

# **INFORMATION ITEMS**

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**Week Ending , 2016**

## **REPORTS**

1. Litigation Status Report
2. Tier 3 Water Budget and Local Area Risk Management
3. watr – Mobile Application Development for Water Efficiency

## **INTERGOVERNMENTAL CONSULTATIONS**

1. None

## **CORRESPONDENCE**

1. Region of Peel re: Water Fluoridation

## **BOARDS & COMMITTEES**

1. None

## **ITEMS AVAILABLE IN THE CLERK'S OFFICE**

1. None

# Information Report



Service Area      Office of the Chief Administrative Officer  
Date                  Friday, March 31, 2017  
Subject                **Litigation Status Report**  
Report Number      CAO-LRS-1702

## Executive Summary

### Purpose of Report

To provide information regarding the current status of litigation involving the City.

### Key Findings

The amount of litigation, excluding planning and insured matters, that the City is involved in remained static more or less throughout 2016. The number of matters, excluding insured matters, being handled by external counsel remained the same throughout 2016.

### Financial Implications

N/A

## Report

The attached chart sets out the details of the litigation the City is involved in and the resolutions which have occurred since the last report in September, 2016.

Legal Services continues to seek resolution of the litigation and OMB matters in a timely fashion and has been successful in resolving a number of matters in the last 6 months.

### Financial Implications

N/A

### Consultations

N/A

# **Corporate Administrative Plan**

## **Overarching Goals**

Service Excellence

## **Service Area Operational Work Plans**

Our Services - Municipal services that make lives better

## **Attachments**

ATT-1      Litigation Status Report as of March 31, 2017

Bruce William Banting

### **Recommended By**

Bruce Banting  
Acting City Solicitor  
Ext. 2482  
[bruce.banting@guelph.ca](mailto:bruce.banting@guelph.ca)

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

**COURT ACTIONS**

Matter	Description	History	Current Status	Counsel
<b>McKenzie v. City of Guelph</b> Superior Court of Justice 49/17	• Slip and fall	<ul style="list-style-type: none"> <li>February 7, 2017 – City served with Statement of Claim</li> <li>March 9, 2017 – City served and filed Statement of Defence</li> </ul>	• June 28, 2017 – Examination for Discovery scheduled	Legal Services
<b>Konesavarathan v. City of Guelph et al</b> Divisional Court File No. 579/16	• Application to Divisional Court for Judicial Review of HRTO decision	<ul style="list-style-type: none"> <li>December 1, 2016 – City served with Notice of Application</li> <li>December 19, 2016 – city served and filed Notice of Appearance</li> <li>March 13, 2017 – City served with Factum, Application Record and Exhibit book of Applicant</li> </ul>	<ul style="list-style-type: none"> <li>City preparing responding materials</li> <li>Hearing likely to be scheduled May or June, 2017</li> </ul>	Legal Services
<b>Jakel v. City of Guelph</b> Superior Court of Justice 670/16	• Slip and Fall	<ul style="list-style-type: none"> <li>November 2, 2016 – City served with Notice of Action and Statement of Claim</li> <li>November 4, 2016 – City filed Notice of Intent to Defend</li> <li>December 1, 2016 – City filed and served Statement of Defence</li> </ul>	• Ongoing	Legal Services
<b>Reimer v. City of Guelph et al</b> Small Claims Court File No. 16-366	• Property damage at 89 Stone Road	<ul style="list-style-type: none"> <li>June 23, 2016 – City served with Plaintiff's Claim</li> <li>July 27, 2016 – City filed and served Defence</li> <li>July 29, 2016 – City served Defendant's Claim against contractor</li> <li>October 7, 2016 – settlement conference scheduled – adjourned</li> <li>February 10, 2017 – settlement conference scheduled – adjourned</li> </ul>	• April 19, 2017 – settlement conference scheduled	Legal Services
<b>Kritz v. City of Guelph and Bruce Aubrey</b> Superior Court of Justice Court File No. 03/16	• Building code compliance issues 108 Dublin Street	<ul style="list-style-type: none"> <li>January 4, 2016 – City served with Notice of Application</li> <li>August 29, 2016 – Application heard</li> <li>October 19, 2016 – application continued</li> <li>November 23, 2016 – Decision received</li> </ul>	• Awaiting costs submissions	Legal Services  Aird & Berlis
<b>Wiseman v. Guelph</b> Superior Court of Justice Court File No. 638/14	• Slip and Fall – March 25, 2014	<ul style="list-style-type: none"> <li>August 25, 2014 – Statement of Claim served on City</li> <li>September 11, 2014 –</li> </ul>	• Ongoing	Legal Services

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

**COURT ACTIONS**

Matter	Description	History	Current Status	Counsel
		City served Defence <ul style="list-style-type: none"> <li>• January 6, 2015 – City's Affidavit of Documents served</li> <li>• January 28, 2016 – discoveries held</li> <li>• January 24, 2017 – discussions held</li> </ul>		
<b>Westminister Woods v. City of Guelph</b> Superior Court of Justice Court File No. 707/13	• Claim re Stage III Services pursuant to Subdivision Agreement	<ul style="list-style-type: none"> <li>• October 4, 2013 – Statement of Claim served on City</li> <li>• November 12, 2013 - City filed Statement of Defence</li> <li>• November 25, 2013 – Reply served on City</li> <li>• March 2014 – Discovery agreement prepared</li> <li>• May 30, 2014 - City filed Affidavit of Documents</li> <li>• November 27, 2014 - Plaintiff served Affidavit of Documents</li> </ul>	<ul style="list-style-type: none"> <li>• Motion to be scheduled April or May, 2017</li> </ul>	Legal Services  Aird & Berlis

**COURT ACTIONS RESOLVED SINCE September 20, 2016**

Matter	Description	History	Current Status	Counsel
<b>City of Guelph v. Phou</b> Small Claims Court File No. 15-306	• Damage to traffic signal pole – December 6, 2012	<ul style="list-style-type: none"> <li>• May 7, 2015 – City issued Plaintiff's Claim</li> <li>• August 19, 2015 – Claim served on Defendant</li> <li>• September 15, 2015 – Defendant noted in default</li> <li>• December 4, 2015 – motion for Assessment of Damages dismissed</li> <li>• Awaiting formal dismissal order</li> </ul>	<ul style="list-style-type: none"> <li>• This matter is complete</li> </ul>	Legal Services
<b>Smith v. City of Guelph</b> Superior Court of Justice Court File No. 18/16	• Claim for an order to remove and realign certain public utilities located under the plaintiffs' property at 16 Summerfield	<ul style="list-style-type: none"> <li>• January 14, 2016 – Statement of Claim served on City</li> <li>• March 2, 2016 – City served Statement of Defence</li> <li>• January 17, 2017 – settlement reached</li> <li>• March 29, 2017 – settlement held in abeyance pending resolution with other Summerfield residence</li> </ul>	<ul style="list-style-type: none"> <li>• This matter is complete</li> </ul>	Legal Services  Rodrigues Partners

