The Corporation of the City of Stratford
Finance and Labour Relations Sub-committee
Open Session
AGENDA

Date:	Tuesday, February 21, 2017
Time:	4:30 P.M.
Location:	Council Chamber, City Hall
Sub-committee Present:	Councillor Clifford - Chair Presiding, Councillor Mark - Vice Chair, Councillor Beatty, Councillor McManus, Councillor Vassilakos
Staff Present:	Andre Morin - Director of Corporate Services, Joan Thomson - City Clerk, Janice Beirness - Manager of Financial Services, Marilyn Pickering - Supervisor of Tax Revenue, Victoria Trotter - Council Clerk Secretary, Tatiana Dafoe - Deputy Clerk

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Pages

1. Call to Order

The Chair to call the meeting to Order.

2. Disclosure of Pecuniary Interest and the General Nature Thereof

The *Municipal Conflict of Interest Act* requires any member of Council declaring a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and otherwise comply with the *Act.*

Name, Item and General Nature of Pecuniary Interest

3. Delegations

3.1 2017 Community Grant Appeals (FIN17-008) 4 - 26

Lyndon Stewart, CDX Ambassador/Special Projects will speak to the Canadian Dairy XPO grant appeal.

John Miller, Artistic Producer and Judy Matheson, General Manager will speak to the Stratford Summer Music grant appeal.

Motion by _____

Staff Recommendation: For the consideration of Sub-committee.

4. Report of the Director of Corporate Services

4.1 2017 Grant Request -Stratford Strikers GU17 (FIN17-007) 27 - 47

Motion by _____

Staff Recommendation: For the consideration of Sub-committee.

5. Report of the Supervisor of Tax Revenue

5.1 Tax Adjustments – February 21, 2017 (FIN17-005) 48 - 50

Motion by _____

Staff Recommendation: THAT the Report of the Supervisor of Tax Revenue dated February 21, 2017 regarding the approval of tax adjustments under Section 357 for 2016 be approved;

AND THAT the Assessment Review Board Decisions for 2013-2016 be received for information.

5.2 Ministry of Finance Update on Property Tax (FIN17-006) 51 - 58

Motion by _____

Staff Recommendation: If Sub-committee would like staff to perform public consultation around possible changes to the Vacancy Rebate Program, the following motion should be made:

That staff be directed to obtain stakeholder input regarding the Vacancy Rebate Program and prepare a recommendation report for the consideration of Council;

Alternatively, Sub-committee can pass the following motion:

That the report be received for information.

6. Report of the City Clerk

6.1 Bill 68 – Modernizing Ontario's Municipal Legislation Act (FIN17-009) 59 - 130

Motion by _____

Staff Recommendation: THAT the report on Bill 68 – Modernizing Ontario's Legislation Act, be received as information.

7. Monthly Project Update 131 - 132

The Director of Corporate Services to provide a verbal update on the status of Corporate Services projects.

8. Advisory Committee/Outside Board Minutes

There are no Advisory Committe/Outside Board Minutes to be received at this time.

9. Next Sub-committee Meeting

The next Finance and Labour Relations Sub-committee meeting is March 21, 2017 at 4:30 p.m. in the Council Chamber, City Hall.

10. Adjournment

Meeting Start Time:
Meeting End Time:

Motion by _____

That the Finance and Labour Relations Sub-committee meeting adjourn.

Stratford ONTARIO CANADA Dramatically Different!

Corporate Services Department

MANAGEMENT REPORT

Date: February 21, 2017

To: Finance & Labour Relations Sub-committee

From: André Morin, Director of Corporate Services

Report#: FIN17-008

Attachments: 2017 Grant Request – Canadian Dairy XPO (CDX)
2017 Grant Request – Stratford Summer Music

Title: 2017 Community Grant Appeals

Objective: To consider grant appeals from two community groups.

Background: Council gave final approval for individual 2017 grants on December 12, 2016. The City's 2017 budget received final approval on January 23, 2017.

All groups who applied for a 2017 grant were advised of Council's decision, and were given the opportunity to have the decision reconsidered by submitting a formal appeal. Two requests have been received to date, and these groups have been scheduled to attend the Sub-committee meeting on February 21st to present their appeals.

