



Town of Niagara-on-the-Lake

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REPORT #: CDS-23-204
COMMITTEE DATE: 2023-09-19
DUE IN COUNCIL: 2023-09-26
REPORT TO: COTW-General
SUBJECT: Planning Service Agreement with the Regional Municipality of Niagara

1. RECOMMENDATION

It is respectfully recommended that:

- 1.1 Council receives and endorses the Planning Service Agreement between the Town of Niagara-on-the-Lake and the Regional Municipality of Niagara ("Niagara Region"), attached as **Appendix I**, and
- 1.2 The Town Chief Administrative Officer (CAO) be authorized to sign the Agreement on behalf of the Town upon the date of provincial proclamation for the amendments to the *Planning Act* related to upper-tier municipal planning responsibilities.

2. EXECUTIVE SUMMARY

- Bill 23 received Royal Assent on November 28, 2022.
- Bill 23 made significant changes to the *Planning Act*, with specific impacts concerning removing upper-tier planning responsibilities.
- As a result of this change, the Region organized a facilitated discussion with local municipal CAOs and Planning Directors to determine a new model of planning service delivery that supports the changes to provincial legislation, expected growth needs across the Region, and an improved customer-centered service approach.
- The Planning Service Agreement was prepared through this consultation and collaboration. It sets out the terms of service delivery between the Town and Region following the proclamation and removal of upper-tier planning responsibilities.
- The Agreement has been tailored to the needs of Niagara-on-the-Lake, supports providing customer service excellence and assists in bolstering staff capacity and expertise. Staff support the Agreement and recommend its endorsement.

3. PURPOSE

The purpose of this report is to provide information to Council on discussions amongst local municipalities and the Region of Niagara related to shared planning service. Through these discussions, the Region has prepared a Planning Service Agreement that outlines the terms of service once Bill 23 changes to upper-tier municipal planning responsibilities receive proclamation.

4. BACKGROUND

In October 2022, the Province released Bill 23, an omnibus bill which proposed many significant changes to the *Planning Act*. Bill 23 received Royal Assent on November 28th, 2022, following a short consultation period.

One of the many changes made to the *Planning Act* through Bill 23 is the removal of planning responsibilities for several upper-tier municipalities, including the Niagara Region. This change will mean that much of the planning and planning-related functions that Niagara Region currently does will be downloaded to local municipalities. Although the planning responsibilities will be removed, the *Planning Act* change will continue allowing upper-tier municipalities to provide advice and assistance to a lower-tier municipality if agreed to by the Council of a lower-tier municipality. At this time, Town Staff does not know when this change will take effect as the date for proclamation has not been set. It is anticipated that it could be as early as winter 2024.

In anticipation of this change, the CAO, the Director of Community and Development Services, and representatives from Niagara Region and other area municipalities met several times to discuss the transition of planning review functions that Niagara Region has traditionally performed. The Region retained a facilitator to guide the discussions to develop a new model of planning service delivery that supports the changes to provincial legislation, expected growth needs across the Region and an improved customer-centered service approach.

5. DISCUSSION / ANALYSIS

As a first step towards preparing for the change, the Town reviewed its internal capacity and expertise for planning review. Based on the internal scan, it was determined that utilizing Niagara Region's services and resources on a fee-for-service basis was the most efficient and effective way of maintaining a consistent delivery of the planning functions.

Much of the facilitated discussions focused on streamlining processes to ensure that the Town creates a customer-centered, 'one-stop' model for the planning review function. As a result, a Planning Service Agreement (the "Agreement") has been prepared to ensure the Town is equipped to undertake these additional planning responsibilities when proclamation occurs. The Agreement sets out the advice, assistance, and services to be provided by Niagara Region to the Town concerning planning matters and to promote the delivery of efficient and effective municipal planning services using a "one-window" approach.

The Agreement has associated Appendices specific to the review areas identified by the Town. Each municipality will have its own list of tailored service requests. The new Agreement will replace the current approved Memorandum of Understanding (MOU) between the Niagara Region, area municipalities and the Niagara Peninsula Conservation Authority (NPCA). The Agreement is attached as **Appendix I**.

Appendix A of the Agreement sets the details and timeframes to which the Niagara Region has committed to providing comments on applications. The Town has requested a Development Planning Service Review to be provided for planning applications for:

- Land Use Compatibility

- Environmental Review
- Former Landfill Sites
- Screening to Address Water Protection
- Urban Design
- Flexibility to request additional services, if required

Appendix B outlines the fees for application review currently charged for the various applications and other general planning services that the Niagara Region has historically undertaken. The fees for development application review are based on the application fees in accordance with the Region's Fees and Charges By-law.

