

REGULAR COUNCIL REVISED AGENDA

C-11/2020 - Regular Council

Monday, June 15, 2020

5:30 PM

Town of Pelham Municipal Office - Council Chambers

20 Pelham Town Square, Fonthill

During this unprecedented global pandemic, Novel Coronavirus COVID-19, the Town of Pelham Council will continue to convene meetings in compliance with Provincial directives. Attendance by most Members of Council will be electronic. Public access to meetings will be provided via Livestream

www.youtube.com/townofpelham/live and subsequent publication to the Town's website at www.pelham.ca.

Pages

1. Call to Order and Declaration of Quorum
2. Approval of Agenda
3. Disclosure of Pecuniary Interests and General Nature Thereof
4. Hearing of Presentation, Delegations, Regional Report
 - 4.1 Presentations
 - 4.1.1 COVID-19
 - 4.1.1.1 COVID-19 Update from Community
Emergency Management Co-Ordinator

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 - 4.1.1.2 Update re Programming and Aquatics

V. vanRavenswaay, Director of Recreation,
Culture and Wellness

4.1.1.3 Building Permit Activity Amid COVID-19

B. Wiens, Director of Community Planning and
Development

4.1.1.4 Corporate Administration COVID-19 Update

D. Cribbs, Chief Administrative Officer -
Verbal

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T. Nohara, Chair, Cannabis Control Committee

N. McDonald, Meridian Planning Consultants

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By-law 4245(2020) - Being a by-law to amend by-law No. 4221(2020) known as the Administrative Penalty Process By-law for Non-Parking Related Offences

By-law 4246(2020), as amended - Being a by-law to require a By-Election to fill the vacancy for the office of Councillor, Ward One, in the Town of Pelham for the remainder of the 2018-2022 Term of Council.

By-law 4248(2020) - Being a by-law to amend by-law no. 4202(2020) known as the Town of Pelham Odorous Industries Nuisance By-law to increase the minimum fine amount in the case of a first conviction and to incorporate an Administrative Municipal Penalty System (AMPS) in regard to Offences and Penalties.

13.1 Amended Odorous Industries Nuisance By-law

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15. Matters for Committee of the Whole or Policy and Priorities Committee

16. Matters Arising Out of Committee of the Whole or Policy and Priorities Committee

17. Resolution to Move in Camera

Pursuant to Municipal Act, Section 239(2):

(b) - personal matters about an identifiable individual, including municipal or local board employees - COVID-19;

(j) - financial information that belongs to the municipality or local board and has monetary value or potential monetary value (1 item)

18. Rise From In Camera

19. Confirming By-Law

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20. Adjournment

REQUEST TO APPEAR BEFORE COUNCIL FOR THE TOWN OF PELHAM

NAME: Tim Nohara

ADDRESS: PO Box 366, Fonthill, ON

POSTAL CODE: L0S 1E0

TELEPHONE #: 905-329-1875

E-MAIL ADDRESS:

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The Council Chambers Is equipped with a laptop and projector. Please Check your audio/visual needs:

☐ Laptop ☐ Speaker ☐ Internet Connection

PLEASE INDICATE THE DATE OF THE COUNCIL MEETING YOU WISH TO ATTEND AS A DELEGATION:

Regular Council: 1st and 3rd Monday of the month; 5:30 p.m. (except summer schedule)

DATE: Monday June 15, 2020

Please identify the desired action of Council that you are seeking on this issue:

To receive update from the Cannabis Control Committee for information.

To receive revised draft OPA/ZBA for information

I have never spoken on this issue before. Key points of my deputation are as follows:

(Written presentation must accompany the request)

1. I will provide an update on where the CCC is relative to schedule

2. Nick McDonald (Meridian Planning Consultants) and I will speak to the proposed draft OPA/ZBA following the public consultation process.

In accordance with the Procedure By-law, Requests to Appear before Council with respect to a matter already on Council's Agenda shall submit a written request to the Clerk no later than 12:00 noon, eight business days prior to the meeting of Council. Delegation requests to address Council on matters not already on the Agenda of Council must be submitted at least fourteen (14) days before the date and time of the Meeting of Council. Delegations shall only be heard at regular Meetings of Council, unless specifically invited by Council to a Meeting of a Committee of Council.

All requests must include a copy of the presentation materials as detailed in the deputation protocol. Failure to provide the required information on time will result in a deferral or denial. Delegations are limited to ten (10) minutes.

I have read and understand the deputation protocol included with this form; and, that the information contained on this form, including any attachments, will become public documents and listed on Town Meeting Agendas and on the Town's website.

I also understand that presentation materials must be submitted with this deputation form. Electronic presentations must be e-mailed to NJBozzato@pelham.ca in accordance with the deadlines outlined above.

Tim J. Nohara
 Signature

June 7, 2020

Date

AMENDMENT NO. XX
TO THE OFFICIAL PLAN (2014)
FOR THE
CORPORATION FOR THE TOWN OF PELHAM

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PART “A” – THE PREAMBLE

SECTION 1 – TITLE AND COMPONENTS

This document was approved in accordance with Section 17 and 21 of the Planning Act, R.S.O. 1990, as amended and shall be known as Amendment No. _____ to the Official Plan adopted by By-law No. 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014, for the Town of Pelham Planning Area.

Part “A”, the Preamble does not constitute part of this Amendment.

Part “B”, the Amendment, consisting of the following text constitutes Amendment No. _____ to the Official Plan adopted by By-law 3259 (2012) and confirmed by the Ontario Municipal Board decision of July 18, 2014 for the Town of Pelham Planning Area.

SECTION 2 – PURPOSE OF THIS AMENDMENT

The purpose of the Official Plan Amendment is to establish policies in the Town of Pelham Official Plan to control the location of indoor cannabis and industrial hemp cultivation and processing and set out the factors to be considered when establishing these uses in the Town.

SECTION 3 – LOCATION OF THE AMENDMENT

This Amendment applies to the Good General Agricultural, Specialty Agricultural and Industrial designations and the Niagara Escarpment Plan Area as identified on Schedule A: Town of Pelham Land Use Plan.

SECTION 4 – BASIS OF THE AMENDMENT

On April 13, 2017, the Government of Canada introduced Bill C-45 (the Cannabis Act) in the House of Commons. Based in large part on the advice provided by the Task Force on Cannabis Legalization and Regulation, the Cannabis Act created the foundation for a comprehensive national framework to provide restricted access to regulated cannabis, and to control its production, distribution, sale, importation, exportation, and possession. Following parliamentary review, the Cannabis Act received royal assent on June 21, 2018 and it became law on October 17, 2018.

The Federal Cannabis Regulation SOR-2018-144 and the Federal Industrial Hemp Regulation SOR-2018-145 also came into effect on October 17, 2018. These two Regulations are part of a series of regulations that are intended to implement the Cannabis Act.

The indoor cultivation and processing of cannabis and industrial hemp is anticipated to occur within greenhouse or industrial type buildings that can be larger than other similar buildings used for other purposes. As a consequence of the type of product being grown and processed in indoor facilities, the character of the odour and the sizes of these facilities, the potential for adverse effects primarily from odour is significant.

As a first principle the avoidance of adverse effects is preferred, however, if avoidance is not possible, adverse effects shall be minimized and appropriately mitigated. In order to minimize and mitigate adverse effects, it is anticipated that new indoor cannabis and industrial hemp cultivation and processing uses will be required to be set back an appropriate distance from sensitive uses and from each other to minimize and mitigate against potential adverse effects. In this regard, appropriate setbacks will be dictated by process specific odour emission rates and the effectiveness of the proposed odour controls.

This Amendment recognizes that the cultivation of cannabis is an agricultural use and is permitted in agricultural areas by the Provincial Policy Statement (2020). However, this Amendment also recognizes that there is a need to control the siting of such uses in relation to sensitive uses as a result of the known adverse effects from the cultivation of cannabis.

There is already a precedent for the establishment of setbacks from sensitive uses for odour reasons in agricultural areas in the form of the Minimum Distance Separation (MDS) guidelines established by the Province. The MDS guidelines are intended to provide the minimum distance separation between proposed new development and any existing livestock barns, manure storages and/or anaerobic digesters (MDS1) and provide the minimum distance separation between proposed new, expanding or remodelled livestock barns, manure storages and/or anaerobic digesters and existing or approved development (MDS2).

The application of the MDS2 guidelines result in the establishment of setbacks that are intended to minimize the impacts of odour from livestock operations and have the effect of restricting the location of livestock facilities. However, the MDS2 guidelines do not apply to cannabis and in the absence of Provincial guidance on this matter, it is up to local municipalities to establish a policy framework to regulate such uses in order to minimize adverse effects in a similar fashion.

In this regard, the purpose of this Amendment is to establish the study requirements to determine whether the avoidance of adverse effects is possible and if not, how adverse effects can be minimized and appropriately mitigated through the use of setbacks and other measures on a case-by-case basis.

In the absence of Provincial guidance on this issue, establishing the policy basis for avoidance and if avoidance is not possible, the minimization and mitigation of adverse effects through setbacks for indoor cannabis and industrial hemp cultivation and processing uses from sensitive uses is consistent with Section 1.2.6.1 of the Provincial Policy Statement (2020), which states the following:

"Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures."

By virtue of the use of the word 'shall' in the above policy, this requirement to avoid any potential adverse effects is mandatory. An indoor cannabis and industrial hemp cultivation and processing use may be considered a major facility as defined by the Provincial Policy Statement (2020) if adverse effects are caused since any use which may require separation from sensitive land uses is considered to be a major facility. In addition to the above, the separation of incompatible uses and requiring the submission of appropriate studies to determine the impacts of one land use on another represents good planning.

Given the above, this Amendment does the following:

1. This Amendment identifies the studies that are required to support the establishment of an indoor cannabis and industrial hemp cultivation and processing use to ensure that all potential adverse effects are studied in advance.

In this regard, required studies include an Emission Summary and Dispersion Modelling Report, Contingency Odour Mitigation Plan, Light Mitigation Plan, Contingency Light Mitigation Plan, Agricultural Impact Assessment and Traffic Impact Study. These studies would be in addition to all other required studies typically submitted as part of an application for re-zoning. The results of these studies are intended to establish the minimum setback from sensitive land uses to be included, if necessary, in the required site-specific zoning by-law amendment and may establish a maximum facility size for the use, if it has been determined that the siting of the use can be supported. These studies may also establish minimum separation distances between a proposed use and any existing indoor cannabis or industrial hemp cultivation and/or processing uses, as required, to mitigate adverse effects.

2. This Amendment also sets out guidelines on the range of setbacks that will be considered if an indoor cannabis and/or industrial hemp cultivation and/or processing use is proposed through a zoning by-law amendment. These setbacks are based on best practices and knowledge of the adverse effects currently experienced by residents in the Town. Given that these setbacks are guidelines, they can be increased or decreased based on the merits of an individual application.

A supporting zoning by-law amendment has been prepared to implement this Amendment.

PART B – THE AMENDMENT

All of this Part of the document entitled Part B - The Amendment consisting of the following text constitutes Amendment No. ____ to the Official Plan of the Town of Pelham.

Details of the Amendment

The Town of Pelham Official Plan is hereby amended as follows:

1. That Section B2.1.2 (Permitted Uses - Good General Agricultural Designation) be amended to include a new sub-section I) as follows:
 - I) Indoor cannabis and industrial hemp cultivation and processing uses in accordance with Policy B2.1.5.
2. That Section B2.1 – (Good General Agricultural Designation), be amended by including a new Section B2.1.5 and re-numbering the remaining sections accordingly:

B2.1.5 Indoor Cannabis and Industrial Hemp Cultivation and Processing

B2.1.5.1 Development Criteria

- a) Indoor cannabis and industrial hemp cultivation and processing uses that are authorized by the Federal Cannabis Regulation SOR-2018-144 and/or by the Federal Industrial Hemp Regulation SOR-2018-145 may be permitted in the Good General Agricultural designation subject to the passage of an amendment to the implementing zoning by-law and will, if approved through such a process, be subject to Site Plan Control in accordance with Section E1.4 of this Plan. Prior to considering the approval of a zoning by-law amendment, Council shall be satisfied that:
 - i) The proposed use will be designed and sited to blend in with surrounding land uses such that the agricultural and rural character of the area is maintained, and where necessary the proposed use will be appropriately setback from sensitive uses;
 - ii) The proposed use will not have an adverse effect on other agricultural uses in the general area and will not have an impact on normal farm practices as demonstrated by the required studies in Section B2.1.5.2

of this Plan;

- iii) The adverse effects of the noise, dust, odour and light from the proposed use on sensitive land uses in the area can be avoided and if avoidance is not possible, minimized and appropriately mitigated, as demonstrated by the required studies identified in Section B2.1.5.2 of this Plan;
 - iv) Sensitive surface water features and sensitive ground water features in the area will be protected, improved or restored with consideration given to the taking of water and the generation of effluent;
 - v) Adequate parking facilities are available on the lot for the proposed use and the traffic generated by the proposed use can be accommodated on area roads;
 - vi) The proposed use can be serviced with an appropriate water supply and an appropriate means of sewage disposal;
 - vii) Stormwater management needs can be met on site;
 - viii) The waste generated from the use can be appropriately managed; and,
 - ix) The proposed setback, as determined by the required studies in Section B2.1.5.2 of this Plan, from sensitive land uses in the area is appropriate to avoid, and if avoidance is not possible, minimize and appropriately mitigate any adverse effects.
- b) In addition to sub-section a), and if the processing of cannabis or industrial hemp is proposed in conjunction with the cultivation of cannabis or industrial hemp, it must be demonstrated that this component of the use can be considered an agriculture-related use in accordance with the Guidelines on Permitted Uses in Ontario's Prime Agricultural Area by satisfying all of the criteria below:
- i) Is directly related to farm operations in the area;
 - ii) Supports agriculture;
 - iii) Benefits from being in close proximity to farm operations; and,

- iv) Provides direct products and/or services to farm operations as a primary activity.

B2.1.5.2 Specific Required Studies

The studies listed in this Section shall be required to satisfy the study requirements of Section B2.1.5.1 a) of this Plan and peer reviews of these studies may be carried out by the municipality at no cost to the municipality. Certain studies are required to be carried out by a Licensed Engineering Practitioner, which means that they must be licensed by Professional Engineers Ontario. The studies listed in this section would be in addition to any of the other studies required by Section E3 of this Plan.

- a) Emission Summary and Dispersion Modelling (ESDM) Report
 - i) At no cost to the municipality, the proponent will submit an Emission Summary and Dispersion Modelling (ESDM) Report that is prepared by a Licensed Engineering Practitioner in accordance with Ministry of Environment, Conservation & Parks guidance. This Report will deal with contaminants including odour, chemicals and particulate matter constituents.
 - ii) The ESDM Report shall include a detailed odour inventory and mitigation plan fully describing the proposed air filtration systems and other mitigation measures as well as off-property odour impact predictions that include a review of the impacts of other cannabis and industrial hemp facilities within the area to determine the extent of the potential cumulative adverse effects. In this regard, it would be the role of the Licensed Engineering Practitioner to demonstrate that the impact of the proposed use and other cannabis and industrial hemp facilities within the area will not, or is not likely to, cause adverse effects.
 - iii) In addition to sub-section ii) above, the ESDM Report must demonstrate that the proposed use achieves a standard of compliance and that two odour units will only be exceeded at any given sensitive use up to 0.5% of the time on an annual basis as per the MECP Technical Bulletin 'Methodology for Modeling Assessment of Contaminants with 10-Minute Standards and Guidelines, September 2016'.
 - iv) The ESDM Report must consider co-existence adverse effects

associated with drift of cannabis emissions on existing farming operations in the area and provide recommendations on an appropriate greenspace separation distance to ensure that spray drift is minimized.

- v) In addition to the above, the proponent of the proposed use will submit a Contingency Odour Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional air filtration systems or other mitigation measures for use in the event of substantiated future complaints after the use has been established. Agreement on the appropriate triggers for additional mitigation will be made in advance.

b) Light Mitigation Plan

- i) At no cost to the municipality, the proponent will submit a Light Mitigation Plan, prepared by a Licensed Engineering Practitioner that fully describes the proposed light mitigation measures and demonstrates that the proposed use will not cause light pollution, including sky glow or light trespass, onto neighbouring properties.
- ii) In addition to sub-section i), the proponent will also submit a Contingency Light Pollution Mitigation Plan, prepared by a Licensed Engineering Practitioner that considers additional mitigation measures and implementation timelines for use in the event of substantiated future complaints after the use has been established. Agreement on the appropriate triggers for additional mitigation will be made in advance.

c) Agricultural Impact Assessment

- i) At no cost to the municipality, the proponent will submit an Agricultural Impact Assessment, to the satisfaction of the Town and/or the Region, that demonstrates that the proposed use will not have a negative impact on other agricultural uses in the area and is compatible with normal farm practices. This assessment may be a stand-alone study or incorporated in a Planning Justification Report.

d) Traffic Impact Study

- i) At no cost to the municipality, the proponent will submit a Traffic

Impact Study, to the satisfaction of the Town and/or the Region that demonstrates that the proposed use will not cause any traffic hazards or an unacceptable level of congestion on roads in the area.

B2.1.5.3 Scope of Required Studies

In accordance with Section E3.1 of this Plan, the Town will determine what supporting information (i.e. reports and studies) are required as part of the complete application submission and inform the proponent of these requirements, following the holding of a pre-consultation meeting.

B2.1.5.4 Need for Setbacks

- a) In recognition of the known adverse effects of odour, the avoidance of adverse effects shall be a first principle. If adverse effects cannot be avoided, the minimization and mitigation of adverse effects has to be considered. One of the ways to avoid, minimize and mitigate adverse effects is through the separation of incompatible uses through the use of setbacks. In this regard, the following setback guidelines will be considered when an application for a new indoor cannabis and/or industrial hemp cultivation and/or processing use is proposed:
 - i) Minimum setback to a sensitive use - 300 to 500 metres with the setback being measured from the edge of the cultivation/processing area to the sensitive use.
 - ii) Minimum separation distance between separate indoor cannabis standard cultivation and/or standard processing facilities and/or indoor industrial hemp facilities from each other - 4,000 metres.
 - iii) Minimum separation distance between separate indoor cannabis standard cultivation and/or standard processing facilities and/or indoor industrial hemp facilities from indoor micro processing/micro cultivation facilities - 3,000 metres.
 - iv) Minimum separation distance between separate indoor cannabis micro cultivation/micro processing facilities from indoor cannabis micro/processing/micro cultivation facilities - 2,000 metres.
- b) The setback guidelines established in sub-section a) will be considered during the review of an application and can be lower or higher, depending on:
 - i) Whether the proposed greenhouse is purpose built for cannabis or

- industrial hemp or already exists;
- ii) The size and scale of the proposed use;
- ii) The proximity and number of sensitive uses in the area including the potential for additional sensitive uses on vacant lots that are zoned to permit a sensitive use;
- iii) The location of the proposed use in relation to prevailing winds;
- iv) The nature of the adverse effects that exist at the time in relation to existing indoor cannabis cultivation and processing operations; and,
- v) The impact of topography on the dispersion of odour.

B2.1.5.5 Implementing Zoning By-law

Only lands that have satisfied the requirements of this Section of the Plan shall be placed in a zone that permits indoor cannabis and industrial hemp cultivation and processing uses in the implementing Zoning By-law.

3. That Section B2.2.2 (Permitted Uses - Specialty Agricultural Designation) be amended to include a new sub-section k) as follows:

k) Indoor cannabis and industrial hemp cultivation and processing uses in accordance with Policy B2.2.9.

4. That Section B2.2 – (Specialty Agricultural Designation), be amended by including a new Section B2.2.9 and re-numbering the remaining sections accordingly:

B2.2.9 Indoor Cannabis and Industrial Hemp Cultivation and Processing

Indoor cannabis and industrial hemp cultivation and processing uses that are authorized by the Federal Cannabis Regulation SOR-2018-144 and/or by the Federal Industrial Hemp Regulation SOR-2018-145 are discouraged from locating in the Specialty Agricultural designation because of a combination of topography that is unique to the Greenbelt Plan and its relationship to odour concerns. In other words, the adverse effects from odour from these uses would be very difficult to avoid, minimize and mitigate as a consequence.

If such a use were proposed, it would be subject to Policy B2.1.5 of this Plan.

Given the unique topography of the area, it is anticipated that required setbacks from sensitive uses will be greater in the Specialty Agricultural designation than in the

Good General Agricultural designation.

5. That Section B2.3.2 (Permitted Uses - Industrial Designation) be amended to include a new sub-section k) as follows:

k) Indoor cannabis and industrial hemp cultivation and processing uses in accordance with Policy B2.1.5.

6. That Section B3.1.1 (Conflict and Conformity - Niagara Escarpment Plan Area) be amended to include a new fourth paragraph as follows:

Policy B2.1.5 of this Plan shall apply to the consideration of a Development Permit application to establish a new indoor cannabis or industrial hemp cultivation and/or processing use.

7. That Section E1.4 – Site Plan Control, be amended by including a new paragraph at the end of the section as follows:

It is the intent of this Plan that Site Plan Approval will be required for all proposed indoor cannabis and industrial hemp cultivation and processing uses that may be permitted in accordance with Policies B2.1.5, B2.2.9 or B2.3.2 k) to the maximum extent afforded under the Planning Act, in order to proactively mitigate adverse effects where possible and to maximize compatibility with land uses in the area.

Any construction of a building or structure associated with a proposed cannabis-related use or industrial hemp-related use is subject to the Ontario Building Code and will require the submission of Mechanical and Electrical Design Specifications and Drawings for review prior to the issuance of a building permit. Final as-built drawings will also be required. These specifications and drawings include those associated with air/odour filtration systems and equipment for light pollution mitigation.

**THE CORPORATION OF THE
TOWN OF PELHAM
By-law Number XXXX (2020)**

**Being a By-law passed pursuant to the provisions of
Section 34 of *The Planning Act*, R.S.O. 1990, as amended to amend
the Town of Pelham Zoning By-law No. 1136 (1987), as otherwise
amended.**

Whereas the Council of the Corporation of the Town of Pelham has initiated an application to amend By-Law No. 1136 (1987) otherwise known as the Zoning By-Law, insofar as is necessary to establish provisions that apply to cannabis-related uses and industrial hemp-related uses in the Town of Pelham;

And Whereas the Council of the Corporation of the Town of Pelham conducted a public hearing in regard to this application, as required by Section 34(12) of the Planning Act, R.S. O. 1990, Chap. P. 13, as amended;

And Whereas the Council of the Corporation of the Town of Pelham deems it advisable to amend Zoning By-law 1136 (1987), as otherwise amended, with respect to the above described lands, and under the provisions of the Planning Act has the authority to do so;

Now therefore the Council of the Corporation of the Town of Pelham enacts as follows:

1. **That** Section 3.0 of this By-law No. 1136 (1987), as amended, is further amended to add the new zones and symbols as follows:

Zone	Symbol
Agricultural - Cannabis	A – CAN
General Industrial - Cannabis	M2 – CAN

2. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of definitions in Section 5.0, as follows:

- i) "Cannabis-related use - indoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that are carried out within an enclosed building or structure.
- ii) "Cannabis-related use - outdoor" means those activities authorized in accordance with the Federal Cannabis Regulation SOR-2018-144 as amended that only involve the growing and harvesting of cannabis outdoors.
- iii) "Industrial hemp-related use - indoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that are carried out within an enclosed building or structure.
- iv) "Industrial hemp-related use - outdoor" means those activities authorized in accordance with the Federal Industrial Hemp Regulation SOR-2018-145 as amended that only involve the growing and harvesting of hemp outdoors.
- v) "Sensitive land use" means school, day care, playground, sporting venue, park, recreational area, residence, place of worship, community centre or any other place where people regularly gather or sleep.

3. **THAT** By-law 1136 (1987), as amended, is amended by the addition of parking requirements in Section 6.16 (a), as follows:

Cannabis-related uses - indoor and industrial hemp-related uses -
indoor - 1 parking space per 100 m² (1076.39 ft²) of gross floor area

4. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 7A - Agricultural - Cannabis A-CAN Zone:

SECTION 7A – AGRICULTURAL CANNABIS - A-CAN ZONE

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the Agricultural Cannabis Zone.

7A.1 PERMITTED USES

- (a) Cannabis-related Use - indoor
- (b) Industrial Hemp-related Use - indoor

7A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 7A.1

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 7A.1.
- (b) Minimum Lot Frontage for micro-processing and micro-cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 100 m
- (c) Minimum Lot Frontage for standard processing and standard cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 200 m
- (d) Minimum Lot Frontage for industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 200 m
- (e) Minimum Lot Area for micro-processing and micro-cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 3 hectares
- (f) Minimum Lot Area for standard processing and standard cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 10 hectares

- (g) Minimum Lot Area for industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 10 hectares
- (h) Maximum Lot Coverage - 30 percent
- (i) Minimum Front Yard for micro-processing and micro-cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 20 metres
- (j) Minimum Front Yard for standard processing and standard cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 80 metres
- (k) Minimum Front Yard for industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 80 metres
- (l) Minimum Side Yard or Rear Yard for micro-processing and micro cultivation uses as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 15 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 25 metres
- (m) Minimum Side Yard or Rear Yard for standard processing and standard cultivation uses as defined and set out by the Federal Cannabis Regulation SOR-2018-144 and industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 40 metres, except where ventilating fans in a wall exhaust into the respective side or rear yard, the minimum yards shall be 60 metres
- (n) Minimum Exterior Side Yard for micro-processing and micro-cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 20.5 metres

- (o) Minimum Exterior Side Yard for standard processing and standard cultivation as defined and set out by the Federal Cannabis Regulation SOR-2018-144 - 80 metres
 - (p) Minimum Exterior Side Yard for industrial hemp-related uses as defined and set out by the Federal Industrial Hemp Regulation SOR-2018-145 - 80 metres
 - (q) No storage area shall be permitted within 30 metres of a street or the lot line of an adjacent lot with a residential use
5. **THAT** By-law 1136 (1987), as amended, is hereby amended by the addition of a new Section 23A - General Industrial - Cannabis M2-CAN Zone

SECTION 23A – GENERAL INDUSTRIAL - M2-CAN ZONE

Subject to the general provisions of Section 6 and all other applicable requirements of this By-law, the provisions of this section shall apply throughout the General Industrial Cannabis Zone.

23A.1 PERMITTED USES

- (a) Cannabis-related Use - Indoor
- (b) Industrial Hemp-related Use - Indoor

23A.2 REGULATIONS FOR PERMITTED USES IN SUBSECTION 23A.1

- (a) A retail store is not permitted as an accessory use to any of the permitted uses listed in Subsection 23A.1.
- (b) The provisions of Subsection 22.2 shall apply to all permitted uses within the General Industrial Cannabis M2-CAN Zone

Read a first, second, and third time and finally passed this XXth day of XX, 2020.

Marvin Junkin, Mayor

Nancy J. Bozzato, Clerk

Corporate Seal



Report of Regional Councillor

Diana Huson

Overview of Updates



Financial Update



Public Health & EMS



Community & Social Services



Public Works



Economic Development

2020 COVID-19

Financial Update

Region Wide Projections

The Region has been coordinating with local area municipalities to attempt to consolidate the full financial impact to Niagara residents. The net deficit across the Region has been projected to be \$7.5 million.

