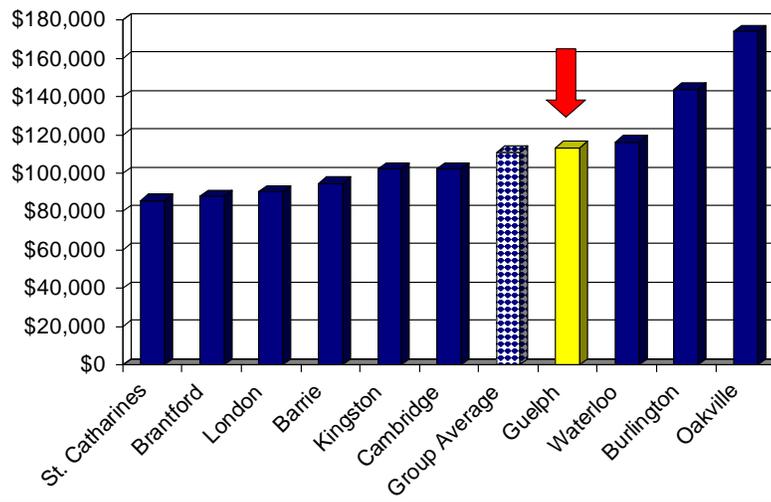
Above survey average when comparing activity per capita for the past 3 years

## Assessment Growth Comparison



- ❑ 2006-2007 the increase was at the median for the group
- ❑ 2007-2008 the increase was the second highest in the group, almost double the survey average

## Weighted Assessment Per Capita



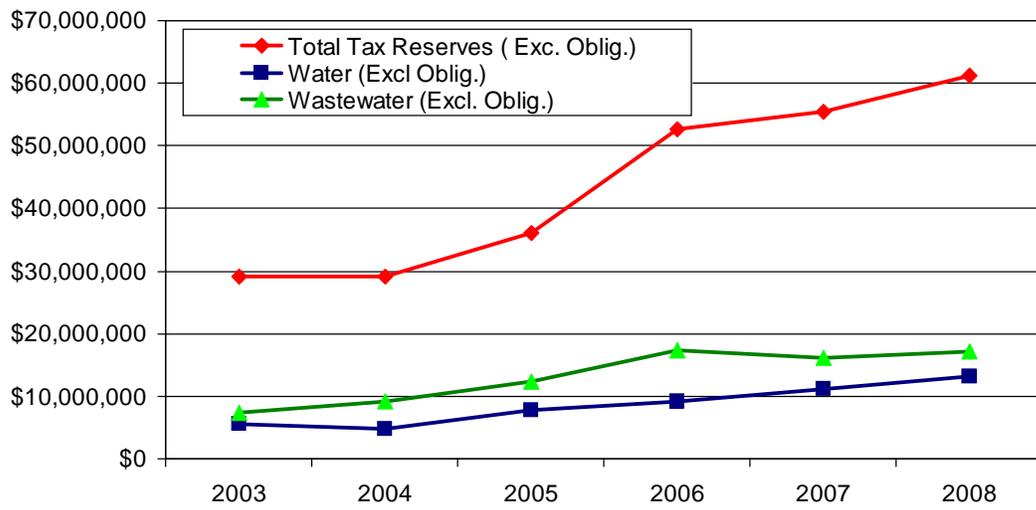
- Weighted assessment reflects the basis upon which property taxes are levied after applying the tax ratios to the unweighted assessment
- Guelph is above the group average in relation to its municipal comparators

***Reserve and Debt  
Financial  
Indicators***



2008 Municipal Study

**BMA**  
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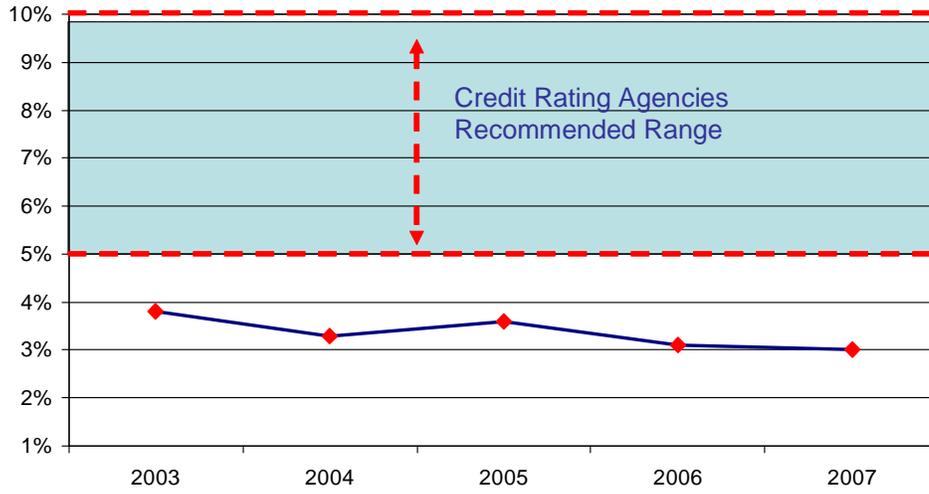
## Tax Reserves as a % of Expend.

Municipality	2007 Tax Reserves as a % of Expenditures	2007 Tax Reserves + Capital as a % of Expenditures
Kingston	41.3%	18.8%
London	35.8%	20.5%
Guelph	19.5%	21.7%
Barrie	40.5%	21.8%
Waterloo	33.1%	38.7%
Oakville	33.1%	41.5%
Brantford	25.2%	44.8%
St. Catharines	57.1%	50.5%
Burlington	34.0%	60.6%
Cambridge	49.2%	66.2%
Average	36.9%	38.5%
Median	34.9%	40.1%

- Guelph's 2007 reserves as a percentage of expenditures is at 19.5% compared with the total survey average of 44.1%

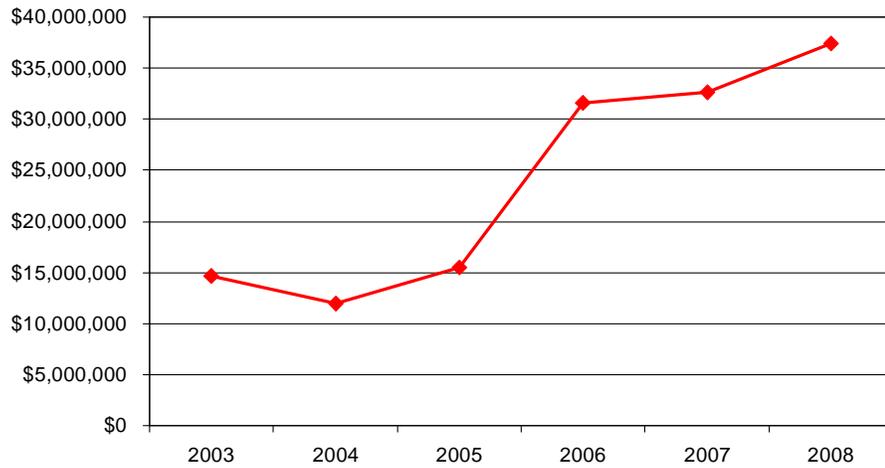
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## Gross Expenditures Less Water and Sewer



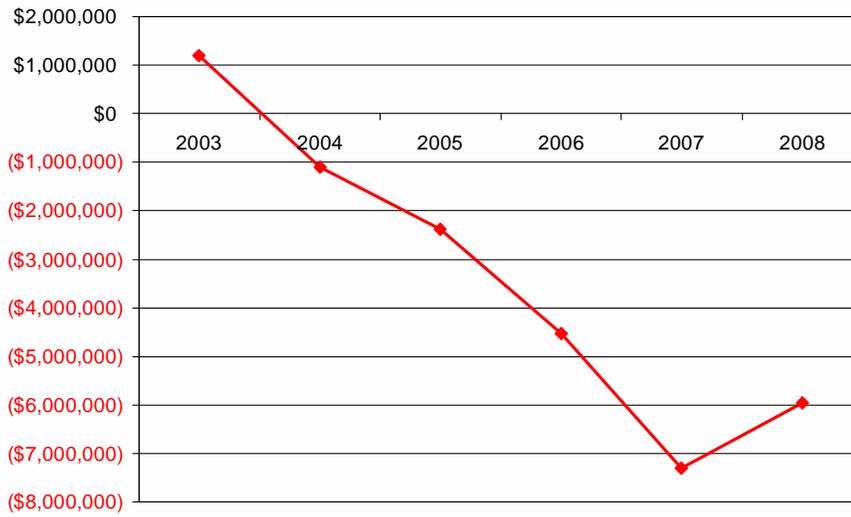
- City has approximately 3.0% in stabilization reserves as a percentage of gross expenditures (2007)

## Tax Capital Reserve Funds



- ❑ Replacement value of \$1.28 billion (excludes water and wastewater)
- ❑ For full lifecycle costing - annual contributions to the reserves is estimated to be \$39.4 million compared with the 2009 budget of \$17 million for tax supported capital assets

## Industrial Land

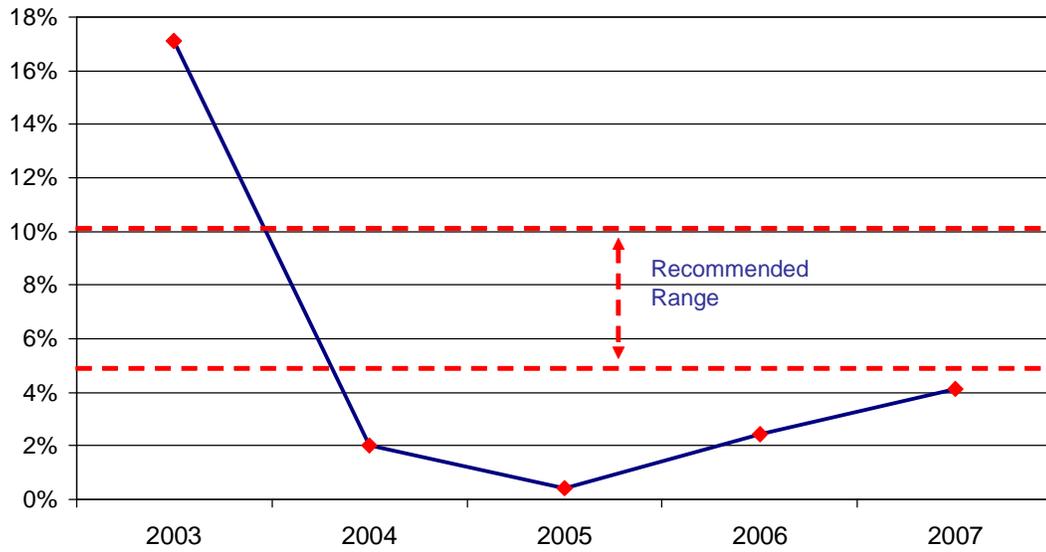


- ❑ \$6 million of unfinanced capital for land acquisition and servicing lands which will be recovered from future land sales. There is some risk exposure during the soft economy. The availability of industrial lands has positively impacted the City's credit rating.

## Water Reserves/Reserve Funds

- ❑ The Water Capital Reserve has increased steadily over the past 5 years.
- ❑ Estimated replacement value of \$331 million
- ❑ For full lifecycle costing, annual contributions to the reserves is estimated to be \$6.3 million which is the amount that the City has included in its budget for 2009. But there continues to be past funding deficits
- ❑ DC Water Reserve fund has a negative balance of \$2.6 million. This may put existing ratepayers at risk if growth does not occur as planned

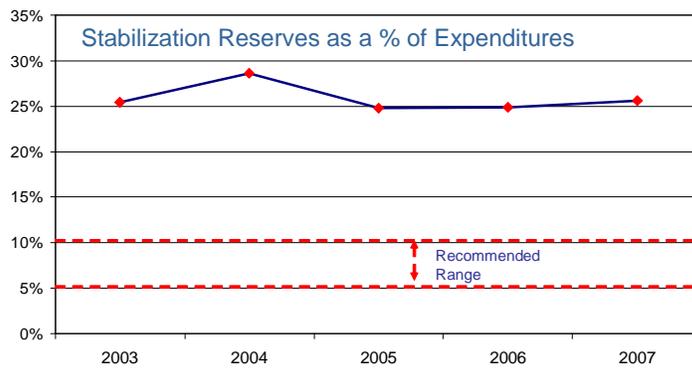
### Water Stabilization Reserves as a % of Water Expenditures



## Wastewater Reserves/Reserve Funds

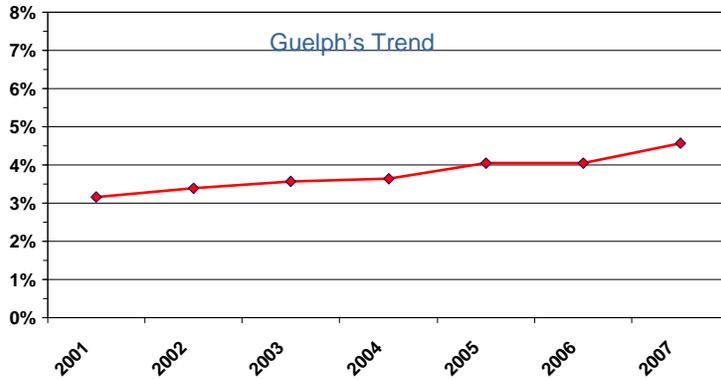
Wastewater Reserves/Funds	2003	2004	2005	2006	2007	2008
Stabilization Reserve	\$ 4,722,844	\$ 4,927,909	\$ 4,633,509	\$ 4,377,861	\$ 4,377,861	\$ 3,111,861
Capital Reserve	\$ 2,156,574	\$ 4,265,215	\$ 7,798,868	\$ 10,740,985	\$ 11,747,070	\$ 13,952,362
DC Reserve Fund	\$ 1,343,117	\$ 1,309,145	\$ 1,609,738	\$ 1,248,622	\$ (2,486,365)	\$ (6,425,416)
<b>Total WW Reserves/Funds</b>	<b>\$ 8,222,535</b>	<b>\$ 10,502,269</b>	<b>\$ 14,042,115</b>	<b>\$ 16,367,468</b>	<b>\$ 13,638,566</b>	<b>\$ 10,638,807</b>

- ❑ Negative DC Reserve Fund balance
- ❑ Replacement value of \$571 million for WW assets
- ❑ For full lifecycle costing, annual contributions to the reserves is estimated to be \$9.7 million compared with the 2009 budget includes a transfer \$6 million



- ❑ Opportunity to transfer funds from the Stabilization reserve to the Wastewater Capital Reserve which is currently underfunded

Guelph Debt Charges as a % of  
Gross Expenditures Less Water and sewer



Municipality	2007 Debt Charges as a % of Total Expenditures Less Water and sewer
Cambridge	0.0%
Kingston	0.2%
Brantford	1.0%
Barrie	1.3%
Oakville	3.1%
Burlington	4.5%
London	4.5%
<b>Guelph</b>	<b>4.6%</b>
St. Catharines	7.0%
Waterloo	8.2%
Average	3.4%
Median	3.8%

- Guelph's tax debt charges as a percentage of expenditures is slightly above the average but still considered low

## Water and WW Debt Charges as a % of Expend.

No water debt

WW debt trending downward

## Debt to Reserve Ratio

Municipality	Debt to Reserve Ratio 2007
Cambridge	0.0
Barrie	0.2
Brantford	0.3
Oakville	0.7
St. Catharines	0.8
<b>Guelph</b>	<b>0.8</b>
Burlington	0.9
Kingston	1.0
London	1.5
Waterloo	2.5
Average	0.9
Median	0.8

□ Below the survey average

*Financial Position,  
Taxation and  
Affordability*



2008 Municipal Study

**BMA**  
Management Consulting Inc.

## Taxes Receivable as a % of Taxes Levied

- ❑ If uncollected property taxes rise to more than 8%, credit rating firms consider this a negative factor – Guelph's is 3.5%
- ❑ Credit rating agencies assume that municipalities normally will be unable to collect 2 - 5% of its property taxes within the year that taxes are due
- ❑ Guelph is low compared with industry standards and also the municipal comparator group

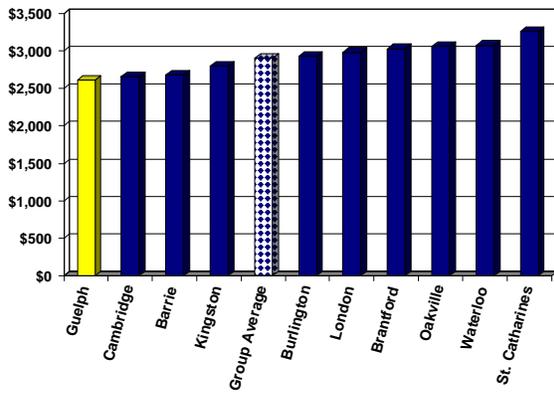
## 2008 Net Municipal Levy Per Capita

Municipality	2008 Net Municipal Levy Per Capita
Barrie	\$ 1,084
Brantford	\$ 1,163
Cambridge	\$ 1,172
London	\$ 1,187
St. Catharines	\$ 1,192
Burlington	\$ 1,211
Guelph	\$ 1,222
Waterloo	\$ 1,298
Oakville	\$ 1,361
Kingston	\$ 1,390
Average	\$ 1,228