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

**COURT ACTIONS RESOLVED SINCE September 20, 2016**

Matter	Description	History	Current Status	Counsel
<b>Kritz v. City of Guelph</b> Superior Court of Justice Court File No. 253/16	<ul style="list-style-type: none"> <li>Application for a declaration that properties are not being used as "Lodging House Type 1"</li> </ul>	<ul style="list-style-type: none"> <li>March 31, 2016 – City served with Notice of Application</li> <li>August 29, 2016 – Application heard</li> <li>October 19, 2016 – Application continued</li> <li>November 23, 2016 – Decision received</li> <li>December 7, 2016 – settlement reached</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services  Aird & Berlis
<b>Di Leonardo v. City of Guelph et al</b> Small Claims Court File No. 16-404	<ul style="list-style-type: none"> <li>Property damage at 35 &amp; 37 Wellington Street West</li> </ul>	<ul style="list-style-type: none"> <li>July 12, 2016 – City served with Plaintiff's Claim</li> <li>July 27, 2016 – City filed and served Defence</li> <li>July 29, 2016 – City served Defendant's Claim against contractor</li> <li>November 23, 2016 – Order dismissing main Action and Defendant's Claim issued</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services
<b>Earth Boring Company Limited v. City of Guelph et al</b> Ontario Superior Court of Justice No. CV-16-546413	<ul style="list-style-type: none"> <li>Plaintiff alleges entitled to standby labour and equipment costs and costs of a lost piece of equipment</li> </ul>	<ul style="list-style-type: none"> <li>February 11, 2016 – City served with Statement of Claim</li> <li>February 26, 2016 – City filed Notice of Intent to Defend</li> <li>April 8, 2016 – Defence filed</li> <li>November 22, 2016 – Action, Claim and Counterclaim dismissed without costs</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services  Rodrigues Partners
<b>Fava v. City of Guelph</b> Superior Court of Justice 510/16	<ul style="list-style-type: none"> <li>Appeal under Building Code Act - 7 Crawford</li> </ul>	<ul style="list-style-type: none"> <li>July 8, 2016 – City served with Notice of Application</li> <li>November 14, 2016 – Application abandoned</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services
<b>Poole v. City of Guelph</b> Small Claims Court File No. 16-621	<ul style="list-style-type: none"> <li>Tree damage at 939 West Acres Drive</li> </ul>	<ul style="list-style-type: none"> <li>October 4, 2016 – City served with Plaintiff's Claim</li> <li>October 21, 2016 – City served and filed Defence</li> <li>November 9, 2016 – settlement conference held. Settlement reached</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services
<b>457 Woolwich Street Inc.</b> Superior Court of Justice 642/16	<ul style="list-style-type: none"> <li>Application for an order to issue a demolition permit for a garage at 257 Woolwich Street and quash order to remedy unsafe building</li> </ul>	<ul style="list-style-type: none"> <li>August 26, 2016 – City served with Notice of Application</li> <li>August 30, 2016 – City</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

**COURT ACTIONS RESOLVED SINCE September 20, 2016**

Matter	Description	History	Current Status	Counsel
		<p>filed and served Notice of Appearance</p> <ul style="list-style-type: none"> <li>September 23, 2016 – application dismissed without costs</li> </ul>		
<b>Davis v. City of Guelph</b> Ontario Court of Appeal	<ul style="list-style-type: none"> <li>Appeal decision of Divisional Court</li> </ul>	<ul style="list-style-type: none"> <li>November 12, 2015 – Notice of Appeal served on City</li> <li>January 7, 2016 – City served with Notice of Motion for leave to appeal</li> <li>September 21, 2016 – confirmed with Court of Appeal, matter dismissed, no further correspondence being sent</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services

**OMB MATTERS**

Matter	Description	History	Current Status	Counsel
<b>85 Mullin Drive</b> Case No. PL170006	<ul style="list-style-type: none"> <li>Appeals by Reid Homes and Ethanview Limited</li> </ul>	<ul style="list-style-type: none"> <li>December 23, 2016 – appeals received</li> </ul>	<ul style="list-style-type: none"> <li>May 29, 2017 – hearing scheduled</li> </ul>	Legal Services
<b>75 Dublin Street North</b> Case No. PL161294	<ul style="list-style-type: none"> <li>Appeal by Upper Grand District School Board</li> </ul>	<ul style="list-style-type: none"> <li>December 21, 2016 – appeal received</li> </ul>	<ul style="list-style-type: none"> <li>August 14, 2017 – pre hearing scheduled</li> </ul>	Legal Services
<b>75 Dublin Street North</b> Case No. PL161294	<ul style="list-style-type: none"> <li>Appeal by Old Guelph Neighborhood Association Inc.</li> </ul>	<ul style="list-style-type: none"> <li>December 21, 2016 – appeal received</li> </ul>	<ul style="list-style-type: none"> <li>August 14, 2017 – pre hearing scheduled</li> </ul>	Legal Services
<b>75 Dublin Street North</b> Case No. PL161294	<ul style="list-style-type: none"> <li>Appeal by Rykur Holdings Inc.</li> </ul>	<ul style="list-style-type: none"> <li>December 21, 2016 – appeal received</li> </ul>	<ul style="list-style-type: none"> <li>August 14, 2017 – pre hearing scheduled</li> </ul>	Legal Services
<b>21 Halesmanor Court</b> Case No. PL161084	<ul style="list-style-type: none"> <li>Appeal by Raswinder Bains</li> </ul>	<ul style="list-style-type: none"> <li>October 27, 2016 – appeal received</li> </ul>	<ul style="list-style-type: none"> <li>April 5, 2017 – hearing scheduled</li> </ul>	Legal Services
<b>1229 Victoria Road South</b> Case No. PL160859	<ul style="list-style-type: none"> <li>Appeal by Westminster Woods and Reid's Heritage Homes</li> </ul>	<ul style="list-style-type: none"> <li>August 16, 2016 – appeal received</li> <li>February 13, 2017 – prehearing held</li> </ul>	<ul style="list-style-type: none"> <li>October 16, 2017 – hearing scheduled</li> </ul>	Legal Services
<b>360 Woolwich Street &amp; 15 Mont Street</b> Case No. PL151199	<ul style="list-style-type: none"> <li>Appeal by Ian Connolly</li> </ul>	<ul style="list-style-type: none"> <li>November 30, 2015 – appeal received</li> <li>May 10, 2016 – prehearing held</li> <li>July 27, 2016 – status hearing held by teleconference</li> </ul>	<ul style="list-style-type: none"> <li>September 5, 2017 – hearing scheduled (10 days)</li> </ul>	Legal Services
<b>OPA 54 (9 Appeals)</b> Case No. PL140648	<ul style="list-style-type: none"> <li>9 Appeals received relating to Official Plan Amendment 54 (Guelph Innovation District Secondary Plan)</li> </ul>	<ul style="list-style-type: none"> <li>Jun 16-18, 2014 – Appeals received</li> <li>December 10, 2014 – pre-hearing held</li> <li>February 23, 2015 – second pre hearing held</li> </ul>	<ul style="list-style-type: none"> <li>February 22, 2016 – Phase 1 hearing scheduled for 10 days – cancelled</li> </ul>	Legal Services

