



**City of Port Colborne**  
**Regular Meeting of Committee of the Whole 25-19**  
**Tuesday, October 15, 2019 – 6:30 p.m.**  
**Council Chambers, 3<sup>rd</sup> Floor, 66 Charlotte Street**

**Agenda**

1. **Call to Order:** Mayor William C. Steele
2. **National Anthem:**
3. **Introduction of Addendum and Delegation Items:**
4. **Confirmation of Agenda:**
5. **Disclosures of Interest:**
6. **Adoption of Minutes:**
  - (a) Regular meeting of Committee of the Whole 24-19, held on September 23, 2019
7. **Determination of Items Requiring Separate Discussion:**
8. **Approval of Items Not Requiring Separate Discussion:**
9. **Presentations:**
  - (a) Presentation by Mayor Steele to Ellie Maltman – Recipient of the Isadore Sponder Award
10. **Delegations (10 Minutes Maximum):**
  - (a) Kruze Ovenden, 48 Kent Street Re Request to Waive Fees for Clean up of Property (Page No. 7)
11. **Mayor's Report:**
12. **Regional Councillor's Report:**
13. **Councillors' Items:**
  - (a) Councillors' Issues/Enquiries
  - (b) Staff Responses to Previous Councillors' Enquiries
14. **Consideration of Items Requiring Separate Discussion:**
15. **Notice of Motion:**
16. **Adjournment:**

**Upcoming Committee of the Whole and Council Meetings**

Monday, October 28, 2019	Committee of the Whole/Council – 6:30 P.M.
Tuesday, November 12, 2019	Committee of the Whole/Council – 6:30 P.M.
Monday, December 16, 2019	Special Committee of the Whole – 6:30 P.M. 2020 Budget Overview

Note: If not otherwise attached to the staff report, by-laws are published and available for review under the "Consideration of By-laws" section of the Council agenda.

## Committee Items:

Notes	Item	Description / Recommendation	Page
WCS MB EB RB GB FD AD DK HW	1.	<p><b><u>Motion by Councillor Danch Re: Open Air Burning By-law</u></b></p> <p>That the Fire Chief be directed to investigate options for open air burning and report back to Council with recommendations.</p> <p>Note: Notice of Motion was given at the September 9, 2019 meeting.</p>	-----
WCS MB EB RB GB FD AD DK HW	2.	<p><b><u>Planning and Development Department, Planning Division, Report 2019-151, Subject: Recommendation Report for the Removal of Municipal Heritage Designation of Part 2 at 380 King Street</u></b></p> <p>That Council state an intention to amend By-law 2831/10/93 pursuant to Part IV of the <i>Ontario Heritage Act</i>, section 30.1(1), as shown in the draft amending By-law attached as Appendix E of this report; and</p> <p>That staff be directed to provide notice of the Council's intention to amend By-law 2831/10/93, in accordance with section 30.1(1) of the <i>Ontario Heritage Act</i>; and</p> <p>That the City Clerk present the amending By-law to Council, provided there is no objection to the statement of intention to amend designation By-law 2831/10/93; and</p> <p>That the City Clerk take the necessary actions in the event of any objection to the statement of intention to amend By-law 2831/10/93 pursuant to Part IV of the <i>Ontario Heritage Act</i>, section 29(7);</p> <p>That Part 2 of the property being Lots 8 and 9, Plan 987, 988 and 989, municipally known as 380 King Street be removed from the Municipal Registry of Heritage Properties.</p>	9

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WCS RB AD	MB GB DK	EB FD HW	3.	<p><b><u>Planning and Development Department, Planning Division, Report 2019-153, Subject: Proposed Development Agreement for Erika Spencer, 85-91 Main Street West</u></b></p> <p>That Council enters into a development agreement with Erika Spencer and that the Mayor and Clerk be authorized to sign and execute said agreement.</p>	25
WCS RB AD	MB GB DK	EB FD HW	4.	<p><b><u>Community and Economic Development Department, Parks and Recreation Division, Report 2019-152, Subject: Rental Rates and Sustainability of The Canadian Authors Series</u></b></p> <p>That the already reduced facility rental rate of \$1,022.57 (plus Harmonized Sales Tax) per engagement be maintained for the 2019/2020 operating season of The Canadian Authors Series;</p> <p>That The Canadian Authors Series be requested to immediately and proactively solicit new sponsorship opportunities for the 2019/2020 season;</p> <p>That the Director of Community and Economic Development be directed to investigate the feasibility of the City assuming operation of The Canadian Authors Series, beginning with the 2020/2021 season, including exploration of partnership opportunities that would enable the City to delegate management and administration functions of the Series to a third party organization; and</p> <p>That the Director of Community and Economic Development be directed to prepare a report outlining the results of the above review, prior to the commencement of the 2020/2021 season.</p>	35

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WCS	MB	EB	5.	47															
RB	GB	FD	<p><b>Planning and Development Department, By-law Enforcement Division, Report 2019-144, Subject: Parking and Traffic, King Street</b></p>																
AD	DK	HW	<p>That the amendment to By-law 89-2000, being a By-law regulating traffic and parking on city roads be approved as follows:</p>																
			<p>That Schedule "M" Loading Zones, to By-law 89-2000 as amended, be amended by deleting therefrom the following:</p>																
<table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> <th colspan="2">Column 3</th> <th>Column 4</th> </tr> <tr> <th>Highway</th> <th>Side</th> <th>From</th> <th>To</th> <th>Times/Days</th> </tr> </thead> <tbody> <tr> <td>King St.</td> <td>East</td> <td>10 metres south of Charlotte St.</td> <td>10 metres south therefrom</td> <td>Anytime</td> </tr> </tbody> </table>					Column 1	Column 2	Column 3		Column 4	Highway	Side	From	To	Times/Days	King St.	East	10 metres south of Charlotte St.	10 metres south therefrom	Anytime
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King St.	East	10 metres south of Charlotte St.	10 metres south therefrom	Anytime															
			<p>That Schedule "M" Loading Zones, to By-law 89-2000 as amended, be amended by adding thereto the following:</p>																
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Highway	Side	From	To	Times/Days															
King St.	East	18.5 metres south of Charlotte St.	10 metres south therefrom	Anytime															
			<p>That Schedule "A" Stopping Prohibitions, to By-law 89-2000 as amended, be amended by adding thereto the following:</p>																
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WCS	MB	EB	6.	<b>Memorandum from Amber LaPointe, Manager of Legislative Services/City Clerk, Re: Committee of the Whole/Council Meeting Schedule for December 2019</b>	51
RB	GB	FD			
AD	DK	HW		That the regular meeting of Committee of the Whole/Council for the month of December be scheduled for Monday December 9, 2019.	
<b>Miscellaneous Correspondence</b>					
WCS	MB	EB	7.	<b>ADR Chambers, Integrity Commissioner Office for the City of Port Colborne Re: Complaint Reference Number IC-104-0719, Shawn Tylee and Councillor Harry Wells</b>	53
RB	GB	FD			
AD	DK	HW		That Integrity Commission Report IC-104-0719, be received for information.	
WCS	MB	EB	8.	<b>Region of Niagara - Public Health and Services Committee Report Re: Mental Health and Addictions Collaborative Work – Niagara Region’s Involvement</b>	97
RB	GB	FD			
AD	DK	HW		That the correspondence received from the Region of Niagara – Public Health and Services Committee Report Re: Mental Health and Addictions Collaborative Work – Niagara Region’s Involvement, be received for information.	
WCS	MB	EB	9.	<b>Region of Niagara Re: Grants and Incentives Review (PDS Report 34-2019)</b>	105
RB	GB	FD			
AD	DK	HW		That the correspondence received from the Region of Niagara Re: Grants and Incentives Review, be received for information.	
WCS	MB	EB	10.	<b>Steve Clark, Minister, Ministry of Municipal Affairs and Housing Re: Building Code Services Transformation</b>	113
RB	GB	FD			
AD	DK	HW		That the correspondence received from Steve Clark, Minister, Ministry of Municipal Affairs and Housing Re: Building Code Services Transformation, be received for information.	
<b>Outside Resolutions – Requests for Endorsement</b>					
Nil.					
<b>Responses to City of Port Colborne Resolutions</b>					
Nil					

Note: If not otherwise attached to the staff report, by-laws are published and available for review under the “Consideration of By-laws” section of the Council agenda.

Kruze Ovenden  
48 Kent Street  
Port Colborne, Ontario L3K 2Z3  
289-668-1818  
E-mail: kruze@hotmail.ca

City of Port Colborne  
**RECEIVED**

**SEP 03 2019**

CORPORATE SERVICES  
DEPARTMENT

Clerk's Office  
City Hall  
66 Charlotte Street  
Port Colborne, ON L3K 3C8  
E-mail: cityclerk@portcolborne.ca

To Whom It May Concern:

I would like to arrange to speak at the Council meeting on September 9<sup>th</sup> about my house that received over \$30,000 in clean up bills last year. Thank you.

Sincerely,



Kruze Ovenden

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Report Number: 2019-151

Date: October 15, 2019

**SUBJECT: Recommendation Report for the Removal of Municipal Heritage Designation of Part 2 at 380 King Street**

**1) PURPOSE:**

The purpose of the report is to provide Council with a recommendation regarding a request to remove the heritage designation from Part 2 of lands legally known as Lots 8 & 9, Plan 987, 988 and 989 in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 380 King Street.

**2) HISTORY, BACKGROUND, COUNCIL POLICY, PRACTICES**

On July 9, 2019, the Committee of Adjustment granted application B15-19-PC for a boundary adjustment at 378 King Street with a condition that the heritage designation be lifted from Part 2 at 380 King Street (Appendix A). The designation must be lifted before the consent can be finalized.

The Planning and Development Department received a letter dated August 7, 2019 from Dr. Peter Typer, the owner of the heritage property at 380 King Street. He has requested that the designation be lifted from Part 2 of the affected lands, so as to permit the boundary adjustment (Appendix B).

Part 2 is a 154m<sup>2</sup> strip of land containing a driveway at the south of the property at 380 King Street that will be transferred to the property at 378 King Street. Part 3 of the property containing the building will remain designated on the Municipal Registry (Appendix C).

The subject property was designated on the Municipal Registry of Heritage Properties under Council's direction at its meeting on January 25<sup>th</sup>, 1993. According to the designating by-law, the house is the only example of the Romanesque Revival style in Port Colborne. Other notable features are also listed in the designating By-law 2831/10/93 (Appendix D). The original owner of this house was Thomas E. Reeb, who built the house in 1907.

Section 29 of the *Ontario Heritage Act* permits municipalities to designate a property within the municipality if it is of cultural heritage value or interest. When amending a designating by-law, the council of a municipality must pass a new by-law to implement the requested changes. The municipality is required to receive input from the Heritage Committee, if applicable.

**3) STAFF COMMENTS AND DISCUSSIONS**

The Heritage Port Colborne Committee was consulted on the proposed amendment to By-law 2831/10/93 on September 24<sup>th</sup>, 2019, and passed a motion supporting the proposed amendment.

Planning Staff is of the opinion that the removal of heritage designation from Part 2 at 380 King Street will not impact the overall heritage elements of the dwelling.

#### 4) OPTIONS AND FINANCIAL CONSIDERATIONS:

##### a) Do nothing

Though not advisable, Council may choose to not proceed with this amendment and Part 2 of the land will continue to be designated against the request of the owner.

#### 5) COMPLIANCE WITH STRATEGIC PLAN INITIATIVES

N/A

#### 6) ATTACHMENTS

Appendix A	Committee of Adjustment Decision B15-19-PC
Appendix B	Request for Removal from Owner
Appendix C	Site plan of Affected Lands
Appendix D	Existing Designating By-law
Appendix E	New Designating By-law

#### 7) RECOMMENDATION

That Council state an intention to amend By-law 2831/10/93 pursuant to Part IV of the *Ontario Heritage Act*, section 30.1(1), as shown in the draft amending By-law attached as Appendix E of this report; and

That staff be directed to provide notice of the Council's intention to amend By-law 2831/10/93, in accordance with section 30.1(1) of the *Ontario Heritage Act*; and

That the City Clerk present the amending By-law to Council, provided there is no objection to the statement of intention to amend designation By-law 2831/10/93; and

That the City Clerk take the necessary actions in the event of any objection to the statement of intention to amend By-law 2831/10/93 pursuant to Part IV of the *Ontario Heritage Act*, section 29(7);

That Part 2 of the property being Lots 8 and 9, Plan 987, 988 and 989, municipally known as 380 King Street be removed from the Municipal Registry of Heritage Properties.

**8) SIGNATURES**

Prepared on October 2nd, 2019 by:



David Schulz, BURPI  
Planner

Reviewed by:



Dan Aquilina, MCIP, RPP, CPT  
Director of Planning and Development

Reviewed and respectfully submitted by:



C. Scott Luey  
Chief Administrative Officer

**Application B15-19-PC**

**July 12, 2019**

**IN THE MATTER OF** The Planning Act, R.S.O., 1990, Chapter P13, Section 53(1);

**AND IN THE MATTER OF** the property legally known as Lots 8&9, plan 987, 988 and 989 in the City of Port Colborne Regional Municipality of Niagara; municipally known as 378 King Street.

**AND IN THE MATTER OF AN APPLICATION** by the agent Tara Lynn O'Toole for the owners Quartek Group Inc. for a lot boundary adjustment under Section 53(1) of the Planning Act, R.S.O. 1990, Chapter P. 13, so as to permit the conveyance of a parcel of land (Part 2) having a total lot area of 154m<sup>2</sup> to be merged with the lands to the south fronting on King Street. Part 3 will retain a lot frontage of 28.04m on King Street with a lot area of 1418m<sup>2</sup> for continued commercial use.

That application B15-19-PC be **GRANTED** subject to the following conditions:

1. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
2. That the heritage designation be lifted from Part 2.
3. That a final certification fee of \$204 payable to the City of Port Colborne be submitted to the Secretary-Treasurer.
4. Pursuant to Section 50(12) of The Planning Act, R.S.O. 1990, it is hereby stipulated that Section 50(3) or 50(5) shall apply to any subsequent conveyance of, or other transaction involving the identical subject parcel of land.

For the following reasons:

1. The application conforms to the policies of the Official Plan and will comply with the provisions of Zoning By-law 6575/30/18, as amended.

**DATED AT PORT COLBORNE** this 9th day of July, 2019.

**FINAL AND BINDING**

*H. Malon*  
 \_\_\_\_\_  
 SECRETARY-TREASURER

**DECISIONS SIGNED:**

"Dan O'Hara"	"Gary Bruno"	"Angie Desmarais"	"Donna Kalailieff"	"Eric Beauregard"
Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee

**NOTE:** No Public Correspondence was received.

**NOTE:** THE LAST DATE ON WHICH AN APPEAL TO THE LOCAL PLANNING APPEAL TRIBUNAL MAY BE FILED IS:

**August 1<sup>st</sup>, 2019.**

**NOTE:** The Decision of the Committee of Adjustment, when not appealed, does not become final and binding until **20 days** from the giving of the decision has elapsed as set out in subsection (21) of Section 53 of The Planning Act, R.S.O. 1990, Chapter P.13, as amended.

**THE FOLLOWING IS AN OVERVIEW OF CERTAIN SUBSECTIONS OF SECTION 45 OF THE PLANNING ACT.  
 FOR ACCURACY YOU ARE REQUESTED TO CONSULT THE PLANNING ACT.**

Date: 7 August 2019

Project No: 13000.100.P

City of Port Colborne  
66 Charlotte Street  
Port Colborne ON L3K 3C8

Attn: Evan Acs, MA, MSc, Planner

Re: **378 King Street Minor Boundary Adjustment – Lifting Heritage Designation from Part 2 to Fulfill Condition 2 of Application B15-19-PC**

Dear Mr. Acs,

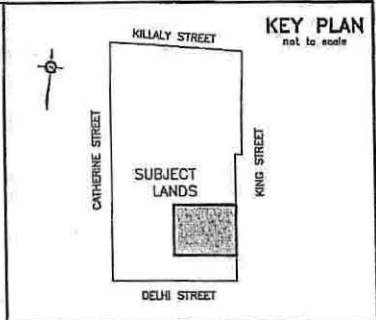
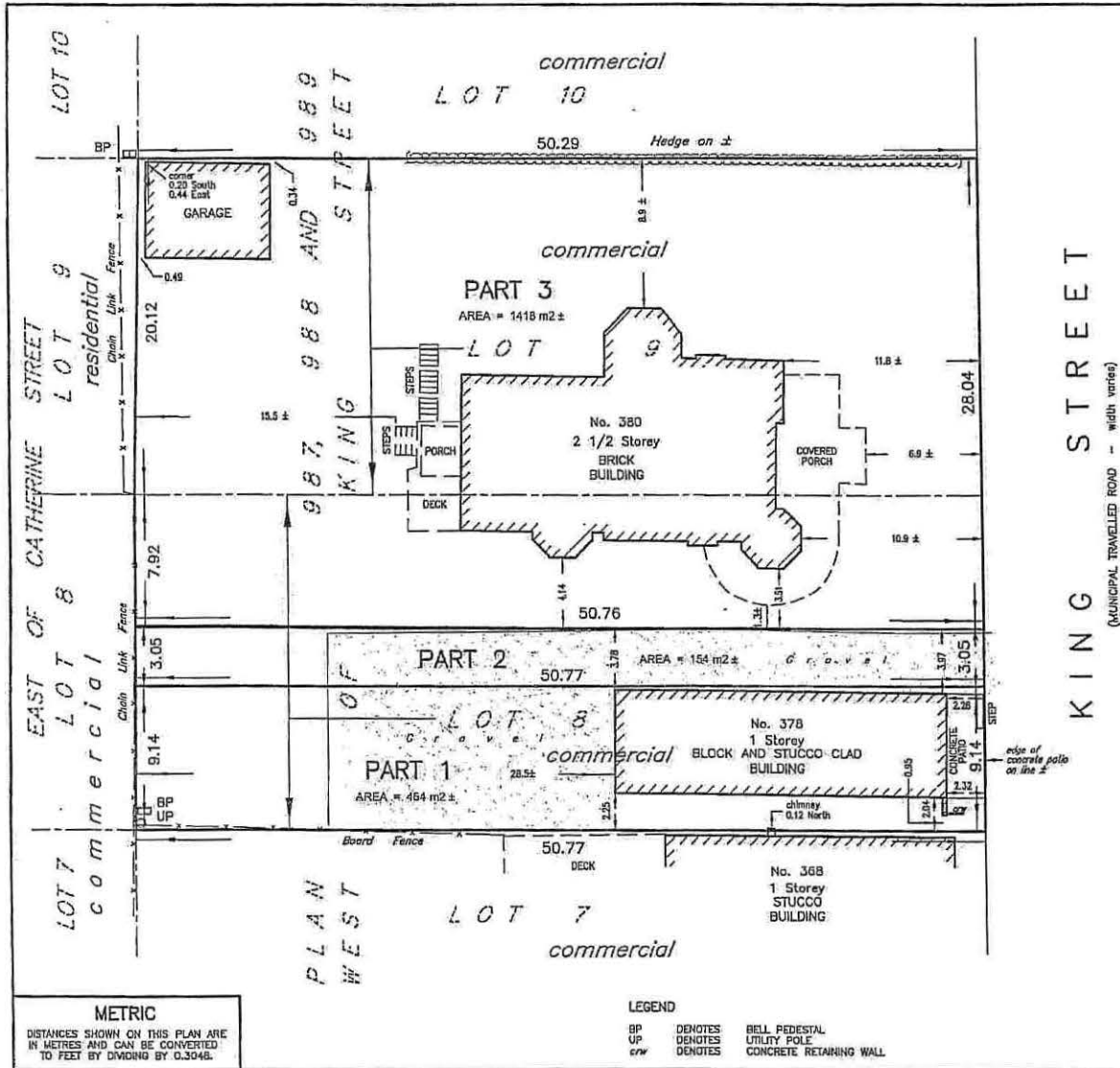
As the owner of 380 King Street, I am requesting the removal of the heritage designation from Part 2/lands affected by Committee of Adjustment application B15-19-PC. Therefore, by lifting the designation Condition 2 will be fulfilled.

If you have any questions or comments, please contact me via phone at (905) 835-2431 or via email at [dock@sympatico.ca](mailto:dock@sympatico.ca).

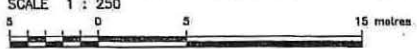
Regards,

A handwritten signature in black ink, appearing to be 'Peter Typer', with a long horizontal flourish extending to the right.

Dr. Peter Typer  
Owner of 380 King Street



**SKETCH FOR SEVERANCE APPLICATION**



ROY S. KIRKUP, O.L.S.  
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**CAUTION**

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**NOTES**

GEOGRAPHIC LOCATION BEING LOTS 8 AND 9, PLAN 987, 988 AND 989, CITY OF PORT COLBORNE, REGIONAL MUNICIPALITY OF NIAGARA.  
 DISTANCES SHOWN HEREON ARE BASED ON FIELD MEASUREMENTS AND CALCULATIONS USING OFFICE RECORDS.

THIS SKETCH IS PREPARED FOR SEVERANCE APPLICATION ONLY AND IS NOT TO BE USED FOR MORTGAGE OR TRANSACTION PURPOSES

DATE : MAY 29, 2019

*[Signature]*  
 ROY S. KIRKUP  
 CHARTERED LAND SURVEYOR

THIS SKETCH IS NOT VALID UNLESS EMBOSSED WITH THE ORIGINAL SURVEYORS SEAL

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 www.niagarasurveyors.com

JOB No. : 2018-0134      DWG FILE : 18-0134-1ldc

CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 283/10/193

A BY-LAW TO DESIGNATE THE PROPERTY  
KNOWN MUNICIPALLY AS 380 KING STREET,  
PORT COLBORNE, AS BEING OF  
ARCHITECTURAL AND HISTORICAL VALUE  
OR INTEREST

WHEREAS Section 29 of The Ontario Heritage Act, R.S.O. 1990, Chapter 337 authorizes the Council of a municipality to enact by-laws to designate real property, including all buildings and structures thereon, to be of architectural or historical value or interest; and

WHEREAS the Council of the Corporation of the City of Port Colborne has caused to be served on the owners of the lands and premises at 380 King Street and upon the Ontario Heritage Foundation, notice of intention to so designate the aforesaid real property and has caused such notice of intention to be published in the same newspaper having general circulation in the municipality once for each of three consecutive weeks; and

WHEREAS no notice of objection to the proposed designation has been served on the clerk of the municipality;

THEREFORE the Council of the Corporation of the City of Port Colborne enacts as follows:

1. There is designated as being of architectural and historical value or interest the real property at 380 King Street, Port Colborne, more particularly described in Schedule "A" attached hereto.
2. The municipal solicitor is hereby authorized to cause a copy of this by-law to be registered against the property described in Schedule "A" attached hereto in the proper land registry office.
3. The Clerk is hereby authorized to cause a copy of this by-law to be served on the owner of the aforesaid property and on the Ontario Heritage Foundation and to cause notice of the passing of this by-law to be published in the same newspaper having general circulation in the municipality once for each of three consecutive weeks.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS  
25th DAY OF January, 1993.

  
Mayor

  
Deputy Clerk

*J.P. Dr.*

SCHEDULE "A"

LEGAL DESCRIPTION

ALL AND SINGULAR the certain parcel or tract of land and premises situate, lying and being in the City of Port Colborne, in the Regional Municipality of Niagara, formerly in the County of Welland, and being Lot Numbered Nine (9) and the most northerly 36 feet from front to rear of Lot 8 on the west side of King Street in said City according to a Registered Plan of a part of the Town of Port Colborne known as Merritts Survey, now known as Plan 987,988 and 989.



RECORD OF DESIGNATION

Name of Municipality: City of Port Colborne

Municipal Address of Property: 380 King Street, Port Colborne

Owner of Property: Dr. Peter F. Wilshire  
(As of January 25, 1993) Dr. Peter J. Typer

Address of Owner: 380 King Street, Port Colborne

Date of service of Notice  
Of Intention to Designate: December 23, 1992

Dates of publication of  
Notice of Intention: 1) December 23, 1992  
2) December 30, 1992  
3) January 6, 1993

Date of Designation By-law: January 25, 1993 (2831/10/93)

Reason for Designation:

ARCHITECTURE

The house is the only example in Port Colborne of the Romanesque Revival style in both shape (broken wall lines, bay windows, and tower), and in the choice of materials. These included the dark red brick, heavy cut stone lintels and sills, and the unglazed terra cotta tiles set just below the eaves.

The large verandah, with its field stone wall and raised ribbon mortar joints is derived from the Queen Anne period. The general shape of the verandah, especially the circular portion surrounding the octagonal tower is very typical of that style, as are the simple rounded wooden pillars.

The truncated hip roof, with its several dormers, was covered with red painted galvanized steel tiles (rectangular on the main roof, and fish scales on the tower), three dimensional sheet metal cresting and the ornament surmounting the tower roof (incorporating a six pointed star). Of special note are the triangular dormers and windows in the tower roof.

Two other distinctive features of the house are: one, the wide rounded arch window on the first floor, with its etched leaded glass, and two, the triangular multi-paned window of the attic, with its diagonal muntins.

Interior features of note include the ornate wood trim and doors with egg and dart motif and/or inset leaded glass, the wooden archway with classical columns located in the waiting room at the north east corner of the first floor, the fireplace located in the same room, and ornate plaster cove moldings. The interior egg and dart motif reflects the pattern of the exterior terra cotta tiles.

HISTORY

The property is part of a parcel of land that at one time belonged to William Hamilton Merritt. In 1907 Thomas Euphronius Reeb (a member of the Reeb family, one of the earliest families to settle this area) purchased the land and erected the present building. In 1941 John Horne Jr. a well known developer and councilman purchased the property and converted the building to a series of apartments, for a time occupied by teachers at the local school, and later by the Red Cross.

.../2

Property Description:

ALL AND SINGULAR the certain parcel or tract of land and premises situate lying and being in the City of Port Colborne, in the Regional Municipality of Niagara, formerly in the County of Welland, and being Lot Numbered Nine (9) and the most northerly 36 feet from front to rear of Lot 8 on the west side of King Street in said City according to a Regional Plan of a part of the town of Port Colborne known as Merritts Survey, now known as Plan 987,988 and 989.

DATED AT THE CITY OF PORT COLBORNE THIS 3rd DAY OF FEBRUARY, 1993.

*Patricia Premi*

Patricia Premi, Deputy City Clerk

CITY OF PORT COLBORNE  
CERTIFIED TRUE AND  
CORRECT COPY,

Dep. *Patricia Premi*  
CITY CLERK

The Corporation of the City of Port Colborne

By-law No. \_\_\_\_\_

Being a by-law to designate 380 King Street, in the City of Port Colborne, Regional Municipality of Niagara, to be of cultural heritage value or interest pursuant to the provisions of the *Ontario Heritage Act*, R.S.O. 1990, chapter O. 18, as amended

Whereas Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, Chapter O. 18, as amended, authorizes the Council of a municipality to enact by-laws to designate real property, including all the buildings structures thereon, to be of cultural heritage value or interest; and

Whereas the Municipal Heritage Advisory Committee (Port Colborne Museum Board) supports the designation of the property described herein; and

Whereas a Notice of Intention to Designate was published in the \_\_\_\_\_ on October \_\_\_\_\_ in accordance with the Act; and

Whereas no Notice of Objection has been served on the City Clerk of the City of Port Colborne;

Now therefore the Council of the Corporation of the City of Port Colborne hereby enacts as follows:

1. That By-law 2831/10/93 be repealed;
2. That the property at 380 King Street, being Part 3 on Plan 59R-\_\_\_\_\_, City of Port Colborne, Regional Municipality of Niagara, more particularly described in Schedule "A", is hereby designated as being of cultural heritage value or interest pursuant to Part IV of the *Ontario Heritage Act*;
3. That a copy of this By-law be registered against the property described in Schedule "A" to this By-law in the proper Land registry Office;
4. That a copy of this By-law be served on the owners of the property at 380 King street and the Ontario Heritage Trust;
5. That a notice of this By-law be published in a local newspaper having a general circulation in the City of Port Colborne as required by the *Ontario Heritage Act*; and
6. That this By-law shall take effect on the date of its passing.

Enacted and passed this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

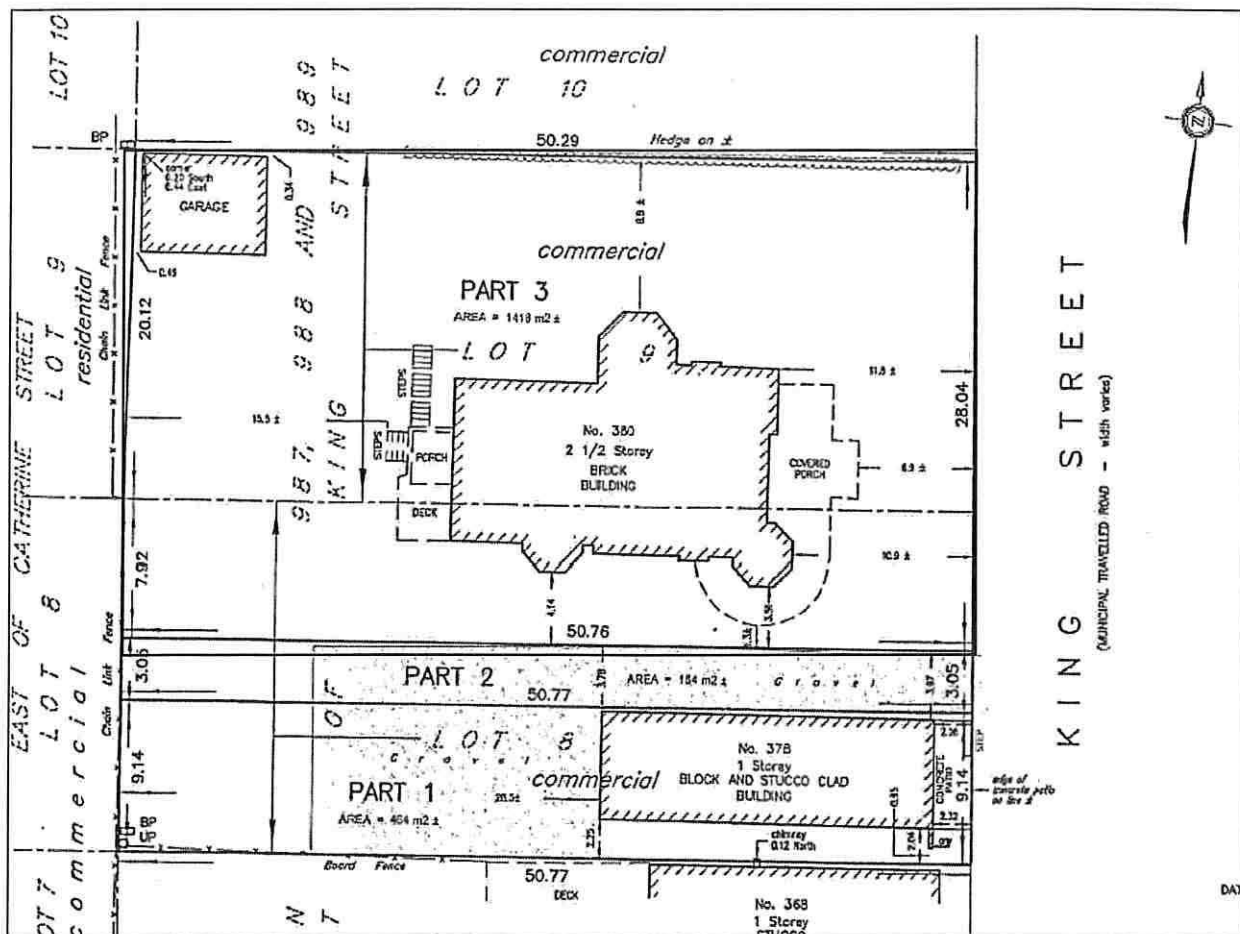
SCHEDULE "A"

Description and Reasons for Designation: 380 King Street

Legal Description:

Part 3 on Plan 59R-\_\_\_\_\_

Description of Property:



The property at 380 King Street is shown as Part 3 on the above sketch.

*Design/Physical Value:*

The house is the only example in Port Colborne of the Romanesque Revival style in both shape (broken wall lines, bay windows, and tower), and in the choice of materials. This includes the dark red brick, heavy cut stone lintels and sills, and the unglazed terra cotta tiles set just below the eaves.

The large verandah, with its field stone wall and raised ribbon mortar joints is derived from the Queen Anne period. The general shape of the verandah, especially the circular portion surrounding the octagonal tower is very typical of that style, as are the simple rounded wooden pillars.

The truncated hip roof, with its several dormers, was covered with red painted galvanized steel tiles (rectangular on the main roof, and file scales on the tower), three dimensional sheet metal cresting and the ornament surmounting the tower roof (incorporating a six pointed star). Of special note are the triangular dormers and windows in the tower roof.

Two other distinctive features of the house are: one, the wide rounded arch window on the first floor, with its etched leaded glass, and two, the triangular multi-paned window of the attic, with its diagonal muntins.

Interior features of note include the ornate wood trim and doors with egg and dart motif and/or inset leaded glass, the wooden archway with classical columns located in the waiting room at the north east corner of the first floor, the fireplace located in the same room, and ornate plaster cover moldings. The interior egg and dart motif reflects the pattern of the exterior terra cotta tiles.

#### *Contextual Value:*

The property is part of a parcel of land that at one time belonged to William Hamilton Merritt. In 1907 Thomas Euphronius Reeb (a member of the Reeb family, one of the earliest families to settle this area) purchased the land and erected the present building. In 1941 John Horne Jr. a well-known developer and councillor purchased the property and converted the building into a series of apartments, for a time occupied by teachers at the local school, and later by the Red Cross.

#### *Character-Defining Elements/Heritage Attributes:*

Important to the conservation of 380 King Street are the following character-defining elements/heritage attributes:

##### Exterior:

- Dark red brick
- Heavy cut stone lintels and sills
- Unglazed terra cotta tiles
- The large verandah with field stone wall and raised ribbon mortar joints
- The truncated hip roof
- Red painted galvanized steel tiles (rectangular on the main roof, fish scales on the tower)
- Three dimensional sheet metal cresting and the ornament surmounting the tower roof
- Triangular dormers and windows in the tower roof
- Wide rounded arch window, with etched leaded glass
- Triangular multi-paned window of the attic, with diagonal muntins

##### Interior:

- Ornate wood trim and doors with egg and dart motif and/or inset leaded glass
- Wooden archway with classical columns located in the north east corner of the first floor

- The fireplace
- Ornate plaster cove moldings

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Report Number: 2019-153

Date: October 15, 2019

**SUBJECT: Proposed Development Agreement for Erika Spencer, 85-91 Main Street West**

**1) PURPOSE:**

This report has been prepared to recommend Council's approval to enter into a development agreement with Erika Spencer.

**2) HISTORY, BACKGROUND, COUNCIL POLICY, PRACTICES**

Erika Spencer obtained a consent to sever and adjust the boundary of her property at 85-91 Main Street West from the Committee of Adjustment in applications B16-18-PC and B17-18-PC (Notices of Decision attached as Appendix A). As a condition of the consent, the applicant was required to obtain a Zoning By-law Amendment to change the zoning of Parts 2 and 4 from Downtown Commercial to MU-50 (Notice of Passing attached as Appendix B). This Development Agreement pertains to Parts 2 and 4 which will merge to create one lot once the applications are finalized (Sketch of the subject property is attached as Appendix C). The Zoning By-law Amendment is "Subject to a condition for a development agreement for a closed board privacy fence to be built at the maximum height permitted in the City of Port Colborne's fence by-law on the subject property's shared property lines with 17 Church Street". The Development Agreement will ensure the privacy fence is built and maintained on this property.

**3) STAFF COMMENTS AND DISCUSSIONS**

Staff have prepared the draft development agreement attached as Appendix D. Staff recommends that Council approve the development agreement.

**4) OPTIONS AND FINANCIAL CONSIDERATIONS:**

**a) Do Nothing**

This option is not recommended as it would negatively impact development of Erika Spencer's property at 85-91 Main Street West.

**b) Other Options**

That Council accepts this report as information and not take any further action at this time.

This option is not recommended as it would negatively impact development of Erika Spencer's property at 85-91 Main Street West.

**5) COMPLIANCE WITH STRATEGIC PLAN INITIATIVES**

N/A

**6) ATTACHMENTS**

Appendix A            Committee of Adjustment Notices of Decisions B16-18-PC and B17-18-PC  
Appendix B            Zoning By-law Amendment Notice of Passing D14-05-18  
Appendix C            Sketch of Subject Property  
Appendix D            Draft Development Agreement

**7) RECOMMENDATION**

That Council enters into a development agreement with Erika Spencer and that the Mayor and Clerk be authorized to sign and execute said agreement.

**8) SIGNATURES**

Prepared on October 1st 2019 by:



David Schulz, BURPI  
Planner

Reviewed by:



Dan Aquilina, MCIP, RPP, CPT  
Director of Planning and Development

Reviewed and respectfully submitted by:



C. Scott Luey  
Chief Administrative Officer

Application B16-18-PC

December 13, 2018

IN THE MATTER OF The Planning Act, R.S.O., 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the property legally known as Part of Lots 10 & 11, Plan 771 in the City of Port Colborne, Regional Municipality of Niagara; municipally known as 91 Main Street West.

AND IN THE MATTER OF AN APPLICATION by the owner Erika Spencer for a severance under Section 53(1) of the Planning Act, R.S.O. 1990, Chapter P. 13, so as to permit the conveyance of Part 2 having a lot frontage of 11.00m (36.08ft) on Church Street with a total lot area of 215.4m<sup>2</sup> (2318.62ft<sup>2</sup>) for a proposed detached dwelling. Part 1 will retain a lot frontage of 20.05m (65.78ft) on Main Street West with a lot area of 450.5m<sup>2</sup> (4849.30ft<sup>2</sup>) for an existing commercial building.

That application B16-18-PC be **GRANTED** subject to the following conditions:

1. Approval of a Zoning By-law Amendment for Part 2 to Mixed Use.
2. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That a final certification fee of \$200 payable to the City of Port Colborne be submitted to the Secretary-Treasurer.

For the following reasons:

1. The application conforms to the policies of the Official Plan and will comply with the provisions of Zoning By-law 6575/30/81, as amended.

DATED AT PORT COLBORNE this 11th day of December, 2018.

DECISIONS SIGNED:


"Dan O'Hara"	"Bill Steele"	"Bea Kenny"	"Yvon Doucet"	_____
Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS:

**JANUARY 2<sup>ND</sup>, 2019.**

**NOTE:** The Decision of the Committee of Adjustment, when not appealed, does not become final and binding until **20 days** from the giving of notice of the decision have elapsed as set out in subsection (21) of Section 53 of the Planning Act, R.S.O. 1990, Chapter P.13, as amended.

FINAL AND BINDING  
  
 SECRETARY-TREASURER

CERTIFIED A TRUE COPY  
  
 SECRETARY-TREASURER

Application B17-18-PC

December 13, 2018

IN THE MATTER OF The Planning Act, R.S.O., 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the property legally known as Part of Lots 10 & 11, Plan 771 in the City of Port Colborne Regional Municipality of Niagara; municipally known as 85 Main Street West.

AND IN THE MATTER OF AN APPLICATION by the owner Erika Spencer, for a lot boundary adjustment under Section 53(1) of the Planning Act, R.S.O. 1990, Chapter P. 13, so as to permit the conveyance of a parcel of land (Part 4) having a total lot area of 307.0m<sup>2</sup> (3304.62ft<sup>2</sup>) to be merged with the lands to the west (Part 2). Part 3 will retain a lot frontage of 10.06m (33.0ft) on Main Street West and a lot area of 225.1m<sup>2</sup> (2423.03ft<sup>2</sup>) for a continued residential use.

That application B17-18-PC be **GRANTED** subject to the following conditions:

1. Approval of a Zoning By-law Amendment for Part 4 to Mixed Use.
2. That the applicant provides the Secretary-Treasurer with the deeds in triplicate for conveyance of the subject parcel or a registrable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
3. That a final certification fee of \$200 payable to the City of Port Colborne be submitted to the Secretary-Treasurer.

For the following reasons:

1. The application conforms to the policies of the Official Plan and will comply with the provisions of Zoning By-law 6575/30/81, as amended.

DATED AT PORT COLBORNE this 11th day of December, 2018.

FINAL AND BINDING

  
 SECRETARY-TREASURER

**DECISIONS SIGNED:**

"Dan O'Hara"	"Bill Steele"	"Bea Kenny"	"Yvon Doucet"	
Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee	Signature of Member of Committee

**NOTE:** THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS:

**JANUARY 2<sup>ND</sup>, 2019.**

**NOTE:** The Decision of the Committee of Adjustment, when not appealed, does not become final and binding until **20 days** from the giving of notice of the decision have elapsed as set out in subsection (21) of Section 53 of the Planning Act, R.S.O. 1990, Chapter P.13, as amended.

CERTIFIED A TRUE COPY

  
 SECRETARY-TREASURER



**NOTICE OF PASSING**  
City of Port Colborne Zoning By-law Amendment  
File No. D14-05-18  
Applicant: Erika Spencer  
85 and 91 Main Street West

**TAKE NOTICE THAT THE COUNCIL OF THE CORPORATION OF THE CITY OF PORT COLBORNE** passed By-law 6687/51/19 on the 27th day of May, 2019, under Section 34 of the Planning Act, R.S.O. 1990, as amended.

**LOCATION OF THE LANDS AFFECTED BY THE ZONING BY-LAW AMENDMENT:** The lands legally known as Part of Lots 10 and 11 on Plan 1536/NP771, in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 85 and 91 Main Street West. See the reverse side of this notice for a map showing the property.

**THE PURPOSE AND EFFECT OF THE ZONING BY-LAW AMENDMENT:** The zoning of the land is changed from Downtown Commercial to MU-50 and the following special regulations shall apply:

a) Minimum Lot Frontage	11m
b) Minimum Front Yard	1m
c) Minimum Rear Yard	4.5m
d) Minimum Northern Side Yard	1.8m
e) Minimum Southern Side Yard	0.6m
f) Minimum Landscaped Area	21%

Subject to a condition for a development agreement for a closed board privacy fence to be built at the maximum height permitted in the City of Port Colborne's fence by-law on the subject property's shared property lines with 17 Church Street.

**Effect of Written and Oral Submissions:** The northern side yard was increased from 1.2m to 1.8m; the southern side yard was decreased from 1.2m to 0.6m; a condition was put in place for a fence on the shared property line with 17 Church Street.

**This property is also subject of Committee of Adjustment Applications B16-18-PC, B17-18-PC, A04-19-PC and B04-19-PC**

For more information on the purpose and effect of the amendment please contact Evan Acs, Planner at 905-835-2900, ext 202 or through email at [planner@portcolborne.ca](mailto:planner@portcolborne.ca).

Copies of the Zoning By-law Amendment are available for inspection in the Clerk's office, located at City Hall, 66 Charlotte Street, Port Colborne, during regular office hours (from 8:30 a.m. to 4:30 p.m. Monday to Friday).

**OPPORTUNITY TO APPEAL**

Any person or agency may appeal to the Local Planning Appeal Tribunal in respect of the By-laws by filing with the Clerk of the City of Port Colborne **not later than the 20th day of June 2019** a notice of appeal setting out the objection to the By-laws and the reasons in support of the objections together with a certified cheque or money order in the amount of \$300.00 payable to the Minister of Finance for each appeal. If you wish to appeal to the Local Planning Appeal Tribunal, a copy of an appeal form is available from the Environment and Land Tribunals website at [www.elto.gov.on.ca](http://www.elto.gov.on.ca).

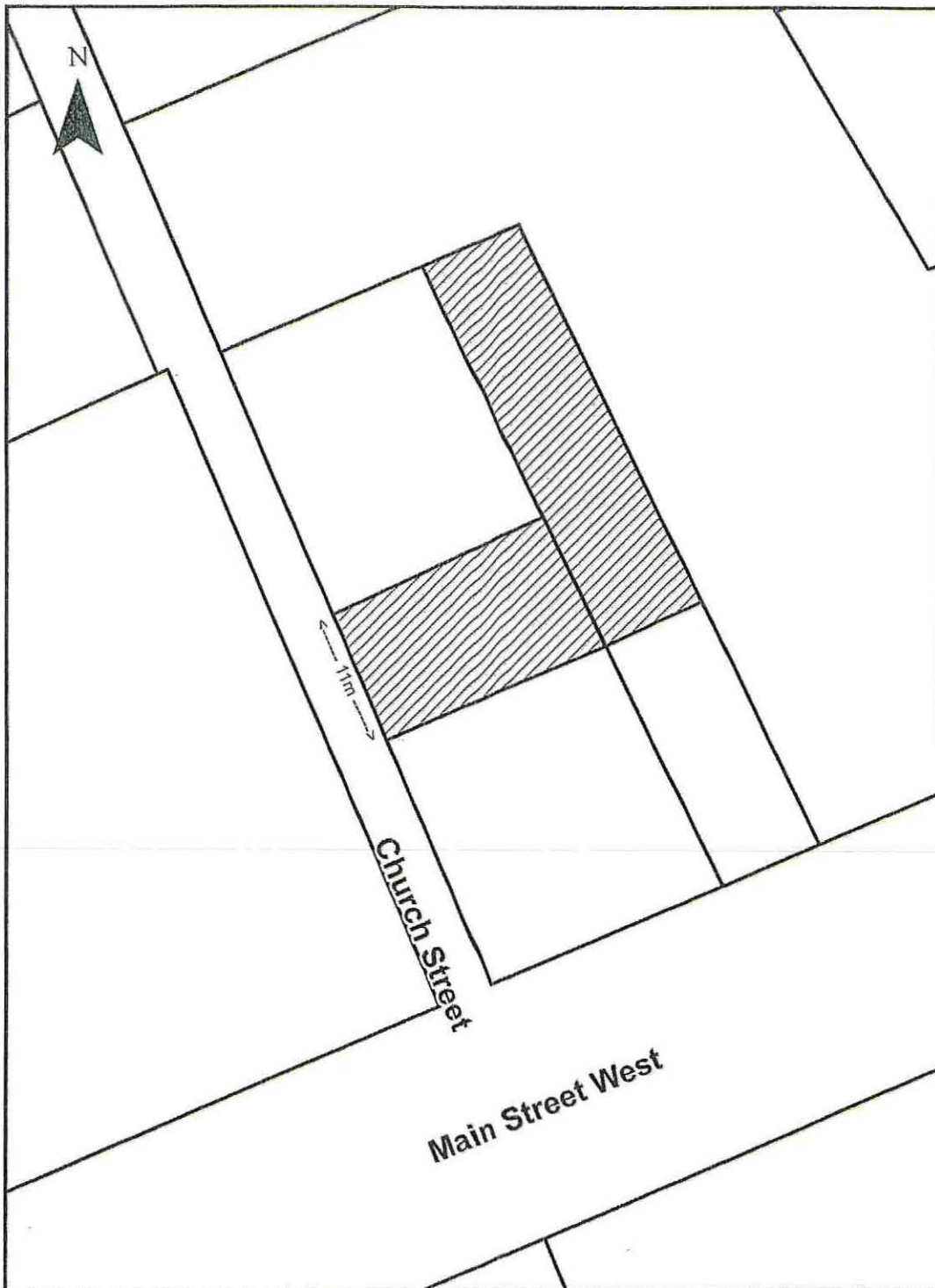
**LEGAL NOTICE**  
ONTARIO REGULATION 545/06

i. Only individuals, corporations and public bodies may appeal a by-law to the Local Planning Appeal Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or the group on its behalf.

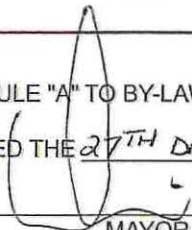
ii. No person or public body shall be added as a party to the hearing of the appeal unless, before the by-law was passed, the person or public body made oral submissions at a public meeting or written submissions to the council or, in the opinion of the Tribunal, there are reasonable grounds to add the person or public body as a party.


Dated at the City of Port Colborne this 31st day of May, 2019.


Carrie McIntosh, Deputy City Clerk  
City of Port Colborne  
66 Charlotte Street, Port Colborne, Ontario  
L3K 3C8



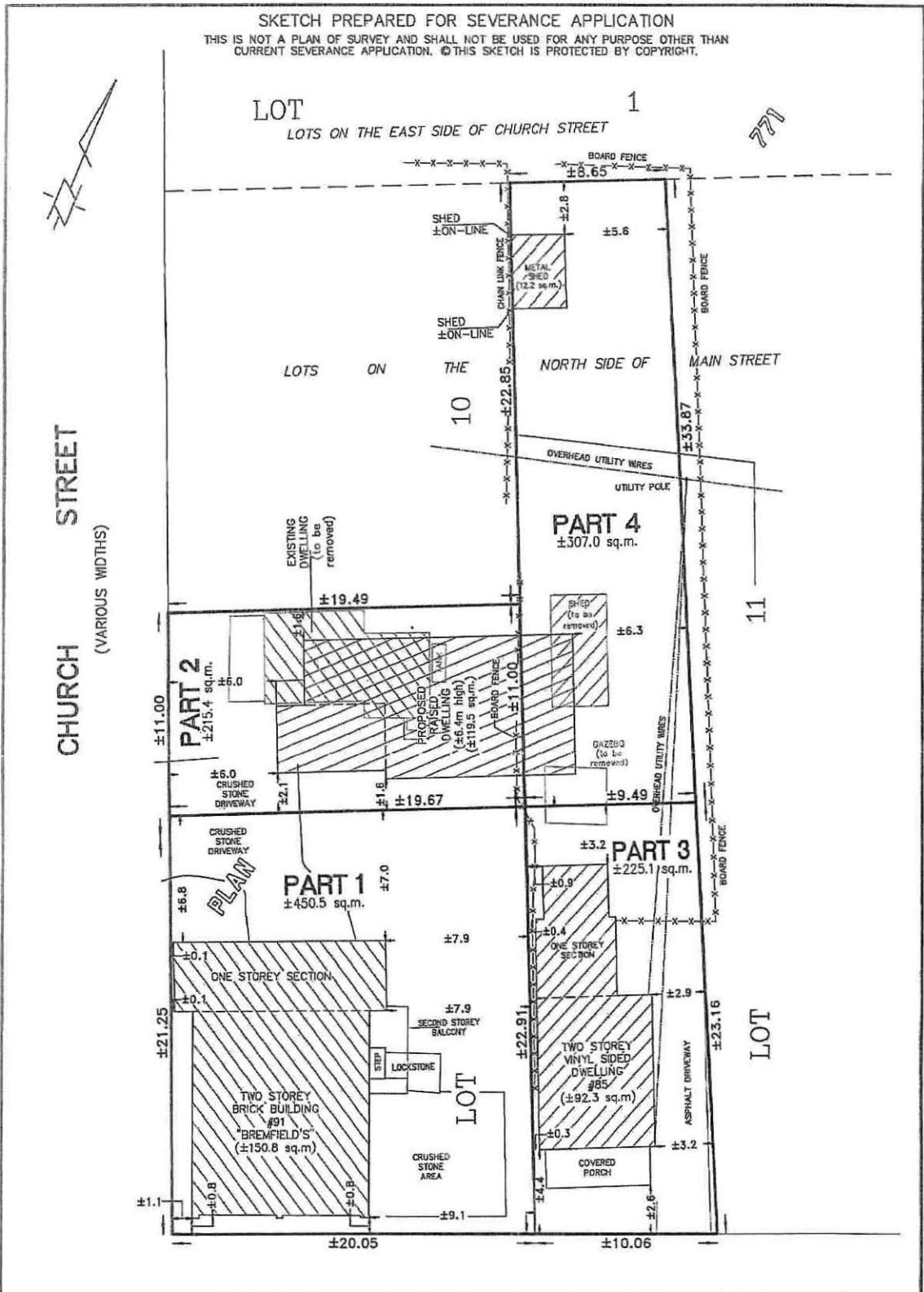
THIS IS SCHEDULE "A" TO BY-LAW NO 6687/51/19  
 PASSED THE 27<sup>TH</sup> DAY OF MAY 2019

  
 MAYOR

  
 CLERK

 LANDS TO BE REZONED FROM  
 DOWNTOWN COMMERCIAL TO MU-50

MAY 2019  
 FILE NO D14-05-18  
 DRAWN BY: CITY OF PORT COLBORNE  
 PLANNING DIVISION  
 NOT TO SCALE



NOTE:  
PARTS 2 & 4 TO BE MERGED  
TO CREATE ONE PARCEL.

<p>NOTE: THIS SKETCH IS PREPARED FROM COMPILED AND CALCULATED INFORMATION, AND NOT FROM AN ACTUAL SURVEY. DISTANCES SHOWN HAVE NOT BEEN VERIFIED</p>	<p><b>VOID</b></p> <p>IF USED FOR ANY OTHER PURPOSE THAN THIS CURRENT SEVERANCE APPLICATION</p>	<p>PRELIMINARY ONLY</p> <p style="text-align: right;">DATE: NOV. 2, 2019 DRAWN BY: CM CHECKED BY: MG SCALE: 1:250</p>	<p><b>LANTHIER &amp; GILMORE SURVEYING LTD.</b> 173 CLARENCE ST. PORT COLBORNE, ONT. (905) 835-5477</p> <p>SKETCH OF PROPOSED SEVERANCE PART OF LOTS 10 &amp; 11 (LOTS ON THE NORTH SIDE OF MAIN STREET) PLAN 771 IN THE CITY OF PORT COLBORNE REGIONAL MUNICIPALITY OF NIAGARA</p>
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**THIS DEVELOPMENT AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, 2019.