Currently, Niagara Region operates on a fee-for-service approach to cover the staff time to undertake the review function. This same approach is used in the Agreement. The Regional review service will be covered by the fees collected by the Town on development applications and transferred to Niagara Region, ensuring no impact on the ratepayer.

Regional Staff will undertake the review role on behalf of the area municipality, and formal comments will appear as Town comments. Further, where and when needed, Regional Planning Staff could also work directly from the local municipality's office in a contract capacity.

Appendix C of the Agreement allows the Town to purchase additional planning resources/ expertise from Niagara Region hourly (\$85.00/hour) on a project basis. This service is offered as a cost-saving measure for specific project management or an alternative to hiring consulting services.

The Town would continue circulating to Niagara Region on pre-consultation applications, where Niagara Region provides the specified service.

The Agreement also provides guidance on:

- Monthly invoicing for the services provided to the Town;
- Annual fee adjustment per the Consumer Price Index (CPI) or adjustments identified in the Region's Fees and Charges By-law;
- Opportunity to review fees at the end of the first year of the term of the Agreement to determine if any adjustment is required;
- Insurance and indemnity;
- Conflict and dispute resolution; and,
- Amendments via mutual Agreement, including the opportunity to change or add services.

The term of the Agreement will take effect 90 days following the proclamation of the Region becoming an upper-tier municipality without planning authority. It is set to expire 90 days following the next municipal election. The timing has been set to allow for an effective transition of responsibilities at the onset and to allow time to bring a new agreement to a new Council following the next election. Good faith negotiations between the Niagara Region and the Town would commence 12 months before the expiry of the Agreement to either extend or amend the Agreement as needed. The Agreement may also be terminated, without cause, with eighteen (18) months written notice.

6. STRATEGIC PLAN

The content of this report supports the following Strategic Plan initiatives:

Pillar

1. Vibrant & Complete Community

Priority

1.1 Planning for Progress

Action

1.1 b) Planning for Progress Initiatives

7. OPTIONS

- 7.1 **Option 1:** That Council endorse the Agreement in principle and direct the CAO to sign the Agreement upon the date of proclamation. **(Recommended)**
- 7.2 **Option 2:** That Council reject the Agreement. This option is not recommended as the Town does not have the Staff capacity and in-house expertise to take on all planning review functions currently provided by Niagara Region. *(Not Recommended)*

8. FINANCIAL IMPLICATIONS

For services related to the development review function, costs will be covered by the application review fee and be revenue-neutral. For services outlined in Appendix C, the hourly rate would apply (\$85.00). This rate is anticipated to be less expensive than hiring additional staff or procuring consulting services. It may also allow the Town to advance proactive planning projects with long-term community and cost-saving benefits.

9. ENVIRONMENTAL IMPLICATIONS

Not applicable; there are no direct environmental implications of this report. It is anticipated that the Niagara Region may retain the environmental review function through the terms of the Agreement.

10. COMMUNICATIONS

The Town participated in the facilitated discussions with area municipalities and the Niagara Region. Staff also participated in one-on-one discussions with the Region to review the Agreement's details and the municipality's needs. Further, the CAO and the Director discussed with their respective municipal partners (Area CAOs and Area Planners).

11. CONCLUSION

The Agreement supports customer service excellence and reflects the good working relationship between the Town and Niagara Region. The Niagara Region and Town desire to deliver timely and streamlined planning services to the public based on a mutual understanding of their respective roles and responsibilities. This Agreement will assist the Town in providing expertise through the transition and is flexible to offer planning assistance when and where needed to deliver an effective and efficient planning review function.

Staff support the Agreement and recommend that Town Council endorse the Agreement in principle at this time. It is further recommended that the CAO be authorized to sign the Agreement following the date of proclamation.

12. PREVIOUS REPORTS

- Not applicable.

13. APPENDICES

- **Appendix I** – Planning Service Agreement with Appendices

Respectfully submitted:

Prepared and Recommended by:

A handwritten signature in blue ink, appearing to read 'KMcCauley'.

**Kirsten McCauley, MCIP, RPP
Director, Community and Development
Services**

Submitted by:

A handwritten signature in blue ink, appearing to read 'M. Cluckie'.

**Marnie Cluckie, MS.LOD, B.ARCH, B.ES
Chief Administrative Officer**