Analysis: The following is a brief summary of each group's original 2017 grant request, Council's 2017 decision and comparative 2016 decision. Grant applications for each group are attached for reference.

No additional information was submitted by Canadian Dairy XPO for their appeal. Stratford Summer Music has submitted a revised budget for its appeal and it is included in the attached grant request.

Organization	*2017 Request*	*2017 Approval*	*2016 Approval*
Canadian Dairy XPO (CDX)	$11,200 ($8,000 + $3,200 in-kind Policing)	$0.	$6,600. ($5,000 + $1,600 in-kind Policing)
Stratford Summer Music	$30,000.	$20,000.	$20,000.

Financial Impact: Any funding approved as a result of the two grant appeals would come from the grants contingency budget.

Staff Recommendation: For the consideration of Sub-committee.

André Morin, Director of Corporate Services

Rob Horne, Chief Administrative Officer

<u>YOUR</u> Canadian Dairy Showcase
April 5-6 2017

2017 CANADIAN DAIRY XPO (CDX) GRANT PROPOSAL presented to:

The Canadian Dairy XPO (CDX) is a professional tradeshow for dairy producers and their families to see the latest in innovation and be educated on producing safe nutritious dairy products to you, the consumer. CDX is held at the Stratford Rotary Complex, in Perth County – which has the highest concentration of dairy farms in Canada. When farmers do well, so do their communities!

After 3 years of exponential growth, the Canadian Dairy XPO has firmly planted its roots as a member and contributor to the City of Stratford. Attracting 15,200+ attendees annually, CDX has become a destination for the dairy community. Our 350 exhibiting companies represent 3,000 agribusiness individuals – traveling from 30 countries.

CDX has a significant, $2 million annual impact on county businesses, hotels, restaurants, local amenities and gas bars; directly attributed to our exhibiting companies and attending dairy producers who travel to Stratford for the XPO. Perth County and Stratford surrounding areas have the highest concentration of dairy production in Canada, with 3,500 – 4,000 medium to large scale commercial dairy farms, making Stratford Ontario the Dairy nucleus of Canada.

For 2017 sponsored producer bus tours / air travel groups are already in the works from the following provinces and states:

- Eastern Ontario
- Quebec
- Manitoba
- British Columbia
- Nova Scotia
- PEI
- New Brunswick
- Michigan
- Pennsylvania
- New York
- California
- Florida

CDX has made Stratford and the Stratford Rotary Complex their permanent home. We understand the importance of supporting the community in which you do business in; we are proud to give back to local communities and currently support the following regional organizations:

- Member of Stratford Tourism
- Member of the Stratford Chamber of Commerce
- Sponsor of Stratford Minor Hockey Association
- Annual financial commitment to the Stratford Agricultural Society (breakfast, on site volunteering)
- Ag More than Ever (Farm Credit Canada Initiative)
- Local 4-H dairy youth clubs (Oxford and Perth County)
- Perth County Dairy Committee
- Stratford Stingers Volleyball club

PROPOSAL – CheeseFEST & Dominant Welcome signage $8,000:

We would like to continue our mutually beneficial partnership of cross promotion with the City of Stratford; helping to increase international awareness and tourism for Stratford Ontario - through sponsorship of the CheeseFEST evening function taking place the first evening of CDX.

We are asking the City of Stratford to once again support this annual economic driver and continue to contribute to the advancement of Perth County dairy operations, making them more sustainable, efficient and globally competitive. The spirit of this grant request is to assist with the costs of our complimentary evening social - CheeseFEST.

CheeseFEST is our complimentary networking social where we invite: dairy producers, commercial industry, media and the community of consumers together - all under one roof. CDX is fusing the gap between the Canadian dairy producer and the general consumer, while promoting the category of high quality and healthy Canadian dairy products.

“CheeseFEST” has become the buzz word onsite for connecting and networking with fellow producers, the commercial Ag industry and even local community consumers! Outside of the tradeshow, an important and unique part of the CDX culture is sharing between producers and business-to-business between exhibitors. CheeseFEST creates a high energy platform to do this.