**BETWEEN:**

**ERIKA SPENCER**

hereinafter referred to as the "OWNER";

and

**THE CORPORATION OF THE CITY OF PORT COLBORNE**

hereinafter referred to as the "CITY";

**WHEREAS** the Owner desires to develop the lands described in Schedule "A" attached hereto (hereinafter referred to as the "**Lands**");

**AND WHEREAS** on December 11, 2018 the Committee of Adjustment for the City approved the creation of a residential building lot and a lot boundary adjustment (Applications B16-18-PC and B17-18-PC);

**AND WHEREAS** on May 27, 2019 City Council passed a Zoning By-law Amendment changing the zoning from Downtown Commercial to MU-50 (Application D14-05-18);

**AND WHEREAS** the City requires a Development Agreement with the Owner regarding specific conditions and processes to be followed during development of the Lands;

**NOW THEREFORE** the parties hereto agree as follows:

1. The Owner hereby warrants that it is the registered Owner of the Lands described in Schedule "A" to this Development Agreement.
2. The Owner agrees that upon the execution of this Development Agreement, the Lands shall be charged with the performance of the terms of this Development Agreement and that the performance of such terms shall be binding upon the Owner, its executors, administrators, successors, assigns, heirs, and successors in title.
3. The Owner shall indemnify and save harmless the City from and against all actions, causes of action, interest, claims, demands, costs, charges, damages, expenses, and loss, which the City may at any time bear, incur, be liable for, sustain or be put to for any reason of, or on account of, or by reason of, or in consequence of, the City, as the case may be, entering into this Development Agreement.
4. The Owner shall undertake or implement all requirements in Paragraphs 5 of this agreement prior to construction or site alteration to the satisfaction of the City of Port Colborne.
5. The Owner agrees to build and maintain a closed board privacy fence at the maximum height permitted in the City of Port Colborne's Fence By-law on the subject property's shared property lines with 17 Church Street.
6. The Owner agrees and acknowledges that the City shall register this Development Agreement on title to the Lands and that such registration may only be removed with the written consent of the City.



**SIGNED, SEALED & DELIVERED  
IN THE PRESENCE OF:**

**OWNER**

\_\_\_\_\_  
Erika Spencer

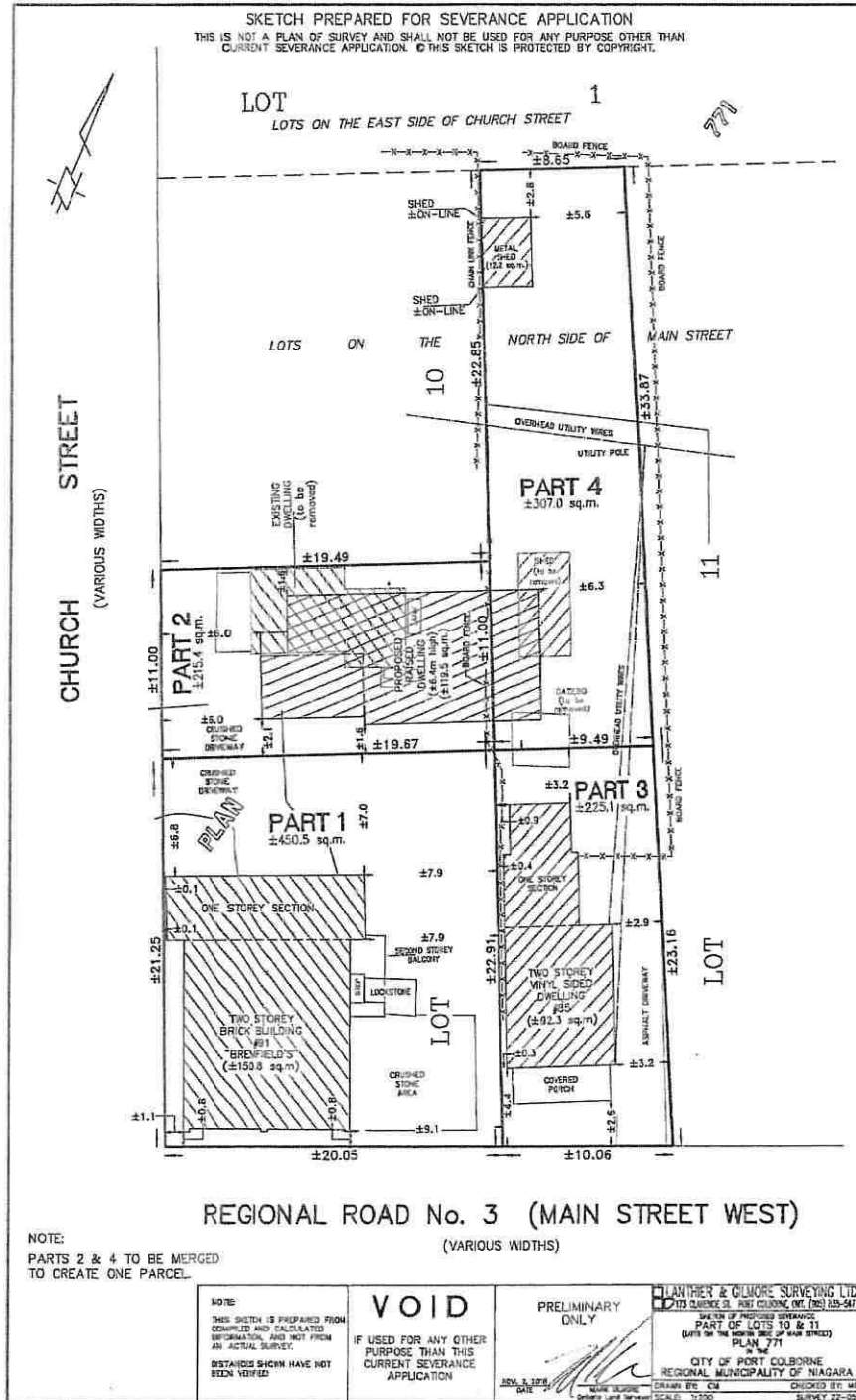
**THE CORPORATION OF THE CITY  
OF PORT COLBORNE**

\_\_\_\_\_  
William C Steele, Mayor

\_\_\_\_\_  
Amber LaPointe, Clerk

SCHEDULE "A" - THE LANDS

Parts 2 and 4 on Plan 59R-  
 On the North Side of Main Street West  
 In the City of Port Colborne  
 In the Regional Municipality of Niagara



Report Number: 2019-152

Date: October 15, 2019

**SUBJECT: Rental Rates and Sustainability of The Canadian Authors Series**

**1) PURPOSE:**

This report has been prepared at the direction of Council in follow up to the deputation made by Elizabeth Madronich, Host, The Canadian Authors Series, at the September 9, 2019 Council meeting. The purpose of this report is to present further information and options for Council's consideration regarding Ms. Madronich's request for facility rental fees to be waived for the use of the Roselawn Centre for the Living Arts this season.

**2) HISTORY, BACKGROUND, COUNCIL POLICY, PRACTICES**

**About The Canadian Authors Series:**

The Canadian Authors Series (here in referred to as "the Series"), now entering the 26<sup>th</sup> season, is a literary series that features live readings from notable Canadian authors, wine tastings, food, live music, an author question and answer period, and book signing. The series, which takes place at the Roselawn Centre for the Living Arts (Roselawn), offers seven readings during its operating season, which runs from September to May each year (one reading per month - December and January omitted). Financial support for the Series is primarily generated through the sale of subscriptions (\$160 per member), corporate sponsorships and book sales. The series also supports a variety of local charities, including the Niagara Peninsula Children's Centre, Port Cares, Easter Seals and the United Way.

**2019 Request for Facility Rental Fee Waiver:**

At its meeting of September 9, 2019, Council received a deputation from Elizabeth Madronich, the Host of The Canadian Authors Series. During the presentation, Ms. Madronich outlined current financial challenges facing the Series including declining membership numbers (subscription sales), as well as a decline in book sales and sponsorships. As a result, Ms. Madronich concluded the presentation by requesting Council waive the facility rental fees for use of Roselawn this season. A copy of the presentation is attached as Appendix "A". At the above meeting, Council provided direction for staff to prepare a report for consideration at the October 15, 2019 meeting outlining options available to support the Series.

Since that time, staff have been in contact with Ms. Madronich and gathered further information in order to augment the material presented by Ms. Madronich on September 9, 2019, and assist Council in its consideration of this matter. On October 4, 2019, Ms. Madronich submitted written correspondence to staff, summarizing her request and outlining additional information for Council's consideration. A copy of this correspondence is attached as Appendix "B".

Further, as requested by Council, 2018/2019 financial statement, and 2019/2020 financial projections (submitted by Ms. Madronich) are attached as Appendices "C" and

“D”, respectively.

Ms. Madronich has been notified that this report would be presented to Council for consideration at its meeting of October 15, 2019. A copy of this report will be circulated to Ms. Madronich once the agenda for the above Council meeting has been published on October 10, 2019.

### **History of Facility Rental Rates for The Canadian Authors Series:**

Prior to 2014, the Series was facilitated at a base rental rate of \$800 (plus Harmonized Sales Tax) per engagement, without experiencing a rate increase over the life of the Series.

In 2014, after a comprehensive review of rates and fees in the Community Services Division, staff recommended increasing the rental rate for the Series to \$1235 (plus HST) per engagement. In response to this recommendation, Ms. Madronich made a presentation to Council and expressed concern regarding the amount of the proposed increase, and requested Council adopt a reduced rental rate for the Series.

At the direction of Council, staff subsequently met with Ms. Madronich to review the request and, at its meeting of August 25, 2014, Council considered Community and Corporate Services, Community Services Report 2014-21, Subject: Community Services Fees and Rates Review Roselawn – Author Series. At the recommendation of staff, Council approved a proposed base rental rate of \$1000 (plus HST) per engagement. This reduced rate has been in place for The Canadian Authors Series since that time, subject to annual Consumer Price Index increases.

### **3) STAFF COMMENTS AND DISCUSSIONS**

As noted above, the Series currently receives a reduced rental rate for use of Roselawn.

On August 28, 2019, staff (the Chief Administrative Officer, Economic Development Officer, and the undersigned) met with Ms. Madronich to discuss the future sustainability of the Series. During that meeting, Ms. Madronich outlined the financial challenges facing the Series, and requested the City assume operations and/or waive the facility rental fees for the upcoming season (totaling \$7,518.00). As an alternative, Ms. Madronich suggested the City could assume operation of the Series and hire her on a contract basis.

During the meeting, staff recommended Ms. Madronich investigate the possibility of registering The Canadian Authors Series as a not-for-profit organization (possibility with the establishment of a management board). As a not-for-profit organization, the Series would be qualified to receive a further reduction in rental fees for the use of Roselawn (under the City's Consolidated Fees and Charges By-law, Roselawn room and theatre rental rates are discounted by 50% for registered not-for-profit organizations upon proof of a registered charitable number). In addition, not-for-profit registration would enable the Series to apply for various grant funding opportunities, and eligible to receive a grant under the City's grant program, administered by the City's Grant Policy Committee (responsible for overseeing the distribution of grants to non-profit organizations requesting grant funds from the City). Ms. Madronich indicated at that time that this was not an option, as the current management structure is satisfactory. However, since that time, as indicated in the correspondence attached as Appendix "B", Ms. Madronich is willing to investigate this option for the following season.

The meeting also included discussion of the need for expanded and improved marketing efforts in order to rebuild the subscription base and promote the Series to a broader audience. With this in mind, several suggestions were made by staff, such as: increasing and enhancing the social media presence of the Series, scheduling radio interviews with the Series host and featured authors, implementing meet and greet opportunities for subscribers with the authors, and networking with other literary series located in the Niagara area.

Staff indicated that in the event Council approved a reduced rental rate, the resulting savings should be reinvested into the Series in order to be used to bolster marketing and promotional efforts. However, as indicated at the Council meeting of September 9, 2019, and in the attached correspondence, the total profit generated is used to compensate Ms. Madronich for her time and efforts in hosting and administering the Series.

At the conclusion of the meeting, staff recommended Ms. Madronich register as a delegation to speak at the September 9, 2019 Council meeting in order to submit a request for the facility rental fees to be waived.

Staff also indicated at that time that Ms. Madronich should prepare a sustainability plan outlining new initiatives that will be implemented over the next year to rebuild and maintain the subscription base now and into the future.

**Bonusing - Comments from the Chief Administrative Officer:**

At the September 9, 2019 Council meeting, concern was raised regarding the request for a facility rental fee waiver and the legislative provisions of the *Municipal Act, 2001* as it relates to bonusing. In response to those concerns, the Chief Administrative Officer provided the following comments for this report:

“Like many municipalities, the City provides discounted or waived user fees for City programs, services, and facilities in some cases. These are typically provided to user groups that operate on a non-profit or not-for-profit basis such as charitable organizations and youth sports organizations. *The Municipal Act, 2001* (Section 106) (the *Act*) speaks to reduced fees for users that do not meet the non-profit requirement:

*106(1) Despite any Act, a municipality shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose. 2001, c. 25, s. 106(1)*

This legislation means that no bonusing at all should be taking place when it comes to for profit organizations. The applicant in this case is a for profit organization. A more broad interpretation of the *Act* is that municipal bonuses should not provide an ‘obvious undue advantage’ to an organization. Under this interpretation, a bonus or reduced fee should be available to all users of a facility in equal (or equitable) amounts.”

**Marketing and Promotional Support – Comments from the Chief Administrative Officer:**

The Chief Administrative Officer has provided the following comments with respect to providing City resources for marketing and promotional support of the Series:

"The City has a communications division that handles outreach communication from the City to various stakeholders including residents, businesses, and visitors. This communication takes the form of press releases, printed material, newsletters, website, and social media. The City website is used to promote events that are taking place at Roselawn including the Series. The City also uses its communications tools to promote City events, programs, and services and charitable events and initiatives taking place within Port Colborne. From time to time, the City also uses social media tools to share messages from private operators within the City's business community; however, Staff feel that it is not practical, nor appropriate, to directly promote individual private operators on the City's official channels. In the same manner as described earlier in this report, providing an undue advantage to a private sector operator could be interpreted as bonusing and, as such, would be a contradiction of the requirements of Section 106 of the *The Municipal Act, 2001*."

### **Options for Council's Consideration:**

The following section outlines options for Council's consideration respecting the request for a facility rental fee waiver and ensuring the sustainability of The Canadian Authors Series.

#### **Option 1 – Maintain Facility Rental Fees**

In light of the information outlined above, particularly the Chief Administrative Officer's comments with respect to the legislative provisions regarding bonusing, staff recommend maintaining the rental rate for this season. In order to address financial challenges in the 2019/2020 season, staff recommend The Authors Series be strongly encouraged to immediately and proactively seek out new sponsorship opportunities.

#### **Option 2 – Waive Facility Rental Fees**

As noted above, The Canadian Authors Series is a for-profit organization and, due to the provisions under the *Municipal Act, 2001* with respect to bonusing, staff do not recommend proceeding with a facility rental fee waiver. Furthermore, a one-year waiver of rental fees would not address the challenges related to the future sustainability of the Series. If a waiver were to be approved, staff recommend the Series be required, as a condition of the waiver, to reinvest those funds into The Canadian Authors Series through the establishment of new and enhanced marketing and promotional initiatives. This option is not recommended.

#### **Option 3 – Implement a Reduced Facility Rental Fee**

For the reasons outlined under Option 2, this option is not recommended.

#### **Option 4 – Enter into a One Year Employment Contract with Ms. Madronich**

Proceeding with this option would be inconsistent with the City's recruitment and hiring practices. The City's recruitment policies, as administered by the Human Resources Division, have been implemented in order to ensure hiring practices are conducted in a fair and equitable manner, in accordance with applicable legislation. The hiring process is competitive, and includes soliciting applications through internal and/or external advertisements, evaluation and shortlisting of qualified candidates, conducting interviews, preparing and administering candidate testing,

interview and test scoring, and reference checks. The City is required to abide by its own hiring practices. As a result, this option is not recommended.

### **Option 5 – Assume Operation in 2020/2021 and Explore Partnerships**

Under this option, staff would investigate the feasibility of the City assuming operation of The Authors Series with a view to enter into a partnership agreement with a third party community group/organization to take over responsibility for the day-to-day management and administration of the Series on a go forward basis. As Council is aware, staff are currently reviewing options to strengthen the City's partnership with Lighthouse Festival Theatre at Roselawn. This option presents an opportunity for the City to strengthen an existing partnership and address sustainability concerns; however, as the 2019/2020 season is already underway, implementation would occur at the beginning of the 2020/2021 season.

### **Discussion of Recommended Options:**

Staff recommend Council proceed by implementing a combined approach utilizing Options 1 and 5, as outlined above. The recommendation of staff is to proceed as summarized below:

- Maintain the already reduced facility rental rate of \$1,022.57 (plus HST) per engagement.
- Strongly encourage the Series to immediately begin the process of soliciting and securing new corporate sponsorship opportunities for the 2019/2020 season.
- Direct staff to investigate and prepare a report regarding the feasibility of the City taking over operation of the Series (in the 2020/2021 season), and explore opportunities to enter into a partnership agreement with a third party organization for the continued management and administration of the Series.

### **4) OPTIONS AND FINANCIAL CONSIDERATIONS:**

#### **a) Do nothing.**

Council may choose to receive and file this report, effectively denying the request from The Canadian Authors Series for a facility rental fee waiver and precluding any further action.

#### **b) Other Options.**

Options concerning City support for The Canadian Authors Series are outlined above. However, Council may provide direction not otherwise outlined in this report.

### **5) COMPLIANCE WITH STRATEGIC PLAN INITIATIVES**

Not applicable.

### **6) ATTACHMENTS**

Appendix "A" - Presentation made by Elizabeth Madronich at the September 9, 2019 Council meeting

Appendix "B" - Correspondence from Elizabeth Madronich received October 4, 2019

Appendix "C" - Canadian Authors Series 2018/2019 Financial Statement

Appendix "D" - Canadian Authors Series 2019/2020 Financial Projection

## 7) RECOMMENDATION

That the already reduced facility rental rate of \$1,022.57 (plus Harmonized Sales Tax) per engagement be maintained for the 2019/2020 operating season of The Canadian Authors Series;

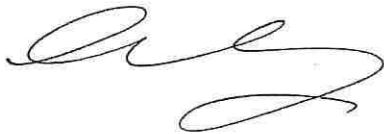
That The Canadian Authors Series be requested to immediately and proactively solicit new sponsorship opportunities for the 2019/2020 season;

That the Director of Community and Economic Development be directed to investigate the feasibility of the City assuming operation of The Canadian Authors Series, beginning with the 2020/2021 season, including exploration of partnership opportunities that would enable the City to delegate management and administration functions of the Series to a third party organization; and

That the Director of Community and Economic Development be directed to prepare a report outlining the results of the above review, prior to the commencement of the 2020/2021 season.

## 8) SIGNATURES

Prepared on October 1, 2019 by:



Ashley Grigg  
Director of Community and Economic  
Development

Reviewed and respectfully submitted by:



C. Scott Luey  
Chief Administrative Officer



To: Carrie McIntosh - Deputy Clerk - City of Port Colborne  
From: Putzy Madronich - Host of the Canadian Authors Series

Notes for submission to Council for meeting on September 9, 2019

**Proposal:** Because of financial hardship, The Canadian Authors Series requests the City of Port Colborne waives the full cost of rent for The Canadian Authors Series, this season.

The Canadian Authors Series is a well know, highly respected series that has been running for 25 years. It has put Port Colborne on the literary map and is considered to be one of the best series of its kind in Canada. It features, high quality, cultural entertainment at its best, with authors such as, Margaret Trudeau, Peter Mansbridge, Pamela Wallin, Amanda Lang, Lloyd Robertson, Rex Murphy, David Suzuki, Farley Mowat, Pierre Burton, Margaret Atwood, Colin Mochrie, Conrad Black, Steve Smith or "Red Green", Actors Gordon Pinsent and Mary Walsh, Mordecai Richler, Stuart McClean, Lawrence and Dan Hill, Sylvia Tyson, Joy Fielding and athletes such as George Chuvalo, Silken Laumann, Ken Dryden and Clara Hughes.

Our Series runs once a month from September to May, omitting December and January. The readings are held in the theatre at Roselawn. We utilize the Presidents room for a wine tasting prior to the reading and for a book signing afterwards. For 1.5 hours we use the theatre. For about 2 hours we use the presidents room and upper bar area. The Green room is used also.

### **Why are we asking for help?**

We do not have enough money to run the series this year. After the Acid test of Income minus (modestly projected) Expenses, there is just over \$2,000 which will not even come close to compensation for the full year of work, organizing the series, or any unexpected incidentals like plane fare or limo service for an out of town author, or marketing and advertising. I have reached out to other organizations to see if they would be interested in taking over the series but they have neither time, nor the manpower to do it. (The library, The City, Friends of Roselawn, our own volunteers, or sponsors)

We are down two sponsors this year.

We have already been working with the library. They help us by selling tickets. I would like to develop this partnership further .

### **Goal**

My goal is to get 60 new subscribers for next season and keep building each year.

### **Closing remarks**

Imagine if a successful Port Colborne hockey team of 25 years was struggling, and could not pay the rent for their ice time for a season. Would you support them, or let them go?

I am hoping that this council has compassion for cultural initiatives because without your support this 25 year old Port Colborne Gem will end.

If The Canadian Authors Series is over, there will be no Roselawn rental income from us, next year or the next 25 years after that. On behalf of the community, our dedicated subscribers, our volunteers and me, please support us now so we can support you in the future.

Thank you for your consideration.

To: Ashley Grigg  
From: Putzy Madronich - The Canadian Authors Series  
Re: Additional Information for submission to Council

Hi Ashley,

I just wanted to make clear what The Canadian Authors Series is requesting from Council. I would also like to make new suggestions and offer some additional information.

1-The first request is to ask the city to waive the rent for our series this 2019-2020 season. (Seven evenings, \$7,518.00)

2-Request number two is to ask that the city helps us market our event.

If waiving the rent is impossible would the city consider hiring me on a one year contract and paying me \$7,518.00.

If so, could the city cover The Canadian Authors Series under its insurance. (\$388.80 for the year)

With respect to Marketing, I am asking that the City promotes our series in the following ways (along with any other ways, that are possible, that it deems useful):

“Tweet” and utilize other social media tools to give us exposure. “Participate”

See if there are any cruise ships that line up with the series itinerary and possibly set something up?

Put Authors Series flyers in with any material the city mails out?

The outside digital sign at the Vale Centre to be used to advertise authors each month? The same with the TVs inside? The Library sign?

A question was raised by one of the councillors, at the last meeting, about why we have not applied to become a non profit organization. It is something that I will look into doing again for next year, if I have the funds to apply for this designation. The problem is that the forms request that we establish a set amount of annual monetary compensation, and in our case, each year it changes. There is no specific amount. The money I receive each year is whatever is left over at the end of the season.

I put in 830 hours per year on the series which works out to be \$20,750 at \$25 per hour. The last few years I have made less than half of that. This year projects a net income of \$2,845.64.

So what can we do moving forward for sustainability?

Marketing is key to building up a respectable subscription base.

I will be looking for sponsorship to provide money for advertising: ads in papers, brochures etc. printing and distribution of flyers and posters at libraries and at Roselawn performances.

Please refer to my previous list entitled "Sustainability"

# 2018/2019

## Income

Subscriptions	15,950.74
One night	132.75
Sponsors	9,734.52
Book Sales	3,751.57
Draw	896.25

**Total** **30,465.83**

## Expenses

Books	2,505.82
Bookkeeping	1,075.00
Advertising	249.34
Postage	72.79
Insurance	388.80
Bank S/C	310.74
Office	712.14
Authors' cheques	1,750.00
Rent	7,518.00
Dinners	953.54
Tastings	2,098.94
Meetings/Bar	452.22
Baskets	0.00
Transportation	341.21
Band	0.00
Donation	2,882.00

**Expenses** **21,310.54**

**Net Income** **9,155.29**

# 2019/2020 PROJECTION

## Income

Subscriptions	11,469.00
One night	132.75
Sponsors	7,079.65
Book Sales	3,751.57
Draw	896.25

**Total** **23,329.22**

## Expenses

Books	2,505.82
Bookkeeping	1,075.00
Advertising	249.34
Postage	72.79
Insurance	388.80
Bank S/C	310.74
Office	712.14
Authors' cheques	1,750.00
Rent	7,518.00
Dinners	953.54
Tastings	2,098.94
Meetings/Bar	452.22
Baskets	0.00
Transportation	1,500.00
Band	0.00
Donation	896.25

**Expenses** **20,483.58**

**Net Income** **2,845.64**

Report Number: 2019-144

Date: October 15, 2019

Subject: Parking and Traffic, King Street

## 1) PURPOSE

This report was prepared by Sherry Hanson, Manager of By-law Services under the direction of Dan Aquilina, Director of Planning & Development. The report is a result of a request from Richard Daniel, Manager of Operations to review the visibility and loading zone on King Street at the intersection of Charlotte Street.

## 2) HISTORY, BACKGROUND, COUNCIL POLICY, PRACTICES

The loading zone is currently located on King Street between Charlotte and Kent Streets. The existing conditions on King Street in this location are as follows:

- This is a 13m wide highway;
- This intersection is a 4-way stop;
- There is parking along both sides of the highway;
- There are “no parking” restrictions at each corner at this intersection;
- There is “no stopping” loading zone on the east side of the highway;
- There is “2 hour” time limited parking on the both sides of the highway in this area;
- This is a Central Commercial zone;
- The speed limit on King Street is 50 km/hr; and

Parking requirements:

- No parking within 1.5m of a driveway;
- No parking to obstruct or block a driveway;
- No parking over the time limit as per the signage;
- No Stopping in a Loading Zone unless in compliance with section 305.02 of the Parking and Traffic By-law 89-2000.





### 3) STAFF COMMENTS AND DISCUSSIONS

The signs establishing the loading zone do not reflect the measurements in the existing by-law.

After reviewing the area, staff suggest the following changes:

- Flashing beacon on top of both Northbound facing stop signs;
- Increase the loading zone location from 10m to 18.5m from the intersection;
- Removal of one parking stall that was previously south of the loading zone;
- Establish a “No Stopping” zone on the east side of King Street south of Charlotte and north of the loading zone.

#### Engineering and Operations Comments:

Several modifications have been undertaken by Operations staff to improve the visibility of the four-way stop intersection, specifically the requirement to come to a complete stop on King Street as one travels northbound on King Street toward Charlotte Street, from Kent Street. An oversized stop sign was installed at the southeast corner of the intersection in attempt to increase the visibility of the stop sign due to the proximity of the current loading zone. Moreover, a second stop sign was installed on the southwest corner, positioned on King Street and facing traffic travelling northbound on King Street toward Charlotte, from Kent Street. Furthermore, a stop sign ahead sign was installed



on King Street in an attempt to warn vehicular traffic of the upcoming stop sign and the word "STOP" was painted on the highway, south of the stop bar at the intersection.

Business comments:

Staff spoke with the owner of the Belmont located at 175 King Street and she is in agreement with the proposed changes.

The By-law Enforcement Division and Department of Engineering and Operations have no objections to the removal of one parking stall, the relocation of the loading zone set back farther from the intersection and the establishment of a no stopping zone at the corner.

**4) OPTIONS AND FINANCIAL CONSIDERATIONS**

Minimal staff time will be required in the removal and relocation of signposts and the erection of 4 signs located in this area.

**a) Do Nothing**

This is not a viable option, as the existing condition would remain, causing visibility difficulties and the current by-law would not be enforceable with the installation of incorrect signage.

**b) Other Options**

This section is not applicable.

**5) COMPLIANCE WITH STRATEGIC PLAN INITIATIVES**

This section is not applicable.

**6) ATTACHMENTS**

This section is not applicable.

**7) RECOMMENDATION**

That the amendment to By-law 89-2000 being a By-law regulating traffic and parking on City roads be approved as follows:

That Schedule 'M' Loading Zones, to By-law 89-2000 as amended, be amended by deleting therefrom the following:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>		<u>Column 4</u>
Highway	Side	From	To	Times /Days
King Street	East	10 metres south of Charlotte Street	10 metres south therefrom	Anytime.

That Schedule 'M' Loading Zones, to By-law 89-2000 as amended, be amended by adding thereto the following:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>		<u>Column 4</u>
Highway	Side	From	To	Times/ Days
King Street	East	18.5 metres south of Charlotte Street	10 metres south therefrom.	Anytime.

That Schedule 'A' stopping Prohibitions, to By-law 89-2000 as amended, be amended by adding thereto the following:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>		<u>Column 4</u>
Highway	Side	From	To	Times/Da ys
King Street	East	Charlotte Street	18.5 metres south therefrom.	Anytime.

**8) SIGNATURES**

Prepared on September 10, 2019 by:



Sherry Hanson, C.P.S.O.  
Manager of By-law Services

Reviewed by:  
Reviewed by:



Dan Aquilina, RPP, MCIP, CPT  
Director of Planning and Development

Reviewed and respectfully submitted by:



C. Scott Luey  
Chief Administrative Officer

Reviewed by:



Chris Lee  
Director of Engineering & Operations



PORT COLBORNE

## Memorandum

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**Corporate Services Department**

**To: Mayor Steele and Members of Council**

**From: Amber LaPointe, Manager of Legislative Services/City Clerk**

**Date: October 15, 2019**

**Re: Committee of the Whole/Council Meeting Schedule for Dec. 2019**

Section 4.1(c) of the Procedural By-law sets out that Council shall hold only one regular Council meeting in the month of December and that the date shall be set by resolution of Council. Staff have scheduled the meeting date of December 9 and are seeking a resolution to be passed by Council in order to move forward with that date.

The December 9 date is recommended as it would be the expected date of the first meeting in December. A budget meeting has been set for December 16. Staff do not recommend the meeting date of December 23 due to its proximity to the holidays.

Staff are recommending that the following motion be approved:

*That the regular meeting of Committee of the Whole/Council for the month of December be scheduled for Monday December 9, 2019.*

Respectfully Submitted,

Amber LaPointe  
Manager of Legislative Services/City Clerk

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**ADR**  
CHAMBERS

Integrity Commissioner Office  
for the City of Port Colborne

EDWARD T. MCDERMOTT  
E-mail: emcdermott@adr.ca

September 20, 2019

SENT BY EMAIL TO:

Ms. Amber LaPointe  
City Clerk  
City of Port Colborne  
66 Charlotte Street  
Port Colborne, ON L3K 3C8

**Re: Complaint Reference Number IC-104-0719  
Shawn Tylee and Councillor Harry Wells**

---

Dear Ms. LaPointe:

I am enclosing herewith the report of my investigator, Mr. Michael L. Maynard, who was delegated by me pursuant to section 223.3(3) of the *Municipal Act* to investigate and report on the subject matter of this Complaint.

I can advise that I have fully reviewed the evidence, process and results of this investigation and report by Mr. Maynard and I am in agreement with them including in particular the determination that the Councillor does have a pecuniary conflict of interest with respect to the application(s) before Council in this matter and must henceforth govern himself in accordance with the provisions of the *Municipal Conflict of Interest Act* ("MClA") and the *Code of Conduct* of the City (see para 5.0 of the report).

In accordance with section 223.4.1(16) of the *Municipal Act*, I advise that I have determined that I will not be making an application to a judge under section 8 of the *MClA* for a determination that the Councillor has contravened section 5, 5.1, or 5.2 of that Act. The reasons for not making such application are set forth in the thorough analysis of this situation contained in the report of my delegate Mr. Michael L. Maynard which I have approved and endorse.

While the contents of Mr. Maynard's report contain references to matters which are already a matter of public record, for the purposes of certainty, I have determined that the contents of that report and all references to advice provided to the Councillor by Ms. Anschell set forth in such report are necessarily disclosed and published as the reasons for my decision under section 223.4.1(17) of the *Municipal Act*.

I have further determined that it is in the interests of the City and its residents that the report and this letter be filed with Council for its information and guidance.

Yours very truly,

A handwritten signature in black ink, appearing to read 'E. McDermott', written in a cursive style.

Edward T. McDermott  
Integrity Commissioner, City of Port Colborne



**ADR**  
C H A M B E R S

Integrity Commissioner Office  
for the City of Port Colborne

MICHAEL L. MAYNARD  
E-mail: mmaynard@adr.ca

September 20, 2019

SENT BY COURIER AND EMAIL TO:

Ms. Amber LaPointe  
City Clerk  
City of Port Colborne  
66 Charlotte Street  
Port Colborne, ON L3K 3C8

**Re: Complaint Reference Number IC-104-0719  
Councillor Harry Wells**

---

Dear Ms. LaPointe:

### **Delegation of Investigative Powers**

Pursuant to a written delegation of powers dated July 18, 2019, Edward T. McDermott ("Mr. McDermott" or "Edward McDermott"), in his capacity as Integrity Commissioner for the City of Port Colborne, delegated to the undersigned pursuant to section 223.3(3) of the *Municipal Act, 2001*, certain of his powers and duties as Integrity Commissioner to inquire into, investigate, and prepare a report (subject to his review and approval) with respect to the Complaint described herein. The Complaint was forwarded to Mr. McDermott by the City on July 12, 2019.

## 1.0 - The Complaint

The Complaint I have investigated (the "Complaint") is made against Councillor Harry Wells ("Councillor Wells" or the "Respondent") by Mr. Shawn Tylee ("Mr. Tylee" or the "Complainant"), who alleges that the Respondent acted in contravention of Section 5(1)(a)(b)(c) of the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50* (the "MCIA") and in contravention of the City of Port Colborne's *Code of Conduct for Councillors* ("*Code of Conduct*" or "*Code*"), in particular the section on "Improper use of Influence".

For greater clarity, the relevant *MCIA* and *Code* sections state as follows, respectively:

*Municipal Conflict of Interest Act R.S.O. 1990, c. M.50*

### **When present at meeting at which matter considered**

5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

(a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;

(b) shall not take part in the discussion of, or vote on any question in respect of the matter; and

(c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

*Code of Conduct*

No member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties. Examples of prohibited conduct are the use of one's status as a member of Council to improperly influence the decision of another person to the private



advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council, board of committee in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

- that is of general application;
- that affects a member, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- that concerns the remuneration or benefits of a member.

## **2.0 - The Investigation Process**

My investigation included a review of written statements, correspondence and documentation provided by the Complainant, the Respondent and the City of Port Colborne. Interviews were conducted with the Complainant on July 22, 2019; with the Respondent on August 15, 2019; and with Mr. Dan Aquilina, Director of Planning and Development for the City of Port Colborne on August 16, 2019.

## **3.0 - Facts and Evidence**

### *3.1 - Statements and Evidence of the Complainant*

In his Complaint submission, interview, correspondence and documentation, the Complainant set out the following facts:

#### *3.1.1 - Background*

Port Colborne Quarries Inc., ("PCQ") of which the Complainant is an employee, is owned by Rankin Construction Inc. PCQ owns and operates the Port Colborne Quarry (the "Quarry"). The Quarry has three pits ("Pit 1", "Pit 2" and "Pit 3"). Pit 1

is depleted but is currently used as a processing site for material extracted from Pit 3. Pit 2 has also been fully extracted and is used as an access route from Pit 1 to Pit 3.

According to the Complainant, Councillor Wells' property "[...] abuts the Port Colborne Quarry Inc. property [...]" (a point with which Councillor Wells disagreed and thus corrected, *infra* at page 7). He stated that Councillor Wells (a private citizen until his election to Council in the fall of 2018) has been "[...] an objector and protestor against the quarry for the past decade".

Historically, PCQ had a rezoning permit application approved by Port Colborne Council ("Council"), in 2013, in order to facilitate the construction and operation of a precast concrete manufacturing facility at the bottom of Pit 1. The approval of this plan was unsuccessfully appealed to the OMB in 2014 by, among others, Councillor Wells (as a private citizen at the time). However, the plans for this usage were since abandoned. Again in 2016, PCQ brought an application to change the zoning of the Pit 1 area, this time to allow for mixed-use industrial development, but this application was not moved forward and is currently held in abeyance.

### 3.1.2. - *Current Situation*

In October 2018, PCQ applied to Port Colborne for a Site Alteration Permit ("Site Alteration Permit") in respect of Pit 1 to allow for the pit to be filled with clean soil (also referred to as "inert fill" or "clean fill") and brought back to pre-extraction grades over an anticipated 20 year period. This Site Alteration Permit application does not include an application to rezone Pit 1 (or any Quarry lands) and never has included such an application. It has always been solely an application to allow for a clean fill program to be carried out in Pit 1 over a period of many years.

The application came before Council on October 9, 2018 and was deferred. It came before Council again on November 13, 2018 and was again deferred. Councillor Wells (a private citizen on October 9, and then a Councillor-elect on November 13) presented at Council on each of these occasions.

The Complainant detailed his understanding of the Respondent's November 13 presentation in his initial Complaint filing as follows:

"On November 13, 2018 Mr. Wells made a presentation to the City of Port Colborne Council in which he made it clear that he would be in favour of PCQ's Pit 1 becoming a passive, recreational lake. As a counselor-elect [sic], he went further [and] asked the Council to defer the application to the next Council, despite the fact that [he] would be a sitting Council Member at that time."

On March 11, 2019, the Site Alteration Permit application again came before Council and at this time Councillor Wells first declared a conflict of interest. It was deferred again until March 25, 2019, when Councillor Wells again declared a conflict of interest. In respect of these instances, the Complainant wrote:

"In fairness, Councilor Wells initially declared conflicts when matters related to PCQ initially came to Council this term. In spring of 2019 Mr. Wells claimed he had spoken with the Integrity Commissioner and it was ruled that he did have a conflict of interest regarding the Port Colborne Quarry operation; because permit changes could have an economic impact on the value of his property."

According to the Complainant, when the matter came again before Council on June 10, 2019, Councillor Wells declared that:

"[...] his conflict of interest no longer applied because the nature of the application has changed from a zoning amendment to a site alteration permit".

The Complainant contends that this is false, and that the current application before Council has always been a Site Alteration Permit application only. Rezoning Pit 1 for mixed-use industrial development is a long-term goal for PCQ and will require a separate public planning process by way of a distinct rezoning application, such as the 2016 application being held in abeyance (referenced above).

The nature of the Site Alteration Permit application and its relationship to a distinct, future rezoning process is noted in the planning report for PCQ's application, which states:

"Planning for the proposed industrial development is intended to occur subsequent to the clean fill program and as such, a future zone change application will be required to permit the final land use."

According to the Complainant, existing activity at the Quarry will continue, and in addition, the clean fill program will add traffic from upwards of 500 trucks per day, along with the noise and other emissions associated with a large-scale project of this nature over a period of at least twenty (20) years.

### 3.1.3 - *Conflict of Interest Allegations*

The Complainant contends, therefore, that Councillor Wells is in a conflict of interest regarding the Site Alteration Permit application as it (just as any future rezoning application):

"[...] could have an economic impact on Mr. Wells property as it abuts the quarry site[,] so the notion that the conflict of interest no longer applies is unfounded given that the approval of the site alteration permit would allow the ongoing use of the site as a repository for clean soil to be delivered to the site over the next 20 years as part of the remediation process to bring Pit 1 of the quarry back to its original grade. This ongoing productive and active use of the quarry site could very much have an impact on Mr. Wells' specific property value versus an inactive site with no truck traffic, noise, etc. [...]"

### 3.1.4 - *Code of Conduct Allegations*

In addition to the allegation that Councillor Wells has a conflict of interest due to the proximity of his property to the PCQ Pit 1 site, the Complainant further contends that Councillor Wells has contravened the *Code of Conduct*:

"[...] by actions he has taken within the Council Chambers. At the same June 10th Council meeting, [Councillor] Wells was taking an activist role by handing out cards to constituents on how they could get signs protesting PCQ's application. On the face [of it], this [i.e. Councillor Wells' activities herein described] would appear to be an improper use of influence."

The Complainant added the following comments, again suggesting Councillor Wells' actions are contrary to the *Code of Conduct* provision on Improper Use of Influence:

"Furthermore [Councillor] Wells is part of a[n] Alliance Group that speaks out against Port Colborne Quarries called the "Niagara Water Protection Alliance" "NWPA" where he actively lobby's [sic] and speaks against the Quarry on this [Site Alteration Permit] application."

### *3.2 - Statements and Evidence of the Respondent*

In his written response and subsequent interview, Councillor Wells rebutted a number of the claims advanced by the Complainant. The Respondent's claims are set out as follows:

#### *3.2.1 - Response - Background*

The Respondent disagreed that his property "abuts" the PCQ property, advising that the PCQ property is separated from his own by approximately 300 feet. Councillor Wells explained:

"[...] My property abuts property that is owned by Vale and that property surrounds my property completely separating my property from Port Colborne Quarries."

Councillor Wells also disputed the assertion that he has protested against the Quarry for a decade, explaining that he had opposed only certain proposals related to the property, such as the 2013 heavy industrial zoning application and the 2016 mixed-use industrial zoning application (*supra* at page 3), citing both uses (i.e. heavy and mixed-use industrial development, respectively) as a threat to his property, but had not, for example, opposed a plan to construct a hotel on part of the Quarry lands nearby to his property.

#### *3.2.2 - Response - Current Situation*

Councillor Wells defended his position that the plans submitted by PCQ in the Site Alteration Permit application state there will be no adverse effects to his property. In respect of the Complainant's submission that "[...] ongoing

productive and active use of the quarry site could very much have an impact on [Councillor] Wells' specific property", Councillor Wells responded:

"[The Complainant] admits to adverse affects caused by the quarrying activity that I have not objected to, protested about or complained of. The IBI July 24, 2018 Planning Report [i.e. the Site Alteration Permit application] [...] is not consistent with Mr. Tylee's claim of impact and contradicts it. PCQ's claim to the public is the development including the fill rehabilitation and rezoning is compatible with surrounding land use and there are no adverse affectst [sic] but Mr. Tylee's claim is there is an adverse affect with respect to my property. Is there averse [sic] affects or not?"

Councillor Wells also rejected the Complainant's position that he opposes the proposed "inert fill" program, stating in his written submissions that he supports the rehabilitation of Pit 1 if is done in the "right way", which was the position he took in November 13, 2018 presentation to Council.

He further rejected the contention that he requested the deferral at the November 13, 2019 Council meeting, stating that the deferral was requested by staff.

### *3.2.3 - Response - Conflict of Interest Allegations*

In the Complaint submission, the Complainant wrote (*supra* at page 4) that Councillor Wells declared a conflict in the Spring of 2019 after having conferred with the Integrity Commissioner.

In his written statement, Councillor Wells refuted the facts as presented, stating that he never claimed to have communicated with the Integrity Commissioner, nor had it been ruled by the Integrity Commissioner that he had a conflict of interest at the time he first declared one, being March 11, 2019.

On why he initially declared a conflict of interest on March 11, Councillor Wells wrote:

"The July 24, 2018 IBI Planning report created for PCQ [i.e. the Site Alteration Permit application] identified that in the future the reclaimed area of Pit 1 would be rezoned to mixed industrial use. [Page 5] confirm[s] the inclusion of the future zoning change. With the

inclusion of the zoning change in the application an approval of the application at that time to me would be Council's acknowledgement of approval to the change in zoning."

Councillor Wells went on to explain that he believed, at the time he declared conflicts, that a zoning change was a part of the application by implication, stating in his written response:

"With the inclusion of the zoning change in the application an approval of the application at that time to me would be Council's acknowledgement of approval to the change in zoning."

Councillor Wells indicated that he perceived a zoning change would impact his property value, which led him to declare the conflict of interest of his own accord, out of an abundance of caution. It was only thereafter that he contacted the Integrity Commissioner's office through the City Clerk to determine proactively whether he had a conflict of interest.

#### *3.2.3.1 - Advice from the Office of the Integrity Commissioner*

Late in the evening of Saturday, March 23, 2019, Councillor Wells sent an email to the City Clerk, to be forwarded on to the Office of the Integrity Commissioner at ADR Chambers, in which he sought advice on what he perceived to be a potential conflict of interest in respect of the Site Alteration Permit application. His email was forwarded by the Clerk to the Integrity Commissioner's office on the evening of Sunday, March 24, 2019 and reviewed by ADR Chambers administrative staff on the morning of Monday, March 25, 2019. His request was then sent to Ms. Deborah Anshell ("Ms. Anshell"), an Integrity Commissioner with ADR Chambers who has been appointed to this office by other municipalities in Ontario [i.e. not Port Colborne]. The reason Councillor Wells was directed to Ms. Anshell by administrative staff, rather than to Mr. McDermott, was due to Mr. McDermott's unavailability that day (as he was in transit back to Toronto from outside of Canada) and also in consideration of the fact that the issue was to come before Council that evening, being Monday, March 25, 2019.

The following are the relevant excerpts from the correspondence from Councillor Wells, provided to Ms. Anshell, by way of the Port Colborne Clerk's office and ADR Chambers administrative staff:

[...] I am a newly elected Councillor for Ward 4 and a motion has come before Council that could affect the value of my home. Under a 1982 Site Plan Agreement with the City, Port Colborne Quarries were to rehabilitate the depleted pit known as Pit 1. The rehabilitation by agreement was to allow Pit 1 to fill with water and become a passive recreational lake. Port Colborne Quarries has now submitted an application for a Site Alteration Permit for the purpose of initiating a clean fill program that will allow them to backfill the pit back to its' pre-extraction grades in order to accommodate the development of a mixed-use industrial development including heavy industrial use.

My property is in a close southerly proximity of Pit 1 with a parcel of agricultural land separating my property from Pit 1 by approximately 300 feet. Should the Site Alteration Application be approved by Council and heavy industrial development takes place my home will be located within the impact zone of heavy industries as compared to being next to a passive recreational lake. If my home is next to a heavy industrial development the value of my home could decrease compared to being next to a passive recreational lake. There is no direct pecuniary impact, however, there may be an indirect pecuniary impact based on the impact to the value of my Property.

Port Colborne Quarries in 2014 made application for a rezoning of Pit 1 which I rigorously resisted taking them to the OMB and then in 2016 they again made application to rezone the area of pit 1 which I again rigorously resisted. In October of 2018 this current Site Alteration Application came before Council for approval and I again rigorously resisted it prior to being elected to Council and the motion was deferred.

[...]

I am requesting from the City's Integrity Commissioner based on the above facts confirmation on whether I am in conflict or not. Your assistance with this is greatly appreciated.

Later that same day, being March 25, 2019, Ms. Anschell provided a response to Councillor Wells through ADR Chambers administrative staff, as follows:



"I have been asked to respond to Councillor Harry Wells with respect to his potential conflict of interest. As the Councillor has explained, Port Colborne Council will be voting tonight on a Site Alteration Application. The Application will deal with allowing Port Colborne Quarries to backfill a depleted pit to its pre-extraction grades, in order to accommodate the development of a mixed-use industrial development including heavy industrial use.

Councillor Wells has advised that if the Site Alteration Application is approved, the value of his home will likely decrease, since it will be next to an area of heavy industry. In fact, he has vigorously resisted the rezoning in the past.

On the basis of the information provided by Councillor Wells, it seems clear that he is in a position of conflict of interest, as contemplated in s. 5 of the Municipal Conflict of Interest Act. In my view he has a direct pecuniary interest in the matter being considered.

Councillor Wells has properly and accurately identified his conflict of interest. Therefore, pursuant to the legislation he shall not take part in the discussion of this Application, nor shall he participate in the vote tonight. Further, he cannot influence the voting in any fashion.

Please feel free to contact me if you require anything further."

Pursuant to the advice received by Ms. Anshell, Councillor Wells again declared a conflict of interest at the March 25, 2019 Council meeting.

On April 25, 2019, Councillor Wells again corresponded with Ms. Anshell regarding his conflict of interest. The relevant excerpts of his correspondence to Ms. Anshell are as follows:

"Thank you for providing me with advice on this issue. In regards to my potential conflict of interest, the applicant has pulled the rezoning component from of their application so does this eliminate my conflict of interest? There is the concern by the general electors of Ward 4 where this proposal is planned that the proposal will lead to

contamination of the aquifer in the area and their water wells. Understandably their first interest is for their health but their other concern is the cost to replace their water source. This could be very expensive and require the installation of cisterns and buying water as some of these electors are farmers with livestock with a significant requirement for good drinking water. Their [sic] is a pecuniary interest in common among the electors generally with regards to the cost associated with obtaining an alternative source of drinking water should their wells become contaminated. Does this not constitute an exemption for a conflict I have for the same interest?"

[...]

Councillor Wells additionally requested clarification about another conflict of interest matter which was neither specific to him nor relevant to this report and has therefore been excluded.

On April 25, 2019, Ms. Anschell responded to Councillor Wells, with the relevant excerpts as follows:

"Hello Mr. Wells. Thank you for the updated information. I agree with you [...]. If you share an economic interest with all of the other residents in your Ward, then I don't see that you have a Conflict of Interest to declare. [...]"

### 3.2.3.2 - *Councillor Wells Rescinds Declaration*

At the June 10, 2019 Council meeting, with the PCQ Site Alteration Permit application back on the agenda, Councillor Wells rescinded his conflict of interest declaration, announcing in the Council chambers that the Integrity Commissioner had "cleared [him] on the conflict of interest with regards to the Quarry". Councillor Wells, in his response to this Complaint, advised that he then publicly provided copies of both communiques with Ms. Anschell to the City Clerk.

In his submissions, the Complainant contended that Councillor Wells incorrectly declared there was a fundamental change in the nature of the application when rescinding his conflict of interest declaration on June 10. The Complainant pointed out that the issue of zoning was never part of the application, and as

such there was no fundamental change upon which Councillor Wells could credibly base his evolving position. In response, Councillor Wells described his position on this issue as follows:

"At the March 11, 2019 Council meeting David Sisco Associate Senior Planner of IBI gave a presentation to council and stated 2 fundamental points [...]. One being that this application is only to backfill Pit 1 and that any future land use will and must involve a separate public process. [...] Prior to the March 11<sup>th</sup> Council meeting PCQ's presentations and the documentation they provided, which was only the July 24, 2018 IBI Planning report [...] claimed the intent of the Site Alteration Permit was to fill Pit 1 for a zoning change. It wasn't until the June 10, 2019 Council meeting they made it publicly clear that any zoning change would be a separate public process."

Councillor Wells explained that once it was made clear that the rezoning of Pit 1 was not a part of the Site Alteration Permit application, he felt the only issue left which would adversely affect his property is one he shares in common with other electors, being what he identified as the potential for the contamination of an aquifer. He sought advice, on April 25, from Ms. Anschell on that basis (*supra* at pages 11-12) and rescinded his conflict of interest at the next Council meeting in which the PCQ application came before Council, being June 10, 2019.

Councillor Wells has raised the advice he received from Ms. Anschell on April 25, 2019 pursuant to Section 4(j) of the *MClA* as a defence to the allegation in the Complaint. Section 4(j) of the *MClA* lists the following, *inter alia*, as an exception to the duty of a member to declare a conflict of interest due to a pecuniary interest:

[...] by reason of the member having a pecuniary interest which is an interest in common with electors generally [...]

#### 3.2.4 - Response - Code of Conduct Allegations

In response to the allegation that Councillor Wells was handing out cards to residents providing them with information on how to obtain signs to protest the Site Alteration Permit application, Councillor Wells stated:

"At no time ever have I handed out cards to anyone on how to get signs protesting PCQ's application. To my knowledge no such cards exist."

To support his position, Councillor Wells provided a copy of a letter from Niagara Water Protection Alliance stating that no such cards exist. He also provided screen captures of the June 10, 2019 Council meeting video recording showing the gallery and pointed out that the Complainant was not present at the meeting, and therefore could have no first hand knowledge of Councillor Wells engaging in such an activity as claimed, which in any event he denies.

Councillor Wells also responded to the Complainant's general comments with respect to his affiliation with the Niagara Water Protection Alliance, stating:

"Within the Municipal Conflict of Interest Act in the Principles section 1.1 states that the Province of Ontario endorses the principle of (1.1.4) there being a benefit to the municipality when a member has a broad range of knowledge and continues to be active in their own communities, in the practice of a profession, and in community associations. I have over 40 years of experience in environmental management and for 12 years over saw [sic] the operations of a quarry that was converted to a nonhazardous landfill. Being involved with the NWPA with my experience satisfies the principles of the Act and in my opinion is endorsed by the Province."

Councillor Wells did not address the issue of his Niagara Water Protection Alliance affiliation specifically with respect to the *Code of Conduct* allegations regarding "Improper Use of Influence". However, he did clarify his participation in such activities, explaining that he has attended and spoken at presentations; that he gave a radio interview in which he provided facts about the proposal; and that he has carried out his duties as a Councillor by responding to telephone calls and correspondence on the issue. He claimed to never have passed out literature of any kind but acknowledges having two lawn signs on his property which state respectively: "Protect our Water" and "Council Vote No to Fill".

### 3.3 - Third-party Information

Mr. Dan Aquilina, the Director of Planning and Development for the City of Port

Colborne, ("Mr. Aquilina") provided background and contextual information regarding the Quarry operations, past and present planning applications, and the Site Alteration Permit application in particular.

Of note, Mr. Aquilina explained that the 2016 planning application for the rezoning of Pit 1 for mixed-use industrial development is held in abeyance because necessary information has not been obtained from PCQ. His understanding is that PCQ is holding off on pursuing this application further until it has dealt with the Site Alteration Permit application and Pit 1 is ready for such development to proceed.

Mr. Aquilina confirmed that the current PCQ Site Alteration Permit application does not, nor has it ever, included any aspect of rezoning. To the extent rezoning is mentioned in the application planning report [i.e. the IBI planning report], it is in contemplation of a distinct rezoning application process anticipated at a later date.

Lastly, Mr. Aquilina confirmed that it is his understanding that the proposed project to fill Pit 1 with inert fill will result in certain environmental impacts to the local area such as increased truck traffic, as well as noise and dust emissions, all of which would occur above and beyond the levels caused by existing activity at the Quarry.