- Below the group average
- Levy increasing at a rate faster than inflation over the past several years

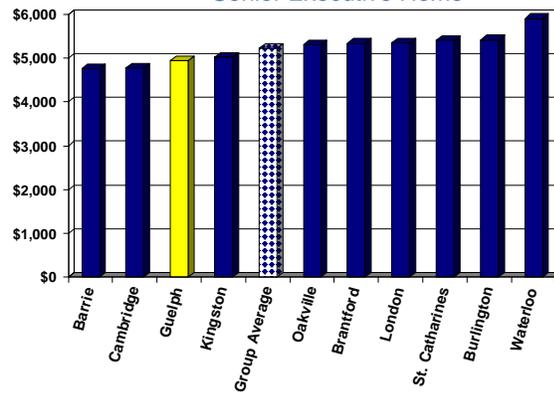
# Residential Like Property Comparison

## Bungalow

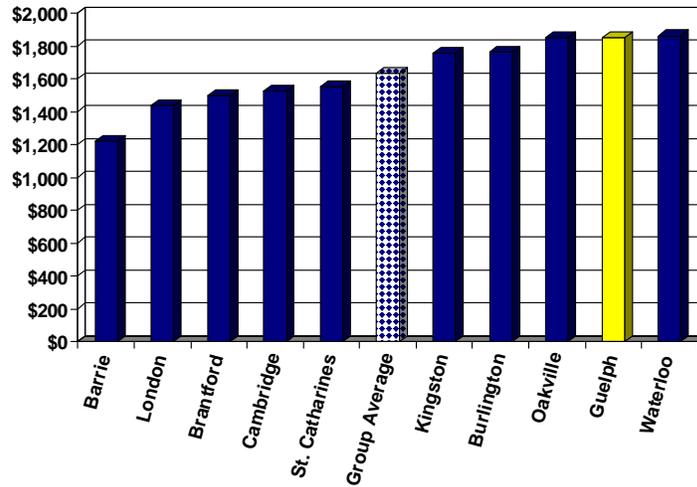


With a relatively strong assessment base and below average municipal levy per capita, the tax burden in Guelph is amongst the lowest in the survey

## Senior Executive Home



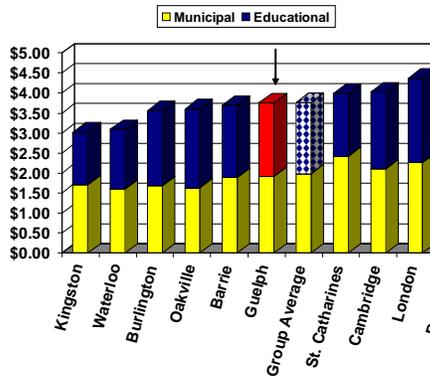
Taxes per Unit



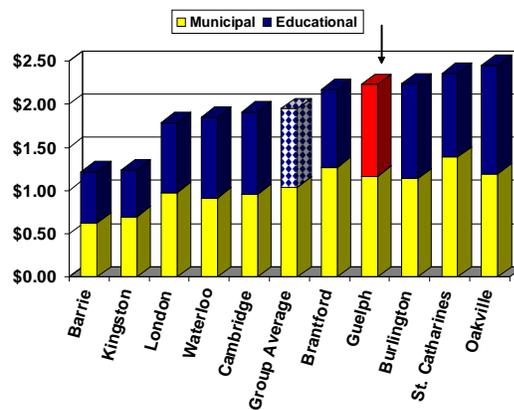
Residential Class

liti-

Commercial taxes per sq.f.t



Industrial taxes per sq.f.t



□ The tax burden for neighbourhood shopping is slightly below the group average of the municipalities selected

□ The tax burden in the industrial class is above the group average of select municipal comparators

## Sources of Revenue - Tax

Revenue Sources (Tax Supported)	2003 % of total	2007 % of total	Reliance of Source of Revenue Difference
Taxation	54.2%	56.0%	1.9%
User Fees	13.8%	10.2%	-3.6%
Contributions from Own (Reserves)	4.3%	3.0%	-1.2%
Fines and Penalties	2.2%	2.2%	0.0%
Grants	20.4%	22.2%	1.8%
Licences & Permits	1.4%	1.2%	-0.2%
Investment	1.5%	2.2%	0.7%
Other	1.1%	0.0%	-1.0%
Revenue from Other Municipalities	1.2%	1.5%	0.3%
Government Enterprise	0.0%	1.3%	1.3%
	100.0%	100.0%	0%

- Increased reliance on tax as a source of revenue
- Decrease reliance on user fees

## Gross Household Income



- ❑ In 2008, average household income in Guelph was \$80,300, compared with a group average of \$82,450 (ON avg \$80,600)
- ❑ The average household incomes in the survey ranged from a low of \$61,400 in St. Catharines to a high of \$134,400 in Oakville

## Affordability

- Average burden in 2008 in Guelph is below the average for property taxes and water and wastewater

*Summary*

**BMA**  
Management Consulting Inc.

2008 – Financial Condition  
Assessment



City of Guelph

2008 Municipal Study

**BMA**  
Management Consulting Inc.

## Long Range Financial Planning

- ❑ GFOA recommends that “All governments should regularly engage in long-term financial planning...”
  
- ❑ The City of Guelph has committed to long range financial planning which will:
  - Identify fiscal issues and opportunities
  - Establish fiscal policies and goals
  - Examine fiscal trends
  - Produce a financial forecast
  - Provide for feasible solutions

## Growth Related Summary

- ❑ Guelph's population has increased from 2001-2008 faster than the targeted annual growth rate of 1.9%
  - A Growth Management Strategy is currently being developed by the City
- ❑ Guelph has a good mix of residential and non-residential development. The City's 3-year average (2005-2007) building permit activity per capita exceeded the group average of municipal comparators
- ❑ Assessment base is relatively high on a per capita basis
- ❑ Average household income in Guelph is very close to the survey average of municipal comparators which is one measure of a community's ability to pay



## Reserves and Debt Summary

- ❑ From 2003-2008, reserves have been trending upward
- ❑ Industry standards - stabilization reserves should be between 5%-10% of gross operating expenditures
  - Tax Stabilization Reserve is currently at 3%
  - Water Stabilization Reserve is currently at 4%
  - Wastewater Stabilization Reserve is currently at 25%
- ❑ A number of DC Reserve Funds have a negative balance as projects have been undertaken in advance of DC revenues
- ❑ Shortfalls in capital funding to achieve full lifecycle costing
- ❑ Tax debt charges as a percentage of gross expenditures are slightly above the average but still low
- ❑ Water and Wastewater debt as a percentage of gross expenditures are trending downward and are relatively low



## Taxation and Affordability

- ❑ Credit rating agencies assume that municipalities normally will be unable to collect 2 - 5% of its property taxes within the year that taxes are due. The City of Guelph continues to be within the range considered to be acceptable by credit rating agencies
- ❑ The levy per capita has increased at a rate faster than inflation from 2003-2008 however the levy per capita in Guelph is below the average of municipal comparators
- ❑ Low water and sewer costs
- ❑ The tax burden tends to be low-mid for all property classes with the exception of Multi-Residential



BMA Management Consulting Inc.

2008 Municipal Study

**BMA**  
Management Consulting Inc.

**CONSENT REPORT OF THE  
EMERGENCY SERVICES, COMMUNITY SERVICES  
& OPERATIONS COMMITTEE**

March 23, 2009

Her Worship the Mayor and  
Councillors of the City of Guelph.

Your Emergency Services, Community Services & Operations Committee beg leave to present their SECOND CONSENT REPORT as recommended at its meeting of March 16, 2009.

*If Council wishes to address a specific report in isolation please identify the item. The item will be extracted and dealt with immediately. The balance of the Consent Report of the Emergency Services, Community Services & Operations Committee will be approved in one resolution.*

1)

THAT approval be granted to the Italian Canadian Club of Guelph to hold Festival Italiano at the Italian Canadian Club located at 135 Ferguson Street from July 10th to July 12th, 2009;

AND THAT an exemption from Schedule A of Noise Control By-law (2000)-16366, as amended, to permit noise from various activities associated with Festival Italiano including the amplification of music and speech and the operation of midway rides and generators between the hours of 12:00 p.m. to 11:00 p.m. and crowd noise from 12:00 p.m. to 1:00 a.m., from July 10th to July 12th, 2009, be approved.

2)

That the Mayor and City Clerk be authorized to sign an agreement between The Corporation of the City of Guelph and the Guelph Humane Society for the provision of services, including dog control, dog licensing, and animal shelter at a cost of \$372,000 for the period January 1, 2009 to December 31, 2009.

All of which is respectfully submitted.

Councillor June Hofland, Chair  
Emergency Services, Community Services  
& Operations Committee

**PLEASE BRING THE MATERIAL THAT WAS DISTRIBUTED WITH THE  
AGENDA FOR THE March 16, 2009 MEETING.**

**From:** Rob and Nancy Hingston  
**Sent:** March 12, 2009 11:20 PM  
**To:** Doug Godfrey  
**Subject:** Festival Italiano Noise Control By-law exemption

Mr Godfrey

I am writing in response to the notice in the Thursday March 12, 2009 edition of the Guelph Mercury, which a neighbour had clipped out and left in my mailbox regarding the noise bylaw exemption for Festival Italiano 2009.

First I need to get something off my chest.

Do you really feel that posting a notice on the twelfth and demanding a response by the thirteenth of the same month is the sort of action any reasonable person would initiate?

In addition the fact that the advertised meeting is to be held at 5:00 PM Monday March 16, 2009 is ridiculous. You cannot possibly expect anyone to be able to juggle either a professional or personal schedule to attend a meeting such as this, in just one business day. The same thing happened for last year's Festival and I was not able to attend, much the same as I will not be able to attend the meeting on Monday March 16, as I will be working out of town. Had I been given sufficient notice, I would have gladly cleared my schedule so that I could attend the meeting.

~~Is this an example of the transparency councillors speak of at election time?~~

If so, it is pretty cloudy and has the appearance that you really do not want any public input.

For this reason, I feel that this meeting should be deferred for a week or so allowing those concerned a genuine opportunity to attend.

Failing this happening, here are a few points that I would like to raise.

For several years now a requirement for the Festival Italiano was that the ICC, the City and the neighbors were brought together to discuss issues and concerns. To date Mr. Bruce Poole and Mr. Pat Sheehy have hosted these meetings and I have yet to miss one. Several points are raised, discussed and inevitably solutions either temporary or long term have been reached. At the last meeting, very few neighbors attended but the ones that did requested that the city notify them of this or any other meeting related to Festival Italiano either by regular post or email. No one is surprised, but this has not happened.

Festival management were advised to hold another meeting with the neighbors when their plans for this year's festival were more complete. Festival management agreed and the advised that late December or early January would be suitable for that meeting as their plans would be more complete by that time. That meeting has not occurred, therefore you must defer the March 16, 2009 public meeting until such a time that Festival organizers have satisfied their obligation to all whom attended that last meeting at the ICC.

As has been done at past festivals and agreed to by Festival organizers- there will not be any amplified music accompanying the midway portion of the Festival. This is not clearly defined in the exemption notice in the Mercury as it should be.

For these reasons, I am asking that you do not grant this by-law exemption or at least defer it until myself and some other neighbors can meet with your committee personally.

This note was written in haste (due to the short notice) and if I get a chance over the weekend I will send another with more detail and photos to help you with your decision.

Thank you for your consideration  
Rob Hingston

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March 13, 2009

Attention: Dolores Black  
59 Carden Street  
Guelph, Ontario  
N1H 3A1

RECEIVED  
MAR 13 2009  
CITY CLERK'S OFFICE

I am unable to attend the committee meeting on March 16, 2009 but wish to have the following comments entered on my behalf.

Each year, the neighbourhood surrounding the Italian Canadian Club is subjected to an intrusive event. Festival Italiano is apparently intended to celebrate the cultural heritage of Italian Canadians. Admittedly, there are a few events such as the cheese roll, grease pole, etc. However, these events are few and far between. The main attractions for this weekend are the beer tents and the midway. I fail to see the cultural significance of these two attractions. However, this draws thousands of people into a residential area. It causes traffic and pedestrian congestion along all roads and sidewalks. Many who live in the area are adults with young families and seniors. Personally, I have three children and they always have had their sleep and daily lives interrupted during this festival time. We constantly hear the noise generated at the festival. We also have the unfortunate reality of having intoxicated individuals walking down our streets urinating on our home.

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~~Let's face it, this event is not so much about celebrating Italian heritage, but instead, is a major fundraiser for the club. It has outgrown its current location and has severely interrupted the daily lives of the neighbouring community. I would like to ask city council this one question. Would you want this event in your backyard?~~

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Additionally, my wife and I attended a meeting with the club and representatives from the city a number of months ago at the Italian Canadian Club. Although I did not mention it at the time, I question why the meeting was chosen to be held there, since it could be construed as showing bias towards one of the parties. Aside from this, we were told that we would be kept informed of any updates regarding the festival. However, other than being sent the minutes from this one meeting, we have heard nothing from either party. It was only out of luck, that my wife noticed an article in The Guelph Mercury on March 12, 2009 stating that an application has been made for a noise control by-law exemption. I must say I am left to wonder as to how many closed door meetings between the club and the city have occurred and why were we and the general public not informed of this process? Once again, my wife and I would ask to be informed of the comments made at the committee meeting and any formal decisions that were made. Thank you.



Karen & Jim Duffy

To: Emergency Services, Community Services and Operations Committee,

We would like the opportunity to comment on the Special Event and Noise Control By-law Exemption Requests-Italian Canadian Club of Guelph. We are unable to attend tonight's meeting, March 16, 2009, but wish to receive correspondence with regards to the outcome of this meeting as well as future mitigations and notice of when it will go to City Council.

Our comments are as follows:

We live on Ontario Street and do support the concept of the Italian Festival in our neighbourhood although we believe that the festival was a more appropriate size for a residential neighbourhood before it's full expansion into their parking lot on the west side of Ferguson Street.

We are glad to see that the I.C.C. has taken positive steps over the past few years to try and mitigate the impact the festival has had with area residents. Although we ourselves have not really had too many issues, we understand and empathize with those who live closest to the activities.

However, we are confused and disappointed with the City over the lack of transparency with regards to the public meeting and the survey of "area residents". The area survey and results in Attachment "A" are misleading as it appears to show Oliver, Manitoba, Wood, Ontario, Short and Toronto Streets as part of the survey area but we received no survey or opportunity to comment. Why were we excluded?

We feel that we should have been part of the area surveyed and a proper advertised public meeting should have taken place. Also the survey should have included a comment area for residents.

There are many traffic and parking implications that take place because of the festival even as far away as Ontario Street. Every year numerous people stop us on our street asking for directions to the Festival.

It is also obvious that there are issues with regards to traffic and parking since it was city staff that notified the Festival Italiano organizers in 2008 of their concerns with regards to the Festival remaining in the current location.

We find it ironic that the surveys for traffic calming for one street require that a very large section of a neighbourhood be considered for comment but such a narrow focus was undertaken with this survey when the festival generates such large amounts of traffic throughout the entire neighbourhood.

We would like clarification from this committee and the operations department on what type of notification took place, the area of scope for the meeting and survey and what was

the justification for these parameters? We propose that the whole area on Attachment "A" should be included in any further discussion, etc. A standardized and consistent survey area as well as a transparent public notification process should also occur in the future such as notification in paper and mailings to all area residents. The operations department seems to be inconsistent with how they conduct surveys and public participation. Why were different boundaries used for this survey than any of the other surveys for this neighbourhood? Why were several streets shown on the map not included in the survey? The presentation of the map in Attachment "A" gives a misleading appearance to the area which was actually included in the survey.

We are also somewhat concerned that for this survey the City has considered that a 16% (83/531) response is adequate to move forward but other surveys require that a minimum of 60% of the surveys must be returned to be considered valid survey.

We wish to be kept informed of the mitigation plan and be allowed to comment with regards to sections 2.4 (permitted parking on Ferguson St.) and 3.1 (prohibit parking on Huron St.) as well as 3.3 of the city staff proposal of having parking at the end of Water Works Place at Lyon's Park as additional parking. We know as well as staff that as parking and traffic patterns change and spread out into a residential area there is the potential to have more impact where there was none before. That is why we believe the whole area on Attachment "A" should have been surveyed.

We are glad to see the Italian Canadian Club's efforts with regards to the shuttle, pick-up and drop off taxi stand and the advertisement of bus routes in the local media etc. May we suggest that since the Festival is located on a major bus route (Elizabeth St.) that they also partner with the city to provide a free voucher in their advertisements for anyone wishing to take public transit to and from the Festival? The city could absorb this cost as the buses are running anyway. This would be a great pilot project, it would help disperse people at night, ease up on parking, drinking and driving and other drinking related incidents. It would also be another plug for public transit.

In closing we wish the I.C.C. success with their Festival this year and hope residents' concerns will be lessened by the mitigation that will take place.

Please inform us of the decision by this committee and any future discussions with regards to this issue. We also wish to be notified of when this issue will go to council as a whole.