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

**OMB MATTERS**

Matter	Description	History	Current Status	Counsel
<b>OPA 48 (7 Appeals)</b> Case No. PL 140042	<ul style="list-style-type: none"> <li>7 Appeals received relating to Official Plan Amendment 48 (Envision Guelph) as approved by the Minister of Municipal Affairs and Housing.</li> </ul>	<ul style="list-style-type: none"> <li>December, 2013 – OPA 48 Approved by Minister of Municipal Affairs and Housing</li> <li>December, 2013 – Appeals received</li> <li>September 15, 2015 – Phase 1 hearing scheduled for 10 days - adjourned</li> <li>November 20, 2015 – phase 1 decision issued resolving part of one appeal</li> </ul>	<ul style="list-style-type: none"> <li>No further hearings scheduled at this time.</li> </ul>	Legal Services
<b>1159 Victoria Road South</b> Case No. PL121406	<ul style="list-style-type: none"> <li>Appeals by Victoria Park Village Ltd. regarding failure to make a decision with the prescribed time</li> </ul>	<ul style="list-style-type: none"> <li>November 29, 2012 – Appeal received</li> <li>May 14, June 28, September 18 &amp; November 15, 2013 – Prehearings held</li> <li>June 16, 2014 – hearing held by teleconference</li> <li>April 29 &amp; August 18, 2015 – hearings held by teleconference</li> <li>November 5, 2015 - Status hearing held (TCC)</li> <li>May 3, 2016 – TCC held</li> </ul>	<ul style="list-style-type: none"> <li>No further hearings scheduled at this time</li> </ul>	Legal Services  Garrod Pickfield
<b>580 Paisley Road – Armel Corporation</b> Case No. MM080050	<ul style="list-style-type: none"> <li>Appeal by the owner, Armel Corporation, of a decision not to approve a site plan application for a proposed gas bar, car wash and kiosk. The main issue relates to site access.</li> </ul>	<ul style="list-style-type: none"> <li>October 1, 2008 – Appeal received</li> <li>Matter in abeyance pending the completion of the Environmental Assessment of Silvercreek Parkway S</li> </ul>	<ul style="list-style-type: none"> <li>No hearings scheduled at this time</li> </ul>	Legal Services

**OMB MATTERS RESOLVED SINCE September 20, 2016**

Matter	Description	History	Current Status	Counsel
<b>171 Kortright Road West</b> Case No. PL150430	<ul style="list-style-type: none"> <li>Appeal by Scott Higgins (HIP Developments Inc.)</li> </ul>	<ul style="list-style-type: none"> <li>May 14, 2015 – appeal received</li> <li>September 22, 2015 – pre hearing held</li> <li>January 22, 2016 – pre-hearing TCC held</li> <li>April 28, 2016 – settlement hearing held</li> <li>May 16, 2016 – OMB decision issued approving settlement.</li> <li>February 28, 2017 – final order received</li> </ul>	<ul style="list-style-type: none"> <li>This matter is complete</li> </ul>	Legal Services

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

**OTHER MATTERS**

Matter	Description	History	Current Status	Counsel
<b>Human Rights Tribunal of Ontario</b> File No. 2015-20351-I	• Application for Contravention of Settlement	• August 16, 2016 – application filed with HRT • August 30, 2016 – City filed response	• Ongoing	Legal Services
<b>Human Rights Tribunal of Ontario</b> File No. 2016-23871-I	• Human Rights application	• March 29, 2016 – application filed with HRT • June 27, 2016 – City filed response	• May 26, 2017 - Summary hearing scheduled	Legal Services
<b>Corporation of the City of Guelph v. Director, Ministry of the Environment</b> Case No. 13-013	• City is appealing to the Environmental Review Tribunal the issuance of Permit to Take Water number 5080-8TAKK2 to River Valley Developments Inc.	• February 12, 2013 – City filed an application for Leave to Appeal with the ERT • May 2, 2014 – Leave to Appeal to ERT granted • City filed Appeal • November 4, 2014 - Status Update with ERT, held by teleconference. • Third party mediation session held November 28, 2014	• Mediation ongoing	Garrod Pickfield Legal Services

**OTHER MATTERS RESOLVED SINCE September 20, 2016**

Matter	Description	History	Current Status	Counsel
<b>Human Rights Tribunal of Ontario</b> File No. 2015-21271-I	• Human Rights application – City of Guelph and Guelph-Wellington Local Immigration Partnership	• June 22, 2015 – application filed with HRT • February 9, 2016 – hearing heard • November 10, 2016 – decision received	• This matter is complete	Legal Services

**MATTERS BEING HANDLED BY INSURERS' LEGAL COUNSEL \***

Matter	Description	History	Current Status	Counsel
<b>Wellington Condominium Corporation No. 38 v. City of Guelph</b> Superior Court of Justice 814/16	• Property damage at 360 Waterloo Avenue	• October 31, 2016 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Yacoub v. City of Guelph et al</b> Ontario Superior Court of Justice No. 777/16	• Transit incident – October 12, 2014	• October 24, 2016 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Livermore et al v. City of Guelph et al</b> Ontario Superior Court of Justice No. 474/16	• Dog attack – June 19, 2014	• June 17, 2016 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Gascon v. City of Guelph et al</b> Ontario Superior Court of Justice No. 652/15	• Accident – September 14, 2013	• August 12, 2015 – City served with Statement of Claim • Insurer for co-defendant Coco Paving agreed to take over City's defence	• Ongoing	Insurer's legal counsel