#### *3.4 - Review of Site Alteration Permit Application and Council Meeting Video*

The IBI planning report (forming the basis of the Site Alteration Permit application) was completed in July 2018 and has not since been amended. It states:

"The purpose of requesting a Site Alteration Permit is to initiate a clean fill program that will allow Pit 1 to be backfilled back to its' pre-extraction grades in order to accommodate the development of a mixed-use industrial development. Planning for the proposed industrial development is intended to occur subsequent to the clean fill program and as such, **a future zone change application will be required to permit the final land use.**" [emphasis mine]

At the March 11, 2019 Council meeting, Mr. David Sisko, Senior Planner with the IBI Group spoke on behalf of PCQ regarding the Site Alteration Permit application, stating:

"The application before you is only for the permission to backfill. In any future planning process to deal with future land uses will and must involve a separate public process."

It is clear from the above language in the Site Alteration Permit application and the March 11, 2019 presentation by Mr. Sisko, as well as the evidence provided by the Parties and Mr. Aquilina, that a rezoning application was not a part of the Site Alteration Permit application, but rather was clearly considered by the proponent of the application to be a distinct future public planning process.

#### 4.0 - Analysis

The questions raised in this Complaint and through this investigation and report are as follows:

1. Is Councillor Wells in a Conflict of Interest with respect to the Site Alteration Permit application?
2. If Councillor Wells is in a conflict of interest, did he contravene the *MClA* by failing to declare said conflict of interest at the June 10, 2019 Council meeting, or indeed by rescinding the declaration he had already made?
3. Did Councillor Wells contravene the *Code of Conduct* by handing out cards to facilitate citizen engagement in protesting the Site Alteration Permit application?
4. Did Councillor Wells contravene the *Code of Conduct* by participating in protest activities, such as through participating in Niagara Water Protection Alliance activities?

##### 4.1 - *Is Councillor Wells in a Conflict of Interest?*

Councillor Wells has raised several defences against the allegations that he is in a

conflict of interest and has thus contravened the *MClA*. They can be summarized as follows:

- a. That approval of the Site Alteration Permit application and subsequent work to fill Pit 1 will not directly impact his property value at all, unlike a mixed-use industrial rezoning of Pit 1 would;
- b. That the environmental impact potential of filling Pit 1 is specific to water quality, which is an issue he shares in common with electors in the area, thereby exempting him from the duty to declare a conflict pursuant to the Section 4(j) of the *MClA*;
- c. That he sought and received advice from Ms. Anschell who, on April 25, 2019, advised him that he was exempted from declaring a conflict of interest on the basis of point "b" above;

#### 4.1.1 - *Integrity Commissioner's Review of the Facts*

Due to the temporary unavailability of Integrity Commissioner McDermott, and the apparent urgency of the matter, Councillor Wells' request for advice was forwarded by ADR Chambers administrative staff to Ms. Anschell, an Integrity Commissioner appointed to other jurisdictions within the Province of Ontario.

Mr. McDermott was not made aware of Ms. Anschell being consulted by Councillor Wells with respect to his request for advice made and responded to on March 25, 2019 until sometime thereafter. Once it came to Mr. McDermott's attention (on April 9, 2019), he reviewed the response and agreed with it as it clearly found that Councillor Wells had a pecuniary interest and a conflict of interest in the matter before Council as the proximity of his residence to Pit 1 would result in a negative economic impact on him if the pit were to be filled and converted into a heavy industrial usage.

Most recently (in July 2019, after this complaint was filed) Mr. McDermott ascertained that, some two weeks after he had reviewed the March 25 correspondence between Councillor Wells and Ms. Anschell, Councillor Wells had again contacted Ms. Anschell directly on April 25, 2019, posing a follow-up question to her in which he advised her that the rezoning aspect of the application to Council had been "pulled" by PCQ. The Councillor accordingly

asked Ms. Anschell if that eliminated his conflict, the inference being that the plan to rezone the land to heavy industrial usage was now off the table. The Councillor also asserted that the general electors of Ward 4 were concerned that the filling of the pit might endanger the quality of their drinking water which could result in expensive remedial measures to ensure good drinking water. The Councillor then asked Ms. Anschell if this would enable him to have an exemption from a conflict as his interest was only the same as other electors in the Ward.

Ms. Anschell responded on the same day in a brief email, indicating that she agreed with the Councillor that if he shared a common economic interest with all other residents in the Ward, then she did not see that would give rise to a conflict of interest.

Upon receiving this complaint (on July 12, 2019), Mr. McDermott first became aware of this follow-up question and response from April 25, 2019. He then conferred with Ms. Anschell, and ascertained that her response was founded on the understanding that the information she had received from Councillor Wells meant that the plans for converting the use of Pit 1 to heavy industrial development had been abandoned by the applicant by withdrawing the rezoning part of the application. She understood that the health and economic concerns with respect to the balance of the Site Alteration Permit application were restricted the impact filling Pit 1 could have on the quality of water, which was, as she was informed by Councillor Wells, generic to all electors in the Ward.

Mr. McDermott then proceeded to appoint the author of this report to investigate the Complaint, as a result of which it has been ascertained that the application before Council never contained a rezoning component, as it was always an application for a permit allowing Pit 1 to be filled with material referred to as "clean fill".

#### *4.1.2 - Retained Conflict of Interest*

After considering all of the evidence and submissions of the Parties, Mr. McDermott and I have concluded as a point of fact that either of these applications (i.e. a Site Alteration Permit or a rezoning application) could have an economic impact on Councillor Wells' neighbouring property, as even the clean fill project pursuant to the Site Alteration Permit application would alter the appearance of the nearby Pit 1 and would necessitate significant additional



heavy truck and other machinery traffic (with the noise and dust associated with it) over a period of many years before the pit was returned to grade level. It would also likely be recognized as the precursor to a subsequent rezoning application.

While the issue of the impact on the quality of water may indeed be generic to all electors in the Ward, this does not, in my view, nor in that of the Integrity Commissioner, erase the personal interest that Councillor Wells has in maintaining Pit 1 in its current state with the objective (as acknowledged by him) of ultimately transforming it into a passive recreational lake or into some other compatible remediated state which would preclude it from ultimately being rezoned to permit unfavourable uses to him (e.g. mixed-use or heavy industrial development).

In addition, it should not be forgotten that the goal of PCQ is to ultimately remediate Pit 1 to grade level and then obtain a rezoning of that land with a view to creating a mixed-use or heavy industrial development on it - a result that Councillor Wells acknowledges would have a negative impact on the value of his residence.

In the view of both Integrity Commissioner McDermott and myself, whether the process to obtain that result involves one step or two does not alter the objectives of either PCQ or Councillor Wells. If Councillor Wells wishes to avoid the stated goals of PCQ relative to this land, the best way to do it is to oppose all steps in the process starting with the Site Alteration Permit application. If that is rejected by Council, the rezoning application as envisioned by PCQ never occurs.

Viewed from this perspective, there is little doubt that Councillor Wells continues to have a personal pecuniary interest in opposing both elements of the process whether they are brought forward together or separately.

Accordingly, it is my determination, in concurrence with the Integrity Commissioner, that Councillor Wells does retain a pecuniary interest in respect of the Site Alteration Permit application currently before Council and he should declare such conflict and refrain from participating in any discussions, votes or attempts to influence the result of the application, all as required by the *Municipal Conflict of Interest Act* and the *Code of Conduct* for members of Council.

While Ms. Anshell was not delegated by Mr. McDermott to provide a response to Councillor Wells' follow-up enquiries, it has been revealed through this investigation that each of her responses on March 25 and April 25 was premised on incomplete or erroneous information. Accordingly, Ms. Anshell's response does not ultimately address the true nature of Councillor Wells' conflict of interest as revealed through this complaint investigation and report.

#### 4.2 - *Did Councillor Wells Contravene the MCI A?*

The Complainant asserts that Councillor Wells has recently become actively involved in advocating and lobbying against PCQ's application, in addition to rescinding his conflict of interest declaration at Council's meeting of June 10, 2019. In view of the circumstances outlined above, the Integrity Commissioner and I do not believe it is necessary to deal with these assertions, since the noted exchanges with Ms. Anshell could arguably have created some misunderstanding on the part of Councillor Wells. It is also noted that the application, as yet, has not come before Council for a vote.

I accordingly make no findings with respect to these matters constituting a contravention of the *MCI A* by Councillor Wells.

#### 4.3 - *Did Councillor Wells contravene the Code of Conduct?*

In accordance with the conclusions noted in Section 4.2 of this report (*supra*), I make no finding with respect to the *Code of Conduct* allegations set out in the Complaint.

### 5.0 – Conclusion

Based on the foregoing, this report makes no findings of a contravention of either the *Municipal Conflict of Interest Act* or the *Code of Conduct* by Councillor Harry Wells.

However, both the Integrity Commissioner and I wish to make it quite clear that, in our view, Councillor Wells has a pecuniary conflict of interest with respect to the application(s) before Council in this matter, and he must henceforth govern himself in accordance with the provisions of the *MCI A* and the *Code of Conduct*.

### 5.1 – *Report to Council*

In accordance with the terms of my delegated mandate from the Integrity Commissioner, I (with the concurrence of the Integrity Commissioner) have determined that the circumstances of the matter before me do warrant the preparation of this report for submission to City Council to be received and considered by Council at its discretion. As required by the terms of the delegation, a draft of the report has been reviewed by the Integrity Commissioner, who has indicated his approval of it, subject to any amendments that may be made after receiving the comments (if any) of the Parties on the draft report, which will be provided to them prior to it being filed with Council.

### 5.2 – *Addendum*

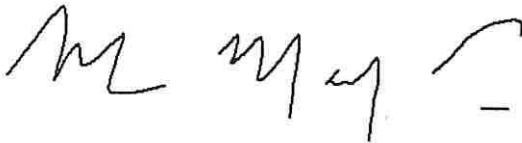
Following comments received from the Respondent with respect to a draft of this report which was provided to the Parties for their review and comment prior to its finalization, an Addendum has been prepared and it attached to this Report.

### 5.3 – *Closing Remarks*

I trust this report (including the attached addendum) provides clarity to the Parties regarding the matters at issue and the necessary guidance on permissible conduct in respect of same hereafter. I would to thank the Complainant and the Respondent, as well as the City of Port Colborne staff, in particular Amber LaPointe and Dan Aquilina, for their cooperation and assistance in aiding this investigation.

Yours truly,

ADR CHAMBERS INC.



Michael L. Maynard  
Office of the Integrity Commissioner

Encl.: Addendum



**ADR**  
C H A M B E R S

Integrity Commissioner Office  
for the City of Port Colborne

## ADDENDUM

**Re: Complaint Reference Number IC-104-0719  
Councillor Harry Wells**

On September 13, 2019, Councillor Wells provided comments on the draft Investigation Report which had been provided to the Parties for their information and comment prior to its finalization and release. In the result, and with the concurrence of the Integrity Commissioner, it is my determination that no change to the draft Investigation Report is warranted, and such Report is accordingly confirmed.

The following are the enumerated issues raised by Councillor Wells in his comments, and my response to each of those issues:

**Issue #1:**

Councillor Wells wrote:

*"On page 4 second paragraph you corrected the claim that my property abuts the Port Colborne Quarry (PCQ) property but you did not correct the claim that I have been an objector and protester against the quarry for the past decade. Not correcting that claim implies the claim is valid and leaves the reader of your report with a false impression of on my character. This claim should be corrected as was the claim of my property abutting PCQ's property."*

**This is not a correct reading of the structure of the Investigation Report. The section in which the above noted passage appears (on page 4) is part of a summary of the Complainant's statements (under a sub-heading entitled *Background*, in a numbered section entitled *Statements of Evidence of the Complainant*). It is not written as a finding of fact which has been subjected to analysis at the stage of the Report where the Complainant's position is outlined, but rather it is simply a reporting of the evidence provided by the Complainant.**

Councillor Wells' evidence on this point is recounted on page 7 under the section entitled *Response – Background*.

**Issue #2:**

Councillor Wells wrote:

*"On page 4 in Section 3.1.2 you state that the Site Alteration Application (SAA) does not include an application to rezone any PCQ lands and that is true because as you point out on page 4 that the rezoning application has already been submitted in 2016 and is being held in abeyance so there is no need to resubmit a rezoning application. It has been stated in numerous parts of your report that the purpose of the SAA is for rezoning of the PCQ lands. There is no question that PCQ intends to rezone lands for mixed industrial use."*

**It has not been stated in the Investigation Report that the purpose of the Site Alteration Permit application is "[...] for re-zoning of the PCQ lands". It has been found that the *ultimate intention of PCQ* is to re-zone the lands, whether through the current re-zoning application held in abeyance or through a new application, but the purpose and intent of the Site Alteration Permit application currently before Council is to allow for the proposed clean fill program. It is certainly acknowledged that the clean fill program is a precursor to an anticipated request by PCQ to re-zone the lands in the future.**

**Issue #3:**

Councillor Wells wrote:

*"On page 5 first paragraph you did not correct the claim that as councillor-elect I asked Council to defer the application. I disagreed with this and provided video evidence that Dan Aquilina Director of Planning and By-laws was the person that asked for the referral. Not correcting that claim implies the claim is valid and leaves the reader of your report with a false impression of my character. This claim should be corrected as was the claim of my property abutting PCQ's property."*

**This is not a correct reading of the structure of the Investigation Report. The section in which the above noted passage appears (on page 5) is part of a summary of the**

Complainant's statements (under a sub-heading entitled *Current Situation*, in a numbered section entitled *Statements of Evidence of the Complainant*). It is not written as a finding of fact which has been subjected to analysis at this stage of the Report, but rather it is simply a reporting of the evidence provided by the Complainant.

Councillor Wells' evidence on this point is recounted on page 8 under the section entitled *Response – Current Situation*.

**Issue #4:**

Councillor Wells wrote:

*"On page 5 third paragraph, you did not correct the claim that I had spoken to the Integrity Commissioner. I disagreed with this and provided video evidence that I did not say I spoke to the Integrity Commissioner. Not correcting that claim implies the claim is valid and leaves the reader of your report with a false impression of my character. This claim should be corrected as was the claim of my property abutting PCQ's property."*

**This is not a correct reading of the structure of the Investigation Report. The section in which the above noted passage appears (on page 5) is part of a summary of the Complainant's statements (under a sub-heading entitled *Current Situation*, in a numbered section entitled *Statements of Evidence of the Complainant*). It is not written as a finding of fact which has been subjected to analysis at this stage of the Report, but rather it is simply a reporting of the evidence provided by the Complainant.**

Councillor Wells' evidence on this point is recounted on page 8 under the section entitled *Response – Conflict of Interest Allegations*.

**Issue #5:**

Councillor Wells wrote:

*"On page 6 Sections 3.1.3 Conflict of Interest Allegations and 3.1.4 Code of Conduct Allegations (sic) should acknowledge that the Complainant did not provide any evidence to support the claims."*

**This is not a correct reading of the structure of the Investigation Report. The section in which the above noted sections appear is part of a summary of the Complainant's statements. The statements made are not written as findings of fact which have been subjected to analysis at this stage of the Report, but rather are simply a reporting of the allegations made by the Complainant.**

Councillor Wells' defences of those allegations are also recounted in the corresponding *Response* sections of the Report.

Additionally, there was no finding of fact in favour of the allegations contained in sections 3.1.3 and 3.1.4 under the corresponding *Analysis* sections of the Report. As such, these allegations are not taken to have been proven. Councillor Wells' objection here is moot.

**Issue #6:**

*"On page 6 Section 3.1.4 Code of Conduct Allegations, you did not correct the claim that I was taking an activist role handing out cards on how to get signs protesting PCQ's application thus leaving the impression that I did take an activist role. I disagreed with this and provided video and other evidence that I did not hand out any such cards, that no such cards existed and that the Complainant wasn't even present at that Council meeting. This claim was a slanderous and libelous fabrication of the Complainant and not correcting that claim implies the claim is true and valid leaving the reader of your report with a false impression of my character. This claim should be corrected as was the claim of my property abutting PCQ's property."*

**This is not a correct reading of the structure of the Investigation Report. The section in which the above noted passage appears (on page 6) is part of a summary of the Complainant's statements (under a sub-heading entitled *Code of Conduct Allegations*, in a numbered section entitled *Statements of Evidence of the Complainant*). It is not written as a finding of fact which has been subjected to analysis at this stage of the Report, but rather it is simply a reporting of the allegations made by the Complainant.**

Councillor Wells' evidence on this point is recounted on pages 13-14 under the section entitled *Response – Code of Conduct Allegations*.

Additionally, in the *Analysis* section of the Report, under sub-heading *Did Councillor Wells contravene the Code of Conduct*, there was no finding of fact in favour of the allegations. As such, they are taken to be unproven allegations. Councillor Wells' objection here is moot.

#### Issue #7

Councillor Wells wrote:

*"On page 7 section 3.2 Statements and Evidence of the Respondent should acknowledge that I did provide evidence to support my rebuttal of the claims."*

The entire *Response* section is a recounting of the evidence provided by Councillor Wells. The fact that his evidence appears in the Report is precisely an acknowledgment that he provided such evidence. Regardless, there was no finding of a contravention of either the *MCIA* or *Code* by Councillor Wells, so his objection here is moot.

#### Issue #8

*"On page 8 second paragraph (sic) does not mention that I provided evidence that I supported the rehabilitation of Pit 1 by filling providing it is done "the right way"."*

It is already acknowledged on page 8 that this is "[...] the position [Councillor Wells] took in the November 13, 2018 presentation to Council." There has been no finding to the contrary.

#### Issue #9

Councillor Wells wrote:

*"On page 12 second paragraph you stated that I requested clarification about another conflict of interest matter that was not relevant to your report when in fact it was relevant to this report. [Other members of Council] that conduct businesses in Ward 4 should be in a pecuniary conflict of interest and at the time have not declared the conflict. All of these parties are veterans to Council with many years of experience and I was following their response as a new Councillor to learn how they handled being in a position of conflict. I asked the*



*question to confirm if they were in a conflict of interest and received that confirmation. Subsequently one of the Councillors advised Council that he received notification from the Integrity Commissioner claiming he was in conflict. Your speculation as to my request not being relevant is not accurate and should be corrected."*

**This information is not relevant to the issues in the Complaint, which is limited to whether Councillor Wells is in a conflict of interest, and if so, whether his alleged activities run afoul of the *MClA* and *Code*. There is no need to make a finding on the issue of whether other members of Council are in a conflict of interest as, while that information may bear some significance to Councillor Wells in his own reckoning, it has no bearing on the matters at issue in this Complaint, which are limited to Councillor Wells' unique situation and his own conduct.**

**Issue #10:**

Councillor Wells wrote:

*"On page 12 third paragraph you provided a truncated version of Ms. Anshell's April 25, 2019 response to me leaving out my question of conflict regarding the SAA not having any component of rezoning and Ms. Anshell's confirmation that if there is no rezoning component as is the convention (sic) of you and the Complainant then [sic] "I agree with you on both counts. If you share an economic interest with all of the other residents in your Ward, then I don't see that you have a Conflict of Interest to declare." Your report should include the full response of Ms. Anshell to me to acknowledge she did confirm that if the SAA did not include a rezoning component then I did not have a pecuniary conflict of interest as well as an exemption."*

Before examining the language of the April 25, 2019 correspondence between Councillor Wells and Ms. Anshell, it must be noted that on March 25, 2019, Councillor Wells provided the following information to Ms. Anshell, in part:

"The rehabilitation by agreement was to allow Pit 1 to fill with water and become a passive recreational lake. Port Colborne Quarries has now submitted an application for a Site Alteration Permit for the purpose of initiating a clean fill program that will allow them to backfill the pit back to its' pre-extraction grades in order to accommodate the

development of a mixed-use industrial development including heavy industrial use.

Should the Site Alteration Application be approved by Council and heavy industrial development takes place my home will be located within the impact zone of heavy industries as compared to being next to a passive recreational lake. **If my home is next to a heavy industrial development the value of my home could decrease compared to being next to a passive recreational lake.** [emphasis mine]

At Councillor Wells' request, the full transcript of his April 25, 2019 follow-up request for advice and Ms. Anshell's response thereto are included here. This correspondence reads as follows:

*Correspondence from Councillor Wells to Ms. Anshell*

[salutation]

"Thank you for providing me with advice on this issue. In regards to my potential conflict of interest, **the applicant has pulled the rezoning component from of their application** so does this eliminate my conflict of interest? There is the concern by the general electors of Ward 4 where this proposal is planned that the proposal will lead to contamination of the aquifer in the area and their water wells. Understandably their first interest is for their health but their other concern is the cost to replace their water source. This could be very expensive and require the installation of cisterns and buying water as some of these electors are farmers with livestock with a significant requirement for good drinking water. Their (sic) is a pecuniary interest in common among the electors generally with regards to the cost associated with obtaining an alternative source of drinking water should their wells become contaminated. Does this not constitute an exemption for a conflict I have for the same interest? [emphasis mine]

On another point for my understanding and clarification if a member of council has a business in the community and his or her business could be financially impacted by a decision before council would that constitute a conflict of interest correct? [emphasis mine]

Being a new councillor for Ward 4 your advice and assistance is greatly appreciated as it helps me serve my electors better."

[salutation]

*Reply Correspondence from Ms. Anshell to Councillor Wells*

[salutation]

Thank you for the updated information. I agree with you on both counts. If you share an economic interest with all of the other residents in your Ward, then I don't see that you have a Conflict of Interest to declare.

However, where a business owner is on Council, and the business would be financially impacted (positively or negatively) by a decision of Council, that is a clear Conflict of Interest that must be declared.

The March 25, 2019 correspondence did not speak to a separate process, but implied that heavy industrial development was a direct result (as opposed to an indirect one following a secondary planning process) of the Site Alteration Permit application. This false impression was reinforced by the incorrect information contained within Councillor Wells' correspondence on April 25, 2019, informing Ms. Anshell that the re-zoning aspect of the Site Alteration Permit application had been "pulled" when in fact it had never existed. Ms. Anshell was never provided with information about the Site Alteration Permit application itself (and the full extent of the work contemplated thereunder). Her consideration of Councillor Wells' case was based on the incorrect assertion that re-zoning for industrial purposes was off the table as it had been "pulled" (though it was never on the table and thus never pulled) meaning that there would be no industrial impact, and the clear inference being that the sole issue remaining was that of water quality. There was no consideration given by Ms. Anshell as to the extent of the work required for the Pit 1 clean fill remediation program per the Site Alteration Permit application either in the March 25, 2019 or April 25, 2019 correspondence, as such information was never provided by Councillor Wells. There was also no analysis of the fact that the ultimate objective of PCQ required a two-step process and the re-zoning aspect of that process had not been "pulled". It remained, as it always was, an integral part of that process, and it was never off the table for the Councillor or PCQ, although obviously if the first step failed (i.e. the Site Alteration Agreement application)

PCQ could never get to step two, and accordingly Councillor Wells' goal to stop the rezoning would succeed.

Further, it is noted that Ms. Anshell wrote:

**"If** you share an economic interest with all of the other residents in your Ward, then I don't see that you have a Conflict of Interest to declare."  
[emphasis mine]

The word "If" is important in this advice because it limits the application of her advice only to those instances where the economic interest is shared, such as with respect to potential impacts on the aquifer. Logic dictates that the obverse is also true: If one does not share his or her economic interest with all of the other residents in the ward (i.e. that one does have an economic interest, but it is unique to them and not shared) then one does have a conflict of interest to declare.

**The investigation in this Complaint has yielded additional information that was not provided to Ms. Anshell. This information reveals, in the concurrent opinion of the Investigator and the Integrity Commissioner, that the potential for water quality impacts is not the only consideration to be made with respect to Councillor Wells' property. To the contrary, the remediation of Pit 1 as contemplated under the Site Alteration Permit application could also (and we have found is likely to) have impacts on neighbouring property (such as Councillor Wells') of its own accord.**

**Additionally (and most importantly), the proposed remediation of Pit 1 under the Site Alteration Permit application is clearly an antecedent to an eventual re-zoning of the subject lands, which will, by his own acknowledgment, likely have an impact on Councillor Wells' property. As found in the Report, Councillor Wells has a personal interest in stopping PCQ's eventual re-zoning plans at every opportunity, beginning with the Site Alteration Permit application, and therein lies the conflict of interest.**

**Notwithstanding the above, there has been no finding of a contravention of the MClA or Code against Councillor Wells because it was determined that the March 25 and April 25, 2019 exchanges appear to have potentially created some confusion in the Councillor's mind (in spite of the fact that the confusion was a result in large part due to the misinformation and/or lack of information provided to Ms. Anshell by Councillor Wells in the first place).**

Furthermore, it appears that Councillor Wells has misinterpreted Ms. Anshell's words with respect to her agreeing with him "on both counts".

The second count on which Ms. Anshell agreed with Councillor Wells in her April 25, 2019 response (referenced by Councillor Wells in his response) was not related to the re-zoning question (as Councillor Wells asserts), but to Councillor Wells' secondary point in his April 25, 2019 correspondence regarding another Councillor's business interests, excerpted as follows:

Councillor Wells:

"On another point for my understanding and clarification if a member of council has a business in the community and his or her business could be financially impacted by a decision before council would that constitute a conflict of interest correct?"

Ms. Anshell:

"Thank you for the updated information. I agree with you on both counts.

[Agreement Count 1] If you share an economic interest with all of the other residents in your Ward, then I don't see that you have a Conflict of Interest to declare.

[Agreement Count 2] However, where a business owner is on Council, and the business would be financially impacted (positively or negatively) by a decision of Council, that is a clear Conflict of Interest that must be declared."

**At no time did Ms. Anshell state, explicitly or implicitly, that only the re-zoning aspect of the Site Alteration Permit application (which does not exist) was the source of Councillor Wells' conflict. Her two points of agreement with Councillor Wells' assertions were: (a) that if the only remaining issue was shared with electors generally, that would constitute an exemption; and (b) if a business owner's business would be financially impacted by the Site Alteration Permit application, that would theoretically constitute a conflict of interest.**

In any case, Councillor Wells' objection here is moot, because (as noted above) there was no finding in the Report that he had breached the *MClA* or the *Code of Conduct*.

**Issue #11:**

*"On page 16 last sentence you state that I "raised several defences against the allegations" but you do not acknowledge that my defences included supporting evidence. Acknowledgement of Evidence that supports my defences is critical to giving my defences credibility over the allegations without evidence and support to your conclusions."*

To the extent relevant evidence was provided by Councillor Wells in his defence, such evidence was included the *Response* section of the Report.

Specifically, to the defences:

- a. That approval of the Site Alteration Permit application and subsequent work to fill Pit 1 will not directly impact his property value at all, unlike a mixed-use industrial rezoning of Pit 1 would;

**There was no evidence tendered by Councillor Wells that supports his position that his property value will not be affected by Council's approval of PCQ's Site Alteration Permit application. Councillor Wells has provided his opinion that it will not be affected, but evidence provided by the Complainant and the City of Port Colborne suggests there will be a significant increase in large scale industrial activity in an area of close proximity (i.e. approximately 300 feet away) from Councillor Wells' property (e.g. an increase of 500 trucks per day above the existing load, delivering and dumping fill for a period of approximately 20 years).**

**Additionally, as Councillor Wells himself recognizes, the filling of Pit 1 will enable the eventual filing of a re-zoning application (or possibly the re-activation of the application being held in abeyance). It is clear from this perspective (as already noted above) that Councillor Wells has a unique vested interest in stopping the site from being filled in order to render future potential zoning changes impossible to pursue.**

- b. That the environmental impact potential of filling Pit 1 is specific to water quality, which is an issue he shares in common with electors in the area, thereby

exempting him from the duty to declare a conflict pursuant to the Section 4(j) of the *MClA*;

**It is Councillor Wells' opinion that the issue is limited to water quality, but the evidence presented (particularly the comments of the Complainant and Town staff) suggests there will likely be other negative impacts on his and other neighbouring properties within close proximity of the site.**

- c. That he sought and received advice from Ms. Anschell who, on April 25, 2019, advised him that he was exempted from declaring a conflict of interest on the basis of point "b" above;

**Evidence of this fact was tendered by Councillor Wells and dealt with extensively in the Report (as well as in this addendum, *supra*). There is no merit to Councillor Wells' claim that the evidence on this point has not been acknowledged.**

Notwithstanding the above, it must also be recognized that there was no finding made in the Report that Councillor Wells contravened the *MClA* or *Code*, so his objection as to whether evidence was not acknowledged (which is not substantiated in any event) is moot.

#### **Issue #12:**

Councillor Wells wrote:

*"On page 17 you summarized my defences into three items; a) rehabilitation without rezoning, b) exemption due to interest in common with electors and c) advice received from Ms. Anschell (sic). In item "c" you only acknowledged the advice Ms. Anschell provided regarding the exclusion of a conflict of interest b) as provided by section 4.j. under the Exceptions section in the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50. You did not acknowledge Ms. Anschell's advice with regards to the a) exclusion of rezoning from the SAA. This is repeated on page 18. Ms. Anschell's complete advice should be acknowledged."*

**This point has been addressed under Issue #10 (*supra*).**

**Issue #13:**

Councillor Wells wrote:

*"On page 19 section 4.1.2 Retained Conflict of Interest you claim all the evidence and submissions by the parties was considered; however, you were not provided with critical information so your considerations are only based on speculation and conjecture. There have been no traffic studies provided from which to base traffic impacts to my property and your conclusion that my property would be impacted by the traffic conflicts with PCQ's expert's opinion. The IBI report on page 13 states "Although traffic concerns are typically identified as a land use conflict issue with new development, no such issues are expected."*

*Further to PCQ's experts claiming no traffic issues are expected the current access to Pit 1 from Highway 140 will be used with no traffic interacting with my property. PCQ and their representatives have stated that although fill from Port Colborne will be received the majority of fill will be from outside Port Colborne. One such source area identified is the GTA that is generating an estimated 25 million cubic meters of fill every year. Truck traffic will be predominantly from the west on Highway 3 and from Highway 140 from the north. None of the traffic on Highway 140 or easterly bound Highway 3 traffic will pass my property thus my property will not be impacted by truck traffic associated to delivering fill to Pit 1. If you consider the traffic routes to get to Pit 1, you will see that the truck traffic from the main sources of fill does not go past my property and since my property fronts on to HWY #3 any pecuniary impact to the value of my property has always been experienced and considered. Figure 1 Truck Traffic and Prevailing Winds that is attached illustrates the truck routes with respect to my property.*

Councillor Wells is contesting the finding that he does retain a conflict of interest (though no finding of a contravention of the MClA or Code was found, for the reasons provided). His position is that because there are no current studies available regarding truck traffic or emissions, the Office of the Integrity Commissioner cannot arrive at a conclusion on the basis of such considerations. Yet, Councillor Wells himself identified re-zoning as a potential impact to his property, absent such scientific studies as to the impacts thereto, and sought advice on that basis.



The decision made with respect to Councillor Wells' retained conflict of interest is supported by the best available information from PCQ's application (i.e. IBI report), the evidence of the Complainant, and the City of Port Colborne's staff. If an Integrity Commissioner's advice was strictly beholden to the existence of scientific land use studies, the obligation to provide advice could often not be fulfilled. As a general rule, Councillors are instructed to err on the side of caution in cases of potential conflicts of interest. That concept certainly applies to this case.

There is also a deficiency with Councillor Wells' assertion that:

*"[...] your conclusion that my property would be impacted by the traffic conflicts with PCQ's expert's opinion. The IBI report on page 13 states "Although traffic concerns are typically identified as a land use conflict issue with new development, no such issues are expected."*

**This is not a correct reading of the IBI report. On page 13, the IBI report is discussing projected future traffic concerns, following the completion of the remediation of Pit 1 and the assumption that re-zoning for mixed-use industrial development has been approved. The comments are not made with respect to the remediation project itself (per the Site Alteration Agreement application), but with respect to a question from the City Planner as to whether the future contemplated use (i.e. mixed-use industrial development) following the planned remediation is compatible with a "passive recreational lake" as set out in the 1982 site plan agreement. Councillor Wells is seemingly conflating the projected outcome on the remediated land with the remediation project itself.**

In his response to the Report, Councillor Wells has provided his own opinion (absent a traffic study) that truck traffic will not pass in front of his property. The map and description he provided highlights his assumption that truck traffic will pass by an intersection some several hundred feet from his property, as well as from other directions, but not in front of his property. Furthermore, he stated that *"[...] any pecuniary impact to the value of my property has always been experienced and considered."*

**The extent of all potential routes for truck traffic approaching the site prior to entering it from Ramey Road is not specifically known, but what is known is that Councillor Wells' property is only several hundred feet from the PCQ site, and a similar distance from at least one truck traffic route he himself has identified, being Highway 140 (assuming such traffic does not also pass directly in front of his property on Highway 3 which intersects with Highway 140). PCQ and the City of**

Port Colborne have stated that approximately 500 heavy trucks per day would transport and dump fill for a period of at least 20 years on a site which sits only three-hundred feet from Councillor Wells' property, at least in part by a route that is also only several hundred feet from his property, if not also by a route passing directly in front of it. In the concurrent opinion of the Integrity Commissioner and Investigator, this is more likely than not to have an impact on Councillor Wells' property.

**Issue #14:**

Councillor Wells wrote:

*There have been no noise studies provided from which to base noise impacts to my property and your conclusion that my property would be impacted by noise conflicts with PCQ's expert's claim. IBI PSQ's (sic) expert in their report on page 12 state that the proposed development will meet the applicable MOECP Guidelines for noise including recognition of all off-site sensitive land uses and further more if the noise is determined to exceed the MOECP noise limits there is sufficient buffer land available to accommodate additional attenuation measures to comply with the MOECP noise limits. This means that there would not be any adverse affects (sic) associated to noise on my property.*

As noted in Issue #13 above, this section of the PCQ report discusses projected, post-remediation land uses, not the remediation project itself.

To that end, the IBI report notes:

"Within the above list of possible land uses, some have the potential to be a generator or source of industrial type noise and therefore could potentially be deemed to be in conflict with a "passive recreational lake" that is perceived as a pastoral or quiet setting."

The IBI report goes on to state that the noise generated from any future industrial development would have to be in compliance with Ministry guidelines. This does not suggest there will be no noise impacts at all; rather, that the noise impacts would have to be within a set threshold, which PCQ acknowledges "[...] could potentially be deemed in conflict with a "passive recreational lake [...]"

**Councillor Wells has insisted that his own opinion on the matter is not that the remediated state of Pit 1 be a "passive recreational lake" but that the redevelopment**

of the lands must be done "the right way". Though Councillor Wells has not indicated to the Integrity Commissioner's office what precisely "the right way" is in his opinion, he has clearly articulated that he objects to the proposed fill program per the Site Alteration Permit application and has also identified future mixed-use and/or heavy industrial development as having a potential impact on the value of his property. Councillor Wells is now purporting to limit his opposition to the remediation project to the issue of water quality alone (asserting that there are no other concerns) notwithstanding the rationale he has given for his opposition to, and concerns about, future industrial uses, for which the remediation program is a necessary precursor.

#### Issue #15:

Councillor Wells wrote:

*There have been no off site dust emission studies provided from which to base dust impacts to my property and your conclusion that my property would be impacted by dust conflicts with PCQ's expert's claim and proposed implementation of measures to mitigate fugitive dust emissions as outlined on page 8 of PCQ's expert Golder Associates Ltd. document Fill Placement Program and IBI PSQ's (sic) expert in their report on page 13. It should also be noted that the direction of the prevailing winds for Port Colborne are from the west south west that would blow dust emissions away from my property as depicted in the attached Figure 1 Truck Traffic and Prevailing Winds. These prevailing winds would reduce even further any impact from dust emissions.*

Golder's report has not been provided by Councillor Wells. Nevertheless, it has been obtained by this office independently. On page 7 (not page 8) Golder notes that:

Segregated soil will be stockpiled and managed in such a way as to reduce the potential for fugitive dust emissions or erosion and runoff. Measures may include:

- Cessation of soil deposition under high wind conditions that are contributing to dust emissions;
- Covering of soils with tarps or spraying with soil binders (which should consist of biodegradable polymers rather than chloride-based dust suppressants) to reduce dust generation or runoff; or

- Water sprays to control dust

It is herein noted that the Golder report does not say that dust and runoff will be eliminated, but that measures would "reduce the potential".

Page 13 of the IBI report does not speak to dust from the remediation program but speaks to projected potential impacts of future anticipated uses should the land be re-zoned to allow for mixed-use industrial development, for which the clean fill program per the Site Alteration Permit application is a necessary precursor.

Issue #16:

Councillor Wells wrote:

*One piece of critical information that needs to be considered in assessing the impact of PCQ's proposed rehabilitation and development to my property because neither I nor the City, nor PCQ, nor any of PCQ's expert consultants provide it nor did your investigation recognize it. The Vale property abutting my property and Pit 1 as illustrated in Figure 2 Land Uses is zoned Light Industrial. The Vale property and mine were previously one property and zoned agricultural. The property was severed through an estate severance and was subsequently rezoned as light industrial. The property abutting and surrounding my property although being zoned light industrial was always used for agricultural purposes until this year when it was allowed to grow wild.*

*This property that surrounds my property on three sides already zoned for industrial use if developed as zoned will have a far greater impact on my property value than the rezoning of Pit 1 because of its proximity. When Port Colborne revised it's (sic) Official Plan in 2014 the expert consultant that the City contracted to conduct a review of land uses concluded that the most opportune industrial land for development was that parcel of land and that a priority should be give (sic) to its development. I took it for granted that since the City has not acted on their consultant's advice and since Vale continued to lease the property for agricultural use that the property would not be developed. I received notice last week from Vale that they were listing the property for sale. The traffic, noise and emissions from industries that can be established on this property will have a far greater pecuniary impact on the*

*value of my property than that of PCQ's proposed development. This being the current situation negates any pecuniary impacts to me that may have been perceived from PCQ's proposed developments.*

**Councillors Wells' assertion that the Vale property will sell and undergo light industrial development is speculation at best, as is his inference that such development would insulate him from the impacts of mixed-use / heavy industrial development on the PCQ site some 300 feet away.**

**I, with the concurrence of the Integrity Commissioner, respectfully disagree with this viewpoint. There is no evidence as to what the light industrial development on the Vale property might be (if it comes to bear at all) and moreover, there is a significant likelihood that such development could add to the negative impacts to his property due to its proximity to the PCQ Pit 1 remediation activity and future re-zoning, not negate them.**

**Summation of Issues:**

Councillor Wells wrote:

1. *It is my position that your draft report is missing acknowledgement of critical information and evidence that supports your conclusion and my position that I have not contravened the MCIA.*

**We disagree for the reasons provided above.**

2. *It is my position that I provided evidence that demonstrated beyond reasonable doubt that the Complainant's allegations were false.*

**There was no finding of a contravention of the MCIA or Code. This position is moot.**

3. *It is my position that the conclusion that the impacts of the proposed rehabilitation of Pit 1 by PCQ would result in a pecuniary impact to the value of my property and create a pecuniary conflict of interest for me is not based on fact and the evidence provided.*

**It is based on the evidence provided by PCQ and the City, as outlined above.**

4. *It is my position that in light of the zoning of Vale's property that abuts my property on three sides and the imminent sale and potential quick development of that property as*

*zoned for light industry, negates any pecuniary impact that could be presumed to result from the rezoning of the rehabilitated lands of Pit 1 some twenty years in the future and thereby eliminates any conceived pecuniary conflict of interest I could have.*

**As he has described it, it does not "negate" any pecuniary interest he has; it actually may compound it. It is also highly speculative, unlike the issues before me in this matter.**

5. *It is my position that PCQ's proposed rehabilitation of Pit 1 as a repository of fill does not pose pecuniary impacts to my property that constitutes a pecuniary conflict of interest.*

**This is related to point #3 above. We have found evidence supports the assertion that Councillor Wells' property is likely to be impacted by the remediation of Pit 1 as contemplated in PCQ's Site Alteration Permit application.**

6. *It is my position that I share a common interest with my electors to protect the vulnerable aquifer and if there were any pecuniary conflicts of interest I should be excluded from declaring such conflict on the basis of 4.j. under the Exceptions section in the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50.*

**Councillor Wells shares the aquifer issue in common with electors, but due to his proximity to the site, he also has unique issues that are not in common with electors. It is with respect to the latter that he retains a conflict of interest.**

7. *It is my position that my affiliation with the Niagara Water Protection Alliance is supported by the Province of Ontario as stated in the Principles section 1.1 of the MCI and should be allowed to continue.*

The Niagara Water Protection Alliance opposes the PCQ Site Alteration Permit application. It is irrelevant as to why this group opposes the application; it is only relevant that it does and that the group's desired result will see Pit 1 not undergo remediation by way of the clean fill program proposed by PCQ, and therefore also not be eventually re-zoned for mixed-use / heavy industrial development.

**It is the position of the Integrity Commissioner's office, on the basis of the information that is publicly available at this time, that Councillor Wells retains a conflict of interest with respect to the PCQ site. Whether he joins with the Niagara Water Protection Alliance to protest the Site Alteration Permit application on the**

basis of protecting the aquifer is not relevant, as his opposition to the site for any reason is inextricably linked to his pecuniary conflict of interest.

8. *It is my position that I do not have a pecuniary conflict of interest with respect to the Site Alteration Application of PCQ before Council.*

**It is the concurrent position of the Investigator and the Integrity Commissioner Councillor Wells has a conflict of interest in this matter.**

9. *In respect to the additional information and clarification I provided in this document and the items above, I request you to reconsider the opinion that I have a pecuniary conflict of interest.*

**Councillor Wells' request has been given due consideration as evidenced in this extensive Addendum to the Report on Complaint IC-104-0719.**

**The Integrity Commissioner for the City of Port Colborne, concurrently with the Investigator to whom this matter was delegated by him, are of the opinion that Councillor Wells retains the conflict of interest identified in the Report.**

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**Subject:** Mental Health and Addictions Collaborative Work – Niagara Region’s Involvement

**Report to:** Public Health & Social Services Committee

**Report date:** Tuesday, September 10, 2019

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## Recommendations

That Report PHD 17-2019, respecting Mental Health and Addictions Collaborative Work – Niagara Region’s Involvement, **BE RECEIVED** for information.

## Key Facts

- This report provides information as requested by Public Health & Social Services Committee in April 2019 respecting collaborative work that NRPS, NEMS, Fire Departments, and Public Health are involved in around mental health and addictions.
- Niagara Region does not have jurisdiction over mental health and addictions in Niagara, and this report is not intending to portray Niagara Region as claiming credit for the hard work the community leads have done.
- This report describes collaborative initiatives only. It does not include the extensive programs, services, and initiatives these departments are involved in or delivering.
- All of these agencies have been involved either directly or indirectly on
  - the HNHB LHIN Niagara Sub Region Anchor Table and two Action Tables,
  - Integrated Care Lead training and Coordinated Care Planning,
  - Niagara Addiction and Mental Health Network (NAMHN),
  - Overdose Prevention and Education Network of Niagara (OPENN),
  - Niagara Suicide Prevention Coalition (NSPC), and
  - the Niagara Mental Health and Addictions Complex Care Resolution Table.These projects are all collaborative approaches to optimizing service and efficiency, and minimizing gaps.
- Some specific collaborative work across the named organizations are Mobile Crisis Rapid Response Team (MCRRT), Mental Health and Addictions Response Team (MHART), Consumption and Treatment Site, Naloxone distribution, Needle Exchange Program.

## Financial Considerations

There are no financial considerations to this report’s recommendations.

## **Analysis**

NRPS, NEMS, Niagara Region Mental Health program, and Public Health are pleased to be involved in a number of collaborations related to mental health and addictions in Niagara. We are part of a very large array of programs, services, and interventions across Niagara region. We do not desire to take credit for this collaborative work, which can include upwards of 20 or more partners for any given initiative. The LHIN is the main lead for much of this work, given their role as funder, planner and integrators for health care.

This report is not a list of all the programs, services, and initiatives of NRPS, NEMS, Public Health, and Fire Departments. Such a list would be very extensive and would include items like Road to Mental Readiness (R2MR) and other training of staff, individual and partnered service improvements to improve client response in some way, and partnerships, programs and referral sources utilized by each department.

It is useful to think of the collaborations described in this report as being either at the overarching, cross systems initiative level, or at the more localized level, with learnings from more localized initiatives being shared with the overarching systems tables.

### *Overarching Initiatives*

These are some of the organized attempts in Niagara to improve services and efficiency around mental health and addictions. Those listed are the ones in which NRPS, NEMS, Public Health, and Fire are either directly or indirectly involved.

1. Niagara Anchor Table (evolving now to Ontario Health Team application table)

A group of senior leaders in health, community and social services, and education sectors. Sponsored by the LHIN (soon to be Ontario Health), this group met regularly to discuss opportunities and solutions based on priorities identified by the LHIN and the Ontario government. These priorities are mental health and addictions, and coordinated care planning for all types of health issues. As of the date of writing this report, this table has been “evolved” into the new Ontario Health Team application table.

2. Health Links Coordinated Care Planning

An approach to integrating care for patients living with complex conditions that optimizes sustainable and person-centered care, and serves as a model for sub-regions. The Niagara Region Mental Health program facilitates hundreds of referrals each year to and from other providers in Niagara.

### 3. Niagara Addiction and Mental Health Network (NAMHN)

A group of senior leaders from 16 organizations who provide LHIN-funded services. This group meets regularly to update and plan mental health and addiction services in Niagara. The LHIN has funded a review of the MHAA system in Niagara, and Niagara Region Public Health hosts the project manager for that review.

NAMHN Organizations:

- ARID Recovery Homes
- Bridges Community Health Centre
- Canadian Mental Health Association Niagara
- Centre de Santé Communautaire Hamilton/Niagara
- Community Addiction Services of Niagara
- Consumer Survivor Initiative
- Distress Centre/Niagara Mental Health and Addictions Access Line
- Gateway Residential and Support Services
- Niagara Falls Community Health Centre
- Niagara Health
- Niagara Region Mental Health
- Oak Centre
- Positive Living Niagara
- Quest Community Health Centre
- Wayside House
- West Niagara Mental Health

### 4. Overdose Prevention Education Network of Niagara (OPENN)

Public Health co-chairs the OPENN which has membership from agencies across prevention, harm reduction, treatment (including mental health treatment) and enforcement, in response to the opioid crisis. OPENN aims to provide a unified community response to substance issues, while sharing information and connecting services. OPENN is raising public awareness around the health impacts of substance use from a harm reduction viewpoint.

### 5. Niagara Mental Health and Addictions Complex Care Resolution Table

Strives to enhance the care of individual clients with complex mental health and addiction needs, to better understand Niagara's system of care, and to identify potential gaps and opportunities for further development. Most of the complex cases for review come from first response/emergency services.

## 6. Niagara Suicide Prevention Coalition

Public Health supports the Niagara Suicide Prevention Coalition, bringing a public health perspective and collaborating with members around specific community trainings. As part of a framework to prevent suicide in Niagara, Public Health staff are committed to training 1,000 community members in SafeTALK, and 250 community members in Applied Suicide Intervention Skills training over the course of 2020-2021. In addition, the Niagara Region Mental Health program is introducing a standardized suicide risk assessment for staff to utilize with their clients. Staff will be sharing learnings with other organizations who have the readiness to adopt the same assessment tool.

## 7. Needle Exchange Program

While funding is provided for infectious disease prevention via safe needle provision, there is no funding to deal with “discards”, that is, safe collection bins or pickup of discards from the ground. Currently, the municipalities are responsible for any litter cleanup. Streetworks, through Positive Living Niagara (PLN), administers the Needle Exchange Program, where over 1.6 million clean, safe needles help those in need to protect themselves and others from diseases such as Hepatitis C, and help reduce health care costs.

NRPH, PLN/Streetworks, and the municipalities work together to determine sites that may benefit from permanent needle boxes (sharps boxes). These boxes cost over \$2,000, and there are currently three in St. Catharines and one in Niagara Falls. The transient nature of discard locations makes box placement challenging. In addition, community partners including John Howard Society are working to assist with community/volunteer patrols to pick up discarded needles.

NRPH is working on reviewing data to see if it can help determine placement of boxes or help municipalities and partners with their pickup patrols

### *Related Learnings and Initiatives*

These are the initiatives that have a more limited scope or geographic reach with regard to mental health and addictions activity. Each of these, however, is connected to the above named overarching initiatives through knowledge sharing.

#### 1. Mobile Crisis Rapid Response Team (MCRRT)

This program is a collaboration between the NRPS and CMHA. It involves an NRPS officer and a CMHA worker being paired up. The NRPS officer will be in uniform and the CMHA worker in civilian clothing. The pair will be in a marked

NRPS vehicle working from noon to midnight seven days a week. They work in #1 District which covers St. Catharines and Thorold. The NRPS officer assigned to this pairing is considered authorized personnel strength (active duty) for the shift. The pair can respond to most calls for service that any other officer would, however their emphasis will be dealing with people having some form of mental health or addiction issue. The CMHA worker on occasion will, by phone, offer assistance to NRPS personnel from other districts in the region when required. This program has proven to be very effective in allowing the NRPS officer and the CMHA worker utilizing their respective areas of expertise in assisting persons with an emotional crisis.

## 2. Mental Health and Addictions Response Team (MHART)

Launched July 2018, the MHART responds in real time to low acuity 911 calls for mental health related complaints and addictions and is staffed by a Paramedic and a Mental Health nurse from 9 a.m. to 9 p.m., 7 days a week, 365 days a year. The nurses that staff this unit are donated from community partners: Niagara Health System, Welland McMaster Family Health Team, and Quest Community Health Center. When not responding to low acuity calls for mental health and addictions, MHART responds alongside ambulances to calls for opioid overdose to provide harm reduction which may include replacing naloxone kits, and referring patients or caregivers to existing community health and social supports. When not responding to active 911 calls, MHART provides proactive outreach to the community which may include distribution of naloxone kits, education or referrals to anyone asking for help and requiring connections to existing community supports, and following up on opioid overdose referrals from Paramedic crews and providing patient advocacy.

## 3. Consumption and Treatment Site (CTS)

As of December 2018, Paramedics working within the MHART team also staff the Consumption and Treatment Site to provide medical oversight to clients visiting that site. This work is in collaboration with staff working at Positive Living Niagara. Currently the site is open from 9 a.m. to 9 p.m. every day. This site utilizes partnerships with many care providers, including Niagara Health, Welland McMaster Family Health Team, and Quest Community Health Center, among others.

## 4. Crisis Outreach and Support Team (COAST)

This program is also a collaboration between the NRPS and the Canadian Mental Health Association (CMHA). The program offers assistance to people in

the Niagara region who are in crisis and have a mental health concern that is not an emergency. The NRPS has two officers dedicated to this program providing coverage 7 days a week. The officer's shifts are scheduled to commence at 10 a.m. and conclude at 10 p.m., except for Sundays where an officer will commence work at noon and conclude their shift at 8 p.m. The officer is usually not in uniform and the officer does not perform any front line duties that an MCRRT officer would, allowing the officer to solely commit to the COAST function. An officer in this program is specially trained in mental health and will work in partnership with a CMHA worker to develop a plan for the individual. Follow-ups are conducted by phone and in some cases with a personal visit to the person having a mental health concern. Generally speaking, COAST is not a rapid response service such as the MCRRT program, but more of a follow-up program.

#### 5. Naloxone Distribution

In 2016, Naloxone was issued to NRPS units that could come into contact with opioids. Although risk to people is minimal from contact with (as opposed to consumption of) opioids, this measure was taken out of an abundance of precaution and ensuring safety. These kits were made available to members who would be handling prisoners, handling illicit drugs, and specialty units that could receive exposure to opioids during the course of their duties. In 2018, front line uniform officers who would likely encounter opioids in the course of their duties were issued personal carry Naloxone kits (each kit containing two doses). These kits were issued to NRPS members to help reverse opioid overdoses encountered as NRPS officers are frequently responding to and quite often being the initial first responder arriving on scene. They also provide a level of protection to the officers who may accidentally come into contact with an opioid in their duties. These kits have proven to be an effective tool in dealing with persons who have had some form of opioid ingestion. The Ministry of Health and Long-Term Care (MOHLTC) is funding and supplying the Naloxone kits to the NRPS through Niagara Region Public Health and Emergency Services, Clinical Services Division.

Fire Departments are aware of the opportunity to be trained to deliver and carry Naloxone for suspected opioid overdose, and thus far, St. Catharines fire is trained, while at least one more has begun the process.

### **Alternatives Reviewed**

This report is sharing information on current initiatives.

## Relationship to Council Strategic Priorities

This work helps support Council's plan through Council Strategic Priority Area 2 – Healthy and Vibrant Community.

## Other Pertinent Reports

- PHD 08-2019      Increasing Capacity for Suicide Prevention Efforts in Niagara
- PHD 13-2019      Increasing Capacity for Mental Health Services Using External Funding

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### Prepared by:

Andrea Feller, MD MS FAAP FACPM  
Associate Medical Officer of Health  
Public Health & Emergency Services

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### Recommended by:

M. Mustafa Hirji, MD MPH FRCPC  
Medical Officer of Health &  
Commissioner (Acting)  
Public Health & Emergency Services

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### Submitted by:

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Angela Alfieri-Maiolo, Director Clinical Services (PH&ES); Renata Faber, Manager Chronic Disease & Injury Prevention (PH&ES); Karen Lutz, Commander/Manager Quality Management & Professional Standards (EMS); Bryan MacCulloch, Chief of Police (NRPS); Dave Masotti, Inspector (NRPS); Lisa Panetta, Manager Mental Health (PH&ES), Mike Cain, Regional Fire Coordinator and Fire Chief (Grimsby Fire Department); and Carolyn Dyer, Health Links Transformation Lead (Niagara Health)*

## Appendices

None

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September 26, 2019

**CL 16-2019, September 19, 2019**  
**COTW 7-2019, September 5, 2019**  
**PDS 34-2019, September 5, 2019**

**LOCAL AREA MUNICIPALITIES**

**SENT ELECTRONICALLY**

**Re: Grants and Incentives Review**  
**PDS 34-2019**

Regional Council, at its meeting of September 19, 2019, approved the following recommendation from the Committee of the Whole meeting held on September 5, 2019:

That Report PDS 34-2019, dated September 5, 2019, respecting Grants and Incentives Review, **BE RECEIVED** and the following recommendations **BE APPROVED**:

That staff **BE DIRECTED** to develop incentive programs under the categories:

- affordable/rental housing (single and mixed use)
- brownfield/archaeological remediation
- employment growth in key sectors
- quality of life/public realm

That staff **BE DIRECTED** to consult and advise Local Area Municipalities on the direction of the incentive programs prior to bringing recommendations back to Regional Council; and

That Report PDS 34-2019 **BE CIRCULATED** to Local Area Municipalities.