Table 2: Total Regional Impact

	Region & Local Area Municipalities
Total Gross Cost	\$ 48,953,534
Less: Confirmed Funding Matched to Expenses	(6,825,342)
Net Cost to Region	42,128,192
Less: Strategic and Other Mitigations	(19,425,104)
Less: Cost supported by our approved base budget	(15,243,462)
Net Deficit	\$ 7,459,626

2020 COVID-19

Financial Update

Niagara Region Projections

Initial reports referenced a net cost as \$9.3 million before funding announcements and net deficit of \$3.9 million. More clarity on eligible expenditures have been received and our finance team was able to match some of the funding against costs incurred. The revised net deficit as of My 21 is projected at approximately \$2.9 million.

Table 3: Change Since Last Report

	CSD 30-2020 April 23 *	CSD 35-2020 May 21	Change
Total Gross Cost	\$ 14,498,380	\$ 28,521,862	14,023,482
Less: Confirmed Funding Matched to Expenses		(6,825,342)	(6,825,342)
Net Cost to Region	14,498,380	21,696,520	7,198,140
Less: Strategic and Other Mitigations	(5,213,381)	(7,310,466)	(2,097,085)
Sub-total	9,284,998	14,386,054	5,101,056
Less: Cost supported by our approved base budget	(5,327,166)	(11,527,378)	(6,200,212)
Net deficit/(surplus)	\$ 3,957,832	\$ 2,858,676	\$ (1,099,156)

* Restated to align with current presentation format

2020 COVID-19

Financial Update

Significant Costs & Savings

5

- **Niagara Regional Transit:** fare revenue reduction due to reduced ridership and cancellation of Niagara College on-campus spring/summer classes;
- **POA Court:** Reduced POA revenue due to lower ticket volumes and court closure, with some related expenditure savings offsets;
- **Public Health:** Increased staffing and overtime, supplies (including personal protective equipment and vaccination supplies) and cleaning costs; additional staff to support higher call volumes;
- **Paramedic Services:** Increased staffing, overtime, supplies (including personal protective equipment), and cleaning;
- **Housing:** Increased cleaning costs in common spaces; lower tenant income levels would result in higher rent subsidies at community housing units and lower rent payments at NRH units;
- **Homelessness programs:** Increased costs to support homelessness agencies, housing allowances and expenses relating to the rent, staffing, cleaning, personal protective equipment and food for a self-isolation center;

2020 COVID-19

Financial Update

- **Children's Services:** Loss of parent fee revenue due to provincial order for no child care fees to be collected for emergency child care.
- **Seniors' Services:** Increased cleaning, staffing, security and personal protective equipment costs;
- **Technology Services:** Additional costs relating to increased licenses to ensure sufficient capacity for staff working remotely;
- **Labour related savings:** not filling non-essential vacant positions;
- **Fuel savings:** Short/medium term savings due to significant drop in world oil and local fuel prices;
- **Niagara Regional Transit/Niagara Specialized Transit savings:** reduction in daily service schedules resulting from decreased demand will result in significant savings;
- **Non-emergency maintenance work savings:** limiting work at NRH owned units to emergencies and move-outs; and
- **Operational savings:** reduced travel, meeting expenses, and conferences due to travel restrictions and cancelled events.

2020 COVID-19

Public Health & Emergency Services

Public Health began work in response to COVID-19 on January 8, 2020. As volume of activities grew, the Public Health Emergency Operations Centre was partly activated on January 28, 2020 to ensure coordination of work and central leadership. By March 9, staff had begun to be redeployed from regular duties to supporting the activities of the Emergency Operations Centre, which was fully activated at this time.

3 Primary Lines of Response

1. Case, Contact & Outbreak Management
2. Supporting Health Care & Social Services Sector
3. Public Messaging

2020 COVID-19

Public Health

Case, Contact & Outbreak Management

This unit is primarily responsible for contact tracing, ensuring isolation and mitigating transmission. They additionally advise and manage outbreaks in long term, retirement and other care facilities. Normally this unit has 12 FTEs, but has been scaled up to 57 FTEs in the EOC as well as an additional 20 FTE support staff members.

- **Public Call Line** - Consisting of Public Health nurses answering questions from the public regarding COVID concerns.
- **Duty Officer Call Line** - Public Health Inspectors answering questions about cleaning/disinfecting and non-compliance concerns.
- **Physician Call Line** - Public Health Nurses responding to questions from physicians.
- **Live Chat Requests**
- **Test Centre Referrals**

2020 COVID-19

Public Health

COVID-10 Statistics in Niagara

<https://niagararegion.ca/health/covid-19/statistics.aspx>

Niagara Region Public Health has provided a video to help understand how to navigate the website.

<https://www.youtube.com/watch?v=omanrQUhvEs>

May 21 - Municipality specific data added

2020 COVID-19

Community & Social Services

Senior's Services

Increased cleaning, staffing, security and personal protective equipment costs;

- **Long Term Care** – Have had to implement public health directives, communication plans to connect seniors with their families and test residents and staff for COVID.
- **Outreach Services** – Support high-risk seniors at home. Staff phone residents, provide transportation, assist with groceries, meals and medications and perform welfare checks.

Homelessness Services

One shelter has been designated for high risk clients who are vulnerable to COVID. Shelter clients and staff are now undergoing screening to prevent transmission.

Children's Services

4 of 5 child care facilities are now operating to support front line workers.

2020 COVID-19

Public Works

11

Departmental staff continue to ensure that the community has safe drinking water, reliable wastewater systems, recycling and waste collection/disposal, regional specialized and regular transit and a well-maintained regional road system.

1. **Water & Wastewater Services** – Have cancelled all non-essential meetings, tours & activities such as the Niagara Children's Water Festival and the Water Wagon. Implemented screening & limited access to public buildings.
2. **Transportation Services** - Have been impacted by construction interruptions. Have also had a staff redeployed to assist LTC's and EMS.
3. **Waste Management Services** - Have had to significantly adjust servicing to allow for continuity of collection.
4. **Niagara Region Transit, Specialized Transit and GO Implementation** - NRT is operating on a modified schedule, with rear boarding procedures. NST operating as normal but without stops to locations with a confirmed COVID case.

2020 COVID-19

Public Works

Waste Management Services

This unit, like others, have been impacted by staff illnesses or family accommodations that have necessitated service adjustments.

1. **Weekly garbage, recycling and organics** – services have continued uninterrupted
2. **Yard pickup** – had been cut back to 3 bags per household but limits were removed and full service resumed as of May 25.
3. **Large household items** – pick-up resumed as of May 27. Residents must book online to manage demand.
4. **Other Services postponed until further notice:**
 1. Curbside battery collection
 2. Compost giveaway
 3. Community events
 4. Recycling/Green bin distribution

2020 COVID-19

Economic

Development

Economic Rapid Response Team

Has launched a survey for local business to better understand how COVID19 has affected Niagara business and help with recovery planning.

Economic Recovery Plan

Currently in development. Expected completion August – September.

10 Year Regional Economic Development Strategy

Following completion of the ERP, work will commence to develop a 10 year strategy and examine an renewed MOU with LAMs.

Questions?

REGULAR COUNCIL MINUTES

Meeting #: C-10/2020 - Regular Council
Date: Monday, June 1, 2020
Time: 5:30 PM
Location: Town of Pelham Municipal Office - Council Chambers
20 Pelham Town Square, Fonthill

Members Present: Marvin Junkin
Lisa Haun
Bob Hildebrandt
Ron Kore
Marianne Stewart
John Wink

Staff Present: David Cribbs
Nancy Bozzato
Bob Lymburner
Jason Marr
Vickie vanRavenswaay
Barbara Wiens
Charlotte Tunikaitis

Other: T. Nohara

1. Call to Order and Declaration of Quorum

Noting that a quorum was present, the Mayor called the meeting to order at approximately 5:30 p.m. All persons present, save and except the Mayor and Clerk, attended electronically.

2. Approval of Agenda

Moved By Bob Hildebrandt
Seconded By Marianne Stewart

BE IT RESOLVED THAT the agenda for the June 1, 2020 Regular meeting of Council be adopted as circulated.

Recorded
Marvin Junkin

For
X

Against

Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
Carried (6 to 0)		

3. Disclosure of Pecuniary Interests and General Nature Thereof

There were no pecuniary interests disclosed by any of the members present.

4. Hearing of Presentation, Delegations, Regional Report

4.1 Presentations

4.1.1 COVID-19 Municipal Update

4.1.1.1 COVID-19 Update from Community Emergency Management Coordinator

R. Lymburner, Fire Chief and Community Emergency Management Co-Ordinator (CEMC) provided a verbal update regarding the local, Provincial and Federal experience with the COVID-19 pandemic.

Moved By Ron Kore

Seconded By John Wink

BE IT RESOLVED THAT Council receive the COVID-19 update presentation from B. Lymburner, Fire Chief and Community Emergency Management Co-Ordinator, for information.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
Carried (6 to 0)		

4.1.1.2 Summer Aquatics Update, 2020-0079- Recreation

V. vanRavenswaay provided an update on the plans for the Marlene Stewart Streit Park public pool and plans to open pending Provincial and

Public Health approval, as detailed in the staff report.

Moved By Lisa Haun

Seconded By Marianne Stewart

BE IT RESOLVED THAT Council receive Report #2020-0079; and

THAT Council approve, pending Provincial and Regional Public Health permission and/or guidelines, the opening of the Pelham Pool for public swim and possibly swim lessons during the summer of 2020.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

4.1.1.3 Corporate Administration COVID-19 Update

D. Cribbs, Chief Administrative Officer, provided an overall corporate administration update as it relates to the COVID-19 pandemic. Staff will co-ordinate a Strategic Planning session to review and potentially update the plan following the Ward One By-Election, prior to approval of the 2021 budget.

Moved By Bob Hildebrandt

Seconded By Lisa Haun

BE IT RESOLVED that Council receive the COVID-19 Up-date presentation from D. Cribbs, Chief Administrative Officer, for information.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	

Results	6	0
		Carried (6 to 0)

4.2 Delegations

4.2.1 Cannabis Control Committee

T. Nohara, Chair, Cannabis Control Committee, provided an update to their scheduled work for the upcoming months. The Committee expects to bring revisions to Council June 15th in preparation for an anticipated July 13th approval.

Moved By John Wink
Seconded By Marianne Stewart

BE IT RESOLVED that Council receive Tim Nohara, Chair of the Cannabis Control Committee delegation, for information.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

4.3 Report of Regional Councillor

No Report.

5. Adoption of Minutes

Moved By Lisa Haun
Seconded By John Wink

BE IT RESOLVED THAT the following minutes be adopted as printed, circulated and read:

- 1. C-09/2020 Regular Council - Minutes May 19, 2020; and**
- 2. SC-09/2020 Special Council - Minutes May 19, 2020.**

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	

Marianne Stewart	X		
John Wink	X		
Results	6	0	
			Carried (6 to 0)

6. Business Arising from Council Minutes

None

7. Request(s) to Lift Consent Agenda Item(s) for Separate Consideration

No items lifted.

8. Consent Agenda Items to be Considered in Block

Moved By Ron Kore
Seconded By Marianne Stewart

BE IT RESOLVED THAT the Consent Agenda items as listed on the June 1st, 2020 Council Agenda be received and the recommendations contained therein be approved, as applicable.

8.3 Staff Reports of a Routine Nature for Information or Action

8.3.1 Climate Change Vulnerability in the Town of Pelham - A Baseline Study, 2020-0078-Public Works

BE IT RESOLVED THAT Council receive Report #2020-0078-Public Works entitled "Climate Change Vulnerability in the Town of Pelham – A Baseline Study" for information purposes.

8.5 Information Correspondence Items

8.5.1 Town of Grimsby Resolution - Support for Commercial Rent Assistance Program

BE IT RESOLVED THAT Council receive correspondence from the Town of Grimsby dated May 6, 2020 regarding support or Commercial Rent Assistance Program, for information.

8.5.2 Town of Lincoln Resolution - Request for Emergency Funding for Municipalities from the Government of Canada

BE IT RESOLVED THAT Council receive correspondence from the Town of Lincoln dated May 7, 2020 regarding a request for Emergency Funding for Municipalities from the Government of Canada, for information.

8.5.3 Niagara Regional Housing First Quarter Report 2020

BE IT RESOLVED THAT Council receive the Niagara Regional Housing First Quarter Report dated May 15, 2020, for information.

8.7 Committee Minutes for Information

8.7.1 Cannabis Control Committee Minutes

BE IT RESOLVED THAT Council receive the Cannabis Control Committee minutes dated April 22, 2020 and May 6, 2020, for information.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

9. Items for Separate Consideration, if Any

Not applicable.

10. Presentation & Consideration of Reports

10.1 Reports from Members of Council:

10.2 Staff Reports Requiring Action

10.2.1 Extension of Draft Plan Approval - Oakhaven Estates Subdivision (File no. 26T19-10001), 2020-0063-Planning

Moved By Bob Hildebrandt

Seconded By John Wink

BE IT RESOLVED THAT Council receive Report #0063 ; and approve a two year extension of draft plan approval for Oakhaven Estates Subdivision with a lapsing date of June 28, 2022 which includes the time required to satisfy the additional comment (work) requested by the Niagara Peninsula Conservation Authority and the administrative revisions to the conditions requested by the Niagara Region.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0

Carried (6 to 0)

10.2.2 Part Lot Control Exemption (PLC 01-2020) 121-129, 136-142 Acacia Road, 2020-0077-Planning

Moved By Marianne Stewart
Seconded By Ron Kore

BE IT RESOLVED THAT Council receive Report #2020-0077-Planning as it pertains to a request to life Part Lot Control on 121 – 129 & 136 – 142 Acacia Road, described legally as Blocks 44 & 47 on Plan 59M-456, and Parts 1 – 5 on RP 59R-16684 & Parts 1 – 4 on RP 59R-16685 respectively; and
THAT, Council approve the Part Lot Control Exemption By-law for the same.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

11. Unfinished Business

11.1 Short Term Accommodations - Referred from April 20, 2020, 2020-0049-Planning

Council directed staff to report back on fire code and public health requirements for owner-occupied Bed and Breakfast establishments as well as the elimination of Sections 2 and 7-12 in the Official Plan Amendments.

Moved By Lisa Haun
Seconded By John Wink

THAT Council receive Report 2020-0049 as it pertains to Short Term Accommodations Policies and Regulations (file No. AM-12-18);

THAT the revisions made to the Official Plan and Zoning By-law since the public meeting was held are minor in nature and no further public meeting is required;

THAT Council approve the amendments to the Official Plan and Zoning By-law as well as the Licencing By-law for Bed and Breakfast Establishments and Short Term Accommodations.

Amendment:
Moved By John Wink
Seconded By Bob Hildebrandt

THAT the Report 2020-0049 be referred back to staff;
AND that staff return the report as directed to Council by July 13th, 2020.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

12. New Business

12.1 Update on Gypsy Moth Spray Program

Director of Public Works, J. Marr, updated Council on the Gypsy Moth spray initiative presently underway.

Moved By Marianne Stewart
Seconded By Lisa Haun

BE IT RESOLVED that Council receive the verbal update on the Gypsy Moth Spray Program from Jason Marr, Director of Public Works, for information.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

13. Presentation and Consideration of By-Laws

Moved By Marianne Stewart
Seconded By John Wink

BE IT RESOLVED THAT the Council of the Town of Pelham, having given due consideration to the following By-laws do now read a first, second and third time and do pass same, and THAT the Mayor and Clerk be and are hereby authorized to sign and seal the by-laws:

1. By-law 4241(2020) - Being a by-law to exempt Blocks 44 & 47 on Plan 59M-456, municipally known as 121 – 129 & 136 – 142 Acacia Road, from part lot control.

2. By-law 4242(2020) - Being a by-law to appoint Andrew McMurtrie as Acting Chief Building Official for the Corporation of the Town of Pelham.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

14. Motions and Notices of Motion

Moved By Lisa Haun
Seconded By Bob Hildebrandt

BE IT RESOLVED THAT Council hereby rescinds the Committee of the Whole recommendation of March 23, 2020 approving inclusion of a parking strategy for the Town to be included in the 2021 budget considerations, which was subsequently ratified by Council on April 6, 2020;

AND THAT the Town of Pelham should approve the hiring of independent planning, engineering or parking consultants to provide a master parking study to Town Council in 2020. Staff have written multiple reports on this issue, and Town Council has now assessed multiple potential land sales and potential development applications where the adequacy of parking has been a flashpoint issue. The cost of such a study is estimated at between \$45,000 - \$60,000. As this item was originally deferred to 2021 it is an unbudgeted expenditure for 2020 so I would ask that staff advise as to the funding available for this initiative;

AND THAT Section 4.3(a)(i) of the Reserves and Reserve Funds Policy be and is hereby suspended and that the \$50,000 unfunded expenditure will be added to the 2021 budget.

Recorded	For	Against
Marvin Junkin		X
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink		X
Results	4	2
Carried (4 to 2)		

15. Matters for Committee of the Whole or Policy and Priorities Committee

None

16. Matters Arising Out of Committee of the Whole or Policy and Priorities Committee

None

17. Resolution to Move in Camera

Moved By Ron Kore
Seconded By John Wink

BE IT RESOLVED THAT the next portion of the meeting be closed to the public in order to consider the following:

Pursuant to Municipal Act, s. 239(2):

(b) - personal matters about an identifiable individual, including municipal employees; (2 Items)

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
Carried (6 to 0)		

18. Rise From In Camera

Moved By Marianne Stewart
Seconded By Bob Hildebrandt

BE IT RESOLVED THAT Council adjourn the In Camera Session and that Council do now Rise With Report.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
Carried (6 to 0)		

Moved By Bob Hildebrandt
Seconded By Ron Kore

BE IT RESOLVED THAT the Chief Administrative Officer be and is hereby authorized to undertake the directions provided during the In Camera meeting of June 1st, 2020.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
Carried (6 to 0)		

19. Confirming By-Law

Moved By John Wink
Seconded By Marianne Stewart

BE IT RESOLVED THAT the following By-law be read a first, second and third time and passed:

Being a By-law No. 4243(2020) to Adopt, Ratify and Confirm the proceedings of Council of the Town of Pelham at its Regular Meeting held on the 1st day of June, 2020.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	

John Wink	X	
Results	6	0
		Carried (6 to 0)

20. Adjournment

Moved By Lisa Haun
Seconded By Marianne Stewart

BE IT RESOLVED THAT this Regular Meeting of Council be adjourned until the next regular meeting scheduled for June 15, 2020 at 5:30 pm.

Recorded	For	Against
Marvin Junkin	X	
Lisa Haun	X	
Bob Hildebrandt	X	
Ron Kore	X	
Marianne Stewart	X	
John Wink	X	
Results	6	0
		Carried (6 to 0)

Mayor: Marvin Junkin

Town Clerk: Nancy J. Bozzato

Memo

To: Pelham Town Council

From: David Cribbs, Chief Administrative Officer

Date: June 15, 2020

RE: Timelines and Meeting Considerations re Cannabis

On June 1, 2020 the Chair of the CCC presented a timeline for work product pertaining to the issues of Cannabis regulation and land use regulation. Town staff acknowledge the general appropriateness and reasonableness of the timeline, and further feel it important to recognize that this timeline can only be accomplished because of the sheer volume of work that these volunteers have undertaken.

The purpose of this memo is to recommend that on July 13, 2020, when the CCC will be presenting final versions of its work product, and the planning consultant will also be present to provide Council with advice, that Aird & Berlis LLP should also attend to provide legal advice and respond to Council's questions, in closed session. The Chair of the CCC and the Planning Consultant would be anticipated and welcome to attend said session, which would occur prior to public consideration of the CCC's work.

In the event that Council considers the attendance of Aird & Berlis LLP on July 13, 2020 to be desirable, then a motion is required at today's meeting to address a scheduling problem posed by the Town's Procedural By-law. Currently, there will be a Public Meeting held under the Planning Act at 4:30pm on July 13, 2020. The Procedural By-Law requires that the Council meeting commence at 5:30pm, which does not allow an opportunity to go into closed session and receive advice/ask questions prior to publicly considering the CCC's work product. Town staff propose that Council passes a motion to vary the Procedural Bylaw for July 13, 2020 in such a fashion that a closed session meeting can occur from 5:00-6:15pm, with Council commencing at 6:30pm. Staff will endeavor to keep the balance of the agenda relatively light (apart from Coronavirus related reports) so as to allow for a reasonable meeting conclusion time.

Subject: 2020 By-Election Timeline and COVID-19 Pandemic Protocols

Recommendation:

BE IT RESOLVED THAT Council receive Report #2020-0082; and

THAT Council consider endorsement of the 2020 Ward One By-Election By-law establishing the Ward One 2020 By-Election date as Tuesday, September 15, 2020.

Background:

On Monday, May 4, 2020 Council considered Report 2020-0060-Clerks, 2020 Council Vacancy and directed that a By-Election be conducted to fill the Ward One Council seat. Several timeline scenarios were presented in the report, it being noted that additional precautions would be needed to ensure the safety of all stakeholders in this election process, specifically as it relates to the novel coronavirus, COVID-19. As a result of considerable consultation with suppliers and public health professionals, an election date of September 15, 2020 is proposed.

Analysis:

Pandemic Planning:

In addition to participating in a By-Election working group with municipal election officials in three other Ontario municipalities that are either amidst a by-election or considering this method to fill a vacant seat, the Clerk has been in regular communication with the Region of Niagara Public Health Department to review requirements and precautionary measures to be incorporated into the election procedures.

The professional expertise of Public Health representatives, their feedback and assistance has been invaluable in preparing for the by-election. It is expected that this relationship will continue up to and including voting day. Appended to this report are some of the measures being incorporated in the 2020 Ward One By-Election Procedures, with components included for

candidates, election personnel and the voting public. Only eligible electors within Ward One will be entitled to cast a ballot for this vacant Councillor seat.

The Clerk is responsible to establish all forms and procedures for the conduct of an election. Because of the ongoing pandemic, additional procedures are being developed, which will be consistently applied to all stakeholders alongside all of the established By-Election procedures.

Council is reminded that the *Municipal Elections Act*, 1996, S.O. 1996, c. 32, as amended (MEA), section 53(1) authorizes the clerk to declare an emergency if he or she is of the opinion that circumstances have arisen that are likely to prevent the election being conducted in accordance with this Act. This is of paramount importance for the 2020 By-Election, given the current worldwide pandemic. If, in the opinion of the Clerk, it is unsafe for electors to participate in voting, the Clerk will make this declaration after consultation with Public Health. This will result in a delay in filling the vacant seat, however the health and safety of the community must be given priority in this instance. This declaration can be made up to and including voting day. Examples of circumstances that might trigger this declaration would include, but not be limited to, a significant spike in positive COVID-19 test results in Niagara, or more specifically in Pelham.

Of utmost importance is the need to mitigate the spread of COVID-19 which is expected to continue to be present in the community during the fall of 2020. Communication to electors will make it clear that anyone having tested positive for the virus must abide by the quarantine rules in place throughout the Province. Positive-tested electors will be encouraged to take advantage of proxy voting or on demand vote by mail options in this circumstance. Electors who are self-isolating due to close contact, or who are awaiting COVID-19 test results will also be requested to use a voting proxy, or on demand vote by mail options. Due to the ongoing pandemic, Clerks staff are developing a hybrid special ballot process, On Demand Vote By Mail, for individuals who find themselves in a situation where they are not permitted to personally attend a voting place. An important component of this procedure will be the voter education communications and timelines associated with ensuring the ballot will be returned in time for counting. Proxy voting will be strongly encouraged.

Council is invited to refer to the appended processes as they specifically relate to the pandemic, noting that it is the responsibility of the Clerk to provide for any matter or procedure necessary or desirable for conducting the election. All components will form part of the consolidated Clerks Procedures for the Conduct of the 2020 Ward One By-Election.

Proposed Voting Day:

Following consultation with key election materials and service providers, it is recommended that Voting Day for the 2020 Ward One By-Election be set for Tuesday, September 15, 2020. This date will allow all necessary supplies, materials and equipment rentals to be procured and tested prior to opening the polls. In addition, training as it relates to the use of Personal Protective Equipment (PPE) for election personnel and pandemic protocols will take place. Additional communications to the electors in this regard will also be facilitated within this timeframe.

It is recognized that the residents of Ward One are presently under-represented at the Council table so every effort is being made to ensure a timely by-election, while also giving strong consideration to public safety during this time. A voting day established any sooner than mid-September is not feasible.

Advance Voting Opportunities:

The Clerk is responsible to establish at least one Advance Voting opportunity, and to set the date or dates, number and location of voting places, and the hours during which voting places shall be open for the advance vote, which may be different for different voting places [MEA, s. 43(1)(2)].

In order to make every attempt to disburse electors over different voting days as much as possible, with the view toward minimizing the number of electors present in a voting place at any one time, the Clerk has set Thursday, September 3rd, 2020 and Saturday, September 12, 2020 as Advance Poll dates, based on the approval of September 15th as voting day. Voter notification packages will encourage electors with even numbered municipal addresses to vote on the 3rd, and odd numbered municipal addresses to vote on the 12th in an attempt to minimize the total number of

electors attending on any given day, and more particularly on September 15th. It is, of course, recognized that electors may choose any of the three dates to exercise their right to cast a ballot.

Nominations:

In anticipation of a September 15, 2020 voting day, all necessary nomination forms and candidate information kits have been prepared for prospective Ward One By-Election candidates. Nominations will open on Tuesday, June 16, 2020 if the By-law is approved as presented. The last day to file a nomination is Friday, July 31, 2020 between the hours of 9:00 am to 2:00 pm, in accordance with the MEA, s. 33(4). All forms are available on the Town's municipal website and may be printed by the candidate, or can be picked up at Town Hall by appointment.

<https://www.pelham.ca/en/town-hall/2020-by-election.aspx#Important-Forms>

Candidates must meet qualifications both on the day nomination papers are presented to the Clerk for the By-Election, as well as having been eligible on Nomination Day for the 2018 Municipal Election (July 27, 2018).

Because there is no jurisdictional authority for the Clerk or Council to eliminate or override any of the requirements of the MEA, candidates will be required to submit 25 endorsement signatures with their nomination forms and fees. All signatures are required to be originals and electronic signatures are not acceptable. A separate endorsement form for each endorsement signature is recommended to reduce touch-points of the mandatory forms. In addition, Niagara Public Health is recommending candidates take a self-assessment prior to conducting any campaign activities and this assessment should be taken daily. If a candidate exhibits any COVID-19 symptoms, interaction with the public is to be avoided. A self-assessment checklist is available on the website.

Completed Nominations will be received by the Clerk by appointment only, and each candidate will be required to take a self-assessment for COVID-19 symptoms prior to attending the municipal office.

Financial Considerations:

There will be additional costs to conduct the 2020 Ward One By-Election that are directly associated with the ongoing pandemic, COVID-19. For example,

additional PPE has been procured and equipment rental will facilitate a ballot-on-demand approach to avoid repetitive touch-points between suppliers, Clerks staff, election personnel and electors. Additional costs associated with the pandemic will be assigned to the COVID-19 pandemic accounts specifically.

Alternatives Reviewed:

The vacancy on Council will be filled through the By-Election process. Alternatives were previously presented.

Strategic Plan Relationship: Risk Management

Additional steps and precautions will be undertaken to minimize the risk of COVID-19 spread throughout the 2020 By-Election process.

In addition, **Communication and Engagement** will be a strategic focus throughout the By-Election process to ensure all stakeholders are aware of the extra precautions being exercised in this unprecedented time, together with all mandatory and discretionary notices to electors.