Regards  
Lorraine Pagnan and Fred Thoonen  
155 Ontario Street,  
Guelph,  
N1E 3B3

**CONSENT REPORT OF THE  
FINANCE, ADMINISTRATION & CORPORATE SERVICES COMMITTEE**

March 23, 2009

Her Worship the Mayor and  
Councillors of the City of Guelph.

Your Finance, Administration & Corporate Services Committee beg leave to present their FIRST CONSENT REPORT as recommended at its meeting of March 9, 2009.

*If Council wishes to address a specific report in isolation please identify the item. The item will be extracted and dealt with immediately. The balance of the Consent Report of the Finance, Administration & Corporate Services Committee will be approved in one resolution.*

1)

THAT the City's Purchasing By-law (2005)-17679 be amended such that the monetary limits in section 5 – Purchase Processes and Limits, be revised as reflected in Schedule B.

2)

THAT Council authorize City Staff to file appeals with the Assessment Review Board;  
AND THAT staff be directed to prepare the necessary by-law.

3)

THAT the 10 year forecast submitted with the 2009 Budget, be reviewed using the priority setting process outlined in this report, and a revised forecast be presented to Council at the May 27, 2009 priority setting meeting.

All of which is respectfully submitted.

Councillor Vicki Beard, Chair  
Finance, Administration & Corporate Services Committee

**PLEASE BRING THE MATERIAL THAT WAS DISTRIBUTED WITH THE  
AGENDA FOR THE March 9th, 2009 MEETING.**

**CONSENT REPORT OF THE  
GOVERNANCE COMMITTEE**

March 23, 2009

Her Worship the Mayor and  
Councillors of the City of Guelph.

Your Governance Committee beg leave to present their FIRST CONSENT REPORT as recommended at its meeting of March 9, 2009.

*If Council wishes to address a specific report in isolation please identify the item. The item will be extracted and dealt with immediately. The balance of the Consent Report of Governance Committee will be approved in one resolution.*

1)

THAT a two phased process for the review of Council's capital and operating priorities that will set the foundation for 2010 budgeting, resource allocation and work planning decision, be approved;

AND THAT Council recognize this effort as an integral part of developing a comprehensive budget policy and process, consistent with GFOA guidelines, and that additional proposed financial guidelines and policies supporting a revised forecast will be presented to Council for approval by September 2009.

All of which is respectfully submitted.

Mayor Karen Farbridge, Chair  
Governance Committee

***PLEASE BRING THE MATERIAL THAT WAS DISTRIBUTED WITH THE  
AGENDA FOR THE MARCH 9TH, 2009 MEETING.***

# COMMITTEE REPORT



TO **Governance Committee**

SERVICE AREA Corporate Administration

DATE March 9, 2009

**SUBJECT Revised: Annual Council Priority Review – Process Plan**

REPORT NUMBER

## RECOMMENDATION

That Council approve a two phased process for the review of Council's capital and operating priorities that will set the foundation for 2010 budgeting, resource allocation and work planning decisions; and

That Council recognize this effort as an integral part of developing a comprehensive budget policy and process, consistent with GFOA guidelines, and that additional proposed financial guidelines and policies supporting a revised capital forecast will be presented to Council for approval by September 2009.

## BACKGROUND

A process for reviewing current Council identified priorities has been developed for review and approval by the Senior Management Team and Governance Committee. The process has been divided into two phases that deal separately with capital and operating projects as well as items that have been referred to the review process throughout the past year.

The work undertaken to prepare for this review and the reconfirmation of capital, operating and work plan priorities will position staff well for development of the 2010 draft budget, long term financial strategy and a comprehensive budget policy and process.

## REPORT

A review of Council priorities is advised on an annual basis to ensure that the City is responding well to continuously changing external and internal forces in the operating environment. The proposed objectives of the 2009 exercise include ensuring:

- an open, collaborative effort that enables well informed decision making;
- a process that sets foundation for 2010 budgeting, resource allocation and work planning decisions; and
- enhanced staff and community awareness, understanding and involvement.

To that end, two phases are suggested. The first phase will include an

environmental scan, a status report on Strategic Plan progress and confirmation of a proposed tool to identify and assess current capital priority projects.

The second phase will include a review of services currently offered by the city, a recommendation for 2010 Service Reviews to be undertaken, a review of items referred to the session throughout the year and any new services or service enhancements that Council directs staff to explore as part of the 2010 budget preparation work.

Both phases are designed to seek Council's directional input. Potential risks have been identified and mitigation strategies confirmed. For a successful session the availability of particular information items is necessary. Identified and required data includes the following:

Required Information	Source
<ul style="list-style-type: none"> <li>a through understanding of current internal and external forces in the current operating environment</li> </ul>	<ul style="list-style-type: none"> <li>✓ guest researcher/speaker</li> <li>✓ Statistics Canada trends report; Business Climate Survey; 2009 Growth survey, 2008 Citizen satisfaction survey, public consultation feedback from 2008/9 community outreach efforts; staff feedback from 2008/9 consultation efforts</li> </ul>
<ul style="list-style-type: none"> <li>status of current priorities – capital and operating</li> </ul>	<ul style="list-style-type: none"> <li>✓ Departmental work plan project lists and Council reports</li> </ul>
<ul style="list-style-type: none"> <li>overall progress on achieving strategic plan objectives</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff analysis and assessment</li> </ul>
<ul style="list-style-type: none"> <li>prioritized capital projects</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff analysis and assessment</li> </ul>
<ul style="list-style-type: none"> <li>funding options and opportunities</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff research</li> </ul>
<ul style="list-style-type: none"> <li>potential new and required operating and capital projects</li> </ul>	<ul style="list-style-type: none"> <li>✓ Council resolution</li> </ul>
<ul style="list-style-type: none"> <li>City services inventory</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff research and assessment</li> </ul>
<ul style="list-style-type: none"> <li>list of work plan strategic initiatives</li> </ul>	<ul style="list-style-type: none"> <li>✓ Departmental work plan project lists</li> </ul>
<ul style="list-style-type: none"> <li>SMT recommended service review projects</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff analysis and SMT discussion</li> </ul>
<ul style="list-style-type: none"> <li>referral items from 2008/9-benefit and implementation considerations</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff analysis and review</li> </ul>
<ul style="list-style-type: none"> <li>operational pressures, new initiatives and unanticipated items</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff analysis and review</li> </ul>
<ul style="list-style-type: none"> <li>new services or required enhancements</li> </ul>	<ul style="list-style-type: none"> <li>✓ staff assessment and Council input</li> </ul>

Measures of success for the 2009 review process include reconfirmed priorities aligned with financial and operating plans; a repeatable process endorsed by a

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majority of Council members and recommended by SMT; and well communicated outcomes to both staff and residents that facilitate a strong budget process consistent with GFOA standards.

### **CORPORATE STRATEGIC PLAN**

An annual Strategic Plan Priority Review addresses the Strategic Plan objective 5.6 focused on organization excellence in planning and management.

### **FINANCIAL IMPLICATIONS**

Any monetary implications that result from this effort will be addressed through the regular budgetary process.

### **DEPARTMENTAL CONSULTATION**

The Senior Management Team and Governance Committee were consulted in development of this report.

### **COMMUNICATIONS**

Once confirmed, the process can be broadly communicated with public information sessions for various stakeholder groups and the general public.

### **ATTACHMENTS**

Appendix A – Annual Council Priority Review: Draft Process Plan (Presentation Deck)

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#### **Prepared By:**

Brenda Boisvert  
Manager, Strategic Planning  
and Corporate Initiatives

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#### **Recommended By:**

Margaret Neubauer  
Director of Finance

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#### **Recommended By:**

Hans Loewig, CAO

# **Annual Council Priority Review – Draft Process Plan**

Presentation to Governance Committee

March 9, 2009

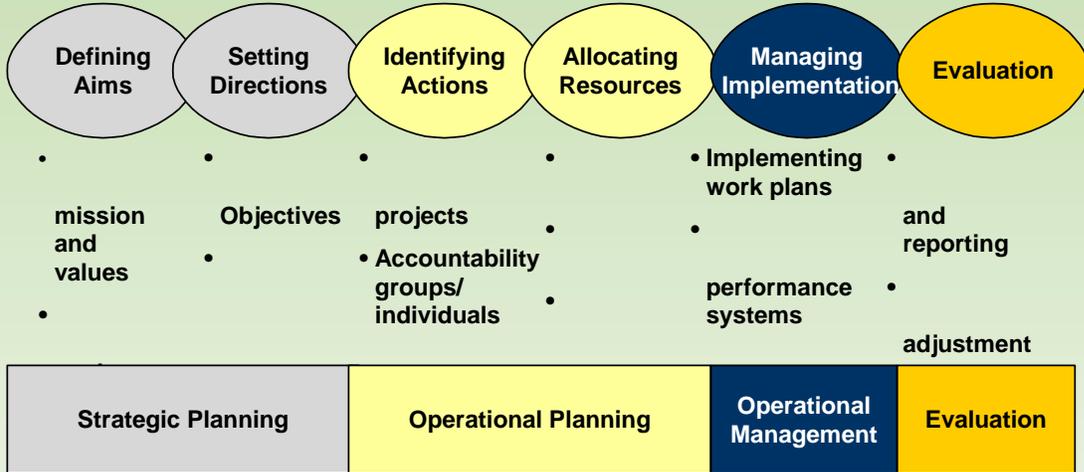
Brenda Boisvert, BA, MPA

**Making a Difference**

# Agenda

- Strategic Framework
- Review Purpose
- Process Objectives
- Proposed Method
- Expected Outcomes
- Next Steps

# A strategic framework



## **Review Purpose**

- Assess current priorities and evaluate Strategic Plan progress to date
- Review and confirm financial and operating plans to achieve the priorities
- Adjust as required

## **Process Objectives**

- Open, collaborative effort that enables well informed decision making
- A foundation for 2010 budgeting, resource allocation and work planning decisions
- Community awareness, understanding and involvement

## Proposed Method



### Phase 1: Capital Priorities Review - May

- Issues and opportunities
- Status report on Strategic Plan progress and identified capital priority projects
- Review a prioritization tool for capital projects and present a revised capital forecast
- Discuss options for potential shifts in timing/delays

### Phase 2: Operating Priorities - June

- Review an Inventory of Services
- Discuss SMT recommended Reviews for 2010
- Review Council directed items referred to the review session
- Discuss new services and/or enhancements
- Discuss operating priorities and work plan directions

## **Process Method (cont'd)**

### **Phase 1 – Required Information**

- ✓ understanding of current issues – internal and external
- ✓ status of current priorities and SP progress
- ✓ revised capital forecast
- ✓ funding options and alternatives

## Process Method (cont'd)

- Phase 2 – Required Information
  - ✓ List of Services provided (mandatory vs. discretionary)
  - ✓ List of Departmental strategic initiatives
  - ✓ SMT recommended Service Review Project(s)
  - ✓ Referral items – benefits and ease of implementation
  - ✓ Operational pressures and new initiatives
  - ✓ New service or service enhancement ideas

## Community Involvement

- Open public review meetings
- Information sessions
- Survey input – service enhancements for consideration (e.g. live answer)
- Budget consultations

## Risks

- Limited community interest
- Inadequate time required to fully address issues within 2 sessions
- Insufficient and/or incorrect data to reconfirm the capital and operating priorities as well as the work plan directions

## Measures of Success

- Reconfirmed priorities aligned with financial and operating plans
- A repeatable process recommended by SMT and endorsed by a majority of Council members
- Well communicated outcomes to both staff and residents that facilitate development of a comprehensive budget process consistent with GFOA standards

**Thank you**

*“No wind favours the ship that has no charted course”*  
*Anonymous*

**CONSENT REPORT OF THE  
COUNCIL AS COMMITTEE OF THE WHOLE**

March 23, 2009

Her Worship the Mayor and  
Councillors of the City of Guelph.

Your Council as Committee of the Whole beg leave to present their SECOND CONSENT REPORT as recommended at its meeting of February 23, 2009.

*If Council wishes to address a specific report in isolation please identify the item. The item will be extracted and dealt with immediately. The balance of the Consent Report of the Council as Committee of the Whole will be approved in one resolution.*

**1) CITIZEN APPOINTMENTS TO THE EASTVIEW PUBLIC LIAISON COMMITTEE**

THAT Anna Bortolon and Katharine Demolder-Carere be appointed to the Eastview Public Liaison Committee for a term ending November, 2009.

**2) CITIZEN APPOINTMENTS TO THE RIVER SYSTEMS ADVISORY COMMITTEE**

THAT Karen Chisholme and Dan McDonell be appointed to the River Systems Advisory Committee for a term ending November, 2009.

**3) CITIZEN APPOINTMENT TO THE RIVER RUN CENTRE BOARD OF DIRECTORS**

THAT Jordon Willcox be appointed to the River Run Centre Board of Directors for a term ending November, 2009.

All of which is respectfully submitted.

Councillor Gloria Kovach

## CONSENT AGENDA

March 23, 2009

Her Worship the Mayor  
and  
Members of Guelph City Council.

### **SUMMARY OF REPORTS:**

The following resolutions have been prepared to facilitate Council's consideration of the various matters and are suggested for consideration. If Council 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 Consent Agenda will be approved in one resolution.

#### **A Reports from Administrative Staff**

<b>REPORT</b>	<b>DIRECTION</b>
<p>A-1) <b>PROVINCIAL OFFENCES ACT STREAMLINING REVIEW</b></p> <p>THAT Council directs staff to respond to the Ministry of the Attorney General's <i>Provincial Offences Act Streamlining Review Consultation Paper</i> as outlined in the March 23, 2009 report to Council.</p>	Approve
<p>A-2) <b>ROAD CAPITAL BUDGET REALLOCATION: NORFOLK STREET RECONSTRUCTION</b></p> <p>THAT Report No. 09-31, dated March 23, 2009 from Community Design and Development Services regarding Road Capital Budget Reallocation: Norfolk Street Reconstruction be received;</p> <p>AND THAT \$1M of City funding from Account Number RD0225 Dublin: Suffolk-Waterloo and \$1M of City funding from Account Number RD0107 Gordon: Wellington-Waterloo be reallocated to Account Number RD0176 Norfolk: Waterloo-Quebec, for use during the Norfolk Street Reconstruction from Waterloo Avenue to Quebec Street.</p>	Approve
<p>A-3) <b>Clair Tower Booster Station, Contract 09-31</b></p> <p>THAT the tender of Sierra Construction Ltd. be accepted and that the Mayor and Clerk be authorized to sign the agreement for Contract 09-031 for the Clair Tower Booster Station, for a total tendered price of \$2,113,728.14 with actual payment to be made in accordance with the terms of the contract.</p>	Approve

**B ITEMS FOR DIRECTION OF COUNCIL**

B-1) **GUELPH POLICE SERVICES BOARD – RE RESOLUTION FROM WEST PERTH POLICE SERVICES BOARD**

Receive

THAT the correspondence from the Guelph Police Services Board with respect to a resolution from West Perth Police Services Board to petition the Ministry of the Attorney General to review the system of sentencing in Ontario Province’s Courts, specifically pertaining to the drug trade, be received for information.

**C ITEMS FOR INFORMATION OF COUNCIL**

attach.

TO **Guelph City Council**

SERVICE AREA Corporate Services Department  
DATE March 23, 2009

**SUBJECT Provincial Offences Act Streamlining Review**  
REPORT NUMBER A-1

## **RECOMMENDATION**

THAT Council directs staff to respond to the Ministry of the Attorney General's *Provincial Offences Act Streamlining Review Consultation Paper* as outlined in the March 23, 2009 Report to Council.

## **BACKGROUND**

On January 29, 2009 the Ministry of the Attorney General released the attached *Provincial Offences Act Streamlining Review Consultation Paper* ("the *Paper*"). The initiative to streamline the Provincial Offences Act ("POA") and court procedures, resulting in this *Paper*, has been underway since 2006. Members of the Working Group involved in the initiative includes representatives from the Municipal Court Managers' Association of Ontario ("MCMA"), the Prosecutors' Association of Ontario ("PAO"), the Association of Municipalities of Ontario ("AMO") and several other stakeholders including the Ministries of the Attorney General, Transportation, Municipal Affairs and Housing and Small Business and Consumer Services. The *Paper* outlines proposed changes to the POA court system and invites municipalities operating courts to respond to the proposals by April 17, 2009.

## **REPORT**

The *Paper* outlines the following four areas of discussion and identifies approximately 35 proposed changes to the POA and court procedures affecting court administration and the prosecution of POA offences.

- 1. Improving service to the public and access to justice** – includes developing a more effective charge resolution process; enabling the use of audio/video appearances; and improving the delivery of court notices to defendants.
- 2. Enhancing the enforcement of POA fines** – includes adding defaulted fines to municipal tax bills; paying fines as a condition of a municipal business licence; expanding the use of licence and licence plate suspensions; improving access to civil enforcement processes; and providing relief from financial and other hardship.