CheeseFEST attendance has grown over just a 2-year period, to close to 2,000 people in a 3 hour period. Complimentary admission and complimentary fine cheese sampling make for an attractive event for all to attend. Many on-farm cheese processors/dairy farmers from Perth County and surrounding area are featured at CheeseFEST and CDX compensates those suppliers for the cheese provided. In addition to cheese, local wines, whisky and micro brew are featured. Something for everyone!

CheeseFEST is held in the Cow Coliseum, on the first evening of CDX, Wednesday April 5th from 4pm – 7pm. The cost of sponsorship will go directly to offsetting the hard costs associated with producing this complimentary CheeseFEST networking social. This event also supports and gives back to 4-H dairy youth clubs. For 2017, CheeseFEST will expand throughout the entire Cow Coliseum. The amplified entertainment and overall optics will advance with this ever growing event-within-an-event.

The City of Stratford would be recognized as a major co-presenting sponsor with CDX, Trillium Mutual Insurance and Farm Credit Canada. This is a great opportunity for the City of Stratford to give back to the agricultural and rural communities through this ‘grass roots’ social and networking function.

Features of the night will include:

- Massive cheese buffet featuring: cow, sheep, goat and water buffalo cheeses

- Grilled cheeses made by 4H youth (fundraiser)
- Local wines and micro brews (cash bar)
- Milking Robot Showcase
- European Hospitality HUB, featuring Dutch speciality foods
- Agri-youth fundraising activities
- Rick Mercer Milk off with Minister (tentative)
- Live entertainment (Duelling banjos: Purple Hill Country Band – and Jaclyn VanHappen, acoustic guitar)

The Honorable Mayor will be invited to bring greetings and introduce the City Council members in attendance.

CDX Wagon Welcome banners

The City of Stratford brand and messaging will be the first to be seen as attending dairy families, industry and community members drive into Perth County and the last to be seen as they leave. CDX will have dominant hay wagons with welcome banners, located at four farm properties, outside of the Stratford City limits and within Perth County. Banners to have "Welcome to CDX" message and CDX logo and City of Stratford logo.

CDX TO:

- Include City of Stratford colour logo, as "Host City" in $250,000+ print media buy where appropriate, hotlinked on CDX website, E-letters and included in 20,000 CDX Official Show Programs (distributed pre and during show)
- Produce and install 2 large (hockey style banners) with the City of Stratford logo and messaging, "Welcome to the City of Stratford and CheeseFEST - Community Excellence with Worldwide Impact!"
- Producer welcome banners; Connect direct with farms and arrange placement of hay wagons; Set-up/position all four hay wagons and banner signage
- Provide complimentary static 10ft exhibit space in front foyer to CDX. Does not have to be manned and can feature Tourism, Economic Development and Chamber of Commerce literature and initiative focus
- The City of Stratford to be recognized as a contributor to CheeseFEST through PA announcements by CheeseFEST MC
- Invite all residents of new development (adjacent to Cow Coliseum building) and residents from McCarthy Road – Mornington Rd. to CheeseFEST via VIP ticket distributed one week prior to April 5 2017
- CheeseFEST Provide 20 VIP All Access badges comp day passes to CDX for The City of Stratford key staff, council and volunteers

City of Stratford TO:

- Disbursement of $8,000 grant to the Canadian Dairy XPO (CDX)
- Provide 3 police offers and 2 police cars (in kind)
- Provide required amount of barricades and controlled access signage at each end of McCarthy Road (@ Mornington and Fraser Dr)
- Provide high res (300 dpi+) logo file to CDX
- Optional to provide City of Stratford "community greeters/welcome committee" during the hours of CheeseFEST. We see Council members at the main entrance and exit to CheeseFEST welcoming farmers, exhibitors and general public (optional)
- Option to have the Honorable Mayor, bring formal greetings at the opening of CheeseFEST

WE VALUE YOUR CONSIDERATION FOR SUPPORT – THANK YOU

Stratford Summer Music

Request for support from the City of Stratford, for the 2017 season

2016 Festival Season Report

Statistical Highlights

- 500 + donors and sponsors
- 250 + individual artists
- 85 + events over six weeks
- Over 20,000 people enjoyed free performances
- Over 4,800 people attended ticketed events
-

Artistic Highlights

- Six full weeks of ticketed and free performances in celebration of our 16th season
- Opening night on Tom Patterson Island with the **Canadian Arabic Orchestra** and traditional fireworks choreographed to the music of Berthold Carrière, free for the entire community to experience in Lower Queen's Park. Special invitations were extended to Stratford's newest citizens, recently arrived from Syria, who were touched by the inclusion of music of their heritage in their new hometown.