Consultation:

Niagara Region Public Health

Other Pertinent Reports/Attachments:

- 2020 By-Election Procedures Relating to COVID-19 Pandemic
- 2020 Municipal By-Election Key Dates
- Refer also to 2020 Council Vacancy Report 2020-0060-Clerks
- Refer also to 2020 Ward One By-Election By-law as Presented on June 15, 2020 Council Agenda

Prepared and Recommended by:

Nancy J. Bozzato, Dipl.M.M., AMCT
Town Clerk

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

The Municipal Elections Act, 1996, S.O. 1996, c.32 (The Act) states:

12(1) Clerk – powers

A clerk who is responsible for conducting an election may provide for any matter or procedure that:

- (a) is not otherwise provided for in an Act or regulation; and
- (b) in the clerk's opinion, is necessary or desirable for conducting the election.

The following procedures will be incorporated in the 2020 By-Election Process, to minimize the spread of the Novel Coronavirus COVID-19 during the world-wide declared pandemic:

Candidates:

- Nominations will be received by appointment only (contact NJBozzato@pelham.ca);
- Each candidate will be required to take the self-assessment prior to entering Town Hall for the scheduled meeting;
- 25 Endorsement Signatures: The Town is recommending a separate form for each endorsement to reduce the number of touch-points per page;
- Candidates will be responsible for their own health and safety during door-to-door campaigning and it is recommended that physical distancing be practiced at all times;
- When campaigning by the candidate or campaign staff, Niagara Public Health recommends completing a self-assessment prior to doing so each day. If there is any doubt regarding the health status of the campaign staff/ volunteers/ candidate, they should not participate;
- It is recommended that campaign staff have access to alcohol based hand rub with them;
- It is recommended that door to door campaigning take place through the door whenever at all possible, and when not able to do so, physical distancing be maintained;
- Masks are encouraged for door to door campaigning;

- Information regarding requirements for candidates or scrutineers attending a voting place will be provided by the Clerk prior to Advance Voting or Voting Day.

Election Poll Workers/Polling Stations:

- Polling Stations will be set up to properly delineate for physical distancing;
- Polling station layouts will be provided to Niagara Region Public Health for review and approval;
- Floor markings will indicate six-foot separation;
- Additional staff will be hired for physical distance monitoring, elector health assessment screening, cleaning of polling station;
- Numbers will be monitored to ensure Public Health guidelines for group numbers are followed (may need to be approved separately for the by-election);
- Poll Workers will have a minimum six-foot separation between work stations;
- Poll Workers will be provided PPE including face shields, masks and those with direct face-to-face contact will be provided acrylic barrier screening;
- Voting screen tables will be wiped after each elector – this will need to include drying time so as not to dampen the next ballot;
- The polling station cleaner position will direct electors to “every other” voting booth to allow for dry time and physical separation – voting booths will be numbered for easier reference;
- Additional/individual garbage bins will be supplied to election personnel;
- Alcohol-based hand rub shall be readily available at the entrance to the polling station and at various locations throughout the polling station;
- Hand hygiene should be practiced before electors are provided PPE and again where they remove the PPE to limit potential for cross-contamination;
- Cleaning and hand hygiene products should contain a Natural Product Number (NPN) and be within the expiry date;

- Disinfectant being used for cleaning and disinfection of surfaces should be of a low level hospital grade disinfectant, to be reviewed by Public Health for appropriateness;
 - Such disinfectant should have a short "contact time", being the time the product needs to stay wet to provide sufficient kill of microorganisms of concern, 1-3 minutes preferred;
- Disinfectant should contain a Drug Identification Number on the bottle/container;
- High touch surfaces such as door handles and other items which may be touched frequently should be cleaned and disinfected periodically throughout the day;
- Poll workers shall be provided basic training regarding appropriate donning/doffing of PPE to assist in minimizing cross contamination and to provide education as to how to direct electors to use PPE;
- Posters will be placed in voting station showing proper donning/doffing steps.

Electors:

- Will be asked to do self-assessment screening, questions as approved by Niagara Public Health;
- If the elector fails health assessment they should be notified to contact their family physician or public health department to complete follow-up;
- If elector passes self-assessment, they will be provided mask and gloves upon entry;
- Each elector will be given a pen and asked to keep it; we have confirmed that ballpoints will be suitable for ballot marking and the AVOS tabulator will be capable of reading the mark;
- Secrecy folders will be a one-time use only and be deposited by the elector into one bin after ballot has been processed;
- A separate waste container will be provided for Elector PPE to be disposed of properly upon exit;
- Extra Advance Poll opportunities will be provided and "even numbered houses"/"odd numbered houses" will be requested to go on separate days, through Voter Notification Package. This is a recommendation

and cannot be mandated. The intent is to reduce the number of electors at all voting opportunities;

- Communications leading up to voting days will make recommendations that electors who are self-isolating or those in quarantine should take advantage of appointing a proxy or using the proposed On Demand Vote By Mail process;
- COVID-19 positive electors shall not attend a voting location, as COVID-19 positive persons are required to remain on their personal property unless attending urgent medical appointment to avoid exposing others;
- Further, persons who are in isolation due to exposure to a COVID-19 contact, or while awaiting COVID-19 test results, will not be permitted in a voting location, as per Public Health restrictions regarding self-isolation;
- These restrictions will be heavily communicated, electors in isolation being encouraged to appoint a voting Proxy or to use the On Demand Vote By Mail process.

If Pandemic Escalates or Situation Warrants:

- Clerk has the authority, under the *Municipal Elections Act*, s. 53(1) to declare an emergency and put on hold on the voting process. This would be done in close consultation with Public Health. Monitoring of current pandemic status in Niagara will be required.



2020 By-Election

Nancy J. Bozzato, Dipl.M.M

njbozzato@pelham.ca

905-892-2607 x315

2020 Municipal By-Election: Key Dates

Voting Day: Tuesday, September 15, 2020

June 16, 2020 to July 31, 2020 MEA 33(4)	Nomination Period: Nomination forms may be filed by candidates beginning Tuesday, June 16, 2020 and on any day thereafter prior to Nomination Day, at any time when the Clerk's Office is open (Monday to Friday, 8:30 a.m. to 4:30 p.m.) and on Nomination Day, Friday, July 31, 2020 when nomination forms may be filed between the hours of 9:00 a.m. and 2:00 p.m.
July 31, 2020 MEA and 33(4)	Nomination Day: Last day for filing nominations. Nominations, in the Required Form, filed on this date may only be filed between the hours of 9:00 a.m. to 2:00 p.m.
July 31, 2020 MEA 36(a)	Withdrawal of Candidates: Candidates wishing to withdraw nomination must do so no later than 2:00 p.m.
August 4, 2020 MEA 35(1)	Certification of Nomination Forms and Acclamations: The Clerk shall certify filed nomination forms prior to 4:00 p.m. Immediately after 4:00 p.m., the Clerk shall declare any acclaimed eligible candidate to be duly elected. Additional nominations, if necessary, received August 5, 2020 and certified August 6, 2020 [MEA 33(5)]. Issuance of Proxy Vote Certificates after 4 p.m.
Nominations shall be filed with the Clerk by Appointment Only. Candidates will be required to complete a Wellness Assessment. All signatures shall be original.	
June 16, 2020* to October 30, 2020 MEA 88.24	Campaign Period: The campaign period begins when a candidate has filed the nomination form and ends 45 days after voting day, on October 30, 2020. Alternative time periods are in effect if the candidate withdraws the nomination, if the Clerk rejects the nomination, or the candidate extends his/her campaign and is continuing to campaign to erase a deficit.
June 16, 2020 to September 14, 2020 MEA 88.6(8)	Third Party Advertising: Individuals, corporations or trade unions may file with the clerk to be a registered third party for the election; in prescribed form. Restrictions apply as to who may register.
Third Party Advertisers shall be filed with the Clerk by Appointment Only. Persons filing will be required to complete a Wellness Assessment. All signatures shall be original.	



2020 By-Election

Nancy J. Bozzato, Dipl.M.M
njbozzato@pelham.ca
905-892-2607 x315

July 10, 2020 MEA 65 (4)(4ii)	Last Day to Receive Preliminary List of Electors (PLE) MPAC to provide Clerk with PLE. Clerk then corrects for errors and prepares voters' list.
July 10, 2020 to July 20, 2020* (*or sooner) MEA 65(4)(4iii, iv)	Voters' List: The Clerk shall make the corrections to the PLE as soon as possible after receiving the list. The corrected list constitutes the Voters' List.
July 20, 2020* to September 15, 2020 MEA 65(4)(5)	Revision - Application to Add, Remove, or Correct One's Own Information: Individuals may make application to the Clerk requesting that their name/information be added, removed or corrected. An on-line platform will be available to allow one to confirm own information.
September 3, 2020 10:00 a.m. to 8:00 p.m.	Advance Vote Day #1: Preferred Even House #s Fire Station #2: Polls 4, 5, 6, 7, 8, 9 Fire Station #3: Polls 1, 2, 3
September 12, 2020 10:00 a.m. To 8:00 p.m.	Advance Vote Day #2: Preferred Odd House #s Fire Station #2: Polls 4, 5, 6, 7, 8, 9 Fire Station #3: Polls 1, 2, 3
September 15, 2020	Voting Day: Final Voting opportunities will be held between the hours of 10:00 a.m. and 8:00 p.m. Ward One voting locations include Fire Station #2 and Fire Station #3 and will be set out on Voter Notification Packages.
September 16, 2020	Declaration of Results: The Clerk will declare the results of the election of candidates and the result of any vote upon a by-law or question "as soon as possible after voting day".
September 21, 2020	Term of Office Commences: Elected members must take the oath of office prior to taking their seat. Oath of Office for Ward One Councillor Monday, September 21, 2020.
October 30, 2020	Campaign Period Ends: Deadline to provide Clerk with written notification of deficit and continuation of campaign. Candidates may file financial information
November 30, 2020	Filing Date: Deadline for filing financial statements; 2 p.m. Penalties for non-compliance may apply.

Subject: 2021 Budget Schedule**Recommendation:**

BE IT RESOLVED THAT Council receive Report #2020-0084-Corporate Services; and

THAT Council approve the 2021 Budget Schedule.

Background:

The attached 2021 Budget Schedule details the progression of the budget process to completion for capital, operating, and water and wastewater.

Analysis:

The capital budget process has been scheduled for completion in December 2020 to enable staff to plan and prepare for 2021. The operating and water and wastewater budgets have been scheduled for completion in January 2021.

The proposed 2021 Budget Schedule will act as a guide to help the Corporate Services Department plan budget events during the course of the budget process. The situation surrounding the COVID-19 pandemic is changing rapidly, and its impact on the 2021 budget is uncertain at this time. Should issues arise which affect the ability to meet the dates indicated, a revision to the schedule may be required. Any items of this nature will be brought forward for Council's information and approval.

The location of the meetings, and whether they will be physical or electronic, will be determined in the future in keeping with the best health information available.

Financial Considerations:

There are no financial considerations with respect to this report.

Alternatives Reviewed:

Council could choose a later date for approval of the 2021 capital, operating and water and wastewater budgets. This would result in delayed planning for procurement and 2021 operations for staff.

Strategic Plan Relationship: Strong Organization

A schedule that guides the budget process will allow staff to plan and prepare, communicate anticipated timelines to the public, and will facilitate co-operation with all departments.

Consultation:

The Clerk's Department has been consulted regarding budget meeting dates.

Other Pertinent Reports/Attachments:

Appendix 1: 2021 Budget Schedule

Prepared and Recommended by:

Teresa Quinlin, MBA, CPA, CA
Director of Corporate Services/Treasurer

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

2021 Budget Schedule

DATE	PURPOSE
Wednesday, September 23, 2020 5:30pm	Public Meeting To receive input into Town's 2021 Budget
Monday, September 28, 2020	Strategic Planning Meeting Council and Senior Leadership Team
Monday, October 19, 2020	Draft Capital, Operating and Water & Wastewater Budgets Available for Council Review
Monday, November 9, 2020 5:30pm	Capital Budget Special Meeting Presentation at General Committee
Monday, November 30, 2020 5:30pm	Operating and Water & Wastewater Budgets Special Meeting Presentation at General Committee
Monday, December 7, 2020 5:30pm	Capital Budget Consideration for Approval at Council
Monday, January 11, 2021 5:30pm	Operating and Water & Wastewater Budgets Consideration for Approval at Council

Subject: Outdoor Restaurant Patios**Recommendation:**

BE IT RESOLVED THAT Council receive Report #2020-089; and

THAT Council support the temporary waiving of two parking space requirements for restaurants to allow 'pop-up' parking lot patios to be used in parking areas during the pandemic in order to support the local restaurant businesses.

Background:

The COVID-19 pandemic has resulted in significant economic impact on local businesses. Restaurants have been significantly impacted and as of writing this report, they have been allowed to open for take-out business only. Although Niagara is currently restricted from proceeding to Stage 2 of the Provincial Framework for Reopening our Province, it is anticipated that the Province will eventually provide the ability for restaurants to open outdoor patios, with capacity and physical distancing restrictions.

Analysis:

Currently the Town does have a Sidewalk Encroachment policy that allows for restaurants to apply to the Town for permission to encroach on the municipal right-of-way i.e. the sidewalk, for outdoor sidewalk patio use subject to meeting the policy requirements related to proof of insurance, provincial licensing requirements, pedestrian accessibility requirements and urban design zoning, sign and building code requirements. Approval of sidewalk patios under the Sidewalk Encroachment policy is managed through the Clerk's Office. In the past, Gelato Village and HillFire SMK & BBQ have received approval for restaurant patio use on the municipal sidewalk. Other restaurants such as Volcano Pizza, Butcher and Banker, Mossimos, The Broken Gavel and Grill on Canboro have outdoor restaurant patios on their property and do not utilize municipal property for their outdoor patio use. It is recognized that outdoor restaurant patios contribute positively to the vitality of downtowns, main streets and public spaces.

The Provincial government has indicated that when restaurants open they will be

subject to specific requirements, such as meeting physical distancing requirements that will reduce their capacity which will impact their financial viability. The Provincial government has also indicated that local governments should consider offering flexibility to restaurants to allow them to operate outdoor patios safely, see attached letter from the Attorney General Office. A number of business associations and chambers of commerce across the Province are also asking for municipal flexibility and permissions for outdoor restaurant patios.

Staff recognize the need to open the economy slowly and safely during the COVID-19 pandemic and at the same time want to support local restaurants in their ability to offer a dining and food experience. Planning staff have had some discussions with local restaurant operators who are looking for opportunities to offer outdoor 'pop-up' patio space in parking areas where a sidewalk patio may not be feasible. In order to do so, in most cases on-site parking requirements would not be met. As a result, staff are recommending that Council pass a motion that allows for the temporary waiving of up to 2 parking spaces during the pandemic so that restaurants can offer patio space as an alternative to 2 on-site parking spaces. It is recognized that 'pop-up' parking lot patios are temporary in nature and will only be allowed during the period of pandemic. Also, it is acknowledged that the 'pop-up' parking lot patios provide some opportunity for restaurants to offer hospitality service and the waiving of the two parking space requirements will support these small businesses during a very difficult economic time.

It is acknowledged that the majority of 'pop-up' parking lot patios would occur on private property and would still be subject to meeting Public Health and Provincial licensing requirements related to food service and serving of alcohol. Should a 'pop-up' parking lot be proposed on municipal property, in addition to meeting Public Health, accessibility, and licensing requirements, the proponent would be required to provide evidence of having the liability and property damage insurance in the amount of \$2,000,000 in place for the patio area and name the Town as an insured entity prior to being allowed to operate the patio on municipal property.

Financial Considerations:

There is no direct financial impact on the Town, however allowing the use of two parking spaces for outdoor restaurant 'pop-up' parking lot patio use does support local restaurant businesses that may wish to offer an outdoor patio experience.

Alternatives Reviewed:

n/a

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

Allowing the temporary 'pop-up' parking lot patios supports local businesses and the local economy which contribute to building a strong community, particularly during this difficult time of pandemic.

Consultation:

The EOC was consulted.

Other Pertinent Reports/Attachments:

June 8, 2020 letter from Attorney General Office

Prepared and Recommended by:

Barbara Wiens, MCIP, RPP
Director of Community Planning and Development

Prepared and Submitted by:

David Cribbs, BA, MA, JD, MPA
Chief Administrative Officer

Attorney General
McMurtry-Scott Building
720 Bay Street
11th Floor
Toronto ON M7A 2S9
Tel: 416-326-4000
Fax: 416-326-4007

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Édifice McMurtry-Scott
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Télec.: 416-326-4007



Our Reference #: M-2020-6431

June 8, 2020

Dear Head of Council:

We know that people, businesses and municipalities in Ontario have been significantly affected by the COVID-19 outbreak, including our hospitality sector and workers. Restaurants, bars and other licensed establishments like tap houses and breweries play an essential role in the success of local economies and the vibrancy of communities in our province. That is why our government is committed to supporting them, while doing all we can to keep people safe based on the guidance of public health experts.

Early on in this public health emergency the Attorney General led our government's swift action to allow licensed restaurants and bars to offer takeout and delivery of alcohol with food orders, to extend all liquor licenses for three months at no extra cost to licensees and to reduce the minimum price restaurants and bars are required to sell spirits at by 33 per cent.

Last fall Minister Sarkaria tabled the *Smarter for Business, Better for People Act* which, since passed, gives restaurants, bars and breweries the ability to allow dogs in outdoor eating areas, like patios and inside food premises where only pre-packaged and/or low risk foods are served. This change has provided more flexibility and business opportunities to the hospitality sector.

There is still more that can be done. Each of us have heard loud and clear the calls from municipalities and the hospitality sector to allow licensed establishments to extend their outdoor patio licenses for the duration of summer and into the fall. The current process is time-consuming and presents too many barriers for businesses already struggling to succeed in the face of COVID-19.

We are therefore pleased to inform you that, as the Minister responsible for the regulation of alcohol sale and consumption in Ontario, the Attorney General has implemented regulatory changes that give the Alcohol and Gaming Commission of Ontario (AGCO) the discretion to allow licensed establishments to temporarily add or increase the size of their patios once they are permitted to reopen. These opportunities will be available to all licensed establishments, whether or not they currently have a patio, and will be subject to any additional requirements set out by the AGCO and municipality (such as by-laws or other restrictions).

The Attorney General and Ministers of Municipal Affairs and Housing and Small Business and Red Tape Reduction recognize the need to give licensed establishments certainty as they prepare to operate their businesses safely, successfully and respectful of social distancing protocols. That is why we came together quickly to find an effective solution as Ontario gradually re-opens its economy.

.../2

Additionally, we encourage you and your municipal council to look at the options available to support your Main Streets. A few innovative municipalities have considered extending patios onto sidewalks and into parking lots, allowing the alternative use of a section of downtown streets, or transforming public parks into food gardens. We encourage you to consider what may work in your community to support our small businesses.

We look forward to seeing the Ontario spirit in action as licensed establishments take advantage of this latest change and municipalities launch plans to further support their local hospitality sectors this summer while keeping their communities safe and following all public health guidance.

Sincerely,



Doug Downey
Attorney General



Steve Clark
Minister
Municipal Affairs and Housing



Prabmeet Sarkaria
Associate Minister
Small Business and
Red Tape Reduction

Subject: Policy S801-02 for Neighbourhood Traffic Management**Recommendation:****BE IT RESOLVED THAT Council receive Report #2020-0085;****AND THAT Council approve the revised policy S801-02 for Neighbourhood Traffic Management.****Background:**

Council directed staff through the December 2, 2019, Public Works Report No. 2019-0142 to refer the proposed revision of the Neighbourhood Traffic Management Policy to the Pelham Active Transportation Committee (PATC) for comment. This report serves to inform Council that staff have taken input from the PATC into consideration and worked to improve the policy based on the committee's recommendations.

On December 17th, 2019, staff met with the PATC to provide an overview of the proposed policy. Following the meeting, staff were provided with a number of comments and concerns for consideration (Appendix A). While the committee was generally supportive of the proposed policy, they identified three areas for improvement:

- 1) The policy did not address traffic calming in rural areas and rural roads;
- 2) A more inclusive process may be required around pedestrian generating hubs including schools, facilities or parks; and
- 3) While the process is mainly complaint driven, it should also allow for initiation by staff.

Throughout the winter, staff worked to improve the policy with close consideration of the recommendations provided by the PATC. Concerns surrounding the Traffic Calming Removal process were identified through a second draft review by the PATC. The proposed Traffic Calming Policy (Appendix B) was revised to address these concerns and lay out a clearer,

inclusive process for the removal of traffic calming devices.

Analysis:

In 2014 the Public Works and Utilities Department introduced the Neighbourhood Traffic Management Policy (Appendix C) to provide a process for planning neighborhood traffic calming measures in a consistent and objective manner; however, it does not provide guidance for staff or concerned citizens to follow. The lack of procedural frame work within the policy has caused frustration to both staff and citizens attempting to address traffic related issues in identified neighbourhoods.

The revised Neighbourhood Traffic Calming Policy provides a consistent approach to traffic calming and a comprehensive process for responding to complaints regarding speeding and traffic safety concerns. It will also help to educate residents on traffic calming techniques and design, so that they may understand the rationale behind the Town's decision making process.

Financial Considerations:

There are no direct costs associated with this report. Costs incurred now and into the future are most commonly the value of staff time. The proposed process allows for time to attempt passive measures before a permanent design is developed, and acceptance is gained through public input. The implementation of the design may be affected by the availability of capital funding, and will require approval from Council through the budget process.

It is anticipated that the pre-screening process will reduce the amount of time spent responding to concerns from low volumetric roads and will allow staff to focus on areas where traffic calming will have the greatest impact.

Although the frequency of traffic calming requests are considered reasonable at this time, as traffic volume and concerns increase due to growth, implementation of the policy is likely to increase the work load on Engineering and Operations staff beyond their current capabilities.

Alternatives Reviewed:

One alternative that was reviewed included the provision that if physical traffic calming measures are required, such as the installation of speed cushions or realignment of curbs, that they be installed during future capital road reconstruction, or repair projects.

This alternative would mean that the implementation of traffic calming would often be delayed for several years leading to greater public frustration over perceived inaction by the Town to address the issues.

Another alternative reviewed was that residents with road speed, safety and compliance issues be referred to the Niagara Regional Police Department. Although this would reduce the amount of time staff spend investigating and responding to traffic compliance issues it is not likely to result in an improvement in road safety conditions.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

The proposed revision to the Neighbourhood Traffic Management Policy will work to Build Strong Communities by encouraging public involvement in the traffic calming process, thereby, preserving and enhancing the quality of Pelham communities.

Other Pertinent Reports/Attachments:

Appendix A – PATC Recommendations to Staff and Council

Appendix B - Proposed Revision to Policy S801-02 Neighborhood Traffic Management.

Appendix C - Existing Policy S801-02 Neighborhood Traffic Management (2014)

Public Works Report #2019-0142 Revision of Policy S801-02 for Neighbourhood Traffic Management

Consultation:

Town of Pelham staff analyzed the traffic calming policies of several Ontario Municipalities including: City of Hamilton, City of London, City of Niagara Falls, and the City of Thorold.

Town of Pelham staff referred the draft policy to the Pelham Active Transportation Committee for comment.

Prepared and Recommended by:

Jason Marr, Director of Public Works

Approved and Submitted by:

David Cribbs, Chief Administrative Officer

To: Members of Council, Town of Pelham, and J. Marr, Director, Public Works

Re: Revision of Policy S801-02 for Neighbourhood Traffic Management, 2019-0142-Public Works

At its December 2, 2019 meeting of the Policy and Priorities Committee, Council referred this item to the Pelham Active Transportation Committee for review and comment. The committee members appreciate the opportunity to provide input on this important issue, which is often identified by residents as a concern.

The committee was provided with an overview of the draft policy by J. Marr, Director, Public Works and R. Cook, Manager at its December 17th meeting. Following a robust discussion, the PATC members agreed to communicate the following comments to Council for its consideration:

1. The PATC is generally supportive of the proposed policy, as it will provide a consistent approach to traffic calming, using established criteria for evaluation, data and evidence to support decision making, and a clear process to communicate with residents in the affected area. The policy provides information, examples and creates a common understanding of what is and what is not traffic calming. Public access to the policy and the information is required for a complaint driven process, such as this. The PATC supports the implementation and evaluation of “soft” traffic calming measures prior to the introduction of more rigid measures.
2. The proposed policy does not address two important issues which have been identified to the PATC by residents, namely:
 - Traffic calming in rural areas and rural roads
 - Traffic calming in neighbourhoods that include schools, social hubs or parks. There may be many users of these facilities/areas who do not necessarily live in the neighbourhoods. School zones, in particular, may require a more inclusive process to address the concerns of students and parents, beyond those of the immediate neighbours. The input from those who utilize the schools/social hubs/parks is also valid and required.

In addition, while the process is primarily complaint driven, it should also allow initiation by staff, should circumstances warrant it. For example, changes to road usage in other communities such as Welland or Thorold may require review of traffic calming of affected areas in Pelham.

3. Finally, the PATC also identified a number of related issues for Council’s consideration:
 - Consider traffic calming requirements as new developments are being planned
 - The increased density of housing may affect traffic calming and the consultation process under consideration.

- Are there sufficient human resources to meet the requirements of the policy?
- Ensure clarity of the policy and process so that residents understand it and are able to use it
- Once the policy is approved, use media and other resources to inform and educate the residents of Pelham

Thank you for inviting the PATC to provide this input. If you require clarification or additional information, please do not hesitate to let us know.

Thank you,

Bea Clark, Chair
Pelham Active Transportation Committee

Members:

Brian Baty, Rhys Evans, Bob Fish, Bill Gibson, Lisa Gallant, Joe Marchant, Dave Nicholson, Barb Rybiak
Pelham Councillor John Wink, Regional Councillor Diana Huson

January 13, 2020



Policy Name: Neighborhood Traffic Management	Policy No: S801-02
Committee approval date:	-
Council approval date:	-
Revision date(s):	06/08/2020
Department/Division:	Engineering

1. Purpose

The overall purpose of this policy is to provide a comprehensive process that addresses local neighbourhood traffic issues experienced in the Town of Pelham.

The specific goals of this traffic calming policy are to develop an integrated set of objectives and procedures that will combine to form a set of overall working guidelines that will:

- Educate residents about traffic calming so they can make more informed decisions and also understand the rationale behind the Town's decision making process.
- Provide a policy that Town officials and the general public are confident is an effective and fair tool in evaluating speeding and/or traffic volume problems.
- Provide a standard format for dealing in a consistent manner with complaints regarding speeding and traffic safety concerns.
- Reduce the workload and duplication of effort for Town staff in responding to resident traffic concerns.
- Educate people on how to create a safe and a pleasant roadway environment for residents, motorists, cyclists and pedestrians.
- Encourage public involvement in the traffic calming activities.
- Educate residents on pedestrian and cyclist safety.

This policy will also provide the guideline, procedure and criteria for the initiation, investigation and implementation of traffic calming measures within existing residential neighbourhoods. The policy will ensure safety concerns related to speeding and excessive volume are handled in a fair, transparent and efficient manner. Guidelines included in this policy will be applied to local and collector roadways within residential neighbourhoods as well as rural roads.

The policy does not apply to arterial roadways nor does it apply to anticipated future problems. This policy only applies to identify operational issues within existing residential areas. While similar traffic related issues may exist on arterial roadways, the primary functions of these roads are to move traffic efficiently. Therefore, traffic calming measure(s) that may be appropriate for use on urban residential roadways would not be suitable for use on arterial roadways.