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

<b>MATTERS BEING HANDLED BY INSURERS' LEGAL COUNSEL *</b>				
<b>Matter</b>	<b>Description</b>	<b>History</b>	<b>Current Status</b>	<b>Counsel</b>
		and indemnify as of October 21, 2015		
<b>Matin v. City of Guelph et al</b> Ontario Superior Court of Justice No. 268/15	• Transit accident – June 10, 2013	• April 16, 2015 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Schinck v. City of Guelph</b> Ontario Superior Court of Justice Court File No. 240/14	• Slip and fall – April 7, 2012	• July 29, 2014 – Statement of Claim served on City	• Ongoing	Insurer's legal counsel
<b>Cara Operations Limited v. City of Guelph</b> Ontario Superior Court of Justice Court File No. 868/13	• Property contamination – October, 2012	• May 26, 2014 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Zaki v. City of Guelph et al</b> Ontario Superior Court of Justice Court File No. 335/14	• Transit Accident – December 9, 2011	• May 9, 2014 – City served with Statement of Claim • Discovery of the Plaintiff held on October 27, 2015	• Ongoing	Insurer's legal counsel and Legal Services
<b>Dunkley v. Hunt, City of Guelph &amp; Legacy Leasing</b> Ontario Superior Court of Justice Court File No. CV-13-495196	• Accident – January 11, 2012	• December 24, 2013 – City served with Statement of Claim • Police Services Matter	• Ongoing	Insurer's legal counsel
<b>Gebreselassie v. City of Guelph et al</b> Ontario Superior Court of Justice Court File No. 920/13	• Transit Accident – January 3, 2012	• December 20, 2013 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Watson v. City of Guelph and Traugott Building Contractors Inc.</b> Ontario Superior Court of Justice Court File No. 1679-13	• Accident – September 10, 2011	• September 25, 2013 – City served with Statement of Claim	• Ongoing	Insurer's legal counsel
<b>Koeslag v. City of Guelph et al</b> Ontario Superior Court of Justice Court File No. C-695-13	• Accident – August 18, 2011	• August 15, 2013 – City served with Statement of Claim • Insurer for Seegmiller, a co-defendant, has assumed the City's defence	• Ongoing	Insurer's legal counsel
<b>Linseman and Loewen v. City of Guelph and Guelph Transit</b> Ontario Superior Court of Justice Court File No. CV-10-414425	• Slip and Fall accident – December 11, 2008	• January 31, 2011 - Statement of Claim served on City	• Ongoing	Insurers' legal counsel

**ATT - 1**  
**LITIGATION STATUS REPORT**  
**As of March 31, 2017**

\* Does not include claims solely against Guelph Police Services (i.e. City not named as a party)

<b>INSURED MATTERS COMPLETE SINCE September 20, 2016</b>				
<b>Matter</b>	<b>Description</b>	<b>History</b>	<b>Current Status</b>	<b>Counsel</b>
<b>Cozzarin et al v. Ashton Ridge Homes Inc. and City of Guelph</b> Ontario Superior Court of Justice Court File No. 644/14	• Property damage – January, 2014	<ul style="list-style-type: none"> <li>August 27, 2014 – Statement of Claim served on City</li> <li>December 16, 2016 – full and final release executed by parties</li> </ul>	• This matter is complete	Insurer's legal counsel
<b>Gebreselassie v. City of Guelph et al</b> Ontario Superior Court of Justice No. 978/14	• Transit accident – December 30, 2012	<ul style="list-style-type: none"> <li>January 5, 2015 – Statement of Claim served on City</li> <li>November 30, 2016 – Order received dismissing action without costs</li> </ul>	• This matter is complete	Insurer's legal counsel
<b>Sharratt v. City of Guelph</b> Ontario Superior Court of Justice Court File No. 490/14	• Slip and fall – March 1, 2013	<ul style="list-style-type: none"> <li>June 23, 2014 – City served with Statement of Claim</li> <li>November 29, 2016 – Order received dismissing action without costs</li> </ul>	• This matter is complete	Insurer's legal counsel
<b>Watson v. City of Guelph et al</b> Ontario Superior Court of Justice Court File No. 365/16	• Zoning and Planning applications at 287 Waterloo Avenue	<ul style="list-style-type: none"> <li>May 18, 2016 – City served with Statement of Claim</li> <li>July 5, 2016 – Statement of Defence filed</li> <li>September 13, 2016 – received executed release</li> <li>September 20, 2016 - confirmed settlement</li> </ul>	• This matter is complete	Insurer's legal counsel

# Information Report



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Service Area	Infrastructure, Development and Enterprise Services
Date	Thursday, March 30, 2017
Subject	<b>Tier 3 Water Budget and Local Area Risk Assessment</b>
Report Number	IDE 17-51

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## Executive Summary

### Purpose of Report

To provide background and information regarding the Tier 3 Water Budget and Local Area Risk Assessment (LARA) Report completed for the Lake Erie Region Source Protection Committee (SPC).

### Key Findings

A Tier 3 LARA has been completed for the water supplies of the City of Guelph and Guelph/Eramosa Township and will be presented to the Lake Erie Region Source Protection Committee on April 6, 2017 for information. The project followed technical rules and guidance documents provided by the Ministry of Environment and Climate Change (MOECC) under the Clean Water Act (CWA). The report will be posted on the SPC web site following its release (<https://www.sourcewater.ca/en/index.aspx>).

The purpose of a Tier 3 LARA is to compare available groundwater and surface water supply capacity to the municipal demand from existing, future and planned drinking water systems. Where the ratio of water demand to water supply capacity is high, subwatersheds have been classified as having a Moderate or Significant potential for water quantity stress.

A comprehensive, integrated groundwater and surface water computer model has been developed for the City and surrounding area and represents a significant new tool to manage the local water resources.

An area of vulnerability, also known as the "Local Area" (WHPA-Q) and an Intake Protection Zone for water quantity (IPZ-Q) have been delineated. Under one of the model scenarios that are required to be simulated under the technical rules, one of the City's municipal wells was unable to pump at the allocated pumping rates under

average and drought conditions. As a result, WHPA-Q and IPZ-Q have been assigned a Significant Risk Level.

The Tier 3 LARA report has defined drinking water quantity threats as any activity in a vulnerable area that reduces groundwater recharge to an aquifer or any consumptive water demand. Consumptive demands are activities that extract water from an aquifer or surface water body without returning that water to the same aquifer or surface water body.

## **Financial Implications**

The Tier 3 LARA project has been funded through provincial grants via the Grand River Conservation Authority. This water quantity assessment will eventually lead to the development of water quantity policies in the City's Source Protection Plan and the City will incur future costs to develop and implement the policies. Additional information will be brought back to Council in 2018 regarding the water quantity policies and potential cost implications.