- A sold out performance of the famous black gospel group, **The Harlem Gospel Choir** performing with Canadian Soprano Measha Brueggergosman at Knox Church on a steamy July evening.

- The week-long **TorQ Percussion Seminar**, where 8 young people furthered their pre-professional training in percussion performance with instruction and master classes held in Stratford Central School, taught by TorQ Percussion Quartet along with Canadian percussionist Beverly Johnson and composer for percussion Christos Hatzis. **Music for an Avon Morning** early morning performances on Tom Patterson Island were attended by hundreds of people.

- A six week, 12 performance series of **Musical Brunches at the Prune Restaurant**, featuring harp music from around the world.

- Two popular performances of **The Artie Shaw Orchestra** at The Best Western Arden Park hotel.

- The second annual **Vocal Academy**, offering intensive training in professional preparation and performance skills, taught by internationally renowned founding faculty consisting of **Michael Schade, Phillip Addis*** and **Emily Hamper***, guest faculty members Krisztina Szabo, Nathalie Paulin, Howard Dyck, Geraint Wyn Davies*, and Robert Harris with Master Classes which were open to the public. (*Stratford residents)

- Three well attended performances of Rossini's **Barber of Seville** as a dinner opera at Revival House featuring five outstanding young Canadian singers with pianist and musical director **Peter Tiefenbach**.

- A season finale performance of the **Stratford Six,** a collection of notable and entertaining female vocalists with ties to our community who performed operatic and other vocal hits, at St Andrew's Church.

- The **Classical Piano Series,** featuring among others, the world renowned pianist **Simone Dinnerstein** (USA), and 13 year old jazz phenomenon **Joey Alexander** (Bali / USA), Luca Buratto (Italy), plus Stratford's favourite **Jan Lisiecki,** from Alberta, all performing at St Andrew's Church.

An exceptional series of 30 free performances on the **MusicBarge**, with a wide variety of artists and genres, enjoyed by locals and tourists alike. **The Steel City Rovers**, **The Andrew Collins Trio**, **The Ennis Sisters**, **Eliana Cuevas**, **Swamperella**, and the **Pipes and Drums of the Guelph Pipe Band** were the artists who contributed to MusicBarge's eclectic programming mix this season, enjoyed by over 15,000 people who listened, sang, danced and clapped throughout this series of free concerts.

- In co-operation with members of the Stratford Field Naturalists, we hosted two **Bach Walks** on Sunday mornings, throughout the TJ Dolan natural area, accompanied by **Charm of Finches**, a classical flute ensemble playing music by JS Bach and others. These walks were free to the public, in part due to the support of RTO4 and the Stratford City Centre committee's Animation Fund.

- A return performance by local favourite country / folk performers **Whiskey Jack**. This year, in a tribute to famous Canadian fiddlers such as Don Messer, they featured special guest and Stratford musician **Dan Stacey**. This sold out performance was held at the Royal Canadian Legion.

2017 Festival Season

Monday July 17th to August 27th
Six weeks of performances by Canadian and international artists, with plans continuing to evolve.

Opening Night
Free for the entire community with fireworks set to *Music for a Midsummer's Night*. The evening's program will introduce an important theme for the 150th anniversary of Canada's confederation, celebrating the historical and living traditions of Ontario's First Nations in song and dance.

National Youth Orchestra and National Youth Choir

2017 is the first year these two-long standing Canadian musical groups will tour the country together, coast to coast to coast, in honour of Canada's 150th anniversary. We are delighted to announce that their first engagement will be at Stratford Summer Music on July 21.