2. Policy Statement

It will be the policy of the Town of Pelham to restore Town streets, with an identified problem, to their intended function through applicable traffic calming measures, and hence, preserve and enhance the quality of Pelham communities.

3. Policy Constraints

The policy may be affected by the availability of Town staff, capital funding, design constraints, best practices and comments from other departments and agencies.

4. Definitions

"85th percentile" means, the speed at or below which 85 percent of all vehicles are observed to travel under free-flowing conditions past a monitored point.

"Local roads" means, a street that is primarily used to gain access to the property bordering it.

"Rural roads" means, a low-to-moderate capacity road located outside the urban boundary which serves to move traffic to local streets and arterial roads as well as provide access to rural property.

"Collector roads" means, a low-to-moderate-capacity road which serves to move traffic from local streets to arterial roads as well as provides access to property.

"Arterial roads" means, a high-capacity urban road which serves to deliver traffic from collector roads to highways, and/or between urban centres

"Traffic Calming" means, the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behaviour and improve conditions for non-motorized street users.

"Pedestrian Generator" means, a location where pedestrians originate from or travel to, including; schools, parks, recreational facilities, senior living homes, apartment buildings.

5. General Provisions

5.1 What is Traffic Calming?

Traffic calming, as defined by the Institute of Transportation Engineers (ITE) Subcommittee on Traffic Calming, 1997 is:

"The combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behaviour and improve conditions for non-motorized street users."

According to the Canadian Guide to Neighbourhood Traffic Calming, prepared by the Institute of Transportation Engineers (ITE) and the Transportation Association of Canada (TAC), December 1998:

"The purpose of traffic calming is to restore streets to their intended function."

The primary purpose of traffic calming under this policy is to reduce high traffic speeds within residential neighbourhoods and thus improving safety for pedestrians and area residents.

5.2 What is NOT Traffic Calming

Over the past 30 years there has been a significant amount of knowledge gained through the implementation of successful projects to determine what traffic calming measures work and which traffic calming measures are not effective. The all way stop, 40 km/hr reduced speed zone, children at play signs, posted speed signs, rumble strips and speed bumps are all devices commonly mistaken for being traffic calming tools. None of these devices works to calm traffic. Further information regarding what is not considered traffic calming can be found in **Appendix A**.

5.3 Advantages and Disadvantages of Traffic Calming

Traffic calming if used properly will address identified operational traffic issues. However it will also introduce some disadvantages to a residential neighbourhood that will impact area residents after the project is complete. Listed below are some of the advantages and disadvantages created or caused by traffic calming measures:

Advantages

- Reduced vehicle speeds
- Reduced traffic volumes
- Reduced number of cut through vehicles
- Improved neighbourhood safety especially for pedestrians
- Reduced conflicts between roadway users
- Increased compliance with regulatory signs

Disadvantages

- Potential increase in emergency vehicle response time
- Could make it more difficult to get into and out of neighbourhoods every day
- May result in expensive solutions (time and resources)
- May shift or divert traffic onto neighbouring roadways
- Increase maintenance time and costs
- Add visually unattractive warning signs to a residential area
- May splinter neighbourhoods with strong 'for and against' traffic calming operations

5.4 Pedestrians & Traffic Calming

The principal purpose to reducing the speed of traffic in residential areas is to protect all vulnerable road users, such as pedestrians. Copied below is an excerpt from the Ontario Traffic Manual Book 15 - Pedestrian Crossing Facilities:

Pedestrians' Rights and Responsibilities

Notwithstanding the distinction between controlled and uncontrolled crossings, the rights and responsibilities for pedestrians are recognized in the Highway Traffic Act:

- 1. In the absence of statutory provisions or bylaw, a pedestrian is not confined to a street crossing or intersection and is entitled to cross at any point, although greater care may then be required of him or her in crossing. However, pedestrians crossing the highway must look to ensure the crossing can be made safely or possibly be held responsible for any ensuing collision.*
- 2. Pedestrians must exercise due care even when they are lawfully within a crossing and have right-of-way. It is not an absolute right and they must still exercise care to avoid a collision with a vehicle.*
- 3. If there is a crosswalk at a signalized intersection, pedestrians have to walk within the crosswalk*

The above excerpt is stating whenever a pedestrian crosses a road they have a duty of care to themselves to cross when it is safe. It is important to remember under the Highway Traffic Act motor vehicles are only required to stop or yield to pedestrians at a controlled crossing such as traffic signals or pedestrian signals. At all uncontrolled crossings pedestrians must wait for a safe gap in traffic sufficient for them to cross before entering the road.

When an area is studied for traffic calming pedestrian crossing points are primary focus points, since this potential conflict point is exactly where you want drivers to slow down. The installation of traffic calming tools such as raised crosswalks, raised intersections, curb extensions does not change the rules of the Highway Traffic Act, pedestrians must still cross the road responsibly.

5.5 Types of Traffic Calming

Traffic Calming for the purpose of this policy is broken into two categories:

- i. Passive, i.e. line markings and/or signage
- ii. Physical, i.e. intrusive treatments that modify the shape and/or form of the travel lanes making it uncomfortable for drivers to attain high speeds.

Passive Traffic Calming

Passive traffic calming treatments are simple modifications in comparison to physical treatments. Passive modifications are intended to visually reduce effective lane width for a motorist and in most circumstances re-allocate some of road space to cyclists and on- street parking. These treatments have proven to be capable of reducing 85th percentile operating speeds by up to 5 km/h in other municipalities.

Passive treatments are implemented on a proactive and reactive basis and are typically applied uniformly over the entire road section, unlike physical treatments which are best

described as spot treatments. The modifications associated with passive calming treatments are typically well received by the public. Staff provides the public with advance notification, including a plan of the proposed modifications prior to implementation. This level of public interaction appears to work well for the application of passive traffic calming.

Physical Traffic Calming

Physical traffic calming can be broken down into three categories: (1) vertical deflections, (2) horizontal deflections; and (3) physical obstructions.

Vertical traffic calming measures provide an obstruction that vehicles are able to travel over. The change in pavement height (and sometimes pavement materials) can cause discomfort to the occupants of vehicles that are exceeding the design speed of the traffic calming measure.

Horizontal traffic calming tries to prevent vehicles from traveling in a straight line at excessive speeds by using measures such as raised islands and curb extensions.

Physical obstructions involve a full or partial closure of the road.

Physical traffic calming measures that restrict or divert or divert traffic or introduce significant vertical deflections into the street should not be implemented on arterial or rural roadways as physical traffic measures are inconsistent with the typical role and function of these roads.

Examples of passive and physical traffic calming techniques are listed in **Table 1**. A more detailed explanation of the traffic calming devices listed below, including the advantages and disadvantages can be found in **Appendix B**.

Table 1 – Applicability of Traffic Calming Measures in Pelham

Traffic Calming Technique	Road Classification			
	Local Road	Collector Road	Arterial Road	Rural Road
Passive and Mitigating Measures				
Education	Yes	Yes	Yes	Yes
Community Entrance Sign	Yes	Yes	Yes	Yes
Textured Crosswalk	Yes	Yes	Yes	No
Targeted Enforcement	Yes	Yes	Yes	Yes
Speed Display	Yes	Yes	Yes	Yes
On Street Parking	Yes	Yes	Yes	No
Road Diet	Yes	Yes	Yes	No
Physical Vertical Deflection				
Speed Cushion	Yes	Yes	No	No
Raised Intersection	Yes	Yes	No	No
Raised Crosswalk	Yes	Yes	No	No
Speed Table	Yes	Yes	No	No

Speed Hump	No	No	No	No
Physical Horizontal Deflection				
Curb Extension	Yes	Yes	Yes	No
Curb Radius Reduction	Yes	Yes	No	No
Neighbourhood Traffic Circle	Yes	Yes	No	Yes
Centre Island Median	Yes	Yes	Yes	Yes
One-Lane Chicane	Yes	Yes	No	No
Lateral Shift	Yes	Yes	Yes	No
Roundabout	Yes	Yes	Yes	Yes
Physical Obstruction				
Directional Closure	Yes	Yes	No	No
Raised Median Through Intersection	Yes	Yes	Yes	No
Right-in/Right-out Island	Yes	Yes	Yes	No
Intersection Channelization	Yes	Yes	Yes	No
Diverter	Yes	Yes	No	No
Full Closure	Yes	Yes	No	No

5.6 Streets That Qualify of Traffic Calming

Traffic calming will only be considered on local, collector and rural roads, and not on arterial roadways in the Town. Through application of this policy and by applying good engineering judgment, traffic calming measures, when deemed prudent, will be installed in a manner that will ensure they provide the most effective solutions while continuing to support the intended function of the roadway

5.7 Policy Guidelines

The following guidelines will be considered when investigating, selecting and implementing traffic calming measures. These guidelines will ensure that the appropriate measures are considered and the potential negative impacts are minimized. Following these guidelines will maximize the effectiveness of traffic calming while building community acceptance and support for the final recommendations.

Traffic calming measures will:

- Be considered only after education, enforcement and traffic engineering efforts have failed to produce the desired results.
- Be considered when there is a demonstrated safety, speed or short-cutting traffic concern and acceptable alternative measures have been exhausted.
- Be considered and prioritized in areas surrounding pedestrian generators such as; schools, playgrounds, retirement homes, and libraries.

- Include consideration as to whether an area-wide plan versus a street-specific plan is more suitable: an area wide plan should be considered if a street-specific plan would likely result in displacement of traffic onto adjacent streets.
- Be predominantly restricted to two lane roadways (one lane of through traffic in each direction) and a posted speed limit no greater than 50 km/h.
- Not impede non-motorized, alternative modes of transportation and be designed to ensure pedestrian and cycling traffic is unaffected.
- Not impede Emergency and Transit services access unless alternate measures are agreed upon.
- Maintain reasonable automobile access to Town roads.
- Only be installed after Engineering staff has investigated existing traffic conditions and the necessary approvals have been received.
- Be monitored; follow-up studies will be completed to assess effectiveness and the results will be communicated to the community and Council.

6. Traffic Calming Process

The following process will be used when proceeding with a request for traffic calming. An established and formal process for investigating roads provides consistency and equality in the determination of whether traffic calming is warranted in a given location.

6.1 Public Input

In order for traffic calming to achieve the goal of restoring residential streets to their intended purpose, community involvement and support is paramount. Throughout the process, residents are encouraged to participate in the development of a traffic calming plan suitable to the neighbourhood and the concerns within it.

Before an area is considered for traffic calming a signed petition must be received by the Town showing a minimum of 25% support for traffic calming measures. If the petition does not show the required level of interest, the area will not qualify for traffic calming.

Later in the process, after passive measures have failed to address the traffic concerns, area residents will be asked by survey or at a Public Information Centre (PIC) for input on minor adjustments into a proposed physical traffic calming plan for the area.

In order for a traffic calming plan to be approved it must be circulated amongst all impacted area residents and must receive a majority response rate in favour from all residents surveyed before being considered for implementation.

The benefit of community involvement is that it generates support for a traffic calming program and assists in the implementation of a plan without significant opposition upon completion. Community involvement also enhances the credibility of the traffic calming program, particularly when it is eventually presented to Council for approval.

6.2 Process Initiation and Pre-Screening

Residents with traffic related concerns are instructed to submit their written request to investigate traffic calming within their neighbourhood to the Town. Staff will then conduct a brief preliminary assessment to determine if the requested roadway meets the Initial Screening Criteria, shown in **Table 2**.

Table 2: Traffic Calming Pre-Screening Assessment

1.	Is this a Local, Rural or Collector Road?	Pass	Fail
2.	Is the AADT (annual average daily traffic) >1000	Pass	Fail
3.	Is the posted speed 50km/h?	Pass	Fail
4.	Has the road been assumed?	Pass	Fail
5.	Is the road section primarily residential?	Pass	Fail
6.	Does the street provide an obvious by-pass to a major intersection or road?	Pass	Fail
7.	Is the section of road longer than 200m?	Pass	Fail
8.	Have any previous efforts been made within the last 12 months?	Pass	Fail

If the roadway fails any of the 8 areas listed in the pre-screening it does not qualify for physical traffic calming.

6.3 Traffic Calming Ineligibility based on Pre-screening

For locations not meeting the above-noted initial screening criteria, staff will consider front-line mitigating measures to address the neighbourhood traffic concerns. These methods could include tools such as the use of driver feedback boards, targeted police enforcement, sign installation and pavement marking modifications.

Front-line mitigating measures very rarely require public involvement such as surveys and public meetings. However, they may require monitoring and evaluation to assess their effectiveness. Details regarding front-line mitigating measures are provided in **Appendix B**.

6.4 Traffic Calming Neighbourhood Petition

After it has been determined that the requested location meets the initial assessment criteria, a petition will be distributed to the residents within the impact area. The Town is responsible for the initiation, distribution and collection of the Traffic Calming petition to ensure consistency of the process by managing the collection of public input and this will be done in a manner that incorporates community involvement. An example of a petition letter is shown in **Appendix C**. The focus of the petition will centre on whether or not there is neighbourhood support for the Town to initiate an investigation into the need for traffic calming on the requested roadway.

A minimum of twenty-five percent (25%) of property owners within the impact area must indicate their approval by signing the Traffic Calming Petition. The signatures must come from households with direct frontage or flankage onto the section of roadway that has been identified as the location for the potential implementation of traffic calming measures, as defined by Engineering staff.

Each household is represented by one signature, regardless of the number of people in the household. This step in the process is crucial in determining the level of concern from the residents. Failure to meet the 25% support level will result in termination of the investigation; meeting the required 25% support level will trigger the commencement of a traffic calming study.

The Town shall allow twenty-eight (28) days for the petition to be returned. Day zero (0) is the date on which the Town delivers the Traffic Calming Petition to the citizen representative.

- a. If petition approval is achieved, the evaluation phase begins.
- b. If twenty-eight (28) days elapse and petition approval has not been achieved, the roadway will not be considered for traffic calming for twelve (12) months.

6.5 Data Collection

Once a successful petition is received the collection of data is scheduled based on a priority list. The Town shall collect information and data along roadway(s) in the project as deemed necessary by Engineering staff to qualify and quantify the extent of the local traffic problem. The data collection may include any of the following:

- Vehicle volume count to determine 24-hour traffic
- Speed study to determine existing speed data
- Classification count to determine heavy vehicle traffic
- Collision data for the most recent three (3) years (if available)
- Study to quantify cut-through traffic, if determined necessary by staff
- Existing roadway conditions (e.g. pavement condition, signing, marking)
- Pedestrian activity
- Presence of sidewalks on one or both sides of the road
- Presence of special pedestrian generators such as schools, seniors homes, playgrounds, etc. in the area

A review of the data will be completed using recognized engineering standards. Once collected and summarized, the data will be utilized in the point assessment system to determine a total point value. This assessment will be used to determine the need for traffic calming and assist in setting priority for locations of consideration.

6.6 Point Assessment System

The point assessment system is a screening process focused on the various attributes of a roadway in order to quantify its potential need for traffic calming. By means of assigning weighted points based on the severity of certain road attributes (e.g. 85th percentile speed), this process will bring to the forefront roadways requiring consideration while quantifying the current conditions. A point assessment system is provided in **Appendix D**.

The point assessment system will also be used to prioritize locations for consideration. Those locations with an extremely high point assessment will be given priority based on the quantitative nature of the point assessment system. Depending on funding availability, locations will be selected based on the point system with those locations with the highest points constructed first. If funding does not permit all locations to be constructed in one year, roadways will be carried forward to the next year when they will then be re-prioritized to include any new locations.

The minimum number of points required to proceed with the investigation of traffic calming measures differs based on the classification of roadway. In keeping with the objective of restoring roadways to their intended function, local and collector roadways are designed and expected to convey varying levels of traffic volume. This, in turn, has a bearing on the minimum point value required to proceed, as traffic volume is a major consideration. Based on this, the following are minimum point values for each road type:

Local road - minimum 35 points

Collector road - minimum 52 points

Should a location fail to meet these requirements, residents will be notified in writing and the investigation for traffic calming measures will discontinue. However, staff will continue to address the concerns of the residents by means of the front-line mitigating measures.

6.7 Traffic Calming Design Considerations

The data collected combined with site visits, historical information, future maintenance and construction plans, as well as resident feedback will be taken into consideration to determine potential traffic calming measures.

Appropriate traffic calming measures will be determined based on the list of traffic calming measures outlined in **Appendix B** of this policy. The traffic calming design could include one or more different types of traffic calming techniques. The proposed traffic calming measures will be in accordance with the design Guidelines found in the Canadian Guide to Neighbourhood Traffic Calming, engineering judgement and experience of staff.

The preferred design will first be presented to emergency and/or roads operations services. It will then be presented at a public meeting. After any required modifications to the preferred design as a result of public input, a traffic calming survey will be delivered to affected residents.

6.8 Comments from Emergency/Transit and Roads Operations

Staff will provide the preferred design to the relevant review agencies (e.g. emergency and transit services). Comments from the potentially affected services will be solicited and feedback with respect to possible impacts will be encouraged. As required, Town staff will work with agencies to modify the design, as necessary. While it is preferable to modify the traffic calming design, if modifications are not able to remedy agency concerns, the traffic calming process will be discontinued for the roadway under consideration and residents will be notified.

6.9 Public Information Centre & Public Notice

Staff will host a Public Information Centre (PIC) to present the purpose, objectives and implementation process of traffic calming in general. The PIC notice will be circulated to all residents who live within the affected area, which may include adjacent streets, as determined by staff. Staff will then present and explain the rationale behind the specific preferred traffic calming design. The public meeting will provide residents with an opportunity to become involved in the process, learn more about the proposed traffic calming treatment(s) and to provide their feedback. Each plan will include a procedure to communicate with and engage the neighbourhood, in keeping with the Council Policy on Community Engagement and its principles.

Notification of the meeting will be published in a newspaper and through other social media network, including Town website, Facebook and Twitter. The purpose of this notice will be to provide notification to the public regarding the meeting date, time and location. It will also present an opportunity to solicit comments on the alternative traffic calming measures.

6.10 Resident Notification

Residents will be notified that traffic calming has been either approved or not approved by the Town on the subject roadway. The notice will be sent to the same mailing list used to deliver the traffic calming survey and any other persons having requested notification throughout the process.

6.11 Finalize Preferred Traffic Calming Plan

Using technical data, community feedback, and in keeping with the goals, objectives and principles set out in this policy, staff will finalize the preferred traffic calming design to be put forward as the recommended preferred traffic calming plan. In finalizing the preferred traffic calming plan, general consideration will be given to the various aspects of road design such as utility placement, landscaping, sign requirement and drainage.

If, during the detailed design stage, limitations are identified which challenge the feasibility of the plan, alternatives will need to be considered. This may include alterations or a re-development of the preferred plan. If significant or major changes to the plan are required due to design constraints, agencies and residents on the mailing list will be consulted and notified of any changes. If staff believe that the required modifications to create the detailed design result in a significantly different final design from that which was presented to residents, staff may recommend additional agency consultation, and/or public meeting.

6.12 Implementation of Traffic Calming Measures

Upon approval of Council, resident notification, and sufficient funding, traffic calming measures will be implemented. Residents will be notified of implementation timelines through the contact mailing list. Where feasible, staff may decide it is beneficial to phase in the traffic calming plan through the use of temporary or removable traffic calming measures such as pavement markings or flexible delineators. This will allow time to examine the impact of the measures and their effectiveness before committing funding to permanent treatments.

6.13 Evaluation and Monitoring

Engineering staff will monitor the roadway to determine the effectiveness of the utilized measures and their impact on the surrounding road network. This information will be used in recommending similar measures in the future. In addition to conducting before and after speed studies the Town will conduct studies to assess if the traffic calming plan has resulted in significant amounts of traffic diverting to adjacent, parallel streets in some cases. These after studies will be compared with the Town's 'before' studies to determine the change in traffic volume.

6.14 Removal of Traffic Calming Measures

Traffic calming devices may only be removed at the direction of Council through the Traffic Calming Removal process. Traffic calming measures must be installed for at least 2 years before starting the process to remove them.

A minimum of twenty-five (25) percent of property owners within the impact area must indicate their approval by signing the Traffic Calming Removal Request. The signatures must come from households with direct frontage or flankage onto the section of roadway that has been identified as the location for the potential implementation of traffic calming measures, as defined by Engineering Staff. Each household is represented by one signature, regardless of the number of people in the household.

When Staff receives a successful petition, a survey will be sent out to all the area residents who were initially surveyed. The survey will be delivered to the same residents as was initially done to gauge support for traffic calming. The survey must indicate majority of respondents surveyed agreeing to the removal for the process to continue.

If the results of the survey show a majority support for the removal, staff will consult with any pedestrian generator within a 1km radius of the traffic calming measure, as well as other known stakeholders for comment. The successful petition and stakeholder comments will be reported to Council for direction on the removal of traffic calming measures.

If a request to remove a single traffic calming device, within an overall traffic calming plan, is received, all traffic calming devices will be considered for removal. Depending on circumstances, it could be possible to remove a single device constructed as part of an overall plan, however, in most cases all devices work together to be effective and to ensure that traffic is not diverted where it should not be.

The Town reserves the right to remove traffic calming measures if it determines that they are ineffective or unsafe, or if they have created a negative impact that cannot be corrected.

If traffic calming devices are removed, the subject street must wait at least 2 years before requesting a new traffic calming plan; at this point the approval process will start over.

6.15 Special Provisions

Traffic Calming Process Initiation

Under certain circumstances the Traffic Calming Process may be initiated by Staff without; receiving a written request from a local resident, completing a Traffic Calming Pre-Screening Assessment or distributing a Neighbourhood Petition (Sections 6.2 to 6.4).

The Traffic Calming Process may be initiated by Staff:

- If changes to the transportation network within the Town of Pelham, the Niagara Region and neighboring municipalities have resulted in increased speed, pedestrian safety concerns and cut through traffic on local, collector and rural roads.
- Upon request from a school, school board, senior living centre, or other municipal committee.
- If operational issues including excessive speed, cut through traffic, and pedestrian safety problems have been observed, or known to exist.
- As directed by Council.

Traffic calming processes initiated by staff must complete the following sections prior to implementation:

- 6.5 Data Collection
- 6.6 Point Assessment
- 6.7 Initial Traffic Calming Design
- 6.8 Internal Comments
- 6.9 Public Information Centre
- 6.10 Resident Notification
- 6.11 Finalized Traffic Calming Plan
- 6.12 Implementation of Traffic Calming
- 6.13 Evaluation and Monitoring

Removal of Traffic Calming Measures

In certain locations where temporary traffic calming measures are installed and removed as part of a seasonal traffic calming plan, once the plan receives approval of Council, traffic calming measures may be installed and removed as directed by staff.

Appendix A – What is NOT Traffic Calming

According to the Canadian Guide to Neighbourhood Traffic Calming, prepared by the Institute of Transportation Engineers (ITE) and the Transportation Association of Canada (TAC) the following examples are not to be used to calm traffic:

Unwarranted All Way Stop

- Creates higher traffic speeds between stop signs. Studies have determined the speed is only reduced for 100 m on either side of the intersection.
- Results in poor compliance with stop signs due to driver frustration.
- Results in more frequent rear-end collisions caused by low percentage of motorists who actually do come to a complete stop.
- Requires frequent police enforcement as motorists do not stop, a drain on manpower resources.
- Potential risk to pedestrians **especially children and seniors** crossing an intersection, since not all motorists approaching an intersection will stop.
- Motorists get in the habit of stopping at unwarranted all-way stop locations, than assume at a 2 way stop cross traffic is going to stop and pull out in front of an opposing vehicle which results in a collision.

In light of the above, all-way stops should not be used as a tool to calm traffic. There are established criteria for all-way stop control based upon the numbers of pedestrians and vehicles sharing an intersection, the collision history and visibility. When these criteria are followed, risks are minimized and new safety concerns are not created. There have been numerous studies completed in North America which have validated all of the above findings.

40 km/h Speed Zone

- People travel at a speed they feel comfortable based on the environment though which they are driving regardless of the posted speed limit.
- Compliance with an artificially reduced speed is only achieved with consistent and visible police enforcement, a resource which is not always available.
- Collisions, when they occur, can be more significant due to the differences in speed between vehicles.
- Pedestrians may perceive the roadway to be safer due to the reduced speed limit. This false sense of security may lead pedestrians that are crossing the roadway to not be as cautious as they would be otherwise.

'Children at Play' Sign

- Many signs in residential areas, which are installed to 'warn' people of normal conditions, fail to improve safety.
- Warning signs can be effective tools if used sparingly and only to warn motorists of uncommon hazards that are not apparent to motorists.
- 'Children at Play' signs can give parents a false sense of security since motorists often disregard these signs.
- Children playing in the streets, while common place, is dangerous and prohibited in the Highway Traffic Act and the Traffic By-law.
- Since children live on nearly every residential block, 'Children at Play' signs would need to be placed on every roadway.
- Residential blocks with no signs might imply that no children live there, so it is acceptable to exceed the posted speed limit.

Speed Limit Sign

- The posted speed limits for roadways are typically established based upon recognized engineering criteria related to the roadway design.
- Posted speed limits, which do not match the characteristics of the roadway frustrate motorists and tend to foster aggressive driving habits. There are several examples where speed concerns exist primarily as a result of assigned speed limits that neither reflects the design speed nor the operating conditions of the roadway. Large discrepancies between posted speed limits and operating speeds can create a false sense of security for all road users, including pedestrians and places an additional enforcement burden on the Police.
- Reducing posted speed limits, without changing the characteristics of the roadway to encourage reduced speeds has been shown to have a minimal impact on vehicle operating speeds.
- Posted speed limits should be implemented in a consistent manner so that the speed limits maintain a level of credibility and compliance when the posted speed limit is applied properly. Reduced speed limits seem to provide the greatest result in situations when they are self-enforcing.
- Additional signage and/or adjusting the posted speed limit of a roadway are not considered to be traffic calming measures.

Rumble Strip

A Rumble Strip is a raised pavement section that can be closely spaced along a roadway at regular intervals. Rumble strips are a road safety feature used to caution inattentive motorists of potential danger. As the motorist travels over the rumble strips, the vehicle experiences both noise and vibration to alert the motorist.

They are typically installed along freeways and higher speed roadways to alert motorists that may begin to veer from the travel lane to the shoulder. Their purpose is to reduce the number of vehicles that depart the roadway; this is a common example of rumble strips used to enhance safety. Rumble strips can also be installed across the travel lane itself when unusual conditions exist ahead.

Rumble Strips can be installed along the travel lanes of a higher speed roadway that contains an isolated all-way stop controlled intersection. A motorist may grow accustomed to traveling at a certain speed and otherwise may not expect to stop; the purpose of the rumble strip is to alert the driver. This is a common example of rumble strips to alert motorists of a condition that is unusual to a specific roadway.

Rumble strips should not be used as traffic calming measures. These measures become less effective over time as the motorists grow accustomed to them. Rumble strips also increase noise levels for nearby residents and commonly require additional maintenance.

Speed Bumps

These measures should not be confused with speed humps. Speed bumps are vertical obstructions often found in privately-owned parking lots (shopping centers, schools, condominium complexes, parks, etc). Speed bumps typically measure between 75 mm and 100 mm in height and 3 m in length, and are often designed for a design speed that is much lower than a typical posted speed limit along a public roadway.