## **Report**

Drinking water source protection is about protecting the quality and quantity of our municipal drinking water supplies. As part of the CWA, a "Tiered" approach has been developed for conducting water budgets in source protection areas. There are three tiers in the process and each successive tier narrows the scope of the study and the science becomes more complicated. Each tier is more detailed and provides more certainty. As a requirement under the CWA, the purpose of a Tier 3 LARA is to compare available groundwater and surface water supply to the municipal demand from existing, future and planned drinking water systems. Where the ratio of water demand to water supply capacity is high, subwatersheds have been classified as having a Moderate or Significant potential for water quantity stress. The Upper Speed River Assessment Area of the Grand River Watershed was classified as having a Moderate potential for water quantity stress in a Tier 2 Water Budget Study and therefore, the Lake Erie Region Source Protection Authority was required to complete a Tier 3 LARA.

This report describes the Tier 3 LARA completed for municipal drinking water systems of the City of Guelph (City) and Guelph/Eramosa Township (GET). The City's water supply system consists of 23 wells constructed within overburden aquifers and deep bedrock aquifers. The City also has a water supply intake on the Eramosa River. GET has municipal systems located in the communities of Rockwood and Hamilton Drive, which are serviced by four and two bedrock water supply wells, respectively.

The scope of work completed in this Tier 3 LARA followed direction provided by the Province's Technical Guidance, Technical Rules and Technical Guidance Bulletin. The report was reviewed by three external Peer Reviewers appointed by the Province.

As part of the Tier 3 LARA, surface water and groundwater modelling tools were developed to help assess the sustainability of the municipal water sources. The models were developed based on a detailed characterization of the groundwater and surface water systems. The models were designed to replicate the water balance for the detailed hydrologic and/or hydrogeologic conceptual model for a number of scenarios: average and drought conditions; existing and committed demand (i.e. allocated rates); and planned future demand.

The Groundwater Vulnerable Area in this Tier 3 LARA is represented by a Wellhead Protection Area for water quantity (WHPA-Q) which is circular in shape with a diameter of approximately 20 km around the City (see Attachment Figure 1). There are also three, small WHPA-Q around the GET's Rockwood Wells. The WHPA-Q is the area of influence of each municipal well plus the area of influence of wells that it intersects. The Local Areas in this Tier 3 LARA also have a surface water Intake Protection Zone for water quantity (IPZ-Q) which is the drainage area and associated recharge area that contribute to the surface water intake (IPZ-Q) (see Attachment Figure 2).

The Tier 3 LARA scenarios determined that the City's Queensdale Well is unable to pump at the allocated pumping rates under average and drought conditions. All other municipal wells of the City and the communities of Rockwood and Hamilton Drive are expected to be able to pump at their current and allocated pumping rates under all conditions, but there is a high level of uncertainty with the results for the City's Arkell Well 1. As a result, WHPA-Q and IPZ-Q are assigned a Significant Risk Level.

The scenario results are supported by historical operating experience in the City where many of the wells have pumped at their allocated rates over prolonged periods of time. The primary municipal water supply aquifer is protected in most areas by the Vinemount Formation aquitard which reduces the vulnerability of the supply to drought. While all municipal wells except the Queensdale Well are expected to meet their allocated rates, water levels at the City's Arkell Well 1, Arkell Well 8, Arkell Well 14, Arkell Well 15, Burke Well, Carter Well, Emma Well and the GET's Bernardi Well 3 may be more susceptible to drought conditions. With the addition of new Arkell Spring Ground wells, the City's water supplies have the capacity to meet the 2031 estimated water demand.

Recharge reductions, in response to future land developments (i.e. increase in impervious surfaces), have a minimal impact on groundwater levels for the municipal pumping wells. The Gasport Formation aquifer is protected in most areas by the Vinemount aquitard which reduces the impact of reduced groundwater recharge on water levels in the aquifer.

There is a potential that municipal well pumping may decrease groundwater discharge to wetlands and cold-water streams. It is predicted that there will be a steady-state decrease in groundwater discharge to the cold water streams in and around the City and reductions of shallow groundwater levels greater than 1 metre around Provincially Significant Wetlands in the northwest, northeast and southeast

areas of the City. However, the modelling analysis indicates that there is a high level of uncertainty with respect to the predicted impacts to cold water streams and wetlands.

The Risk Assessment scenarios in the Tier 3 LARA illustrate that all but one municipal well (the City's Queensdale Well) can meet allocated rates under average and drought conditions. There is also a high level of uncertainty that Arkell Well 1 will be able to the allocated rates as well. Therefore, a Risk Level of Significant is assigned to the WHPA-Q and the IPZ-Q.

According to the Clean Water Act, Drinking Water Threats that are or would be classified as Moderate or Significant need to be identified for each vulnerable area. As outlined in the MOE Technical Rules, the definition of a drinking water quantity threat is any activity that reduces groundwater recharge to an aquifer or any consumptive water demand. Consumptive demands are activities that extract water from an aquifer or surface water body without returning that water to the same aquifer or surface water body. Since WHPA-Q and IPZ-Q are assigned a Risk Level of Significant, all consumptive demands or recharge reductions within these areas are classified as Significant Water Quantity Threats (SWQT).

### **Next Steps**

Information from the Tier 3 LARA report (including the water budget results, the delineation of the WHPA-Q and IPZ-Q and the SWQT) will be used to update the Approved Grand River Assessment Report.

Following the completion of the Tier 3 LARA, a new project will be initiated (known as the Risk Management Measures Evaluation Process (RMMEP)) to provide technical input to assist the Lake Erie Region Source Protection Committee and municipalities in formulating policies regarding existing, new or revised water takings within the Local Area(s). This RMMEP process is undertaken when a Local Area is assigned a Significant Risk Level in a Tier 3 Assessment. The project is intended to be locally driven, and a collaborative process amongst municipal partners and the Lake Erie Source Protection Region.

The RMMEP aims to examine water quantity threats that were identified in the Risk Assessment, rank them according to the threats that have the greatest impact on the municipal supplies and propose a recommended set of risk management measures that could be implemented to reduce the Risk Level assigned to the Local Area(s) from Significant, to Moderate or Low. The results of this exercise are then documented in a report known as the Threats Management Strategy.

The Clean Water Act requires that the Source Protection Plan include the development of effective policies to address SWQT. The Threats Management Strategy is then used to guide the development of Source Protection Policies for water quantity which upon approval will be included as an update to the Approved Grand River Source Protection Plan. The Source Protection Committee, working with the City and the Townships, will prepare an update to the Source Protection Plan that will set out policies to address the SWQT.

## **Financial Implications**

The Tier 3 LARA project has been funded by provincial grants via the GRCA. This water quantity assessment will eventually lead to the development of water quantity policies in the City's Source Protection Plan and the City will incur future costs to develop and implement the policies. Additional information will be brought back to Council in 2018 regarding the water quantity policies and potential cost implications.