Music Academies
Plans are already underway for the third consecutive **Vocal Academy** under the tutelage of Phillip Addis and Emily Hamper, along with other top flight Canadian vocal instructors. We also anticipate for 2017 the return of the popular **School of Rawk** led by the dynamic teaching rock group **Speed Control** from Whitehorse Yukon.

BargeMusic
A variety of Canadian and heritage musical styles over six weeks of free concerts on the music festival's floating stage on the banks of the Avon River.

Cabaret Series
Evening performances at Revival House Restaurant feature Canadian artists with dinner & show packages. Returning by popular demand will be **Patricia O'Callaghan**, who opened our Cabaret series in 2016. Discussions with other prominent artists, including **Jens Lindemann**, **Jane Bunnett** and **Molly Johnson** are underway.

Financial Report

Our fiscal year end is November 30, with 2016 financial statements becoming available in February 2017. Our 2015 financial statements are attached, and show a surplus at the end of the 2015 fiscal year. We project another surplus at the end of this year, based on strong ticket sales and fiscally responsible spending. We contracted a fund developer this year, who is working to find diverse and continuous funding sources going forward.

Request to the City of Stratford

Our request for 2017 is an investment of $30,000 from the City of Stratford. The requested investment will fund free music performances and events for the citizens of Stratford and area next summer. New for 2017, with the support of the City of Stratford, is special programming to be considered for the newly defined Market Square area behind City Hall. This grant level represents just over 3% of Stratford Summer Music's total revenue and 15% of the music festival's funding from government agencies.

Stratford Summer Music is internationally recognized as one of Canada's finest summer music festivals. The Festival has grown successfully from one to six weeks of programming over 16 years. This success is in no small part attributable to the support afforded SSM by the City of Stratford, its residents, businesses and the tourists who visit. In return, Stratford Summer Music contributes richly to the quality of life, the economic vitality and the cultural fabric of the community.

Thank you for your prior support and for your consideration of this request for 2017.

Respectfully Submitted,

John Miller, Artistic Producer Judy Matheson, General Manager

Stratford Arts Foundation o/a Stratford Summer Music	Budget 2016	Actual 2016 (unaudited)	Budget 2017 (revised)
REVENUE			
EARNED REVENUE			
Ticket Sales	145,000	172,000	175,000
Camp / Workshop Registration	5,000	5,200	7,000
Merchandise	6,000	10,000	5,000
Advertising Revenue	10,000	12,000	10,000
Other Revenue	500	13,500	15,000
Interest Earned	1,000	340	1,000
TOTAL EARNED REVENUE	**167,500**	**213,040**	**213,000**
PRIVATE SECTOR REVENUE			
Individual Donations	100,000	121,000	130,000
Corporate Donations & Sponsorships	150,000	149,000	150,000
Foundation Grants	39,500	35,000	40,000
Stability Fund *		21,000	50,000
Soiree Income	20,000	17,900	20,000
Over the Top Income	30,000	46,700	45,000
In-kind Donations (incl rent)	30,000	34,000	34,000
In-Kind Media	50,000	24,000	26,500
TOTAL PRIVATE SECTOR REVENUE	**419,500**	**448,600**	**495,500**
GOVERNMENT REVENUE			
Municipal - City of Stratford	25,000	20,000	30,000
Provincial - OAC Operating	31,565	29,987	29,987
Provincial - OAC Foundation interest		1,355	1,000
Provincial - OCAF			100,000
Provincial - Celebrate Ontario	92,000	76,800	45,000
Provincial - Ontario 150			25,000
Provincial - RTO4		2,500	5,000
Federal - Canadian Heritage	35,000	35,000	35,000
Federal - Canada Summer Jobs	4,700	11,800	5,000
TOTAL GOVERNMENT REVENUE	**188,265**	**177,442**	**275,987**
TOTAL REVENUE	**775,265**	**839,082**	**984,487**
EXPENSES			
Artistic Expenses	310,000	330,000	355,500
Production Expenses	95,000	72,000	107,500
Administration Expenses	192,000	188,000	190,000
Marketing & Communications Expenses	140,000	142,000	179,500
Fundraising Expenses	27,600	50,000	47,500
Contingency / foreign exchange	5,000	3,800	6,000
OCAF payback			40,000
Amortization	4,500	4,500	4,500
Stability Fund *		40,000	50,000
TOTAL EXPENSES	**774,100**	**830,300**	**980,500**
Operating Surplus / (Deficit)	**1,165**	**8,782**	**3,987**