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**3. Simplifying procedures and more efficient use of available resources** – includes enhancing the powers of the clerk of the court in adjournments, trial scheduling, court closures and extending time to pay a fine; streamlining evidence in trials, particularly trials where the defendant does not appear; authorizing judicial pre-trials; limiting the effect of filing an appeal; increasing maximum fines; reserving summonses for serious offences; clarifying when a ticket is complete and regular on its face; and clarifying the criteria for assessing valid guilty pleas.

**4. Other options for POA reform** – includes permitting prosecutors to make submissions regarding the waiving of fines pending appeal; record keeping regarding trial exhibits; permitting parking officers to mail parking tickets to defendants where they drive away from the scene; filing charges electronically; extending the time to appeal convictions; extending time for commencing a parking charge; streamlining the process for guilty pleas; and encouraging timely applications for extensions of time to pay fines.

**Areas Supported:**

Staff supports the majority of the changes outlined in the *Paper*. Most changes are minor technical legislative modifications designed to better reflect actual practices occurring in courts and to codify the results of previous court decisions with respect to certain procedures (e.g. clarifying when a ticket is complete and regular on its face). Staff also supports potential operational improvements such as expanding the powers of the clerk of the court to address adjournments, trial scheduling, court closures and fine payment extensions; legislative support for electronic ticket filing; streamlining the process for guilty pleas; and prosecutorial involvement in hearings regarding the waiving of fines pending appeal.

**Areas Requiring Further Review:**

Staff has concerns with proposed changes associated with (1) a province-wide early resolution process; and (2) enhancing the enforcement of POA fine payments.

Early resolution process

The process of early resolution is designed to assess cases where the defendant is disputing the charge and has requested a trial. This assessment allows for the prosecution to determine issues such as whether or not the charge is sustainable at trial, if it is in the interests of justice to accept a plea to a substituted offence, what penalty would be most appropriate in the circumstances of the offence and the ability of the defendant to comply with the penalty.

The change proposed is that every person charged with an offence will be permitted to partake in the resolution process regardless of whether or not that person is disputing the offence. This raises the following concerns:

1. The proposed change conflicts with the current system where people charged with an offence can accept responsibility for that offence at the first available opportunity by paying the set fine penalty for the offence. The proposed change would result in a significant increase in trial requests because people charged would elect trial in order to participate in the resolution process in an attempt to get a

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reduction to the charge and the corresponding penalty not necessarily because they believe they are not guilty of the offence.

2. It is anticipated that this process would increase local prosecutorial resource requirements by 350% to address the additional caseload created and the associated administrative requirements.

3. The increased caseload would create trial delays due to the additional number of charges requiring a decision by the court.

#### Enhancing the enforcement of POA fine payments

The *Paper* points out the fundamental principle in this regard - "*a fine unpaid is justice not served, as the convicted offender has not paid his or her debt to society..*". However, the proposed changes in this area do not include many of the improvements that were provided by municipalities to the Working Group through the MCMA such as the recovery of fines under the federal income tax system similar to the process that is in effect in Alberta, legislative changes that allow for unpaid fines to be referred to credit bureaus and simplified procedures for effecting wage garnishments. It is staff's position that these additional fine enforcement measures should be further considered by the Working Group.

It is recommended that staff prepare a response to the *Paper* outlining the support and concerns raised in this report and submit the response to the Ministry of the Attorney General with copies to the MCMA, PAO and AMO.

### **CORPORATE STRATEGIC PLAN**

A community-focused, responsive and accountable government.

### **FINANCIAL IMPLICATIONS**

Potential financial implications regarding resources needed to implement any of the proposed changes will be assessed once the final proposed legislative changes are known at the end of the consultative phase.

### **DEPARTMENTAL CONSULTATION**

N/A

### **COMMUNICATIONS**

N/A

### **ATTACHMENTS**

*Provincial Offences Act Streamlining Review – Consultation Paper*

"original signed by Bradley Coutts"

"original signed by Lois Payne"

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#### **Prepared By:**

Bradley S. Coutts  
Manager of Court Services  
519-826-0762 ext. 2909  
brad.coutts@guelph.ca

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#### **Recommended By:**

Lois E. Payne  
Director of Corporate Services/  
City Solicitor  
519-822-1260

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lois.payne@guelph.ca

*Provincial Offences Act* Streamlining Review

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**Consultation Paper**

January 29, 2009

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POA Streamlining Review – Working Group Members ..... i

# INTRODUCTION AND OVERVIEW

## The POA Streamlining Review

The *Provincial Offences Act* (the “POA”)<sup>1</sup> is the provincial legislation governing the prosecution of provincial offences, municipal by-law infractions, and certain federal laws. Provincial offences are created by a variety of provincial statutes and regulations, including the *Highway Traffic Act*,<sup>2</sup> the *Occupational Health and Safety Act*,<sup>3</sup> and the *Environmental Protection Act*.<sup>4</sup>

Since 1999, the Attorney General has entered into 52 POA Transfer Agreements with Municipal Partners.<sup>5</sup> These agreements transfer to municipalities the responsibility for administering courts that hear POA matters, prosecuting offences under Part I and Part II of the POA, and collecting fines imposed under Parts I, II and III of the POA.<sup>6</sup>

In the Transfer Agreements, Municipal Partners and the Ministry of the Attorney General (MAG) agreed to explore the possibility of streamlining proceedings under the POA once the last Transfer Agreement was executed. In August of 2006, the POA Table, a committee composed of representatives from MAG, the Municipal Court Managers’ Association, municipal prosecutors and others, formed a provincial-municipal Working Group to conduct a review of the POA, associated regulations and court rules. The Working Group has been asked to make recommendations to MAG and has been meeting regularly over the past year to consider proposals to simplify procedures, reduce demand for court resources, enhance fine enforcement and improve service to the public. Now it would like to hear the views of others interested in POA matters.

The Working Group<sup>7</sup> is composed of representatives of:

- The Municipal Court Managers’ Association
- The Prosecutors’ Association of Ontario
- The Association of Municipalities of Ontario
- The Ministry of Transportation
- The Ministry of Municipal Affairs and Housing
- The Ministry of Small Business and Consumer Services
- The Ministry of the Attorney General

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<sup>1</sup> R.S.O. 1990, c. P.33.

<sup>2</sup> R.S.O. 1990, c. H.8.

<sup>3</sup> R.S.O. 1990, c. O.1.

<sup>4</sup> R.S.O. 1990, c. E.19.

<sup>5</sup> Municipal Partners administer courts hearing POA matters in a defined court service area.

<sup>6</sup> Although they are municipally administered, the POA courts remain part of the Ontario Court of Justice.

<sup>7</sup> A complete list of Working Group members is attached as **Appendix ‘A’**.

The purpose of the POA is to establish a procedure for the prosecution of provincial offences that reflects the distinction between provincial offences and criminal offences.<sup>8</sup> Courts have noted that it is intended to establish a “speedy, efficient and convenient method of dealing with [provincial] offences,”<sup>9</sup> to ensure that technical objections do not impede the arrival of a verdict on the merits,<sup>10</sup> and to encourage defendants to represent themselves at trial.<sup>11</sup> With this in mind, the Working Group has aimed to identify options for reform that maintain simple, fair and accessible POA procedures for all Ontarians, including unrepresented defendants.

## Statutory Framework

The POA is divided into 10 Parts. Parts I, II, and III govern the initiation of proceedings, and have been the focus of much of the Working Group’s discussion. Parts IV, V and VII through X of the POA set out a number of general provisions applicable to all proceedings (including procedures for arrest, search and seizure, bail, trial, sentencing, appeals, *etc.*). Part VI of the POA creates a special code of procedure applicable to the prosecution of “young persons.”

Part I establishes a simple “ticketing” procedure for relatively minor, non-parking offences, punishable by a fine of \$500 or less. A Part I proceeding is commenced by serving the defendant with an offence notice (ticket) and filing a certificate of offence with the court. Defendants may plead guilty to an offence by paying the set fine and the associated costs and surcharges. If a defendant fails to respond to an offence notice within 15 days or requests a trial and fails to appear at the appointed time and place, he or she may be convicted without a trial. Part I does not provide for incarceration, probation, or sentencing options other than fines, except for certain related consequences for some traffic offences under the *Highway Traffic Act* (*e.g.*, driver’s licence suspension, demerit points, *etc.*).

Part II outlines the procedures applicable to provincial, municipal and federal parking infractions. As in Part I, it establishes a simple “ticketing” scheme intended to reflect the minor nature of these infractions.

The procedures set out in Part III are similar to procedures in criminal matters. A proceeding is commenced against a defendant by an information sworn before a judicial officer, and the defendant appears in court in response to a summons or warrant for arrest. The procedures in Part III are intended to be used for more serious provincial offences (*e.g.*, driving while your driver’s licence is suspended, discharging a contaminant into the environment that causes an adverse effect). The POA prescribes a maximum fine of \$5,000 for these offences; however, many statutes provide for higher monetary penalties. Part III also establishes a broad range of sentencing options, including imprisonment and probation.

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<sup>8</sup> See s. 2.

<sup>9</sup> *R. v. Jamieson* (1981), 64 C.C.C. (2d) 550 (Ont. C.A. [In Chambers]); affirmed (1982), 66 C.C.C. (2d) 576 (Ont. C.A.).

<sup>10</sup> *Her Majesty the Queen in Right of Ontario (Ministry of Labour) v. Discovery Place Ltd.*, [1996] O.J. No. 690 (Gen. Div.); *Her Majesty the Queen in Right of Ontario (Ministry of Labour v. The Corporation of the City of Hamilton* (2002), 58 O.R. (3d) 37 (C.A.).

<sup>11</sup> *R. v. Wells*, [2003] O.J. No. 2025 (C.J.).

## Consultation

This consultation paper sets out a number of ideas for reform, which are divided into four categories based on the primary objectives of the POA Streamlining Review:

- 1. Improving Service to the Public and Access to Justice**
- 2. Enhancing the Enforcement of POA Fines**
- 3. Simplifying Procedures and Making More Efficient Use of Available Resources**
- 4. Other Options for POA Reform**

In addition to the procedures established by the POA, there are also POA Rules of Court. The Ontario Court of Justice will be consulted about ideas to streamline and enhance these Rules, including:

- Clarifying and simplifying appeal processes by:
  - Simplifying rules for filing documents;
  - Clarifying rules for dismissing abandoned appeals; and
  - Streamlining the processing of applications for extension of time to appeal.
- Establishing criteria and reviewing procedures for extending the time to appeal;
- Creating rules governing applications for and the conduct of judicial pre-trials;
- Reviewing when POA proceedings should be recorded and when a transcript should be required for POA appeals; and
- Creating rules for serving and filing materials related to constitutional motions.

The Ministry of the Attorney General will also review existing POA costs and fees following the implementation of reforms that result from the POA Streamlining Review.

The Working Group invites your comments on all of the issues raised in this paper or any other issue related to POA procedures or fine enforcement. The potential reforms set out here are intended to generate ideas and discussion, but are not intended to be exhaustive or final. They do not necessarily represent the views of the Attorney General.

Please send your comments or questions by mail or e-mail to:

**Raghad Hussami**  
**Information Coordinator**  
**Criminal/POA Policy & Programs Branch**  
**Court Services Division**  
**Ministry of the Attorney General**  
**700 Bay Street, 9<sup>th</sup> Floor**  
**Toronto, Ontario M5G 1Z6**

[JUS.R.MAG.CSD.POASstreamliningReview@ontario.ca](mailto:JUS.R.MAG.CSD.POASstreamliningReview@ontario.ca)

**Please respond by March 13, 2009.**

After reviewing comments and suggestions, the Working Group will develop a final set of recommendations to be submitted to the Attorney General for his consideration. This may involve sharing some or all of the comments or materials received with other interested parties during and after the review process.

Any personal information in submissions, such as names and contact details (*i.e.*, home addresses and phone numbers, personal email addresses, *etc.*) – in addition to any other information that could be used to identify an individual – will not be disclosed without prior consent. However, records created by individuals acting in a professional capacity (*i.e.*, on behalf of a group, association, business, commercial enterprise, *etc.*) may be disclosed, unless your covering letter states that such disclosure would be harmful and/or prejudicial. If for any reason you feel that specific parts of your submission or specific comments should not be shared with other parties, please indicate this and the reasons why in your covering letter. We will treat this information as confidential to the extent permitted under the *Freedom of Information and Protection of Privacy Act*.<sup>12</sup>

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<sup>12</sup> R.S.O. 1990, c. F.31.

# ISSUES AND DISCUSSION

## 1. Improving Service to the Public and Access to Justice

In light of the broad range of statutes, regulations and municipal by-laws that create offences prosecuted under the POA, POA proceedings have an impact on multiple public interests, including road safety, workplace safety, consumer protection, public health and environmental protection. In addition, because these offences proceed through the municipally-administered POA courts, these courts are Ontarians' most common contact with the justice system. There is a significant interest in ensuring that the procedures governing so many offences, and affecting so many people, are as accessible, straightforward and fair as possible.

There are many simple ways that service to the public and access to justice in POA proceedings can be improved. For example, regulations can be made under the *Access to Justice Act, 2006*<sup>13</sup> to authorize video appearances by witnesses in POA proceedings, the process for updating POA forms could be simplified, and POA tickets can provide better information about the procedures available to defendants. The POA could also be amended to ensure that future developments in technology, designed to provide easier access to the POA process (e.g., e-filing), can be quickly and easily implemented. These are all under consideration by the Working Group.

Other, quite straightforward ways to improve access to justice are canvassed in section 4 below. Your comments about all of these and the following issues will be very helpful to the Working Group.

### 1.1. Developing a More Effective Early Resolution Process

Currently, a person who receives a ticket has three options: (i) plead guilty to the offence by paying the set fine;<sup>14</sup> (ii) plead guilty to the offence and request a reduction in the set fine before a justice of the peace; or (iii) dispute the charge by requesting a trial.<sup>15</sup>

In designated areas of the province, a defendant who chooses to dispute a charge must attend a court office in person to file a trial request.<sup>16</sup> After doing so, he or she has the option of participating in a meeting with the prosecutor to discuss the possibility of resolving the charge, receive disclosure about the prosecutor's case,<sup>17</sup> and narrow the issues at trial. While in some areas this meeting takes place when the defendant attends

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<sup>13</sup> S.O. 2006, c. 21.

<sup>14</sup> In order to be eligible for the less complex procedures available in Part I of the POA, an offence must have a "set fine" established by the Chief Justice of the Ontario Court of Justice. This amount appears on the offence notice (ticket) to ensure that the defendant understands the consequences of the conviction (*i.e.*, that the set fine plus related costs and surcharges will be imposed).

<sup>15</sup> These options may also be exercised on the defendant's behalf by a lawyer, paralegal or other representative.

<sup>16</sup> Municipalities may apply to become designated by regulation for the purpose of requiring defendants to appear in person to request a trial in order to offer them the option to meet with a prosecutor.

<sup>17</sup> "Disclosure" is the process by which prosecutors share the evidence against the defendant with the defendant or his or her representative. It allows defendants to know the case against them and to prepare their defence accordingly.

the court office to file a request for trial, in many locations it is not possible to have a prosecutor available to conduct meetings upon request. In these areas, the defendant must return at a scheduled date and time to meet with the prosecutor.

If the defendant and prosecutor do not agree to a resolution of the charge at this meeting, a notice of trial is delivered to the defendant. If a resolution is reached, the prosecutor and the defendant appear before a justice of the peace to enter a guilty plea and dispose of the charge without a trial. The justice of the peace asks the defendant a series of questions designed to ensure that the defendant understands the charge and the consequences of conviction. This is known as a “plea comprehension inquiry.”

Providing a process to support early resolution of charges, where appropriate, allows valuable court resources to be focused on trials of truly contested matters. Nonetheless, the effectiveness of the existing early resolution process can be undermined in several ways. For example, sometimes a defendant who has requested an appointment to meet with a prosecutor fails to attend the scheduled meeting. Sometimes, the same defendant will fail to attend the subsequently scheduled trial. The possibility of early resolution is lost and publicly-funded court resources are not effectively utilized.

The Working Group has identified several options to strike a balance between making best use of judicial, prosecutorial and court resources, providing an accessible and meaningful early resolution process to defendants, improving service to those charged and ensuring the protection of defendants’ rights and their access to legal process.

**(1) Changing the options available to the defendant upon receiving a ticket:**

Within 15 days of receiving a ticket, defendants could be asked either to:

- (i) Plead guilty to the offence by paying the set fine; or
- (ii) Dispute the charge *by mailing* a notice to the court office indicated on the ticket;

Defendants choosing option (ii) would be asked to attend at the court office at a scheduled time to arrange a date for trial, with an option to meet with a prosecutor on the day of the appointment. Defendants could therefore discharge their obligation to respond to the ticket within 15 days, but their appointment could be scheduled at a later date. This would provide more scheduling flexibility for court staff and prosecutors and would be more convenient for defendants.

Alternatively, defendants could be asked to exercise one of three options within 15 days of receiving a ticket:

- (i) Plead guilty to the offence by paying the set fine;
- (ii) Request a meeting with the prosecutor *by mailing* a notice to the court office indicated on the ticket; or
- (iii) Attend the court office *in person* to request a trial.