Traffic calming measures should be designed and implemented with the purpose that vehicles will be able to comfortably travel at the posted speed limit. In contrast, speed bumps require vehicles to travel much slower to attain a comfortable travel speed. The necessary braking and slow speeds can create a safety hazard, possibly causing rear- end collisions.

In summary, speed bumps should not be installed on public roads and are not considered to be a traffic calming measure.

APPENDIX B – Traffic Calming Techniques

PASSIVE & MITIGATION MEASURES

Passive traffic calming measures do not require construction of physical modifications to the roadway. Passive traffic calming often results in lower cost and prevents constructing a more-permanent change to the roadway. Physical (vertical and horizontal) traffic calming measures will be considered by the Town when either the passive measures have not alleviated the Neighbourhood concerns or the Town determines the need for their installation.

Passive traffic calming measures include education, targeted speed limit enforcement, radar trailer placement, dynamic speed display signs, and speed legends.

Education

Activities that change people's perceptions and help alter driver behaviour are most preferred. Meetings and workshops with neighbours and the Town can help implement and direct traffic calming applications. Most traffic problems are a result of human behaviour. Through outreach programs and Neighbourhood watch programs such as the Active and Safe Routes to School program, residents can play a big part in spreading the information.

Advantages:

- Flexible in the duration of meetings, workshops, etc.
- Inexpensive compared to other alternatives

Disadvantages:

- Difficult to measure the effectiveness
- May take time to be effective
- Potential challenge in generating citizen participation

Community Entrance Signs



The "Drive Slowly... Think of Us" sign is purely informational and as such, is intended to serve as a reminder to motorists that they are entering a residential area where the residents are concerned about the safety and integrity of the neighbourhood.

As the over use of any traffic control device or sign can have a negative effect on motorist activities, the Engineering Services Department limits the placement of community entrance signs using the following principles/guidelines:

Limits its installation to entrances to residential neighbourhoods off collector and arterial roadways where the neighbourhood experiences a degree of non-residential through traffic.

The sign is meant to serve as a reminder for motorists to "turn off" the highway driving mode and to be aware that they are entering a residential area where reduced speeds are required to negotiate vehicles entering and exiting driveways as well as the potential for children to be playing adjacent to the roadway.

Textured Pavement

Textured pavement and stamped asphalt can be used alone as a traffic calming measure or in combination with other physical measures. Drivers typically slow down when crossing textured pavement due to vibration created by the pavement surface. However, this also creates considerable noise that may be a disadvantage for neighbours.



Textured Pavement

Advantages:

- Pleasing visual aesthetics

Disadvantages:

- Noise pollution
- Higher cost
- Not as effective in reducing speeds



Textured Pavement

Targeted Speed Limit Enforcement

The Niagara Region, through the Niagara Regional Police (NRP), can provide targeted speed limit enforcement in response to identified operational issues. Targeted speed limit enforcement purpose is to make drivers more aware of their speed within a residential area. This measure typically only provides a temporary benefit, since speed limit enforcement is not available on a regular, on-going basis.

The Niagara Regional Police Service has set up a hotline to allow citizens to provide feedback on traffic safety issues. The hotline allows the public to provide information on where traffic is dangerous, problems you're encountering on the roads, and other traffic safety complaints. This initiative doesn't replace existing methods of dealing with accidents and other traffic issues, but serves as an additional way of reporting incidents you may have witnessed or become aware of. By the public and police working together, the Niagara Region becomes a safer place for everyone.

Speeding and other traffic issues may be reported to the NRP utilizing the traffic hotline: 905-688-4111, ext. 5555. Or website: <https://niagarapolice.formbuilder.ca/Public-Website/Traffic-Complaint>

Advantages:

- Does not require time for design
- Does not slow emergency vehicles
- Effective in reducing speeds in a short timeframe

Disadvantages:

- Effectiveness may be temporary
- Expensive to maintain a continued program of enforcement
- Fines lower than enforcement cost
- Time and resources constrained

Speed Display

A dynamic speed display sign performs the same function as a radar trailer, but is meant to be installed as a permanent device. Real-time speeds are relayed to drivers and flash when vehicle speeds exceed the posted speed limit. Dynamic speed display signs are typically placed in on a street for a period of 1 week. The Town has one (1) mobile unit which is rotated through a number of locations during the spring, summer and fall. A higher priority is placed on locations with younger or older pedestrians. Portable speed display signs can also be utilized but only for a short durations.

Advantages:

- Relatively Inexpensive
- Does not require time for design
- Does not slow emergency vehicles
- Effective in reducing speeds in a short timeframe

Disadvantages:

- Requires power source
- Requires staff for set-up and removal
- Only effective for one direction of travel

- Long-term effectiveness is uncertain
- Subject to vandalism



Portable Speed Display Sign

On Street Parking

Most roads within residential areas are built wide enough to allow on street parking on at least one side of the road. Area residents often create the opportunity to speed by introducing No Parking zones. Eliminating parked vehicles from your street significantly increases the width of the road and will increase the speed of local traffic. There have been studies done in North America which have shown the introduction of a No Parking zone increased the speed of traffic by 20%. On Street Parking is not permitted between November 1st and April 1st during Winter Operations.

Road Diet

A road diet refers to using pavement markings to make the travel portion of the road narrower, typically introducing bike lanes and or parking lanes. Passive speed control measures such as pavement markings attempt to change the fundamental sensory information available to drivers to influence their speed behaviour. By adding markings to the road, drivers' perceptions can be distorted creating the illusion that they are driving faster than they really are, persuading drivers to slow down. Additionally, the new road markings can serve as a warning sign; because these pavement patterns are mostly unfamiliar to road users, they violate driver expectancy causing motorists to decelerate.



Road Diet
(Including On Street Parking and Bike Lanes)

PHYSICAL VERTICAL DEFLECTION

Vertical traffic calming measures provide an obstruction that vehicles are able to travel over. The change in pavement height (and sometimes pavement materials) can cause discomfort to the occupants of vehicles that are exceeding the design speed of the traffic calming measure. It should be noted that most vertical traffic calming measures are not preferred along roadways that are emergency vehicle routes or transit routes.

To reduce the chances of potential liability issues, vertical traffic calming measures should be signed and marked in accordance with reference material provided by the Institute of Transportation Engineers (ITE) and the Neighbourhood Traffic Calming (TAC). Vertical traffic calming measures typically perform better when they are installed in a series, as opposed to a single isolated measure. The deceleration and acceleration of a vehicle, while negotiating a series of vertical traffic calming measures, is dependent on the number and spacing of the installations.

The implementation of vertical traffic calming measures can result in some traffic diverting onto parallel streets. This essentially moves the cut-through problem instead of solving it. Consideration should be placed on the concept of improving the Neighbourhood (not just improving the street).

Vertical traffic calming measures include speed humps, speed cushions, speed tables, raised crosswalks, raised intersections, and textured pavements.

Speed Cushion

Speed cushions are narrower speed humps that are typically installed in the center of each travel lane. Speed cushions typically are six (6) feet in width. Speed cushions typically range in length between seven (7) and ten (10) feet. Passenger vehicles will traverse the speed cushions in the same manner as a speed hump. However, emergency vehicles are able to straddle the speed cushions due to their wider wheel track. Thus, response times for emergency vehicles are not increased as much (if at all).

Advantages:

- Less expensive than speed humps
- Effective in reducing vehicle speed
- Does not impact emergency vehicle response time as much as speed humps

Disadvantages:

- Increases noise and air pollution in Neighbourhood
- Passenger vehicles with larger axle widths may be able to straddle the speed cushions
- May be damaged by snow plows



Speed Cushions

Raised Crosswalks

Raised crosswalks have a similar shape to a speed table, but the flat top contains a striped pedestrian crosswalk. These measures should be elevated to a height that matches the adjacent sidewalk, such that the raised crosswalk is flush with the curb or top of sidewalk elevation at each end. Raised crosswalks must be installed with the appropriate sidewalk transitions on both sides.

Advantages:

- Provides a more visible pedestrian crossing
- Quicker response time for emergency vehicles than speed humps
- Effective in reducing vehicle speed, but not as well as speed humps
- Addition of brick or textured materials can improve aesthetics



Raised Crosswalks

Disadvantages:

- More expensive than speed humps
- Increases response time for emergency vehicles
- Increases noise and air pollution in Neighbourhood
- May be damaged by snow plows

NOTE: Lack of sidewalk infrastructure may result in a raised crosswalk not being applicable in the Town. Raised crosswalks can be constructed without the presence of

sidewalks, as long as there are AODA- compliant pedestrian landing areas with detectable warning strips on both ends of the raised crosswalk

Speed Tables

Speed tables are flat-topped speed humps. Speed tables typically measure between three (3) and four (4) inches in height and 22 feet in length, with the flat portion being ten (10) feet in length. Speed tables are typically long enough for the entire wheelbase of a passenger car to rest on the flat top. Their long flat fields give speed tables higher design speeds than speed humps. The brick or other textured materials are usually used on the flat top to improve the appearance of speed tables, draw attention to them, reduce speed, and may enhance safety. Like speed humps, discomfort increases as the speed of the vehicle traveling over the hump increases. Speed tables are good for locations where low speeds are desired but a somewhat smooth ride is needed for larger vehicles.

Advantages:

- Quicker response time for emergency vehicles than speed humps
- Effective in reducing vehicle speed, but not as well as speed humps
- Addition of brick or textured materials can improve aesthetics

Disadvantages:

- More expensive than speed humps
- Increases response time for emergency vehicles
- Increases noise and air pollution in Neighbourhood



Speed Tables

Speed Humps

Speed humps are raised areas of pavement which are rounded on top and placed cross the entire street. Speed humps typically measure between 75 and 100 millimeters in height and 10m in length. The height and length of the speed hump determines how fast it can be navigated without causing discomfort to the driver. Discomfort increases as the speed of the vehicle traveling over the hump increases.

Advantages:

- Low Cost
- Effective in reducing vehicle speed

Disadvantages:

- Unsupported by Emergency Services
- Increases response times and damage to emergency vehicles
- Negative impact on Transit buses
- Increases noise and air pollution in Neighbourhood
- May be damaged by snow plows



Speed Humps

HORIZONTAL TRAFFIC CALMING MEASURES

Horizontal traffic calming measures incorporate raised islands and curb extensions to prevent vehicles from traveling in a straight line at excessive speeds. Vehicles either slow down while maneuvering around the horizontal obstacle, or slow down due to the physical perception of a narrower roadway. To reduce the chances of potential liability issues, horizontal traffic calming measures should be signed and marked in accordance with reference material provided by the Institute of Transportation Engineers (ITE) and the Transportation Association of Canada (TAC).

The implementation of horizontal traffic calming measures can result in some traffic diverting onto parallel streets. This essentially moves the problem instead of solving the problem. Consideration should be placed on the concept of improving the Neighbourhood (not just improving the street).

Horizontal traffic calming measures include Neighbourhood traffic circles, roundabouts, chicanes, lateral shifts, centre medians and curb extensions.

Curb Extension

Curb Extensions reduce the roadway width at intersections and midblock locations, thereby reducing speeds when drivers experience the physical perception of a narrow roadway. Curb extensions offer the more important benefit of improving pedestrian safety by providing a refuge and shortening the crossing distance. Curb extensions have been found to be very effective in school zones where they offer the third benefit of defining the parking area.

Advantages:

- Encourages a safer pedestrian environment by providing a shorter crossing distance and increased visibility
- Very effective in front of elementary schools in addressing pick-up, drop off parking issues
- Prevents parking too close to intersections keeping sight lines open
- Opportunity for landscaping and improved aesthetics

Disadvantages:

- Effectiveness is limited by the absence of vertical deflection and if traffic volumes are low
- Difficult for right-turning emergency vehicles
- Increased cost for maintenance of landscaping if it exists
- May require bicyclists to briefly merge with vehicular traffic



Curb Extension(s)

Curb Radius Reduction

The Curb Radius Reduction is the reconstruction of an intersection corner to a smaller radius. This measure effectively slows down right-turning vehicle speeds by making the corner 'tighter' with a smaller radius. A corner radius reduction may also improve pedestrian safety to a certain degree by shortening the crossing distance. This type of measure is acceptable primarily on local roads and to a lesser extent on collector roadways; its use is often limited to specific situations where the existing intersection geometry would allow the reconstruction. In addition, curb radius reductions should not be used on transit routes requiring a right turn.

Advantages:

- Shortens pedestrian crossing time
- Forces vehicles on approach to come to a full stop

Disadvantages:

- Large axle vehicles are unable to negotiate the turn without driving over the sidewalk

Neighbourhood Traffic Circle

Neighbourhood traffic circles are raised islands placed in intersections, forcing traffic to circulate around the raised island. The traffic circle is typically circular in shape and can include landscaping within the raised island. The raised island in the center of the intersection typically measures between 16 and 24 feet in diameter. Neighbourhood traffic circles can be controlled by YIELD signs on all approaches, STOP signs on all approaches, or a combination of free-flow conditions along the major street and STOP signs along the minor street. Traffic circles prevent drivers from speeding through intersections by impeding the through movement. Neighbourhood traffic circles are most effective when there is vertical planting material in the center. This adds to its visibility to the driver and provides aesthetics to the Neighbourhood.

Advantages:

- Effective in reducing vehicle speed
- Can reduce severity of motor vehicle collisions
- Opportunity for landscaping and improved aesthetics

Disadvantages:

- Difficult for left-turning emergency vehicles
- Possible need for right-of-way, depending on size of raised island
- Increased cost/labor for maintenance of landscaping



Neighborhood Traffic Circle

Center Island Median

Center island medians are raised islands located along the centerline of a street that narrow the travel lanes at that location. The presence of a median, resulting in a smaller roadway width, reduces speeds when drivers experience the physical perception of a narrow roadway. The medians can be landscaped to provide visual amenity.

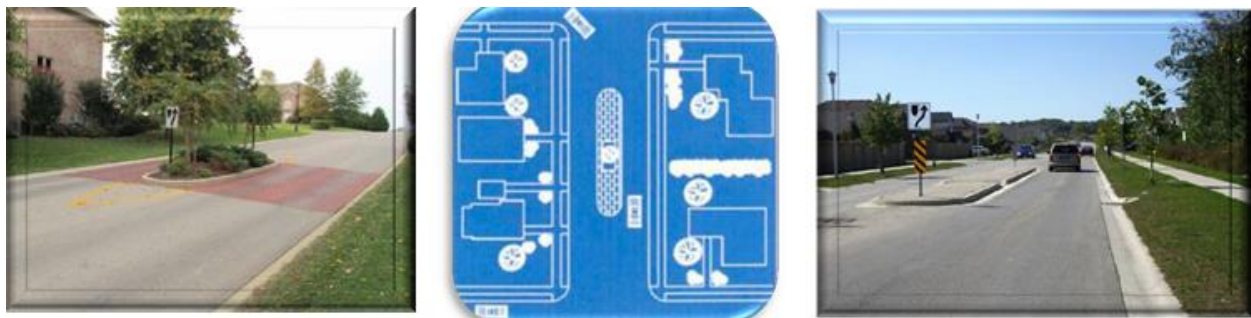
The median island can act as a "gateway" when placed at the entrance to a neighbourhood. A median island of adequate width can also be referred to as a "pedestrian refuge" if located at a crosswalk and the median is accommodating for pedestrians.

Advantages:

- If designed well, can have a positive aesthetic value
- Opportunity for landscaping and improved aesthetics

Disadvantages:

- Effectiveness is limited by the absence of vertical deflection
- May interrupt driveway access to adjacent properties
- Increased cost for maintenance of landscaping



Centre Island Median(s)

Chicane

Chicanes are curb extensions that alternate from one side of the street to the other, creating S-shaped travel patterns. Raised landscaped islands or delineators are usually provided at both ends of a chicane in order to enhance the drivers awareness of the need for a lateral shift.

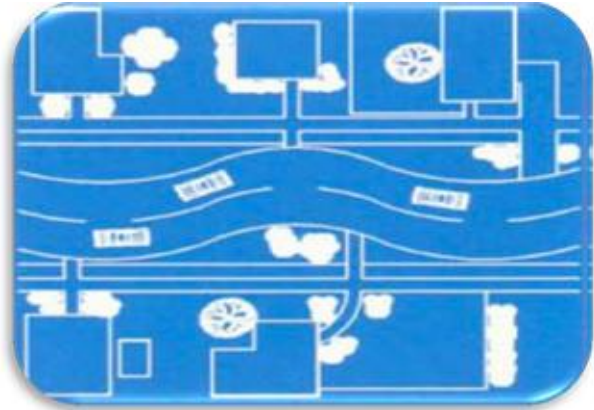
Along a section of roadway that contains a chicane; off-street parallel parking may be restricted along property frontages due to curb and gutter.

Advantages:

- Discourages high speeds by forcing horizontal deflection
- Easily negotiable by emergency vehicles
- Opportunity for landscaping and improved aesthetics

Disadvantages:

- Must be designed carefully to discourage drivers from deviating out of the appropriate lane
- Curb realignment and landscaping can be expensive, especially if there are drainage issues
- Increased cost for maintenance of landscaping



Chicane

Lateral Shift

Lateral shifts can be described as one half of a chicane. Curb extensions or pavement markings are provided on otherwise straight streets that cause travel lanes to bend one way and then bend back the other way to the original direction of travel. With the appropriate degree of deflection, lateral shifts are one of the few measures that have been used on collectors or even arterials. When high traffic volumes and high posted speed limits prevent the use of other traffic calming measures, lateral shifts can be considered.

Advantages:

- Can accommodate higher traffic volumes than many other traffic calming measure
- Discourages high speeds by forcing horizontal deflection
- Easily negotiable by emergency vehicles
- Opportunity for landscaping and improved aesthetics

Disadvantages:

- Must be designed carefully to discourage drivers from deviating out of the appropriate lane
- Curb realignment and landscaping can be expensive (pavement markings are less expensive)
- Increased cost for maintenance of landscaping



Lateral Shift - With Road Paint

Roundabouts

Unlike traffic circles, roundabouts are larger and typically require additional right-of-way. The central island diameter of a single-lane roundabout can measure between 55 and 110 feet. Roundabouts require raised splitter islands to channel approaching traffic to the right. Roundabouts are found primarily on arterial and collector streets, often substituting for intersections that are controlled by traffic signals or all-way stop signs.

Advantages:

- Moderates traffic speed on an arterial, collector, or local road
- Enhanced safety compared to a traffic signal
- Less expensive to operate than a traffic signal Opportunity for landscaping and improved aesthetics

Disadvantages:

- May require major reconstruction of an existing intersection
- Increases pedestrian distance from one crosswalk to the next
- Difficult for visually impaired pedestrian to navigate
- Increased cost for maintenance of landscaping



Roundabout(s)

Curb Face Sidewalk

A curb face sidewalk is a wider than normal sidewalk retrofitted into an older area of the Town where putting a sidewalk in standard location would eliminate or damage a number of mature trees. The sidewalk is primarily built on the existing road bed, narrowing the road.

Advantages:

- Removes the pedestrians from the road improving pedestrian safe
- Narrowing the road will slow some drivers down
- No trees need to be remove

Disadvantages:

- May have to eliminate on street parking
- Expensive
- Reduced snow storage, difficult to clear large windrows



Curb Face Sidewalk

PHYSICAL OBSTRUCTION

Physical obstructions are the most severe traffic calming tool and are only used when it is determined a vertical or a horizontal measures won't address the identified problem. The primary purpose of physical obstructions is to eliminating short-cutting traffic by stopping specific vehicle movements. It is important to note that physical obstructions are intended to deter motor vehicle traffic only and not to obstruct bicycle or pedestrian traffic. These types of measures are typically implemented at intersections, but may also be applied at some mid-block locations.

Obstructions range from those that have a relatively minor impact on vehicular access to those that severely restrict access such as a road closure. It is important to remember once the vehicle restricted movement is in place area residents have to live with it every day.

Directional Closures

Directional closures are created using a curb extension or other barrier that extends into the roadway, approximately as far as the centerline. This device obstructs one side of the roadway and effectively prohibits vehicles travelling in that direction from entering. Directional closures are especially useful for controlling non-compliance of one-way road sections and are compatible with other modes such as bicycles.

At all directional closures, bicycles are permitted to travel in both directions through the unobstructed side of the road; however, some directional closures have a pathway built through the device specifically for bicycles. Since their purpose is to prevent short-cutting traffic, directional closures are applicable for use on local streets and minor collectors, at their intersection with collectors and arterials

Advantages:

- Directional closures typically result in about a 40% reduction in traffic volumes
- There may also be a reduction in travel speeds around the intersection
- Eliminates right angle collisions

Disadvantages:

- Restricts resident access to the neighbourhood
- May divert significant volume of traffic to parallel streets without traffic calming measures
- Could not be implemented without a larger traffic impact study

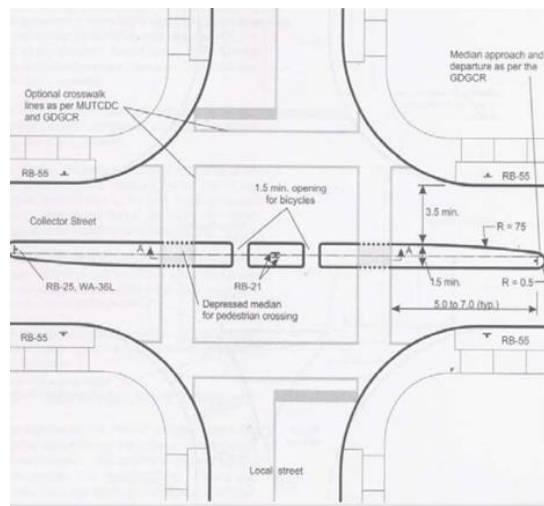


Directional Closure – Restricted Neighbourhood Access

Raised Median Through Intersection

These devices may be used on the centerlines of local and collector roadways to prevent left-turn and through movements to and from intersecting streets. This type of device is especially effective at preventing short-cutting and through traffic while providing some secondary pedestrian safety benefits.

The advantages and disadvantages are the same as the directional closure.



Raised Median Through Intersection

Right-In / Right-Out

Right-in/right-out islands are raised triangular islands located on an intersection approach to limit the side street to right turn in and out movements. Similar to a raised median through an intersection, this device is used primarily to restrict movements to and from an intersection roadway.

Right-in/right out islands may be considered only for use in locations where local residential streets intersect another roadway of any class. The island needs to be designed properly or vehicles will drive left around it.

The advantages and disadvantages are the same as the directional closure.



Right-in / Right-out

Diverter

A diverter is a raised barrier placed diagonally across an intersection that forces traffic to turn and prevents traffic from proceeding straight through the intersection. Diverters can incorporate gaps for pedestrians, wheelchairs and bicycles and can be mountable by emergency vehicles. The purpose of a diverter is to obstruct short-cutting or through traffic.

Advantages:

- Diverters can result in a 20% to 70% reduction in area-wide traffic volumes, depending on extent of diverters used

Disadvantages:

- Restricts resident access to the neighbourhood
- May divert significant volume of traffic to parallel streets without traffic calming measures
- Could not be implemented without a larger traffic impact study



Traffic Diverter

Full Closure

A full closure is a barrier extending the entire width of a roadway, which obstructs all motor vehicle traffic along the roadway. A closure can change a four-way intersection to a three-way intersection, or a three-way intersection into a non-intersection. Gaps can be provided for cyclists and they are typically passable by emergency vehicles. The purpose of a full closure is to eliminate short-cutting or through traffic.



Full Closure

Advantages:

- Eliminates all short-cutting or through traffic

Disadvantages:

- Restricts resident access to the neighbourhood
- May divert significant volume of traffic to parallel streets without traffic calming measure
- Could not be implemented without a larger traffic impact study

APPENDIX C – Traffic Calming Form Letters

20 Pelham Town Square
PO Box 400
Fonthill, On
L0S1E0

Date:

**PETITION LETTER
IMPORTANT INFORMATION REGARDING
NEIGHBOURHOOD TRAFFIC CALMING REVIEW PETITION**

Please read before signing petition

The Town of Pelham has initiated this petition to evaluate who is interested in initiating a traffic calming review at the following location:

Pelham Staff Note: Insert Street Name and extents (to/from) before sending and attach policy

To initiate a review of whether or not the above-noted street warrants traffic calming, a petition, indicating support, is required. The Town of Pelham has provided the attached copy of the traffic calming petition and the Town's Traffic Calming Policy to the resident initiating the request for a review. The focus of the petition is to determine if there is support from adjacent residents for Town staff to perform an investigation of traffic concerns on the above-noted roadway.

The results of the petition must show support from at least 25% of the households with direct frontage onto the roadway to be investigated. Each household is represented by one signature, regardless of the number of people in the household (an apartment/condo would count as one household). Failure to meet the 25% support level will result in termination of the investigation. Please note that you should indicate on the petition whether or not you support the request for a review. If you are neutral and do not feel strongly either way, please check off the 'neutral' box: neutral answers will be considered as not supporting the initiation of a review.

Initially passive measures will be used by the Town for a 1 year period in an attempt to address the identified operational traffic issues. If the outcome of the Town's 1 year review indicates the problem still exists than physical traffic calming measures are warranted, all affected residents (households), as determined by the Town, will have the opportunity to indicate whether or not they support any future proposed physical traffic calming measures.

After the Town develops a traffic calming plan, the Town will conduct a public meeting to explain the plan, at which point residents will have the opportunity to provide their input. Following the public meeting, the traffic calming plan will be modified, as required.

If you have any additional questions or comments please contact:

Assigned Public Works Staff

(905) 892-2607 ext. XXX
Publicworksstaff@pelham.ca
www.pelham.ca

20 Pelham Town Square
PO Box 400
Fonthill, On
L0S1E0

**PETITION LETTER
IMPORTANT INFORMATION REGARDING
NEIGHBOURHOOD TRAFFIC CALMING REMOVAL PETITION**

Please read before signing petition

The Town of Pelham has supplied this petition to a concerned resident who is interested in initiating a traffic calming removal petition at the following location:

Pelham Staff Note: Insert Street Name and extents (to/from) before sending and attach policy

To initiate a review of whether or not the above-noted street warrants traffic calming removal, a petition, indicating support, is required. The Town of Pelham has provided the attached copy of the traffic calming removal petition and the Town's Traffic Calming Policy to the resident initiating the request for a review. The focus of the petition is to determine if there is support from adjacent residents for Town staff to perform an investigation to remove the traffic calming devices

The results of the petition must indicate a majority of the total surveys delivered to residents with direct frontage onto the roadway to be investigated. Each household is represented by one signature, regardless of the number of people in the household (an apartment/condo would count as one household). Failure to meet the majority support from residents within the impact area will result in termination of the investigation. Please note that you should only sign the petition if you agree the devices should be removed.

If a request to remove a single traffic calming device, within an overall traffic calming plan, is received, all traffic calming devices will be considered for removal. Depending on circumstances, it could be possible to remove a single device constructed as part of an overall plan, however, in most cases all devices work together to be effective and to ensure that traffic is not diverted where it should not be. The Town reserves the right to remove traffic calming measures if it determines that they are ineffective or unsafe, or if they have created a negative impact that cannot be corrected. The Town will mail out a notification and advertise in local newspapers informing of its decision to remove traffic calming measures

If traffic calming devices are removed, the subject street must wait at least 2 years before requesting a new traffic calming plan; at this point the approval process will start over.