*** Stability Fund is a Board Directed fund to be built over the next three years, creating a surplus equal to one year's operating costs, designed to alleviate seasonal cash flow issues.**

The Stratford Arts Foundation
o/a Stratford Summer Music
Financial Statements
For the Year Ended November 30, 2015

The Stratford Arts Foundation
o/a Stratford Summer Music
Financial Statements
For the Year Ended November 30, 2015

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Independent Auditor's Report

To the Members of
The Stratford Arts Foundation
o/a Stratford Summer Music

We have audited the accompanying financial statements of The Stratford Arts Foundation, which comprise the statement of financial position as at November 30, 2015, the statements of operations, changes in net assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

BDO Canada LLP, a Canadian limited liability partnership, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of The Stratford Arts Foundation as at November 30, 2015, and the results of its operations and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Chartered Professional Accountants, Licensed Public Accountants

Stratford, Ontario
February 23, 2016

The Stratford Arts Foundation
o/a Stratford Summer Music
Statement of Financial Position

November 30	2015	2014
Assets		
Current		
Cash	$ 8,404	$ -
Short term investments (Note 2)	5,123	5,080
Accounts receivable	19,944	10,975
HST recoverable	2,066	3,434
Prepaid expenses	7,111	5,739
	42,648	25,228
Capital assets (Note 3)	20,316	21,136
	$ 62,964	$ 46,364
Liabilities and Shareholders' Equity		
Current		
Bank indebtedness (Note 4)	$ -	$ 18,362
Accounts payable and accrued liabilities	28,585	64,044
Deferred revenue	275	725
	28,860	83,131
Net Assets		
Unrestricted net assets	5,838	(65,852)
Net assets invested in capital assets	20,317	21,136
Maureen Forrester Young Canadian Artist Fund	7,949	7,949
	34,104	(36,767)
	$ 62,964	$ 46,364

On behalf of the Board:

_____, Director _____, Director

The accompanying notes are an integral part of these financial statements.

The Stratford Arts Foundation
o/a Stratford Summer Music
Statement of Changes in Net Assets

November 30	Unrestricted Net Assets	Net Assets Invested in Capital Assets	Maureen Forrester Young Canadian Artist Fund	2015	2014
Net revenue (expenditures) for the year	$ 75,457	$ (4,586)	$ -	$ 70,871	$ (28,537)
Transfers	(3,767)	3,767	-	-	-
Balance, beginning of year	(65,852)	21,136	7,949	(36,767)	(8,230)
Balance, end of the year	$ 5,838	$ 20,317	$ 7,949	$ 34,104	$ (36,767)

The accompanying notes are an integral part of these financial statements.

The Stratford Arts Foundation o/a Stratford Summer Music Statement of Operations

For the year ended November 30	2015	2014
Revenue		
Earned Revenue		
Ticket sales	$ 182,900	$ 102,188
Advertising sales	11,500	15,600
Merchandise & other sales	11,725	8,995
Interest	855	1,084
	206,980	127,867
Donations and Fundraising		
Corporate donations	94,685	142,285
Foundation donations	36,000	49,250
Individual donations	95,312	99,744
In-kind donations	104,901	56,393
Special event revenue	140,736	72,796
	471,634	420,468
Government Grants		
Federal (Note 5)	44,727	39,621
Provincial (Note 5)	194,516	125,361
City of Stratford	21,000	19,801
	260,243	184,783
Total Revenue	938,857	733,118
Expenditures		
Artistic (Schedule of Expenses)	342,880	293,438
Production (Schedule of Expenses)	92,213	86,524
Administration (Schedule of Expenses)	197,641	222,440
Marketing & fundraising (Schedule of Expenses)	230,666	155,043
Amortization	4,586	4,210
	867,986	761,655
Net revenue (expenditures) for the year	$ 70,871	$ (28,537)

The accompanying notes are an integral part of these financial statements.

