
For Information

DATE: March 2, 2017

REPORT TITLE: **PROCESS TO ENABLE COUNCIL TO RETAIN LEGAL COUNSEL AND PLANNING EXPERTISE FOR THE PURPOSE OF THE ONTARIO MUNICIPAL BOARD HEARING OF APPEALS OF REGIONAL OFFICIAL PLAN AMENDMENT 30 (BOLTON RURAL SERVICE CENTRE BOUNDARY EXPANSION)**

FROM: Lorraine Graham-Watson, Commissioner of Corporate Services
 Stephen VanOfwegen, Commissioner of Finance and Chief Financial Officer

OBJECTIVE

The purpose of this report is to describe procedural alternatives available to enable Council to decide upon the retention of legal counsel and to provide for retaining planning expertise in defence of Council's adoption of Regional Official Plan Amendment 30 ("ROPA 30"). ROPA 30 deals with expansion of the boundary of the Bolton Rural Service Centre. This report seeks Council's direction as to which procedural alternative should be used.

REPORT HIGHLIGHTS

- Council in adopting Regional Official Plan Amendment 30 dealing with expansion of the Bolton Rural Service Centre boundary, reserved to itself the retention of planning, legal, and other professional services necessary to the defence of its decision at the Ontario Municipal Board.
- Procedural alternatives are available to Council for making decisions to retain professional services.
- This report describes available alternatives and requests Council's direction.

DISCUSSION
1. Background

On December 8, 2016 Council approved Resolution 2016-937 (the "Resolution") in favour of amending the Regional Official Plan to expand the Bolton Rural Services Centre settlement boundary on the basis of Option 6 and inclusion of the "Triangle" lands as described in a report of the Commissioners of Public Works and Corporate Services, titled "Bolton Residential Expansion Regional Official Plan Amendment - Recommendation for Council Adoption (ROPA 30) (the "Report"). Council proceeded to enact By-law 67-2016 to adopt that amendment as Regional Official Amendment 30. Council's adoption of ROPA 30 is now the subject of 14 appeals to the Ontario Municipal Board. These appeals are listed for information in Appendix I to this report.

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Council anticipated the likelihood of appeals of its decision and provided in the Resolution that “Regional Council retain a land use planner, lawyer and any other required professionals to support Council’s decision in any potential Ontario Municipal Board appeals”. Council’s decision to adopt ROPA 30 to include Option 6 lands and the “Triangle” lands within the Bolton Rural Service Centre boundary constituted a non-acceptance of the staff recommendation in the Report for the inclusion of other lands.

2. Available Procedural Alternatives

The following are proposed for Council’s consideration as means by which Council’s stated intention to retain the professional services necessary to the defence of ROPA 30 can be put into effect. These would anticipate the retention of independent non-staff planning expertise to be undertaken by legal counsel for purposes of preparation for and conduct of the hearing.

a) A Staff Recommendation

Legal Services staff would report to the Council meeting of March 30, 2017 with a recommended retainer of legal counsel and a request for authorization of estimated expenditure requirements.

b) Sole Sourcing Based on Council Direction

Council would independently identify legal counsel enjoying its confidence and direct that such legal counsel be retained without a competitive procurement.

c) Competitive Procurement

Purchasing staff would initiate a competitive purchasing process using standard Regional purchasing processes.

i) Such a competitive process

- a) could be undertaken on an invitational basis to include invitees identified by:
 - Council as a whole;
 - individual members of Council;
 - staff; or
 - any combination of the above; or
- b) could be issued at large (i.e. could be “open”); or
- c) could be a combination of the two approaches.

ii) A competitive process could lead to an evaluation of submissions by

- a) staff;
- b) a working group or committee consisting of members of Council; or

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- c) a working group consisting of members of Council and staff.
- iii) Council could authorize an award under a competitive procurement process by any of the alternatives available for evaluating submissions under 2 c) ii) above; or could itself make the award.

If proceeding by means of a competitive procurement, a decision could reasonably be expected to be available sometime between April 14, 2017 (based on a simplified process involving an evaluation and award by staff under delegated authority) and May 18, 2017 (based on a fully developed Request for Proposals process and no delegation of evaluation or award authority to staff); depending on the competitive process adopted.

A preliminary estimate of the timeframe within which the appeals will be dealt with is that pre-hearing processes will take place during the balance of calendar 2017 with a hearing held in early to mid 2018.

FINANCIAL IMPLICATIONS

Based on the number of appeals, the nature of the subject matter of the appeals and the anticipated hourly rates to be employed, staff estimate that the global legal costs to be incurred to take the appeals through to the conclusion of a hearing have an order of magnitude of \$300,000 to \$450,000. The costs of required planning and any other professional expertise to be retained through legal counsel will require a separate determination in consultation with legal counsel retained.

CONCLUSION

Council in adopting Regional Official Plan Amendment 30 dealing with expansion of the Rural Service Centre boundary in Bolton reserved to itself the retention of legal and other professional services necessary to the defence of its decision at the Ontario Municipal Board. This report sets out alternatives available to Council by which it can make the decision and requests Council's direction as to how it wishes to proceed.



Lisa Duarte for Lorraine Graham-Watson, Commissioner of Corporate Services



Stephen VanOfwegen, Commissioner of Finance and Chief Financial Officer

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Approved for Submission:



D. Szwarc, Chief Administrative Officer

APPENDICES

Appendix I – List of Appellants – ROPA 30

For further information regarding this report, please contact Patrick O'Connor, Regional Solicitor, extension 4319, patrick.o'connor@peelregion.ca.

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Reviewed in workflow by:

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