## **Consultations**

The Tier 3 LARA report was prepared in cooperation with the Grand River Conservation Authority (as the Lake Erie Region Source Protection Authority), the Ministry of Natural Resources and Forestry, the Ministry of Environment and Climate Change, the City of Guelph and Guelph/Eramosa Township. Municipal peer reviews were conducted by the Townships of Guelph/Eramosa, Puslinch and Erin.

## **Corporate Administrative Plan**

### **Overarching Goals**

Service Excellence

Innovation

### **Service Area Operational Work Plans**

Our Services - Municipal services that make lives better

Our People- Building a great community together

Our Resources - A solid foundation for a growing city

## **Attachments**

ATT-1      Figure 1 Groundwater Vulnerable Areas (WHPA)

ATT-2      Figure 2 IPZ-Q

## **Departmental Approval**

Engineering and Capital Infrastructure Services

Environmental Services

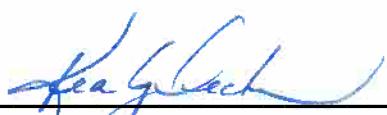
## **Report Author**

Dave Belanger, M.Sc., P. Geo., Water Supply Program Manager

Peter Rider, P.Geo., Risk Management Official

**Approved By**

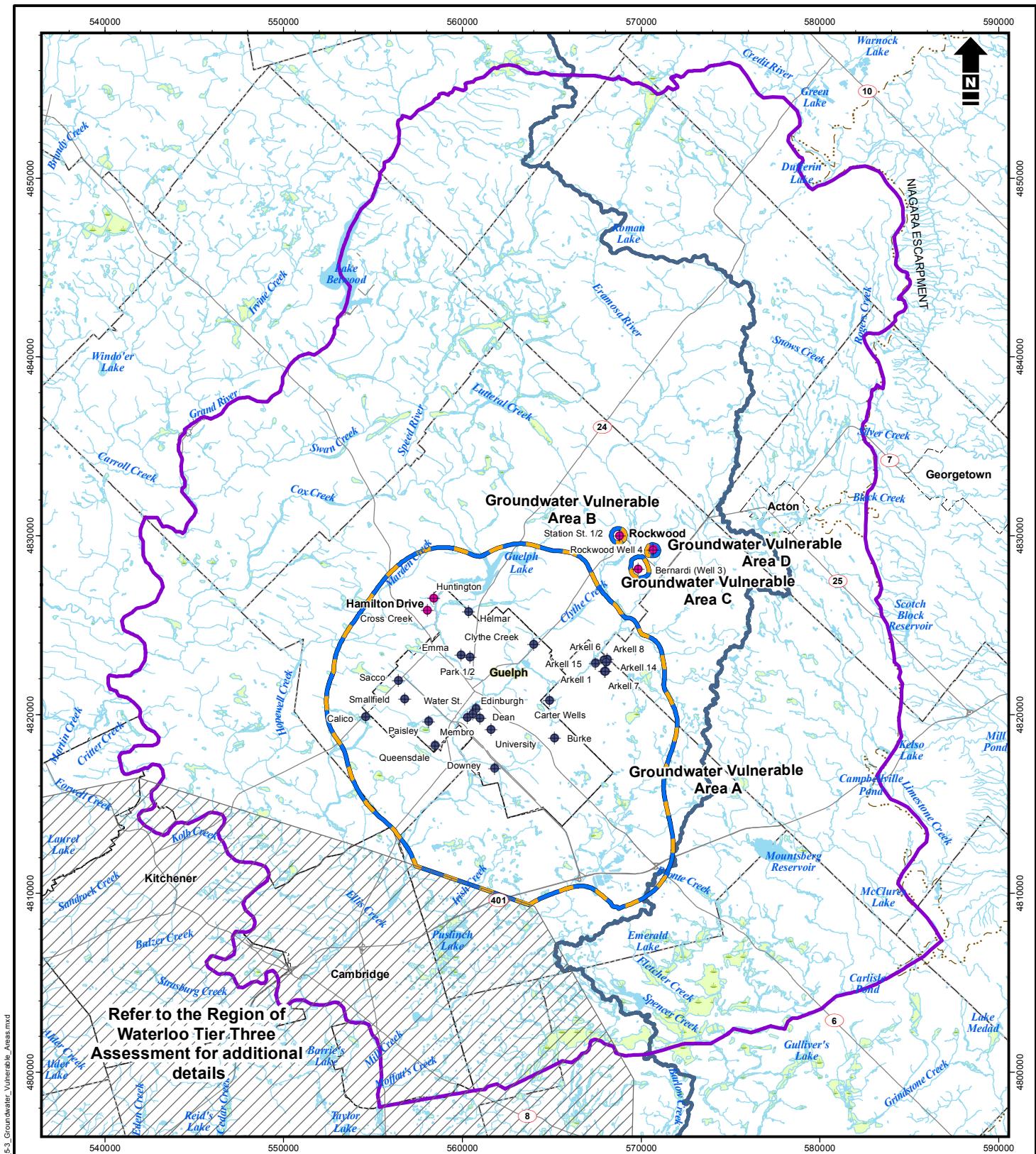
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Tier Three Model  
Boundary (Study Area)

Grand River Watershed  
Regulatory Boundary

Community

Wetland

Water Body

Watercourse

Major Road

... Niagara Escarpment

Groundwater  
Vulnerable Area

Municipal Well (City of  
Guelph)

Municipal Well  
(Guelph/Eramosa  
Township)

**Matrix Solutions Inc.**  
ENVIRONMENT & ENGINEERING

City of Guelph and Township of Guelph/Eramosa  
Tier 3 Water Budget and Local Area Risk Assessment