A copy of Report PDS 34-2019 is enclosed for your information.

Yours truly,



Ann-Marie Norio  
Regional Clerk

CLK-C 2019-233

Cc: R. Mostacci, Commissioner, Planning and Development Services  
N. Oakes, Executive Assistant, Commissioner, Planning and Development Services

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**Subject:** Grants and Incentives Review

**Report to:** Committee of the Whole

**Report date:** Thursday, September 5, 2019

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## Recommendations

1. That staff **BE DIRECTED** to develop incentive programs under the categories:
  - affordable/rental housing
  - brownfield remediation
  - employment growth in key sectors
  - quality of life/public realm;
2. That recommendations to repurpose Niagara Investment in Culture funding to the incentive program categories above and to not reinvest in Waterfront Improvement and Smarter Niagara Incentive Simple Grants **BE REFERRED** to the 2020 budget process;
3. That staff **BE DIRECTED** to not approve or partner with any new CIPs or incentive programs until such time as Regional Council approves incentive programs under the categories above;
4. That staff **BE DIRECTED** to advise Local Area Municipalities on the direction of the incentive programs prior to bringing recommendations back to Regional Council; and
5. That this report **BE CIRCULATED** to Local Area Municipalities.

## Key Facts

- The purpose of this report is to provide information on the 19 Regional grants and incentive programs currently under review (Appendix 1), and to obtain Council direction to develop new incentive programs.
- Niagara Region offers a range of grant and incentive programs administered by Planning and Development Services, Finance, and Economic Development which serve a sizable and diverse number of stakeholders.
- Most Regional incentives involve matching funding with applicants, who in the majority of programs are Local Area Municipalities.
- There have been continual and significant increases in the number of programs, partners, and requests for Regional funding since the establishment of the first incentives in 2002. The programs under review were created at different times,

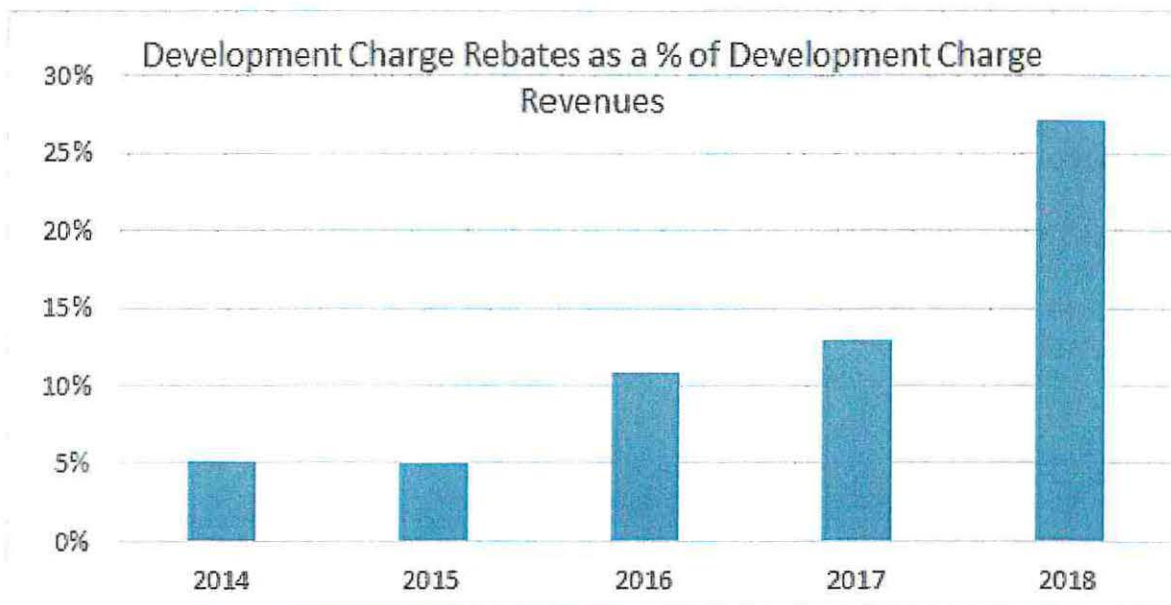
under different economic and regulatory environments. Their objectives, resourcing and parameters still largely reflect needs and contexts at the time of their creation.

- The current review is the first comprehensive examination of Regional incentive programs. The purpose of the review is to ensure that Regional incentive programs align with Regional Council priorities and are clear, current, accountable and effective.
- Key steps in the Regional incentive review to date include process and value-for-money audits of incentives, stakeholder engagement, and development of incentive options including the recommendation provided here by a Regional interdepartmental Working Group.

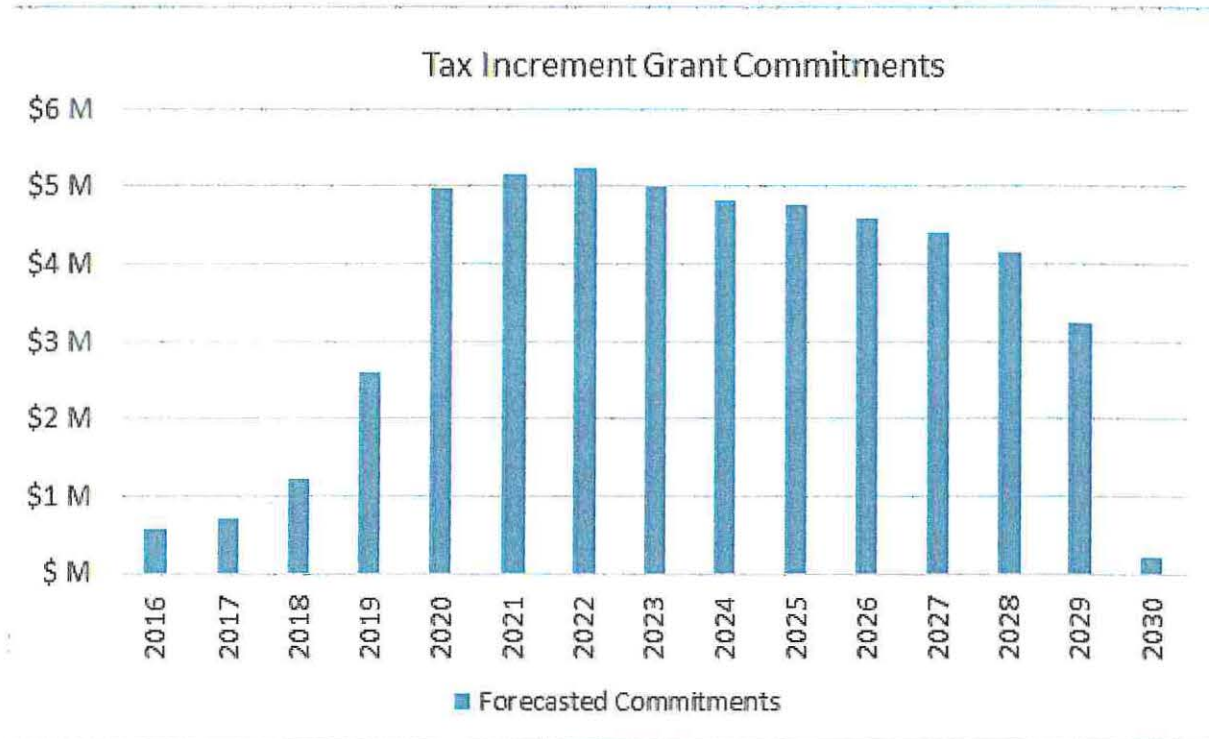
## Financial Considerations

The budget for existing Regional incentives currently under review is \$7.8 million for 2019. It funds the following programs: development charge rebates (\$5.3M), Niagara Investment in Culture (\$0.3M), Public Realm Investment Program (\$0.3M), Smarter Niagara Incentive Program tax increment grants (\$1.6M) and Gateway CIP tax increment grants (\$0.3M)

The Public Realm and Investment in Culture programs have base funding which can be committed each year. Development Charges (DCs) are also committed each year, but the discretionary programs are locked in under the Regional DC By-Law which is not best practice. The DC By-law expires August 2022 (potentially sooner due to Bill 108). The 2019 DC rebate budget is \$5.3 M and there is inadequate budget to meet demands of by-law programs.



Tax Increment Grants under the Smarter Niagara and Gateway CIP programs are a refund of taxes on assessment growth directly related to development, and are usually 5-10 years in duration. Therefore this base funding is a multi-year commitment and it is not available to fund new commitments until current agreements expire (starting in 2023). The current Regional commitment for these grants is \$46.5 M from 2020 to 2030 (the 2019 budget is \$1.873 M) not including pending new commitments.



Recommendations to repurpose and allocate funding to align with a new incentive strategy will be included in the 2020 budget process. Recommendations include repurposing Niagara Investment in Culture funding (\$0.3M), and removing the reinvestment in Waterfront Investment Program (\$0.9M) and Smarter Niagara Incentive Program simple grant funding (\$0.6M) both of which are currently without base funding.

## Analysis

### Existing Incentive Programs

This report focuses on 19 incentive programs administered by the Planning and Development Services, Finance, and Economic Development departments (Appendix 1) which are currently under review. These programs are designed to support a wide range of initiatives including brownfield study and remediation, residential and mixed use development, agriculture, culture, heritage, industrial development, employment,

streetscaping and public realm improvement, façade improvement, and waterfront development and access.

Since the first program was established in 2002, the number of Regional incentive programs has significantly expanded, resulting in a lack of consistency and clarity with regard to their budgeting, implementation and monitoring. Many of these Regional incentives were originally designed for economic and regulatory climates very different from the current environment. Regional incentives have evolved to relate far more to local than Regional core business, and increasing exceptions to Regional practices result in inconsistent allocation of resources and issues with equity and clarity.

The Region now matches funding in more than 70 different local programs, and this number and diversity challenge the administration of Regional funding. Perhaps most importantly, critical changes over the last seventeen years mean that projects now receive incentives which do not require them: in many cases, the work would have gone forward without Regional incentive funding.

Though there have been periodic updates and improvements to some programs, a comprehensive review was warranted to ensure Regional incentive programs align with current Regional priorities, reflect the current economic climate and growth management goals, promote economic prosperity, generate meaningful return on investment, are adequately resourced, and embody greater transparency, accountability and efficiency.

An interdepartmental working group was tasked with providing recommendations to Council on the optimal way to move forward with incentives. After careful deliberation, the option which determined to provide the greatest impact while reflecting the values of sustainability, consistency, transparency and alignment with Regional priorities was to specifically target Regional incentive funding in four categories: affordable housing, brownfields redevelopment, employment, and public realm.

These categories align with Council priorities and would encourage projects with true Regional benefit and scope. These categories also reflect serious, ongoing needs in Niagara and successes on these fronts would have significant social, economic and environmental impact. Clear, consistent and sustainable programs could be quickly developed from effective models to accomplish measurable goals in these areas. Funding from existing programs could be efficiently repurposed to each target area to optimize return on investment.

## **Alternatives Reviewed**

Options have been considered ranging from an enhanced status quo to putting all incentive funding toward a single, high-need project area like affordable housing to suspending incentives entirely and earmarking their funding for priority projects such as

Regional infrastructure. None of these options effectively accomplished the goals of the review and incentive improvement outlined above.

### **Relationship to Council Strategic Priorities**

This report relates to all four Council Strategic Priorities -- Supporting Businesses and Economic Growth, Healthy and Vibrant Communities, Responsible Growth and Infrastructure Planning, and Sustainable and Engaging Government.

### **Other Pertinent Reports**

PDS 42-2017 Overview of 2018 Incentive Review  
PDS 31-2018 Regional Incentive Delivery and Eligibility in 2019  
PDS-C 19-2018 ICOP Phase 1 Audit Report on Regional Incentive Review  
PDS-C 31-2018 ICOP Phase 2 Audit Report on Regional Incentive Review  
PDS-C 38-2018 Local Municipal Responses to Incentive Review Audit Report

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#### **Prepared by:**

Doug Giles, BES, MUP  
Director, Community and Long Range  
Planning  
Planning and Development Services

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#### **Recommended by:**

Rino Mostacci, MCIP, RPP  
Commissioner  
Planning and Development Services

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#### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Helen Chamberlain, Director Financial Management and Planning/Deputy Treasurer.*

### **Appendices**

Appendix 1      List of Regional Incentive Programs under Review      Page 6

# List of Regional Incentive Programs under Review

## **Smarter Niagara Incentive Program (SNIP)**

- Environmental Assessment Study Grant
- Building and Façade Improvement Grant/Loan
- Residential Grant/Loan
- Heritage Restoration and Improvement Grant/Loan
- Agricultural Buildings and Facilities Revitalization Grant/Loan
- Agricultural Feasibility Study Grant
- Community Improvement Plans (CIPs)/Planning Studies Grant
- Affordable Housing Grant/ Loan Program
- Property Rehabilitation and Redevelopment Tax Increment Grant/Loan
- Brownfield Tax Assistance Program
- Development Charge Reduction Grant

## **Public Realm Investment Program**

## **Niagara Investment in Culture Program**

## **Waterfront Investment Program**

### **Gateway Economic Zone and Centre**

- Gateway CIP Tax Increment Based Grant
- Gateway CIP Regional DC Reduction Grant

### **Industrial Development Charge Grant**

### **Non-Profit Regional Development Charge Grant**

### **Heritage Tax Rebate Program**





September 24, 2019

## RE: Building Code Services Transformation

Dear Head of Council,

I am writing today to announce that my ministry is launching a consultation on potential changes to the delivery of building code services. On September 24, 2019, I released a discussion paper: *Transforming and Modernizing the Delivery of Ontario's Building Code Services*.

Our government has heard from stakeholders about the need for better, modern, and timely services to support the building sector's ability to understand and apply building code requirements. To do this, the ministry is proposing to establish a new administrative authority to deliver a suite of enhanced and new user-driven services. Modernized service delivery will ensure that the sector has the supports it needs to continue growing Ontario's economy, while protecting public health and safety.

Your feedback is important and will help inform enhancements to current building code services and the development of new services, which would:

- strengthen public safety
- streamline customer service and approval processes
- deliver sector-driven services
- provide timely and modern tools and products
- promote consistency across the province
- enhance integrity in the system.

.../2

We will also be hosting regional information sessions that will include an informational session for the sector earlier in the afternoon (1:00 - 3:00 p.m.) and a public open house in the evening (5:30 - 7:00 p.m.). Sessions will be held on the following dates:

1. City of Belleville: Friday, October 4, 2019  
Belleville Lions Club, 119 Station St., Belleville
2. City of North Bay: Monday, October 7, 2019  
North Bay Memorial Gardens, 100 Chippewa St. W., North Bay
3. Municipality of Chatham-Kent: Wednesday, October 9, 2019  
Chatham-Kent Cultural Centre, 75 William Street, Chatham-Kent
4. City of Vaughan: Wednesday, October 16, 2019  
Vellore Hall, 9541 Weston Road, Woodbridge

For more information about this consultation and for additional ways to participate, please visit [www.ontario.ca/buildingtransformation](http://www.ontario.ca/buildingtransformation) where you will find:

- A link to the discussion paper
- Information about how to provide feedback
- A short optional survey

The consultation will close on November 25, 2019.

I look forward to your feedback on the transformation of building code service delivery. Please note that Chief Building Officials will also receive notification of this transformation initiative and associated opportunities for engagement.

If you have any questions about the consultation, please contact ministry staff at [buildingtransformation@ontario.ca](mailto:buildingtransformation@ontario.ca).

Sincerely,



Steve Clark  
Minister

c: Municipal Clerks

**City of Port Colborne  
Regular Committee of the Whole Meeting 24-19  
Minutes**

**Date:** September 23, 2019

**Time:** 6:30 p.m.

**Place:** Council Chambers, Municipal Offices, 66 Charlotte Street, Port Colborne

**Members Present:** E. Beauregard, Councillor  
R. Bodner, Councillor  
G. Bruno, Councillor  
A. Desmarais, Councillor  
D. Kalailieff, Councillor  
W. Steele, Mayor (presiding officer)  
H. Wells, Councillor

Absent: M. Bagu, Councillor  
F. Danch, Councillor

**Staff Present:** D. Aquilina, Director of Planning and Development  
T. Cartwright, Fire Chief  
B. Garrett, Director of Corporate Services  
A. Grigg, Director of Community and Economic Development  
A. LaPointe, Manager of Legislative Services/City Clerk  
C. Lee, Director of Engineering and Operations  
S. Luey, Chief Administrative Officer  
L. Nelson, EAA to the Director of Corporate Services (minutes)

Also in attendance were interested citizens, members of the news media and WeeStream.

**1. Call to Order:**

Mayor Steele called the meeting to order.

**2. National Anthem**

Those in attendance stood for O Canada.

**3. Introduction of Addendum Items:**

Nil.

**4. Confirmation of Agenda:**

Moved by Councillor H. Wells  
Seconded by Councillor E. Beauregard

That the agenda dated September 23, 2019 be confirmed, as circulated or as amended.

CARRIED.

**5. Disclosures of Interest:**

Nil.

**6. Adoption of Minutes:**

- (a) **Regular meeting of Committee of the Whole 23-19, held on September 9, 2019.**

Moved by Councillor A. Desmarais  
Seconded by Councillor R. Bodner

That the minutes of the regular meeting of the Committee of the Whole 23-19, held on September 9, 2019, be approved as presented.  
CARRIED.

**7. Determination of Items Requiring Separate Discussion:**

The following items were identified for separate discussion:

Items 1, 3, and 6.

**8. Approval of Items Not Requiring Separate Discussion:**

Moved by Councillor G. Bruno  
Seconded by Councillor H. Wells

That items 1 to 6 on the agenda be approved, with the exception of items that have been deferred, deleted or listed for separate discussion, and the recommendation contained therein adopted.

**Items:**

- 2. Corporate Services Department, Finance Division, Report 2019-137, Subject: Cancellation, Reduction or Refund of Realty Tax**

Committee of the Whole recommends:

That the applications pursuant to Section 357/358 of the Municipal Act, 2001, as amended, 2019-01, 2019-09, 2019-06, 2019-05, 2019-02, 2018-05, 2018-04, 2018-07, 2018-10, 2018-23, 2017-100 and 2018-24 be approved to cancel or reduce taxes in the total amount of \$27,074.95.

- 4. Planning and Development Department, Report 2019-139, Subject: Ohina:kara UNESCO Global Park**

Committee of the Whole recommends:

That the concept for the Ohina:kara UNESCO Global Geopark be endorsed and the Ohina:kara steering committee be supported in their pursuits of developing a global geopark.

**5. Carol Madden, Poppy Chairman, Royal Canadian Legion, Branch 56, Port Colborne Re: Request for Poppy Week, October 25 to November 11, 2019**

Committee of the Whole recommends:

That October 25 to November 11, 2019 be proclaimed as "Poppy Week" in the City of Port Colborne in accordance with the request received from Carol Madden, Poppy Chairman, Royal Canadian Legion, Branch 56, Port Colborne.

CARRIED.

**9. Presentations:**

Nil.

**10. Delegations:**

Nil.

**11. Mayor's Report:**

A copy of the Mayor's Report is attached.

**12. Regional Councillor's Report:**

Nil.

**13. Councillors' Items:**

**(a) Four way crossing at Pleasant Beach and Sherkston Roads (Wells)**

Councillor Wells thanked the Director of Engineering and Operations for his department's work on resolving the issue and cleaning up the area for better sight lines.

**(b) Human Trafficking Awareness Training (Desmarais)**

In response to training received by Councillor Desmarais about Human Trafficking Awareness, Councillor Desmarais suggested that more staff attend this training as it is an important piece of knowledge when dealing with the public. Councillor Desmarais also noted that the Library is hosting a Let's Talk series regarding youth suicide and that staff should try to attend.

**(c) Drainage Issue on George Street (Bruno)**

In response to a concern regarding a drainage issue on George Street, as a result of construction, the Director Operations and Engineering advised that he will contact relevant parties.

**(d) Regional Transit Link (Bruno)**

Councillor Bruno had questions regarding bus shelters. Councillor Bruno would like the cost of bus shelters looked into and locations shelters could be placed.

**(e) Niagara Falls Transit Free Transit for Seniors Trial Run (Bruno)**

Councillor Bruno stated that Niagara Falls transit is doing a trial run for free transit for seniors over the age of 60. Councillor Bruno asked if the City could look at the Niagara Falls report once the trial run is complete. The Director of Corporate Services noted that the City will have approximately \$26,000 to move into the reserve.

**(f) Centennial Park Accessible Parking (Bodner)**

Councillor Bodner asked that there be accessible spots created at Centennial Park. The Director of Community and Economic Development will look into this.

**(g) Remembrance Day Services (Bodner)**

Councillor Bodner requested that City staff clean up Centennial Park grounds from branches so that seniors have easier access to the park and a better surface to walk on. Councillor Bodner also requested that construction nearby be halted during the Remembrance Day service. The Director of Community and Economic Development will contact relevant parties.

**(h) Quarry Report (Bodner)**

Councillor Bodner inquired on the status of the quarry report. The CAO gave an update on the status stating that the City is doing an RFP regarding the peer review and that staff are waiting to receive comments back from the Province.

**(i) Julia Yager and Sherkston Community Centre Roof Repairs (Bodner)**

Councillor Bodner inquired as to the status of roof repairs on both the Julia Yager (Bethel) Centre and the Sherkston Centre. The Director Operations and Engineering advised that staff were on site finalizing roof repairs for both locations and monies have been set aside for these repairs. The Director of Community and Economic Development stated that Council will receive further updates on the status of the roof repairs if any delays occur.

**Staff responses to Councillors' enquiries:****(a) Touch-a-Truck (Chief Cartwright)**

The Chief reminded staff about the upcoming Touch-a-Truck event on October 5, 2019 at the Fire Hall and Operations Centre.

**(b) Volunteer Recruits (Chief Cartwright)**

The Chief reported 6 new recruit volunteers are half way through their training program and that they will be fully completed by January 1, 2020.

**(c) October Smoke and Carbon Monoxide Detectors (Chief Cartwright)**

The Chief noted that October 6<sup>th</sup> is Fire Prevention Week kickoff for smoke detectors and carbon monoxide detectors and that citizens can have free inspections done in their homes.

**(d) Update on Shopping Carts By-law (CAO)**

The CAO reported that two grocery stores Sobey's and Food Basics have reached out to City staff proactively and presented their shopping cart management plan.

**(e) Update on Parks and Recreation Masterplan (Grigg)**

The Director of Community and Economic Development provided a brief update on the Parks and Recreation Master Plan. The Director noted that there have been some delays in completion but that any budget items will be identified and brought forward proactively.

**14. Consideration of Items Requiring Separate Discussion: Re-order items****1. Community and Economic Development Department, Parks and Recreation Division, Report 2019-145, Subject: Ninth Annual Downtown Harvest Festival**

Moved by Councillor R. Bodner  
Seconded by Councillor D. Kalailieff

That Appendix A to Corporate Services Department, Clerks Division, Report 2019-136, Subject: Heritage Committee by-law be supported; and

That the Heritage Committee By-law be brought forward for approval.

That the request to host the ninth annual Harvest Fest on Saturday, September 28, 2019 from 10:00 a.m. to 4:00 p.m., be approved;

That Market Square be closed to vehicular traffic from 8:00 a.m. to 4:00 p.m. on September 28, 2019;

That Charlotte Street, from the Eastern limit of Catharine Street to the Western limit of King Street, be closed to vehicular traffic from 8:00 a.m. to 4:00 p.m. on September 28, 2019;

That emergency services, including ambulance, police and fire, and public works and public utility vehicles, be exempt from the above noted closures;

That the Engineering and Operations Department be directed to install and retrieve road closure barricades at the predetermined locations;

That the tractor-drawn hayride be permitted to share the road with motor vehicles on the pre-determined route;

That the permit fee for the use of the King George Park, be waived;

That all other permit/application fees and charges associated with 2019 Harvest Fest, including the provision of hydro access, picnic tables, waste receptacles, and snow fencing, be waived;

That the Event Organizer ensures all participants in the Slow Ride (bike ride) sign the requisite waiver form;

That Breakwall Brewing Company submit a Certificate of Insurance naming the Downtown BIA and the City of Port Colborne as additional insured for not less than \$5 million per occurrence, in accordance with the City's insurance requirements;

That the Event Organizer ensure that Certificates of Insurance are submitted from all third party vendors naming the Downtown BIA and City of Port Colborne as additional insured for not less than \$2 million per occurrence, in accordance with City's insurance requirements;

That the fee for a Noise By-law exemption, to be submitted to the By-law Enforcement Division, be waived.

CARRIED.

**3. Corporate Services Department, Finance Division, Report 2019-147,  
Subject: 2020 Budget Timeline and Guidance**

Moved by Councillor D. Kalailieff  
Seconded by Councillor H. Wells

That Council endorse the proposed budget guidance of a 2.1% increase to the operating budget for the 2020 budget year; and

That Council endorse the proposed budget timeline set out in Corporate Services Department Report 2019-147.

CARRIED.



**6. Region of Niagara Re: Municipal Representation on Greater Niagara Circle Route Committee**

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Moved by Councillor A. Desmarais  
Seconded by Councillor G. Bruno

That Councillor Desmarais be appointed as the City of Port Colborne's representative on the Greater Niagara Circle Route Committee.

CARRIED.

**15. Notice of Motion:**

Nil.

**16. Adjournment:**

Moved by Councillor H. Wells  
Seconded by Councillor A. Desmarais

That the Committee of the Whole meeting be adjourned at approximately 7:27 p.m.

CARRIED.

AL/ln



## MAYOR'S REPORT – SEPTEMBER 23, 2019

### **Public Meeting on the Future of Specialized Transit in Niagara**

Niagara Region is holding two Public Information Sessions on the future of Specialized Transit in Niagara.

Discussion items include, single point of contact for bookings, single application process, use of current and emerging technologies, use of taxi and ridesharing services.

Each session will include a 20-minute presentation followed by a discussion/question and answer period.

Region staff will be available to answer your questions and hear your feedback.

The meetings are this week.

Wednesday September 25 from 5-7 at the Holiday Inn St. Catharines, 327 Ontario Street

Thursday September 26 5-6 at the MacBain Community Centre, 7150 Montrose Road, Niagara Falls

If you or a loved one has an interest in the future of specialized transit in Niagara, I encourage you to attend one of these sessions.

### **Port Colborne Volunteers**

We currently have 530 volunteers registered with the City who contributed over 9,000 hours of service in 2018.

Last week 250 of our volunteers attended an appreciation dinner at the Italian Hall.

They were thanked for their contributions to helping us get things done here in Port Colborne and special recognition was given to those celebrating 5 to 40 years of service.

There are lot of photos up on our website of this great evening.

## **Fire Prevention Week and Touch-a-Truck open house**

Port Colborne's annual Fire Prevention Week open house is bigger and better this year with the addition of Touch-a-Truck next door at the Engineering and Operation Centre.

On Saturday October 5<sup>th</sup> from 11 a.m. to 2 p.m. families are invited to the Port Colborne Fire Hall and Engineering and Operations Centre to learn more about fire prevention and city operations.

Port Colborne Fire & Emergency Services will be offering activities including fire escape routes, fire truck tours, target practice with a fire hose and a live burn cell demonstration to ensure everyone is fire safe.

Touch-a-truck offers a chance to show and teach the community about the equipment city staff use on a daily basis to serve the residents of Port Colborne.

We hope you will join us.

## **Port Colborne Urgent Care**

Last week the Niagara Health System issued a media release announcing that the new South Niagara Hospital was listed by Infrastructure Ontario in their Market Update for Projects in Pre-Procurement.

It stated that they will start issuing Requests for Qualifications in spring 2021 and issuing Request for Proposals in winter 2021 with a financial close in 2022.

The next day a media report came out stating that when the new hospital opens, the urgent care centres in Port Colborne and Fort Erie would be closed.

In September 2012 Dr. Kevin Smith, then Supervisor of the Niagara Health System submitted a Report to The Honourable Deb Matthews, Minister of Health and Long-Term Care on Restructuring of the Niagara Health System. On page 37 under "Future Siting Options", the recommendation was:

In addition to the St. Catharines site currently under construction, the NHS should:

- Construct a new general acute care hospital in "South Niagara";
- Locate two free standing Urgent Care Centres in "South Niagara";
- Close the existing sites in Port Colborne, Fort Erie, Niagara Falls and Welland; and
- Relocate the Nurse-Practitioner-led walk in clinic and Family Health Program to a suitable location with much lower operating costs than the existing site in Niagara-on-the-Lake with the closure of that site when complex continuing care can be consolidated to other sites.

On page 41 of the report, it speaks to how they reached this decision.

**The Interim Recommendation by the NHS was:**

- The recommendation of the Mayors of the “Southern Tier” with input from the Regional Chair be utilized to determine:
  - The location of the new hospital in the “South”;
  - The location of a stand-alone “new” Urgent Care Centre; and,
  - Population density and access should be the primary consideration in determining location.

**Local Response to this Recommendation was:**

- The unanimous recommendation of the Mayors of the Southern Region (6 in total) and Regional Chair follows:
  - “2 Geographic areas, being described as QEW & Lyons Creek area, and East Main Street and Highway 140 area be considered as short-listed locations for the proposed development of a south Niagara hospital complex, conditional that Urgent Care Centres continue to operate in Port Colborne and Fort Erie. I cannot stress enough that the southern mayors are unanimous in their support of a south Niagara hospital being built.”

**Final Recommendation was:**

- Following significant deliberations, considering external expertise and in keeping with alternatives approved by the Mayors and Regional Chair, the final recommendation, subject to approval by the Ministry, is to build the new facility in the QEW and Lyons Creek area of Niagara. Two additional free standing UCC’s, site and location to be determined, can be supported. Hours of operation should be in keeping with patient volume and other provincial practice.

There have been no further discussions with the NHS on where the two free standing Urgent Care Centres will be located.

We will continue to ensure that residents of Port Colborne have access to health care services in and close to our community.



**City of Port Colborne  
Regular Meeting of Council 30-19  
Tuesday, October 15, 2019  
following Committee of the Whole Meeting  
Council Chambers, 3<sup>rd</sup> Floor, 66 Charlotte Street**

**Agenda**

1. **Call to Order:** Mayor William C. Steele
2. **Introduction of Addendum Items:**
3. **Confirmation of Agenda:**
4. **Disclosures of Interest:**
5. **Adoption of Minutes:**
  - (a) Regular meeting of Council 28-19, held on September 23, 2019
6. **Determination of Items Requiring Separate Discussion:**
7. **Approval of Items Not Requiring Separate Discussion:**
8. **Consideration of Items Requiring Separate Discussion:**
9. **Proclamations:**

Nil.
10. **Minutes of Boards, Commissions & Committees:**
  - (a) Minutes of the Port Colborne Historical & Marine Museum Board of Management Meeting of July 16, 2019
11. **Consideration of By-laws:**
12. **Adjournment:**

**Council Items:**

Notes	Item	Description / Recommendation	
<p>WCS MB EB RB GB FD AD DK HW</p>	<p>1.</p>	<p><b><u>Motion by Councillor Danch Re: Open Air Burning By-law</u></b></p> <p>That the Fire Chief be directed to investigate options for open air burning and report back to Council with recommendations.</p> <p>Note: Notice of Motion was given at the September 9, 2019 meeting.</p>	
<p>WCS MB EB RB GB FD AD DK HW</p>	<p>2.</p>	<p><b><u>Planning and Development Department, Planning Division, Report 2019-151, Subject: Recommendation Report for the Removal of Municipal Heritage Designation of Part 2 at 380 King Street</u></b></p> <p>That Council state an intention to amend By-law 2831/10/93 pursuant to Part IV of the <i>Ontario Heritage Act</i>, section 30.1(1), as shown in the draft amending By-law attached as Appendix E of this report; and</p> <p>That staff be directed to provide notice of the Council's intention to amend By-law 2831/10/93, in accordance with section 30.1(1) of the <i>Ontario Heritage Act</i>; and</p> <p>That the City Clerk present the amending By-law to Council, provided there is no objection to the statement of intention to amend designation By-law 2831/10/93; and</p> <p>That the City Clerk take the necessary actions in the event of any objection to the statement of intention to amend By-law 2831/10/93 pursuant to Part IV of the <i>Ontario Heritage Act</i>, section 29(7);</p> <p>That Part 2 of the property being Lots 8 and 9, Plan 987, 988 and 989, municipally known as 380 King Street be removed from the Municipal Registry of Heritage Properties.</p>	

<p>WCS RB AD</p>	<p>MB GB DK</p>	<p>EB FD HW</p>	<p>3. <b><u>Planning and Development Department, Planning Division, Report 2019-153, Subject: Proposed Development Agreement for Erika Spencer, 85-91 Main Street West</u></b></p> <p>That Council enters into a development agreement with Erika Spencer and that the Mayor and Clerk be authorized to sign and execute said agreement.</p>
<p>WCS RB AD</p>	<p>MB GB DK</p>	<p>EB FD HW</p>	<p>4. <b><u>Community and Economic Development Department, Parks and Recreation Division, Report 2019-152, Subject: Rental Rates and Sustainability of The Canadian Authors Series</u></b></p> <p>That the already reduced facility rental rate of \$1,022.57 (plus Harmonized Sales Tax) per engagement be maintained for the 2019/2020 operating season of The Canadian Authors Series;</p> <p>That The Canadian Authors Series be requested to immediately and proactively solicit new sponsorship opportunities for the 2019/2020 season;</p> <p>That the Director of Community and Economic Development be directed to investigate the feasibility of the City assuming operation of The Canadian Authors Series, beginning with the 2020/2021 season, including exploration of partnership opportunities that would enable the City to delegate management and administration functions of the Series to a third party organization; and</p> <p>That the Director of Community and Economic Development be directed to prepare a report outlining the results of the above review, prior to the commencement of the 2020/2021 season.</p>

WCS MB EB	5.	<p><b><u>Planning and Development Department, By-law Enforcement Division, Report 2019-144, Subject: Parking and Traffic, King Street</u></b></p>																																													
RB GB FD		<p>That the amendment to By-law 89-2000, being a By-law regulating traffic and parking on city roads be approved as follows:</p>																																													
AD DK HW		<p>That Schedule "M" Loading Zones, to By-law 89-2000 as amended, be amended by deleting therefrom the following:</p>																																													
		<table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> <th colspan="2">Column 3</th> <th>Column 4</th> </tr> <tr> <th>Highway</th> <th>Side</th> <th>From</th> <th>To</th> <th>Times/Days</th> </tr> </thead> <tbody> <tr> <td>King St.</td> <td>East</td> <td>10 metres south of Charlotte St.</td> <td>10 metres south therefrom</td> <td>Anytime</td> </tr> </tbody> </table> <p>That Schedule "M" Loading Zones, to By-law 89-2000 as amended, be amended by adding thereto the following:</p> <table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> <th colspan="2">Column 3</th> <th>Column 4</th> </tr> <tr> <th>Highway</th> <th>Side</th> <th>From</th> <th>To</th> <th>Times/Days</th> </tr> </thead> <tbody> <tr> <td>King St.</td> <td>East</td> <td>18.5 metres south of Charlotte St.</td> <td>10 metres south therefrom</td> <td>Anytime</td> </tr> </tbody> </table> <p>That Schedule "A" Stopping Prohibitions, to By-law 89-2000 as amended, be amended by adding thereto the following:</p> <table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> <th colspan="2">Column 3</th> <th>Column 4</th> </tr> <tr> <th>Highway</th> <th>Side</th> <th>From</th> <th>To</th> <th>Times/Days</th> </tr> </thead> <tbody> <tr> <td>King St.</td> <td>East</td> <td>Charlotte St.</td> <td>18.5 metres south therefrom</td> <td>Anytime</td> </tr> </tbody> </table>	Column 1	Column 2	Column 3		Column 4	Highway	Side	From	To	Times/Days	King St.	East	10 metres south of Charlotte St.	10 metres south therefrom	Anytime	Column 1	Column 2	Column 3		Column 4	Highway	Side	From	To	Times/Days	King St.	East	18.5 metres south of Charlotte St.	10 metres south therefrom	Anytime	Column 1	Column 2	Column 3		Column 4	Highway	Side	From	To	Times/Days	King St.	East	Charlotte St.	18.5 metres south therefrom	Anytime
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WCS MB EB	6.	<p><b><u>Memorandum from Amber LaPointe, Manager of Legislative Services/City Clerk, Re: Committee of the Whole/Council Meeting Schedule for December 2019</u></b></p>																																													
RB GB FD																																															
AD DK HW		<p>That the regular meeting of Committee of the Whole/Council for the month of December be scheduled for Monday December 9, 2019.</p>																																													



<b>Miscellaneous Correspondence</b>				
WCS RB AD	MB GB DK	EB FD HW	7.	<p><b><u>ADR Chambers, Integrity Commissioner Office for the City of Port Colborne Re: Complaint Reference Number IC-104-0719, Shawn Tylee and Councillor Harry Wells</u></b></p> <p>That Integrity Commission Report IC-104-0719, be received for information.</p>
WCS RB AD	MB GB DK	EB FD HW	8.	<p><b><u>Region of Niagara - Public Health and Services Committee Report Re: Mental Health and Addictions Collaborative Work – Niagara Region’s Involvement</u></b></p> <p>That the correspondence received from the Region of Niagara – Public Health and Services Committee Report Re: Mental Health and Addictions Collaborative Work – Niagara Region’s Involvement, be received for information.</p>
WCS RB AD	MB GB DK	EB FD HW	9.	<p><b><u>Region of Niagara Re: Grants and Incentives Review (PDS Report 34-2019)</u></b></p> <p>That the correspondence received from the Region of Niagara Re: Grants and Incentives Review, be received for information.</p>
WCS RB AD	MB GB DK	EB FD HW	10.	<p><b><u>Steve Clark, Minister, Ministry of Municipal Affairs and Housing Re: Building Code Services Transformation</u></b></p> <p>That the correspondence received from Steve Clark, Minister, Ministry of Municipal Affairs and Housing Re: Building Code Services Transformation, be received for information.</p>
<b>Outside Resolutions – Requests for Endorsement</b>				
Nil.				
<b>Responses to City of Port Colborne Resolutions</b>				
Nil				

**Consideration of By-laws  
(Council Agenda Item 11)**

<b>By-law No.</b>	<b>Title</b>
6708/72/19	Being a By-law to Provide for a Section 4 Engineer's Report for a Drainage Works in the City of Port Colborne in the Regional Municipality of Niagara Known as the Schihl Municipal Drain (Third Reading)
6724/88/19	Being a By-law to Amend By-law 89-2000, as Amended, Being a By-law Regulating Traffic and Parking on City Streets (King Street)
6725/89/19	Being a By-law to Authorize Entering Into a Development Agreement with Erika Spencer regarding 85-91 Main Street West
6726/90/19	Being a By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne at its Regular Meeting of October 15, 2019

The Corporation of the City of Port Colborne

By-law no. 6708/72/19

Being a by-law to provide for a Section 4 Engineer's Report  
for a drainage works in the City of Port Colborne  
in the Regional Municipality of Niagara known as the  
Schihl Municipal Drain

Whereas the Schihl Drain is a municipal drain within the limits of the Corporation of the City of Port Colborne, having status under the *Drainage Act R.S.O. 1990*; and

Whereas the Schihl Drain is a municipal drain tributary of the St. John's Marsh Municipal Drain, situate in the Town of Fort Erie; and

Whereas a petition to become a municipal drain was received by the City of Port Colborne, circa 2002; and

Whereas on the 23rd day of October, 2002, the Council of the City of Port Colborne appointed K, Smart Associates Limited, to determine the sufficiency of the petition and report to Council; and

Whereas on the 4th day of December, 2002, an on site meeting for the watershed was held, substantiating the requirements to fulfil the petition; and

Whereas pursuant to Section 4(3) of the *Drainage Act, R.S.O. 1990*, the Council of The Corporation of the City of Port Colborne, in the Regional Municipality of Niagara, has procured a report titled Schihl Drain, dated March 28th, 2019, prepared by Neal Morris, P. Eng., of K. Smart Associates Limited, which report was filed with the City Clerk on May 27th, 2019, containing plans, profiles and assessment schedules for the construction and future maintenance of the Schihl Drain, and is attached hereto and forms part of this by-law; and

Whereas the total estimated cost the Schihl Drain, inclusive of the engineer's report, construction, contract administration and HST (net) is \$392,980; and

Whereas \$204,149 is the total estimated cost assessed to the private lands and road within the Town of Fort Erie; and

Whereas \$71,763 is the total estimated cost assessed to the private lands within the City of Port Colborne; and

Whereas \$108,112 is the total estimated cost assessed to the Regional Municipality for their roads; and

Whereas \$8,956 is the total estimated cost assessed to the City of Port Colborne for their roads; and

Whereas on the 10th day of June, 2019, the Council of The Corporation of the City of Port Colborne directed staff, by resolution, to proceed to the "Meeting to Consider", under Section 41 of the *Drainage Act, R.S.O. 1990*, in accordance with the recommendations laid out in Engineering and Operations Department, Engineering Division Report 2019-81; and

Whereas the Council of The Corporation of the City of Port Colborne, at its meeting of July 22nd, 2019 approved the Engineering and Operations Department, Engineering Division Report 2019-81, Subject: Schihl Municipal Drain Meeting to Consider, whereby the proposed drainage works was deemed necessary and desirable;

Now therefore the Council of The Corporation of the City of Port Colborne under the *Drainage Act R.S.O. 1990*, enacts as follows:

1. The report dated as March 28, 2019, may be amended by pronouncement(s) of Courts of Revision and Final Decisions/Orders of the Agriculture, Food and Rural Affairs Appeals Tribunal and/or Referee, and appended hereto as Schedule "A" is hereby adopted and the drainage works as therein indicated and set forth is hereby authorized and shall be maintained in accordance therewith.

2. The Corporation of the City of Port Colborne may borrow on the credit of The Corporation the amount of \$80,719.00, excluding HST, being the amount assessed in the City, necessary for payment of the cost of the said drainage works.
3. The Corporation may arrange for the issue of debentures on its behalf for the amount borrowed less the total amount of,
  - a) grants received under Section 85 of the Act;
  - b) commuted payments made in respect of lands and roads assessed within the municipality;
  - c) money paid under subsection 61(3) of the Act; and,
  - d) money assessed in and payable by any another municipality,and such debentures shall be made payable within 5 years from the date of the debenture and shall bear interest at a rate not higher than the rate charged by The Ontario Municipal Improvement Corporation on the date of sale of such debentures.
4. A special equal annual rate sufficient to redeem the principal and interest on the debentures shall be levied upon the lands and roads as set forth in Schedule "B" hereto to be collected in the same manner and at the same time as other taxes are collected.
5. For paying the amount of \$8,956.00 being the amount assessed upon the lands and roads belonging to or controlled by the municipality, a special rate sufficient to pay the amount assessed plus interest thereon shall be levied upon the whole rateable property in the City of Port Colborne in each year for 5 years after the passing of this by-law to be collected in the same manner and at the same time as other taxes are collected.
6. If the actual of the drainage works varies from the estimated costs as set out in schedule "B" forming part of this by-law, the actual cost shall be assessed, levied and collected upon and from the said parcels of lands and roads and parts of parcels in the same proportions and in the same manner as provided in the Schedule "B" forming part of this by-law, as revised by the Court of Revision and Final Decisions of the Agriculture, Food and Rural Affairs Appeal Tribunal and/or Referee.
7. That all assessments of \$50.00 or less are payable the first year in which the assessment is imposed upon the land assessed, as provided for under Section 61(3) of the *Drainage Act, R.S.O. 1990*.
8. This by-law may be cited as "The Schihl Municipal Drain By-law" and shall come into force on the day of its final passing.

Read a First and Second time and provisionally adopted this 22nd day of July, 2019.

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William Steele  
Mayor

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Amber LaPointe  
City Clerk

Read a Third time and enacted this 15th day of October, 2019.

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Head of Council

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Clerk

ENGINEERING REPORT

For

**SCHIHL DRAIN**

**Town of Fort Erie  
and  
City of Port Colborne**

(Geographic Townships of Bertie & Humberstone)

Region of Niagara

Date: March 28, 2019

File No. 02-210



**K. SMART ASSOCIATES LIMITED**

Kitchener

Sudbury

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## TABLE OF CONTENTS

1	EXECUTIVE SUMMARY .....	1
2	BACKGROUND .....	2
3	DRAINAGE HISTORY .....	2
4	INVESTIGATION .....	3
4.1	On-Site Meeting .....	3
4.2	Site Examination and Survey .....	4
4.3	Watershed Description .....	4
5	AUTHORITY FOR REPORT .....	4
6	DESIGN CONSIDERATIONS .....	5
6.1	Sufficient Outlet .....	5
6.2	Drain Capacity (Sizing) .....	5
6.3	Soil Conditions .....	5
7	MEETING(S) .....	5
7.1	Public Information Meetings .....	5
7.2	Other Meetings .....	9
8	ENVIRONMENTAL CONSIDERATIONS .....	9
8.1	Agency Notification .....	9
8.2	Agency Responses .....	9
9	RECOMMENDED WORK .....	10
9.1	Culverts .....	10
9.2	Changes to the Drain After the Bylaw is Passed .....	12
10	CONSTRUCTION CONSIDERATIONS .....	12
10.1	Utilities and Pre-Construction Approvals .....	12
10.2	Construction Scheduling .....	13
10.3	Minor Adjustments During Construction .....	13
10.4	Substantial Alterations to the Drain .....	13
10.5	Alignment of Drains .....	13
11	DRAWINGS AND SPECIFICATIONS .....	13
11.1	Drawings .....	13
11.2	Specifications .....	14
12	COST ESTIMATE .....	14
12.1	Allowances .....	14
12.2	Construction Cost Estimate .....	15
12.3	Engineering Cost Estimate .....	16
12.4	Estimate of Section 73 Costs .....	16
12.5	Harmonized Sales Tax .....	17
12.6	Estimated Cost Summary .....	17
13	ASSESSMENTS .....	19
13.1	Calculation of Assessments .....	19
13.2	Benefit Assessments (Section 22 and 24) .....	20
13.3	Outlet Liability Assessments (Section 23) .....	21
13.4	Increased Cost (Special) Assessments (Section 26) .....	21
13.5	Assessment Schedules .....	22
14	GRANT .....	23
15	PRIVACY OF LANDS .....	24
16	MAINTENANCE .....	24
16.1	General .....	24
16.2	Updating Future Maintenance Schedules .....	24
16.3	Culvert Maintenance .....	25
17	BYLAW .....	25

### ATTACHMENTS

SCHEDULE A – SCHEDULE OF ASSESSMENTS

SCHEDULE B – SCHEDULE OF ASSESSMENTS FOR MAINTENANCE

SCHEDULE C – SCHEDULE FOR ACTUAL COST BYLAW

APPENDIX A – CALCULATION OF ASSESSMENTS FOR SCHEDULE A

APPENDIX B – CALCULATION OF ASSESSMENTS FOR FUTURE MAINTENANCE

### SPECIFICATIONS

- Section 200 - General Conditions
- Section 300 - Special Provisions (See Drawing 11)

- Section 400 - Standard Specifications for Construction of Drains
  - Section 410 - Standard Specifications for Open Drains
- DRAWINGS 1 TO 12

Definitions:

- “Act” means The Drainage Act RSO 1990
- “CSP” means Corrugated Steel Pipe
- “Drain” means Schihl Drain
- “Grant” means grant paid under Agricultural Drainage Infrastructure Program
- “HDPE” means High Density Polyethylene
- “OMAFRA” means the Ontario Ministry of Agriculture, Food and Rural Affairs
- “Tribunal” means Agriculture, Food and Rural Affairs Appeal Tribunal

Table 9.1-1 - Summary of Culverts .....	10
Table 12.1-1 - Section 29 Allowance Rates .....	14
Table 12.1-2 - Section 30 Allowance Rates .....	15
Table 12.1-3 - Summary of Allowances .....	15
Table 12.6-1 – Estimated Cost Summary .....	15
Table 13.2-1 - Benefit Assessments .....	20
Table 13.3-1 - Runoff Factors Table .....	21
Table 13.4-1 – Estimated Special Assessments .....	22





# K. SMART ASSOCIATES LIMITED

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85 McIntyre Drive  
Kitchener ON N2R 1H6

Tel: (519) 748-1199  
Fax: (519) 748-6100  
www.ksmart.ca

March 28, 2019

File No. 02-210

## SCHIHL DRAIN TOWN OF FORT ERIE And CITY OF PORT COLBORNE

### 1 EXECUTIVE SUMMARY

This report is prepared pursuant to Section 4 of the Drainage Act RSO 1990 (the Act).

On October 28, 2002 the City of Port Colborne received a petition from several landowners in parts of Lots 2 & 3, Concessions 4 and 5 (Humberstone Twp) for improvements to the Schihl Award Drain. Pursuant to Section 8 of the Act, on November 6, 2002, May 26, 2003 and on November 27, 2017, K. Smart Associates Limited was appointed by resolutions of Council to prepare a report on the petition received on the Schihl Award Drain.

To address the petition received, this report recommends the following:

Excavation/Improvement of 3,541m of open drain

The estimated cost of this project is \$392,980.

The watershed served is approximately 299.5 hectares (740.1 acres).

Assessment schedules are provided for construction and future maintenance of the drainage works.

- Schedule A shows the assessment of the total estimated cost
- Schedule B will be used for prorating future maintenance cost
- Schedule C will be used for levying the final cost of the Drain and it indicates estimated net assessments after deducting grants and allowances where applicable.
- Appendix A illustrates the calculation of the assessments outlined in Schedule A.
- Appendix B illustrates the calculation of the assessments outlined in Schedule B.

## 2 BACKGROUND

On October 28, 2002, the City of Port Colborne had received a petition from landowners for drainage improvements for the Schihl Award Drain watershed in Lots 1 to 3, Concessions 4 and 5 (Humberstone Twp).

A letter was received from the City to K. Smart Associates Limited dated November 6, 2002 along with a copy of the petition. KSAL was to analyze the petition and set up an on-site meeting.

The first (on-site) meeting was held on December 4, 2002.

In late 2002-early 2003, an Engineering Services Agreement for the Schihl Drain was received from the City. The agreement was signed by John Kuntze, P.Eng. on May 6, 2003 and sent to the City.

In a letter dated June 23, 2003, KSAL was appointed by City of Port Colborne in Bylaw 4378/51/03 dated May 26, 2003 to authorize the City to enter into the agreement with K. Smart Associates Limited for the Schihl Drain. We have considered this to be an appointment as per the signed agreement by John Kuntze, P.Eng.

On February 1, 2007 a letter was sent to the City changing the Engineer from John Kuntze, P. Eng. to Chris Allen, P.Eng.

In accordance with Section 8(2) of the Act, on December 6, 2017 a letter was sent to the City changing the Engineer to Neal Morris, P.Eng.

A letter dated December 13, 2017 was received from the City appointing Neal Morris, P.Eng. in a resolution from the City on November 27, 2017, to prepare a drainage report for repair, improvement and incorporation of the Schihl Award Drain. This re-appointment became necessary due to an incorrect or incomplete appointment at the outset of this project, circa 2002, and to recognize the current Engineer of record, Neal Morris, P.Eng. This appointment was effective immediately and all requirements of the Drainage Act, RSO 1990 are considered to have been met at the time of the previous appointment of John Kuntze, P. Eng.

## 3 DRAINAGE HISTORY

There is an existing ditch that outlets into the St. John's Marsh Drain 2016, in Lot 14, Concession 14 NR (Bertie Twp) in the Town of Fort Erie, that is known as the Schihl Award Drain.

The Schihl Award Drain was constructed in accordance with a report of George Ross, P.Eng. dated September 17, 1909. It commenced at the St.'s John's Marsh Drain and continued westerly in Lot 14, Concession 14 NR and in Lots 13 and 14, Concessions 15 NR and 16 NR (Bertie Twp, now in the Town of Fort Erie) to the Townline Road (now Holloway Bay Road), then continued westerly in Lots 1 and 2,

Concession 5 (Humberstone Twp, now in the City of Port Colborne) then south along the east side of Road Lots 2-3 (now Regional Road 98 (Schihl Road) and then west across the road. It was all open ditch and was 11,521' (3,511.6m) in length.

## 4 INVESTIGATION

### 4.1 On-Site Meeting

An on-site meeting was conducted on December 4, 2002. The meeting was held to review the drainage concerns with the affected landowners. All of the landowners in the watershed of the Schihl Award Drain in the City of Port Colborne and Town of Fort Erie were notified. The meeting was held at 7:00 p.m. at the Port Colborne City Hall.

Those present and items discussed were as follows:

#### R. Singleton (Roll No. 13-086)

He indicated that several acres flood out.

He owns 15 acres. He has no buildings. The land is forest and marsh. There is a stone bridge on College Road. Done temporary work to get access for horse trail. He uses the property for cutting wood.

#### Mr. Noordhoer (776542 Ont. Ltd.) (Roll No's. 6-113, 6-072-15, 6-075, 6-121)

He has owned the property since 1958 and owns 4 parcels. In Lots 1 and 2, he indicated that several years ago, his tenant cleaned out the top end. There are no culverts and no need for them as he is surrounded by rock. Through the bush there is no path. One culvert is needed for work. The tenant made a ditch across the corner, along the bush. There are two ditches across Lot 3. None at Vallee's property. Along the road, ditch was cleaned, full of cattails, done by Region. Doesn't get much off the railroad. He thinks Anderson goes other way.