If you have any additional questions or comments please contact:

Assigned Public Works Staff

(905) 892-2607 ext. XXX
Publicworksstaff@pelham.ca
www.pelham.ca

Traffic Calming Removal Request

Citizen Representative Information

Name: _____

Street Address: _

Telephone: _____

Email: _

Signature: _____

Date: _

The Citizen representative is requesting that the Town of Pelham consider the removal of traffic calming measures along the following roads:

_____	between	_____	and	_____
_____	between	_____	and	_____
_____	between	_____	and	_____

Select the concerns that apply and provide a brief description of the concerns

☐ Speeding

☐ Traffic Volumes

☐ Cut-through traffic

☐ Crashes

☐ Pedestrian Safety

☐ Bicycle Safety

☐ Large Trucks

☐ Other

Brief Description of Concerns:

--

The undersigned concur with the request for the traffic calming measures made by the citizen representative. Only one signature per property is permitted. In order for this request form to be reviewed, a majority response in favour is required from property owners. Any signatures without valid addresses will be voided. This petition can only be circulated to homes contacted as part of the original traffic calming survey.

Name	Street Address	Signature

Town of Pelham Office:
905-892-2607 Ext. 332
pelhamstaff@pelham.ca
www.pelham.ca

APPENDIX D – Traffic Calming Point Assessment

TRAFFIC CALMING POINT ASSESSMENT

Location:

Date Compiled:

Roadway Type:

Local

Collector

Traffic Data

	<u>Feature</u>	<u>Range</u>	<u>Criteria</u>	<u>Total</u>
1a.	Speed	0 to 35	5 points for every 2 km/h that the 85 th percentile speed is greater than 10 km/hr over the speed limit	
1b	High Speed	0 to 5	5 points if minimum of 5% of daily traffic exceeds posted speed by 15-20 km/hr	
2.	Volume	0 to 20	Local Roadways: 5 points for every 1,500 ADT Collector Roadways: 5 points for every 2,000 ADT	
3.	Short-Cutting Traffic	0 or 15	5 points if there is a presence of 25% or more short-cutting traffic, additional 5 points for every 10% increment above 25%.	
4.	Collisions	0 to 10	1 point for every 2 collisions/year over a 3 year period	

Road Characteristics

	<u>Feature</u>	<u>Range</u>	<u>Criteria</u>	<u>Total</u>
5.	Sidewalks	0 or 10	10 points for no sidewalks with evidence of pedestrian activity, 5 points for sidewalks on only one side	
6.	Pedestrian Generators	0 to 15	5 points for each nearby* pedestrian generator such as a school, playground, community centre, libraries, retail centres, etc.	

Total

	Does the location meet the minimum requirements		
	Local roadway = minimum 35 points		
	Rural roadway = minimum 45 points		
	Collector roadway = minimum 52 points	YES	NO



Solution Title:	Neighbourhood Traffic Management Policy	
Last Updated:	April 7, 2014	S801-02

HOW MIGHT WE:

How might the Town of Pelham provide a policy that deals with neighbourhood traffic operational issues such as stop signs, pavement markings, speeding, traffic infiltration and aggressive driver behaviour.

KEY FACTS:

PURPOSE:

1. To provide an objective policy to evaluate requests for Town staff resources and capital expenditures related to traffic operational issues on streets under the jurisdiction of the Town.
2. To provide a consistent process for planning neighbourhood traffic management that are defensible, traceable, effective and efficient.

POLICY CONSTRAINTS

1. The policy may be affected by the availability of Town staff, capital funding, design constraints, traffic calming standards and comments from other departments and agencies.

DECISION MAKING PROCESS

1. The policy allows the affected neighbourhood to be involved with staff in the decision making process. The initial screening process evaluates requests at an early stage to ensure that they comply with the policy.

SOLUTION STATEMENT:

It will be the policy of the Town of Pelham to deal with neighbourhood traffic operational issues such as stop signs, pavement markings, speeding, traffic infiltration and aggressive driver behavior in a consistent and objective manner that is defensible, traceable, effective and efficient.

Subject: Steve Bauer Trail Hard Surfacing between
1106 Line Avenue and Port Robinson Road

Recommendation:

BE IT RESOLVED THAT Council receive Report #2020-0080 for information; and THAT Council approve the Steve Bauer Trail Hard Surfacing project to proceed in 2020 as part of the 2020 Road Base Repair Program.

Background:

In 2017, as part of a Provincial incentive to improve cycling infrastructure, the Province of Ontario created the Ontario Municipal Commuter Cycling grant program to help fund capital works projects for municipalities to improve cycling in their community. The grant would cover approximately 75% of the project cost, with the municipality funding the remainder. The project identified must be completed by the end of 2020.

The project was included as part of the 2019 Capital budget under project # RD 05-19 but was red-circled by Council. In July of 2019, Staff presented a report to Council requesting that the red-circle for the project be lifted so that the Town could take advantage of the grant funding. Council passed a resolution to refer the project back to the Pelham Active Transportation Committee for endorsement prior to considering the project moving forward.

Analysis:

Paving the Steve Bauer Trail between these limits is identified in the Active Transportation Master Plan as a priority goal to improve cycling and walking connectivity between the neighboring municipalities of Welland and Thorold. The Pelham Active Transportation Committee is an additional advocate of this project and supports it moving forward. (See minutes of Pelham Active Transportation Committee (PATC) dated June 18th, 2019).

The current funding is expected to cover the cost to pave between 800 – 1000 m of trail.

The Town of Pelham has recently received a Draft Application of Subdivision for the Kunda Park Subdivision – Phase 4. Although this application is in the initial phases it will most likely impact the Steve Bauer Trail from approximately 400 m north of Merritt Road towards Port Robinson Road.

As a result, Staff recommend that the paving of the Steve Bauer Trail stop short of the Kunda Park Phase 4 development. (See Appendix A – Proposed Project Limits). The Town can consider paving of the remaining portion of the trail at a future date or make it a condition of the subdivision agreement to have the developer be responsible for the trail construction and paving.

The proposed trail will include a 2 - 3 m wide paved platform (and will extend from the south limit (at the Welland / Pelham municipal border) on Line Avenue to approximately 350 m north of Merritt Road. The total length of the paved portion of pathway will be approximately 900 m.

Based on the Minimum Maintenance Standards (MMS) and Pelham's Winter Operations Policy paved sidewalks and multi-use paths are cleared of snow and ice. Due to the fact that this is a recreation trail public works staff will post signs that the trail is not maintained in the winter months (between November and March) and that the public uses the recreational trail at their own risk. Therefore, the paved portion of the trail will not be regularly cleared of snow and ice in accordance with the MMS.

In order to take advantage of the grant monies received through the Ontario Municipal Commuter Cycling grant program the project must be completed by the end of 2020. It is Staff's intention to include this work as part of the 2020 Road Base and Asphalt Patching program tender as a provisional item. In the event that the project is over budget modifications can be made to reduce the length of the project to remain within the allotted budget.

Financial Considerations:

The Town of Pelham was successful in receiving \$75,416.00 to complete one of four projects submitted at the time of the grant application. The project that was selected and endorsed by the PATC was the paving of the Steve

Bauer Trail. Staff have confirmed that this is the project that the Committee would like to see move forward. The Town is required to commit \$24,584.00 to complete the paving of the Steve Bauer Trail from Port Robinson Road to 1106 Line Avenue. This project was red-circled in the 2019 Capital Roads budget, as Project # RD-05-19.

The deadline to complete this project and take advantage of the grant received from the Province is December 31st, 2020.

It is Staff's intention to include this project in the tender for the 2020 Base Repair and Asphalt Patching program as a provisional item to receive competitive pricing in accordance with the Town's procurement policy P303-00.

Alternatives Reviewed:

Other projects that were considered for this grant are as follows:

- 1) Paving of the Spur Line, from Station Street to the Thorold Boundary;
- 2) Re-surfacing Canboro Road to remove the rumble strips along the south edge of pavement; and
- 3) Installation of all "Share the Road" signage throughout the Town.

The preferred project which has been endorsed by the PATC was the hard surfacing of the Steve Bauer Trail between 1106 Line Avenue and Port Robinson Road. The project is also identified as a priority project as part of the Pelham Active Transportation Master Plan.

Council could decide not to proceed with the project; however, this would result in the loss of \$75,416 in grant funding from the Province of Ontario.

Strategic Plan Relationship: Build Strong Communities and Cultural Assets

Having a strong and accessible active transportation network throughout the Town helps build strong communities and promotes healthy living for the residents of Pelham.

Other Pertinent Reports/Attachments:

Pelham Active Transportation Committee Minutes of Meeting, dated June 18th, 2019. (Attached)

Appendix A – Proposed Project Limits (Attached)

2019-0033 Report Regarding the Paving of the Steve Bauer Trail between 1106 Line Avenue and Port Robinson Road

Consultation:

In the preparation of this report consultation was completed with the Pelham Active Transportation Committee; Public Works Operations Staff; Engineering Staff; Planning Staff; and Corporate Services Staff.

Legal Consultation, If Applicable:

No legal consultation was completed in the preparation of this report.

Prepared and Recommended by:

Jason Marr, P. Eng., Director of Public Works

Approved and Submitted by:

David Cribbs, Chief Administrative Officer

**Pelham Active Transportation Committee
Minutes**

Tuesday, June 18, 2019, 6:00 p.m.

Location: Town Hall

- 1. Attendance:** Bea Clark (Chair), Brian Baty (Vice Chair), Lisa Gallant, Rhys Evans, Bob Fish, Dave Nicholson, Barbara Rybiak, Councillor John Wink, Regional Councillor Diana Huson. Staff: Tolga Aydin Guests: Barbara Wiens, Director, Planning and Development, Curtis Thompson, Planner
Regrets: Lisa Gallant, Joe Marchant

2. Call to Order and Declaration of Quorum

Declaring that a quorum was present, Chair Clark called the meeting to order.

3. Adoption of Agenda

Moved by: B. Fish

Seconded by: D. Nicholson

THAT the agenda for the June 18, 2019 meeting be adopted.

Carried

4. Disclosure of Pecuniary Interest and General Nature Thereof

None.

5. Approval of the Minutes

Moved by: B. Baty

Seconded by: D. Nicholson

THAT the minutes from the May 14, 2019 meeting be approved.

Carried

6. Business Arising from Minutes – May 14, 2019

6.1 2019 Budget Follow-up re Pelham Street, North and Lathrop

Tolga reviewed the design drawings with the committee. The project is soon going to tender.

6.2 Input regarding OMCC funding

Committee members agreed that the paving of the Steve Bauer Trail from Port Robinson Road to Quaker Road remains the priority for this funding.

Moved by: B. Baty

Seconded by: R. Evans

The PATC recommends that the OMCC funding be used, as originally intended to pave the section of the Steve Bauer Trail between Port Robinson Road and Quaker Road. Paving this section of the trail will provide a critical commuter cycling route within Pelham, and to destinations such as Niagara College and adjacent cycling routes in Welland. Paving this section will make the trail accessible for vulnerable road users including pedestrians, cyclists and those using assistive devices.

CARRIED.

6.4 Review of AT Masterplan subcommittee update

Brian reported that the subcommittee held an initial meeting to develop a workplan.

6.5 Lathrop property access update

Deferred.

6.6 PATC input regarding new developments

TOP staff Barb Wiens, Director, Planning and Development and Curtis Thompson, Planner, presented the committee with information about the planning and approval process for new developments. Information about development charges was also shared. Barb agreed to provide the PATC with notices and information about new developments, allowing the PATC to provide input during the early phases of new plan development and reviews.

Action:

Director Wiens will forward information to the PATC Chair for distribution to committee members. She will also provide additional information about development charges as they relate to AT requirements.

6.7 Joint meeting with Welland and Thorold AT committees

Members discussed the meeting with the Thorold AT committee members and indicated it was an informative and worthwhile meeting. There is considerable interest in achieving the completion of the Thorold/Fonthill/Welland trail routes and linkages.

Action:

Bea will advise the Chair of the Thorold AT committee that a meeting date in October is suitable.

6.8 Downtown Revitalization Grant

Deferred.

7 Committee Events and Reports

7.1 Farmers' Market – June 6

The feedback received from residents was reviewed. It will be added to the feedback we receive at Summerfest and will help the PATC identify AT priorities.

7.2 Canada Day Parade – July 1

Bea will send information when it is available. Expect to gather at A. K. Wigg school between 2 and 3pm, prior to the commencement of the parade.

7.3 Pelham Summerfest – July 20

Plans are set for the Active Zone. Committee members will be able to sign up for shifts for the event.

Action:

Bea will send out a sign-up sheet.

7.4 Slow Rolls

Share the Road's Justin Jones reported at a recent ATNN meeting that some municipalities have had more success with slow roll rides when a summer student has been hired to organize AT events such as walks and slow rolls. Committee members agreed that this be included in the PATC budget request for 2020.

7.5 Active School Travel Planning

St Alexander's students organized and hosted its first, and very successful, Walk and Bike to school day on May 31st. TOP staff Jason Marr and Craig Genessee participated, with Craig providing gift cards to children who wore their helmets while cycling to school.

8 New Business

8.1 Pedestrian Safety at Crossings

Bob highlighted several situations that pose a safety risk for pedestrians, including the timing of the pedestrian signal at Highway #20 and Station Street and the pedestrian crossing at Church Hill Street and Pelham Street. Bob urged the PATC to continue to advocate for improved safety at these and other pedestrian crossings. It was suggested that this item be included in the PATC's priorities for this term.

8.2 Mapping signed loop rides

Deferred

8.3 Canada Trails

Committee members discussed this grant opportunity. The chair reviewed the requirement to follow process when opportunities such as this arise. Decisions to apply for funding or indicate interest on behalf of the Town of Pelham must be

made by Town staff and/or Council, depending on the nature of the grant. The PATC may advise staff or Council on any AT opportunities that are identified.

8.4. Niagara Cycling Clubs Alliance offer to assist

A letter from the Alliance was shared with members. (attached) The committee appreciated the offer of assistance and will contact the Alliance when Pelham's Bicycle Friendly Community application must be renewed.

Action:

Bea will send a thank you letter to the Alliance.

9 Development of PATC Priorities 2019-2022

Bea led an exercise with members to identify PATC priorities for this term. The draft goals and priorities will be reviewed at the September meeting.

10 Adjournment

Moved by: D. Nicholson

Seconded by: B. Gibson

**THAT the meeting of PATC Committee be adjourned until the next meeting.
Carried**

The meeting was adjourned at 8:10 p.m.

Next meeting

Tuesday September 17, 2019 6:00-8:00 p.m.

2019 Meeting Schedule

October 22, 2019

November 19, 2019

December 17, 2019

2020 Meeting Schedule

January 21, 2020

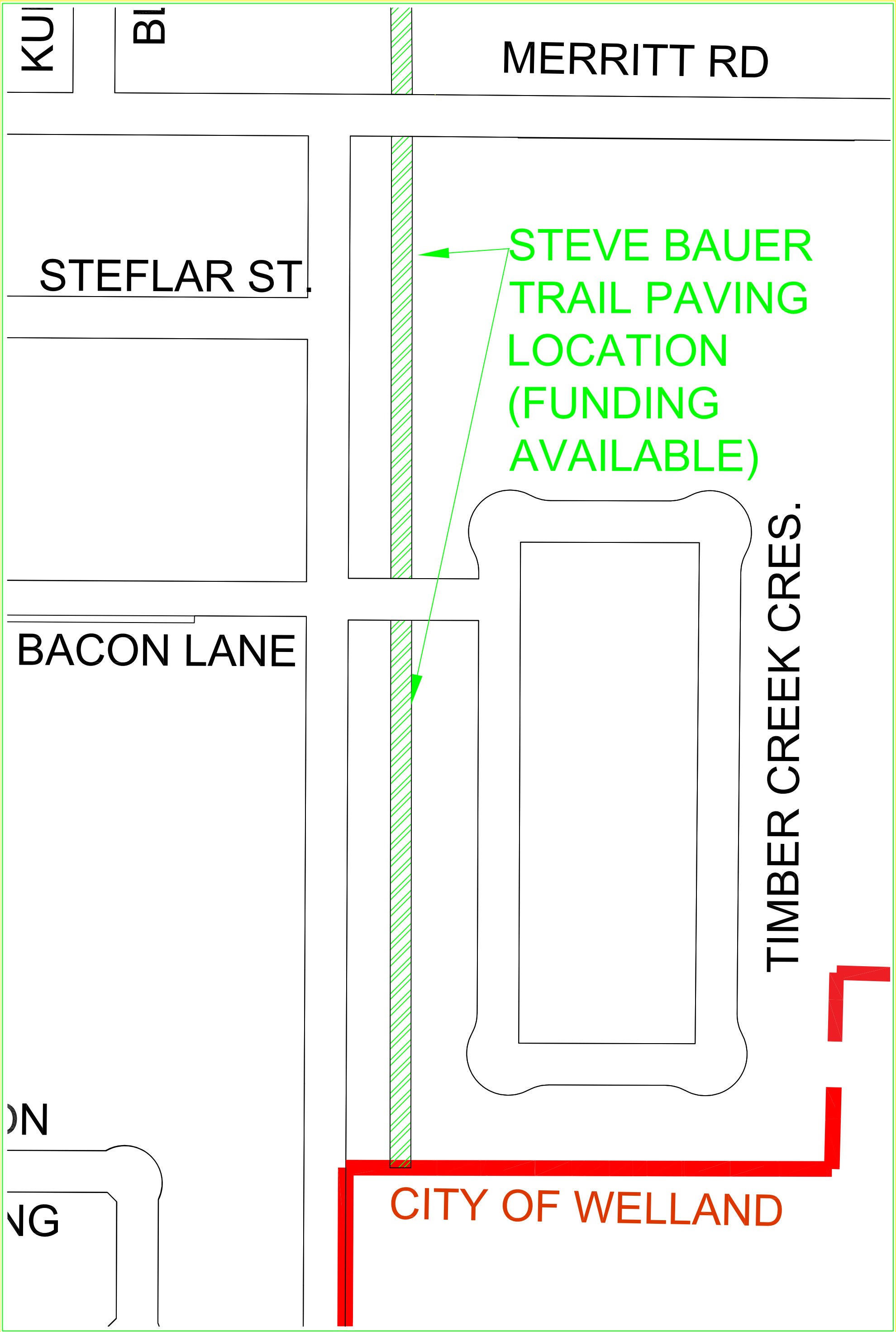
February 18, 2020 – reschedule to February 11 or 25

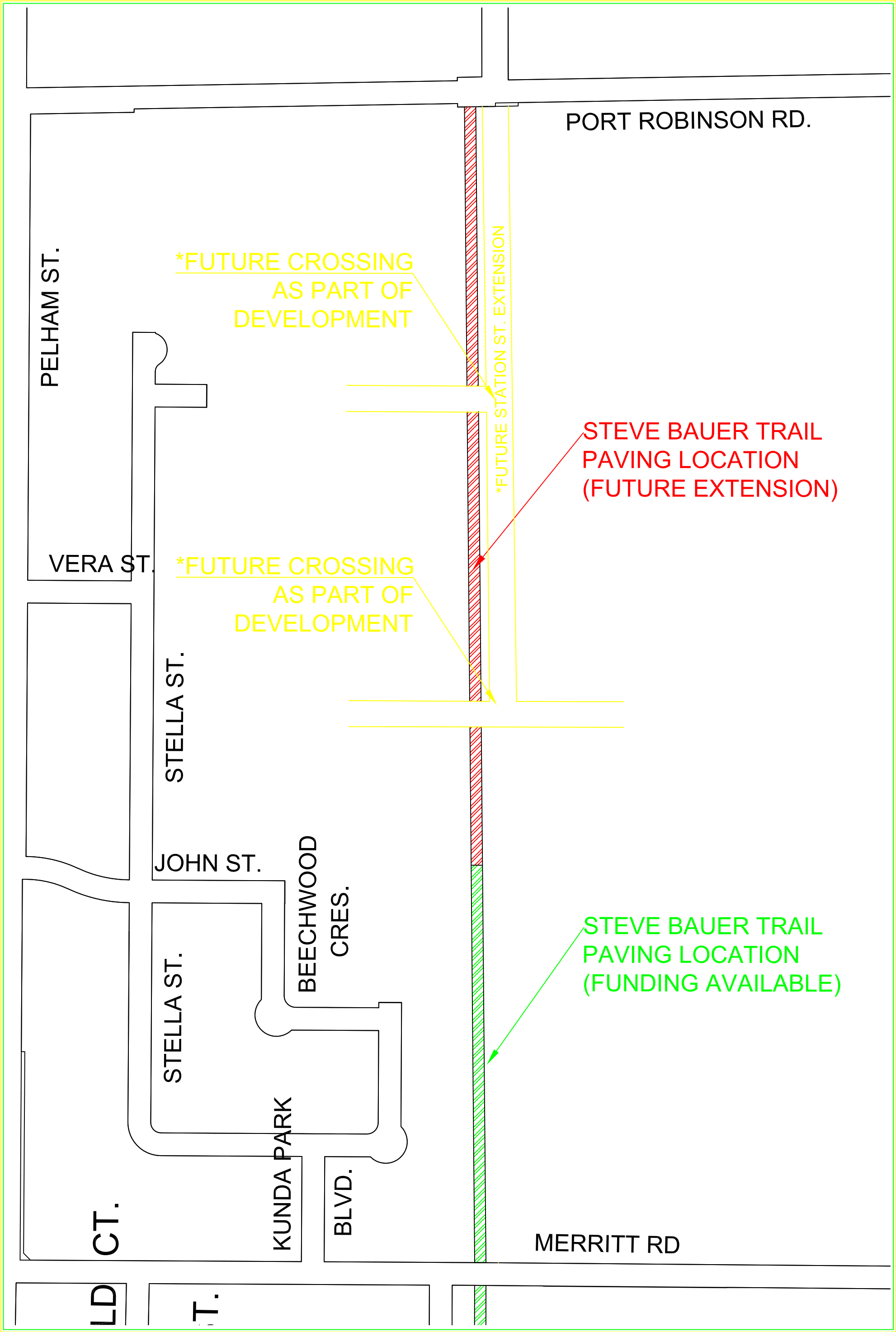
March 17, 2020

April 21, 2020

May 19, 2020 conflict – reschedule to May 12, 2020

June 16, 2020







ADR
CHAMBERS

Integrity Commissioner Office
for the Town of Pelham

June 1, 2020

Sent by email to:
Nancy J. Bozzato
Town Clerk
20 Pelham Town Square
Fonthill, ON L0S 1E0
Email: nbozzato@pelham.ca

**Re: Complaint Reference Number IC-154-0220
Ronald Kore and Marvin Junkin**

Dear Ms. Bozzato:

I wish to advise that my investigator (Mr. Michael Maynard) who was delegated by me pursuant to sections 223.3(3) of the *Municipal Act, 2001*, to investigate and report on the subject matter of this complaint (subject to my review and approval) has now completed his Report, a copy of which is attached to this letter. Mr. Maynard has determined that contraventions of the Town's Code of Conduct were committed by Mayor Junkin with respect to certain of the matters raised in the complaint.

A copy of this extensive and detailed Report has been provided to the Mayor for his comments which have been reviewed by Mr. Maynard and myself. A copy of this Report has, in accordance with the Town's investigation protocol, also now been provided to the Complainant.

I can advise that throughout this matter I have fully reviewed the process and results of the investigation as well as the Report and its recommendations, and I am in agreement with and endorse them.

I would also advise that, in accordance with section 223.6(2) of the *Municipal Act, 2001* of Ontario, all matters disclosed in the Report are necessary for the Report itself.

I am providing this Report to you for presentation to Council in open session in accordance with the provisions of the Municipal Act and the Town's Code and investigation protocol. Would you please advise when this has been completed.

This matter is accordingly now concluded.

Yours very truly,

Edward T. McDermott
Integrity Commissioner for the Town of Pelham



ADR
CHAMBERS

Integrity Commissioner Office
for the Town of Pelham

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

June 1, 2020

SENT BY EMAIL TO:

Councillor Ron Kore: rkore@pelham.ca

And to:

Mayor Marvin Junkin: mjunkin@pelham.ca

And to:

Nancy Bozatto, Town Clerk: NBozzato@pelham.ca

**Re: Complaint Reference Number IC-154-0220
Mayor Marvin Junkin**

Dear Mr. Kore and Mr. Junkin:

1.0 Delegation of Investigative Powers

Pursuant to a written delegation of powers dated February 5, 2020, Edward T. McDermott ("Mr. McDermott" or the "Integrity Commissioner"), in his capacity as Integrity Commissioner for the Town of Pelham ("Pelham" or the "Town"), 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 (the "Complaint") described herein.

This Complaint was deemed received by the Integrity Commissioner on February 5, 2020.

2.0 The Complaint

2.1 Matters at Issue

The Complaint is brought by Councillor Ron Kore ("Councillor Kore", or the "Complainant") against Mayor Marvin Junkin ("Mayor Junkin", the "Mayor", or the "Respondent") (collectively, the "Parties").

The Complainant alleges that the Respondent breached the *Code of Conduct* in several ways. His allegations are summarized as follows:

1. That Mayor Junkin contravened the *Municipal Act*, 2001 and the Town's *Procedural By-law* (and thereby contravened the *Code of Conduct*) by improperly convening meetings of Council (first in-person and then later by email) to consider a proposed donation to the Fonthill Concert Bandshell Committee (the "Bandshell Committee");
2. That by improperly convening such meeting(s) (as noted, *supra*), the Mayor improperly attempted to conceal from the public the potentiality of the donation being made by the third-party company;
3. That the Mayor improperly solicited donations from businesses in the Town on behalf of the Bandshell Committee to fund the Bandshell renovation project;
4. That the Mayor disparaged Councillor Kore when, in replying to an email in which Councillor Kore had asserted that the Mayor's informal approach to Councillors in respect of the potential third-party company donation to the Bandshell Committee (as noted in points 1 and 2, *supra*) amounted to a "back room deal", the Mayor referred to such assertion by the Councillor as the "height of silliness";

2.2 Code of Conduct

Pursuant to the direction of the Integrity Commissioner, the Complainant identified the following sections of the *Code of Conduct* in relation to the above enumerated matters as being at issue in his Complaint:

4.0 General Obligations

4.1 In all respects, Members shall:

[...]

- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Town's Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (f) refrain from making statements the Member knows or ought reasonably to know to be false or with the intent to mislead Council or the public;
- (g) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings; and
- (h) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

10.0 Improper Use of Influence

- 10.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial

aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

12.0 Council Policies and Procedures

12.1 Members shall observe and adhere to the policies, procedures and rules established by Council.

3.0 Preliminary Issues: Jurisdiction and Coordination with the Ontario Ombudsman

3.1 Jurisdictional Question

In late February through early March 2020, communication was established with the Office of the Ontario Ombudsman who had advised the Integrity Commissioner that the Ombudsman was in receipt of a Complaint involving certain matters which were also included in (and potentially overlapped with) the Complaint submitted to the Integrity Commissioner.

This circumstance gave rise to a jurisdictional question as to which office would process the particular matter involving the allegation that the Mayor had convened an improper meeting of Council by approaching several other Members of Council at an in-person event on the question of the third-party donation (as referenced *supra* at page 2). It was also confirmed that the Ombudsman, pursuant to a decision made in another matter, had already found that emails between Members of Council do not constitute meetings of Council under the *Municipal Act*¹, and accordingly are not subject to the open meeting requirements of that statute (notice to public, minutes, etc.).