The Stratford Arts Foundation
o/a Stratford Summer Music
Statement of Cash Flows

For the year ended November 30	2015	2014
Cash from operating activities		
Net revenue (expenditures) for the year	$ 70,871	$ (28,537)
Items not affecting cash:		
Amortization	4,586	4,210
	75,457	(24,327)
Changes in non-cash working capital:		
Accounts receivable	(7,601)	15,941
Prepaid expenses	(1,372)	(1,141)
Accounts payable and accrued liabilities	(35,459)	37,887
Deferred revenue	(450)	(44,275)
	30,575	(15,915)
Cash flows from investing activities		
Change in short term investments	(43)	(47)
Purchase of capital assets	(3,766)	(3,644)
	(3,809)	(3,691)
Cash flows from financing activities		
(Decrease) increase in bank indebtedness	(18,362)	18,362
Net increase (decrease) in cash	8,404	(1,244)
Cash, beginning of the year	-	1,244
Cash, end of the year	$ 8,404	$ -

The accompanying notes are an integral part of these financial statements.

The Stratford Arts Foundation
o/a Stratford Summer Music
Notes to Financial Statements

November 30, 2015

1 . Significant Accounting Policies

Purpose of Organization

The Stratford Arts Foundation (the "Foundation") was incorporated under the laws of Canada by letters patent dated November 14, 2000 and is exempt from income taxes as a registered charity under section 149(f) of the Income Tax Act. The Foundation obtained its Certificate of Continuance as required under section 211 of the Canada Not-for-Profit Corporations Act on May 1, 2014. The Foundation's purpose is to establish, maintain and operate cultural projects, and particularly a summer music festival, in the City of Stratford.

Basis of Accounting

The financial statements have been prepared using Canadian accounting standards for not-for-profit organizations.

Capital Assets

Capital assets are stated at cost less accumulated amortization. Amortization is provided using the straight-line method over the following estimated useful lives:

	Years
Barge	10
Computer equipment	3
Office equipment	5
Festival equipment	10

Contributed Materials/Services

A substantial number of volunteers contribute a significant amount of their time to the Foundation each year. Due to the difficulty of determining fair value, these contributed services are not recognized in the financial statements.

Contributed materials for which the fair value is determinable and the item would have been otherwise purchased are recorded in the financial statements as both an in-kind donation and an expense. The Foundation receives in-kind donations of rent and advertising. The Foundation also receives in-kind donations of auction items, which are included in the special event revenue and the fundraising expenses.

Revenue Recognition

The Foundation follows the deferral method of accounting for contributions. Restricted contributions are recognized as revenue in the year in which the related expenses are incurred. Unrestricted contributions are recognized as revenue when received or receivable if the amount to be received can be reasonably estimated and collection is reasonable assured.

Revenue from ticket sales, soirees, garden parties and dinners is recognized as the events are held. Deferred revenue may arise if funds are received in the current fiscal year that relate to subsequent fiscal years.

1 . Significant Accounting Policies (continued)

Financial Instruments

The Foundation recognizes and measures financial assets and financial liabilities on the balance sheet when it becomes a party to the contractual provisions of a financial instrument. All transaction costs related to financial instruments are recorded as incurred. All financial instruments are measured at fair value on initial recognition. In subsequent periods, the Foundation's financial instruments are reported at cost or amortized cost less impairment, if applicable. Financial assets are tested for impairment when changes in circumstances indicate the asset could be impaired.

Use of Estimates

The preparation of financial statements in accordance with the Canadian accounting standards for not-for-profit organizations requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from management's best estimates as additional information becomes available in the future.

Maureen Forrester Young Canadian Artist Fund

The Board set aside proceeds from a tribute concert in order to establish the Maureen Forrester Young Canadian Artist fund. This fund will support on-going programming at the organization for young artists at professional rates. The funds may be used at the discretion of the Board.