#### Mr. Koabel (Roll No. 6-119)

Clean culvert under tracks, been tiling to the front, been difficult for him to go east. Doesn't require drain to his property, just needs outlet into road ditch.

#### Mr. Harnach (Roll No. 6-114)

He gets no runoff from Harnach property.

#### Mr. Bertin (Roll No. 31-148) (now Swinson Property)

The creek is on his property. The land is much higher and the land falls into the creek. Even during flooding, his land is dry. No flooding. Large 5' dia. cast iron culvert through. He rents out his property.

#### R. Charron (Roll No. 31-094)

Residential. No comments.

Schihl Road (Region of Niagara)

Intermittent, dry most of the year. Road ditches along College Road flow east to St. John's Marsh Drain.

Equestrian do fund raising.

Water lays north of College, until August.

Unknown

Defined channel downstream of railroad. Just needs to be brushed and not graded.

Lee-Ann Hamilton (Niagara Peninsula Conservation Authority) (NPCA)

Fish habitat information collected for this drain which is consistent with a Class F drain.

**4.2 Site Examination and Survey**

The route of the existing Schihl Award Drain was examined in December 2002 and March 2003. A survey was undertaken in April-May 2003. A topographic (Total Station, GPS) survey was done in June and September 2004 and January 2018.

**4.3 Watershed Description**

The perimeter watershed of the Drain has been established based on site investigation, topographic data and historical reports.

The watershed area is approximately 59% agricultural lands, 25% forested lands, 12% residential lands and 4% roads.

The Schihl Drain has common watershed with the Young Drain, Tee Creek Drain 1993 and the Henry Drain 2006. The Schihl Drain lies within the greater watersheds of the St. John Marsh Drain 2016 and Black Creek Drainage Workes 2015.

**5 AUTHORITY FOR REPORT**

Section 4 of the Drainage Act provides for construction of new drainage works for an area requiring drainage. As a result of the analysis of the petition and of discussions at the on-site meeting and on-site examination, the area requiring drainage was determined to be the north part of Lots 1 to 3, Concession 4 and Lots 1 to 3, Concession 5, Humberstone Twp, now part of the City of Port Colborne. The signatures on the petition represent greater than 60% of the area in the area requiring drainage, thus the petition is valid in accordance with Section 4(1)(b) of the Drainage Act.

The Engineering Services Agreement and Bylaw 4378/51/03 dated May 26, 2003, and the letter from the City dated December 13, 2017, are the authorizations to prepare the report for the Schihl Drain.

## 6 DESIGN CONSIDERATIONS

### **6.1 Sufficient Outlet**

Section 15 of the Act requires that proposed work be continued downstream to a sufficient outlet. Section 1 of the Act defines sufficient outlet as “a point at which water can be discharged safely so that it will do no damage to lands or roads.” For this project, it was determined that the St. John’s Marsh Drain 2016, which outlets into Black Creek Drain, provides sufficient outlet and will allow the proposed works to function as intended.

### **6.2 Drain Capacity (Sizing)**

The recommended open ditch is designed for a 2 year storm event which provides adequate depth for tile drain outlets. It is customary for open municipal drains serving agricultural or rural lands to be sized for a 2-year storm. The ditch has been also sized to protect buildings from a 25-year storm event.

Laneway culverts are designed for the 5-year storm.

Municipal road crossings are designed for the 10-year storm.

Regional Road crossings are designed for the 25-year storm.

Railway crossing is designed so as to not overtop in a 100-year storm event.

This approach is in accordance with the “Guide for Engineers Working Under the Drainage Act in Ontario” OMAFRA Publication 852 and is in accordance with the Drainage Act.

### **6.3 Soil Conditions**

The Region of Niagara soils map for this area indicates that the soils adjacent to this drain are lacustrine heavy clay and silty clay over clay loam till.

Based on available information, no adverse subsurface conditions are expected on this project and the use of conventional construction equipment is anticipated. Refer to the Standard Specifications for drain construction procedures when adverse subsurface conditions are encountered.

## 7 MEETING(S)

### **7.1 Public Information Meetings**

#### **February 24, 2004 (Second Meeting)**

A meeting was held with all landowners, etc. in the watershed to discuss the minimum work required from the head of the drain from Forkes Road in the City of Port Colborne to just east of Burger Road in the Town of Fort Erie, and possible further work across and downstream of Point Abino Road.

Discussions with the landowners at the meeting indicated that the entire drain should be cleaned out/deepened and to analyze all existing culverts.

Those present at the meeting and items discussed are as follows:

Present:

Neil Nordic

William Myrmk (Willoyd Ltd.) (Roll No.31-137-01, 31-140)

Lee-Ann Hamilton (NPCA)

Robert Brost (Roll No. 13-162)

Rick Bertin (Roll No. 31-148)

Hanna Van Der Meer (Roll No. 31-141)

Brett Ruck (Town of Fort Erie) (Drainage Superintendent)

Rene Landry (City of Port Colborne)

John Kuntze, P. Eng. (K. Smart Associates Limited)

Items Discussed:

N. Nordic

- No plans to the property
- Concrete under Schi hl years ago, filled in
- Townline Road used in summer
- Go south side, then jump to north side

W. Myrmk (31-137-01, 31-140)

- Problems at railroad and Point Abino Road
- Whirlpool created, ditch needs to be increased in size
- 1' over top of culvert
- Improvements upstream will put water on property, wants ditch cleaned out on his property
- 3 to 4 weeks of flooding conditions
- Worried all water is pushed onto them
- 2 to 3 weeks of flooding
- Wants 4' culvert under railroad bigger
- Will not have a problem downstream of railroad, home may have problems
- Who determined where drain was?
- Was to be a stream from Beardwood woodlot east, stopped at Burger Road

R. Bertin (31-148)

- Outlet of railroad is not backed up
- Will more water pile up or at railroad?
- (John – If culvert is not proper, can take a look)
- Worst Conditions
- Does downstream of railroad need to be done?
- Costs to replace culverts?
- Under Section 26
- Cost to go from Point Abino Road to Railroad?

R. Landry (City of Port Colborne)

- Culverts installed by City, costs are not included
- North side clearing preferred
- Won't look at cleaning road ditches unless there is no outlet, waste of money
- 3 years of cleaning, do all road ditches, unofficial policy

H. Van Der Meer (31-141)

- Is there fencing grants for livestock, permanent fencing?
- Relocation of drain is not a problem

R. Brost (31-162)

- Concerns regarding assessments, land drainage
- Feels more land is running south

B. Ruck (Drainage Superintendent, Town of Fort Erie)

- Problems with area
- With new outlet, road ditch maintenance to follow

J. Kuntze, P. Eng.

- Lands will flood, waters will flow away, not all culverts have to be replaced
- No analysis was done, because no concerns raised at first meeting
- Don't want all water to take off at once
- To satisfy petition, clean to railroad, anything downstream of railroad need more interest
- Fort Erie wants ditch downstream of Point Abino Road cleaned out for 400m±
- Would put in a new culvert on a skew, 50 to 60', Section 26, railroad pays
- Cannot address 2 easterly culverts
- Do analysis of Townline Road
- 1500' at 0.1% grade from Point Abino Road, provide better outlet for culverts
- Fort Erie is concerned
- Analysis of Point Abino culverts, rusted?
- Allowances
  - R.O.W
  - Loss of Access
  - 7.5m buffer strip
- Ditch outside of road allowances (Region)
- Move channel away from buildings, restrict livestock access
- Re Option #3
  - Look at Van Der Meer's culvert, flat bottom
  - Livestock out of channel;
  - Minimal excavation work
  - Brushing, allowances, engineering
- Land has to be looked at in terms of potential to be drained

July 11, 2017 (Third Meeting)

A further meeting was held with directly affected landowners in the watershed to discuss the findings/recommendations, preliminary costs, etc. to date.

Discussions with the landowners indicated that more work should be done in the ditch and at Regional Road 98 (Schihl Road) culverts should be investigated.

#### November 29, 2017 (Fourth Meeting)

On November 29, 2017, a further meeting was held. Those present and their comments are as follows:

Neal Morris, P. Eng. started the meeting and discussed the recommended work, preliminary costs and possible assessments to landowners and roads.

#### Roll No. 6-121, 6-113, 6-075

- Has drainage issues at minimum ditch to be cleaned out
- Provide estimate of tile drain cost options

#### Roll No. 31-165-10

- Railway and Burger Road culverts cause water to back up
- Says ditch is very shallow
- Wants culvert
- Can work on north side of ditch to pond then work on the south side opposite of his house.

#### Roll No. 31-164

- Has flooding problems
- Asked if ditch cleaning will stop his house from flooding

#### Roll No. 31-165

- Has flooding problems
- Can clean ditch on their property and sod

#### Roll No. 31-162

- Wanted watershed to be changed.

#### Town of Fort Erie

- Holloway Bay road culvert may be removed

#### January 15, 2019 (Fifth Meeting)

A further meeting was held with all landowners in the watershed being notified.

There were discussions with the landowners, City and Town staff present at the meeting:

The status of the investigations to date were presented along with a summary of the proposed/recommended Schihl Drain work and preliminary cost estimates and assessments. Aside from general questions related to the methodology used to determine assessments, there were no requests for design changes.



## **7.2 Other Meetings**

### October 28, 2004

A meeting was held with Brett Ruck (Drainage Superintendent, Town of Fort Erie) and KSAL staff to discuss possible work.

- Could get an outlet at old railway if no increased depth required upstream
- Need to clean out 450m± downstream of Point Abino road to get outlet for culverts

### March 22, 2007

A status meeting was held with Brett Ruck.

- Initial appointment was by City of Port Colborne for a report on the Schihl Award Drain in Port Colborne.
- Site meetings (December 4, 2002) and surveys completed
- Could obtain outlet for Port Colborne lands at Railroad just east of Burger Road
- Owners in Fort Erie felt further work should be done on award drain in Fort Erie, Town noted possible problem at Point Abino Road
- Site examination and survey completed from Burger Road to St Johns Marsh Drain
- Preliminary design and cost has been completed
- Work remaining
  - Review preliminary cost and assessment for work in Fort Erie with Town and directly affected landowners

## **8 ENVIRONMENTAL CONSIDERATIONS**

### **8.1 Agency Notification**

Contact was made with the Niagara Peninsula Conservation Authority (NPCA), the Ministry of Natural Resources and Forestry (MNR) and Fisheries and Oceans Canada (DFO) during the process of preparing this report.

### **8.2 Agency Responses**

#### **8.2.1 NPCA**

The NPCA did not request an environmental appraisal under Section 6 of the Act. The Conservation Authority received notice of public meetings conducted during the course of this project. On May 22, 2018 and January 14, 2019, meetings were held with NPCA staff at their office and they did not want to deepen the ditch through the

forest on Lot 2 but had no other concerns with the design. A permit is required before construction of the drain.

### 8.2.2 MNRF

A screening request for species at risk was submitted to MNRF on January 24 2019. We have had no response from MNRF at the time this report was submitted. Preliminary screens show that the drain is part of the Black Creek wetland complex and Small White Lady's-sliper and Eastern Meadowlark (2002) were observed in the area.

### 8.2.3 DFO

The Schihi Drain is not rated but outlets into a Class C drain under DFO's drain classification system.

A Request for Review was submitted to DFO along with a project description and drawing package on January 30, 2019. We have had no response from DFO at the time this report was submitted. Preliminary findings have indicated the proposed works are not likely to result in serious harm to fish. We have included erosion and sediment control measures.

## 9 RECOMMENDED WORK

A description of the Drain for construction and future maintenance can be found in the Special Provisions and Drawings.

### 9.1 Culverts

Table 9.1-1 – Summary of Culverts identifies culverts that are part of the Drain and specifies minimum capacity for future culverts, subject to the approval of the municipality as required by the Maintenance section of this report.

Table 9.1-1 - Summary of Culverts

Roll Number or Road	Station	Existing Length, Size, and Type	Proposed Recommended	Responsibility
Point Abino Road	0+758 to 0+776	Twin (2) 18m lengths of 1150mm high x 1450mm wide arch CSP's	Twin 18m lengths of 1120mm high x1630mm wide arch CSP's	Road
31-141	1+095	3 – 5.5m lengths of 900mm dia. CSP's	Twin 6m lengths of 900mm HDPE pipe	Drain
31-996 (old Railway)	1+743 to 1+760	17m of 1200mm dia. steel smooth wall pipe	17m length of 1200mm dia. steel smooth wall pipe	Utility Railway

Roll Number or Road	Station	Existing Length, Size, and Type	Proposed Recommended	Responsibility
Burger Road	1+890 to 1+899	9m of 1.85m wide x 0.75m high concrete culvert (no concrete bottom)	Twin 9m lengths of 1200mm CSP's aluminized or twin 970mm high x 1390mm wide arch CSP's aluminized	Road
31-165-10	2+055±	None	Twin (2) 4m lengths of 600mm dia. HDPE pipe (low flow crossing) (to be constructed by this report)	Drain
Holloway Bay Road	2+473 to 2+483	10m of 1.85m wide x 0.65m high concrete culvert with headwalls (no concrete bottom)	10m lengths of 750mm and 900mm dia. HDPE pipes	Road
Reg. Road 98 (Schi hl Road)	3+490 to 3+504	12.6m of 600mm dia. CSP	14m lengths of 750mm and 900mm dia. PPE pipes	Road
Reg. Road 98 (Forkes Road E)	3+525 to 3+537	12m of 900mm high x 1600mm wide arch CSP	14m lengths of 750mm and 900mm dia. PPE pipes	Road
Minimum capacity for future culverts, subject to municipality approval.				
31-086	0+000 to 0+150	None	Twin 6m lengths of 1050mm HDPE pipe	Drain
31-087	0+150 to 0+300	None	Twin 6m lengths of 1050mm HDPE pipe	Drain
31-088	0+300 to 0+395	None	Twin 6m lengths of 1050mm HDPE pipe	Drain
31-089	0+395 to 0+485	None	Twin 6m lengths of 1050mm HDPE pipe	Drain
31-094	0+485 to 0+754	None	Twin 6m lengths of 1050mm HDPE pipe	Drain

Roll Number or Road	Station	Existing Length, Size, and Type	Proposed Recommended	Responsibility
6-113	2+488 to 3+175	None	6m length of 1500mm CSP or triple 6m lengths of 900mm HDPE pipes	Drain

Based on the responsibility noted above, culverts constructed under this report are assessed as follows:

- Drain – 50% to the listed roll number and 50% to the upstream watershed
- Road – special assessment to the road authority per Section 26
- Road/Utility – 50% to the affected utility and 50% to the road authority
- Owner – 100% to the listed roll number

Refer to the Maintenance section of this report for instructions regarding assessing future culvert maintenance costs.

## **9.2 Changes to the Drain After the Bylaw is Passed**

If a substantial addition, deletion, or change is made to the drain proposed in this report, a revised report can be prepared and processed through the Act, or an application can be made under the Act to the Drainage Tribunal to recognize the substantial addition, deletion or change. The application to the Tribunal must occur before final costs are levied.

## **10 CONSTRUCTION CONSIDERATIONS**

### **10.1 Utilities and Pre-Construction Approvals**

Before starting work, the Contractor shall ensure all public utilities are located and shall contact all landowners along the proposed drain route to determine the location of any private utilities. The Contractor is responsible for determining there are no utility conflicts for the proposed drainage works. No permits are required for the proposed work.

Utilities exist along Burger Road and Regional Road 98 but no conflicts are anticipated for the new Drain crossing across the road due to its close proximity to the existing crossing.

Work at Regional Road 98 road allowance is subject to approval and coordination with the Region of Niagara Roads Department.

### **10.2 Construction Scheduling**

Construction cannot commence until 10 days after a bylaw to adopt this report is given third reading in accordance with the Act.

### **10.3 Minor Adjustments During Construction**

Minor changes to the drain may be made during construction if the changes are approved by the Engineer and the Municipality in accordance with the Specifications in this report. Such changes must occur before final costs are levied.

Additional work desired by landowner(s) which is not part of the drainage works may be arranged with the Contractor provided the cost of the work is paid by the landowner(s) and the additional work is reviewed by the Engineer in advance. Such additional work is not part of the drainage works for future maintenance.

### **10.4 Substantial Alterations to the Drain**

Any alterations that would affect the function of the drain which are requested by landowners, agencies or other authorities after the bylaw is passed cannot be undertaken unless the report is amended.

### **10.5 Alignment of Drains**

All drains shall be constructed and maintained generally to the alignment as noted on the plans and specified by the Special Provisions. In the absence of survey bars, existing fences and similar boundary features are assumed to represent property lines.

Should landowners desire a more precise location for the drains in relation to their property line or if there is a dispute about the location of any property line, it is recommended that landowners obtain a legal survey at their own cost prior to construction.

## **11 DRAWINGS AND SPECIFICATIONS**

### **11.1 Drawings**

The location of the Drain, watershed boundary and the affected properties are shown on Drawing No. 1 included with this report. The numbers adjacent to the drain are station numbers which indicate in metres the distance along the drain from the outlet.

The profiles for the Drain are on Drawings 2 to 4. The profiles show the depth and grade for proposed work and future maintenance. Drawings 5 to 10 contain

additional details and cross-sections. Drawings No. 11 and 12 contain the Special Provisions and Standard drawings for construction and maintenance of the Drain.

### **11.2 Specifications**

This report incorporates the General Conditions, Standard Specifications and Special Provisions listed in the Table of Contents which govern the construction and maintenance of the drain.

## **12 COST ESTIMATE**

The estimated cost of this project includes allowances to owners, the construction cost, the engineering cost and other costs associated with the project.

### **12.1 Allowances**

Sections 29 to 33 of the Drainage Act provides for allowances (compensation) to owners affected by proposed drain construction. On this project, there are only allowances for Sections 29 and 30.

#### **12.1.1 Section 29 – Right of Way**

Section 29 provides for payment of an allowance to landowners for right of way required for construction and maintenance of the new drain. This allowance compensates the owners for land to accommodate the drain, access routes to the drain and for a corridor along the drain for construction and maintenance purposes. Current municipal assessment rolls were reviewed to establish land values for computing right of way allowances. Section 29 allowances are based on the rates in the following Table.

Table 12.1-1 - Section 29 Allowance Rates

Land Use	Area Land Value
Cultivated Lands	\$ 3.11/m <sup>2</sup>
Bush Lands	\$ 2.46/m <sup>2</sup>

There is a minimum Section 29 (R-O-W) allowance of \$100.

#### **12.1.2 Section 30 - Damages**

Section 30 provides for payment of an allowance to landowners along the drain for damages caused by the construction of the drain. Where separate access routes to the working area are specified in this report, Section 30 allowances also account for access route damage. In agricultural areas, crop damages are computed based on published crop values and declining productivity loss in the years following construction. For this project, Section 30 allowances are based on the following rates:

Table 12.1-2 - Section 30 Allowance Rates

Land Use	Area Land Value
Cultivated Lands	\$ 0.43/m <sup>2</sup>
Bush Lands	0.22/m <sup>2</sup>

There is a minimum Section 30 (damage) allowance of \$100.

The table below summarizes the dimensions and amounts of the allowances to be provided under this report.

Table 12.1-3 - Summary of Allowances

Roll Number	R.O.W. Width (m)	Sec 29 (\$)	Damages Width (m)	Sec 30 (\$)	Total (\$)
Town of Fort Erie (27-03-020-0) (Former Township of Bertie)					
31-086	10	3,700	15	500	4,200
31-087	10	3,700	15	500	4,200
31-088	10	2,300	15	300	2,600
31-089	10	2,200	15	300	2,500
31-094	10	6,600	15	1,800	8,400
31-140	10	12,300	15	2,000	14,300
31-141	10	11,600	15	2,400	14,000
31-146	5	1,400	10	200	1,600
31-147	5	1,400	10	500	1,900
31-148	5	1,400	10	500	1,900
31-165	10	3,700	15	900	4,600
31-165-10	10	11,100	15	1,600	12,700
31-996	--	0	15	300	300
City of Port Colborne (27-11-040-00) (Former Twp of Humberstone)					
6-075	7.5	100	10	100	200
6-113	10	26,500	15	4,600	31,100
6-121	7.5	200	10	100	300
<b>TOTAL ALLOWANCES:</b>		<b>88,200</b>		<b>16,600</b>	<b>104,800</b>

In accordance with Section 62(3) of the Act, the allowances shown may be deducted from the final assessment levied. Payment to the owner would only be made when the allowance is greater than the final assessment. The allowances are a fixed amount and are not adjusted at the conclusion of construction.

### **12.2 Construction Cost Estimate**

The estimated cost for Labour, Equipment and Materials to construct the proposed drain is outlined in detail in Estimated Costs Summary in Table 12.6-1 - Estimated Cost Summary. The construction cost estimate is based on recent costs for

comparable work. A contingency amount is included to cover additional work that may be required due to field conditions or minor alterations to the project.

The contract for the drain will be awarded by public tender. If the contract price is more than 33% over the engineer's estimate, Section 59 of the Act requires a Council meeting with the assessed landowners to determine if the project should proceed.

### **12.3 Engineering Cost Estimate**

Engineering costs include report preparation and attending the Council meeting to consider report and the Court of Revision

Construction Phase Services may include: preparing tender documents and tender call, review of tenders, attending pre-construction meeting, periodic construction inspection, payments, final inspection, post construction follow-up, final cost analysis and preparation of the grant application.

The cost for report preparation is usually not altered at the conclusion of a project unless the report is referred back or the report is appealed to the Drainage Tribunal which would result in additional costs. The amount shown for meetings is an estimate. Final cost will be based on the actual time required for meetings. The estimate shown for construction phase services is based on past experience and assumes good construction conditions and a Contractor who completes the construction in an efficient manner. The final cost for the construction phase will vary as per the actual time spent during and following drain construction. Engineering costs are summarized in Table 12.6-1 - Estimated Cost Summary.

### **12.4 Estimate of Section 73 Costs**

Section 73(2) and 73(3) of the Act direct that the cost of services provided by Municipal staff and Council to carry out the Act process shall not form part of the final cost of the drain. However, Section 73(1) outlines that the following costs incurred by the Municipality can be included in the cost of the drain: "*cost of any application, reference or appeal and the cost of temporary financing.*"

The estimate of Section 73 costs is included to cover the above referenced items from Section 73(1) and primarily provides for interest charges on financing the project until it is completed. This cost estimate may not be adequate to cover legal or engineering costs incurred by or assessed to the municipality should the project be appealed beyond the Court of Revision though such costs will form part of the final drain cost.

Grant policy indicates that Municipal cost for photo-copying and mailing required to carry out the required procedures under the Act can be included in the final drain cost. This cost estimate includes an allowance for these costs.

Section 73 costs are summarized in Table 12.6.1 Estimate Cost Summary.



### 12.5 Harmonized Sales Tax

The Harmonized Sales Tax (HST) will apply to most costs on this project. The Municipality is eligible for a partial refund on HST paid, the net 1.76% HST is included in the cost estimates in this report.

### 12.6 Estimated Cost Summary

Table 12.6-1 - Estimated Cost Summary

DESCRIPTION						FINAL COST
<b>ALLOWANCES (from Table 12.1-3):</b>						<b>\$104,800</b>
<b>CONSTRUCTION COST ESTIMATE</b>						
Item	Stations	Description	Unit	Quantity	Unit Price	Cost
<b>i) Main Drain</b>						
1	0+00 to 0+050	No work required				\$ 0
2	0+050 to 0+485	Power brushing 10m width on south side of drain	m <sup>2</sup>	4,350	2	8,700
3	0+050 to 0+758	708m of ditch cleanout, 2.5m wide bottom, 2:1 side slopes. Level spoil on south side of drain including incidental brushing Sta. 0+485 to 0+754	m	708	20	14,200
4	0+050 to 0+758	Seeding of ditch banks (5m sides)	m <sup>2</sup>	3,540	1	3,500
5	0+752	Construct permanent rock sediment trap with 10m <sup>2</sup> of riprap	each	1	2,200	2,200
6	0+754 to 0+784	No work required. Existing twin (2) 18m lengths of 1150mm high x 1450mm wide arch CSP culverts to be incorporated				0
7	0+776 to 1+050	274m of ditch cleanout, 2m wide bottom, 2:1 side slopes. Level spoil on south side including incidental brushing	m	274	20	5,500
8	0+776 to 1+050	Seeding of ditch banks (5m sides)	m <sup>2</sup>	1,370	1	1,400
9	1+050 to 1+743	Excavate 693m of ditch, 2m wide bottom, 2:1 side slopes. Level spoil on south/north side	m	693	20	13,900
10	1+050 to 1+743	Seeding of ditch banks (4m sides)	m <sup>2</sup>	2,772	1	2,800
11	1+095	Clean through existing 3 - 5.5m lengths of 900mm CSP culverts to design grade	m	12	40	500
12	1+100 to 1+743	Power brush in ditch and 10m on south side/north side	m <sup>2</sup>	5,060	2	10,100
13	1+743 to 1+760	Clean through railway 1200mm dia. culvert to design grade (17m length)	m	17	40	700
14	1+760 to 1+890	Excavate 130m of ditch, 2.0m wide bottom, 2:1 side slopes. Level spoil on south side	m	130	20	2,600
15	1+760 to 1+884	Seeding of ditch banks (3m sides)	m <sup>2</sup>	372	1	400

DESCRIPTION							FINAL COST
16	1+760 to 1+884	Power brushing in ditch and 5m on north side	m <sup>2</sup>	1,240	2	2,500	
17	1+880	Construct permanent rock sediment trap with 10m <sup>3</sup> of riprap	each	1	2,200	2,200	
18	1+889 to 1+899	Install 10m of 750mm dia. HDPE pipe beside existing culvert across road by open cut including restoration	L.S.	1	20,000	20,000	
19	1+904 to 2+317	Power brushing in ditch and 10m on south side	m <sup>2</sup>	4,130	2	8,300	
20	1+899 to 2+468	Excavate 569m of ditch, 2, wide bottom, 2:1 side slopes. Level spoil on south side	m	569	20	11,300	
21	1+904 to 2+468	Seeding of ditch banks (4m sides)	m <sup>2</sup>	2,256	1	2,300	
22	2+055±	Construct low flow crossing with twin (2) 4m lengths of 600mm dia. HDPE pipes and 40m <sup>2</sup> of riprap	L.S.	1	4,000	4,000	
23	2+478	Clean through road culvert to design grade (10m length) and ditch at both ends	m	20	40	800	
24	2+484 to 2+625	Power brushing in ditch and 10m on south side	m <sup>2</sup>	1,410	2	2,800	
25	2+488 to 2+625	Excavate 137m of ditch, 1.5m wide bottom, 2:1 side slopes. Level spoil on south side	m	137	20	2,800	
26	2+488 to 2+625	Seeding of ditch banks (4m sides)	ha	548	1	600	
27	2+625 to 3+010	Power brushing 10m of ditch	m <sup>2</sup>	3,850	2	7,700	
28	2+625 to 3+010	385m of debris removal	m	385	8	3,100	
29	3+010 to 3+175	Excavate 165m of ditch, 1.5m wide bottom, 2:1 side slopes. Level spoil on south side	m	165	20	3,300	
30	3+010 to 3+175	Seeding of ditch banks (4m sides)	m <sup>2</sup>	660	1	700	
31	3+175 to 3+200	Excavate 25m of ditch, 1.5m wide bottom, 2:1 side slopes. Level spoil on east side	m	25	20	500	
32	3+175 to 3+200	Seeding of ditch banks (2m sides)	m <sup>2</sup>	50	1	100	
33	3+170	Construct permanent rock sediment trap with 10m <sup>3</sup> of riprap	each	1	2,200	2,200	
34	3+200 to 3+490	Excavate 290m of ditch, 0.9m wide bottom, 1.5:1 side slopes. Level spoil on east side	m <sup>2</sup>	20	290	5,800	
35	3+200 to 3+490	Seeding of ditch banks (2m sides)	m <sup>2</sup>	1	580	600	
36	3+490 to 3+504	Remove and dispose of existing culvert and install 14m lengths of 750mm and 900mm dia. PPE pipes across road by open cut, including restoration. Taper 5m of ditch at downstream and upstream ends.	L.S.	1	25,000	25,000	

DESCRIPTION							FINAL COST
35	3+504 to 3+525	Excavate 21m of ditch, 0.9m wide bottom, 1.5:1 side slopes. Level spoil on north side	m	21	20	500	
36	3+504 to 3+525	Seeding of ditch banks (2m sides)	m <sup>2</sup>	42	1	100	
37	3+525 to 3+537	Remove and dispose of existing culvert and install 12m lengths of 750mm and 900mm dia. PPE pipes across road by open cut, including restoration. Taper 5m of ditch at downstream and upstream ends	L.S.	1	25,200	25,200	
Sub Total Part i)						<b>198,900</b>	
<b>ii) Contingencies</b>							
38		Lump sum contingency allowance	L.S.	1	20,000	20,000	
Net HST (1.76%)						3,850	
<b>TOTAL CONSTRUCTION COST ESTIMATE:</b>							<b>222,750</b>
<b>ENGINEERING COST ESTIMATE</b>							
Report Preparation						35,818	
Consideration of Report Meeting						700	
Court of Revision						300	
Construction Phase Services						18,182	
Net HST (1.76%)						965	
<b>TOTAL ENGINEERING COST ESTIMATE:</b>							<b>55,965</b>
<b>SECTION 73 (OTHER) COSTS ESTIMATE</b>							
Printing (50 KSAL plus 950 Town)						1,000	
Printing of Tender Documents						200	
Agencies Permit Fee						1,000	
Interest estimate						3,400	
Unforeseen costs						3,700	
Net HST (1.76%)						165	
<b>TOTAL SECTION 73 (OTHER) COSTS ESTIMATE:</b>							<b>9,465</b>
<b>TOTAL ESTIMATED COST:</b>							<b>\$392,980</b>

### 13 ASSESSMENTS

The Drainage Act requires that the total estimated cost be assessed to the affected lands and roads under the categories of Benefit (Section 22), Outlet Liability (Section 23), Injuring Liability (Section 23), Special Benefit (Section 24) and Increased Cost (Section 26). On this project assessment for Benefit, Special Benefit, Outlet Liability and Increased Cost (Special) Assessment are involved.

#### **13.1 Calculation of Assessments**

The method of calculating the assessments for the Drain is illustrated in Appendix A which has been included with this report. Appendix A divides the drain into intervals. The estimated cost for each interval is then determined. For each interval

the first step in the assessment calculation is to determine the benefit assessment to the affected lands and roads, then special assessments to roads and utilities are determined, where applicable. After deducting the total benefit and special assessments from the interval cost, the balance of the cost is then assessed as outlet liability on a per hectare basis to all lands and roads in the watershed.

### **13.2 Benefit Assessments (Section 22 and 24)**

Section 22 benefits were determined based on the estimated value the drain provides to the property and are not proportional to watershed area.

Section 24 special benefit is assessed to lands where additional work or features are requested that have no effect on the function of the drain. Special benefit examples include hauling spoil offsite, aesthetic features and installing lateral drains. Non-grantable benefits relate to work that is not eligible for Grant according to the current OMAFRA policy. Non-proratable benefits are not used to determine the actual cost factor for the final cost levy. Some examples would be lateral drains, culverts or hauling of spoil. Columns with non-grantable and non-proratable are used to complete the final assessment. Table 13.2-1 - Benefit Assessments provides a summary of the benefit assessments. The Special Benefit to Roll No. 31-165-10 is for ½ of the cost of the new low flow crossing at Sta. 2+055±.

*Table 13.2-1 - Benefit Assessments*

<b>Roll Number (Owner)</b>	<b>Location (Interval)</b>	<b>Section 22</b>	<b>Section 24</b>	<b>Total Benefit</b>	<b>Non- grantable</b>	<b>Non- proratable</b>
31-086	1	5,300	-	5,300	-	-
31-087	1	5,300	-	5,300	-	-
31-088	1	3,300	-	3,300	-	-
31-089	1	3,200	-	3,200	-	-
31-094	1	9,400	-	9,400	-	-
31-141	1	4,900	-	4,900	-	-
Point Abino Road	1	16,000	-	16,000	-	-
31-140	2	18,200	-	18,200	-	-
31-141	2	16,800	-	16,800	-	-
31-146	2	4,100	-	4,100	-	-
31-147	2	5,500	-	5,500	-	-
31-148	2	6,200	-	6,200	-	-
31-996	2	16,000	-	16,000	-	-
Burger Road	2	16,000	-	16,000	-	-
31-165	3	5,600	-	5,600	-	-
31-165-10	3	15,300	2,000	17,300	-	2,000
½ Holloway Bay Road (Town of Fort Erie)	3	8,000	-	8,000	-	-

Roll Number (Owner)	Location (Interval)	Section 22	Section 24	Total Benefit	Non-grantable	Non-proratable
½ Holloway Bay Road (City of Port Colborne)	3	8,000	-	8,000	-	-
6-113	3	5,300	-	5,300	-	-
6-113	4	33,500	-	33,500	-	-
Reg. Road 98 (Schihi Road)	4	23,300	-	23,300	-	-
6-121	4	600	-	600	-	-
Reg. Road 98 (Schihi Road and Forkes Road)	5	20,100	-	20,100	-	-
6-075	5	1,400	-	1,400	-	-
6-113	5	3,300	-	3,300	-	-
6-121	5	2,300	-	2,300	-	-
TOTALS:		256,900	2,000	258,900	-	2,000

### **13.3 Outlet Liability Assessments (Section 23)**

Section 23(3) of the Drainage Act states that outlet liability assessment is to be based on the volume and rate of flow of the water artificially caused to flow. To satisfy this requirement, the lands and roads in the watershed are assessed on a per hectare basis, with adjustments made to recognize the different amount of runoff generated by different land uses. The basis for the adjustments is 1 hectare of cleared agricultural land contributing both surface and subsurface water to the drain. Land uses with a different runoff rate are adjusted by the factors given in the Table 13.3-1 - Runoff Factors Table.

Table 13.3-1 - Runoff Factors Table

Land Use	Runoff factor
Agricultural	1
Forest	0.5
Built-up	1.5
Gravel Road	2
Paved Road	2.5

### **13.4 Increased Cost (Special) Assessments (Section 26)**

Section 26 of the Drainage Act directs that any increased cost due to a public utility (utility) or road authority (road) shall be paid for by that utility or road. This assessment is known as a Special Assessment.

The estimated special assessments are presented in Table 13.4-1 – Estimated Special Assessments. The equivalent drain cost is based on the length of drain affected by the road allowance or utility right of way and the normal cost of drain

construction. The increased cost caused by the road or utility is determined by subtracting the equivalent drain cost from the construction and engineering costs.

*Table 13.4-1 – Estimated Special Assessments*

Sta.	Road/ Utility	Authority	Construction Cost	Engineering Cost	Equivalent Drain Cost	Net HST	Estimated Special Assess.
1+889 to 1+899	Burger Road	Town of Fort Erie	20,000	5,000	-200	435	25,235
3+490 to 3+504	Reg. Rd 98 (Schihl Road)	Region of Niagara	25,000	6,300	-280	545	31,565
3+525 to 3+537	Reg. Rd 98 (Forkes Road)	Region of Niagara	25,200	6,300	-280	550	31,770
TOTALS:			70,200	17,600	-760	1,530	88,570

The actual special assessments will be determined after construction by inserting the actual construction and engineering costs in the Special Assessments Table. Any additional costs identified by the Engineer will be added to the Special Assessment where appropriate.

The road authority or utility may elect to construct the drain within their right of way with their own forces. In this case, the special assessment is calculated by inserting zero for the construction cost.

If there are increased costs to the drain project due to a utility or road not listed in the Table above, a Special Assessment will be based on the actual costs incurred.

Special Assessments do not apply to future maintenance assessments.

### **13.5 Assessment Schedules**

#### *13.5.1 Schedule A- Schedule of Assessments*

The estimated cost for the drainage works in this report is distributed among lands, roads and utilities as shown in Schedule A, the Schedule of Assessments. In Schedule A each parcel of land assessed has been identified by the municipal assessment roll number at the time of the preparation of this report. The size of each parcel was established using the assessment roll information. For convenience only, each parcel is also identified by the owner name(s) from the last revised assessment roll.

#### *13.5.2 Schedule B -Schedule of Assessments for Maintenance*

In accordance with Section 74 of the Act, the Drain shall be maintained by the municipality and the cost of maintenance shall be assessed to lands and roads upstream of the maintenance location, prorata with the amounts in Schedule B. The amounts in Schedule B are derived from the cost distribution shown in Appendix B, which has been included with this report, and will not be levied with the final cost of the drainage works.

Roll numbers are per the Municipality's last revised assessment roll, names included for convenience. Amounts are not payable at this time, they determine share of future maintenance cost. Determine grant eligibility at the time of maintenance cost levy.

Schedule B is divided into columns to reflect the different drain intervals where maintenance work may be undertaken. These column intervals assist in identifying upstream lands and roads to be assessed for future maintenance. The percentages shown in Schedule B determine the share of future maintenance to be levied to a property or road. For example, a \$1,000 beaver dam removal or repair will result in a \$50 assessment to a property with a 5% maintenance assessment.

A minimum assessments of 0.1% is to be applied to all future small lots in the watershed per affected interval.

#### *13.5.3 Schedule C – Schedule for Actual Cost Bylaw*

After the construction of the drain is certified complete by the Engineer the Municipality will determine the actual cost of the drain. Actual assessments will be determined by prorating the actual cost of the drain using Schedule C. Schedule C illustrates the estimated net assessments after deducting allowances and grants from the total assessments shown in Schedule A. Eligibility for grant will be confirmed by the Municipality at the time the actual cost is levied. Actual assessments in Schedule C will be levied to the owner of the identified parcel at the time the Actual Cost Bylaw is passed.

## **14 GRANT**

In accordance with the provisions of Section 85 of the Act, a grant not exceeding 1/3 (33-1/3%) may be available on the assessments against lands used for agricultural purposes. Current OMAFRA grant policy defines agricultural lands as privately owned parcels of land which have the Farm Property Class Tax Rate. Based on Municipal assessment roll information, parcels that have the Farm Property Tax Class are identified with an 'F' in the first column of the assessment schedules.

Section 88 of the Act provides for the Municipality to apply for this grant after the construction of the drain is certified complete by the Engineer. The Municipality must confirm the Farm Property Tax Class on the assessed parcels at the time the grant application is completed and submitted to OMAFRA. OMAFRA has the authority to determine grant eligibility regardless of the designation herein.

If any portion of the drainage works is not eligible for grant, those ineligible costs have been separately identified in this report.

## 15 PRIVACY OF LANDS

Although a municipal drain is situated on the property of various landowners, one landowner may not enter another landowner's property by means of the drain. Persons authorized to enter private lands to carry out duties authorized under the Act include: Engineers (or their assistants), Contractors (or their assistants) and the appointed Drainage Superintendents (or their assistants).

## 16 MAINTENANCE

### **16.1 General**

Section 74 of the Act requires the Drain, as outlined in this report, to be maintained by the Municipalities, and the cost of maintenance to be assessed to the upstream lands and roads prorata with the assessments in Schedule B. The portion of the Drain in the Town of Fort Erie shall be maintained by the Town of Fort Erie and the portion of the Drain in the City of Port Colborne shall be maintained by the City of Port Colborne.

All parties affected by the Drain, are encouraged to periodically inspect the drain and report any visible or suspected problems to their appropriate Municipality.

A right-of-way along the drain and access routes to the drain exist for the Municipality to maintain the drain. There is a 6m wide right-of-way on each side of the drain that shall remain free of obstructions. The cost for removing obstructions is the responsibility of the owner.

Any landowner making a new connection to the Drain, shall notify the Drainage Superintendent before making the connection. If the Drainage Superintendent is not notified, the cost to remedy new connections that obstruct or otherwise damage the drain will be the responsibility of the owner.

The discharge of anything but clean, unpolluted water into a drain is regulated by other provincial legislation. Any non-compliance will be reported to the appropriate environmental agency.

It is recommended that each abutting owner work no closer than 1.2m (4') to any ditch bank. Such area does not have to be grassed but it should not be cultivated.

### **16.2 Updating Future Maintenance Schedules**

To ensure future maintenance assessments are equitable, the assessments provided in this report should be reapportioned under Section 65 when severances or amalgamations occur, when new lands are connected to the Drain or when a land-use change occurs that can be accommodated by the existing Drain. If a future land-use change will cause the drain capacity to be exceeded, a report under Section 4 or 78 may be required to provide increased capacity.



### 16.3 Culvert Maintenance

- The costs of cleaning through all culverts shall be assessed as drain maintenance to upstream lands and roads.
- The cost for future structural repair, extension or replacement of road culverts will be assessed fully to the road authority.
- In Table 9.1-1, when the responsibility for an access culvert is designated as "Drain," the cost for repair or replacement shall be assessed 50% to the abutting landowner and the remainder to the upstream watershed. The cost of additional culverts and/or culvert length is assessed to the owner.
- In Table 9.1-1, when the responsibility for an access culvert is designated as "Owner," the cost for installation, repair, replacement and removal are the responsibility of the roll number listed.
- Culverts installed to service public utilities shall be assessed 50% to the utility and 50% to the affected land or road.
- Prior approval of the Municipality is required before a landowner installs a culvert not constructed under this report. The culvert shall be installed per sizing listed in Table 9.1-1 and design grade specified in this report. If culverts smaller than the minimum recommended size are installed, such culverts will be deemed an obstruction to the drain and removed at the landowner's expense.

## 17 BYLAW

This report including the drawings and specifications, assessment schedules and appendices, when adopted by bylaw in accordance with the Act, provides the basis for construction and maintenance of the Drain.

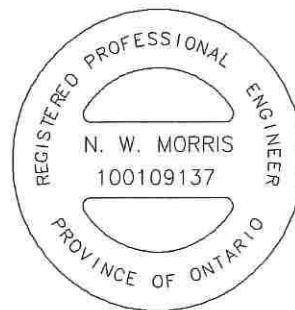
All of which is respectfully submitted,

K. SMART ASSOCIATES LTD.

*N. W. Morris*

N. Morris, P. Eng.

mw



**SCHEDULE A - SCHEDULE OF ASSESSMENTS  
SCHIHL DRAIN  
Town of Fort Erie and City of Port Colborne**

Conc.	Lot	Roll No.	Owner(s)	Total Ha Affected	Benefit (\$)	Outlet (\$)	Total (\$)
<b><i>Town of Fort Erie (27-03-020-0) (Former Township of Bertie)</i></b>							
<u>Lands</u>							
14NR	Pt 14	31-086-00	R. Singleton	1.7	5,300	38	5,338
14NR	Pt 14	31-087-00	J. Robertson & S. Cavey	2.1	5,300	47	5,347
14NR	Pt 14	31-088-00	D. Merritt	1.9	3,300	43	3,343
14NR	Pt 14	31-089-00	D. Merritt	1.9	3,200	43	3,243
14NR	Pt 13	31-093-00	C. Wegelin	0.3	24	13	37
14NR	Pt 14	31-094-00	R. Charron	2.8	9,400	121	9,521
14NR	Pt 14	31-096-00	R. & D. Willick	2.3	0	52	52
15NR	Pt 12	31-137-01	J. Mymryk	0.9	0	104	104
15NR	Pts 13&14	31-140-00	Willoyd Ltd.	36.8	18,200	4,011	22,211
15NR	Pt 14	31-141-00	H. Van Der Meer	6.0	21,700	695	22,395
15NR	Pt 14	31-142-00	K. & S. Sider	1.8	0	313	313
15NR	Pt 14	31-143-00	W. & S. Kikkert	1.8	0	313	313
15NR	Pt 14	31-144-00	D. Dagesse & D. Holloway	1.8	0	313	313
15NR	Pt 14	31-145-00	L. & A. Smith	1.8	0	313	313
15NR	Pt 14	31-146-00	W. Yuan & G. Li	3.0	4,100	243	4,343
15NR	Pt 14	31-147-00	C. Stackwood	2.3	5,500	400	5,900
15NR	Pt 14	31-148-00	R. & A. Swinson	6.9	6,200	799	6,999
16NR	Pt 11	31-160-04	P. Potts	2.5	0	183	183
16NR	Pts 11&12	31-162-00	R. Brost & T. Chute	19.7	0	2,570	2,570
16NR	Pt 13	31-162-01	P. & A. Brunet	8.9	0	1,515	1,515
16NR	Pt 13	31-163-00	D. Cregheur	6.3	0	659	659
16NR	Pt 13	31-164-00	C. Mugas & K. Beardwood	0.8	0	176	176
16NR	Pt 13	31-165-00	W. & K. Hawkins	2.5	5,600	330	5,930
16NR	Pt 14	31-165-10	D. & T. Brewster	5.0	17,300	425	17,725
16NR	Pt 14	31-165-15	A. & J. Natale	0.9	0	198	198
16NR	Pt 14	31-165-17	A. & J. Natale	1.6	0	352	352
16NR	Pt 14	31-166-00	H. & S. Dyck	1.7	0	373	373
16NR	Pt 14	31-166-02	J. Brooks	0.4	0	88	88
16NR	Pt 14	31-172-22	Town of Fort Erie	1.3	0	285	285
16NR	Pt 14	31-172-24	A. & J. Natale	2.0	0	439	439
15&16NR	Pts 13&14	31-996-00	C P Rail - Caso	5.8	16,000	1,085	17,085
<b>Sub-Total (Lands):</b>				<b>135.5</b>	<b>121,124</b>	<b>16,539</b>	<b>137,663</b>
<u>Roads</u>							
Point Abino Road			Town of Fort Erie	1.1	16,000	123	16,123
Burger Road			Town of Fort Erie	1.6	16,000	463	16,463
Special Assess. to Burger Road				0	25,235	0	25,235
1/2 Holloway Bay Road			Town of Fort Erie	1.2	8,000	176	8,176
Fox Road			Town of Fort Erie	1.4	0	489	489
<b>Sub-Total (Roads):</b>				<b>5.3</b>	<b>65,235</b>	<b>1,251</b>	<b>66,486</b>
<b>Total Assessments for Town of Fort Erie:</b>				<b>140.8</b>	<b>186,359</b>	<b>17,790</b>	<b>204,149</b>
<b><i>City of Port Colborne (27-11-040-00) (Former Twp of Humberstone)</i></b>							
<u>Lands</u>							
4	Pts 1&2	6-072-15	776542 Ont. Ltd.	19.0	0	2,424	2,424
4	Pt 3	6-075-00	776542 Ont. Ltd.	14.2	1,400	2,354	3,754
4	Pt 4	6-078-00	D. & S. Anderson	10.8	0	1,267	1,267
5	Pts 1&2	6-113-00	776542 Ont. Ltd.	46.1	42,100	7,908	50,008
5	Pts 1&2	6-114-00	S. & J. Hwang	13.9	0	2,596	2,596
5	Pts 3&4	6-119-00	Loeffen Farms Ltd.	1.6	0	155	155
5	Pts 3&4	6-120-00	2144894 Ont Ltd	1.5	0	144	144
5	Pts 3&4	6-121-00	776542 Ontario Ltd	39.3	2,900	7,160	10,060
5	Pt 4	6-122-00	P. Aiello	2.8	0	490	490
5	Pts 1 to 4	6-996-00	C.P.Rail-Caso	3.0	0	865	865
<b>Sub-Total (Lands):</b>				<b>152.2</b>	<b>46,400</b>	<b>25,363</b>	<b>71,763</b>
<u>Roads</u>							
Reg. Rd. 98 (Schihl Rd. & Forkes Rd)			Region of Niagara	2.8	43,400	1,377	44,777
Special Assess. to Reg. Rd 98 (Schihl Rd & Forkes Rd)				0	63,335	0	63,335
1/2 Holloway Bay Road			City of Port Colborne	1.8	8,000	265	8,265
Forkes Road			City of Port Colborne	1.2	0	550	550
Zavitz Road			City of Port Colborne	0.7	0	141	141
<b>Sub-Total (Roads):</b>				<b>6.5</b>	<b>114,735</b>	<b>2,333</b>	<b>117,068</b>
<b>Total Assessments for City of Port Colborne:</b>				<b>158.7</b>	<b>161,135</b>	<b>27,696</b>	<b>188,831</b>
<b>TOTAL ASSESSMENTS FOR SCHIHL DRAIN:</b>				<b>299.5</b>	<b>347,494</b>	<b>45,486</b>	<b>392,980</b>

**Note:**

Section 21 of the Drainage Act, RSO 1990 requires that assessments be shown opposite each parcel of land and road affected. The affected parcels of land have been identified using the roll number from the last revised assessment roll for the Township. For convenience only, the owners' names as shown by the last revised assessment roll, has also been included.

SCHIH L DRAIN  
Town of Fort Erie and City of Port Colborne

Lot	Conc.	Roll No.	Owner(s)	Interval 1		Interval 2		Interval 3		Interval 4		Interval 5		TOTAL	
				Sta. 0+000	to 0+777	Sta. 0+777	to 1+904	Sta. 1+904	to 2+478	Sta. 2+478	to 3+200	Sta. 3+200	to 3+541	\$	%
				Assess.	%	Assess.	%	Assess.	%	Assess.	%	Assess.	%		
<b>Town of Fort Erie (27-03-020-0) (Former Township of Bertie)</b>															
<b>Lands</b>															
14NR	Pt 14	31-086-00	R. Singleton	326	4.18	-	-	-	-	-	-	-	-	326	0.92
14NR	Pt 14	31-087-00	J. Robertson & S. Cavey	330	4.23	-	-	-	-	-	-	-	-	330	0.93
14NR	Pt 14	31-088-00	D. Merritt	218	2.79	-	-	-	-	-	-	-	-	218	0.62
14NR	Pt 14	31-089-00	D. Merritt	208	2.67	-	-	-	-	-	-	-	-	208	0.59
14NR	Pt 13	31-093-00	C. Wegelin	8	0.10	-	-	-	-	-	-	-	-	8	0.02
14NR	Pt 14	31-094-00	R. Charron	611	7.83	-	-	-	-	-	-	-	-	611	1.73
14NR	Pt 14	31-096-00	R. & D. Willick	22	0.28	-	-	-	-	-	-	-	-	22	0.06
15NR	Pt 12	31-137-01	J. Mymryk	17	0.22	22	0.19	-	-	-	-	-	-	39	0.11
15NR	Pts 13&14	31-140-00	Willoyd Ltd.	650	8.33	1,998	17.68	-	-	-	-	-	-	2,648	7.48
15NR	Pt 14	31-141-00	H. Van Der Meer	113	1.45	1,225	10.84	-	-	-	-	-	-	1,338	3.78
15NR	Pt 14	31-142-00	K. & S. Sider	51	0.65	65	0.58	-	-	-	-	-	-	116	0.33
15NR	Pt 14	31-143-00	W. & S. Kikkert	51	0.65	65	0.58	-	-	-	-	-	-	116	0.33
15NR	Pt 14	31-144-00	D. Dagesse & D. Holloway	51	0.65	65	0.58	-	-	-	-	-	-	116	0.33
15NR	Pt 14	31-145-00	L. & A. Smith	51	0.65	65	0.58	-	-	-	-	-	-	116	0.33
15NR	Pt 14	31-146-00	W. Yuan & G. Li	39	0.50	211	1.87	-	-	-	-	-	-	250	0.71
15NR	Pt 14	31-147-00	C. Stackwood	65	0.83	253	2.24	-	-	-	-	-	-	318	0.90
15NR	Pt 14	31-148-00	R. & A. Swinson	129	1.65	337	2.98	-	-	-	-	-	-	466	1.32
16NR	Pt 11	31-160-04	P. Potts	23	0.29	30	0.27	17	0.30	-	-	-	-	70	0.20
16NR	Pts 11&12	31-162-00	R. Brost & T. Chute	329	4.22	424	3.75	244	4.28	-	-	-	-	997	2.82
16NR	Pt 13	31-162-01	P. & A. Brunet	194	2.49	250	2.21	144	2.53	-	-	-	-	588	1.66
16NR	Pt 13	31-163-00	D. Cregheur	84	1.08	109	0.96	63	1.11	-	-	-	-	256	0.72
16NR	Pt 13	31-164-00	C. Mugas & K. Beardwood	23	0.29	29	0.26	17	0.30	-	-	-	-	69	0.19
16NR	Pt 13	31-165-00	W. & K. Hawkins	42	0.54	54	0.48	641	11.25	-	-	-	-	737	2.08
16NR	Pt 14	31-165-10	D. & T. Brewster	54	0.69	70	0.62	1,330	23.33	-	-	-	-	1,454	4.11
16NR	Pt 14	31-165-15	A. & J. Natale	25	0.32	33	0.29	19	0.33	-	-	-	-	77	0.22
16NR	Pt 14	31-165-17	A. & J. Natale	45	0.58	58	0.51	33	0.58	-	-	-	-	136	0.38
16NR	Pt 14	31-166-00	H. & S. Dyck	48	0.62	62	0.55	36	0.63	-	-	-	-	146	0.41
16NR	Pt 14	31-166-02	J. Brooks	11	0.14	15	0.13	8	0.14	-	-	-	-	34	0.10
16NR	Pt 14	31-172-22	Town of Fort Erie	37	0.47	47	0.42	27	0.47	-	-	-	-	111	0.31
16NR	Pt 14	31-172-24	A. & J. Natale	56	0.72	73	0.65	42	0.74	-	-	-	-	171	0.48
15&16NR	Pts 13&14	31-996-00	C P Rail - Caso	163	2.09	1,100	9.73	36	0.63	-	-	-	-	1,299	3.67
<b>Sub-Total (Lands):</b>				<b>4,074</b>	<b>52.20</b>	<b>6,660</b>	<b>58.95</b>	<b>2,657</b>	<b>46.62</b>	-	-	-	-	<b>13,391</b>	<b>37.84</b>
<b>Roads</b>															
Point Abino Road				822	10.54	-	-	-	-	-	-	-	-	822	2.32
Burger Road				75	0.96	987	8.73	-	-	-	-	-	-	1,062	3.00
1/2 Holloway Bay Road				23	0.29	29	0.26	492	8.63	-	-	-	-	544	1.54
Fox Road				66	0.85	85	0.75	38	0.67	-	-	-	-	189	0.53
<b>Sub-Total (Roads):</b>				<b>986</b>	<b>12.64</b>	<b>1,101</b>	<b>9.74</b>	<b>530</b>	<b>9.30</b>	-	-	-	-	<b>2,617</b>	<b>7.39</b>
<b>Total Assessments for Town of Fort Erie:</b>				<b>5,060</b>	<b>64.84</b>	<b>7,761</b>	<b>68.69</b>	<b>3,187</b>	<b>55.92</b>	-	-	-	-	<b>16,008</b>	<b>45.23</b>
<b>City of Port Colborne (27-11-040-00) (Former Twp of Humberstone)</b>															
<b>Lands</b>															
4	Pts 1&2	6-072-15	776542 Ont. Ltd.	292	3.74	376	3.33	217	3.81	60	0.83	86	2.53	1,031	2.91
4	Pt 3	6-075-00	776542 Ont. Ltd.	219	2.81	283	2.50	163	2.86	258	3.58	644	18.94	1,567	4.43
4	Pt 4	6-078-00	D. & S. Anderson	118	1.51	152	1.35	88	1.54	139	1.93	201	5.91	698	1.97
5	Pts 1&2	6-113-00	776542 Ont. Ltd.	771	9.88	994	8.80	572	10.04	3,066	42.58	539	15.85	5,942	16.79
5	Pts 1&2	6-114-00	S. & J. Hwang	253	3.24	326	2.88	188	3.30	298	4.14	-	-	1,065	3.01
5	Pts 3&4	6-119-00	Loeffen Farms Ltd.	15	0.19	19	0.17	11	0.19	18	0.25	-	-	63	0.18
5	Pts 3&4	6-120-00	2144894 Ont Ltd	14	0.18	18	0.16	10	0.18	17	0.24	-	-	59	0.17
5	Pts 3&4	6-121-00	776542 Ontario Ltd	695	8.91	896	7.93	516	9.05	817	11.35	395	11.62	3,319	9.38
5	Pt 4	6-122-00	P. Aiello	48	0.62	62	0.55	36	0.63	56	0.78	-	-	202	0.57
		6-996-00	C.P.Rail-Caso	84	1.08	109	0.96	63	1.11	99	1.38	-	-	355	1.00
<b>Sub-Total (Lands):</b>				<b>2,509</b>	<b>32.16</b>	<b>3,235</b>	<b>28.63</b>	<b>1,864</b>	<b>32.71</b>	<b>4,828</b>	<b>67.06</b>	<b>1,865</b>	<b>54.85</b>	<b>14,301</b>	<b>40.41</b>
<b>Roads</b>															
Reg. Rd. 98 (Schihl Rd. & Forkes Rd)				128	1.67	170	1.49	97	1.68	2,313	32.12	1,449	42.62	4,157	11.72
1/2 Holloway Bay Road				34	0.44	44	0.39	500	8.77	-	-	-	-	578	1.63
Forkes Road				56	0.72	73	0.65	42	0.74	44	0.61	64	1.88	279	0.79
Zavitz Road				13	0.17	17	0.15	10	0.18	15	0.21	22	0.65	77	0.22
<b>Sub-Total (Roads):</b>				<b>231</b>	<b>3.00</b>	<b>304</b>	<b>2.68</b>	<b>649</b>	<b>11.37</b>	<b>2,372</b>	<b>32.94</b>	<b>1,535</b>	<b>45.15</b>	<b>5,091</b>	<b>14.36</b>
<b>Total Assessments for City of Port Colborne:</b>				<b>2,740</b>	<b>35.16</b>	<b>3,539</b>	<b>31.31</b>	<b>2,513</b>	<b>44.08</b>	<b>7,200</b>	<b>100.00</b>	<b>3,400</b>	<b>100.00</b>	<b>19,392</b>	<b>54.77</b>
<b>TOTAL ASSESSMENTS FOR SCHIH L DRAIN:</b>				<b>7,800</b>	<b>100.00</b>	<b>11,300</b>	<b>100.00</b>	<b>5,700</b>	<b>100.00</b>	<b>7,200</b>	<b>100.00</b>	<b>3,400</b>	<b>100.00</b>	<b>35,400</b>	<b>100.00</b>

Note:

Section 21 of the Drainage Act, RSO 1990 requires that assessments be shown opposite each parcel of land and road affected. The affected parcels of land have been identified using the roll number from the last revised assessment roll for the Township. For convenience only, the owners' names as shown by the last revised assessment roll, has also been included.