It was ultimately determined by the Integrity Commissioner in a written decision dated March 6, 2020, that the issue of whether the Mayor had **held an improper meeting of Council** contrary to the *Municipal Act* and the Town's *Procedural By-law* as alleged in this Complaint fell under the jurisdiction of the Ombudsman, who the Integrity Commissioner knew to have been engaged in the matter by

¹ <https://www.ombudsman.on.ca/resources/reports-and-case-summaries/municipal-meetings/2019/city-of-hamilton>

way of having received a similar (or perhaps identical) complaint from the Complainant in respect of the same factual allegations.

It must be noted that this position of the Integrity Commissioner (i.e. to defer this question to the Ombudsman) did not pre-suppose the Ombudsman's determination in this matter, including whether to proceed with an investigation thereof. It was clear, however, that the Ombudsman had received a complaint with respect to this issue and had jurisdiction to determine it.

Additionally, the Integrity Commissioner determined that the question as to whether the email exchange allegedly initiated by the Mayor constituted an improper closed-door meeting of Council contrary to the *Procedural By-law* was outside of the Integrity Commissioner's jurisdiction, as the Integrity Commissioner is not the appointed Closed-Door Meeting Investigator for the Town.

But even if it were not outside of the Integrity Commissioner's jurisdiction, the cited case decided by the Ontario Ombudsman², in which the Ombudsman determined an email exchange between Council Members does not constitute a meeting of Council, is compelling and in our view correct.

The question however remains as to whether the Mayor attempted to improperly conceal information from the public through his alleged email to other Members, and thereby contravened the provisions of the *Code* referred to above. After careful consideration, it is our view that such allegations do fall within the jurisdiction of the Integrity Commissioner to determine.

3.2 Determination on Jurisdiction

Accordingly, the following matters in the Complaint remain the subject of inquiry and determination by the Integrity Commissioner: (i) the email exchanges in respect of the potential third-party company donation to the Bandshell Committee and any *Code* implications arising therefrom; (ii) the alleged solicitation of funds by the Mayor for the Bandshell Committee, as well as the allegations relating to the disbursement of those potential funds back to the Town of Pelham; and, (iii) the alleged disparagement of Councillor Kore by the Mayor.

² Ibid

4.0 The Investigation Process

The investigation into this matter involved a review of written statements and documentary evidence from the Complainant, who provided the totality of his evidence in writing. Written statements were also received from the Respondent, who additionally took part in a telephone interview on April 21, 2020.

Written materials which were reviewed in this matter include:

(i) the Complainant's statements detailing the events upon which the Complaint is predicated, and the Respondent's response thereto; (ii) copies of emails exchanged between the Parties (and other third-party individuals, including, *inter alia*, other Members of Council and Town Staff); (iii) excerpts from a newspaper article published in *The Voice of Pelham* on November 7, 2017; (iv) excerpts from the relevant by-laws of the Town, including the *Code of Conduct* and *Procedural By-law*;

5.0 Statements and Evidence

5.1 General Background Information

The following background information is provided to set the scene for the matters at issue in this Complaint.

In the Town of Pelham, a citizen-led Bandshell Committee, which has been operating for some period of time, organizes regular musical events at Peace Park, which is a Municipal park in the Town of Pelham.

The Bandshell Committee is not a committee of the Municipality; that is, the Municipality does not control the Bandshell Committee or its activities, nor does it appoint members thereto. However, it is understood that the Bandshell Committee and the Town work together in partnership when necessary, as the Bandshell Committee organizes events for the benefit of the community, and such events take place on Town property at Peace Park.

The Bandshell Committee has been working towards making certain improvements to Peace Park in support of their events and proposed a \$75,000.00 refurbishment plan to the Town. The plan was ultimately approved by the Town,

with the Bandshell Committee being responsible for undertaking to raise the necessary funds to complete the improvements.

However, it was also agreed that the Town would pay for certain up-front costs associated with the refurbishment in order for the work to be done quickly, with the understanding that the fundraising efforts of the Committee may take longer to bear fruit. Accordingly, to the extent the Town incurred up-front costs for the refurbishment, any funds raised by the Bandshell Committee's efforts would then be used to pay back the Town for its financial support.

As noted in the Bandshell Committee's fundraising literature (which was provided by Mayor Junkin), the Town also agreed to support the project by conducting some of the work itself (e.g. doing the locates) and by "[...] offering charitable receipts for all donations over \$10".

More information about the arrangement between the Town and the Bandshell Committee regarding the improvements at Peace Park can be found on the Town of Pelham's website³.

The above historical facts are understood to be undisputed by the Parties.

5.2 The Complainant's Submissions

On January 9, 2020 at 10:22 p.m., Mayor Marvin Junkin sent an email to Councillor Kore and two other Members of Council, as follows:

Back in August, I sent to several Town businesses a request on behalf of the Band Shell Committee, for a donation to fund the improvements. One of the companies to respond was [a local Cannabis Company, (hereinafter "Cannabis Co")]. They are willing to donate 25,000.00 to the bandshell, with no strings attached, to show they are trying to be a good corporate citizen.

Because this discussion does not fit the criteria, it cannot be discussed in-camera, and it was decided by David [the Town CAO] and I **that perhaps we really wouldn't want to discuss this in open session, so just this once we would**

³ <https://www.pelham.ca/en/news/peace-park-construction.aspx>

make a decision by email, outside of Council. I spoke to Mike, John, and Bob [other Members of Council] tonight at the MCC, so they already know the situation. **If you decide to communicate by email to discuss this donation, so be it, I don't want to know about it.**

So the question is... Should Council accept this donation. It will be paid to the Bandshell Committee, which in turn will use it to pay us back the money we loaned them.

If you have any questions, feel free to contact me. I have told [a Bandshell Committee member] that I would have the answer for her by Saturday evening, so I would appreciate each of you to email your decision by Saturday afternoon.... thanks... marv

[additions added] [**emphasis** added]
[word and paragraph spacing edited for ease of reading]

On January 10, 2020 at 7:34 a.m., the Complainant, Councillor Kore, replied by email (with copies to the CAO and other Members of Council) as follows:

Good morning,

Morally we should not accept a donation from [Cannabis Co] or any other cannabis industry in our community, and to think there are no strings attached? What message are we sending to our community? This kind of decision should be debated in chambers, in full view of the citizens. We talk about transparency and then it appears we are making a back room deal here. I am totally not in favour of making decisions like this.

Thank you

Ron

At 12:52 p.m., on January 11, 2020, the Mayor again emailed Members of Council:

My informal poll is complete, and I will be informing [Member of the Bandshell Committee] that Council does not want the Bandshell Committee to accept this donation...
marv

At 6:49 p.m. the same day, the Complainant forwarded the above 12:52 p.m. email from the Respondent to the other Members of Council. Then at 7:09 p.m., he replied to the Mayor (with copies to all other Members of Council), stating:

Good evening

Please don't insult my intelligence. I will be passing your email over to the Pelham Voice and also to the chairperson of the cannabis committee and ask them if they think it's a poll or a back room deal with [Cannabis Co].

Thank you

At 10:43 p.m. the same day, the Mayor replied by email:

Ron... I have talked to Dave Burket [a Voice of Pelham reporter] Just now, and have sent an email to the chair of the ccc [Cannabis Control Committee, a Committee established by the Town of Pelham], hoping to talk to him tomorrow. Is there anyone else you think I should talk to??... marv

[additions added] [word and paragraph spacing edited for ease of reading]

On January 13, 2020 at 8:20 a.m., Councillor Kore emailed the Mayor, other Members of Council, and the CAO, stating:

Good morning,

I am not sure you realize the severity of what your email implied. Saying that the discussion of a \$25,000 donation from [Cannabis Co] did not fit criteria for in-camera and

you did not want to discuss it in an open forum. That is wrong. We don't do back room deals, that is one of the things the former council did, not us. I think you knew it was wrong when you said.....only this one time we will do this. We took an oath and vowed to be open and transparent when making decisions that affect our community and through this email, you asked us to basically break our oath and the code of conduct.

Thank you

Ron

At 8:27 a.m. on the same day, the Mayor replied by email (recopying all recipients):

Well Ron, when I explained this event to Dave Burket and Tim of ccc [Cannabis Committee], they both kinda yawned and more or less shrugged it off, as have the majority of Council ..You calling it a back room deal is **the height of silliness...** marv

[**Emphasis** added]

Based on the information contained within the above email exchanges, the Complainant has advanced the view that the Respondent breached the *Code of Conduct* in several ways⁴, which, leaving aside the matters already determined by the Integrity Commissioner to be excluded from consideration in this present matter, are summarized as follows:

- 5.2.1 - *Code Section 4.1 (c) – Members shall...seek to advance the public interest with honesty;*

The Complainant asserts that the Respondent breached *Code of Conduct* provision 4.1 (c) by attempting to conceal the matter of the third-party

⁴ As noted, the issue of whether the Respondent breached the *Code* by holding an improper meeting of Council contrary to the *Procedural By-law* is not before the Integrity Commissioner as the inquiry into such matter has been deferred to the Ontario Ombudsman.

donation to the Bandshell Committee's Peace Park project through private conversations and emails out of the public view, which the Complainant describes as, "[...] a dishonest act that undermines the public interest."

The Complainant further states that: "[...] redirecting funds through a third party is an attempt to keep the public from understanding the actions of and benefits to the town in receiving funds."

On this point, the Complainant concludes that:

"Mayor Junkin's intention was to keep the public from learning that [Cannabis Co] was the Town's benefactor. A fact that would prove distasteful to the public given the negative impact of [Cannabis Co's] cannabis operation and their legal action against the town of Pelham."

- 5.2.2 - Code Section 4.1 (f) – Members shall...*Refrain from making statements the Member knows or ought reasonably to know to be false or with the intent to mislead Council or the public;*

The Complainant points out that in his email to Members of Council, the Respondent "[...] invites Members [of Council] to 'communicate by email to discuss this donation' and attempts to excuse himself from any wrongdoing by stating: 'I don't want to know about it.'"

The Complainant asserts that: "The statements made in the email message [...] are intended to mislead, confuse and divide Members of Council and the public."

- 5.2.3 - Code Section 4.1 (g) – Members shall...*accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings;*

The Complainant asserts that in his initial email, "Mayor Junkin openly admits that he is disrespecting Council's decision-making process by stating [in that email]:

'Because this discussion does not fit the criteria, it cannot be discussed in -camera, and it was decided by David [the Town's CAO] and I that perhaps we really wouldn't want to discuss this in open session, so just

this once we would make a decision by email, outside of Council.'"

The Complainant further asserts that Mayor Junkin also disrespected the decision-making process "[...] by requesting that Council make a decision by emailing him and avoiding a discussion in open Council."

- *5.2.4 - Code Section 4.1 (h) – Members shall...refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member;*

On this point the Complainant asserts that Mayor Junkin, "[...] dismissed my concerns and insulted me in the process," (i.e. by referring to the Complainant's concerns as the "height of silliness").

- *5.2.5 - Code Section 10.3 – [...] Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds;*

The Complainant pointed out that Mayor Junkin admitted to directly soliciting funds for a charitable purpose when he stated in his email that:

"Back in August, I sent to several town businesses a request on behalf of the Band Shell (sic) Committee, for a donation to fund the improvements."

The Complainant further asserted that the Mayor did not maintain an arms-length relationship in respect of the financial aspects of the third-party donation, and subsequently that he participated in "[...] both a decision concerning the disbursements of those funds and [in] determining [the] beneficiary."

In this respect, the Complainant pointed out that the Mayor stated in his email the intention that the donation would be paid to the Bandshell Committee by the donor, and then be used to pay back the Town of Pelham for the money which had been advanced to the Bandshell Committee for the Peace Park improvements.

- *5.2.6 - Code Section 12.1 - Members shall observe and adhere to the policies procedures and rules established by Council.*

The Complainant concluded that, due to the above noted issues outlined in his Complaint, Mayor Junkin "[...] failed to observe and adhere to the Town's *Code of Conduct* and the [*Procedural*] *By-law*."

5.3 The Respondent's Submissions

Mayor Junkin responded to the allegations of the Complainant by way of a letter dated February 14, 2020, in which he broke the Complaint into two sections for his response: first, he responded to what he considered to be the issue of the "[Cannabis Co] vague offer of a \$25,000 donation"; and, secondly to the issue he describes as the "[a]sking of various businesses to donate to a community cause."

- *5.3.1 - Communications with Councillors re: the potential donation (Code sections 4.1 (c), (f), (g), (h))*

The Mayor provided the following response:

As stated by Councillor Kore, I sent an email to [Cannabis Co] in early September informing them of a community project that they might want to contribute to, and by doing so, showing the community that they are a good corporate citizen. Because of their history in this Town with the severe odour and light emissions, I thought they would welcome the opportunity to show that they could be a good corporate neighbor. At a meeting in Town Hall in late October, the CEO of [Cannabis Co] indicated that the company would perhaps, at some point in the future, be willing to contribute to this project. Knowing their history with the previous fundraising obligation with Project Share, a charity in Niagara Falls, I was somewhat dubious that this potential offer would even be fulfilled. There was at no time any cheque offered nor any definite timeline offered for payment.

Sometime after this conversation, it occurred to me that it would be prudent of me, as head of Council, to get a feel from the rest of Council concerning this hypothetical offer. After discussing options with the town CAO David Cribbs, it was at this point that I decided to do an unofficial poll of Council. At no time was this an agenda item, nor did I see it becoming one as it was so vague an offer to begin with.

The Mayor went on to describe that he had seen three Members of Council at an event where the Mayor was performing an official duty. The Mayor described approaching those three Members and asking for their opinions as to "[...] how they would feel about accepting any money from [Cannabis Co] if it turned out to be a solid offer sometime down the road."

The Mayor stated that on the same night he sent an email to all three remaining Councillors (i.e. those who he had not spoken with at the event) "[...] asking them if they would be in favor of accepting any money from [Cannabis Co]."

According to the Mayor:

"Councillor Kore replied with an email that appeared to me to border on an attempt to blackmail me, threatening to show the emails to two other individuals."

In response to this reply from Councillor Kore, the Mayor recounted that he:

"[...] promptly contacted these individuals, one being the editor of our Town's newspaper and neither one saw any fault in my actions."

[Note: The other individual referenced is the Chair of the CCC, per the email records]

The Mayor then contacted Councillor Kore again to see if there was anyone else the Councillor thought the Mayor should contact.

From that point, Councillor Kore "[...] expressed his thought that I was attempting a backdoor deal" and the Mayor replied that such an assertion was, in his view, "[...] the height of silliness."

The Mayor stated that there was a need for the issue to be expedited, as a member of the Bandshell Committee, with whom the Mayor had discussed the potential [Cannabis Co] donation, was intending to make reference to such in a report which would have been presented by him/her to Council at a public Council meeting on January 13, 2020 in an attempt to publicize the potential donation which would then have made it difficult for the donor to back out of. However, the Mayor's view was that if Council would be opposed to accepting such a donation in any case, it would amount to "a moot exercise".

The Mayor stated that after he learned of Council's collective opinion on receiving such a donation from [Cannabis Co], he then advised the Bandshell Committee member in question to "[...] drop the company's name from [the] list of donors."

The Mayor asserted that if, on the other hand, Council had voted to accept the donation, the matter would have been publicly disclosed that evening through the delegation of the Bandshell Committee member, who was, according to the Mayor, intending to reference the matter in a report to Council. The Mayor asserts, therefore, that such circumstances negate "[...] Councillor Kore's incorrect assertion that this would have been a backdoor deal."

In his written submissions on this point, the Mayor lastly asserted that:

"[...] when [Cannabis Co] mentioned this offer, there were no dates set for it to be finalized, nor any concrete amount mentioned. It was a hypothetical offer, nothing more. Because of this vagueness and the fact that at no time was it on any upcoming agenda, I did not feel this item was off limits, as per the Municipal Act."

In his oral submissions, the Mayor provided greater general insight into the background of the Bandshell Committee, the Peace Park improvements, and other contextual information, and additionally reinforced his position which had been communicated in writing.

Regarding the potential [Cannabis Co] donation, the Mayor stated that the company had suggested they could potentially donate up to \$25000.00 for a specific aspect of the park refurbishment (specifically, that [Cannabis Co] would pay to install lights with a value of approximately \$25,000.00), but that this was never set in stone, and it came as a "side bar" in discussions the Mayor was having with the company related to other business in November 2019.

The Mayor acknowledged that his January 9, 2020 email to Members of Council stated that the company was "[...] willing to donate \$25000.00" but took the position that such statement did not accurately reflect the situation, and should have said something less definitive, such as that they "might be willing to donate \$25,000."

With respect to his comment to other Members of Council (on January 9, 2020) that "[...] **it was decided by David [CAO] and I that perhaps we really wouldn't want to discuss this in open session**", the Respondent stated that he felt the offer was "oblique" and he believed it would be a waste of Council's time to consider something which, in his view, might never crystallize.

With respect to his comment to other Members of Council (on January 9, 2020) that "[...] **just this once we would make a decision by email, outside of Council,**" the Mayor stated that he was merely looking for consensus on an idea, not to make a formal decision of Council.

With respect to his comment to other Members of Council (on January 9, 2020) that, "**If you decide to communicate by email to discuss this donation, so be it, I don't want to know about it,**" the Mayor stated that he merely meant he was not concerned about how Council Members arrived at their decision. He advised that his thinking at the time was that: (a) it was unlikely that this potential donation would actually be made;

and (b) that this situation was not really a "big deal" and therefore he did not want to be "bogged down" by the back-and-forth details.

The Mayor denied any intent to hide this issue from the public, stating that the Bandshell Committee's intent was to reveal the potential donation publicly to encourage [Cannabis Co] into following through and actually make the donation.

With respect to his comment to Councillor Kore that certain of the Councillor's comments in respect of this matter were the "**height of silliness**", the Mayor stated that he does not believe such comments to be particularly insulting. He reiterated his position that the issue of the potential donation was "trivial" and accordingly he believed "Councillor Kore was blowing this out of proportion."

Among the materials submitted by the Mayor were the various emails involving Members of Council who responded to the Mayor's January 9, 2020 email. It is noted from these materials that all Members of Council determined that the donation from [Cannabis Co] should not be accepted.

However, in addition to both the unanimous rejection of the proposal, it is further noted that Councillor Lisa Haun (like Councillor Kore) also expressed her concerns with the Mayor's approach, stating:

"I [...] do not agree to voting about this via email. This should be debated properly and publicly inside council chambers. In my opinion we are setting ourselves up for a future scandal otherwise. You sent us the email using your town email address for this "off the books" council decision so it should be noted that all of this is potentially FOI-able. If this is not made public now then once this hits the paper at a later date it will tell the public we are not being transparent in our decision making."

- *5.3.2 - Solicitation of Donations (Code section 10.3)*

With respect to the issue that he improperly solicited funds from local businesses, the Mayor confirmed that he contacted local businesses (either

personally or via email) to inform them of the Bandshell Committee's park refurbishment plan and the opportunity to donate to it.

The Mayor further took the position that his activity in this instance is similar in nature to "[...] the previous Mayor holding a Mayor's gala, then donating the proceeds to local charities."

He stated that he "[...] had no idea that anyone could take offence to this action, and from all businesses contacted, [he] had nothing but favourable responses [...]"

When asked why he reached out to businesses for donations to this cause, the Mayor stated that he viewed it as his role "[...] to build and strengthen relationships so that we can work together to support and encourage the feeling of community," and further stated that:

"Making businesses aware of such opportunities, (sic) only provides them with options that they may not be aware of to help enhance the Town of Pelham."

6.0 Analysis and Decision

6.1 Issues

The questions to be answered by the investigation are:

1. Did the Respondent breach section 4.1 (c) of the *Code*?
2. Did the Respondent breach section 4.1 (f) of the *Code*?
3. Did the Respondent breach section 4.1 (g) of the *Code*?
4. Did the Respondent breach section 4.1 (h) of the *Code*?
5. Did the Respondent breach section 10.3 of the *Code*?
6. Did the Respondent breach section 12.1 of the *Code*?

6.2 Decision

On the basis of the evidence presented in this matter, and for the reasons set out below, it has been determined through this investigation that the Respondent did contravene sections 4.1 (c); 4.1 (f); 10.3; and (technically) 12.1 of the *Code of Conduct* (although section 12.1 is redundant in this case and overlaps with the other sections).

It is further determined through this investigation that the Respondent did not contravene sections 4.1 (g); or 4.1 (h) of the *Code of Conduct*.

As previously noted, the Complainant's allegation related to section 4.1 (b) of the *Code* is excluded pursuant the Integrity Commissioner's decision on preliminary jurisdictional issues as outlined (*supra*).

6.2.1 - Did the Respondent breach section 4.1 (c) of the Code?

Section 4.1 (c) of the *Code* requires Members to "seek to advance the public interest with honesty".

Whatever the Mayor's underlying rationale may have been, it is clear that he intended to keep the notion that Council ought to consider [Cannabis Co's] potential donation to the Bandshell Committee's project (which would have resulted in that Committee repaying monies to the Town for its advance of funds to the Committee for the Bandshell renovation project) off the public agenda and away from public scrutiny.

While the Mayor later described his actions as the taking of an "informal poll" the language employed in his January 9, 2020 email made it very clear that he wanted a "decision" of Council to be made "by email, outside of Council", with such decision-making process to occur "just this once."

However, it was not until after he was pressed by Councillor Kore (and Councillor Lisa Haun) regarding his utilization of this procedure for engaging Council on this matter that he referred to his method as an "informal poll", which he then did by way of reply emails to individual Council Members on January 11, 2020.

Prior thereto, there was no indication in the language employed by the Mayor that this was informal or merely an "informal poll".

However, whether the later reference to his question to Council being an "informal poll" was intended to cover for having made an ill-advised request of Council to consider public business off the books (as the Complainant asserts), or whether it was simply to clarify language as to his real intention the second time around (as the Respondent asserts), the fact remains that the Mayor initially engaged his fellow Councillors to "make a decision" via a process which could have resulted in the very fact that Council even *considered* the potential [Cannabis Co] donation being concealed from the public.

This action does not in my view, nor in the view of the Integrity Commissioner, attain the standard proscribed by section 4.1 (c) of the *Code*.

I also do not find in favour of the Mayor's position that the matter would have appeared on the public agenda in any event if the response of Council had been favourable to the proposal (and therefore would have been made public eventually).

While it may be true that a favourable response by Council to the proposed donation might have resulted in the matter coming on the public agenda eventually, a decision of Council (whether for or against) requires such decision to be made in accordance with its procedural by-laws and statutory requirements. It is therefore by definition Council business, and accordingly the public's business, and should have been dealt with in a public manner.

There is nothing in the *Code of Conduct* stating that Council must support a proposal in order for the *Code's* provisions to be engaged. Whether Council would accept or reject this donation, the matter remains of public interest (particularly as it involves the eventual repayment of funds to the public coffers by the recipient (i.e. the Bandshell Committee) which had been advanced the money by the Town for improvements to a public park).

Accordingly, irrespective of Council's ultimate decision on this issue, it should not have been concealed from the public. To even attempt to do so does not, in my view, nor in the view of the Integrity Commissioner, meet the requisite standard set out in the *Code*.

As the Mayor initiated this discussion with Council, and proposed this method of decision-making, he bears responsibility for the breach of the *Code of Conduct* such actions represent.

6.2.2 - Did the Respondent breach section 4.1 (f) of the Code?

Section 4.1 (f) of the *Code* requires Councillors to "refrain from making statements the Member knows or ought reasonably to know to be false or with the intent to mislead counsel or the public".

I find the Respondent also breached this section of the *Code*, but not for the reasons put forward by the Complainant.

The Complainant asserts that the Mayor breached this section of the *Code* by asking Members to vote by email, discuss the matter amongst themselves if they wanted, and that if they did so, by advising them that he did not want to be a part of it. He claims these comments were intended to mislead Council.

I do not find the Mayor's comments to be intentionally misleading or representative of some deceitfulness toward Members of Council.

However, there is an instance in later emails within the exchanges between the Mayor and Members where some misdirection on the Mayor's part, in my view, occurred.

As noted, the Mayor initiated a process whereby his Council colleagues were, by his request, asked to debate and decide on a matter of public interest by email. Two of his Council colleagues (Councillors Kore and Haun) pointed out to the Mayor their disagreement with his approach. It was after that point the Mayor altered the language by which he referred to his intentions.

Whereas the Mayor initially asked his colleagues to make a "decision by email, outside of Council", he subsequently advised them two days later, after receiving negative feedback on that approach to governance from two of his colleagues on Council, that his efforts simply represented an "informal poll".

That, in my view, was a misleading characterization of his original proposition to deal with the matter via email and outside of the public's view.

I am not persuaded by the Mayor's position that he was merely untidy or imprecise in the language he first employed, and that I ought instead to believe the truth is represented in his subsequent framing of the question that his efforts were merely an invitation to informal polling.

I note, for instance, that the Mayor did not appear to attempt to clarify his intentions after receiving the feedback from Councillors Kore and Haun; rather, he appears simply to have attempted to pass it off as some informal polling once all the feedback had been received.

I find that this change in language being employed by the Mayor is, on a balance of probabilities, more likely to have been an attempt to recover from an ill-conceived decision to potentially conceal (depending on the outcome) the matter from the public, than it was a simple rephrasing of his true intentions which had been disclosed in a detailed email to his fellow Councillors two days prior.

By that reading of the facts, it necessarily follows that the language later employed by the Mayor to revise the essence of what he had actually asked his colleagues to do represents an instance of making a misleading statement to other Members of Council, contrary to section 4.1 (f) of the *Code*.

6.2.3 - Did the Respondent breach section 4.1 (g) of the Code?

This section of the *Code* requires Members to "accurately communicate decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings".

It is my view, and that of the Integrity Commissioner, that this section is very particularly applied, and specifically relates to decisions Council has already made. It requires that any decision(s) of Council, and the process by which Council made such decision(s), be respected, even if the Member disagrees with the decision(s). The implication in the wording of this section is that the decision(s) contemplated under this section have already been made.

Accordingly, this section does not apply to the matters at issue in this case.

6.2.4 - Did the Respondent breach section 4.1 (h) of the Code?

This section requires Members to "refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member".

The Respondent referred in his response email to the Complainant's concerns about the (herein recounted) decision-making process as the "height of silliness", which the Complainant claims to be disparaging of him, and accordingly contrary to the *Code*.

The Respondent, however, indicated that he does not believe this language to be particularly insulting.

I agree with the Mayor and do not find it to be particularly insulting either, and certainly not such that it rises to the level of "disparagement" that it would trigger a *Code of Conduct* violation.

The language employed by the Respondent did not attack the Complainant's character or directly insult him as a person; rather, it cast the Complainant's legitimate concerns in a negative light. While it is certainly not the most productive language the Mayor could have employed to voice his disagreement with the Councillor's position, it can hardly be characterized as a "disparaging comment about another Member".

Accordingly, I do not find this to be a *Code of Conduct* violation.

6.2.5 - Did the Respondent breach section 10.3 of the Code?

The *Code of Conduct* states that "Members shall not directly solicit funds [...] for charitable purposes in their role as a Member", and moreover that they "[...] shall remain at arms-length from financial aspects of external events which they support in their public capacity [...]".

The Complainant alleges that the Mayor improperly solicited funds by approaching [Cannabis Co] (and other businesses) for donations on behalf of the

Bandshell Committee, and that he involved himself in non-arms-length aspects of the donation in question.