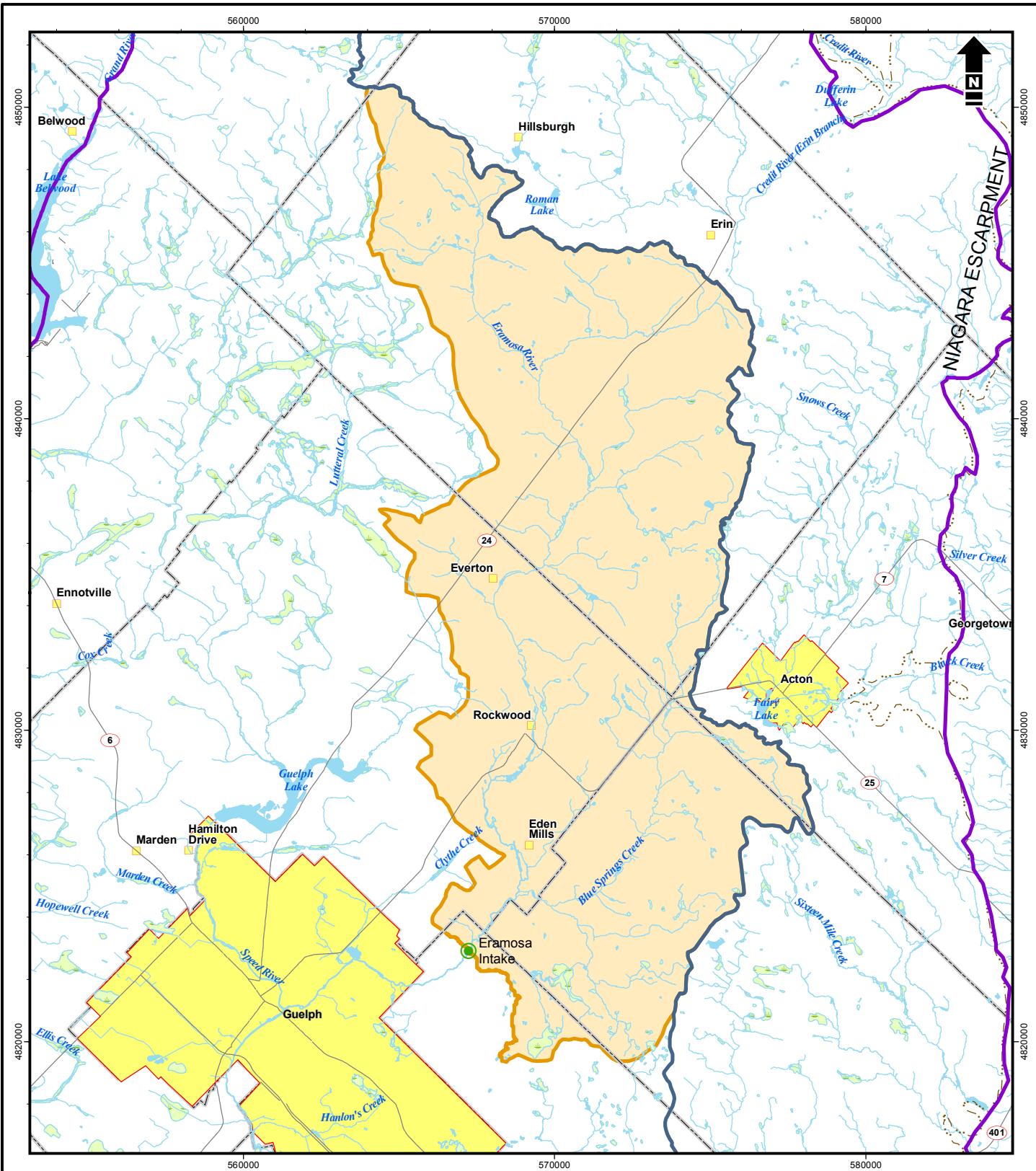
## Groundwater Vulnerable Areas (WHPA)

Reference: Base Data - City of Guelph, 2009; GRCA, 2008; CVC, 2008; Ministry of Natural Resources, 2008. Produced using information under License with the Grand River Conservation Authority. Copyright © Grand River Conservation Authority, 2013. Produced using information provided by the Ministry of Natural Resources, Copyright © Queen's Printer, 2013.

1:300,000  
Kilometres  
NAD 1983 UTM Zone 17N

Date: 20 Jan 2017 Project: 15072-527 Technical: P. Chin Reviewer: D. Van Vliet Drawn: M. Urtheil

Disclaimer: Prepared solely for the use of City of Guelph as specified in the accompanying report. No representation of any kind is made to other parties with which City of Guelph has not entered into contract.



- Legend:
- Tier Three Model Boundary (Study Area)
  - Grand River Watershed Boundary
  - IPZ-Q
  - Community
  - Wetland
  - Watercourse
  - Water Body
  - Major Road
  - Niagara Escarpment
  - River Intake

Reference: Base Data - City of Guelph, 2009; GRCA, 2008; CVC, 2008; Ministry of Natural Resources, 2008. Produced using information under License with the Grand River Conservation Authority. Copyright © Grand River Conservation Authority, 2013. Produced using information provided by the Ministry of Natural Resources, Copyright © Queen's Printer, 2013.

1:175,000  
Kilometres  
NAD 1983 UTM Zone 17N

**Matrix Solutions Inc.**  
ENVIRONMENT & ENGINEERING

City of Guelph and Township of Guelph/Eramosa  
Tier 3 Water Budget and Local Area Risk Assessment

**IPZ-Q**

Date: 27 Jan 2017 Project: 15072-527 Technical: P. Chin Reviewer: D. VanVliet Drawn: M. Urtheil  
Disclaimer: Prepared solely for the use of City of Guelph as specified in the accompanying report. No representation of any kind is made to other parties with which City of Guelph has not entered into contract.

# Information Report



Service Area Infrastructure, Development and Enterprise Services

Date Thursday, March 30, 2017

Subject **watr – Mobile Application Development for Water Efficiency**

Report Number IDE 17-57

## Executive Summary

### Purpose of Report

This report shares with Council information on the development of an innovative mobile application (app) prior to public release, as previously described in the Council approved 2016 Water Efficiency Strategy. 'watr' is a residential water use engagement and efficiency software tool developed by Focus21 Inc. in collaboration with Guelph Water Services. watr allows City of Guelph water customers to view their water consumption data via their smartphone and determine if they are an efficient user of water based on key metrics. The app is scheduled to be released to customers in March 2017.

### Key Findings

Guelph Water Services has collaborated with Focus21 Inc., a local technology start-up company specializing in information engagement systems, to create a mobile app called watr. The aim of the app is to increase our customer's access to their household water use information and thereby encourage water efficiency.

watr pairs household water consumption with simple, customer (subscriber) provided profile information to plot water use using social comparison. Subscribers will be prompted to take advantage of the City's water efficiency rebates, notified of changes in water use levels during the summer season, and offered water efficiency news and conservation messaging.

watr will be available (once approved by the respective companies) for iOS (Apple) and Android-based mobile devices via the appropriate app stores. One approved, Water Services will work with Focus21 to promote the app to Guelph residential water customers with access to their online Guelph Hydro account through various platforms including social media.

### Financial Implications

The development of watr is funded in part by Ontario Centre of Excellence (OCE) SmartStart Seed Fund and the City of Guelph. Funding for the watr app was approved by Council as part of the 2016 Non-Tax Supported Water Services Operating Budget.

## **Report**

The City of Guelph primarily relies on a renewable, but finite groundwater source for its drinking water supply. Water conservation and efficiency provides the ability to reclaim water capacity, reduce our environmental impact and decrease utility operational and capital investments. Further to the Water Supply Master Plan (WSMP), water conservation and efficiency assists in meeting the water needs of our growing community.