**SCHEDULE C - SCHEDULE FOR ACTUAL COST BYLAW  
SCHIHL DRAIN  
Town of Fort Erie and City of Port Colborne**

Lot	Conc.	Roll No.	Owner(s)	Gross Total (\$)	1/3 Grant (\$)	Allowance (\$)	Net (\$)
<b><u>Town of Fort Erie (27-03-020-0) (Former Township of Bertie)</u></b>							
<b><u>Lands</u></b>							
14NR	Pt 14	31-086-00	R. Singleton	5,338	-	4,200	1,138
14NR	Pt 14	31-087-00	J. Robertson & S. Cavey	5,347	-	4,200	1,147
14NR	Pt 14	31-088-00	D. Merritt	3,343	-	2,600	743
14NR	Pt 14	31-089-00	D. Merritt	3,243	-	2,500	743
14NR	Pt 13	31-093-00	C. Wegelin	37	-	-	37
14NR	Pt 14	31-094-00	R. Charron	9,521	-	8,400	1,121
14NR	Pt 14	31-096-00	R. & D. Willick	52	-	-	52
F 15NR	Pt 12	31-137-01	J. Mymryk	104	35	-	69
F 15NR	Pts 13&14	31-140-00	Willoyd Ltd.	22,211	7,404	14,300	507
F 15NR	Pt 14	31-141-00	H. Van Der Meer	22,395	7,465	14,000	930
15NR	Pt 14	31-142-00	K. & S. Sider	313	-	-	313
15NR	Pt 14	31-143-00	W. & S. Kikkert	313	-	-	313
15NR	Pt 14	31-144-00	D. Dagesse & D. Holloway	313	-	-	313
15NR	Pt 14	31-145-00	L. & A. Smith	313	-	-	313
15NR	Pt 14	31-146-00	W. Yuan & G. Li	4,343	-	1,600	2,743
15NR	Pt 14	31-147-00	C. Stackwood	5,900	-	1,900	4,000
F 15NR	Pt 14	31-148-00	R. & A. Swinson	6,999	2,333	1,900	2,766
16NR	Pt 11	31-160-04	P. Potts	183	-	-	183
F 16NR	Pts 11&12	31-162-00	R. Brost & T. Chute	2,570	857	-	1,713
F 16NR	Pt 13	31-162-01	P. & A. Brunet	1,515	505	-	1,010
16NR	Pt 13	31-163-00	D. Cregheur	659	-	-	659
16NR	Pt 13	31-164-00	C. Mugas & K. Beardwood	176	-	-	176
16NR	Pt 13	31-165-00	W. & K. Hawkins	5,930	-	4,600	1,330
16NR	Pt 14	31-165-10	D. & T. Brewster	17,725	-	12,700	5,025
16NR	Pt 14	31-165-15	A. & J. Natale	198	-	-	198
16NR	Pt 14	31-165-17	A. & J. Natale	352	-	-	352
16NR	Pt 14	31-166-00	H. & S. Dyck	373	-	-	373
16NR	Pt 14	31-166-02	J. Brooks	88	-	-	88
16NR	Pt 14	31-172-22	Town of Fort Erie	285	-	-	285
16NR	Pt 14	31-172-24	A. & J. Natale	439	-	-	439
15&16NR	Pts 13&14	31-996-00	C P Rail - Caso	17,085	-	300	16,785
<b>Sub-Total (Lands):</b>				<b>137,663</b>	<b>18,599</b>	<b>73,200</b>	<b>45,864</b>
<b><u>Roads</u></b>							
Point Abino Road			Town of Fort Erie	16,123	-	-	16,123
Burger Road			Town of Fort Erie	16,463	-	-	16,463
Special Assess. to Burger Road				25,235	-	-	25,235
1/2 Holloway Bay Road			Town of Fort Erie	8,176	-	-	8,176
Fox Road			Town of Fort Erie	489	-	-	489
<b>Sub-Total (Roads):</b>				<b>66,486</b>	<b>-</b>	<b>-</b>	<b>66,486</b>
<b>Total Assessments for Town of Fort Erie:</b>				<b>204,149</b>	<b>18,599</b>	<b>73,200</b>	<b>112,350</b>
<b><u>City of Port Colborne (27-11-040-00) (Former Twp of Humberstone)</u></b>							
<b><u>Lands</u></b>							
F 4	Pts 1&2	6-072-15	776542 Ont. Ltd.	2,424	808	-	1,616
F 4	Pt 3	6-075-00	776542 Ont. Ltd.	3,754	1,251	200	2,303
4	Pt 4	6-078-00	D. & S. Anderson	1,267	-	-	1,267
F 5	Pts 1&2	6-113-00	776542 Ont. Ltd.	50,008	16,669	31,100	2,239
F 5	Pts 1&2	6-114-00	S. & J. Hwang	2,596	865	-	1,731
F 5	Pts 3&4	6-119-00	Loeffen Farms Ltd.	155	52	-	103
5	Pts 3&4	6-120-00	2144894 Ont Ltd	144	-	-	144
F 5	Pts 3&4	6-121-00	776542 Ontario Ltd	10,060	3,353	300	6,407
5	Pt 4	6-122-00	P. Aiello	490	-	-	490
5	Pts 1 to 4	6-996-00	C.P.Rail-Caso	865	-	-	865
<b>Sub-Total (Lands):</b>				<b>71,763</b>	<b>22,998</b>	<b>31,600</b>	<b>17,165</b>
<b><u>Roads</u></b>							
Reg. Rd. 98 (Schihl Rd. & Forkes Rd)			Region of Niagara	44,777	-	-	44,777
Special Assess. to Reg. Rd 98 (Schihl Rd & Forkes Rd)				63,335	-	-	63,335
1/2 Holloway Bay Road			City of Port Colborne	8,265	-	-	8,265
Forkes Road			City of Port Colborne	550	-	-	550
Zavitz Road			City of Port Colborne	141	-	-	141
<b>Sub-Total (Roads):</b>				<b>117,068</b>	<b>-</b>	<b>-</b>	<b>117,068</b>
<b>Total Assessments for City of Port Colborne:</b>				<b>188,831</b>	<b>22,998</b>	<b>31,600</b>	<b>134,233</b>
<b>TOTAL ASSESSMENTS FOR SCHIHL DRAIN:</b>				<b>392,980</b>	<b>41,597</b>	<b>104,800</b>	<b>246,583</b>

Notes:

- The above lands marked "F" are currently classified as agricultural according to the OMAFA and are therefore entitled to a 1/3 grant.
- Section 21 of the Drainage Act, RSO 1990 requires that assessments be shown opposite each parcel of land and road affected. The affected parcels of land have been identified using the roll number from the last revised assessment roll for the Town. For convenience only, the owners' names as shown by the last revised assessment roll, has also been included.
- The value of the assessments identified in this schedule are estimates only, and should not be considered final.

APPENDIX A - CALCULATION OF ASSESSMENTS FOR SCHEDULE A  
SCHLH DRAIN  
Town of Fort Erie and City of Port Colborne

COST ESTIMATE:		Allowances: Construction: Engineering: Administration:	Interval 1				Interval 2				Interval 3				Interval 4				Interval 5				TOTAL								
			Sta. 0+000	to 0+777	Sta. 0+777	to 1+904	Sta. 1+904	to 2+478	Sta. 2+478	to 3+200	Sta. 3+200	to 3+841									Total Benefit	Total Outlet	TOTAL								
Total Cost Estimate:			21,900	34,000	17,300	23,100	6,500	104,800												104,800											
			32,055	70,115	29,915	23,100	64,095	222,750												222,750											
			5,090	20,350	2,035	12,210	16,280	55,955												55,955											
			1,425	3,480	1,220	1,425	1,935	9,465												9,465											
			60,470	127,925	50,470	63,395	90,720	392,980												392,980											
Conc.	Lot	Roll No.	Owner	Total Affected (Ha)	Total Adjusted (Ha)	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Total Benefit	Total Outlet	TOTAL			
<b>Town of Fort Erie (27-03-03-0) (Former Township of Bertie)</b>																															
Lands																															
14NR	Pt 14	31-086-00	R. Singleton	1.7	0.85	5,300	0.85	38	8.83	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	5,300	38	5,338		
14NR	Pt 14	31-087-00	J. Robertson & S. Cavey	2.1	1.05	5,300	1.05	47	8.84	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	5,300	47	5,347		
14NR	Pt 14	31-088-00	D. Merritt	1.9	0.95	3,300	0.95	43	5.53	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	3,300	43	3,343		
14NR	Pt 14	31-089-00	D. Merritt	1.9	0.95	3,200	0.95	43	5.36	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	3,200	43	3,243		
14NR	Pt 13	31-093-00	C. Wegelin	0.3	0.30	24	0.30	13	0.06	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	24	13	37		
14NR	Pt 14	31-094-00	R. Charron	2.8	2.70	9,400	2.70	121	15.74	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	9,400	121	9,521		
14NR	Pt 14	31-098-00	R. & D. Willick	2.3	1.15	1.15	52	0.09	0.07	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	1.15	52	52		
15NR	Pt 12	31-137-01	J. Mymyk	0.9	0.90	0.90	40	0.07	0.00	0.90	84	0.06	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	0	52	52		
15NR	Pts 13&14	31-140-00	Willoyd Ltd.	36.8	34.65	34.65	1,553	2.57	18,200	34.65	2,458	16.15	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	0	104	104		
15NR	Pt 14	31-141-00	H. Van Der Meer	6.0	6.00	4,900	6.00	269	8.55	16,800	6.00	426	13.47	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	18,200	4,011	22,211	
15NR	Pt 14	31-142-00	K. & S. Sider	1.8	2.70	2.70	121	0.20	2.70	192	0.15	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	0	2,700	192	2,892		
15NR	Pt 14	31-143-00	W. & S. Kikkert	1.8	2.70	2.70	121	0.20	2.70	192	0.15	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	0	2,700	192	2,892		
15NR	Pt 14	31-144-00	D. Duggess & D. Holloway	1.8	2.70	2.70	121	0.20	2.70	192	0.15	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	0	2,700	192	2,892		
15NR	Pt 14	31-145-00	L. & A. Smith	1.8	2.70	2.70	121	0.20	2.70	192	0.15	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	0	2,700	192	2,892		
15NR	Pt 14	31-146-00	W. Yuan & G. Li	3.0	2.10	2.10	94	0.16	4,100	2.10	149	3.32	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	4,100	243	4,343		
15NR	Pt 14	31-147-00	C. Stackwood	2.3	3.45	3.45	155	0.28	5,500	3.45	245	4.49	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	5,500	400	5,900		
15NR	Pt 14	31-148-00	R. & A. Swinson	6.9	6.90	6.90	309	0.51	5,200	6.90	490	5.23	0.00	-	-	0	0	-	-	-	0	0	-	-	0	0	5,200	799	6,999		
16NR	Pt 11	31-160-04	P. Potts	2.5	1.25	1.25	56	0.09	1.25	89	0.07	1.25	38	0.06	0.00	-	-	0	0	-	-	0	0	-	-	0	0	1.25	89	183	
16NR	Pts 11&12	31-162-00	R. Brost & T. Chute	16.7	17.55	17.55	787	1.30	17,55	1,245	0.97	17,55	538	1.07	0.00	-	-	0	0	-	-	0	0	-	-	0	0	17,550	1,245	18,795	
16NR	Pt 13	31-162-01	P. & A. Brunet	8.9	10.35	10.35	464	0.33	10,35	734	0.57	10,35	317	0.63	0.00	-	-	0	0	-	-	0	0	-	-	0	0	10,350	734	11,084	
16NR	Pt 13	31-163-00	D. Cregheur	6.3	4.50	4.50	202	0.33	4.50	319	0.25	4.50	37	0.07	0.00	-	-	0	0	-	-	0	0	-	-	0	0	4,500	319	4,819	
16NR	Pt 13	31-164-00	C. Mugas & K. Beardwood	0.8	1.20	1.20	54	0.08	1.20	85	0.07	1.20	37	0.07	0.00	-	-	0	0	-	-	0	0	-	-	0	0	1,200	85	1,285	
16NR	Pt 13	31-165-00	W. & K. Hawkins	2.5	2.25	2.25	101	0.17	2,25	160	0.13	5,800	2.25	69	11.23	0.00	-	-	0	0	-	-	0	0	-	-	0	0	5,800	330	6,130
16NR	Pt 14	31-165-10	D. & T. Brewster	5.0	2.90	2.90	130	0.21	2,90	208	0.16	17,300	2.90	89	34.45	0.00	-	-	0	0	-	-	0	0	-	-	0	0	17,300	425	17,725
16NR	Pt 14	31-165-15	A. & J. Natale	0.9	1.35	1.35	81	0.10	1.35	96	0.08	1.35	41	0.08	0.00	-	-	0	0	-	-	0	0	-	-	0	0	1,350	96	1,446	
16NR	Pt 14	31-166-00	A. & J. Natale	1.6	2.40	2.40	109	0.18	2,40	170	0.13	2,40	74	0.15	0.00	-	-	0	0	-	-	0	0	-	-	0	0	2,400	170	2,570	
16NR	Pt 14	31-166-01	H. & S. Dyeck	1.7	2.55	2.55	114	0.19	2,55	181	0.14	2,55	78	0.15	0.00	-	-	0	0	-	-	0	0	-	-	0	0	2,550	181	2,731	
16NR	Pt 14	31-166-02	J. Broeke	0.4	0.60	0.60	27	0.04	0.60	43	0.03	0.60	18	0.04	0.00	-	-	0	0	-	-	0	0	-	-	0	0	0.60	43	49	
16NR	Pt 14	31-172-22	Town of Fort Erie	1.3	1.95	1.95	87	0.14	1.95	138	0.11	1.95	60	0.12	0.00	-	-	0	0	-	-	0	0	-	-	0	0	1,950	138	2,088	
16NR	Pt 14	31-172-24	A. & J. Natale	2.0	3.00	3.00	134	0.22	3,00	213	0.17	3,00	92	0.18	0.00	-	-	0	0	-	-	0	0	-	-	0	0	3,000	213	3,213	
15&16NR	Pts 13&14	31-996-00	C.P.Rail - Case	5.8	8.70	8.70	380	0.64	16,000	8.70	617	12.99	2.55	78	0.15	0.00	-	-	0	0	-	-	0	0	-	-	0	0	16,000	1,085	17,085
Sub-Total (Lands):				135.5	133.30	31,424	133.30	5,976	81.84	66,800	125.35	8,886	59.18	22,900	54.40	1,667	48.67	0	-	-	0	-	0	-	-	0	0	121,124	16,539	137,663	
<b>Roads</b>																															
	Point Albino Road		Town of Fort Erie	1.1	2.75	16,000	2.75	123	26.66	-	0	0	-	-	0	0	-	-	-	0	0	-	-	0	0	0	16,000	123	16,123		
	Burger Road		Town of Fort Erie	1.6	4.00	-	4.00	179	0.30	16,000	4.00	284	12.73	0	0	0	-	-	-	0	0	-	-	0	0	0	16,000	463	16,463		
	Special Assess. to Burger Road			0	0.00	-	0	0	0	25,235	0	19,73	0	0	0	-	-	-	0	0	-	-	0	0	0	0	25,235	0	25,235		
	1/2 Holloway Bay Road		Town of Fort Erie	1.2	1.20	1.20	54	0.09	1.20	85	0.07	8,000	1.20	37	15.92	0.00	-	-	0	0	-	-	0	0	-	-	0	0	8,000	176	8,176
	Fox Road		Town of Fort Erie	1.4	3.50	3.50	157	0.26	3.50	248	0.19	2.75	84	0.17	0.00	-	-	0	0	-	-	0	0	-	-	0	0	3,500	248	3,748	
Sub-Total (Roads):				5.3	11.45	16,000	11.45	513	27.31	41,235	8.70	617	32.72	8,000	3.95	121	16.09	0	-	-	0	-	0	-	-	0	0	85,235	1,251	86,486	
Total Assessment for Town of Fort Erie:				140.8	144.75	47,424	144.75	6,489	89.15	108,035	134.05	9,503	91.9	30,900	58.35	1,788	64.76	0	-	-	0	-	0	-	-	0	0	186,359	17,790	204,149	
<b>City of Port Colborne (27-11-040-00) (Former Twp of Humberstone)</b>																															
Lands																															
4	Pts 1&2	6-072-15	776542 Ont. Ltd.	19.0	15.55	15.55	697	1.15	15.55	1,103	0.86	15.55	476	0																	

APPENDIX B - CALCULATION OF ASSESSMENTS FOR FUTURE MAINTENANCE  
SCHIHL DRAIN  
Town of Fort Erie and City of Port Colborne

		Interval 1				Interval 2				Interval 3				Interval 4				Interval 5				TOTAL											
Total Cost Estimate:		7,800 (777m @ \$10/m)				11,300 (1127m @ \$10/m)				5,700 (574m @ \$10/m)				7,200 (722m @ \$10/m)				3,400 (341m @ \$10/m)				35,400											
Conc.	Let	Roll No.	Owner	Total Affected (Ha)	Total Adjusted (Ha)	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Benefit (\$)	Adjusted (Ha)	Outlet (\$)	%	Total Benefit	Total Outlet	TOTAL					
<b>Town of Fort Erie (27-03-029-0) (Former Township of Bertie)</b>																																	
<b>Lands</b>																																	
14NR	Pt 14	31-088-00	R. Singleton	1.70	0.85	310	0.85	16	4.18	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	0	310	16	326	
14NR	Pt 14	31-087-00	J. Robertson & S. Cavey	2.10	1.05	310	1.05	20	4.23	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	0	310	20	330	
14NR	Pt 14	31-088-00	D. Merritt	1.90	0.95	200	0.95	18	2.79	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	200	18	218		
14NR	Pt 14	31-089-00	D. Merritt	1.90	0.95	190	0.95	18	2.67	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	190	18	208		
14NR	Pt 13	31-093-00	C. Wegelin	0.30	0.30	2	0.30	6	0.10	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	2	6	8		
14NR	Pt 14	31-094-00	R. Charron	2.80	2.70	560	2.70	51	7.83	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	560	51	611		
14NR	Pt 14	31-096-00	R. & D. Willick	2.30	1.15	22	1.15	22	0.28	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	0	22	22		
14NR	Pt 12	31-127-01	J. Myrnyk	0.90	0.90	0	0.90	17	0.22	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	0	0	0		
15NR	Pts 13&14	31-140-00	Willroy Ltd.	36.80	34.65	34.65	650	6.33	1,160	34.65	838	17.68	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	1,160	1,488	2,648		
15NR	Pt 14	31-141-00	H. Van Der Meer	6.00	6.00	6.00	113	1.45	1,080	6.00	145	10.84	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	1,080	258	1,338		
15NR	Pt 14	31-142-00	K. & S. Sider	1.80	2.70	2.70	51	0.65	2.70	51	0.65	0.58	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	116	116			
15NR	Pt 14	31-143-00	W. & S. Kikkert	1.80	2.70	2.70	51	0.65	2.70	51	0.58	0.58	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	116	116			
15NR	Pt 14	31-144-00	D. Dagesse & D. Holloway	1.80	2.70	2.70	51	0.65	2.70	51	0.58	0.58	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	116	116			
15NR	Pt 14	31-145-00	L. & A. Smith	1.80	2.70	2.70	51	0.65	2.70	51	0.58	0.58	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	116	116			
15NR	Pt 14	31-146-00	W. Yuan & G. Li	3.00	2.10	3.00	59	0.50	160	2.10	51	1.87	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	160	90	250		
15NR	Pt 14	31-147-00	C. Stackwood	2.30	3.45	65	0.83	170	3.45	83	2.24	0	-	0	0	0	0	0	-	0	0	0	-	0	0	0	0	0	170	146	316		
15NR	Pt 14	31-148-00	R. & A. Swinson	6.80	6.90	6.80	129	1.65	170	6.90	167	2.98	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	170	298	468		
16NR	Pt 11	31-160-04	P. Potts	2.50	1.25	23	0.29	23	0.27	1.25	17	0.3	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	70	70			
16NR	Pts 11&12	31-162-00	R. Brost & T. Chute	18.70	17.55	17.55	329	4.22	17.55	424	3.75	17.55	244	4.28	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	987	997		
16NR	Pt 13	31-162-01	P. & A. Brunet	8.90	10.35	10.35	194	2.49	10.35	250	2.21	10.35	144	2.53	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	588	588		
16NR	Pt 13	31-163-00	D. Cregheur	6.30	4.50	4.50	84	1.08	4.50	109	0.96	4.50	63	1.11	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	256	256		
16NR	Pt 13	31-164-00	C. Muges & K. Beardwood	0.80	1.20	1.20	23	0.29	1.20	29	0.26	1.20	17	0.3	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	69	69		
16NR	Pt 13	31-165-00	W. & K. Hawkins	2.50	2.25	2.50	54	0.54	2.25	54	0.48	2.25	31	11.25	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	510	127	737	
16NR	Pt 14	31-165-10	D. & T. Brewster	6.00	2.90	54	0.89	2.90	70	0.82	1,290	2.90	40	23.33	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	1,290	164	1,454	
16NR	Pt 14	31-165-15	A. & J. Natale	0.90	1.35	25	0.32	32	0.29	1.35	39	0.33	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	77	77			
16NR	Pt 14	31-165-17	A. & J. Natale	1.60	2.40	45	0.58	2.40	58	0.51	2.40	33	0.58	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	136	136		
16NR	Pt 14	31-166-00	H. & S. Dyck	1.70	2.55	48	0.62	2.55	62	0.55	2.55	36	0.83	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	146	146		
16NR	Pt 14	31-166-02	J. Brooks	0.40	0.60	11	0.14	0.60	15	0.13	0.60	8	0.14	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	34	34		
16NR	Pt 14	31-172-22	Town of Fort Erie	1.30	1.95	1.95	37	0.47	1.95	47	0.42	1.95	27	0.47	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	111	111		
16NR	Pt 14	31-172-24	A. & J. Natale	2.00	3.00	3.00	56	0.72	3.00	73	0.65	3.00	42	0.74	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	171	171		
16&16NR	Pts 13&14	31-996-00	C.P. Rail - Caso	5.80	8.70	8.70	163	2.09	8.70	210	8.73	2.55	38	0.63	0	-	0	0	0	-	0	0	0	-	0	0	0	0	0	890	409	1,299	
<b>Sub-Total (Lands):</b>				<b>135.50</b>	<b>133.30</b>	<b>1,572</b>	<b>133.30</b>	<b>2,502</b>	<b>52.20</b>	<b>3,630</b>	<b>125.35</b>	<b>3,030</b>	<b>58.95</b>	<b>1,900</b>	<b>54.40</b>	<b>757</b>	<b>46.62</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>0</b>	<b>7,102</b>	<b>6,289</b>	<b>13,391</b>			
<b>Roads</b>																																	
Point Abino Road				1.10	2.75	770	2.75	52	10.54	-	0	0	0	-	0	0	0	0	-	0	0	0	-	0	0	0	0	0	770	52	822		
Burger Road				1.60	4.00	-	4.00	75	0.98	890	4.00	97	8.73	-	0	0	0	0	0	-	0	0	0	-	0	0	0	0	0	890	172	1,062	
1/2 Holloway Bay Road				1.20	1.20	-	1.20	23	0.29	-	1.20	29	0.26	475	1.20	17	8.63	-	0	0	-	0	0	0	-	0	0	0	0	0	475	89	564
Fox Road				1.40	3.50	-	3.50	66	0.85	-	3.50	85	0.75	2.75	38	0.67	-	0	0	0	-	0	0	0	-	0	0	0	0	0	189	189	
<b>Sub-Total (Roads):</b>				<b>5.30</b>	<b>11.45</b>	<b>770</b>	<b>11.45</b>	<b>216</b>	<b>12.64</b>	<b>890</b>	<b>8.70</b>	<b>211</b>	<b>9.74</b>	<b>475</b>	<b>3.95</b>	<b>53</b>	<b>9.3</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,135</b>	<b>482</b>	<b>2,617</b>		
<b>Total Assessment for Town of Fort Erie:</b>				<b>140.80</b>	<b>144.75</b>	<b>2,342</b>	<b>144.75</b>	<b>2,718</b>	<b>64.84</b>	<b>4,520</b>	<b>134.05</b>	<b>3,241</b>	<b>68.69</b>	<b>2,375</b>	<b>58.35</b>	<b>812</b>	<b>55.92</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>-</b>	<b>0</b>	<b>0</b>	<b>9,237</b>	<b>8,771</b>	<b>16,008</b>			
<b>City of Port Colborne (27-11-040-00) (Former Twp of Humberstone)</b>																																	
<b>Lands</b>																																	
4	Pts 1&2	6-072-15	776542 Ont. Ltd.	19.00	15.55	15.55	292	3.74	15.55	376	3.33	15.55	217	3.81	2.70	60	0.83	2.70	86	2.53	0	1,031	1,031	0	0	0	0	0	1,031	1,031			
4	Pt 3	6-075-00	776542 Ont. Ltd.	14.20	11.70	11.70	219	2.81	11.70	283	2.5	11.70	163	2.86	11.70	258	3.58	270	11.70	374	18.94	270	1,297	1,297	0	0	0	0	0	1,297	1,297		
4	Pt 4	6-078-00	D. & S. Anderson	10.80	6.30	6.30	118	1.51	6.30	152	1.35	6.30	88	1.54	6.30	139	1.93	6.30	201	5.91	0	698	698	0	0	0	0						

**GENERAL CONDITIONS****TABLE OF CONTENTS**

200.1	SCOPE .....	1
200.2	ORDER OF PRECEDENCE .....	1
200.3	MUNICIPALITY .....	1
200.4	TENDERS .....	1
200.5	EXAMINATION OF SITE, PLANS AND SPECIFICATIONS .....	1
200.6	COMMENCEMENT AND COMPLETION OF WORK .....	2
200.7	NOTICES RE COMMENCEMENT OF WORK .....	2
200.8	PERMITS, NOTICES, LAWS AND RULES .....	2
200.9	HEALTH AND SAFETY .....	2
200.10	LIMITATIONS OF OPERATIONS .....	2
200.11	SUPERVISION .....	3
200.12	CHARACTER AND EMPLOYMENT OF WORKERS .....	3
200.13	SUB-CONTRACTORS .....	3
200.14	PAYMENT .....	3
200.15	TERMINATION OF CONTRACT BY THE MUNICIPALITY .....	3
200.16	LIQUIDATED DAMAGES .....	4
200.17	CONTRACTOR'S LIABILITY .....	4
200.18	LIABILITY INSURANCE .....	5
200.19	LOSSES DUE TO ACTS OF NATURE, ETC. ....	5

**200            GENERAL CONDITIONS****200.1           SCOPE**

The work to be done under this contract consists of supplying all labour, equipment and materials to construct the drainage work as outlined in the Instructions to Tenderers, the Form of Tender and Agreement, the Schedule of Tender Prices, the Drawings, the General Conditions, Special Provisions and the Standard Specifications.

**200.2           ORDER OF PRECEDENCE**

In case of any inconsistency or conflict between the drawings and specifications, the following order of precedence shall apply: Addenda, Form of Tender and Agreement, Schedule of Tender Prices, Special Provisions, Contract Drawings, Standard Specifications, General Conditions.

**200.3           MUNICIPALITY**

Municipality refers to a municipal corporation in the Province of Ontario. Where reference to Township, County, Region, Town, City or Owner appears it shall be deemed to be the same as the word Municipality. Where reference to owner appears in the specifications it is usually in reference to the owner of the property on which the drain is being constructed.

**200.4           TENDERS**

Tenders are to be submitted on a lump sum basis for the complete works or a portion thereof, as instructed by the Municipality. The Schedule of Tender Prices must be completed and submitted with the Form of Tender and Agreement even though the Contract will be a lump sum. As outlined in the Instructions to Tenders a deposit in the form of a certified cheque, bank draft, bonding or irrevocable letter of credit must accompany each tender as a guarantee of good faith. The deposit shall name the Municipality as the payee. All deposits, except that of the Tenderer to whom the work is awarded, will be returned within 10 days of the time the contract is awarded. The certified cheque of the Tenderer awarded the work will be retained as Contract Security and returned with the Completion Certificate for the work. A Performance Bond may also be required to ensure maintenance of the work for a period of one year after the date of the Completion Certificate.

**200.5           EXAMINATION OF SITE, PLANS AND SPECIFICATIONS**

Prior to the submission of the Tender, the Tenderer must examine the premises and site to compare them with the Drawings and Specifications in order to be satisfied with the existing conditions and the extent of the work to be done. The Tenderer must ensure that the meaning and intent of the drawings, estimated quantities and specifications is clearly understood before submission of the Tender. No allowances shall be made on behalf of the Contractor by reason of any error made in the preparation of the tender submission.

Any estimates of quantities shown or indicated on the drawings or elsewhere in the tender document are provided for the convenience of the Tenderer. The Tenderer should check the estimate of quantities for accuracy. Any use made of the estimated quantities by the Tenderer in calculating the tendered amounts is done at the Tenderers risk.



**200.6 COMMENCEMENT AND COMPLETION OF WORK**

The work must commence immediately after the Tenderer is notified of the contract award or at a later date, if set out as a condition in the Form of Tender and Agreement. If weather and ground conditions are unsuitable, work may be started at a later date from either of the above two dates if such delay is approved by the Engineer. The Contractor shall provide a minimum of 48 hours advance notice to the Engineer and the Municipality before commencement of any work. The work must proceed in such manner as to ensure its completion at the earliest possible date consistent with first class workmanship and within the time limit set out in the tender/contract document. Failure to commence or complete the work as set out in the tender/contract document may result in a forfeiture of all or part of the Contract Security if the Engineer deems that damages have been sustained to the Municipality or to any landowner because of the non-commencement or non-completion of the contract as awarded and that the failure to meet the specified dates has been the fault of the Contractor.

**200.7 NOTICES RE COMMENCEMENT OF WORK**

If the Contractor leaves the job site for a period of time after initiation of work, a minimum of 48 hours advance notice shall be given to the Engineer and the Municipality before commencement of any further work. If any work is commenced without the advance notice the Contractor shall be fully responsible for all such work undertaken prior to such notification and shall make good any works or materials judged to be inadequate or constructed in any manner that may have been subject to alteration if made known to the Engineer prior to commencement of construction.

**200.8 PERMITS, NOTICES, LAWS AND RULES**

The Contractor shall apply and pay for all necessary permits or licenses required for the execution of the work. This shall not include the obtaining of permanent easements or rights or servitude. The Contractor shall give all necessary notices and pay all fees required by the law and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public's health and safety and if the specifications and drawings are at variance therewith, any resulting additional expense incurred by the Contractor shall constitute an addition to the contract price.

**200.9 HEALTH AND SAFETY**

*Contractor must comply with the Occupational Health and Safety Act (OHSA) and the associated Regulations for Construction Projects. Contractor will also follow any site-specific safety and training requirements of the Municipality, agencies, utility companies or other authorities.*

Communication about site-specific hazards and safety requirements shall occur at the pre-construction meeting. If no pre-construction meeting is conducted, Contractor will communicate site-specific hazards and safety requirements before beginning work.

Contractor shall immediately report any workplace incidents, near misses, injuries and occupational illnesses to the Engineer.

**200.10 LIMITATIONS OF OPERATIONS**

Except for such work as may be required by the Engineer to maintain the works in a safe and satisfactory condition, the Contractor shall not carry out operations under the contract on Sundays or Statutory Holidays without permission in writing from the Engineer. The Engineer may direct in writing to the Contractor to cease or limit operations under the contract on any day or days if the operations are of such a nature, or if the work is so located, or if the traffic is of such a volume, that the Engineer deems it necessary or expedient to do so.

**200.11 SUPERVISION**

The Contractor shall provide constant supervision of the construction work and shall keep a competent foreman in charge at the site.

**200.12 CHARACTER AND EMPLOYMENT OF WORKERS**

The Contractor shall employ only orderly, competent and skillful workers to do the work and shall give preference to available qualified residents in the area of the contract. Whenever the Engineer informs the Contractor in writing that any workers are, in the opinion of the Engineer, disorderly, incompetent, or breaking the law, such workers shall be discharged from the job site and shall not again be employed on the job site without the written consent of the Engineer.

**200.13 SUB-CONTRACTORS**

If the Municipality so directs, the Contractor shall not sublet the whole or any part of this contract without the approval of the Engineer.

**200.14 PAYMENT**

Progress payments in cash equal to about 90% of the value of the work done and materials incorporated in the work will be made to the Contractor monthly. If directed by the Engineer the Contractor may be required to provide a written request for the progress payment amount. An additional 7% will be paid 45 days after the date of the Completion Certificate by the Engineer and 3% of the contract price may be reserved by the Municipality as a maintenance holdback for one year from the date of the Completion Certificate.

The holdbacks noted above may be increased by the Municipality if, in the written opinion of the Engineer, particular conditions of the contract require such greater holdback.

After the completion of the work any part of maintenance holdback may be used to correct defects from faulty construction and/or materials provided that notice shall first be given by the Engineer in writing to the Contractor stating that the Contractor has seven (7) days in which to remedy the defect in construction and/or materials.

**200.15 TERMINATION OF CONTRACT BY THE MUNICIPALITY**

Termination of the contract by the Municipality may be considered if the Contractor:

1. should be adjudged bankrupt or make a general assignment for the benefit of creditors or if a receiver should be appointed on account of insolvency;
2. should refuse or fail to supply enough properly skilled workmen or proper materials after having received seven (7) days' notice in writing from the Engineer to supply such additional workmen or materials in order to commence or complete the works;
3. should fail to make prompt payment to sub-contractors or for materials or labour;
4. should persistently disregard laws, ordinances, or instructions from the Engineer, or otherwise be guilty of a substantial violation of the provisions of the contract;

then the Municipality, upon Certificate of the Engineer that sufficient cause exists to justify such action, may without prejudice to any other right or remedy, give written notice to the Contractor to terminate the employment of the Contractor and take possession of the premises, and of all materials, tools and appliances thereon, and may finish the work by whatever method the Municipality may deem expedient, but without undue delay or expense. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price will exceed the expense of finishing the work including compensation to the Engineer for additional

services and including other damages of every name and nature, such excess shall be paid to the Contractor. If such expense will exceed such unpaid balance including the Contract Security, the Contractor shall pay the difference to the Municipality. The expense incurred by the Municipality, as herein provided, shall be certified by the Engineer. If the contract is terminated by the Municipality due to the Contractor's failure to properly commence the works, the Contractor shall forfeit the Contract Security and furthermore shall pay to the Municipality an amount to cover the increased costs, if any, associated with a new tender for the contract being terminated.

If any unpaid balance and the Contract Security do not equal the monies owed by the Contractor upon the termination of the contract, the Municipality may also charge such expenses against any money which is or may thereafter be due to the Contractor from the Municipality.

#### **200.16 LIQUIDATED DAMAGES**

It is agreed by the parties to the Contract that in case all the work called for under the Contract is not finished or complete within the period of time as set forth in the Tender/Contract Document, damage will be sustained by the Municipality. It is understood by the parties that it will be impracticable and extremely difficult to ascertain and determine the actual damage which the Municipality will sustain in the event of and by reason of such delay. The parties hereto agree that the Contractor will pay to the Municipality a sum as set out in the Form of Tender and Agreement for liquidated damages for each and every calendar day delay, including Saturdays, Sundays and Statutory Holidays, in finishing the work in excess of the number of working days prescribed. It is agreed that the liquidated damages amount is an estimate of the actual damage to the Municipality which will accrue during the period in excess of the prescribed number of working days.

The Municipality may deduct any amount due under this section from any monies that may be due or payable to the Contractor on any account whatsoever. The liquidated damages payable under this section are in addition to and without prejudice to any other remedy, action or other alternative that may be available to the Municipality.

The Contractor shall not be assessed with liquidated damages for any delay caused by acts of nature, or of the Public Enemy, Acts of the Province or of any Foreign State, Fire, Flood, Epidemics, Quarantine Restrictions, Embargoes or any delays of Sub-Contractors due to such causes.

If the time available for the completion of the work is increased or decreased by reason of alterations or changes made under the provisions of the Contract, the number of working days shall be increased or decreased as determined by the Engineer.

If the Form of Tender and Agreement does not show an amount for Liquidated Damages then Liquidated Damages do not apply for this contract.

#### **200.17 CONTRACTOR'S LIABILITY**

The Contractor and all workers, agents or any party under the Contractor's control, including Sub-Contractors, shall use due care that no person or property is injured and that no rights are infringed during the construction work outlined in the contract. The Contractor shall be solely responsible for all damages by whomsoever claimable in respect of any injury to persons or to lands, buildings, structures, fences, livestock, trees, crops, roadways, ditches, drains and watercourses, whether natural or artificial, or property of whatever description and in respect of any infringement of any right, privilege or easement wherever occasioned in the carrying on of the work or any part thereof, or by any neglect, misfeasance or non-feasance on the Contractor's part or on the part of any workers, agents or parties under the Contractor's control including Sub-Contractors, and shall bear the full cost thereof. The Contractor shall be fully responsible to make such temporary provisions as may be necessary to ensure the avoidance of any such damage, injury or infringement and to prevent the interruption of or danger or menace to the traffic in any railway or any public or private road entrance or sidewalk and to secure to all persons and corporations the uninterrupted enjoyment of all their

rights, in and during the performance of the work. The Contractor shall indemnify and save harmless the Municipality and the Engineer from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomsoever made, brought or prosecuted in any manner based upon, occasioned by, or attributed to any such damage, injury or infringement.

Wherever any work is of such an extent and nature that it must necessarily be confined to particular areas of a roadway, a working area, or private property, the Contractor shall use reasonable care not to damage or deface the remaining portions of the property, and if any damage is occasioned as a result of the Contractor's operations, it shall be rectified by and at the expense of the Contractor, to the satisfaction of the Engineer. Notwithstanding the indemnity provisions contained in this section, where in the opinion of the Engineer the Contractor has failed to rectify any damage, injury or infringement or has failed to adequately compensate any person for any damage, injury or infringement for which the Contractor is responsible under the contract, the Engineer, following notice in writing to the Contractor of an intention so to do, may withhold payment of any monies due the Contractor under this or any other contract until the Contractor has rectified such damage, injury or infringement or has paid adequate compensation for such damage, injury or infringement, provided however, that the Municipality will not withhold such monies where in the opinion of the Engineer there are reasonable grounds upon which the Contractor denies liability for such damage, injury or infringement and the Contractor has given the claimant a reasonable time in which to establish the validity of the claim, and provided further that the amount withheld under this section shall not exceed the amount of such claims against the Contractor.

Where the Contractor uses privately owned lands for pits or waste disposal areas, the Contractor shall comply with applicable laws and provide the Engineer with a release signed by or on behalf of the owner of each pit or waste disposal area used by the Contractor. If the said release is not obtained, then sufficient monies will be withheld from the Contractor except, however, where the owner's signature is withheld solely on the basis of damage, injury, or infringement it will be dealt with as provided elsewhere in this subsection.

Nothing herein contained shall be construed as in any way restricting or limiting the liability of the Contractor under the laws of the country, province or locality in which the work is being done. Neither the Completion Certificate nor final payment thereunder, nor any provision in the Contract Document shall relieve the Contractor from this liability.

#### **200.18            LIABILITY INSURANCE**

The Contractor shall take out and keep in force until the date of acceptance of the entire work by the Engineer, a comprehensive policy of public liability and property damage insurance providing insurance coverage of at least \$3,000,000 for each and every accident, exclusive of interest and cost, against loss or damage resulting from bodily injury to or death of one or more persons and loss of or damage to property and such policy shall where, and as requested by the Municipality, name the Municipality and the Engineer as an additional insured thereunder and shall protect the Municipality against all claims for all damage or injury including death to any person or persons and for damage to any property of the Municipality or any other public or private property resulting from or arising out of any act or omission on part of the Contractor or any of his servants or agents during the execution of the Contract.

#### **200.19            LOSSES DUE TO ACTS OF NATURE, ETC.**

All damage, loss, expense and delay incurred or experienced by the Contractor in the prosecution of the work, by reason of unanticipated difficulties, bad weather, strikes, wars, acts of nature, or other mischances, shall be borne by the Contractor and shall not be the subject of a claim for additional compensation.

**TABLE OF CONTENTS**

400.1	ABBREVIATIONS.....	1
400.2	PRE CONSTRUCTION MEETING .....	1
400.3	COLD WEATHER.....	1
400.4	WORKING AREA .....	1
400.5	ACCESS .....	1
400.6	ACCESS TO PROPERTIES ADJOINING THE WORK.....	2
400.7	DRAINAGE SUPERINTENDENT .....	2
400.8	ALTERATIONS TO WORK.....	2
400.9	ERRORS AND UNUSUAL CONDITIONS .....	2
400.10	TESTS .....	2
400.11	BENCHMARKS AND STAKES.....	3
400.12	OPENING UP OF FINISHED WORK .....	3
400.13	FINAL INSPECTION.....	3
400.14	WARRANTY .....	3
400.15	MATERIALS .....	4
400.16	RIPRAP .....	5
400.17	GEOTEXTILE .....	5
400.18	DISPOSAL OF MATERIALS .....	5
400.19	NOTIFICATION OF RAILROADS, ROAD AUTHORITIES AND UTILITIES .....	5
400.20	WORKING IN ROAD ALLOWANCES .....	6
400.21	LOCATIONS OF EXISTING UTILITIES.....	6
400.22	LANEWAYS.....	7
400.23	EXISTING CROSSING CLEANOUT .....	7
400.24	FENCES .....	7
400.25	LIVESTOCK .....	8
400.26	STANDING CROPS .....	8
400.27	CLEARING VEGETATION .....	8
400.28	ROCK REMOVAL.....	9
400.29	SEEDING .....	10
400.30	EROSION CONTROL BLANKETS .....	11
400.31	SEDIMENT CONTROL.....	11
400.32	GRASSED WATERWAYS AND OVERFLOW SWALES.....	12
400.33	BUFFER STRIPS .....	13
400.34	MAINTENANCE CORRIDOR .....	13
400.35	POLLUTION .....	13
400.36	SPECIES AT RISK .....	13

**400 STANDARD SPECIFICATIONS FOR CONSTRUCTION OF DRAINS****400.1 ABBREVIATIONS**

- i) M.T.O. means the Ministry of Transportation of Ontario.
- ii) A.S.T.M. means the American Society for Testing Materials.
- iii) C.S.A. means the Canadian Standard Association.
- iv) O.P.S.D. means Ontario Provincial Standard Drawings
- v) O.P.S.S. means Ontario Provincial Standard Specifications
- vi) DFO means Fisheries and Oceans Canada
- vii) MNR means Ministry of Natural Resources and Forestry
- viii) MOECC means Ministry of Environment and Climate Change

**400.2 PRE CONSTRUCTION MEETING**

The Contractor should arrange a pre-construction meeting with the Engineer, Municipality, affected landowners prior to commencement of construction.

If there is no pre-construction meeting or if a landowner is not present at the pre-construction meeting, the following shall apply. The drain is to be walked by the Contractor and each landowner prior to construction to ensure that both agree on the work to be done. Any difference of opinion shall be referred to the Engineer for decision. If the landowner is not contacted for such review, they are to advise the Engineer and/or Municipality.

**400.3 COLD WEATHER**

When working in cold weather is approved by the Engineer, the Contractor shall provide suitable means for heating and protection. All work completed in cold weather conditions shall be to the satisfaction of the Engineer and any additional cost to remedy unsatisfactory work, or protect the work shall be borne by the Contractor. All backfilling operations shall be done as soon as possible to avoid backfilling with ground containing frozen particles. The Contractor will assume all responsibility for damages to any tile drains and for settlements or bank slippages that may result from work in cold weather.

**400.4 WORKING AREA**

Where any part of the drain is on a road allowance, the road allowance shall be the working area. For a closed drain the working area shall be a 10 metre width on either side of the trench or any combination not exceeding 20 metres. A 10m x 10m working area shall exist around any catchbasin, junction box or access point. For an open drain the working area shall be 17 metres on the side for leveling and 3 metres on the opposite side. A 10m working area shall exist for any overflow swale or grassed waterway. If any part of the drain is close to a property line then the fence line shall be one of the limits of the work area. Reduced or increased working areas will be described in detail on the Drawings.

**400.5 ACCESS**

The Contractor shall have access to the drain by entering the working area directly from road allowances or along access routes shown on the Drawings. All specifications governing fences, livestock and crops during drain construction apply to access routes. No other access routes shall be used unless first approved by the Engineer and the affected landowner. The Contractor shall contact each landowner prior to using the designated access routes. Contractor shall make good any damages caused by using the designated access routes.

**400.6 ACCESS TO PROPERTIES ADJOINING THE WORK**

The Contractor shall provide at all times and at no additional cost, adequate pedestrian access to private homes and commercial establishments unless otherwise authorized by the Engineer. Where interruptions to access have been authorized by the Engineer, reasonable notice shall be given by the Contractor to the affected landowners and such interruptions shall be arranged to minimize interference to those affected.

**400.7 DRAINAGE SUPERINTENDENT**

Where a Drainage Superintendent (Superintendent) is appointed by the Municipality, the Engineer may designate the Superintendent to act as the Engineer's representative. If so designated, the Superintendent will have the power to inspect and direct the execution of the work.

Any instructions given by the Superintendent which change the proposed work or with which the Contractor does not agree shall be referred to the Engineer for final decision.

**400.8 ALTERATIONS TO WORK**

The Engineer shall have the power to make alterations, additions and/or deletions in the work as shown or described in the Drawings or Specifications and the Contractor shall proceed to implement such changes without delay. Alterations ordered by the Engineer shall in no way render the contract void.

If a landowner desires deviations from the work described on the Drawings, the landowner shall submit a written request to the Engineer, at least 48 hours in advance of the work in question.

In every such case, the contract amount shall be increased or decreased as required according to a fair evaluation of the work completed. Where such changes involve additional work similar to items in the contract, the price for additional work shall be determined after consideration is given to the tendered price for similar items.

In no case shall the Contractor commence work considered to be extra work without the Engineer's approval. Payment for extra work is contingent on receipt of documentation to the satisfaction of the Engineer. Refer to the Extra Work Summary included in the Special Provisions.

**400.9 ERRORS AND UNUSUAL CONDITIONS**

The Contractor shall notify the Engineer immediately of any error or unusual conditions which may be found. Any attempt by the Contractor to correct the error without notice shall be done at the Contractor's risk. Any additional cost incurred by the Contractor to remedy an error or unusual condition without notice shall be borne by the Contractor. The Engineer shall direct the alteration necessary to correct errors or unusual conditions. The contract amount shall be adjusted in accordance with a fair evaluation of documentation for the work added, deleted or adjusted.

**400.10 TESTS**

The Engineer reserves the right to subject any materials to a competent testing laboratory for compliance with the standard. If any materials supplied by the Contractor are determined to be inadequate to meet the applicable standards, the Contractor shall bear full responsibility to remove and/or replace all such inadequate materials with materials capable of meeting the standards.

The cost of testing the materials supplied by the Contractor shall be borne by the Contractor.

#### **400.11 BENCHMARKS AND STAKES**

Prior to construction, the Engineer will confirm the benchmarks. The Contractor shall be held liable for the cost of replacing any benchmarks destroyed during construction.

If the Engineer provides layout stakes, the Contractor shall be held liable for the cost of replacing any layout stakes destroyed during construction.

Where property bars are shown on the Drawings, they are to be protected and if damaged by the Contractor, they will be reinstated by an Ontario Land Surveyor at the expense of the Contractor. Where property bars not shown on the Drawings are damaged, they will be reinstated by an Ontario Land Surveyor at the expense of the project.

#### **400.12 OPENING UP OF FINISHED WORK**

If ordered by the Engineer, the Contractor shall make such openings in the work as are needed to re-examine the work, and shall forthwith make the work good again. Should the Engineer find the work so opened up to be faulty in any respect, the whole of the expense of opening, inspecting and making the work good shall be borne by the Contractor. Should the Engineer find the work opened up to be in an acceptable condition the Contractor shall be paid for the expense of opening and making the work good, unless the Contractor has been obligated by any specification or by the direction of the Engineer to leave the work open for the Engineer's inspection.

#### **400.13 FINAL INSPECTION**

Final inspection by the Engineer will be made within twenty (20) days after receiving notice in writing from the Contractor that work is complete, or as soon thereafter as weather conditions permit. All the work included in the contract must at the time of final inspection have the full dimensions and cross-sections.

Prior to commencing the final inspection an on-site meeting may be held by the Engineer and landowners directly affected by the construction of the drain. The Contractor will attend this meeting upon notice by the Engineer.

If there is no on-site meeting with the Engineer and landowners, the Contractor shall obtain from each landowner a written statement indicating that the work has been performed to the owner's satisfaction. If the Contractor is unable to obtain a written statement from the landowner, the Engineer will determine if further work is required prior to issuing the Completion Certificate.

#### **400.14 WARRANTY**

There shall be a one-year warranty period on all completed work. The warranty period will commence on the date of the Completion Certificate.

When directed by the Engineer, the Contractor shall repair and make good any deficiencies in the work that may appear during the warranty period.

Before the work shall be finally accepted by the Municipality, the Contractor shall complete all work as directed by the Engineer and remove all debris and surplus materials and leave the work neat and presentable.