The Complainant also asserts that the Mayor improperly indicated to Members of Council how any funds raised would be disbursed (i.e. determining the beneficiary – in this case the Town, which would be reimbursed in part for the monies which it had advanced to the Committee).

The Respondent, on the other hand, likened his actions to the previous Mayor's activities in hosting a charitable gala, which he did in his role as Mayor, and which resulted in funds being disbursed to local charities.

Our determination on these points is as follows:

- a) The facts clearly demonstrate that Mayor Junkin did engage in a direct solicitation of funds on behalf of the Bandshell Committee for charitable purposes with local businesses (which he acknowledges) and, furthermore that he also engaged in direct, non-arms-length discussions with at least one third party (i.e. [Cannabis Co]) about a potential donation the company might make to the Bandshell Committee's cause, noting specifically how such funds would be used (i.e. on lights).

In my view, and in the view of the Integrity Commissioner, these activities are contrary to the *Code*, which directly prohibits them.

- b) However, the facts do not support the allegation that the Mayor engaged in a decision-making process about the disbursement of such funds (i.e. in determining the beneficiaries), as he was never going to be in receipt of the funds directly, and would not have been in a position to disburse them according to his own discretion.

The Mayor has advised that his solicitation efforts on behalf of the Bandshell Committee were limited to distributing a letter created by the Bandshell Committee which provided the scope of the project and need for donations, and/or discussing the letter's contents with owners (or representatives) of local businesses. He undertook these actions directly on behalf of the Bandshell Committee.

It is also noted that the Town had already committed to financially supporting the Bandshell Committee's Peace Park refurbishment, with the understanding that the fruits of the Committee's fundraising efforts would be used to repay the Town. Therefore, the proposed potential donation to the Bandshell Committee would already be earmarked for such purpose.

Accordingly, I do not find that the Mayor was engaged in any decision-making with respect to beneficiaries or the disbursement of funds. In communicating with Council about the potential [Cannabis Co] donation, he was only representing the existing reality pursuant to a previous decision of the Town (and agreement of the Committee), and was not directing how the funds ought to be disbursed (i.e. choosing a beneficiary).

The issue of the previous Mayor holding a Mayor's Gala (as referenced by the Respondent) does not excuse the Mayor from his obligations under the *Code* as written. It is not known (or found to be relevant) how the previous Mayor went about raising such funds, nor is it known (or found to be relevant) whether the raising of funds using the vehicle of a Mayor's Gala is *Code*-compliant.

It is accordingly found that the Mayor did contravene section 10.3 of the *Code* by soliciting funds for the Bandshell renovation project of the Bandshell Committee.

6.2.6 - Did the Respondent breach section 12.1 of the Code?

This section of the *Code* requires all Members of Council to "[...] observe and adhere to the policies, procedures and rules established by Council."

By nature of the findings of this investigation (i.e. that the Respondent did breach several sections of the *Code of Conduct*) it necessarily follows that this section of the *Code* has also been breached.

However, considering a breach of this section in determining a recommended penalty in this matter would appear to be unfairly double-counting the contraventions, as in this instance, section 12.1 was only breached because other sections of the same *Code* were found to have been breached.

Accordingly, while I find that the Respondent contravened this section of the *Code* as written, it has not been considered by the Integrity Commissioner or me in determining a recommended penalty flowing from the contraventions which have already been found to have occurred.

7.0 Conclusion and Recommendation

7.1 Conclusion

For the reasons set forth herein, I find, with the concurrence of the Integrity Commissioner, that Mayor Junkin contravened sections 4.1 (c); 4.1 (f); 10.3; and (technically) 12.1 of the *Code of Conduct*.

It is not our view that the Mayor did so for nefarious purposes; rather, we accept that the Mayor likely intended to avoid the potential for public discourse over a potential donation which may never materialize. In other words, he did not want to cause a problem for Council, or for the Bandshell Committee, or for the residents of Pelham without there at least being a benefit for all at the end of the road.

While I find this to be a mitigating factor for the Mayor's improper actions, it does not absolve him entirely.

It is a basic principle that the public's business must be conducted in the public's view, except for, in limited circumstances as proscribed by law. Any attempt to conceal the public's business from the public, whether such concealment is well-intentioned or not, cannot be endorsed by the Integrity Commissioner or his office.

7.2 Recommendation

Where a Member of Council has been found to have breached the *Code of Conduct*, the authority rests with Council to impose a penalty pursuant to Section 15.1 of the *Code*, and Section 223.4 (5) of the *Municipal Act*, 2001.

The available penalties include:

- (a) a reprimand; or

(b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.

Given the nature of the contraventions found herein, and the understanding that this is a matter of first instance for such contraventions by the Member, who appears to have made such contraventions as the result of an error of judgment rather than by any nefarious design, it is hereby recommended (with the concurrence and endorsement of Mr. Edward T. McDermott, Integrity Commissioner of the Town of Pelham) that Mayor Marvin Junkin **receive a reprimand** from Council for the *Code* contraventions found to have occurred in this investigation and Report.

Yours truly,

ADR CHAMBERS INC.

A handwritten signature in black ink, appearing to read 'Michael L. Maynard', with a horizontal line at the end.

Michael L. Maynard
Office of the Integrity Commissioner



Ombudsman Report

**Investigation into complaint about
the Town of Pelham's
decision-making process and
discussion at an informal gathering
in January 2020**

Paul Dubé
Ombudsman of Ontario
June 2020

Complaint

- 1 My Office received a complaint alleging that a quorum of councillors informally met to discuss a possible donation from a cannabis producer on January 9, 2020, contrary to the open meeting rules of the *Municipal Act, 2001*.¹ The complaint also alleged that councillors subsequently voted via email on whether they would be in favour of accepting the possible donation.

Ombudsman jurisdiction

- 2 Under the *Municipal Act*, all meetings of council, local boards, and committees of council must be open to the public, unless they fall within prescribed exceptions.
- 3 As of January 1, 2008, the Act gives Ontarians the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public. Municipalities may appoint their own investigators. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.
- 4 The Ombudsman is the closed meeting investigator for the Town of Pelham.
- 5 Our Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of our open meeting cases.² This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of all of our Office's investigations that are cited in this report can be found in the digest.
- 6 In addition to my investigative authority under the *Municipal Act*, since 2016 the *Ombudsman Act* has granted my Office authority to review and investigate complaints about the broader administration of municipal entities. In reviewing this complaint about the Town of Pelham's decision-making process, I used my authority under the *Ombudsman Act* to assess whether the Town's administrative conduct was consistent with its legal obligations and the principles of accountability and transparency.

¹ SO 2001, c 25.

² The digest can be found on our website here: <https://www.ombudsman.on.ca/digest/home>

Investigative process

- 7 On March 4, 2020, I advised the Town that I would be investigating council's alleged informal gathering on January 9, 2020. After gathering additional information, I informed the Town on April 1, 2020, that I would also be investigating council's use of email following the informal gathering.
- 8 I assigned this investigation to staff at my Office with expertise in the *Municipal Act's* open meeting provision and broader issues of municipal administration. Staff interviewed all seven members of council³, as well as the municipal Clerk and Chief Administrative Officer (CAO). They also reviewed copies of the emails councillors sent and received regarding the donation, and other relevant materials provided by the Town and those we interviewed.
- 9 My Office received full co-operation in this matter.

Informal gathering on January 9, 2020

Background

- 10 The Town of Pelham has a local park that is the site of a popular summer concert series. A group of volunteers who assist in organizing the series – called the Fonthill Bandshell Committee (the Bandshell Committee), although the group is not a committee of council – worked with the municipality to develop plans for substantial improvements and repairs to the park. The municipality agreed to assist with some of these improvements and advanced funds to the committee so that improvements could be made before the start of the 2020 concert season. In exchange, the Bandshell Committee was expected to begin fundraising efforts and repay the municipality when possible.
- 11 To assist the volunteers in their fundraising efforts, the Mayor sent a letter to local businesses soliciting donations for the park. The Mayor told us that in response, a local cannabis producer indicated that it would consider making a donation to the Bandshell Committee to demonstrate its corporate citizenship. The Mayor said this discussion occurred during a meeting about another matter and that he did not consider the donation to be finalized at that time. Despite the informality of the offer, the Mayor said he shared this information with a member of the Bandshell Committee and asked it to be kept confidential until the donation was finalized.

³ The fact-gathering portion of this investigation occurred prior to the death of Councillor Mike Ciolfi.

- 12 By early January 2020, the Bandshell Committee had made substantial progress in its fundraising and was ready to provide council with a public update at the January 13, 2020 council meeting. A committee member spoke with the Mayor prior to this meeting and indicated that the update to council was going to reference the possible donation from the cannabis producer. The Mayor told us he was unsure if other councillors would be in favour of accepting this donation and said he felt he needed to seek council's opinion before the Bandshell Committee mentioned it in the public report to council.

January 9, 2020 discussion

- 13 To learn whether other councillors would be in favour of accepting the possible donation, the Mayor decided to raise the issue with three councillors who were present at the opening ceremony of a large youth hockey tournament on Thursday, January 9 at approximately 5:30 pm. According to everyone we spoke with, the discussion was brief and occurred in a public hallway of the hockey arena where hundreds of people were milling about. Interviewees told us that the Mayor informed the three councillors that a specific cannabis producer was considering making a donation to the Bandshell Committee and that he wanted to know if each councillor would be in favour of accepting it. The Mayor mentioned that he needed an answer before the next council meeting on Monday, January 13.
- 14 According to our interviews, two councillors each said that this matter should be discussed at a council meeting, while the third councillor did not express any opinion. The Mayor then asked each councillor to email him in the coming days with their thoughts about accepting the donation. Everyone we spoke with agreed that the conversation was very short and that no councillors expressed an opinion on whether council should accept the possible donation. We were told there was no additional discussion of this matter or any other council business.

Mayor's email to councillors

- 15 At 10:22 pm that same evening, the Mayor emailed the three councillors who were not present at the hockey tournament about the same issue. His email read:

Back in August, I sent to several Town businesses a request on behalf of the Band Shell Committee, for a donation to fund the improvements. One of the companies to respond was [a cannabis producer]. They are willing to donate [a sum] to the bandshell, with no strings attached, to show they are trying to be a good corporate citizen.

Because this discussion does not fit the criteria, it cannot be discussed in - camera, and it was decided by [the CAO] and I that perhaps we really wouldn't want to discuss this in open session, so just this once we would make a decision by email, outside of Council. I spoke to [three councillors] tonight at the MCC [hockey arena], so they already know the situation. If you decide to communicate by email to discuss this donation, so be it, I don't want to know about it.

So the question is... Should Council accept this donation. It will be paid to the Bandshell Committee, which in turn will use it to pay us back the money we loaned them.

If you have any questions, feel free to contact me. I have told [a Bandshell Committee member] that I would have the answer for her by Saturday evening, so I would appreciate each of you to email your decision by Saturday afternoon.... thanks... marv

- 16 In response to this email and the short discussion before the hockey tournament, each councillor emailed the Mayor with their opinion on whether the donation should be accepted. In addition, several councillors expressed concern about the manner in which their opinion was sought.
- 17 After receiving these responses, the Mayor responded via separate emails to each councillor noting that his "informal poll is now complete" and that he will inform the head of the Bandshell Committee that council is opposed to accepting a donation from a cannabis producer.
- 18 According to those we spoke with, the Bandshell Committee's update to council did not involve any reference to the possible donation and there has been no further discussion of the matter by council.

Analysis

- 19 My Office has found that the *Municipal Act's* definition of "meeting" in section 238(1) requires a quorum of councillors to be physically present⁴ and discuss a matter in a way that "materially" or "significantly" advances council's business or decision-making.⁵ Subsequent changes to the *Municipal Act* in March 2020 have allowed electronic participants to count for quorum when there is a declared emergency under the *Emergency Management and Civil Protection Act* and the

⁴ *Hamilton (City of) (Re)*, 2019 ONOMBUD 7, <<http://canlii.ca/t/j2pwf>>.

⁵ *Casselman (Village of) (Re)*, 2018 ONOMBUD 11, <<http://canlii.ca/t/hvmtk>>.

municipality's procedure by-law provides for it.⁶ These provisions did not yet exist and would not have applied to council's email exchange in January 2020.

Discussion at the Hockey Arena

- 20 Council's informal discussion at the hockey arena on January 9, 2020 was not a "meeting" under the Act because it did not materially or significantly advance council business or decision-making. While the Mayor introduced the topic of a potential donation, there was no further discussion and no decision was made.

Mayor's email exchange with council

- 21 On the evening of January 9, the Mayor emailed three members of council to solicit their opinion and to allow council to make a decision with respect to whether council should accept the proposed donation. In his email, the Mayor acknowledged that council would be making a decision and that the subject – i.e. a donation for the bandshell – would not meet the criteria for a closed meeting of council under the *Municipal Act*. This email exchange did not meet the Act's definition of a meeting because a quorum of council was not physically present to advance council business.
- 22 However, section 5(3) of the *Municipal Act* states that municipalities can only exercise their power and authority through formal by-laws adopted by council in properly constituted and open council meetings.⁷ By-laws are the primary legislative instrument of municipalities in Ontario and are analogous to acts passed by the provincial legislature.
- 23 In law, council is only permitted to pass by-laws during meetings that are properly constituted under the Act and which are advertised and open to the public. This allows the public to see municipal decision-making in process and hold elected officials accountable for their actions. As the Supreme Court of Canada determined in *London (City) v. RSJ Holdings Inc.*, the public has "the right to observe municipal government in process."⁸ Even council resolutions are not legally binding exercises of a municipality's authority unless council passes a "confirming by-law" at the end of the meeting. No other method of decision-making is legally binding on the municipality. This helps ensure that municipalities comply with the legal requirement that they act by by-law.

⁶ *Municipal Act*, section 238 (3.1-3.4)

⁷ *Municipal Act*, section 5 (3).

⁸ *London (City) v RSJ Holdings Inc.*, 2007 SCC 29 at para 32.

- 24 In this case, council contravened the *Municipal Act's* clear requirement to act through by-law when councillors emailed the Mayor with their opinion on the proposed donation. In attempting to exercise its authority without passing a by-law at a public meeting, council denied citizens the right to see municipal decision-making in action and failed to act in an accountable and transparent fashion.
- 25 While the Mayor and CAO said in their interviews that the proposed donation was not a matter of council business and therefore not subject to the *Municipal Act's* decision-making requirements, the Mayor's own email and actions indicate that he considered the acceptance of the donation to be a matter within council's purview. As his emails indicate, the Mayor felt he needed each councillor's vote in order to make a decision, but he did not want to openly discuss and debate the matter in a council meeting.
- 26 Because council failed to act through by-law passed at a properly constituted council meeting, council lacked legal authority to provide its opinion to the Bandshell Committee regarding the acceptance of the potential donation. When the Town wishes to make such decisions through an exercise of its powers and authority, it should ensure that it only does so through a properly passed municipal by-law as required by the *Municipal Act*.

Opinion

- 27 Council for the Town of Pelham did not contravene the *Municipal Act's* open meeting requirements during the discussion at the hockey arena on January 9, 2020, or in their subsequent email exchange, as these exchanges did not constitute meetings under the *Municipal Act*.
- 28 However, the Town of Pelham acted without legal authority when it decided to inform the Bandshell Committee that it was not in favour of accepting a potential donation from a cannabis company. By failing to act through resolution and confirming by-law passed at a properly constituted council meeting, the municipality tried to shield its decision-making process from public scrutiny. These actions were contrary to law and wrong under section 21(1) of the *Ombudsman Act*.

Recommendations

- 29 I make the following recommendations to assist council in fulfilling its obligations under the Act and enhancing the transparency of its meetings:

Recommendation 1

All members of council for the Town of Pelham should be vigilant in adhering to their individual and collective obligations to ensure that council complies with its responsibilities under the *Municipal Act, 2001*.

Recommendation 2

The Town of Pelham should ensure that it exercises its power and authority through a properly passed resolution and confirming municipal by-law as required by the *Municipal Act*.

Report

- 30 Council for the Town of Pelham was given the opportunity to review a preliminary version of this report and provide comments to our Office. In light of the restrictions in place related to COVID-19, some adjustments were made to our normal preliminary review process and we thank council for their cooperation and flexibility. All comments received were considered in the preparation of this final report.
- 31 This report will be published on my Office's website, and should be made public by the Town of Pelham as well.



Paul Dubé
Ombudsman of Ontario

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #4244(2020)

**Being a by-law to appoint Ashley Nero (Officer #451)
as By-law Enforcement Officer, Property Standards
Officer, and Provincial Offences Officer for the
Corporation of the Town of Pelham.**

WHEREAS authority is granted pursuant to Section 15 of the Police Services Act, R.S.O. 1990, Chapter P.15, as amended, to municipal councils to appoint persons to enforce the by-laws of the municipality who shall be peace officers for the purpose of enforcing municipal by-laws;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (1) THAT Ashley Nero is hereby appointed as Municipal By-law Enforcement Officer, Property Standards Officer, and Provincial Offences Officer for the Corporation of the Town of Pelham.
- (2) THAT the Municipal By-law Enforcement Officer, Property Standards Officer, and Provincial Offences Officer shall be responsible for the enforcement of all by-laws passed by the Council of the Corporation of the Town of Pelham.
- (3) THAT this by-law shall come into force and take effect on the 15th day of June 2020.

ENACTED, SIGNED & SEALED THIS
15th DAY OF JUNE, 2020 A.D.

MAYOR MARVIN JUNKIN

NANCY J. BOZZATO, TOWN CLERK

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW NO. 4245(2020)

**Being a by-law to amend by-law No. 4221(2020) known as
the Administrative Penalty Process By-law for Non-
Parking Related Offences**

WHEREAS the Council of the Corporation of the Town of Pelham considers it necessary and desirable to amend By-law 4221(2020) to include a time limit for an offender to pay an Administrative Penalty after a Late Fee has been applied.

NOW THEREFORE the Council of the Corporation of the Town of Pelham enacts as follows:

- (1) THAT the following sentence be added onto the end of the paragraph of section 15 of By-law No. 4221(2020) immediately after the words “Fee-Late Payment.”:

“The person will then have an additional 15 calendar days to pay the full amount of the Administrative Penalty which includes the fee for late payment”

COMMENCEMENT

- (2) This By-law shall be effective as of the date it is passed by Council.

ENACTED, SIGNED & SEALED THIS
15th DAY OF JUNE, 2020 A.D.

MAYOR MARVIN JUNKIN

NANCY J. BOZZATO, TOWN CLERK

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW #4246(2020)

Being a by-law to require a By-Election to fill the vacancy for the office of Councillor, Ward One, in the Town of Pelham for the remainder of the 2018-2022 Term of Council.

WHEREAS Section 259 of the *Municipal Act*, 2001, S.O. 2001, c.25, as amended (the Act), establishes that the office of a member of council of a municipality becomes vacant upon the death of a member;

AND WHEREAS Section 262(1) of the Act, states that if the office of a member of council becomes vacant upon the death of a member, the council shall declare the office to be vacant at one of its next two meetings;

AND WHEREAS in accordance with Section 262(1) of the Act, Council of the Town of Pelham declared the office of one Ward One Councillor to be vacant on May 19, 2020;

AND WHEREAS Section 263 of the Act establishes that where a vacancy occurs in the office of a member of Council of a municipality, the council may pass a by-law to require that a by-election be held to fill the vacancy;

AND WHEREAS at their regular meeting of May 19, 2020 Council for the Town of Pelham passed a resolution directing the Clerk to conduct a By-Election to fill the vacant seat;

NOW THEREFORE BE IT RESOLVED that the Council of the Town of Pelham hereby enacts as follows:

1. THAT a By-Election shall be held to fill the vacancy in the office of a Town Councillor representing Ward One; and
2. THAT the Voting Day for said By-Election shall be Tuesday, September 15, 2020; and
3. THAT the Clerk be and is hereby directed to conduct said By-Election in accordance with the *Municipal Elections Act*, R.S.O. 1996, to be administered via in-person voting or as may be provided for through On Demand Vote By Mail in specific circumstances relating to the novel coronavirus, COVID-19.

ENACTED, SIGNED AND SEALED
THIS 15TH DAY OF JUNE 2020

M. JUNKIN, MAYOR

NANCY J. BOZZATO, TOWN CLERK

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW NO. 4248(2020)

**Being a by-law to amend by-law No. 4202(2020) known as the
Town of Pelham Odorous Industries Nuisance By-law to increase
the minimum fine amount in the case of a first conviction AND to
incorporate an Administrative Municipal Penalty System (AMPS)
in regard to Offences and Penalties**

WHEREAS section 434.1(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended (*Municipal Act, 2001*) provides that, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

WHEREAS section 434.1(2) of the *Municipal Act, 2001* provides that the purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with its by-laws; and

WHEREAS section 434.2(1) of the *Municipal Act, 2001* provides that an administrative penalty imposed by a municipality on a person under section 434.1 constitutes a debt of the person to the municipality; and

WHEREAS the Council of the Corporation of the Town of Pelham considers it desirable to have the option to enforce and seek compliance of the Town of Pelham Odorous Industries Nuisance By-law through an administrative municipal penalty system; and

WHEREAS section 425 of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence;

NOW THEREFORE the Council of the Corporation of the Town of Pelham enacts as follows:

- (1) THAT the following wording be deleted from section 7. (a) in By-law No. 4202(2020):

“in the case of a first conviction, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$50,000;”

and replaced with:

“in the case of a first conviction, a minimum fine shall carry an amount of \$5000 (five thousand dollars) and a maximum fine shall not exceed \$50,000 (fifty Thousand dollars);

- (2) THAT the following wording be deleted from section 7. (b) in By-law No. 4202(2020):

“in the case of a second or subsequent conviction, a minimum fine shall not exceed \$1000 and a maximum fine shall not exceed \$100,000;

and replaced with:

“in the case of a second or subsequent conviction, a minimum fine shall carry an amount of \$7500 (seven thousand five hundred dollars) and a maximum fine shall not exceed \$100,000 (One Hundred thousand dollars);”

- (3) THAT the following wording be deleted from section 7. (c) in By-law No. 4202(2020)

“in the case of a conviction for a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000, and the total of all of the daily fines for the offence is not limited to \$100,000; and”

And replaced with:

in the case of a conviction for a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall be \$500 (five hundred dollars) and a maximum fine shall not exceed \$10,000, and the total of all of the daily fines for the offence is not limited to \$100,000; and”

- 4) THAT the following be inserted into By-law No. 4202(2020) immediately after Section 9.

“9.1 ADMINISTRATIVE PENALTY

- (a) Administrative Penalty Process By-law No. 4221(2020) applies to each administrative penalty issued pursuant to this by-law.
- (b) Each person who contravenes any provision of this by-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law No. 4221(2020), be liable to pay to the Town an administrative penalty in the amount of \$500 (five hundred dollars) for each day on which the contravention occurs or continues.”

COMMENCEMENT

(1) This By-law shall be effective as of the date it is passed by Council.

READ, ENACTED, SIGNED AND SEALED THIS _____ DAY OF

_____, 2020

Mayor, Marvin Junkin

Nancy J. Bozzato, Town Clerk

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW NO. 4248(2020)

**Being a by-law to amend by-law No. 4202(2020) known as the
Town of Pelham Odorous Industries Nuisance By-law to increase
the minimum fine amount in the case of a first conviction AND to
incorporate an Administrative Municipal Penalty System (AMPS)
in regard to Offences and Penalties**

WHEREAS section 434.1(1) of the *Municipal Act, 2001*, S.O. 2001, c.25 as amended (*Municipal Act, 2001*) provides that, a municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act; and

WHEREAS section 434.1(2) of the *Municipal Act, 2001* provides that the purpose of a system of administrative penalties established by a municipality under this section shall be to assist the municipality in promoting compliance with its by-laws; and

WHEREAS section 434.2(1) of the *Municipal Act, 2001* provides that an administrative penalty imposed by a municipality on a person under section 434.1 constitutes a debt of the person to the municipality; and

WHEREAS the Council of the Corporation of the Town of Pelham considers it desirable to have the option to enforce and seek compliance of the Town of Pelham Odorous Industries Nuisance By-law through an administrative municipal penalty system; and

WHEREAS section 425 of the *Municipal Act, 2001* permits a municipality to pass by-laws providing that any person who contravenes any by-law of the municipality is guilty of an offence;

NOW THEREFORE the Council of the Corporation of the Town of Pelham enacts as follows:

- (1) THAT the following wording be deleted from section 7. (a) in By-law No. 4202(2020):

“in the case of a first conviction, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$50,000;”

and replaced with:

“in the case of a first conviction, a minimum fine shall carry an amount of \$5000 (five thousand dollars) and a maximum fine shall not exceed \$50,000 (fifty Thousand dollars);

- (2) THAT the following wording be deleted from section 7. (b) in By-law No. 4202(2020):

“in the case of a second or subsequent conviction, a minimum fine shall not exceed \$1000 and a maximum fine shall not exceed \$100,000;

and replaced with:

“in the case of a second or subsequent conviction, a minimum fine shall carry an amount of \$7500 (seven thousand five hundred dollars) and a maximum fine shall not exceed \$100,000 (One Hundred thousand dollars);”

- (3) THAT the following wording be deleted from section 7. (c) in By-law No. 4202(2020)

“in the case of a conviction for a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000, and the total of all of the daily fines for the offence is not limited to \$100,000; and”

And replaced with:

in the case of a conviction for a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall be \$500 (five hundred dollars) and a maximum fine shall not exceed \$10,000, and the total of all of the daily fines for the offence is not limited to \$100,000; and”

- 4) THAT the following be inserted into By-law No. 4202(2020) immediately after Section 9.

“9.1 ADMINISTRATIVE PENALTY

- (a) Administrative Penalty System By-law No. 4221(2020) applies to each administrative penalty issued pursuant to this By-law.
- (b) Each person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty System By-law No. 4221(2020), be liable to pay to the Town an administrative penalty in the amount of \$250 (two hundred, fifty dollars) for each day on which the contravention occurs or continues.”

COMMENCEMENT

- (1) This By-law shall be effective as of the date it is passed by Council.

READ, ENACTED, SIGNED AND SEALED
THIS 15th DAY OF JUNE, 2020

Mayor, Marvin Junkin

Nancy J. Bozzato, Town Clerk

THE CORPORATION OF THE
T O W N O F P E L H A M
BY-LAW #4249(2020)

**Being a by-law to adopt, ratify and confirm the actions of
the Council at its regular meeting held on the 15th day of
June 2020.**

WHEREAS Section 5 (3) of the Municipal Act, S.O. 2001, Chapter M.25, as amended, provides that, except if otherwise authorized, the powers of Council shall be exercised by by-law;

AND WHEREAS it is deemed desirable and expedient that the actions of the Council as herein set forth be adopted, ratified and confirmed by by-law;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (1)
 - (a) The actions of the Council at its meeting held on the 15th day of June, 2020, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
 - (b) The above-mentioned actions shall not include:
 - (I) any actions required by law to be taken by resolution, or
 - (II) any actions for which prior Ontario Municipal Board approval is required, until such approval is obtained.
- (2) The Mayor and proper officials of the Corporation of the Town of Pelham are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
- (3) Unless otherwise provided, the Mayor and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of the Corporation of the Town of Pelham to all documents necessary to give effect to the above-mentioned actions.
- (4) THAT this by-law shall come into force on the day upon which it is passed.

READ, ENACTED, SIGNED AND SEALED
THIS 15th DAY OF June 2020 A.D.

MAYOR MARVIN JUNKIN

TOWN CLERK, NANCY J. BOZZATO