In this case, defendants wishing to dispute a charge would be asked up front to decide whether or not to meet with a prosecutor. Defendants choosing option (iii) would be required to attend the court office within fifteen days of receiving the ticket as they do now in designated areas.

In both cases, defendants who choose to meet with the prosecutor but who do not reach a resolution of the charge would be advised to return to the court administration office after the meeting to obtain a trial date. As a result, only one trip to the courthouse would be required prior to trial.

Defendants would be advised that failing to attend a scheduled meeting (with either the court office or prosecutor) would result in their being deemed not to dispute the charge and convicted without a hearing. Failure to attend a requested trial would continue to result in a default conviction. Defendants convicted in either circumstance would be permitted to apply to re-open their conviction if their failure to attend were through no fault of their own.

- Would scheduling meetings with the prosecutor or court office delay trials?
- Would either alternative result in more requests for trial?
- Which alternative would be the simplest and most convenient for defendants?
- Would it be fair to convict defendants who fail to attend a scheduled meeting with the court office or the prosecutor without a hearing?

## **(2) Making the early resolution process available throughout the province**

Currently, municipalities have a choice about whether they wish to implement an early resolution process in their area. Some municipalities may, for example, not have enough resources with which to implement such a process.

However, the consistent application of an early resolution model across the province might increase access to justice for Ontario defendants by ensuring that all defendants have accessible opportunities to resolve charges out-of-court.

- Should an early resolution process be available consistently throughout the province or should municipalities maintain the flexibility to decide whether it is appropriate locally?
- Should an early resolution process be available for all ticketable offences, or be limited to certain types of offences (e.g., speeding)?

## **(3) Walk-in guilty pleas**

Defendants may currently plead guilty to an offence while requesting a reduction in the set fine on the ticket by appearing before a justice of the peace on a 'walk-in' (unscheduled) basis. This process is convenient and accessible for defendants who may need a reduction in the fine amount for financial reasons, but it requires extra judicial resources to be available upon request, rather than on a scheduled basis.

- Should this process continue to be available (i) in areas where an early resolution process is in place or (ii) in areas where early resolution is not available?

#### **(4) Electronic meetings**

The requirement to attend in person to meet with the court office or a prosecutor may be inconvenient to defendants who are charged with an offence in an area other than their place of residence.<sup>18</sup>

- ❑ Should defendants who live out of the area be permitted to attend meetings with prosecutors or the court office by teleconference or videoconference?
- ❑ Should electronic meetings be available consistently throughout the province or should municipalities have the flexibility to decide whether it is appropriate locally?
- ❑ Should electronic meetings be available for all ticketable offences, or be limited to certain types of offences (e.g., speeding)?

#### **(5) Permitting defendants and prosecutors to submit plea resolutions or submissions to a justice of the peace in writing or by teleconference or videoconference**

Defendants who have reached a plea agreement following a meeting with the prosecutor or who wish to plead guilty to an offence while requesting a reduction in the set fine on the ticket must now appear in person before a justice of the peace to enter their plea. This allows the justice of the peace to ensure that the defendant's guilty plea is voluntary, unequivocal and informed. Sometimes defendants must wait to see the justice of the peace.

- ❑ Should justices of the peace be authorized to receive defendants' guilty pleas in writing or by teleconference or videoconference (i) where a defendant has reached a resolution with a prosecutor or (ii) where a defendant is seeking a reduction the set fine?
- ❑ Should justices of the peace still be authorized to require a defendant to appear before them in person where they have concerns about the validity of a guilty plea?

### **1.2. Enabling the Use of Audio and Video Appearances**

The *Access to Justice Act, 2006* amended the POA to include provisions that, when in force, will allow *witnesses* in POA proceedings to give evidence by videoconference, audioconference or other electronic means.

- ❑ Should the POA allow remote appearances by all other participants in POA proceedings as well, including defendants and their representatives, subject to the discretion of the presiding judicial official?

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<sup>18</sup> Although defendants in designated areas must currently attend in person or through a representative to request a trial, most court offices accept requests for trial on behalf of other locations so that defendants can file their trial request closer to home. (Trials still proceed in the court service area where the offence occurred.) However, Municipal Partners have indicated that the practice of forwarding trial requests between court offices is administratively cumbersome and prone to error.

### **1.3. Improving the Delivery of Court Notices to Defendants**

Over the course of a POA proceeding, the contact information for the defendant that is in the court record may become outdated. Many defendants mistakenly believe that notifying the Ministry of Transportation of a change of address for their driver's licence will ensure that the court also receives notice of the change.

The POA requires the clerk of the court to mail a number of important notices to defendants, including notices of trial dates, notices of impending convictions for parking offences and notices of fine and due date. Incorrect address information may lead to significant hardship for defendants, who may be convicted without a hearing if they fail to appear at trial or may be subject to fine enforcement measures such as licence suspension because they were unaware of a conviction. Such defendants may be unnecessarily forced to reopen<sup>19</sup> or appeal a conviction. Inaccurate or out-of-date address information can also make it difficult for municipalities to locate those with unpaid fines. Defendants currently have an opportunity to update their address information on the form used to request a trial.

- How else might defendants be encouraged to provide updated address information to the court, including the name and address of their legal representative, if any? Should defendants be required by law to update their contact information with the court?

## **2. Enhancing the Enforcement of POA Fines**

The Working Group recognizes that enhancing the enforcement of defaulted POA fines is an important opportunity to streamline and improve POA justice services. Fines are by far the most common sanction ordered by the court for provincial offences. A fine unpaid is justice not served, as the convicted offender has not paid his or her debt to society as ordered by the court. Significant resources are expended in pursuing offenders who defy court-ordered fines by delaying or evading payment. Improved fine enforcement would send a message that fine payment is taken seriously in Ontario and would reduce the incidence of unpaid fines.

Fine enforcement mechanisms currently available to Municipal Partners include: obtaining driver's licence suspensions or denials of vehicle permit registration for certain types of offences, using civil enforcement tools including writs of seizure and sale, referring unpaid fines to collection agencies, and reporting defaulted fines to consumer reporting agencies (credit bureaus).

In addition to the new fine enforcement tools discussed below, the Working Group is also reviewing ways to make existing fine enforcement tools more effective. For example, the Working Group is exploring:

- How to make it more convenient to pay outstanding POA fines and related fees; and
- How to provide Municipal Partners with better information to locate those with unpaid fines.

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<sup>19</sup> A defendant may apply for a reopening of a conviction entered without a hearing. The justice of the peace may quash the conviction and order a new trial.

The province could also streamline the approvals procedures for municipal fine enforcement processes (e.g., approval processes for the recovery of collection agency costs from defendants and for designating municipalities that wish to collect their own parking fines).

It is recognized that payment of POA fines may in some cases impose hardship on individuals and families. At the end of this section, options for providing greater relief against legitimate hardship are canvassed.

## **2.1. Adding Defaulted Fines to Municipal Tax Bills**

Currently, the *Municipal Act, 2001*<sup>20</sup> allows a municipality to add charges and fees owing to it to the debtor's property tax bill. Although an outstanding fee or charge can only be added to the tax bill if owed by all of a property's owners, it is not always related in any way to the property in question. The *Municipal Act, 2001* also allows municipalities to add to the tax rolls any costs they incur carrying out work required under a by-law that a property owner has failed to do (one of many examples is cleaning up debris pursuant to a debris by-law). Further, municipalities are also authorized under various Acts to collect other specific costs, expenses and fees in the same manner as municipal taxes.

Some of the debts authorized to be added to tax bills are also deemed to have the same "priority lien status" as municipal property taxes. This means that the debt can be collected if a sale of the property were to occur through the municipal tax sale process. When a debt is given priority lien status, in addition to collecting it in the same manner as municipal taxes, it is given the same special lien status as property taxes (which means that it ranks ahead of those owed to other creditors) and the amount may form part of the cancellation price in the event there is a municipal tax sale of the property. Priority lien status has to date been reserved for debts that were incurred in relation to the property being taxed (e.g., expenses incurred by a municipality to conduct repairs to a property under the *Building Code Act, 1992*<sup>21</sup>). Allowing unpaid fines to be given priority lien status would create risks for mortgage lenders and, ultimately, could lead to the forced sale of someone's home or business.

- Should unpaid POA fines be collectible along with municipal property taxes?
- Many POA fines are imposed in cases that have nothing to do with a particular property or property ownership. Should this fine enforcement tool be limited to unpaid fines imposed for offences relating to the property being taxed and/or to property ownership? Please also comment on allowing unpaid fines to be given priority lien status.

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<sup>20</sup> S.O. 2001, c. 25.

<sup>21</sup> S.O. 1992, c. 23.

## **2.2. Making POA Fine Payment a Condition for Issuing Municipal Licences or Granting Municipal Contracts**

The *Municipal Act, 2001* allows municipalities to licence businesses and to impose conditions for obtaining or renewing a licence. Similarly, municipalities may establish mandatory requirements for businesses responding to procurement requests for suppliers of goods and services.

- ❑ Should payment of unpaid POA fines owed by a person applying for a municipal contract, permit or licence be a condition for obtaining or renewing a municipal contract, licence or permit?
- ❑ Should this fine enforcement tool be limited to circumstances where there is a relationship between the licence, permit or contract applied for and the offence for which the fine was imposed?

## **2.3. Expanding the Use of Licence Suspension and Licence Plate Denial**

The *Highway Traffic Act* and the POA provide for the suspension of a person's driver's licence if he or she has not paid fines imposed for certain offences related to the use of a vehicle or road safety.

In addition, these Acts provide that an individual may be denied the ability to obtain or renew his or her vehicle permit (licence plate registration sticker) where he or she has unpaid fines for a limited number of offences, including parking infractions, red-light camera offences and offences related to school bus safety.<sup>22</sup> This mechanism is known as "plate denial."

### **(1) Licence Suspension**

While the Family Responsibility Office currently uses driver's licence suspension to encourage the payment of family support payment arrears, for outstanding fines, licence suspension as a POA fine enforcement tool is limited to motor vehicle violations (e.g., speeding) in Ontario. In Manitoba, Nova Scotia, Newfoundland and Labrador and England, licence suspension is also available for fines imposed in relation to offences unrelated to road safety.

The application of driver's licence suspension to offences unrelated to vehicle use raises significant policy concerns. Experience has shown, unfortunately, that some drivers continue to drive while under suspension. As a result, extending licence suspension to fine defaults for non-driving offences may result in an increased number of suspended, uninsured drivers on Ontario roads. Statistics show that suspended and uninsured drivers are much more likely to leave the scene of an accident, resulting in an increased risk of hit

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<sup>22</sup> Because they are enforced without identifying who was driving the vehicle at the time of the offence, vehicle owners are made liable for these offences. However, because the identity of the offending driver is unknown, failure to pay fines imposed for these offences does not trigger driver's licence suspension.

and run collisions and police chases. There may also be an increase in claims submitted to the Motor Vehicle Accident Claims Fund by road users involved in collisions with uninsured motorists.

Further, there are questions about the fairness and effectiveness of this measure. Greater use of licence suspension may create hardship for persons with unpaid POA fines and their families. For example, suspending drivers without access to public transit, drivers upon whom others rely for transportation, or drivers whose livelihood depends on their ability to drive might be viewed as unduly harsh. Licence suspension might also curtail the driver's ability to pay the fine.<sup>23</sup> In addition, all members of a household could be penalized due to the actions of a single person, if the family is dependent on the suspended person's ability to drive.

## **(2) Licence Plate Denial**

Plate denial is administratively simple and highly successful in aiding the collection of defaulted parking fines. Plate stickers need to be renewed every year or two years, and those owing POA fines can conveniently pay them at the Ministry of Transportation (MTO) when seeking renewal of their licence plate.<sup>24</sup> Driving without a valid vehicle permit is relatively easy to detect because, where renewal is refused, the absence of a current sticker is clearly visible on a licence plate.

The limiting of plate denial to relatively few offences (*e.g.*, parking infractions) also stems from hardship concerns similar to those identified in relation to licence suspension and because plate denial may affect other regular users of vehicles. For example, although only one driver of the vehicle has committed the offence, his or her family members are equally prevented from driving the vehicle without a valid licence plate sticker. Persons who suffer the indirect consequences of plate denial are dependent on the person who owes the fine to pay it or seek the appropriate relief.

- ❑ Please comment on the use of plate denial for unpaid fines imposed for other offences *related* to the use of a vehicle (*e.g.*, speeding)?
- ❑ Please comment on the application of (i) licence suspension and/or (ii) plate denial to unpaid POA fines, in view of the issues set out above. Is it possible to address these concerns?

## **2.4. Improving Access to Civil Fine Enforcement Proceedings**

The POA allows Municipal Partners to enforce defaulted POA fines by filing a certificate of default with the Small Claims Court or the Superior Court of Justice within two years of the fine being in default. Upon filing, the certificate becomes an order of that court, allowing the fine to be enforced in the same way as a civil court order.

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<sup>23</sup> As discussed in section 2.5, additional hardship relief may be appropriate for those who cannot afford to pay POA fines in relation to all fine enforcement measures, including licence suspension.

<sup>24</sup> In contrast, fines resulting in driver's licence suspension must be paid to the court office before MTO can renew the licence.

The *Criminal Code*,<sup>25</sup> most POA equivalents in other provinces, the *Statutory Powers Procedure Act*<sup>26</sup> and the *Limitations Act, 2002*<sup>27</sup> do not limit the period for the civil enforcement of fines or court orders.

- Should the two-year limitation period for filing a certificate of default be eliminated?
- What would be the consequences of delay in enforcing fines through civil enforcement for persons who have unpaid POA fines?

## **2.5. Providing Relief from Financial and Other Hardship**

The Working Group recognizes that fines or fine enforcement measures may cause financial or other hardship for those convicted of offences, which may be out of proportion to the underlying offence or the public interest.

The concept of “hardship” distinguishes those who can afford to pay POA fines from those who cannot afford to pay because of their economic circumstances. Efforts to collect fines from those who are unable to pay may cause stress to Ontario families and will be ineffective regardless of the fine enforcement tool used.

The POA currently provides some relief from financial hardship. Where a minimum fine is prescribed, the court has discretion to impose a fine that is less than the minimum fine or to suspend the sentence. Defendants may apply at any time to a justice of the peace for an extension of time to pay a fine. Unless the court finds that the request for the extension of time is not made in good faith or would be used to evade payment, the court must either extend the time for payment or order periodic payments. The only other remedy available to someone who owes a POA fine is to appeal the sentence that resulted upon conviction.

However, more effective relief from hardship may be appropriate in some circumstances, especially if enhanced fine enforcement tools are made available. Providing hardship relief would allow Municipal Partners to use fine enforcement resources more efficiently by focusing on persons who are able, but refuse, to pay POA fines.

Access to hardship relief may be triggered in a number of ways. For example, those who have unpaid fines might be permitted to apply to the court for relief, justices of the peace might be authorized to order those with unpaid fines to appear in court and to prove inability to pay, or the clerk of the court might be permitted to refer particular persons with unpaid fines to a justice of the peace for a review of their ability to pay. In considering

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<sup>25</sup> R.S.C. 1985, c. C-46.

<sup>26</sup> R.S.O. 1990, c. S.22.

<sup>27</sup> S.O. 2002, c. 24, Sch. B.

hardship relief, the Working Group has noted the importance of guarding against frivolous applications by those who are in fact able to pay their fines and, where possible, preventing hardship from occurring in the first place.

- What options for hardship relief would be most appropriate for POA fines? For example, should the POA:
  - Provide for temporary court orders suspending all fine enforcement activities;
    - Should these orders be conditional on the defendant agreeing to a payment plan?
  - Give judicial officials discretion to discharge all or part of a fine or to order a payment schedule;
  - Provide a right to appeal the sentence that resulted upon conviction on specified “exceptional hardship” grounds and define criteria for assessing hardship, including material change in circumstances;
  - Require an inquiry into a defendant’s ability to pay before a fine is imposed in court;
  - Extend the statutory time to pay a fine to reduce both the number of requests for extensions of time to pay and the need for hardship relief; and/or
  - Encourage defendants to request hardship relief earlier in the process and before fine enforcement resources are expended by providing easier access to relief before a fine goes into default?
- Should the availability of hardship relief be restricted to accumulated fines above a certain monetary threshold?
- Should the use of particular fine enforcement tools be restricted to larger outstanding fines?
- What should the criteria and evidentiary requirements be to establish and prove inability to pay?
- What remedies might best address hardship concerns specifically related to (i) licence suspension and (ii) plate denial?

### **3. Simplifying Procedures and Making More Efficient Use of Available Resources**

The volume of POA charges continues to grow each year in Ontario. One way to manage this increased workload is to make more efficient use of available court administration, court support, prosecutorial, enforcement and judicial resources.

#### **3.1. Enhancing the Powers of the Clerk of the Court**

Should the clerk of the court take on certain functions currently performed by justices of the peace in order to reduce demand for judicial resources?

##### **(1) Permitting the Clerk of the Court to Adjourn Proceedings**

The *Criminal Code*<sup>28</sup> permits a criminal court clerk, acting on the instructions of a judge, to adjourn the business of the court to a subsequent day.