**400.15 MATERIALS****400.15.1 Concrete Drain Tile**

Concrete drain tile shall conform to the requirements of the most recent ASTM C412 specifications for heavy duty extra quality, unless a stronger concrete tile is required by the Special Provisions or Drawings. All tile furnished shall be subject to the approval of the Engineer.

The minimum nominal lengths of the tile shall be 750mm for 150 to 350mm diameter tile and 1200mm for 400 to 900mm diameter tile.

All tile should be of good quality, free from distortions and cracks and shall meet the standards specified. The ends should be smooth and free from cracks or checks. All rejected tile are to be immediately removed from the site.

Granular backfill, where required, shall consist of approved sand or gravel having no particles retained on a screen having 50mm square openings.

Earth backfill shall consist of approved material having no large lumps or boulders.

**400.15.2 Corrugated Plastic Tubing**

Corrugated plastic tubing shall conform to the *Land Improvement Contractors of Ontario Standard Specification for Corrugated Plastic Drainage Tubing, 2006*. Type of material (solid or perforated) and need for filter sock will be specified on the Drawings or in the description of the work in the Special Provisions. Filter sock where specified shall be a standard synthetic filter material as provided by a recognized plastic tubing manufacturer unless noted differently on the contract drawings or elsewhere in the contract document. Protect coils of plastic tubing from damage and deformation.

**400.15.3 Corrugated Steel Pipe**

Corrugated Steel Pipe (CSP) shall be according to OPSS 1801 (CSA G401). Unless stated otherwise in the Special Provisions the pipe shall be:

- galvanized
- helical corrugation with lock seam and re-rolled annular ends
- 68mm x 13mm corrugation profile for diameters up to 1200mm
- 125mm x 25mm corrugation profile for diameters 1200mm and larger
- minimum wall thickness of 1.6mm for diameters up to 500mm
- minimum wall thickness of 2.0mm for diameters 600mm and larger
- joined using standard couplers matching the pipe diameter and material

Other coatings that may be specified include aluminized Type 2 or polymer. Polymer coating shall be a 254mm polymer film laminated to both sides of the pipe.

**400.15.4 Plastic Pipe**

Plastic Pipe shall be a high density polyethylene (HDPE) double wall corrugated pipe with smooth inner wall, solid with no perforations in accordance with OPSS 1840.

A minimum stiffness of 320 KPa at 5% deflection

The pipe shall be joined with snap-on or split couplers.

**400.15.5 Concrete Sewer Pipe**

Concrete sewer pipe shall be in accordance with OPSS 1820.

Non-reinforced concrete sewer pipe shall be used for pipe 375mm in diameter and smaller and reinforced concrete sewer pipe shall be used for pipe over 375mm.

Classes shall be as shown on the Contract Drawings or as described in the Form of Tender.

All new concrete sewer pipe shall have rubber-type gasket joints.

Where concrete sewer pipe “seconds” are specified, the pipe should exhibit no damage or cracks on the barrel section and shall be capable of satisfying the crushing strength requirements of OPSS 1820. The pipe may contain cracks or chips in the bell or spigot which prevent the use of rubber gaskets but the joints must be protected with filter cloth.

#### **400.16 RIPRAP**

All riprap is to be placed on a geotextile underlay (Terrafix 360R or equal) unless directed otherwise in the specific construction notes. The riprap is to be graded heavy angular stone (quarry stone is recommended) with particles averaging in size from 225mm to 300mm and is to be placed at 300mm thickness. Fine particles may be included to fill voids. Along upstream edges of riprap, where surface water will enter, underlay is to extend a minimum of 300mm upstream from riprap and then be keyed down a minimum of 300mm. Wherever riprap is placed, the area is to be over-dug so that finished top of riprap is at design cross-section, at design elevation or flush with existing ground.

#### **400.17 GEOTEXTILE**

To be non-woven fabric that is rot proof, non-biodegradable, chemically resistant to acidic or alkaline soils and is dimensionally stable under different hydraulic conditions. The filter fabric is to be a material whose primary function is to act as a highly permeable, non-clogging soil separator for fine soils (Terrafix 360R or equal). Contractor is to avail himself of manufacturer's recommendations for cutting, installation and precautions necessary to avoid damage to fabric. Other approved equals will be considered by the Engineer prior to construction.

#### **400.18 DISPOSAL OF MATERIALS**

The Contractor shall remove all surplus materials from the job site at the end of the project. The Contractor shall locate the disposal site for all materials to be disposed of. Disposal of materials shall comply with applicable regulations.

#### **400.19 NOTIFICATION OF RAILROADS, ROAD AUTHORITIES AND UTILITIES**

Contractor will notify any Railroad, Road Authority or Utility at least 48 hours in advance regarding work to be performed on their property or affecting their infrastructure. The notice will be in writing and is exclusive of Saturdays, Sundays and Holidays.

A utility includes any entity supplying the general public with necessities or conveniences.

**400.20 WORKING IN ROAD ALLOWANCES****400.20.1 General**

Work within public road allowances shall be done in accordance with the Ontario Traffic Manual Book 7, latest edition.

**400.20.2 Road Crossings**

If no specific detail is provided for road crossings on the drawings or in the specifications the following shall apply:

- A Road Authority will supply no labour, equipment or materials for the construction of the road crossing.
- Contractor will not commence road crossing work until any required permits have been obtained. The Engineer may apply for any required permits prior to construction.
- Contractor will notify the Road Authority at least 72 hours in advance of any construction in the road allowance.
- Road crossings may be made with an open cut unless otherwise noted.
- Exact location of crossing shall be verified with the Road Authority and the Engineer.
- Pipe shall be placed on a minimum 150mm depth of Granular A shaped for the pipe.
- Pipe backfill shall be compacted Granular A and extend 300mm above the top of the pipe.
- Trench shall be backfilled with acceptable native material for the base width of the road bed.
- The material shall be placed in lifts not exceeding 300mm in depth and shall be thoroughly compacted with an approved mechanical vibrating compactor.
- Top 600mm of the road bed backfill shall consist of 450mm Granular B and 150mm of Granular A placed in lifts and fully compacted.
- Any surplus excavated material within the road allowance may be spread on the right-of-way with consent of the Road Superintendent otherwise the surplus material shall be hauled away.
- Existing asphalt or concrete pavement or surface treatment shall be replaced by the Contractor to the satisfaction of the Engineer and Road Authority.
- Contractor shall be responsible for correcting any backfill settlement during construction and during the warranty period. Upon approval of the road authority, surplus gravel shall be stockpiled near gravel road crossings to provide backfill for future trench settlement.
- All road crossings shall meet the approval of the Road Authority.
- If any road crossing is not left in a safe manner at the end of the working day barricades and warning signs shall be erected to guarantee the safety of the travelling public.
- If the Engineer deems a road to surface to have been damaged by the construction of a drain, either across or along the road, the Engineer may direct the Contractor to restore the road surface to existing or better condition at no additional cost.

**400.20.3 Maintenance of Traffic**

Unless directed otherwise on the drawings or in the specifications the Contractor shall keep the road open to traffic at all times. The Contractor shall provide suitable warning signs and/or flagging to the satisfaction of the Road Authority to notify of the construction work.

If a detour is required, the Contractor shall submit a proposal as to the details of the detour for approval by the Road Authority. If necessary to close the road to through traffic, the Contractor shall provide for and adequately sign the detour route. Contractor shall undertake all notifications required for a road closure in consultation with the Municipality.

**400.21 LOCATIONS OF EXISTING UTILITIES**

The position of pole lines, conduits, watermains, sewers and other underground and overhead utilities are not necessarily shown on the Contract Drawings, and, where shown, the accuracy of the position

of such utilities and structures is not guaranteed. Before starting work, the Contractor shall have all utilities located in accordance with the Ontario Underground Infrastructure Notification System Act.

All utilities shall be exposed to the satisfaction of the utility company to verify that the construction proposed will not conflict with the utility structure. Additional payment will be allowed for relocation of utilities if conflicts should occur.

The Contractor is responsible for protecting all located and exposed utilities from damage during construction. The Contractor shall assume liability for damage caused to all properly located utilities.

#### **400.22 LANEWAYS**

If no specific detail is provided for laneway crossings on the Drawings or in the Specifications the following shall apply:

- Pipe backfill shall be acceptable native material that can be compacted in place.
- Top 450mm of laneway backfill shall consist of 300mm Granular B and 150mm of Granular A placed in lifts and fully compacted.
- Minimum cover on laneway culverts shall be 300mm.
- Existing asphalt or concrete pavement or surface treatment shall be replaced by the Contractor.
- The width of surface restoration shall match the existing laneway.
- Contractor shall be responsible for correcting any backfill settlement during construction and during the warranty period.

The timing of laneway closures will be coordinated by the Contractor to the satisfaction of the landowner.

#### **400.23 EXISTING CROSSING CLEANOUT**

Where the Special Provisions require an existing crossing to be cleaned, the Contractor shall provide a bottom width and depth that provides capacity equivalent to the capacity of the channel on either side. Excavated materials shall be hauled away unless adjacent landowners give permission for leveling. Care shall be taken to ensure that existing abutments or any portion of the structure are not damaged or undercut. The method of removing the material is to be pre-approved by the Engineer.

#### **400.24 FENCES**

If the Contractor is responsible to remove and install fences, the following shall apply:

- All fences removed by a Contractor are to be re-erected in as good a condition as existing materials permit.
- All fences shall be properly stretched and fastened. Where directed by the Engineer, additional steel posts shall be placed to adequately support a fence upon re-erection.
- Where practical and where required by the landowner, the Contractor shall take down an existing fence at the nearest anchor post and roll the fence back rather than cutting the fence and attempting to patch it.
- Where fence materials are in such poor condition that re-erection is not possible, the Contractor shall replace the fence using equivalent materials. Such fence material shall be approved by the Engineer and the landowner. Where the Engineer approves new fence material, additional payment will be provided.

Any fences paralleling an open drain, that are not line fences, that hinder the proper working of the excavating machinery for drain construction or maintenance shall be removed and rebuilt by the

landowner at their own expense. If such parallel fences are line fences they shall be removed and reinstalled by the Contractor.

No excavated or cleared material shall be placed against fences.

The installation of all fences shall be done to the satisfaction of the Engineer and the landowner.

#### **400.25 LIVESTOCK**

If any construction will be within a fenced field containing livestock that are evident or have been made known to the Contractor, the Contractor shall notify the owner of the livestock 48 hours in advance of access into the field. Thereafter, the owner shall be responsible for the protection of the livestock in the field during construction and shall also be liable for any damage to or by the livestock.

Where the owner so directs or where the Contractor has failed to reach the owner, the Contractor shall adequately re-erect all fences at the end of each working day. No field containing livestock shall have a trench left open at the end of the working day, unless the trench has been adequately backfilled or protected. Failure of the Contractor to comply with this paragraph shall render the Contractor liable for any damage to or by the livestock.

Where livestock may be encountered on any property the Contractor shall notify the Engineer to arrange for inspection of the work prior to backfilling.

#### **400.26 STANDING CROPS**

The Contractor shall not be held responsible for damages to standing crops within the working area for the drain. However, the Contractor shall notify the owner of the crops 48 hours prior to commencement of construction so as to allow the owner an opportunity to harvest or salvage the crop within the drain working area. If this advance notice is not given the Contractor may be liable for the loss of the standing crops.

#### **400.27 CLEARING VEGETATION**

##### **400.27.1 General**

The area for clearing, if not defined elsewhere, shall be 15m on each side of the drain.

##### **400.27.2 Trees to Remain**

Where it is feasible to work around existing trees that do not impede the function of the drainage works, the Contractor shall not remove any deciduous tree larger than 300mm and any coniferous tree larger than 200mm, unless authorized by the Engineer.

##### **400.27.3 Incidental Clearing**

Incidental clearing includes removal of trees, brush or other vegetation with an excavator during construction activities, and the cost is to be included in the price for the related construction activity.

##### **400.27.4 Power Brushing**

Power brushing includes removal of above-ground vegetation with a rotary brush cutter or other mechanical means. Stump and root removal is not required. Power brushed vegetation in a channel cross-section shall be removed and leveled in the working area. Excavated material may be placed and leveled on power brushed vegetation.

##### **400.27.5 Close-Cut Clearing**

Close-cut clearing includes removal of above-ground vegetation cut flush with the ground. Stump and root removal is not required.

**400.27.6 Clearing And Grubbing**

Clearing and grubbing includes removal of vegetation, including stumps and roots. Removal of earth from the grubbed area into the windrows or piles is to be minimized.

**400.27.7 Disposal of Cleared Vegetation****400.27.7.1 In Bush Areas**

Cleared vegetation is to be pushed into windrows or piles at the edge of the cleared area. Stumps and roots are to be piled first at the edge of the cleared area, followed by other vegetation (trunks, branches, etc.). Provisions for lateral drainage are required through all windrows. Windrows are not to block any laneways or trails. After removing cleared vegetation, the working area shall be leveled to the satisfaction of the Engineer.

**400.27.7.2 In Field Areas**

Cleared vegetation resulting from incidental clearing or power brushing may be hauled away, mulched in place or reduced to a size that permits cultivation using conventional equipment without causing undue hardship on farm machinery.

Cleared vegetation resulting from close-cut clearing or clearing and grubbing is to be hauled away to an approved location. Disposal sites may be in bush areas or other approved locations on the same farm. No excavated material shall be levelled over any logs, brush or rubbish of any kind.

**400.27.8 Landowner Requested Salvage**

A landowner may request that wood be separated from the windrows for the landowner's future use. This additional work would be eligible for extra payment, subject to the approval of the Engineer. The cost of the additional work would be assessed to the landowner.

**400.27.9 Clearing by Landowner**

Wherever the Special Provisions indicate that clearing may be undertaken by the landowner, work by the landowner shall be in accordance with the Clearing Vegetation requirements of this specification and must be completed so as not to cause delay for the Contractor. If the landowner does not complete clearing in accordance with these requirements, the Contractor will undertake the clearing at a price approved by the Engineer.

**400.28 ROCK REMOVAL****400.28.1 General**

Rock shall be defined as bedrock and boulders that are greater than one-half cubic metre in size and that require blasting or hoe-ram removal. Bedrock or boulders that can be removed with a standard excavator bucket are not considered rock removal.

**400.28.2 Blasting Requirements**

All blasting shall be performed by a competent, qualified blaster in accordance with OPSS 120. Blasting mats are required. A pre-blast survey meeting the requirements of OPSS 120 must be completed for any structure within 200m of any blasting. The cost for pre-blast survey shall be included in the tender price for rock removal.

**400.28.3 Typical Sections and Pay Limits**

For tile drains and road culverts, rock shall be removed to 150mm below the proposed grade shown on the profile so that pipes are not in direct contact with rock. The width of rock removal shall be 1m minimum or the diameter of the pipe plus 600mm.

For open drains, rock removal shall match the proposed grade and bottom width shown on the Drawings. Side slopes shall be vertical or sloped outward. Side slopes shall be free of loose rock when excavation is completed.

Payment for the quantity of rock removed will be based on the typical sections described in these specifications and confirmed by field measurements. There will be no payment for overbreak.

#### **400.28.4 Disposal of Rock**

Excavated rock shall be piled at the edge of the working area at locations designated by the landowner. The cost to pile excavated rock shall be included in the tender price for rock removal. If the Special Provisions or the landowner require excavated rock to be hauled away, additional payment will be considered.

Where approved by the Engineer, excavated rock may be used in place of imported riprap.

### **400.29 SEEDING**

#### **400.29.1 General**

Contractor responsible for re-seeding as necessary for uniform catch during warranty period. Areas that remain grassed after construction may not need to be seeded unless directed otherwise by the Engineer.

#### **400.29.2 Drainage Works and Road Allowances**

All disturbed ditch banks, berms and road allowances are to be seeded at the end of the day.

The following seed mixture shall be applied at 60kg/ha using a mechanical (cyclone) spreader:

- 35% Creeping Red Fescue
- 25% Birdsfoot Trefoil
- 25% Kentucky Bluegrass
- 10% Cover Crop (Oats, Rye, Barley, Wheat)
- 5% White Clover

Provide temporary cover for late fall planting by adding an additional 10 kg/ha of rye or winter wheat.

#### **400.29.3 Hydroseeding**

Where hydroseeding is specified, disturbed areas will be restored by the uniform application of a standard roadside mix, fertilizer, mulch and water at a rate of 2,000 kg/ha and be in accordance with OPSS 804.

#### **400.29.4 Seeding Lawns**

Unless specified otherwise, lawn areas shall be seeded with Canada No. 1 lawn grass mixture applied at 300 kg/ha using a mechanical (cyclone) spreader on 100mm of topsoil. Fertilizer shall be 5:20:20 or 10:10:10 applied at 300 kg/ha. Seed and fertilizer shall be applied together. Contractor shall arrange for watering with landowners.

#### **400.29.5 Sod**

Where sod is specified, sod is to be commercial grade turfgrass nursery sod, Kentucky Bluegrass placed on 50mm of topsoil. Fertilizer shall be 5-20-20 applied at 10kg/ha. Place sod in accordance with supplier instructions. Contractor is responsible for saturating the sod with water on the day of sod placement. Subsequent watering is the responsibility of the landowner.

**400.30 EROSION CONTROL BLANKETS**

Erosion Control Blankets (ECB) shall be biodegradable and made of straw/coconut (Terrafix SC200, Nillex SC32 or equal) or coconut (Terrafix C200, Nillex C32 or equal) with photodegradable, double net construction. The blanket and the staples shall be supplied and installed as per OPSS 804.

Erosion control blanket shall be placed and stapled into position as per the manufacturer's installation instructions on slopes as directed by the Engineer. Blankets shall be installed in direct contact with the ground surface to form a uniform, cohesive mat over the seeded earth area. The blankets are to be single course with 150mm overlap between blankets and joints are to be staggered. The Contractor shall ensure that the ECB is anchored to the soil and that tenting of the ECB does not occur.

On slopes, when the ECB cannot be extended 1m beyond the crest of the slope, the uppermost edge of the ECB shall be anchored in a 150mm wide by 150mm deep trench. The trench shall be backfilled with earth and compacted.

**400.31 SEDIMENT CONTROL****400.31.1 General**

Contractor shall install sediment control features at the downstream limits of the project and at other locations as shown on the drawings or directed by the Engineer.

Sediment control features shall be installed prior to any excavation taking place upstream of that location. The Contractor shall maintain all sediment control features throughout construction and the warranty period.

Sediment that accumulates during construction shall be removed and levelled as required.

**400.31.2 Flow Check Dams****400.31.2.1 Temporary Straw Bale Flow Check Dam**

The straw bale flow check dam shall consist of a minimum of 3 bales. Each bale is to be embedded at least 150mm into the channel bottom and shall be anchored in place with 2 T-bar fence posts or 1.2m wooden stakes driven through the bale.

Straw bales shall be hauled away at the end of the warranty period. Accumulated sediments shall be excavated and levelled when the temporary straw bale flow check dam is removed.

**400.31.2.2 Temporary Rock Flow Check Dam**

The temporary rock flow check dam shall extend to the top of the banks so that dam overtopping does not cause bank erosion. Rock shall be embedded a minimum of 150mm into the ditch bottom and banks. No geotextile is required for temporary rock flow check dams.

Accumulated sediments shall be excavated and levelled when the temporary rock flow check dam is removed at the conclusion of the warranty period.

**400.31.2.3 Permanent Rock Flow Check Dam**

The requirements of temporary rock flow check dams shall apply except rock shall be placed on geotextile and the dam shall remain in place permanently.



### 400.31.3 Sediment Traps

#### 400.31.3.1 *General*

The channel bottom shall be deepened in accordance with the dimensions provided in the Drawings or Special Provisions. If dimensions are not specified on the Drawings, the sediment trap shall be excavated within the channel cross-section at least 0.3m below the design grade.

The Contractor will monitor the sediment trap during construction and cleanout accumulated sediments as required to maintain the function of the sediment trap.

If specified to be temporary, no sediment trap maintenance is required after construction is complete.

If specified to be permanent, the contractor will clean out the sediment trap at the conclusion of the warranty period, unless directed otherwise by the Engineer.

#### 400.31.3.2 *Sediment Trap with Flow Check Dam*

A permanent rock sediment trap shall include a permanent sediment trap and a rock flow check dam.

A temporary rock/straw sediment trap shall include a temporary sediment trap and a rock/straw flow check dam.

### 400.31.4 Turbidity Curtains

A turbidity curtain is required when there is permanent water level/flow and a sediment trap is not feasible.

Turbidity curtains shall be in accordance with OPSS 805 and installed per manufacturer's instructions.

Turbidity curtains shall be sized and anchored to ensure the bottom edge of the curtain is continuously in contact with the waterbody bed so that sediment passage from the enclosed area is prevented. The curtain must be free of tears and capable of passing the base flow from the drainage works. Turbidity curtain locations may be approved by the Engineer.

Turbidity curtains are to remain functional until work in the enclosed area is completed. Prior to relocating or removing turbidity curtains, accumulated sediment is to be removed from the drain and levelled.

Where a turbidity curtain remains in place for more than two weeks it shall be inspected for damage or clogging and replaced, repaired or cleaned as required.

### 400.31.5 Silt Fence

Silt fence shall be in accordance with OPSS 805.07.02.02 and OPSD 219.110 (light-duty).

## 400.32 GRASSED WATERWAYS AND OVERFLOW SWALES

Grassed waterways and overflow swales typically follow low ground along the historic flow route. The cross-section shall be saucer shaped with a nominal 1m bottom width, 8:1 side slopes and 300mm depth unless stated otherwise in the Special Provisions.

All grassed waterways are to be permanently vegetated. Grassed waterways shall be seeded with the following permanent seed mixture: 50% red fescue, 45% perennial ryegrass and 5% white clover, broadcast at 80 kg/ha. Fertilizer to be 7-7-7 applied at 80 kg/ha.

Provide temporary cover for late fall planting by adding an additional 10 kg/ha of rye or winter wheat.

Overflow swales may be cropped using conventional farming practice.

#### **400.33            BUFFER STRIPS**

Open drains shall include minimum 3m wide, permanently vegetated buffer strips on each side of the drain. Catchbasins shall include a minimum 1m radius, vegetated buffer strip around the catchbasin.

Cultivation of buffer strips using conventional farming practice may be undertaken, provided sediment transport into the drain is minimized.

#### **400.34            MAINTENANCE CORRIDOR**

The maintenance corridor along the route of the drain, as established in the report, shall be kept free of obstructions, ornamental vegetation and structures. When future maintenance is undertaken, the cost of removing such items from the corridor shall be assessed to the landowner.

#### **400.35            POLLUTION**

The Contractor shall keep their equipment in good repair. The Contractor or any landowner shall not spill or cause to flow any polluted material into the drain that is not acceptable to the MOECC. The local MOECC office and the Engineer shall be contacted if a polluted material enters the drain. The Contractor shall refill or repair equipment away from open water. If the Contractor causes a spill, the Contractor is responsible to clean-up the spill in accordance with MOECC clean-up protocols.

#### **400.36            SPECIES AT RISK**

If a Contractor encounters a known Species At Risk designated by the MNRF or DFO, the Contractor shall notify the Engineer immediately and follow the Ministry's guidelines for work around the species.

**STANDARD SPECIFICATIONS****FOR****OPEN DRAINS****TABLE OF CONTENTS**

410.1	DESCRIPTION.....	1
410.2	MATERIALS.....	1
410.3	CONSTRUCTION.....	1
410.3.1	Excavation.....	1
410.3.2	Low Flow Channels.....	1
410.3.3	Line.....	1
410.3.4	Grade Control.....	1
410.3.5	Variation from Design Grade.....	2
410.3.6	Excavated Material.....	2
410.3.7	Excavation at Existing Bridge and Culvert Sites.....	3
410.3.8	Bridges and Culverts.....	3
410.3.9	Obstructions.....	3
410.3.10	Tile Outlets.....	4
410.3.11	Completion.....	4

**410.1 DESCRIPTION**

Work under this item shall include the supply of labour, equipment and materials required for: channel excavation to the cross-section specified, leveling or disposal of all excavated material (spoil) as directed, reconstruction of all intercepted drains as required and any other items related to open drain construction as required by the Schedule of Tender Prices, Special Provisions or the Drawings.

**410.2 MATERIALS**

Refer to Section 400, Standard Specifications for Drain Construction for any materials required for open drain construction.

**410.3 CONSTRUCTION****410.3.1 Excavation**

The bottom width and the side slopes of the ditch shall be as shown on the profile drawing. If the channel cross-section is not specified in the Special Provisions it shall be a 1m bottom width with 1.5m horizontal to 1m vertical (1.5:1) bank slope. At locations along the drain where the specified side slopes change there shall be a transitional length of not less than 5m between the varying side slopes. At locations along the drain where the specified bottom width changes there shall be a transitional length of not less than 5m. In all cases there shall be a smooth transition between changes in any part of the channel cross-section. Where the bottom width of the existing ditch matches the specified bottom width, ditch excavation shall be completed without disturbing existing banks.

**410.3.2 Low Flow Channels**

Unless specified otherwise in the Special Provisions, all intermittent open drains with a bottom width greater than 1.8m and a grade less than 0.07%, shall have a low flow channel. The bottom of the low flow channel shall be the grade shown on the profiles.

The low flow channel shall have a U-shaped cross-section with an average top width of 0.5m and a minimum depth of 0.3m. The low flow channel will not be seeded and may meander along the main channel bottom provided it remains at least .3m from the toe of main channel bank slope.

**410.3.3 Line**

The drain shall be constructed according to the alignment shown on the drawings or shall follow the course of the existing ditch. All bends shall have a minimum inside radius of 2m. There shall be a smooth transition between changes in the channel alignment. The Contractor shall contact the Engineer before removing any bends or irregularities in an existing ditch.

**410.3.4 Grade Control**

The profile shows the grade line for the bottom of the ditch. Cuts may be shown on the profile from the existing top of bank and/or from the existing ditch bottom to the new ditch bottom. These cuts are shown for the convenience of the Contractor and are not recommended for quantity estimate or grade control. Accurate grade control must be maintained by the Contractor during ditch excavation. The ditch bottom elevation should be checked every 50 metres and compared to the elevation on the profile.

Benchmarks are identified on the Contract Drawings. The Engineer will confirm all benchmark elevations prior to construction.

**410.3.5 Variation from Design Grade**

A variation of greater than 25mm above the design grade line may require re-excavation. Excavation below design grade up to 150mm is recommended so that sediment accumulation during or following excavation will not place the ditch bottom above the design grade at completion. Under some circumstances the Engineer may direct that over excavation greater than 200mm will have to be backfilled. No additional payment will be made if backfilling is required to remedy over excavation.

**410.3.6 Excavated Material**

Excavated material (spoil) shall be deposited on either or both sides of the drain within the specified working area as directed in the Special Provisions. The Contractor shall verify the location for the spoil with each landowner before commencing work on their property. If not specified, spoil shall be placed on the low side of the ditch or opposite trees and fences. The spoil shall be placed a minimum 1m from the top of the bank. No excavated material shall be placed in tributary drains, depressions, or low areas such that water is trapped behind the spoil bank. Swales shall be provided through the leveled or piled spoil at approximately 60m intervals to prevent trapping water behind the spoil bank.

The excavated material shall be placed and leveled to a maximum depth of 250mm; unless otherwise instructed. If excavating more than 450mm topsoil shall be stripped, stockpiled separately and replaced over the leveled spoil, unless stated otherwise in the Special Provisions. The edge of the spoil bank furthest from the ditch shall be feathered down to existing ground. The edge of the spoil bank nearest the ditch shall have a maximum slope of 2:1. The material shall be leveled such that it may be cultivated with conventional equipment without causing undue hardship on farm machinery.

Wherever clearing is necessary prior to leveling, the Contractor shall remove all stumps and roots from the working area. No excavated material shall cover any logs, brush or rubbish of any kind. Large stones in the leveled spoil that are greater than 300mm in diameter shall be moved to the edge of the spoil bank nearest to the ditch but in general no closer than 1m to the top of bank.

Lateral channels that outlet into the drain shall be tapered over a distance of 10m to match the grade of drain excavation. No additional payment will be made for this work.

Where the elevation difference between the lateral channel and the drain is greater than 450mm, a rock chute or similar bank protection approved by the Engineer shall be provided. Additional payment may be allowed for this work.

Where it is specified to straighten any bends or irregularities in the alignment of the ditch or to relocate any portion of an existing ditch, the excavation from the new cut shall be used for backfilling the original ditch. Regardless of the distance between the new ditch and old ditch, no additional payment will be allowed for backfilling the existing ditch.

The Contractor shall contact the Engineer if a landowner indicates in writing that spoil on the owner's property does not need to be leveled. The Engineer may release the Contractor from the obligation to level the spoil and the Engineer shall determine the credit to be applied to the Contractor's payment. No additional compensation is provided to the owner if the spoil is not leveled.

The Engineer may require the Contractor to obtain written statements from any or all of the landowners affected by the leveling of the spoil. Final determination on whether or not the leveling of spoil meets the specification shall be made by the Engineer.

**410.3.7 Excavation at Existing Bridge and Culvert Sites**

The Contractor shall excavate the drain to the specified depth under all bridges and to the full width of the structure unless specified otherwise in the Special Provisions. All necessary care and precautions shall be taken to protect permanent structures. Temporary bridges may be removed and left on the bank of the drain. In cases where the design grade line falls below the top of footings, the Contractor shall take care to not over-excavate below the grade line. The Contractor shall notify the Engineer if excavation of the channel exposes the footings of the bridge or culvert, so the Engineer can make an evaluation.

The Contractor shall clean through all pipe culverts to the grade line and width specified on the profile. The Contractor shall immediately contact the Engineer after a culvert cleanout if it is found that the culvert bottom is above the grade line or where the structural integrity of the culvert is questionable.

Material resulting from cleanout through bridges or culverts shall be levelled on the adjacent private lands or hauled offsite at the expense of the bridge/culvert owner.

**410.3.8 Bridges and Culverts**

The size and material for any new ditch crossings shall be as outlined in the Special Provisions.

For culvert installation instructions, refer to the General Specifications for Drain Construction and the Drawings.

Any crossings assembled on-site shall be assembled in accordance with the manufacturer's specifications.

If directed on the drawings that the existing crossing is to be salvaged for the owner, the Contractor shall carefully remove the existing crossing and place it beside the ditch or haul to a location as specified by the owner. If the existing crossing is not to be saved then the Contractor shall remove and dispose of the existing crossing. Disposal by burying on-site must be approved by the Engineer and the owner.

All new pipe crossings shall be installed at the invert elevations as specified on the Drawings, usually a minimum of 50mm below design grade. If the ditch is over excavated greater than 200mm below design grade the Contractor shall confirm with the Engineer the elevations for installation of the new pipe crossing.

For backfill and surface restoration, refer to the General Specifications for Drain Construction and the Drawings.

Installation of private crossings during construction must be approved by the Engineer.

**410.3.9 Obstructions**

All trees, brush, fallen timber and debris shall be removed from the ditch cross-section and as required for spreading of the spoil. The roots shall be left in the banks if no bank excavation is required as part of the new channel excavation. In wooded or heavily overgrown areas all cleared material may be pushed into piles or rows along the edge of the cleared path and away from leveled spoil. All dead trees along either side of the drain that may impede the performance of the drain if allowed to remain and fall into the ditch, shall be removed and put in piles, unless directed otherwise by the Engineer.

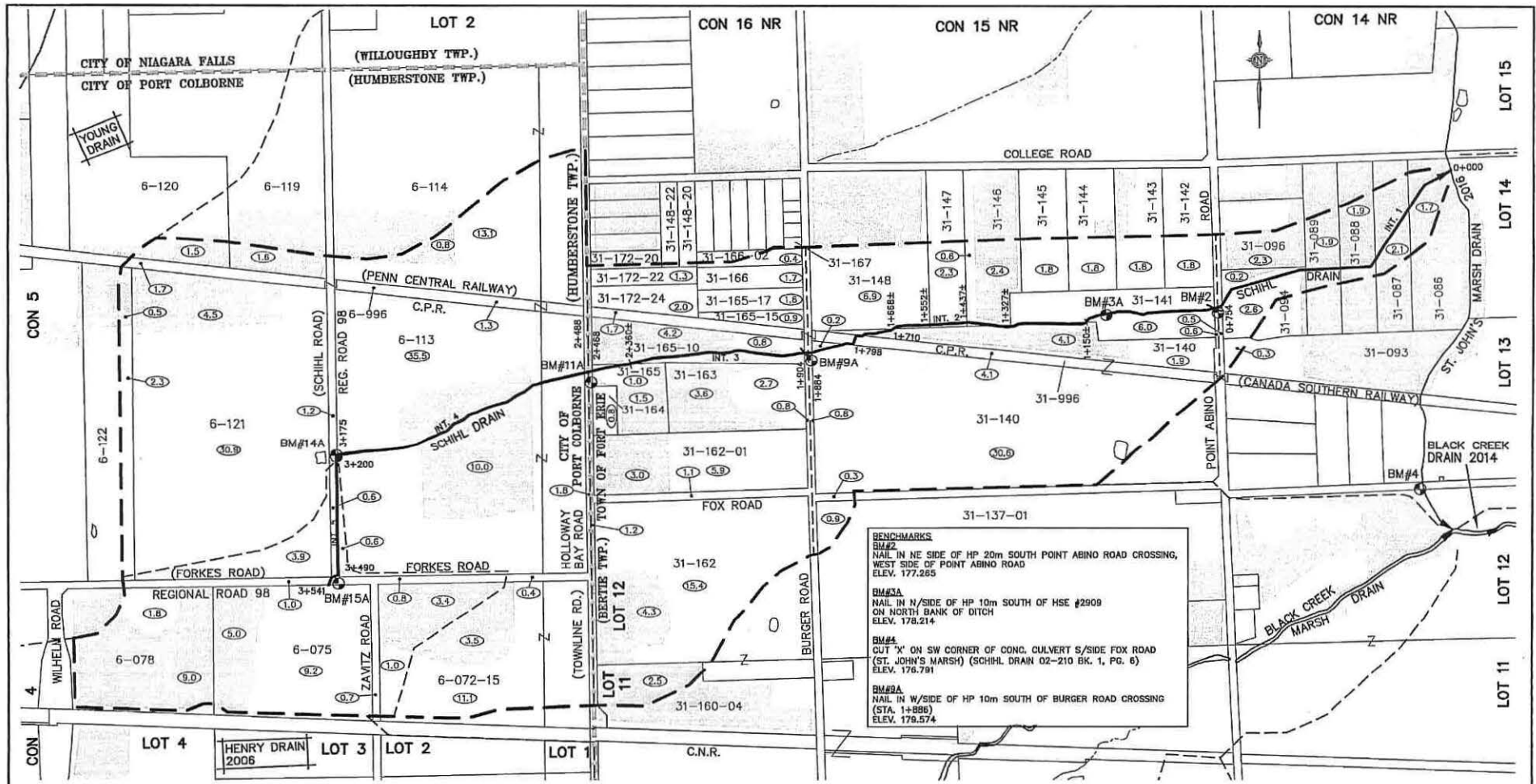
**410.3.10 Tile Outlets**

The location of all existing tile outlets may not be shown on the profile for the drain. The Contractor shall contact each owner and ensure that all tile outlets are marked prior to commencing excavation on the owner's property. If a marked tile outlet or the tile upstream is damaged due to construction, it shall be replaced at the Contractor's expense. Additional payment will be allowed for the repair or replacement of any unmarked tile outlets encountered during excavation. In all cases, if an existing tile outlet requires replacement the Contractor shall confirm the replacement tile outlet with the Engineer. Where riprap protection exists at any existing tile outlet such protection shall be removed and replaced as necessary to protect the outlet after reconstruction of the channel.

If any tile outlet becomes plugged as a result of construction, the Contractor shall remove the obstruction.

**410.3.11 Completion**

At the time of final inspection, all work in the contract shall have the full dimensions and cross-sections specified.



**NOTES:**  
 -ALL ROLL NO'S IN TOWN OF FORT ERIE BEGIN WITH 27-03-020-0 EG. 31-161 IN FULL IS 27-03-020-031-161  
 -ALL ROLL NO'S IN CITY OF PORT COLBORNE BEGIN WITH 040-00 EG. 6-077 IS 27-11-040-005-077

THE POSITION OF POLE LINES, CONDUITS, WATERMANS, SEWERS AND OTHER UNDERGROUND AND OVERGROUND UTILITIES AND STRUCTURES IS NOT NECESSARILY SHOWN ON THE CONTRACT DRAWINGS, AND, WHERE SHOWN, THE ACCURACY IS NOT GUARANTEED. BEFORE STARTING WORK, THE CONTRACTOR SHALL INFORM THEMSELVES OF THE EXACT LOCATION OF ALL SUCH UTILITIES AND STRUCTURES, AND SHALL ASSUME ALL LIABILITY FOR DAMAGE TO THEM.

**PLAN LEGEND**

- MAJOR WATERSHED
- - - INTERMEDIATE WATERSHED
- - - PROPOSED WORK
- Z DENOTES PROPERTY OWNERSHIP ON BOTH SIDES OF LOT LINE
- LIMIT BETWEEN MUNICIPALITIES
- (12.8) - APPROXIMATE HECTARES IN WATERSHED
- (31-160-04) - ASSESSMENT ROLL NUMBER
- BUSH

**BENCHMARKS**  
 BM#2  
 NAIL IN NE SIDE OF HP 20m SOUTH POINT ABINO ROAD CROSSING, WEST SIDE OF POINT ABINO ROAD  
 ELEV. 177.265  
 BM#3A  
 NAIL IN N/SIDE OF HP 10m SOUTH OF HSE #2909 ON NORTH BANK OF DITCH  
 ELEV. 176.214  
 BM#4  
 CUT "X" ON SW CORNER OF CONC. CULVERT S/SIDE FOX ROAD (ST. JOHN'S MARSH) (SCHIHL DRAIN 02-210 BK. 1, Pg. 6)  
 ELEV. 176.791  
 BM#5A  
 NAIL IN W/SIDE OF HP 10m SOUTH OF BURGER ROAD CROSSING  
 (STA. 14-886)  
 ELEV. 179.574

NOTE: BASE MAPPING PROVIDED BY THE TOWN OF FORT ERIE

**SCHIHL DRAIN**  
 REGION OF NIAGARA TOWN OF FORT ERIE  
 CITY OF PORT COLBORNE

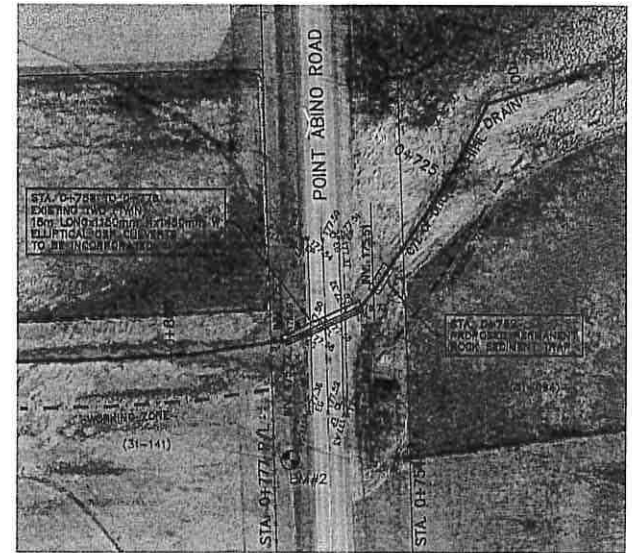
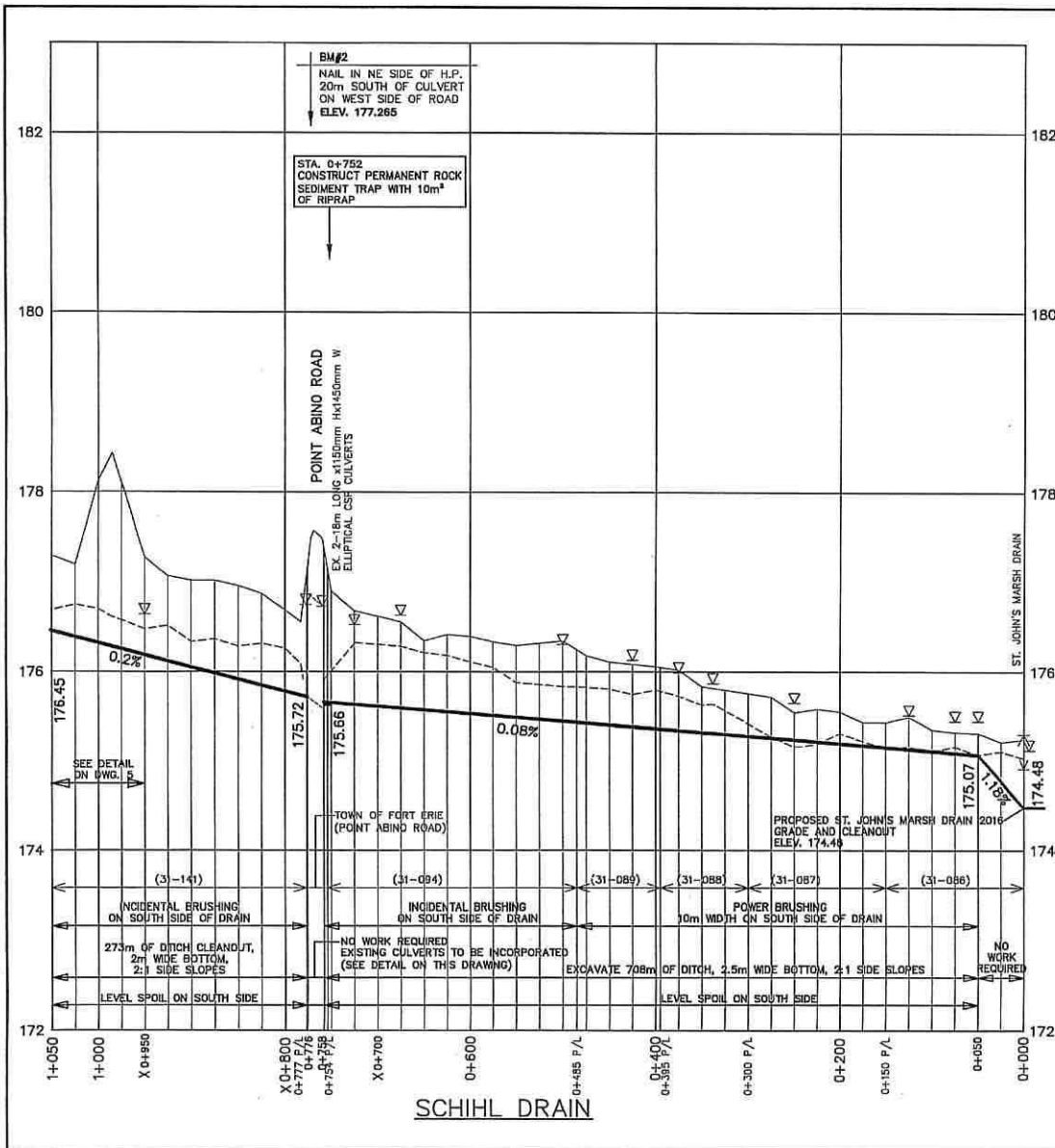
**WATERSHED PLAN**

MAR. 28, 2019

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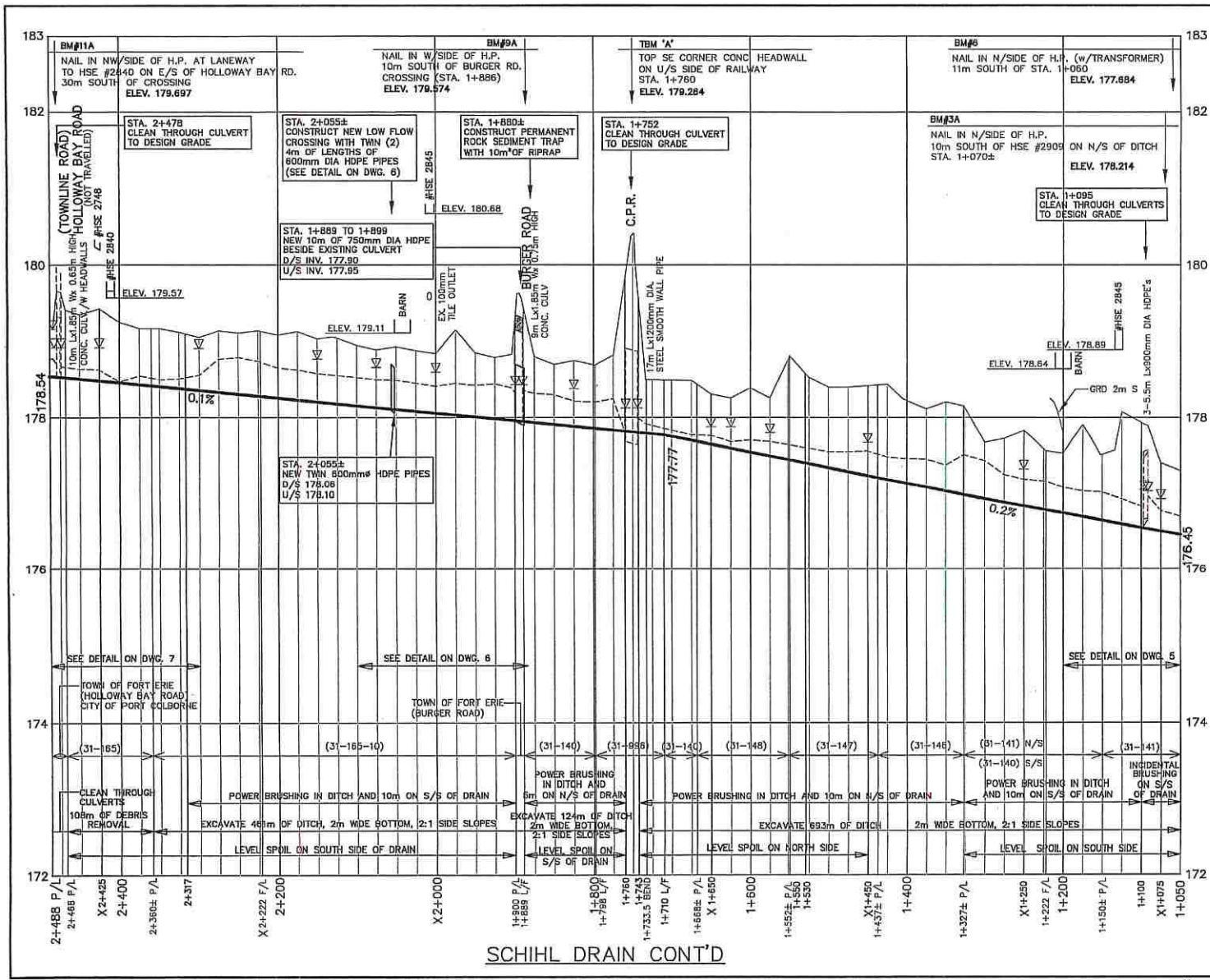
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**LEGEND**

- ▽ WATER LEVEL AT TIME OF SURVEY
- TILE OUTLET
- EXISTING CULVERT
- F/L FENCE LINE
- P/L PROPERTY LINE
- X CROSS SECTION LOCATION
- GROUND LEVEL (BANK)
- - - EXISTING DITCH BOTTOM
- GRADE FOR PROPOSED DRAIN
- INVERT FOR PROPOSED DRAIN
- - - EXISTING EDGE OF GRAVEL
- x - EXISTING FENCE
- - - PROPOSED RIGHT OF WAY

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CHECKED BY: N.W.M.		<b>SCHIHL DRAIN</b>
FIELD BOOK: 02-210		REGION OF NIAGARA TOWN OF FORT ERIE CITY OF PORT COLBORNE
<b>MAIN DRAIN PROFILE</b>		<b>MAR. 28, 2019</b>
<b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS KITCHENER SUDBURY		REVISED: JOB NUMBER: 02-210 DRAWING: <b>2 OF 12</b>

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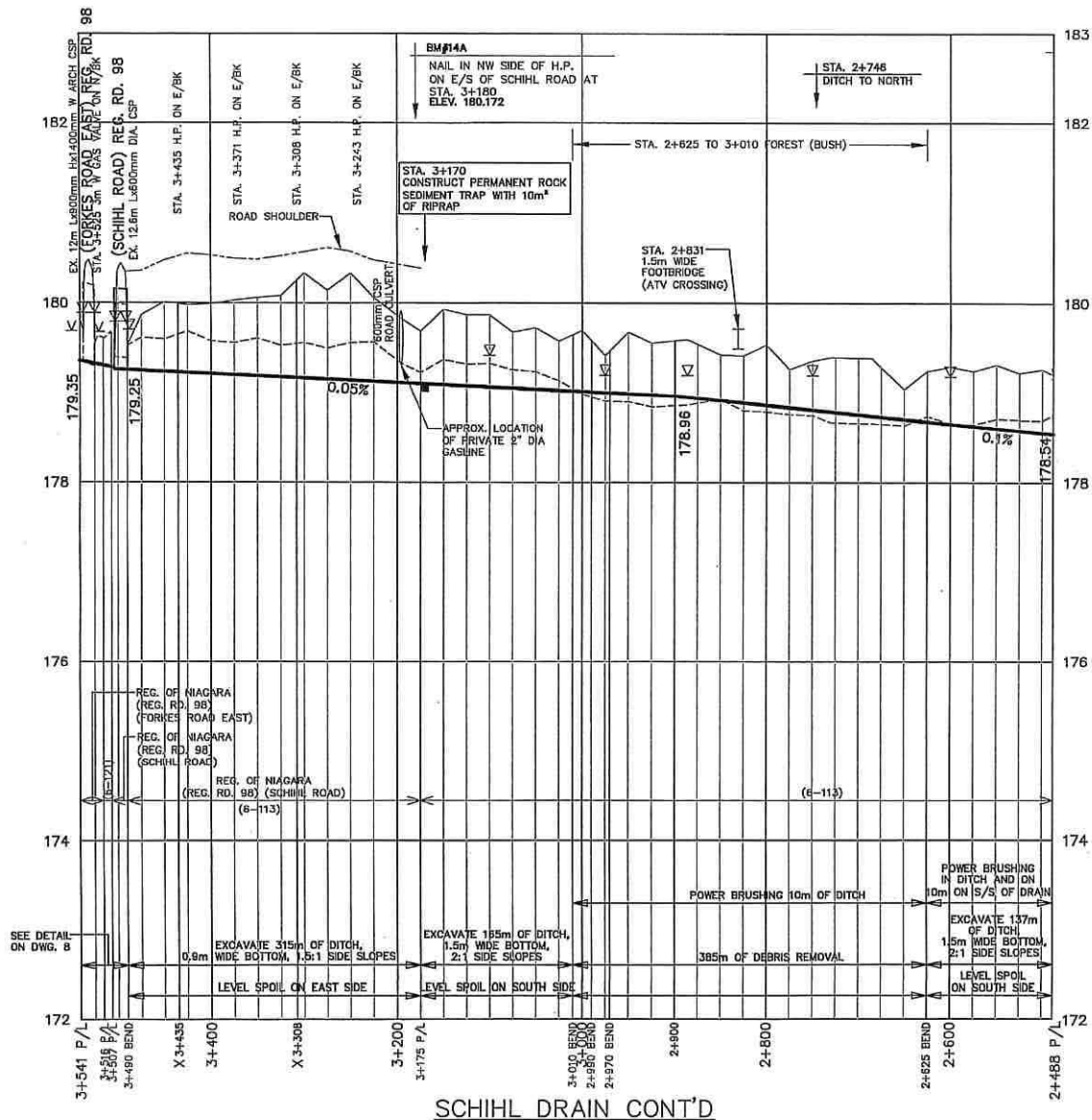
- ▽ WATER LEVEL AT TIME OF SURVEY
- TILE OUTLET
- EXISTING CULVERT
- F/L FENCE LINE
- P/L PROPERTY LINE
- X CROSS SECTION LOCATION

— GROUND LEVEL (BANK)  
 - - - EXISTING DITCH BOTTOM  
 — GRADE FOR PROPOSED DRAIN  
 — INVERT FOR PROPOSED DRAIN

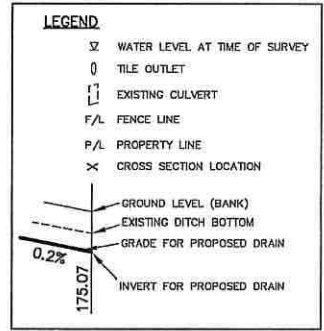
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REGION OF NIAGARA		TOWN OF FORT ERIE CITY OF PORT COLBORNE
<b>MAIN DRAIN PROFILE CONTINUED</b>		REVISED: JOB NUMBER: 02-210 DRAWING: 3 OF 12

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LEGEND	
	EXISTING DITCH
	EXISTING EDGE OF GRAVEL
	EXISTING FENCE
	BUSH LIMIT
	PROPOSED RIGHT OF WAY

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 CHECKED BY: N.W.M.  
 FIELD BOOK: 02-210



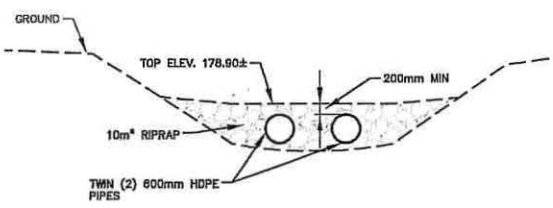
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DETAIL STA. 0+050 TO 1+214	MAR. 28, 2019
 <b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS KITCHENER	REVISED:
	JOB NUMBER: 02-210 DRAWING: 5 OF 12

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STA. 2+055±  
 CONSTRUCT NEW LOW FLOW CROSSING WITH  
 TWIN (2) 4m LENGTHS OF 800mm DIA HDPE  
 PIPES WITH 10m³ RIPRAP AT EACH END  
 AND 3m WIDE LANEWAY (40m³ RIPRAP TOTAL)  
 O/S INV.'s 178.05  
 U/S INV.'s 178.10



BM#9A  
 NAIL IN W/SIDE OF H.P.  
 10m SOUTH OF BURGER ROAD CROSSING  
 (STA. 1+885.5)  
 ELEV. 178.574

LEGEND	
	EXISTING DITCH
	EXISTING EDGE OF GRAVEL
	EXISTING FENCE
	BUSH LIMIT
	PROPOSED RIGHT OF WAY

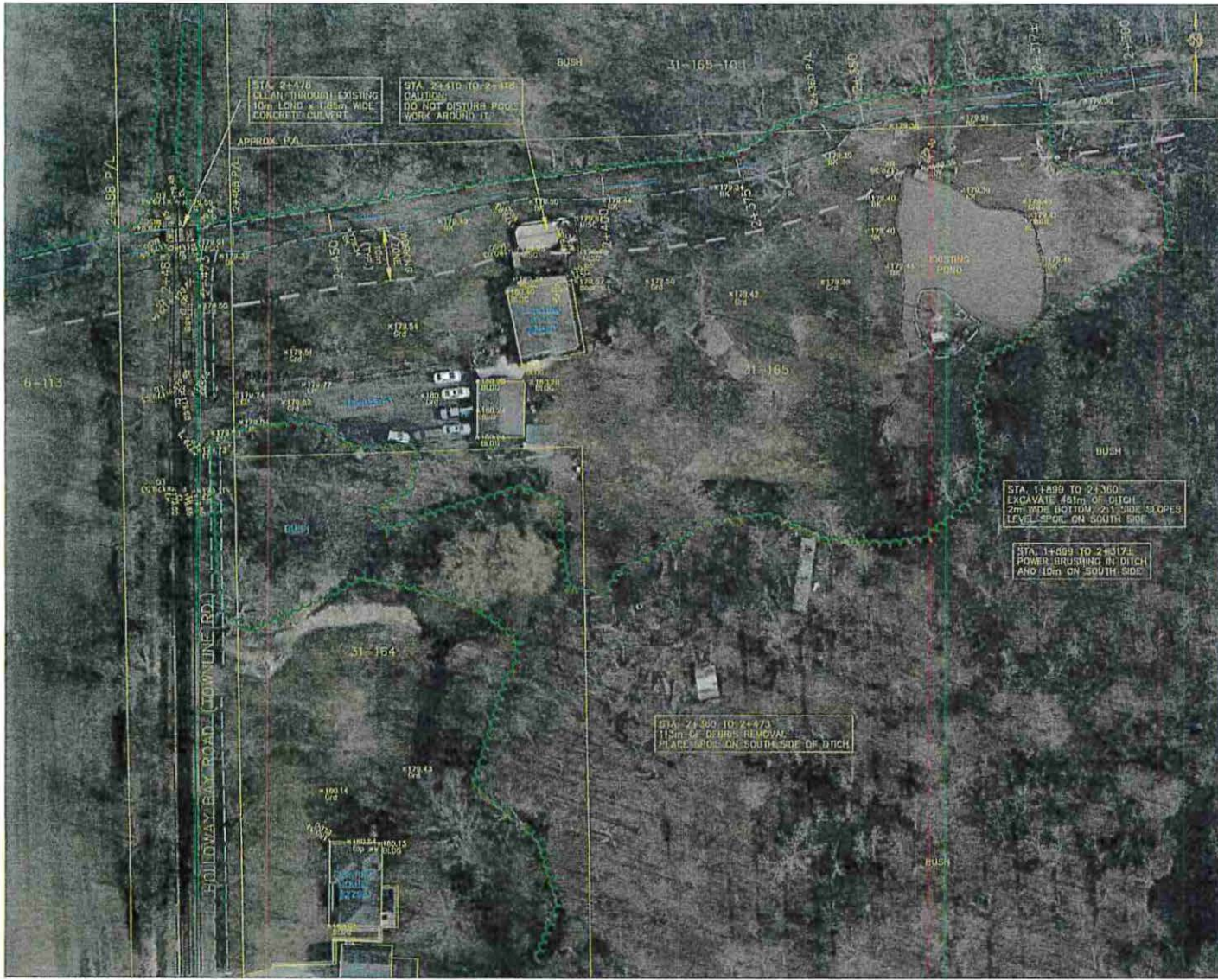
END DETAIL STA. 2+055±  
 LOW FLOW CROSSING  
 N.T.S.