As outlined in the Council approved 2016 Water Efficiency Strategy (WES), community engagement and public education is a critical component of the water efficiency tool box; it will allow the City to continue to meet water reduction targets as outlined in the Council-approved Water Supply Master Plan. With residential water use currently accounting for 51 per cent of the City's total water consumption, lack of awareness of household water consumption and how it compares to that of the average household is frequently cited as a deterrent to water efficiency.

In alignment with the open government objectives of the City's 2012 Strategic Plan, and 2010 Water Conservation Public Education Strategy, Water Services initiated work on a mobile-based application (app) to increase customer access to information about household water use in late 2015. The app uses customer water account information to provide subscribers with suggestions for conserving water and reducing bills. Subscribers will be able to view customized information based on user-provided attributes of their household and their household's most recent and historical water billing data.

To develop this app, the City worked with Focus21 Inc., a local technology start-up company specializing in information engagement systems. Focus21 created watr – the mobile app - to assist in connecting residents to their water bill and use. Using monthly household water use data and engagement psychology, this app will assist in achieving the overall goal of increasing household water efficiency. With the use of similar apps in the United States connecting customers to their water bill, research has found the following:

- Five per cent average annual water savings (after one year only) has been experienced by app users;
- App users are two times more likely to participate in rebate programs - this could create an 8.7 per cent reduction in water use for the City based on historical consumption and current rebate programs offered (i.e., Royal Flush and Blue Built Home); and
- App users are six times more likely to participate in water audit programs (such as the eMERGE home visit).

In order to achieve the potential savings as noted above, watr offers two-way, intuitive communication through the following features:

- A free app download for iOS (Apple) and Android mobile devices;
- Simple sign-up using an active water account developed in partnership with Guelph Hydro (the City's water billing and collections agent);

- Create a user profile through answering a simple question to establish household occupancy;
- Gauge household water use using social comparisons (household size, average Guelph household); and
- Push notifications including water efficiency-related news and emergency messaging with respect to water (i.e., frozen services, outside water use level changes, water quality issues etc.).

As household water use information is collected by Guelph Hydro through the monthly billing data collection cycle, watr user reports will be updated.

watr subscribers participate at their own discretion and will be notified at the time of sign-up that all personal information will be collected in compliance with the Municipal Act and safeguarded in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act. All information will be kept confidential and will only be used for the purposes of managing the subscriber's watr application account and personal water efficiency profile contained therein.

The release of the watr app for iOS (Apple) and Android devices has been completed in two phases:

Phase 1: Beta testing with a select group (approximately 15 users – the Water Conservation and Efficiency Public Advisory Committee and City staff). Focus21 monitored app activity and solicited feedback to identify any bugs and/or shortfalls and review participant's household water use. To determine how watr performs, Focus21 interviewed beta testers.

Phase 2: Incorporating feedback from the beta test, a full roll-out of watr is anticipated in late March 2017 and will be available to all Guelph Water residential customers with access to their own water account free through the Apple App Store and Google Play Store.

As part of implementation, Focus21 will provide technical support to sustain operation of the watr and make improvements as warranted. Staff will be provided metrics on subscribership and return use metrics of subscribers, evaluating what water savings, if possible, can be attributed to use of the app, and will be reported through Water Services' Annual and Summary Report.

In conjunction with Focus21, staff have developed a promotion plan for watr which includes a launch of the app, promotional material, social media campaign and advertisements. Soft launch of the watr app will commence once readily available through the respective mobile application virtual stores. More generous and aggressive promotion of the app will commence in April and continue throughout the year on an ongoing basis.

## **Financial Implications**

The development of watr is funded in part by Ontario Centre of Excellence (OCE) SmartStart Seed Fund (\$35,850), and the City of Guelph (\$29,940). Furthermore, the City has provided staff time in-kind to develop and promote watr to other municipal partners at trade conferences, provincial and federal working groups. Funding for the watr app was approved by Council as part of the 2016 Non-Tax Supported Water Services Operating Budget.

Additional funding from the City will be determined based on uptake of application.

## **Consultations**

Water Services' and Focus21 consulted with and received support from Corporate Communications, as well as with Guelph Hydro Inc. throughout the development, testing and roll-out phases of the watr app.

Furthermore, Water Services' staff and Focus21 have reviewed the app with the Water Conservation and Efficiency Public Advisory Committee and Water Services Staff throughout product development and beta testing.

## **Corporate Administrative Plan**

### **Overarching Goals**

Innovation  
Service Excellence

### **Service Area Operational Work Plans**

Our Services - Municipal services that make lives better

## **Attachments**

None.

## **Departmental Approval**

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Interim Plant Manager, Water Services

## **Report Author**

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**From:** ZZG-RegionalClerk <zzg-regionalclerk@peelregion.ca>  
**Sent:** March-31-17 10:56 AM  
**Subject:** Resolution 2017-185

I am writing to advise that Peel Regional Council approved the below resolution at its meeting held on Thursday, March 9, 2017. This resolution is provided to you for your information only.

**Resolution 2017-185:**

Whereas the Community Water Fluoridation Committee (CWFC) was established on February 11, 2016 to closely examine the current practice of water fluoridation in the Region of Peel and make recommendations to Regional Council on community water fluoridation in Peel;

And whereas, over the past year the CWFC has reviewed information and research related to the effectiveness, safety and cost of community water fluoridation using hydrofluorosilicic acid and heard from a number of experts and stakeholders;

And whereas, Regional Council has supported the Committee's recommendation to advocate to the provincial government that they clarify and assume their legislative role in community water fluoridation;

Therefore be it resolved, that while waiting for the Province to respond to the above request:

- a) The Region of Peel undertake to reduce the concentration of fluoride in Peel's lake-based municipal water supply, adjusting it to the lowest level in accordance with provincial standards for the prevention of tooth decay;
- b) And further, that the Region of Peel modify the fluoride additive used in the Region's water supply to reduce the levels of residual components; substituting a fluoride additive from calcium fluoride or such other source as will have the desired effect of reducing the levels of residual components;
- c) And further, that Peel Public Health reaffirms its commitment to ongoing monitoring of the oral health status of Peel residents – especially children of school age – as well as relevant evidence on the effectiveness and safety of community water fluoridation;
- d) And further, that the CWFC suspend meetings until such time as the Province clarifies its role in community fluoridation; or until such time as Regional Council reconvenes the Committee;
- e) And further, that copies of this resolution be circulated to the Region of York (which receives a portion of their water supply from the Region of Peel), all Ontario municipalities and all Peel-area MPPs.

Thank you

**Summer MacGregor**  
**Legislative Assistant**  
**Clerk's Division, Legislative Services**  
**10 Peel Centre Drive, Suite A**