The clerk of the court does not have the same authority to adjourn POA proceedings. Therefore, if no justice is available to adjourn scheduled matters, the defendant must be served with a new summons or notice of trial.

- Should the clerk of the court be authorized to adjourn matters in exceptional circumstances (such as a snowstorm or where the justice is ill) and acting on the instructions of a judicial official where one is unavailable to appear in person?
- Should the clerk of the court be authorized to adjourn proceedings where the parties have filed a mutual agreement to adjourn a first trial date?

##### **(2) Permitting the Clerk of the Court to Reschedule Initial Hearing Dates**

The clerk of the court currently sets the initial date and time for trials of ticketable offences under the POA by sending a notice of trial to the defendant. On occasion, the initial trial will inadvertently be set for a date upon which the POA court is not scheduled to sit or where no justice of the peace will be available to preside. Currently, such matters must be brought forward for an adjournment by a justice of the peace.

- Should the clerk of the court be authorized to reschedule the initial hearing date in such circumstances by delivering a clearly marked replacement Notice of Trial?
- Alternatively, should prosecutors be authorized to apply to a justice of the peace for an adjournment of all matters scheduled for a particular date on which the court will not sit without giving notice of the request to the defendants? The clerk would then deliver replacement notices of trial to all parties as ordered by the justice of the peace. Would either of these options result in an increase in the number of adjournments requested or the length of adjournments granted, creating delays in POA proceedings?

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<sup>28</sup> See s. 474(2).

- ❑ If so, how might this be addressed (e.g., by restricting the number or length of adjournments that a clerk may grant)?

### **(3) Permitting the Clerk to Extend Time for Payment of Fines**

A fine becomes payable under the POA 15 days after it is imposed. However, defendants may at any time apply to a justice of the peace for an extension of time to pay. The court must extend the time to pay or order periodic payments unless it finds that the request has not been made in good faith or would be used to evade payment. The court may require the defendant to give evidence, on oath or otherwise, in support of the application.

- ❑ Should the clerk of the court be authorized to extend the time for payment of fines? (In this proposal, the clerk would only be permitted to grant applications for extensions, not to refuse them. If a clerk believed that the conditions for granting an extension were not met, the defendant would be required to make an application to a justice of the peace.)
- ❑ Should defendants be permitted to submit their extension requests to the clerk in writing rather than attending in person?

### **3.2. Streamlining Evidence in POA Trials**

Many POA trials require that police and other enforcement officers attend in person to testify at trial. Because multiple POA trials are scheduled in blocks of time (*i.e.*, several to a list), much officer time is spent waiting for a particular matter to proceed. Officer availability also presents a trial scheduling challenge for court administrators.

One way to streamline this process might be the use of certified (written) evidence in lieu of an officer's oral testimony. Certified evidence could include a sworn statement by an officer of the facts that he or she would otherwise have testified about in person. This would preclude the cross-examination of the officer, but the presiding judicial official could have the discretion to order that the officer's oral testimony is necessary to ensure a fair trial. Certified evidence could also be restricted to categories of evidence or offences for which there is usually little basis to doubt the accuracy or reliability of an officer's certified evidence (e.g., speeding offences).

- ❑ Should the court be authorized to consider certified evidence instead of hearing an officer's oral testimony for offences where there is usually little basis to doubt the accuracy or reliability of the officer's evidence? For what categories of evidence? For what offences?
- ❑ If certified evidence were used in trials for speeding offences, in what circumstances should it be authorized (e.g., where the evidence is based on a prescribed presumption of accuracy for radar devices)?

### 3.3. Streamlining *Ex Parte* Trials

If a defendant fails to appear for a hearing for a more serious, non-ticketable offence under the POA, the court may conduct and decide the outcome of the trial *ex parte* (in the defendant's absence).<sup>29</sup> The prosecutor is required to lead evidence and witnesses are required to testify despite the absence of the defendant or a representative of the defendant.

Because *ex parte* trials are conducted in the absence of the defendant or his/her representative, no one is present to conduct a cross-examination challenging the officer's evidence.

- ❑ Should *ex parte* trials be streamlined in cases where imprisonment is not an available penalty by authorizing the use certified evidence?
- ❑ Alternatively, if the defendant fails to attend a scheduled trial for a non-ticketable offence, should the prosecutor be authorized to elect to proceed as if the alleged offence were an undefended ticketable offence (*i.e.*, to seek a conviction without a trial; penalties would then be limited to fines under \$500)?

Where a defendant fails to appear at a hearing for a more serious, non-ticketable offence, the court can either immediately proceed with an *ex parte* trial *or* it can adjourn the proceedings to another date and give the defendant a second chance to appear by issuing a new summons or a warrant for the new trial date.

- ❑ Should the POA clarify that, where a defendant does not appear in court as summonsed, a judge or justice of the peace may direct that the trial can proceed *ex parte* on another date without issuing a second summons or a warrant to the defendant?

### 3.4. Authorizing Judicial Pre-Trials

Pre-trials are sometimes held before a judge or justice of the peace in advance of more complex POA trials to narrow the issues for trial and to reach agreements about evidentiary or legal issues. This process helps to make more efficient use of court resources by reducing the length of complex trials and ensures that preliminary matters are dealt with more expeditiously.

The POA does not currently provide expressly for judicial pre-trials. As a result, parties may be uncertain about the scope or effect of a pre-trial, or the rules and procedures to be followed.

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<sup>29</sup> The court must first be satisfied that the defendant was properly served with a summons to attend court.

The *Criminal Code* provides for pre-hearing conferences.

- ❑ Should the POA provide express authority for judicial pre-trials?
- ❑ If so, should the authority for and scope of pre-trials be similar to that found in the *Criminal Code*?<sup>30</sup>

### **3.5. Limiting the Effect of Filing an Appeal**

Under the *Highway Traffic Act*, demerit points are automatically applied to an individual's driving record upon conviction for certain offences (e.g., exceeding a speed limit by more than 15 km) as of the date of the offence. Various incremental consequences arise upon the accumulation of a particular number of points within a two-year period, including licence suspension.

When a POA defendant files an appeal, the conviction is not stayed unless the appellant successfully applies to the court for an order to stay the conviction pending appeal. Without such an order, the consequences of the conviction remain in place unless and until it is overturned on appeal.<sup>31</sup> However, when a copy of the Notice of Appeal is filed with MTO's Registrar of Motor Vehicles, the conviction and related demerit points are required to be lifted from the defendant's driving record pending the appeal.<sup>32</sup>

The Working Group has heard that many appeals are filed solely to delay the application of demerit points to the appellant's driving record. These appeals may be ultimately abandoned or unsuccessful, and the demerit points are reapplied as of the date of the offence. Nonetheless, the appellant may gain some advantage from having the points lifted temporarily (e.g., delaying licence suspension resulting from accumulated demerit points). This creates additional workload for the Registrar of Motor Vehicles and the courts.

- ❑ Should demerit points remain in place pending appeal unless the court orders that the conviction itself is stayed?
- ❑ Would this significantly reduce abandoned appeals?
- ❑ Would it significantly increase the volume of applications for stays of conviction pending appeal?

### **3.6. Increasing Maximum Fines To Reflect Inflation**

Generally speaking, the maximum fine for less serious, ticketable offences (other than parking infractions) is \$500, despite any provision in the legislation that creates the offence.

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<sup>30</sup> See s. 625.1.

<sup>31</sup> One exception is licence suspension, which is stayed pursuant to the *Highway Traffic Act* from the time notice of the appeal is served on the Registrar of Motor Vehicles (unless the conviction is sustained on appeal).

<sup>32</sup> Pursuant to O.Reg.339 made under the *Highway Traffic Act*.

The maximum fine for more serious offences is \$5,000, unless the law that creates the offence imposes a higher maximum fine. Many statutes do create higher minimum and maximum penalties. For example, the maximum penalty under the *Securities Act*<sup>33</sup> for the misrepresentation of securities information includes a fine up to \$5,000,000. Both maximum penalties in the POA were set in 1989.

- ❑ Should the maximum penalties under the POA now be increased to reflect inflation?<sup>34</sup> Adjusting for inflation since 1989, the maximum penalty for ticketable offences would be approximately \$750, and the maximum fine for more serious offences would be approximately \$7,500. The presiding judge or justice of the peace would remain responsible for determining the fine amount (up to the applicable maximum) to be imposed following convictions at trial.
- ❑ Would fines higher than \$500 for ticketable offences discourage early resolution and lead to more people requesting trials?

### **3.7. Reserving Summonses for Serious Offences**

Before proceedings for a particular offence can be initiated using a ticket, the Chief Justice of the Ontario Court of Justice must have established a set fine for that offence. The set fine gives the defendant notice of what the consequences of conviction will be if he or she chooses to plead guilty to the offence by voluntary payment of the set fine (and related costs and surcharges) and cannot exceed the \$500 maximum discussed above. This option allows the defendant to resolve the charge without ever having to attend court.

If an offence does not have a set fine or if the officer believes that the set fine for a ticketable offence is inappropriate in a particular case, then the officer can initiate proceedings using a summons. Defendants who are summonsed do not have the option to resolve the charge out-of-court, and must appear before a justice or be tried in their absence. The requirement to attend court can be inconvenient, particularly for defendants who do not wish to dispute the charge or who are charged in an area other than their place of residence.

There are two types of summonses. A "Part I summons" commences a proceeding in which the fine cannot exceed \$500 and less complex procedures (generally reserved for more minor offences) apply. A "Part III summons" commences a proceeding in which higher fines and non-monetary penalties such as imprisonment or probation can apply. Enforcement officers have discretion to choose the summons that they think is most appropriate in the circumstances.

The Working Group has heard that Part I summonses are rarely used where a set fine is established for an offence.

- ❑ Should the Part I summons be eliminated?

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<sup>33</sup> R.S.O. 1990, c. S.5, s. 122.

<sup>34</sup> Despite an increase in the maximum fine for ticketable offences, an offence would not become ticketable until a set fine were established for it. Provincial ministries must apply to the Chief Justice of the Ontario Court of Justice and municipalities must apply to the local Regional Senior Judge of the Ontario Court of Justice to establish set fines. Similarly, changing the maximum penalty for non-ticketable offences would only affect fines where the offence-creating legislation does not provide a different maximum fine.

### 3.8. Clarifying When a Ticket is “Complete and Regular”

A person who receives a POA ticket has three options: (i) plead guilty to the offence by paying the set fine and related costs and surcharges indicated on the ticket; (ii) plead guilty to the offence and request a reduction in the set fine before a justice of the peace; or (iii) dispute the charge by requesting a trial. If a defendant fails to exercise any of these options within 15 days of receiving the ticket or requests a trial and fails to attend at the appointed time and place, he or she may be deemed not to dispute the charge and convicted without a hearing. In these circumstances, the justice of the peace imposes the set fine for the offence charged.

However, a justice of the peace cannot enter a deemed conviction unless he or she finds that the certificate of offence is “complete and regular on its face.” If it is not, the justice must quash the proceedings against the defendant.<sup>35</sup> This review ensures that the ticket contains sufficient information for the defendant to know the case against him or her.

The POA does not establish criteria for determining when a certificate is “complete and regular.” Court decisions in POA cases have held that some or all of the following information must be complete and correct on a ticket:

- Name of the enforcement officer;
- Name of defendant;
- The statute and section creating the offence;
- Where/when the allegation arose;
- Date of service of the offence notice; and
- The consequences of conviction (fine amount).

Establishing these criteria in the POA would create more certainty for defendants about the validity of certificates of offence, would be more accessible for unrepresented defendants than case law, and would help them to make a more informed decision about how to respond to a POA ticket. It would also provide courts with guidance about when technical errors should make tickets invalid.

- Should the POA set out criteria for determining when a certificate of offence is “complete and regular”?
- What should the criteria be?

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<sup>35</sup> The certificate of offence contains the same information as the offence notice (ticket) that is served on the defendant.

### 3.9. Clarifying Criteria for Assessing the Validity of a Guilty Plea

In criminal proceedings, a court may only accept a guilty plea from an accused if the conditions set out in the *Criminal Code*<sup>36</sup> are met. The court must be satisfied that the accused:

- is making the plea voluntarily;
- understands that it is an admission of the essential elements of the offence;
- understands the nature and consequences of the plea; and
- understands that the court is not bound by any agreement between the accused and the prosecutor.<sup>37</sup>

This is known as a “plea comprehension inquiry,” designed to ensure that the defendant’s guilty plea is voluntary, unequivocal and informed.

Judges and justices of the peace must conduct a similar plea comprehension inquiry when a defendant pleads guilty in person before a Justice of the Peace in a POA proceeding.<sup>38</sup> Setting out the criteria for a valid guilty plea in the POA would clarify the rights of defendants and make them more accessible to those who are self-represented.

- Should the criteria for accepting a guilty plea be set out in the POA?<sup>39</sup>
- What should the criteria be?

## 4. Other Options for POA Reform

The Working Group is also considering the following ideas for fine-tuning the POA.

### 4.1. Permit prosecutors to make submissions on fine waiver requests

In order to file an appeal of a conviction, defendants must first pay the fine imposed. This discourages appellants from filing appeals merely to delay fine payment. The appellant may alternatively apply to the court for a waiver of the requirement to pay the fine and instead enter into a recognizance to appear on appeal. In deciding whether to grant a waiver, the court must consider whether the appeal is frivolous, whether the continuation of the sentence is in the public interest, and whether granting a waiver would detrimentally affect public confidence in the administration of justice.<sup>40</sup> Currently, many prosecutors do

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<sup>36</sup> See ss. 606(1.1) and (1.2).

<sup>37</sup> The court can reject the plea or impose any sentence it thinks appropriate.

<sup>38</sup> See *R. v. Shields*, [2002] O.J. No. 4876 (C.J.).

<sup>39</sup> If a new early resolution process for ticketable offences were implemented and allowed defendants who have reached a plea agreement with a prosecutor to submit guilty pleas to the justice of the peace in writing, the POA would need to provide for the plea comprehension inquiry to be in writing and/or give the justice of the peace the discretion to require a defendant’s attendance where necessary to conduct a plea comprehension inquiry in person. See section 1.1, above.

<sup>40</sup> *R. v. Harper*, [2001] O.J. No. 468 (S.C.J.).

not receive notice of these applications, and therefore are not able to make submissions that may be relevant to the court's consideration of whether granting the application would be in the public interest.

- ❑ Should prosecutors receive notice and be permitted to make submissions when a defendant applies to waive the payment of a fine pending an appeal of a conviction for a more serious, non-ticketable offence?

#### **4.2. Mark municipal by-laws as exhibits**

Copies of municipal by-laws, unlike provincial and federal statutes, must be proven as part of the process for proving that an offence occurred. The *Evidence Act*<sup>41</sup> requires that the prosecutor produce a certified copy of the entire by-law or an extract of the relevant sections. However, there is currently inconsistent practice as to whether by-laws or extracts must be entered into evidence by prosecutors and marked as exhibits.

- ❑ Should the POA specify that copies of by-laws or extracts need not be marked as exhibits?
- ❑ If so, how could an appeal court confirm what by-law information was before the court that made the decision under appeal?

#### **4.3. Return of seized items**

During an investigation, enforcement officers may seize an item and seek an order for its detention for up to three months. A judge or justice of the peace may make an order to release a seized item to the person from whom it was seized where it appears that it is no longer necessary for the purpose of an investigation or proceeding.

- ❑ Should the POA set out criteria for release?
- ❑ Should an appeal be permitted when the order is made by a judge (currently appeals are only available from orders of a justice of the peace)?
- ❑ Should the POA, like the *Criminal Code*, provide that orders to release seized items do not take effect for 30 days or pending any appeal?

#### **4.4. Permit officers to serve parking tickets by mail in limited circumstances**

Sometimes defendants try to drive away before an officer can either affix a ticket to a vehicle or serve it personally. Attempting service in this circumstance can threaten the safety of the officer. Officers could be authorized to serve parking tickets by ordinary mail where other forms of service would be risky.

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<sup>41</sup> R.S.O. 1990, CHAPTER E.23, sections 29 and 32.

#### **4.5. Clarify the definition of “provincial offences officer”**

The definition of “provincial offences officers” under the POA could be clarified to specify that it includes municipal enforcement officers, by-law enforcement officers and special constables, in addition to police officers.

#### **4.6. Authorize filing of informations by electronic means**

In-custody defendants cannot schedule bail hearings until the officer attends, in person, before a justice to swear an information. This process would be expedited if, as is possible for some *Criminal Code* matters, officers could e-mail or fax informations to justices where attendance in person is not practical (e.g., from remote locations).

#### **4.7. Strike out convictions for ticketable offences entered due to administrative error**

Administrative errors sometimes occur when entering convictions. Currently, a municipality or “other body” can ask a justice to strike out a *parking* conviction entered due to an administrative error, without the defendant having to attend court. The same process could be made available where convictions for other types of ticketable offences are made due to administrative error.

#### **4.8. Extend the time to appeal convictions for ticketable offences from 15 to 30 days**

This would give defendants charged with ticketable offences, who are more likely to be self-represented, and who may therefore need time to ascertain their appeal rights, the same time to file an appeal as defendants charged with more serious offences.