DESIGNED BY: N.W.M.  
 CHECKED BY: N.W.M.  
 DRAWN BY: N.M.S.  
 CHECKED BY: N.W.M.  
 FIELD BOOK: 02-210



SCALE  
 0 7.5 15m  
 1:750  
 (ON 11"x17")

<b>SCHIHL DRAIN</b>	
REGION OF NIAGARA	TOWN OF FORT ERIE CITY OF PORT COLBORNE
DETAIL STA. 1+884 TO 2+100	MAR. 28, 2019
<b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS KITCHENER SUBURBY	REVISED: JOB NUMBER: 02-210 DRAWING: <b>6 OF 12</b>



**BUM#1A**  
 NAIL IN W/SIDE OF H.P.  
 AT LANEWAY TO HSE #2840  
 ON E/S OF HOLLOWAY BAY ROAD  
 30m SOUTH OF CROSSING  
 ELEV. 178.697

**LEGEND**

	EXISTING DITCH
	EXISTING EDGE OF GRAVEL
	EXISTING FENCE
	BUSH LIMIT
	PROPOSED RIGHT OF WAY

DESIGNED BY: N.W.M.  
 CHECKED BY: N.W.M.  
 DRAWN BY: N.M.D.  
 CHECKED BY: N.W.M.  
 FIELD BOOK: 02-210



**SCALE**  
 0 7.5 15m  
 1:750  
 (ON 11"x17")

**SCHIH L DRAIN**

REGION OF NIAGARA      TOWN OF FORT ERIE  
 CITY OF PORT COLBORNE

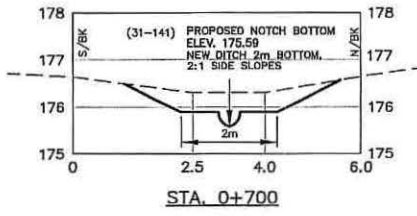
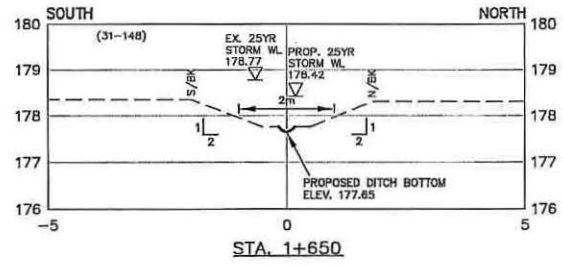
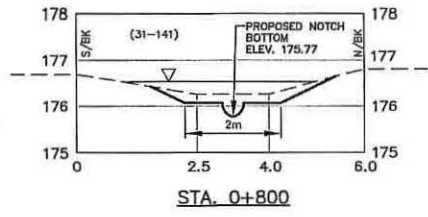
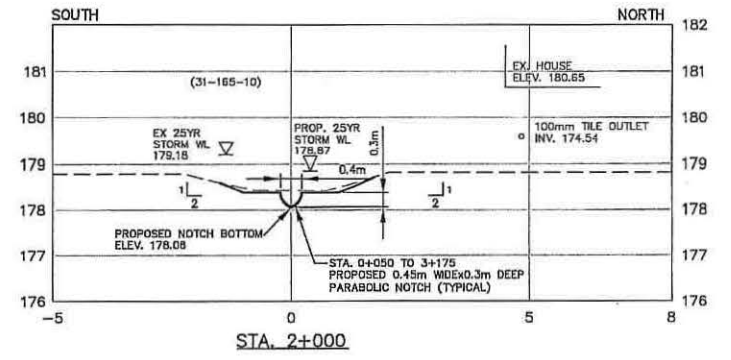
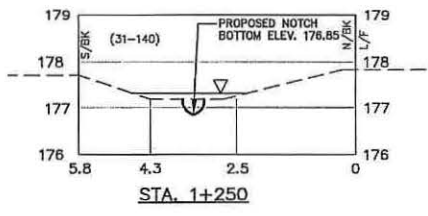
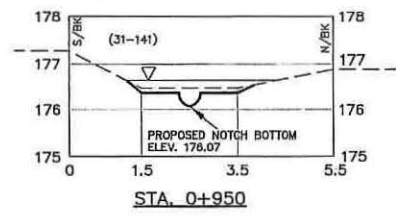
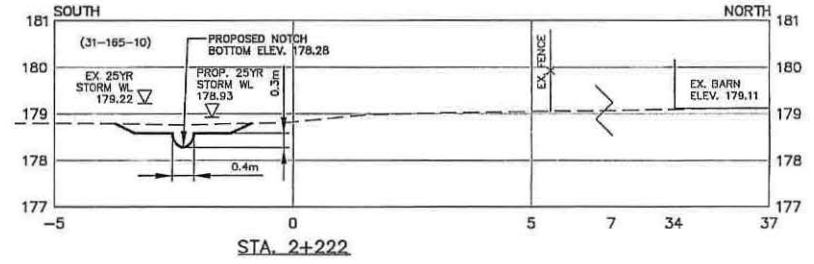
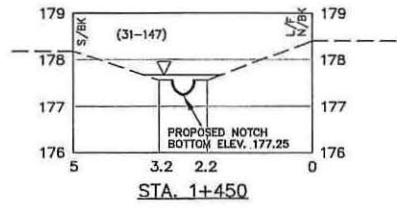
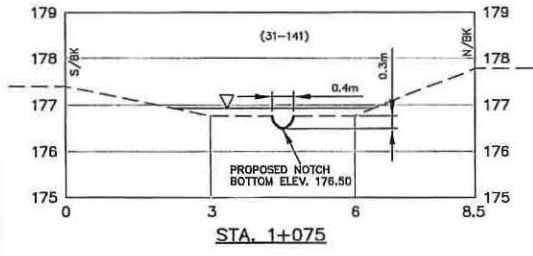
<b>DETAIL STA. 2+300 TO 2+488</b>	<b>MAR. 28, 2019</b>
	REVISED:
<b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS	JOB NUMBER: 02-210
KITCHENER	DRAWING: 7 OF 12
SUDBURY	



**BM15A**  
 NAIL IN NORTH SIDE OF H.P.  
 ON SOUTH SIDE OF FORKES ROAD EAST  
 ELEV. 180.277

LEGEND	
— — — — —	EXISTING GAS LINE
- - - - -	EXISTING BANK
- - - - -	PROPOSED RIGHT OF WAY

DESIGNED BY: N.W.M.		<b>SCALE</b>  1:250 (ON 11"x17")
CHECKED BY: N.W.M.		
DRAWN BY: N.M.B.		
CHECKED BY: N.W.M.		
FIELD BOOK: 02-210		
<b>SCHIHLE DRAIN</b>		
REGION OF NIAGARA		TOWN OF FORT ERIE CITY OF PORT COLBORNE
<b>DETAIL STA. 3+490 TO 3+541</b>		<b>MAR. 28, 2019</b>
<b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS KITCHENER	REVISIONS JOB NUMBER: 02-210 DRAWING: 8 OF 12	
	SUBSIDIARY	



DESIGNED BY: N.W.M.		SCALE 1 : 100
CHECKED BY: N.W.M.		(SCALE: HORIZ. 1 : 100)
DRAWN BY: N.M.B.		SCALE 1 : 100
CHECKED BY: N.W.M.		(SCALE: VERT. 1 : 100)
FIELD BOOK: 02-210		(ON 11"x17")
<b>SCHIHL DRAIN</b>		
REGION OF NIAGARA		TOWN OF FORT ERIE CITY OF PORT COLBORNE
<b>CROSS SECTIONS</b>		<b>MAR. 28, 2019</b>
	<b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS	REVISION: JOB NUMBER: 02-210
	KITCHENER	SHARON
	DRAWING <b>9 OF 12</b>	

\\server\userdata\02\2019\02-210\02-210.dwg CROSS SECTIONS 28-Mar-19 11:17:05 AM





300) SPECIAL PROVISIONS

300.1) SPECIFIC NOTES

A description of the Drain for construction and future maintenance is as follows:

R. Singleton (Roll No. 31-086) / J. Robertson & S. Cavey (Roll No. 31-087) / D. Merritt (Roll No. 31-088 & 31-089) / R. Charron (Roll No. 31-094)

- 0+000 to 0+050 - No work required. This portion was cleaned out (excavated) during St. John's Marsh Drain 2016 construction.
- For future maintenance, ditch to be 2.5m wide bottom, 2:1 side slopes and spoil to be levelled on south side
- 0+050 to 0+485 - Power brushing 10m width on the south side of the drain
- 0+050 to 0+754 - 704m of ditch cleanout, 2.5m wide bottom, 2:1 side slopes. Level spoil on the south side of drain including incidental brushing Sta. 0+485 to 0+754
- Seeding of ditch banks (5m sides)
- 0+752 - Construct permanent rock sediment trap with 10m<sup>2</sup> of riprap

Point Abino Road (Town of Fort Erie)

- 0+754 to 0+758 - 4m of ditch cleanout, 2.5m wide bottom, 2:1 side slopes. Level spoil to south/east on Roll No. 31-094
- Seeding of ditch banks (5m sides)
- 0+758 to 0+776 - No work required. Existing twin (2) 18m lengths of 1150mm high x 1450mm wide elliptical CSP arch culverts to be incorporated
- 0+776 to 0+777 - 1m of ditch cleanout, 2m wide bottom, 2:1 side slopes. Level spoil to the south/west side on Roll No. 31-141

H. Van Der Meer (House No. 2909) (Roll No. 31-141) / Willoyd Ltd. (Roll No. 31-140)

- 0+777 to 1+050 - 273m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on south side including incidental brushing on the south side of the drain
- Seeding of ditch banks (5m sides)
- 1+050 to 1+327 - 277m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on the south side
- Seeding of ditch bank (4m sides)
- 1+100 to 1+327 - Power brushing in ditch and 10m on the south side of the drain
- 1+095 - Clean through existing 3 - 5.5m lengths of 900mm dia. CSP culverts on Roll No. 31-141. Existing culverts to be incorporated

W. Yuan & G. Li (Roll No. 31-146) / C. Stackwood (Roll No. 31-147) / R. & A. Swinson (Roll No. 31-148) / Willoyd Ltd. (Roll No. 31-140) / C.P.R.-Caso (Roll No. 31-996) / Willoyd Ltd. (Roll No. 31-140)

- 1+327 to 1+668 - Power brushing in the ditch
- 1+327 to 1+743 - 416m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on the north side.
- Seeding of ditch banks (4m sides)
- 1+668 to 1+743 - Power brushing in ditch and 10m on the north side of the drain
- 1+743 to 1+760 - Clean through the existing 17m length of 1200mm dia. steel smooth wall pipe, with headwall at the upstream end, railway culvert. Level spoil on Roll No. 31-140
- 1+760 to 1+884 - Power brushing in ditch and 5m on the north side of the drain
- 1+880 - 125m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes
- Construct permanent rock sediment trap with 10m<sup>2</sup> of riprap

Burgor Road (Town of Fort Erie)

- 1+884 to 1+890 - 6m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on Roll No. 31-140
- 1+890 to 1+899 - Existing 9m length of the 1.85m wide x 0.75m high concrete culvert (no concrete bottom) to remain. No work required. Pipe to be installed as per detail on Drawing 12
- 1+899 to 1+899 - Install 10m of 750mm dia. HDPE pipe beside existing culvert across the road by open cut including restoration
- 1+899 to 1+904 - 5m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on Roll No. 31-165-10

D. & T. Brewster (House No. 2845) (Roll No. 31-165-10) / W. & K. Hawkins (House No. 2840) (Roll No. 31-165)

- 1+904 to 2+317.1 - Power brushing in ditch and 10m on the south side
- 1+904 to 2+468 - 564m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on the south side.
- Seeding of ditch banks (4m sides)

- 2+055± - Construct low flow crossing consisting of twin (2) 4m lengths of 600mm dia. HDPE pipes and 40m<sup>2</sup> of riprap.
- 2+410 to 2+418 - Caution: Avoid damage (do not disturb) existing swimming pool to the south

Holloway Bay Road (Town of Fort Erie / City of Port Colborne)

- 2+468 to 2+473 - 5m of ditch cleanout/excavation, 2m wide bottom, 2:1 side slopes. Level spoil on Roll No. 31-165
- 2+473 to 2+483 - Cleanout through the existing 10m length of 1.85m wide by 0.65m high concrete culvert with headwalls. No concrete bottom.
- 2+483 to 2+488 - 5m of ditch cleanout/excavation, 1.5m wide bottom, 2:1 side slopes. Level spoil on Roll No. 6-113

776542 Ontario Ltd. (Roll No. 6-113)

- 2+488 to 2+625 - Power brushing in ditch and 10m on the south side of the drain
- 137m of ditch cleanout/excavation, 1.5m wide bottom, 2:1 side slopes. Level spoil on the south side.
- Seeding of ditch banks (4m sides)
- 2+625 to 3+010 - Power brushing 10m width and in the ditch
- 395m of debris removal
- 2+831 - Existing 1.5m wide footbridge (ATV crossing) to be removed and replaced by the landowner
- 3+010 to 3+175 - 165m of ditch cleanout/excavation, 1.5m wide bottom, 2:1 side slopes. Level spoil on the south side.
- Seeding of ditch banks (4m sides)
- 3+170 - Construct permanent rock sediment trap with 10m<sup>2</sup> of riprap

Regional Road 98 (Schihl Road) (Region of Niagara) / 776542 Ontario Ltd. (Roll No. 6-113)

- 3+175 to 3+490 - 315m of ditch cleanout/excavation, 0.9m wide bottom, 1.5:1 side slopes. Level spoil on the east side on Roll No. 6-113.
- Seeding of ditch banks (2m sides)

Regional Road 98 (Schihl Road) (Region of Niagara) / 776542 Ontario Ltd. (Roll No. 6-121) / Regional Road 98 (Forbes Road) (Region of Niagara)

- 3+490 to 3+504 - Remove and dispose of existing culvert and install 14m lengths of 750mm and 900mm dia. PPE pipes across the road by open cut. Pipes to be installed as per detail on Drawing 12. Place 5m<sup>2</sup> of riprap at ends (10m<sup>2</sup> riprap total). Use "Sanitilia HP" PPE High-Performance Polypropylene from ADS or equivalent for the pipe with 320 kN/m<sup>2</sup> or greater stiffness fabricated per AASHTO M330, with ball and spigot connections. Taper ditch at downstream and upstream ends
- 3+504 to 3+525 - Excavate 21m of the ditch, 0.9m wide bottom, 1.5:1 side slopes. Level spoil on the north side on Roll No. 6-121
- Seeding of ditch banks (2m sides)
- 3+525 to 3+537 - Remove and dispose of existing culvert and install 12m lengths of 750mm and 900mm dia. PPE pipes across the road by open cut. Pipes to be installed as per detail on Drawing 12. Place 5m<sup>2</sup> of riprap at ends (10m<sup>2</sup> riprap total). Use "Sanitilia HP" PPE High-Performance Polypropylene from ADS or equivalent for the pipe with 320 kN/m<sup>2</sup> or greater stiffness fabricated per AASHTO M330, with ball and spigot connections.
- Taper 5m of the ditch at downstream and upstream ends

300.2) GENERAL NOTES

300.2.1 Working Area

For work on the open ditch, the average width is to be 10m on private lands. Refer to Standard Specification 400.4 for exceptions.

300.2.2 Access - Standard Specification 400.5

The Contractor shall have access to the drain along the routes if any, shown on the plan. The access routes shall be along existing laneways or paths or where none exist, along a 6m wide (maximum) path. All specifications governing fences, livestock and crops during drain construction shall apply to access routes except where superseded by notes on the drawings. No other access routes shall be used unless first approved by the Engineer and affected landowners. The Contractor shall also contact each owner prior to using designated accesses. The landowner information will be supplied with the tender documents. Telephone numbers for contact are:

- 31-086 R. Singleton
- 31-087 J. Robertson & S. Cavey (Available at time of tender)

- 31-088, 31-089 D. Merritt
- 31-094 R. Charron
- 31-140, 31-141 Willoyd Ltd. (H. Van Der Meer)
- 31-165 W. & K. Hawkins
- 31-165-10 D. & T. Brewster
- 31-996 C.P.R.-Caso
- 6-075, 6-113, 6-121 776542 Ontario Ltd. Engineer (Neal Morris, P. Eng.)
- Town of Fort Erie (Dave Maiden, Drainage Superintendent) 519-748-1199 ext. 240
- City of Port Colborne (Alana Vander Vaen, Drainage Superintendent) 905-871-1600 ext. 2405
- Region of Niagara (Derek McGahey) 905-835-2801 ext. 2192900 ext 291
- One Call Centre 905-980-6000 ext. 3412
- 1-800-400-2055

300.2.3 Ditch Work Required

All construction on this project must use laser grade control for open work. Failure to do such may require forfeiture of the contract including tender deposit and payment for any work done.

a) General Note for Ditch Work on this Project

In all areas, the side of the drain for levelling spoil is to be the working side. Power brushing materials are preferred. Where materials are left by chainsaw or excavated by a backhoe, materials are to be left in piles for the landowner to dispose of. Where bush is within 10m of the channel, such materials are to be pushed and windrowed in with or adjacent to the bush areas. All incidental brushing along the drain is to be included as part of the ditch work unless it is separately noted in the Specific Notes. All new ditch banks are to be seeded.

b) General re Open Drain Work

The open drains to be constructed will have cross-sectional dimensions as specified by the profiles and the Typical Sections on the drawings. Ditch bottom elevations are to be as shown on the profile drawings. Also, minimum bottom widths and bank slopes are shown by the typical sections and by the profile drawings. All spoil is to be levelled adjacent to the drain, and all banks where disturbed, are to be seeded the same day as excavation unless when requested otherwise. Standard Specification 410 applies for ditch work. Do not over-excavate any channel except if noted, do not unnecessarily disturb banks, and minimize bottom disturbance during root removal.

During future maintenance, all excavated materials are to be levelled on adjacent properties with the exception that any removed rock be hauled away.

300.2.4 Soil Conditions

The Region of Niagara soils map for this area indicates that the soils adjacent to this drain are lacustrine heavy clay and silty clay over clay loam till. These soils should not present significant construction difficulty but pockets of poor soil conditions may be experienced, especially if groundwater levels are high at the time of construction.

If pockets of poor soils conditions are encountered, the contingency price from the form of the tender will be paid by the linear meter upon the engineer's approval. This contingency price is based on increased costs relating to the contractors time and materials.

300.2.5 Native Seed (Seeding Mixture)

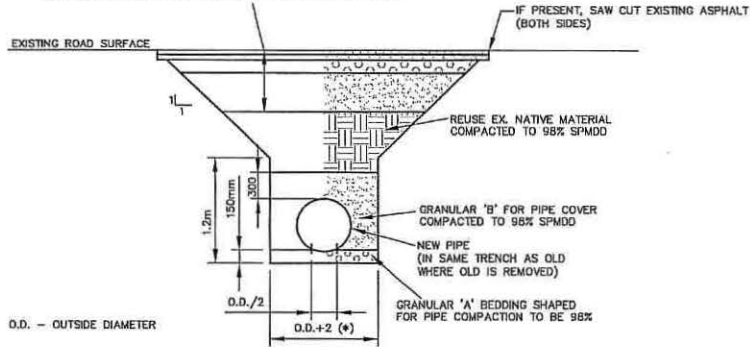
Use Sassafras Farm's wetland siles mixture or approved equal. Seed mixture is to be applied at a rate of 3 kg per hectare, and is to contain:

Botanical Name	Common Name	%
<i>Carex vulpinoidea</i>	Fox Sedge	20
<i>Juncus effusus</i>	Soft Rush	5
<i>Carex lupulina</i>	Hop Sedge	4
<i>Elymus Riparius</i>	River Bank Wild Rye	22
<i>Elymus Canadensis</i>	Canada Wild Rye	25
<i>Mimulus ringens</i>	Monkey Flower	1
<i>Verbena heistia</i>	Blue Vervain	2
<i>Aster novae-angliae</i>	New England Aster	3
<i>Carex stipata</i>	Awl Sedge	3
<i>Eupatorium fistulosum</i>	Joe Pye Weed	1
<i>Eupatorium perfoliatum</i>	Boneset	1
<i>Scirpus cyperinus</i>	Wool Grass	7
<i>Asclepias incarnate</i>	Swamp Milkweed	1
<i>Solidago patula</i>	Rough Leaved Goldenrod	5



SCHIHl DRAIN  
TOWN OF FORT ERIE and CITY OF PORT COLBORNE  
Region of Niagara  
File No. 02-210 March 28, 2019  
Drawing 11 of 12

ASPHALT THICKNESS TO BE MINIMUM 90mm (COMPACTED) HOT MIX ASPHALT (40mm SURFACE COURSE PLUS 50mm BASE COURSE)  
 150mm GRAN. A AND 450mm GRAN. B GRANULAR COMPACTION TO 100% SPMD0 FOR PAVED SURFACE, IF PRESENT.  
 MINIMUM GRANULAR THICKNESS OF 150mm GRAN. A AND 450mm GRAN. B GRANULAR COMPACTION TO 98% SPMD0 FOR GRAVEL SURFACE



O.D. - OUTSIDE DIAMETER

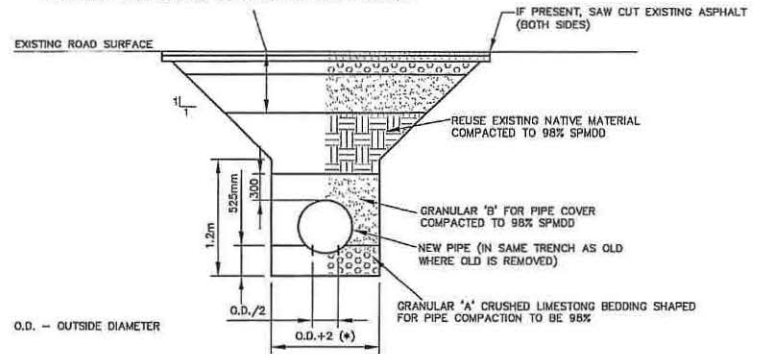
**TRENCH DETAIL FOR ROAD CROSSING BY OPEN CUT**  
 (PAVED OR GRAVEL SURFACE)  
 N.T.S.

**NOTES:**

- ALL WORK TO BE IN ACCORDANCE WITH OPSS AND OPSD
- \* - MINIMUM TRENCH SIDEWALL CLEARANCE PER OPSD 802.010  
 PIPE DIA. < 900φ - 0.3m  
 PIPE DIA. > 900φ - 0.5m
- THESE PADDING, BACKFILL AND COMPACTION REQUIREMENTS ALSO APPLY BEYOND THE SHOULDER AT A 1:1 SLOPE DOWN TO THE BOTTOM OF TRENCH EXCAVATION
- NEW FROST TAPER NOT REQUIRED UNLESS REQUESTED AT TIME OF CONSTRUCTION. BLEND INTO EXISTING TAPERS
- NEW FROST TAPERS IF REQUIRED ARE TO BE IN ACCORDANCE WITH OPSD 803.03 AND ADDITIONAL PAYMENT WILL BE ALLOWED.
- ALL SURPLUS EXCAVATED MATERIAL TO BE HAULED AWAY
- CONTRACTOR TO PERFORM ROAD RECONSTRUCTION IN ACCORDANCE WITH OPSS 310
- CONSTRUCTION SPECIFICATION FOR HOT MIX ASPHALT INCLUDING RELATED SPECIFICATIONS OPSS 1003 AND OPSS 1150.
- IN INITIAL CONSTRUCTION SEASON ALL LIFTS OF ASPHALT SHALL BE PLACED IF CONDITIONS ARE SUITABLE. IF CONDITIONS ARE POOR, TEMPORARY ASPHALT MAY BE REQUIRED UNTIL FOLLOWING CONSTRUCTION YEAR.
- OPEN CUT INSTALLATION METHOD WILL RESULT IN TEMPORARY ROAD CLOSURE AND DETOUR. TRAFFIC CONTROL REQUIRED.
- ALL UTILITIES MUST BE LOCATED BY THE CONTRACTOR
- REFER TO GENERAL AND/OR SPECIAL PROVISION NOTES FOR CONFIRMATION OF PIPE TYPE, SIZE AND LENGTH PLUS TYPE OF END TREATMENT
- HOT MIX ASPHALT SHALL BE IN ACCORDANCE TO THE ROAD AUTHORITIES MIX DESIGN

**MUNICIPAL ROAD CROSSING**

ASPHALT THICKNESS TO BE MINIMUM 150mm (COMPACTED) HOT MIX ASPHALT (50mm HLBS SURFACE COURSE IN ONE LIFT, PLUS 100mm HLBS BASE COURSE IN TWO LIFTS OF 50mm), 150mm GRAN. A AND 450mm GRAN. B GRANULAR COMPACTION TO 100% SPMD0 FOR PAVED SURFACE, IF PRESENT.  
 MINIMUM GRANULAR THICKNESS OF 150mm GRAN. A AND 450mm GRAN. B GRANULAR COMPACTION TO 98% SPMD0 FOR GRAVEL SURFACE



O.D. - OUTSIDE DIAMETER

**TRENCH DETAIL FOR ROAD CROSSING BY OPEN CUT**  
 (PAVED OR GRAVEL SURFACE)  
 N.T.S.

**NOTES:**

- ALL WORK TO BE IN ACCORDANCE WITH OPSS AND OPSD
- \* - MINIMUM TRENCH SIDEWALL CLEARANCE PER OPSD 802.010  
 PIPE DIA. < 900φ - 0.3m  
 PIPE DIA. > 900φ - 0.5m
- THESE PADDING, BACKFILL AND COMPACTION REQUIREMENTS ALSO APPLY BEYOND THE SHOULDER AT A 1:1 SLOPE DOWN TO THE BOTTOM OF TRENCH EXCAVATION
- NEW FROST TAPER NOT REQUIRED UNLESS REQUESTED AT TIME OF CONSTRUCTION. BLEND INTO EXISTING TAPERS
- NEW FROST TAPERS IF REQUIRED ARE TO BE IN ACCORDANCE WITH OPSD 803.03 AND ADDITIONAL PAYMENT WILL BE ALLOWED.
- ALL SURPLUS EXCAVATED MATERIAL TO BE HAULED AWAY
- CONTRACTOR TO PERFORM ROAD RECONSTRUCTION IN ACCORDANCE WITH OPSS 310
- CONSTRUCTION SPECIFICATION FOR HOT MIX ASPHALT INCLUDING RELATED SPECIFICATIONS OPSS 1003 AND OPSS 1150.
- IN INITIAL CONSTRUCTION SEASON ALL LIFTS OF ASPHALT SHALL BE PLACED IF CONDITIONS ARE SUITABLE. IF CONDITIONS ARE POOR, TEMPORARY ASPHALT MAY BE REQUIRED UNTIL FOLLOWING CONSTRUCTION YEAR.
- OPEN CUT INSTALLATION METHOD WILL RESULT IN TEMPORARY ROAD CLOSURE AND DETOUR. TRAFFIC CONTROL REQUIRED.
- ALL UTILITIES MUST BE LOCATED BY THE CONTRACTOR
- REFER TO GENERAL AND/OR SPECIAL PROVISION NOTES FOR CONFIRMATION OF PIPE TYPE, SIZE AND LENGTH PLUS TYPE OF END TREATMENT
- HOT MIX ASPHALT SHALL BE IN ACCORDANCE TO THE ROAD AUTHORITIES MIX DESIGN

**REGION OF NIAGARA ROAD CROSSINGS**

DESIGNED BY: N.W.M.
CHECKED BY: N.W.M.
DRAWN BY: N.M.B.
CHECKED BY: N.W.M.
FIELD BOOK: 02-210



N.T.S.

<b>SCHIHL DRAIN</b>	
REGION OF NIAGARA	TOWN OF FORT ERIE CITY OF PORT COLBORNE
<b>MUNICIPAL ROAD AND REGION OF NIAGARA ROAD CROSSINGS</b>	MAR. 28, 2019
 <b>K. SMART ASSOCIATES LIMITED</b> CONSULTING ENGINEERS AND PLANNERS 1400-42ND AVE SUDBURY	REVISION: JOB NUMBER: 02-210 DRAWING: 12 OF 12

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The Corporation of the City of Port Colborne

By-law No. 6724/88/19

Being a by-law to amend by-law no. 89-2000, as amended, being a by-law regulating traffic and parking on city roads (King Street)

Whereas the Council of the Corporation of the City of Port Colborne is desirous of amending the provisions of By-law 89-2000, as amended, in accordance with the recommendations of Planning & Development Department, By-law Enforcement Division, Report #2019-144, Parking & Traffic, King Street.

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That Schedule 'M' Loading Zones, to By-law 89-2000 as amended, be amended by deleting therefrom the following:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>		<u>Column 4</u>
<u>Highway</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Times /Days</u>
King Street	East	10 metres south of Charlotte Street	10 metres south therefrom	Anytime

2. That Schedule 'M' Loading Zones, to By-law 89-2000 as amended, be amended by adding thereto the following:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>		<u>Column 4</u>
<u>Highway</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Times /Days</u>
King Street	East	18.5 metres south of Charlotte Street	10 metres south therefrom	Anytime

3. That Schedule 'A' Stopping Prohibitions, to By-law 89-2000 as amended, be amended by adding thereto the following:

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>		<u>Column 4</u>
<u>Highway</u>	<u>Side</u>	<u>From</u>	<u>To</u>	<u>Times /Days</u>
King Street	East	Charlotte Street	18.5 metres south therefrom	Anytime

4. That this by-law shall come into force and take effect on the day of passing, subject to the display of official signs.

Enacted and passed this 15th day of October, 2019.

\_\_\_\_\_  
William C Steele  
Mayor

\_\_\_\_\_  
Amber LaPointe  
City Clerk

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The Corporation of the City of Port Colborne

By-law No. 6725/89/19

Being a by-law to authorize entering into a development agreement with Erika Spencer regarding 85-91 Main Street West

Whereas the Council of the Corporation of the City of Port Colborne is desirous of entering into a development agreement with Erika Spencer regarding the property legally known as Parts 2 and 4 on Plan 59R-\_\_\_\_\_ in the City of Port Colborne in the Regional Municipality of Niagara; municipally known as 85-91 Main Street West.

Now therefore the Council of the Corporation of the City of Port Colborne enacts as follows:

1. That the Corporation of the City of Port Colborne enters into a Development Agreement with Erika Spencer, which development agreement is attached hereto as Schedule "A";
2. That the Mayor and the Clerk are hereby authorized and directed to sign the said development agreements and the Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 15th day of October, 2019.

\_\_\_\_\_  
William C. Steele  
Mayor

\_\_\_\_\_  
Amber LaPointe  
City Clerk

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THIS DEVELOPMENT AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2019.

**BETWEEN:**

**ERIKA SPENCER**

hereinafter referred to as the "OWNER";

and

**THE CORPORATION OF THE CITY OF PORT COLBORNE**

hereinafter referred to as the "CITY";

**WHEREAS** the Owner desires to develop the lands described in Schedule "A" attached hereto (hereinafter referred to as the "Lands");

**AND WHEREAS** on December 11, 2018 the Committee of Adjustment for the City approved the creation of a residential building lot and a lot boundary adjustment (Applications B16-18-PC and B17-18-PC);

**AND WHEREAS** on May 27, 2019 City Council passed a Zoning By-law Amendment changing the zoning from Downtown Commercial to MU-50 (Application D14-05-18);

**AND WHEREAS** the City requires a Development Agreement with the Owner regarding specific conditions and processes to be followed during development of the Lands;

**NOW THEREFORE** the parties hereto agree as follows:

1. The Owner hereby warrants that it is the registered Owner of the Lands described in Schedule "A" to this Development Agreement.
2. The Owner agrees that upon the execution of this Development Agreement, the Lands shall be charged with the performance of the terms of this Development Agreement and that the performance of such terms shall be binding upon the Owner, its executors, administrators, successors, assigns, heirs, and successors in title.
3. The Owner shall indemnify and save harmless the City from and against all actions, causes of action, interest, claims, demands, costs, charges, damages, expenses, and loss, which the City may at any time bear, incur, be liable for, sustain or be put to for any reason of, or on account of, or by reason of, or in consequence of, the City, as the case may be, entering into this Development Agreement.
4. The Owner shall undertake or implement all requirements in Paragraphs 5 of this agreement prior to construction or site alteration to the satisfaction of the City of Port Colborne.
5. The Owner agrees to build and maintain a closed board privacy fence at the maximum height permitted in the City of Port Colborne's Fence By-law on the subject property's shared property lines with 17 Church Street.
6. The Owner agrees and acknowledges that the City shall register this Development Agreement on title to the Lands and that such registration may only be removed with the written consent of the City.

**SIGNED, SEALED & DELIVERED  
IN THE PRESENCE OF:**

**OWNER**

\_\_\_\_\_  
Erika Spencer

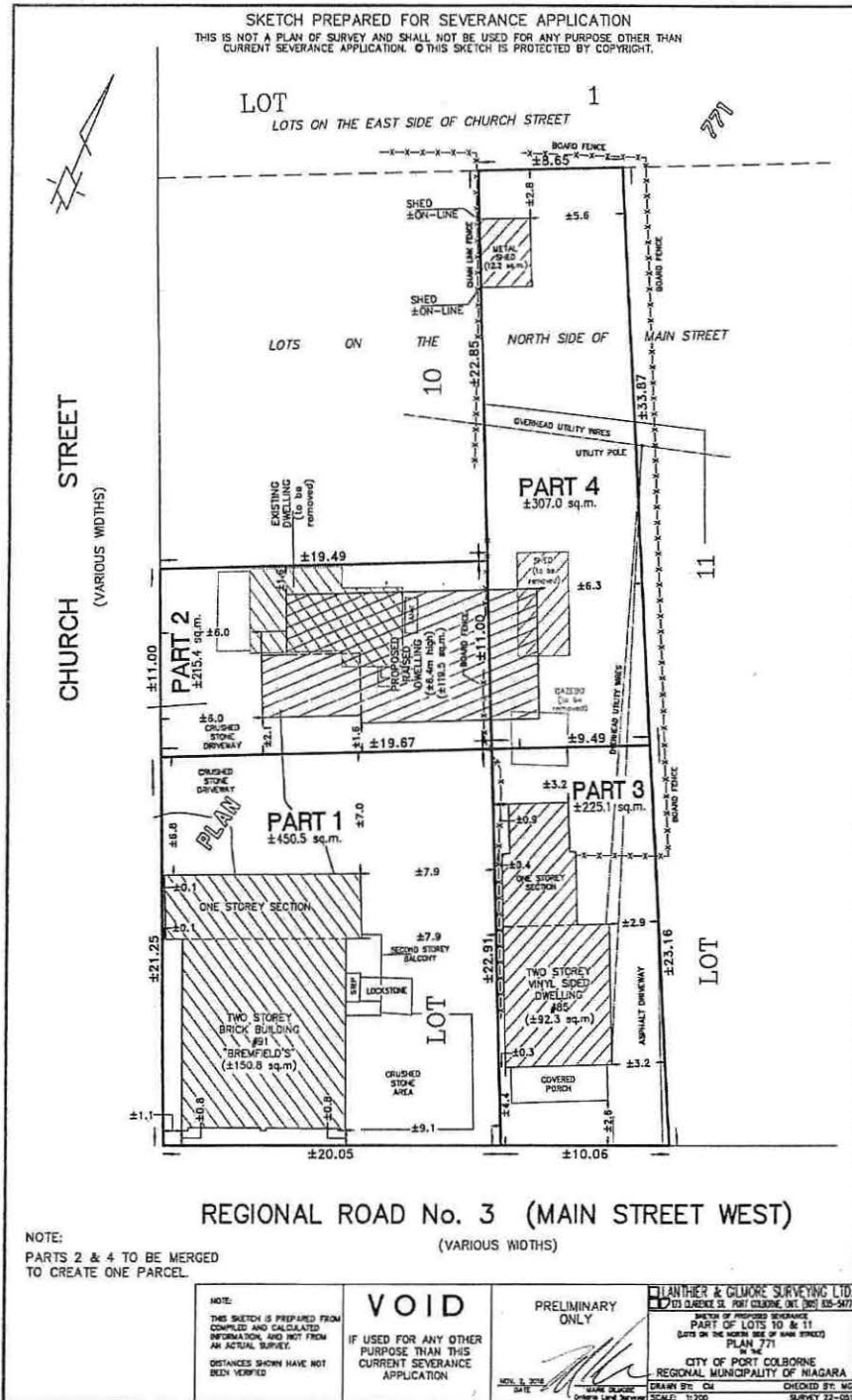
**THE CORPORATION OF THE CITY  
OF PORT COLBORNE**

\_\_\_\_\_  
William C Steele, Mayor

\_\_\_\_\_  
Amber LaPointe, Clerk

SCHEDULE "A" - THE LANDS

Parts 2 and 4 on Plan 59R-  
 On the North Side of Main Street West  
 In the City of Port Colborne  
 In the Regional Municipality of Niagara



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The Corporation of the City of Port Colborne

By-Law no. 6726/90/19

Being a by-law to adopt, ratify and confirm  
the proceedings of the Council of The  
Corporation of the City of Port Colborne at  
its Regular Meeting of October 15, 2019

Whereas Section 5(1) of the *Municipal Act, 2001*, provides that the powers of a municipality shall be exercised by its council; and

Whereas Section 5(3) of the *Municipal Act, 2001*, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise; and

Whereas it is deemed expedient that the proceedings of the Council of The Corporation of the City of Port Colborne be confirmed and adopted by by-law;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. Every action of the Council of The Corporation of the City of Port Colborne taken at its Regular Meeting of October 15, 2019 upon which a vote was taken and passed whether a resolution, recommendations, adoption by reference, or other means, is hereby enacted as a by-law of the City to take effect upon the passing hereof; and further
2. That the Mayor and Clerk are authorized to execute any documents required on behalf of the City and affix the corporate seal of the City and the Mayor and Clerk, and such other persons as the action directs, are authorized and directed to take the necessary steps to implement the action.

Enacted and passed this 15th day of October, 2019.

\_\_\_\_\_  
William C. Steele  
Mayor

\_\_\_\_\_  
Amber LaPointe  
City Clerk

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**City of Port Colborne  
Regular Meeting of Council 28-19  
Minutes**

**Date:** September 23, 2019

**Time:** 7:25 p.m.

**Place:** Council Chambers, Municipal Offices, 66 Charlotte Street, Port Colborne

**Members Present:** E. Beauregard, Councillor  
R. Bodner, Councillor  
G. Bruno, Councillor  
A. Desmarais, Councillor  
D. Kalailieff, Councillor  
W. Steele, Mayor (presiding officer)  
H. Wells, Councillor

Absent: M. Bagu, Councillor  
F. Danch, Councillor

**Staff Present:** D. Aquilina, Director of Planning and Development  
T. Cartwright, Fire Chief  
B. Garrett, Director of Corporate Services  
A. Grigg, Director of Community and Economic Development  
A. LaPointe, Manager of Legislative Services/City Clerk  
C. Lee, Director of Engineering and Operations  
S. Luey, Chief Administrative Officer  
L. Nelson, EAA to the Director of Corporate Services (minutes)

Also in attendance were interested citizens, members of the news media and WeeStream.

**1. Call to Order:**

Mayor Steele called the meeting to order.

**2. Introduction of Addendum Items:**

Nil.

**3. Confirmation of Agenda:**

**No. 168** Moved by Councillor A. Desmarais  
Seconded by Councillor G. Bruno

That the agenda dated September 23, 2019 be confirmed, as  
circulated or as amended.

CARRIED.

**4. Disclosures of Interest:**

Nil.

**5. Adoption of Minutes:**

**No. 169** Moved by Councillor R. Bodner  
Seconded by Councillor D. Kalailieff

- (a) That the minutes of the regular meeting of Council 26-19, held September 9, 2019, be approved as presented.
- (b) That the minutes of the special meeting of Council 27-19, held September 9, 2019, be approved as presented.

CARRIED.

**6. Determination of Items Requiring Separate Discussion:**

Nil.

**7. Approval of Items Not Requiring Separate Discussion:**

**No. 170** Moved by Councillor H. Wells  
Seconded by Councillor D. Kalailieff

That items 1 to 6 on the agenda be approved, with the exception of items that have been deferred, deleted or listed for separate discussion, and the recommendation contained therein adopted.

**Items:**

**1. Community and Economic Development Department, Parks and Recreation Division, Report 2019-145, Subject: Ninth Annual Downtown Harvest Festival**

Council resolved:

That Appendix A to Corporate Services Department, Clerks Division, Report 2019-136, Subject: Heritage Committee by-law be supported; and

That the Heritage Committee By-law be brought forward for approval.

That the request to host the ninth annual Harvest Fest on Saturday, September 28, 2019 from 10:00 a.m. to 4:00 p.m., be approved;

That Market Square be closed to vehicular traffic from 8:00 a.m. to 4:00 p.m. on September 28, 2019;



That Charlotte Street, from the Eastern limit of Catharine Street to the Western limit of King Street, be closed to vehicular traffic from 8:00 a.m. to 4:00 p.m. on September 28, 2019;

That emergency services, including ambulance, police and fire, and public works and public utility vehicles, be exempt from the above noted closures;

That the Engineering and Operations Department be directed to install and retrieve road closure barricades at the predetermined locations;

That the tractor-drawn hayride be permitted to share the road with motor vehicles on the pre-determined route;

That the permit fee for the use of the King George Park, be waived;

That all other permit/application fees and charges associated with 2019 Harvest Fest, including the provision of hydro access, picnic tables, waste receptacles, and snow fencing, be waived;

That the Event Organizer ensures all participants in the Slow Ride (bike ride) sign the requisite waiver form;

That Breakwall Brewing Company submit a Certificate of Insurance naming the Downtown BIA and the City of Port Colborne as additional insured for not less than \$5 million per occurrence, in accordance with the City's insurance requirements;

That the Event Organizer ensure that Certificates of Insurance are submitted from all third party vendors naming the Downtown BIA and City of Port Colborne as additional insured for not less than \$2 million per occurrence, in accordance with City's insurance requirements;

That the fee for a Noise By-law exemption, to be submitted to the By-law Enforcement Division, be waived.

**2. Corporate Services Department, Finance Division, Report 2019-137,  
Subject: Cancellation, Reduction or Refund of Realty Tax**

Council resolved:

That the applications pursuant to Section 357/358 of the Municipal Act, 2001, as amended, 2019-01, 2019-09, 2019-06, 2019-05, 2019-02, 2018-05, 2018-04, 2018-07, 2018-10, 2018-23, 2017-100 and 2018-24 be approved to cancel or reduce taxes in the total amount of \$27,074.95.

**3. Corporate Services Department, Finance Division, Report 2019-147, Subject: 2020 Budget Timeline and Guidance**

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Council resolved:

That Council endorse the proposed budget guidance of a 2.1% increase to the operating budget for the 2020 budget year; and

That Council endorse the proposed budget timeline set out in Corporate Services Department Report 2019-147.

**4. Planning and Development Department, Report 2019-139, Subject: Ohina:kara UNESCO Global Park**

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Council Resolved:

That the concept for the Ohina:kara UNESCO Global Geopark be endorsed and the Ohina:kara steering committee be supported in their pursuits of developing a global geopark.

**5. Carol Madden, Poppy Chairman, Royal Canadian Legion, Branch 56, Port Colborne Re: Request for Poppy Week, October 25 to November 11, 2019**

Council Resolved:

That October 25 to November 11, 2019 be proclaimed as "Poppy Week" in the City of Port Colborne in accordance with the request received from Carol Madden, Poppy Chairman, Royal Canadian Legion, Branch 56, Port Colborne.

**6. Region of Niagara Re: Municipal Representation on Greater Niagara Circle Route Committee**

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Council resolved:

That Councillor Desmarais be appointed as the City of Port Colborne's representative on the Greater Niagara Circle Route Committee.

CARRIED.

**8. Consideration of Items Requiring Separate Discussion:**

Nil.

**9. Proclamations:**

**(a) Poppy Week – October 25 to November 11, 2019**

**No. 171** Moved by Councillor H. Wells  
Seconded by Councillor D. Kalailieff

That October 25 to November 11, 2019 be proclaimed as "Poppy Week" in the City of Port Colborne in accordance with the request received from Carol Madden, Poppy Chairman, Royal Canadian Legion, Branch 56, Port Colborne.

CARRIED.

**10. Minutes of Boards, Commissions & Committees:**

**No. 172** Moved by Councillor G. Bruno  
Seconded by Councillor A. Desmarais

- (a) That the minutes of the Port Colborne Transit Advisory meeting of May 1, 2019, 2019, be received.
- (b) That the minutes of the Environmental Advisory Committee meeting of July 10, 2019, be received.
- (c) That the minutes of the Port Colborne Economic Development Advisory Committee meeting of June 25, 2019, be received.
- (d) That the minutes of the Port Colborne Active Transportation Advisory Committee meeting of June 17, 2019, be received.
- (e) That the minutes of the Senior Advisory Council meeting of May 16, 2019 and July 18, 2019, be received.

CARRIED.

**11. Consideration of By-laws:**

**No. 173** Moved by Councillor E. Beauregard  
Seconded by Councillor R. Bodner

That the following by-laws be enacted and passed:

- 6722/86/19 Being a By-law to Temporarily Close Sections of Various Streets to Vehicular Traffic for the purpose of the 2019 Downtown Harvest Festival
- 6723/87/19 Being a By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne at its Regular Meeting of September 23, 2019.

CARRIED.

**12. Adjournment:**

**No. 174** Moved by Councillor H. Wells  
Seconded by Councillor A. Desmarais

That the Council meeting be adjourned at approximately 7:31 p.m.  
CARRIED.

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William W. Steele  
Mayor

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Amber LaPointe  
City Clerk

AL/ln



Port Colborne Historical & Marine  
**MUSEUM**  
*...more than a museum!*

A meeting of the Board of Management of the Port Colborne Historical and Marine Museum was held July 16 at 7 p.m. at the L.R. Wilson Heritage Research Archives.

Present: Stephanie Powell Baswick, Pam Koudjis, Cheryl MacMillan, Claudia Brema, Margaret Tanaszi, Brian Heaslip, Terry Huffman, Jeff Piniak, Marcia Turner, Donna Abbott and Abbey Stansfield

Regrets: Councillor Eric Beauregard, Alexander Fazzari, Bonnie Johnston, Bert Murphy

Minutes of Last Meeting

Moved by: Claudia Brema

Seconded by: Cheryl MacMillan

To: Approve the Minutes of the Board of Management from June 18, 2019.  
Motion Carried.

Business Arising From Minutes:

Stephanie reported on behalf of Councillor Beauregard on the issue of his desire to see the Museum Board strike up a Heritage Advisory subcommittee. The roles and limitations of a subcommittee of this nature were discussed and the result was that the Board Chair, Terry Huffman, requested staff get more direction from council before any committees are struck.

Correspondence:

Stephanie Powell Baswick reported that the Museum had received correspondence from the BIA asking if the museum would like to participate in their Harvest Festival. The Harvest Festival was not on the list of activities that was approved by the board for 2019 for staff hours so the museum will be unable to participate, however, it is there for consideration for next year.

Stephanie also displayed the newsletters and magazines received from heritage institutions and societies.

Curator Report:

Stephanie Powell Baswick reported that the museum is very busy now with lots of tours being provided by staff.

All the summer students are diligently working away on their projects and representing the Museum well.

Stephanie also reported that the Museum's Community Museum Operating Grant application has been submitted. Every year new Museum Standards are evaluated for the grant and this year the Standard being evaluated is strategic planning, since this was completed last year by the Board no further work was required by staff.

Stephanie reported that she had received confirmation from office of the Ontario Honour and Awards Secretariat that they have received our nominees and that the ceremony will take place in the fall.



Port Colborne Historical & Marine  
**MUSEUM**  
*...more than a museum!*

Auxiliary Report:

Cheryl MacMillan reported that the Auxiliary had submitted a grant application to go towards the upkeep of the Tearoom. The Auxiliary wanted to say they love the new roof on the Tearoom.

The Tearoom has been very busy this season and the students have been working out well.

Program Committee Report:

Cheryl MacMillan reported that there are many tours currently run both onsite and off. Between the Urban History Walking Tours and the Solid Comfort Exhibit and Heritage Village Tours there have been specialized group tours run as well. The tours have been very well received and many are returning for other museum tours and events.

Fundraising Committee Report:

Donna Abbott reported that the Canal Days T-shirts are selling well. To date 89 have been sold in the gift shop, 31 at Market and 41 T-shirts from previous years.

Building and Property Committee Report:

Brian Heaslip reported that the group of volunteers has been working on creating new doors for the Blacksmith Shop. One thing to note is that the group is seeking out old barn boards to use as the museum currently doesn't have any.

Finance Committee Report:

No Report.

Membership Committee Report

Cheryl MacMillan reported on behalf of Bonnie Johnston that for 2019 the museum has 136 members, 9 new Life Patrons and received donations of \$890 above membership dues.

Accession Committee Report:

The committee met and reviewed many different items that were offered for donations over the last quarter.

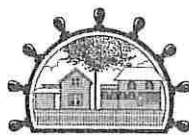
Next accession committee meeting will be October 7, 2019 at 6:30 PM

Policy Report:

No Report.

Marketing and Site Promotion Report:

Brian Heaslip reported that the committee met and identified that a new Museum Brochure was needed along with street signs, the signage of the entire site and signage of the trees. The group will meet again in August.



Port Colborne Historical & Marine  
**MUSEUM**  
*...more than a museum!*

New Business:

Stephanie Powell Baswick reported that Lower Lakes Towing will be coming to Canal Days to set up an

Motion to Adjourn: Claudia Brema