#### **4.9. Permit extensions of the limitation period for commencing a parking proceeding**

Parking offences cannot be initiated until certain vehicle information is obtained. Regional Senior Justices could be authorized to extend the time for initiating proceedings where this requirement could not be met within the limitation period due to legitimate and extraordinary circumstances.

#### **4.10. Repeal the requirement that defendants requesting a trial for a ticketable offence be asked to indicate in advance if they want to challenge the officer’s evidence**

In practice, officers are often required to attend the trial to give evidence even where defendants do not indicate their intention to challenge the officer’s evidence on the trial request form.

#### **4.11. Streamline the process for accepting guilty pleas to substituted charges**

POA defendants may reach agreements with prosecutors to plead guilty to an offence other than the one with which they were originally charged. The POA could streamline the guilty-plea process by clarifying that the court can simply amend the charging document (ensuring that the court record of the original charge remains clear) and proceed with the new charge without requiring the defendant to plead not guilty to the original offence.

#### **4.12. Clarify witness reimbursement processes**

Currently, the calculation of the distance that a witness has travelled to testify varies between court service areas.

#### **4.13. Provide that a count in an information is sufficient without indicating the precise time that the alleged offence occurred**

Only the date of the offence is needed to establish that an information was laid within the prescribed limitation period.

#### **4.14. Permit the clerk of the court to set trial dates after reopenings**

This would clarify that the clerk of the court may give notice of trial dates after a justice of the peace grants a defendant's reopening application and orders a new trial.

#### **4.15. Clarify that all defendants who fail to appear at trial for a ticketable offence will be deemed not to dispute the charge**

The POA expressly deems that defendants who request a trial and then do not appear at their trial date are not disputing the charges against them. The POA could clarify that the same consequence applies to trials that resume after an adjournment and trials ordered following a reopening or an appeal.

#### **4.16. Clarify that appeals must be filed in the court service area in which the conviction was entered**

The POA provides that *trials* must be heard in the location that the offence occurred unless a change of venue is granted. The POA could clarify that *appeals* must also be filed in the court service area in which the conviction was entered, that is, the location where the relevant court file is held.

#### **4.17. Encourage timely applications for extensions of time to pay fines**

The POA could provide that defendants who fail to apply for an extension of time to pay a fine until after the initial period for paying the fine lapses would still be subject to the late payment fee of \$20.00.

#### **4.18. Update POA warrant provisions**

In addition to providing the procedure for the prosecution of provincial offences, the POA provides the statutory authority for enforcement officers to obtain warrants from justices of the peace for the investigation of offences. The current 25-year-old formulation does not permit judicial authorization of modern investigative techniques that are available under other provincial statutes and the *Criminal Code* and are routinely authorized by justices of the peace under other statutes (e.g., conducting forensic techniques at an offence location, gaining access to computer drives, engaging in surveillance). Possible amendments to the POA to update its warrant provisions to conform with those in other statutes would be in the interest of the consistent administration of justice. Any separate comments on this issue would also be welcome.

## **CONCLUSION**

The Working Group invites your comments on any issues in this consultation paper, and any other suggestions to streamline POA procedures or fine enforcement. Again, the potential reforms set out above are intended to generate ideas and discussion, but are not intended to be exhaustive or final. They do not necessarily represent the views of the Attorney General.

Please send your comments or questions by mail or e-mail to:

**Raghad Hussami**  
**Information Coordinator**  
**Criminal/POA Policy & Programs Branch**  
**Court Services Division**  
**Ministry of the Attorney General**  
**700 Bay Street, 9<sup>th</sup> Floor**  
**Toronto, Ontario M5G 1Z6**

[JUS.R.MAG.CSD.POASStreamliningReview@ontario.ca](mailto:JUS.R.MAG.CSD.POASStreamliningReview@ontario.ca)

# APPENDIX 'A'

## POA Streamlining Review – Working Group Members

Name	Title	Region/Division
<b>Municipal Court Managers' Association</b>		
Robert Heuton	Manager, Provincial Offences Office	City of Windsor
Eldeen Murphy	Manager, Provincial Offences Office	City of Kingston
Terry Ringle	Manager, Provincial Offences Office	City of North Bay
Norman Scarratt	Director of Court Services, Provincial Offences Office	Regional Municipality of York
<b>Prosecutors' Association of Ontario</b>		
Jane Moffatt	President, Prosecutors' Association of Ontario; Prosecutor, Provincial Offences Court Services	Regional Municipality of Durham
<b>Association of Municipalities of Ontario</b>		
Roberto Zuech	Counsel	City of Mississauga
Andrea Wilson-Peebles	Counsel	City of Mississauga
<b>Ministry of the Attorney General</b>		
Jeremy Griggs (Chair)	Manager, POA Unit, Criminal/POA Policy and Programs Branch	Court Services Division
John David Hay	Crown Attorney, West Region	Criminal Law Division
Carol Mitchell	Provincial Prosecutor, Crown Attorney's Office, Central East Region	Criminal Law Division
Sheilagh Stewart	Counsel, Corporate Services Branch	Criminal Law Division
John Petrosoniak	Representative, POA Prosecutors' Working Group	Legal Services Division
Rhona Fleming	Counsel	Policy Division
<b>Ministry of Transportation</b>		
John Petrosoniak	Counsel, Legal Services Branch	
Wayne LaRose	Enforcement Coordinator, Hamilton/Niagara Enforcement Office	Road User Safety Division
<b>Ministry of Municipal Affairs and Housing</b>		
Ralph Walton	Director, Municipal Governance & Structures Branch	Local Government & Planning Policy Division
Donna Simmonds	Manager (A), Municipal Structures Policy	Local Government & Planning Policy Division
<b>Ministry of Small Business and Consumer Services</b>		
Chris Ferguson	Director, Consumer Protection Branch	Policy and Consumer Protection Services Division

The Working Group would also like to thank the following Court Services Division staff for their support for the POA Streamlining Review:

- George Bazios, Program Advisor, POA Unit, Criminal/POA Policy and Programs Branch
- Pam Elliott, Program Advisor, POA Unit, Criminal/POA Policy and Programs Branch
- Shanon Kalra-Ramjoo, Senior Policy and Business Advisor, POA Unit, Criminal/POA Policy and Programs Branch
- Jane Marshall, Counsel, Criminal/POA Policy and Programs Branch
- Lisa Minuk, Counsel, Criminal/POA Policy and Programs Branch
- Stephanie Parkin, Counsel, Criminal/POA Policy and Programs Branch
- Paula Wallingford, Project Coordinator, POA Unit, Criminal/POA Policy and Programs Branch

In addition, the Working Group thanks Sarah Campbell, Bruce Ellis, Abi Lewis, Christopher Lofft, Daniel O'Connor and Yasmin Shaker for their valuable contributions to the project.

# COUNCIL REPORT

TO **Guelph City Council**

SERVICE AREA Community Design and Development Services  
DATE March 23, 2009

**SUBJECT Road Capital Budget Reallocation: Norfolk Street  
Reconstruction**

REPORT NUMBER 09-31

## RECOMMENDATION

“THAT Report No. 09-31, dated March 23, 2009, from Community Design and Development Services regarding Road Capital Budget Reallocation: Norfolk Street Reconstruction be received; and

THAT \$1M of City funding from Account Number RD0225 Dublin: Suffolk-Waterloo and \$1M of City funding from Account Number RD0107 Gordon: Wellington-Waterloo be reallocated to Account Number RD0176 Norfolk: Waterloo-Quebec, for use during the Norfolk Street Reconstruction from Waterloo Avenue to Quebec Street.”

## BACKGROUND

In 2003, the Environmental Assessment (EA) for the Gordon/Norfolk Street Corridor from Wellington Street to Norwich Street was approved. The first phase of the EA implementation along this corridor was constructed in 2006 with the Gordon Street from Wellington Street to Waterloo Avenue reconstruction project. In the 2009 Capital Budget, the reconstruction of Wyndham Street from Wellington Street to Carden Street was deferred to 2010 to allow for the design of the replacement of the Wyndham Street railway bridge. By deferring the Wyndham Street road project, on staff’s recommendation, Council approved moving the reconstruction of Norfolk Street from Waterloo Avenue to Quebec Street forward to 2009.

## REPORT

The preliminary design for the entire Gordon/Norfolk Street corridor from Wellington Street to Norwich Street was completed in 2006 in accordance with the approved EA document. Funding for the project in the Capital Budget was identified to occur in three phases which were:

- 
- Phase 1: Gordon Street from Wellington Street to Waterloo Avenue
  - Phase 2: Norfolk Street from Waterloo Avenue to Quebec Street
  - Phase 3: Norfolk Street from Quebec Street to Norwich Street

It is expected that the construction of Norfolk Street from Waterloo Avenue to Quebec Street will be tendered in March, 2009 and the award of the contract will require Council approval in April, 2009. Based on a preliminary construction estimate, additional funding may be required. Major utility relocations and costs have increased the project cost estimate. The proposed utility work includes relocating all existing overhead utilities underground which will enhance the streetscape along this corridor.

Reconstruction of Dublin Street from Suffolk Street to Waterloo Avenue was approved in the 2009 Capital Budget. As a result of potential conflicts with the Norfolk Street reconstruction work, staff recommend that only the section of Dublin Street from Suffolk Street to Paisley Street be reconstructed in 2009. Deferral of part of the Dublin Street project allows for additional funding to be available for the Norfolk Street project in 2009. The timing to reconstruct the section of Dublin Street from Paisley Street to Waterloo Avenue will be reviewed when determining priority road projects during the Capital Budget process.

## **CORPORATE STRATEGIC PLAN**

- Goal 1: An attractive, well functioning and sustainable city
- Goal 5: A community-focused, responsive and accountable government

## **FINANCIAL IMPLICATIONS**

Funding for RD0107 Gordon Street from Wellington Street to Waterloo Avenue was last approved as part of the 2007 Capital Budget. A review of the work remaining on this section of the project corridor has indicated that the entire remaining budget is not required to complete the work on Gordon Street from Wellington Street to Waterloo Avenue. RD0225 Dublin Street from Suffolk Street to Waterloo Avenue was one of the projects identified to receive funding from the one-time Ontario Investment grant of \$10.9M. Due to estimated increased costs for utility work, staff is recommending \$1M of City funding from RD0107 and \$1M of City funding from RD0225 be reallocated to RD0176 Norfolk Street from Waterloo Avenue to Quebec Street if required to award the tender for this project. The proposed budget adjustments do not require additional funding to be approved for the Norfolk Street Reconstruction project. The report is presented for Council's consideration to approve the recommended adjustments to the 2009 Capital Budget.

In future Capital Budget processes, projects may be presented for Council consideration in broader terms in order to provide flexibility to reallocate funding from approved projects. This would result in funding adjustments, within Council approved parameters, on a project by project basis not requiring specific Council consideration. It is believed that projects could therefore move forward from budget

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approval to delivery more effectively and efficiently.

The budget adjustments being recommended in this report may impact future Capital Budgets. Engineering staff will continue to review their Capital Budget to ensure priority projects are brought forward in a timely manner while working within the City's financial guidelines.

## **DEPARTMENTAL CONSULTATION**

This report was prepared in consultation with the Finance Department. Environmental Services and Operations staff was advised of the proposed revisions to the capital reconstruction program.

## **COMMUNICATIONS**

A notification of the project will be issued to area residents, businesses and the Downtown Board detailing the anticipated construction schedule and project limits. A Public Information Centre (PIC) for the Norfolk Street Reconstruction project is scheduled for April 7, 2009. Advertisements and direct notification for the PIC will be issued in advance of the meeting. It is anticipated that a Council report recommending the award of the tender for the Norfolk Street Reconstruction project will be forwarded to Council for approval on April 27, 2009.

## **ATTACHMENTS**

Location Map: Gordon/Norfolk Street Corridor

"original signed by Don Kudo"

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**Prepared By:**

Don Kudo, P. Eng.  
Manager of Infrastructure Planning,  
Design and Construction  
519-837-5604, ext. 2490  
[don.kudo@guelph.ca](mailto:don.kudo@guelph.ca)

"original signed by Richard Henry"

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**Endorsed By:**

Richard Henry, P. Eng.  
City Engineer  
519-837-5604, ext. 2248  
[richard.henry@guelph.ca](mailto:richard.henry@guelph.ca)

"original signed by Margaret Neubauer"

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**Recommended By:**

Margaret Neubauer  
Director of Finance  
519-837-5610, ext. 5606  
[margaret.neubauer@guelph.ca](mailto:margaret.neubauer@guelph.ca)

"original signed by James Riddell"

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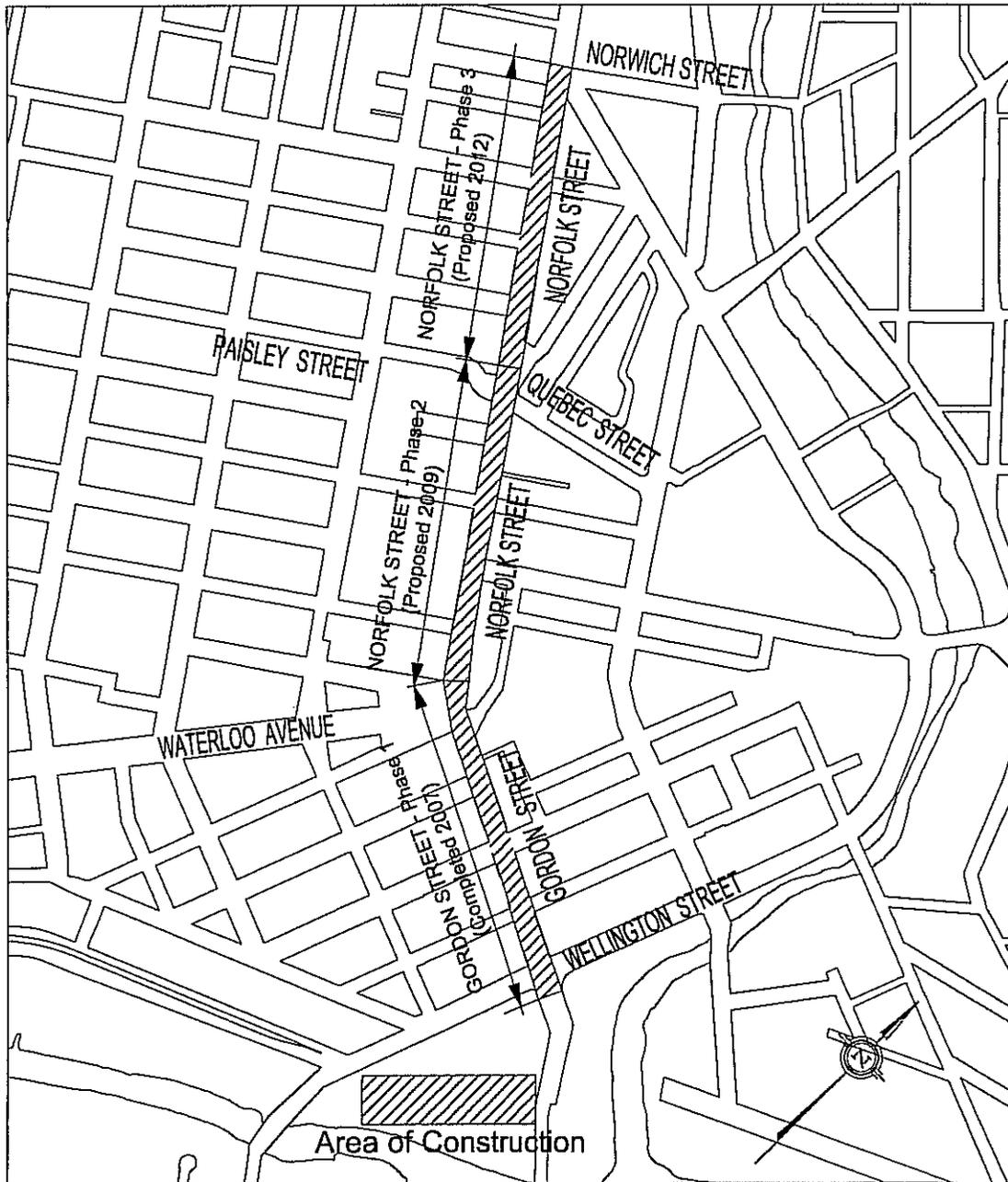
**Recommended By:**

James N. Riddell  
Director, Community Design and  
Development Services  
519-837-5616, ext. 2361

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[jim.riddell@guelph.ca](mailto:jim.riddell@guelph.ca)



**LOCATION MAP:  
GORDON/ NORFOLK STREET CORRIDOR**

# COUNCIL REPORT

**TO** **Guelph City Council**

**SERVICE AREA** Community Design and Development Services  
**DATE** March 23, 2009

**SUBJECT** **Clair Tower Booster Station, Contract 09-031**  
**REPORT NUMBER** A-3

## RECOMMENDATION

“THAT the tender of Sierra Construction Ltd be accepted and that the Mayor and Clerk be authorized to sign the agreement for Contract 09-031 for the Clair Tower Booster Station, for a total tendered price of \$2,113,728.14 with actual payment to be made in accordance with the terms of the contract.”

## BACKGROUND

The City completed a Water and Wastewater Servicing Master Plan (WWSMP) in 2008 to map out the water distribution and waste water conveyance infrastructure requirements until 2054. Preliminary outputs from the WWSMP recommend that in order to improve water distribution in the south side of the City, additional infrastructure is required to ensure acceptable system pressures, fireflows and storage requirements. The Clair Road booster pumping station, the subject of this report, was identified as a required improvement to the existing system and to facilitate new growth in this area.

## REPORT

The tender for the Clair Tower Booster Pumping Station (BPS) closed on Friday February 20, 2009. In total 14 bids were received by the City of Guelph – Procurement and Risk Management Services area. Three of the 14 bids were disqualified by the Financial Services because of non-compliance with the tender process. All bids were checked for arithmetic and rounding errors. Although minor errors were found with four bids, the ranking was unaffected. A summary of the bids received are as follows:

<b>Rank</b>	<b>Company</b>	<b>Total Bid Price (corrected for arithmetic)</b>
1	Sierra Construction Ltd.	\$2,113,728.14
2	TRP Construction General Contractors	\$2,255,236.34

3	MAPLE REINDERS CONSTRUCTORS LTD.	\$2,317,184.88
4	KMA Contracting Inc.	\$2,363,542.38
5	Enviro-Con Engineering & Construction Ltd.	\$2,369,840.55
6	Nadeco Limited	\$2,457,841.45
7	H.I.R.A Limited	\$2,476,950.00
8	Xterra Construction Inc.	\$2,481,913.08
9	Sona Construction Limited	\$2,613,275.43
10	Torbear Contracting Inc.	\$2,666,722.53
11	Subterra Inc.	\$2,747,809.26

Sierra Construction Ltd. submitted the lowest bid for the contract for the Clair Tower Booster Station at \$2,113,728.14. Sierra Construction Ltd has satisfactorily performed the work of this nature and the City's consultant Stantec Consultant Ltd recommends the awarding of the contract to Sierra Construction Ltd.

## **CORPORATE STRATEGIC PLAN**

This project supports:

- Strategic Goal #1; "To manage growth in a balanced, sustainable manner

## **FINANCIAL IMPLICATIONS**

Funding for this project will be combined from the approved 2009 Waterworks Capital Budget accounts WW0057 Starwood: Speedvale to Eastview and WW0097 WFO Clair Tower Booster Station as per the attached funding summary. Both accounts are 100% funded by Development Charges.

## **DEPARTMENTAL CONSULTATION**

Operations and Environmental Services staff have reviewed the proposed design drawings. Finance staff has provided the Budget and Financing Schedule.

## **COMMUNICATIONS**

Residents and neighbours will be notified of the construction on Clair Road prior to commencement of the work.

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## ATTACHMENTS

- Budget and Financing Schedule
- Location Plan

“original signed by Majde Qaqish”

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**Prepared By:**

Majde Qaqish, P.Eng.  
Project Manager  
519-837-5604, ext. 2225  
majde.qaqish@guelph.ca

“original signed by Richard Henry”

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**Endorsed By:**

Richard Henry, P.Eng.  
City Engineer  
519-837-5604, ext. 2248  
richard.henry@guelph.ca

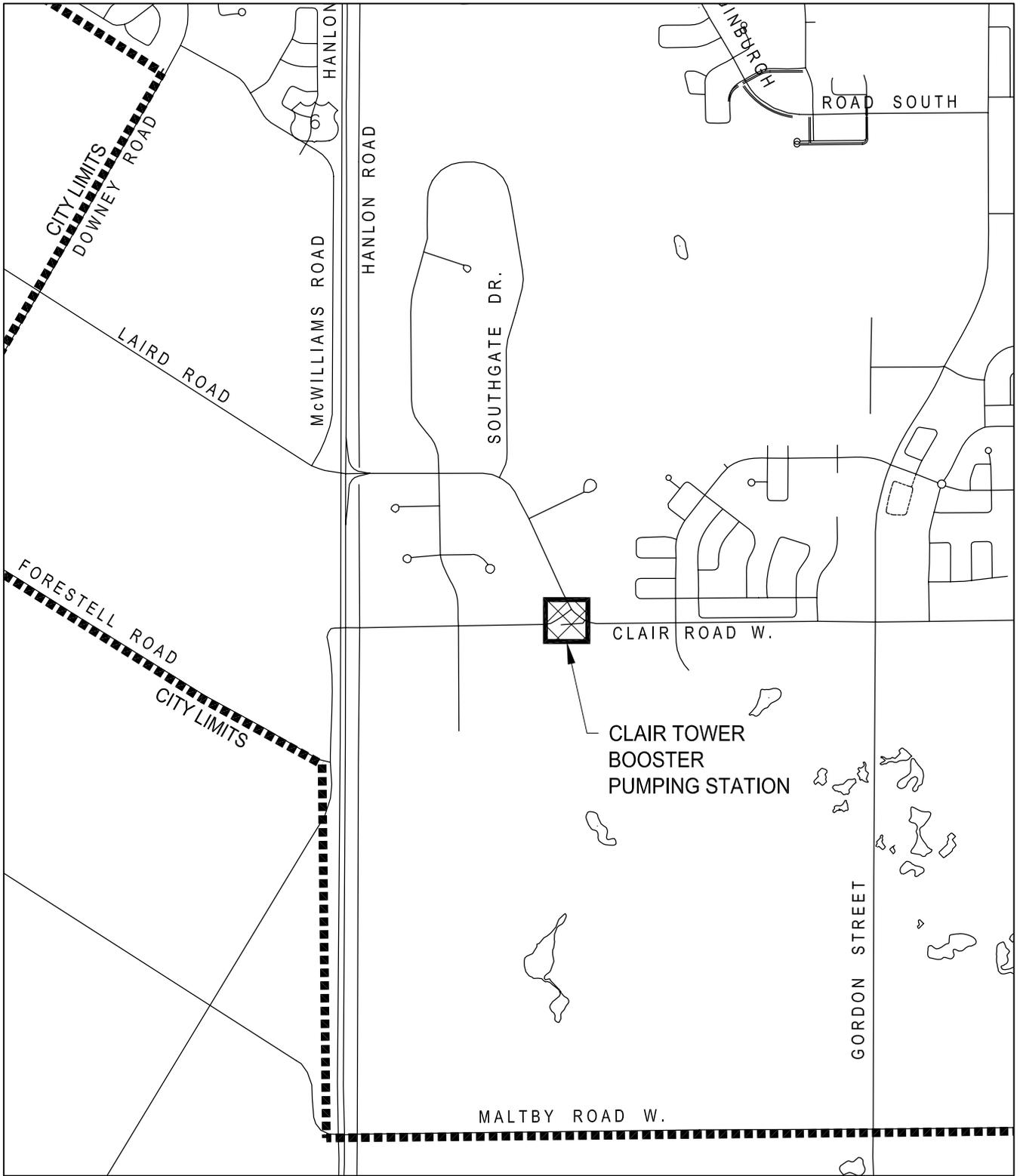
“original signed by James Riddell”

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**Recommended By:**

James N. Riddell  
Director of Community Design and Development Services  
519-837-5604, ext. 2361  
jim.riddell@guelph.ca

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**Stantec**

**Stantec Consulting Ltd.**

49 Frederick Street  
 Kitchener ON Canada  
 N2H 6M7  
 Tel. 519.579.4410  
 Fax. 519.579.6733  
 www.stantec.com

Client/Project

CITY OF GUELPH  
 CLAIR TOWER BOOSTER  
 PUMPING STATION

Figure No.

1.0

Title

LOCATION PLAN

**Budget and Financing Schedule**

JDE Project number: WW0097& WW0057  
 Project name: **Clair Tower Booster Station**  
 Contract #: 09-031  
 Prepared by: Sarah Purton  
 Date: March 6, 2009

	Total Cost	External Financing			Curr Reve
		Subsidy	Dev't Charges	Developer/ Other	
<b><u>A. Budget Approval &amp; Additional Funding</u></b>					
WW0097 WF0 CLAIR TOWER BOOST PUMP STN	2,000,000	0	2,000,000		0
WW0057 STARWOOD:SPEEDVALE-EASTVIEW	638,000	0	638,000		0
<b>Budget Approval</b>	<b>2,638,000</b>	<b>0</b>	<b>2,638,000</b>		<b>0</b>
<b><u>B. Budget Requirement</u></b>					
<b>Tender Price: Sierra Construction Limited (Excluding Tax)</b>	2,013,074				
<b>City Share</b>	<b>2,013,074</b>	0	2,013,074		0
plus: Expenditures to Date WW0097	110,611	0	110,611		0
plus: Expenditures to Date WW0057	0	0	0		0
plus: Committed Work on Existing Pos WW0097	139,028	0	139,028		0
plus: Committed Work on Existing Pos WW0057	0	0	0		0
plus: Future Work (WW0097, WW0057)	375,287	0	375,287		0
<b>TOTAL BUDGET REQUIREMENT</b>	<b>2,638,000</b>	<b>0</b>	<b>2,638,000</b>		<b>0</b>
<b><u>C. Surplus / (Deficit)</u></b>	0	0	0		0
<b><u>D. Revised project budget</u></b>	<b>2,638,000</b>	<b>0</b>	<b>2,638,000</b>		<b>0</b>

**WW0097**

<b>PO #</b>	<b>Line #</b>	<b>PO Amount</b>	<b>PO Invoiced</b>	<b>PO Outstanding</b>
0817065	13	5,000	525	4,475
0817134	13	1,000	0	1,000
0818730	1,2	174,337	40,784	133,553
				<b>139,028</b>



## Guelph Police Services Board

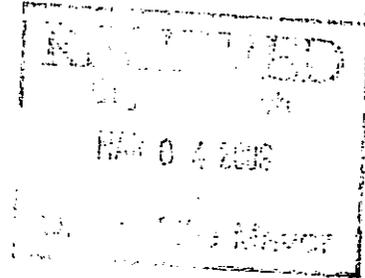
PO Box 31038, Willow West Postal Outlet, Guelph, Ontario N1H 8K1

Telephone: (519) 824-1212 # 213 Fax: (519) 824-8360

TTY (519) 824-1466 Email: board@police.guelph.on.ca

INFORMATION SHEETS  
March 23, 2009  
Consent B-1

February 26, 2009



June Demerling  
Chair  
% West Perth O.P.P.  
132 St. George Street  
P.O. Box 1029  
Mitchell, ON  
N0K 1N0

Dear Ms. Demerling:

I am writing as Chair of the Guelph Police Services Board in support of your resolution related to your frustration as it pertained to a charge of trafficking and the subsequent decision by the court not to proceed with the trafficking charge.

At the Guelph Police Services Board meeting on February 19, 2009, the Board discussed your letter and resolution and in the public session unanimously passed the following motion:

*THAT the Guelph Police Services Board fully supports the efforts of the West Perth Police Services Board in its efforts requesting a review of level of sentencing practices in Ontario Province's Courts, specifically pertaining to the drug trade; and  
THAT letters of support be forwarded to the West Perth Police Services Board with copies sent to the Attorney General of Ontario, Ontario Association of Police Services Boards, Guelph City Council and the Substance Abuse Committee of Guelph*

As a Board, and as a Police Service, we are seriously concerned about the increased availability and use of crystal methamphetamine in all communities. We, as a Board, want to make it abundantly clear that we support all police officers who are involved in drug investigations.

We were dismayed that the Court agreed with the accused's attorney's argument that a rock star in California would have 18 grams of crystal methamphetamine and drug paraphernalia for personal use and thus dismissed the trafficking charge. This is indeed a very sad message to be shared with police and our communities.

As a Board we will be sharing your concerns through a copy of this letter to the Attorney General of Ontario, Ontario Association of Police Services Boards, Guelph City Council, and the Substance Abuse Committee of Guelph. As well we will be sharing a copy of this letter with the Guelph Police Association and the Guelph Senior Officers Association to indicate our strong support for our drug unit and their quality efforts.

Thank you for giving us the opportunity to share your concerns on this very important topic.

Yours truly,



C. David Clark  
Chair

Attachment: Cover Letter and Resolution received from the Municipality of West Perth  
Police Services Board

Copies: Attorney General of Ontario  
Ontario Association of Police Services Boards  
Guelph City Council ✓  
Substance Abuse Committee of Guelph  
Guelph Police Association  
Guelph Senior Officers Association

JAN 27 2009

## Municipality of West Perth Police Services Board



Monday, January 19, 2009

The Honourable Chris Bentley  
Attorney General of Ontario  
McMurtry-Scott Building  
720 Bay Street, 11<sup>th</sup> Floor  
Toronto, Ontario  
M5G 2K1

Dear Minister Bentley:

The West Perth Police Services Board (PSB) prepared the enclosed Resolution for circulation to all Ontario Police Services Boards out of concern for the police officers of Ontario.

At the regular PSB meeting on January 14, 2009, Inspector Mark Andrews gave an example of the frustration facing officers. A Perth County resident was charged by police with trafficking crystal methamphetamine; the person had 18 grams of the drug, baggies and scales. His attorney made the argument that a rock star in California would have that amount for personal use. The court agreed and he was not charged with trafficking.

You can imagine how frustrating this is for everyone except the person facing charges.

Please consider this Resolution as the West Perth Police Services Board's concern with Ontario's court system.

Yours truly,

*J. Demerling / hse*

June Demerling  
Chair

Enclosure

Cc: Ontario Police Services Boards ✓

**Whereas** the West Perth Police Services Board strongly values a positive working relationship with the men and women of the Ontario Police Service;

**And whereas** the West Perth Police Services Board desires to maintain the highest possible quality of police services for our citizens;

**And whereas** the West Perth Police Services Board have some concerns regarding the level of sentencing at the Ontario Court of Justice, the Superior Court of Justice and the Court of Appeal that it does not reflect the wishes of the community and can, in some cases, be counterproductive to the work of the personnel of the Ontario Police Services;

**Now therefore be it resolved that** the West Perth Police Services Board petition the Ministry of the Attorney General to review the system of sentencing of the Province's Court System to work together with Ontario Police Services as they try to maintain adequate and effective police services in their communities;

**And further that** this Resolution be circulated to the Honourable Chris Bentley, Attorney General of Ontario and Police Services Boards in the Province of Ontario.

Please recycle!

- **BYLAWS** -

<b>- March 23, 2009 -</b>	
<p>By-law Number (2009)-18748 A by-law to authorize the execution of release of an Agreement with respect to property described as Part Lot 14, Plan 396 and Part Lot 1, Concession 3, Division "C" (formerly Guelph Township), City of Guelph. (614 York Road – encroachment agreement no longer required by the property owner.</p>	<p>Execute a release of an encroachment agreement that is no longer required by the property owner.</p>
<p>By-law Number (2009)-18749 A by-law to authorize the execution of release of an Agreement with respect to property described as Lot 13, Registered Plan 559, City of Guelph. (9 Tamarack Place)</p>	<p>To execute a release of an agreement.</p>
<p>By-law Number (2009)-18750 A by-law to amend By-law Number (1995)-14864, as amended, known as the Zoning By-law for the City of Guelph as it affects property known municipally as 340 Clair Road East, to implement the Westminister Woods East Phase 4 Draft Plan of Subdivision (File 23T-02502/ZC0706).</p>	<p>A by-law to amend the Zoning By-law as approved by Council.</p>
<p>By-law Number (2009)-18751 A by-law to designate the property municipally known as 65 Wyndham Street North as being a property of cultural heritage value or interest.</p>	<p>To designate 65 Wyndham St. N. as a property of cultural heritage value or interest.</p>
<p>By-law Number (2009)-18752 A by-law to designate the property known municipally as 9 Douglas Street as being a property of cultural heritage value or interest.</p>	<p>To designate 9 Douglas St. as a property of cultural heritage value or interest.</p>

<p>By-law Number (2009)-18753  A by-law to authorize the execution of an agreement between Her Majesty the Queen in Right of Ontario as represented by the Minister of Community Safety and Correctional Services, the City of Guelph and Guelph Police Services Board. (Police Officers Recruitment Fund)</p>	<p>To authorize the execution of an agreement with respect to the Police Officers Recruitment Fund.</p>
<p>By-law Number (2009)-18754  A by-law to authorize the execution of an agreement between The Corporation of the City of Guelph and Reitzel Bros. Asbestos Removal Ltd. (Contract No. 08-162 for the interior demolition and hazardous waste abatement of the Loretto Convent)</p>	<p>To execute Contract No. 08-162 for the interior demolition and hazardous waste abatement of the Loretto Convent.</p>
<p>By-law Number (2009)-18755  A by-law to authorize the execution of a Customer Agreement between The Corporation of the City of Guelph and Telus.</p>	<p>To execute a customer service agreement to provide a business class internet connection service.</p>
<p>By-law Number (2009)-18756  A by-law to authorize the execution of an Agreement between The Corporation of the City of Guelph and Guelph Humane Society. (provision of services for period January 1 to December 31, 2009)</p>	<p>Agreement for the provision of services, including dog control, dog licensing and animal shelter for period January 1 to December 31, 2009, as per Clause 2 Report of the Emergency Services, Community Services &amp; Operations Committee.</p>