Foreign Currency Translation

Foreign currency transactions are translated at the rates of exchange in effect at the dates of the transaction. Resulting foreign currency denominated monetary assets and liabilities are translated at the rates of exchange in effect at the balance sheet date. Gains and losses on translation of monetary assets and liabilities are included in net income.

2. Short Term Investments

Short term investments consist of a $5,000 non-redeemable guaranteed investment certificate (GIC) with an annual compound interest rate of 0.9%.

3. Capital Assets

	2015		2014	
	Cost	Accumulated Amortization	Cost	Accumulated Amortization
Barge	$ 43,099	$ 33,295	$ 39,333	$ 31,849
Computer equipment	4,529	4,413	4,529	3,298
Office equipment	500	500	500	500
Festival equipment	20,256	9,860	20,256	7,835
	68,384	48,068	64,618	43,482
Net book value		$ 20,316		$ 21,136

4. Bank Indebtedness

The Foundation has established a bank operating line of credit of up to $37,500 bearing interest at Scotiabank prime plus 4% and secured by a general security agreement providing a charge on all assets of the Foundation and a cash collateral charge. At November 30, 2015 the Foundation had undrawn credit capacity under this facility of $37,500 (2014 - $18,722).

5. Government Grants

	2015	2014
Federal Grants		
Canada Heritage	$ 40,000	$ 35,000
Canada Summer Jobs	4,727	4,621
	44,727	39,621
Provincial Grants		
Ontario Arts Council	31,565	33,225
Ministry of Tourism and Culture	85,950	89,250
Ontario Arts Foundation	1,045	-
Ontario Cultural Attractions Fund	70,000	-
Ontario Tourism Partnership Corporation	5,956	-
Ontario Summer Experience Program	-	2,886
	$ 194,516	$ 125,361

6. Financial Instruments

Unless otherwise noted, it is management's opinion that the Foundation is not exposed to significant currency or credit risks arising from its financial instruments. The Foundation is exposed to interest rate risk to the extent that its line of credit is at a floating rate of interest. Fluctuations in this rate will impact the cost of temporary borrowing in the future.

The Stratford Arts Foundation o/a Stratford Summer Music Schedule of Expenses

For the year ended November 30	2015	2014
Artistic		
Artistic salaries	$ 70,218	$ 68,208
Artistic expenses	9,932	6,546
Performer fees	193,898	160,574
Performer accommodations	48,064	36,221
Performer travel costs	16,164	13,918
SOCAN	4,604	7,971
	342,880	293,438
Production		
Production/technical staff wages	31,954	30,443
Site rentals	14,211	8,935
Production expenses	46,048	47,146
	92,213	86,524
Administration		
Administration salaries/fees	105,269	135,761
Professional fees	16,645	15,891
Insurance	4,307	4,390
Rent	24,000	24,000
Administration and membership expenses	40,342	34,943
Merchandise expense	7,078	7,455
	197,641	222,440
Marketing and Fundraising		
Advertising and marketing salaries/fees	10,000	7,770
Advertising and marketing expenses	189,926	121,381
Fundraising expenses	30,740	25,892
	$ 230,666	$ 155,043

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ONTARIO CANADA
Dramatically Different!

Corporate Services Department

MANAGEMENT REPORT

Date: February 21, 2017
To: Finance & Labour Relations Sub-committee
From: André Morin, Director of Corporate Services
Report#: FIN17-007
Attachments: Stratford Strikers GU17 – 2017 Grant Application

Title: 2017 Grant Request -Stratford Strikers GU17

Objective: To review a grant request from the Stratford Strikers (girls under age 17) soccer team.

Background: Community organizations are able to apply for a City community grant after budgets have been approved by Council. A contingency amount has been set aside under the 2017 grants budget to cover appeals and after-budget requests.

Analysis: The Stratford Strikers GU17 team is requesting financial assistance in the amount of $3,600., to attend the San Marino Cup being held in Italy in July 2017. This is an international youth soccer tournament and the Stratford team is requesting funds toward tournament fees and travel costs for players only. Their grant application is attached.

No grants of this nature have been approved within at least the last 5 years.

Financial Impact: Grant requests approved after-budget can be funded from the grants contingency.

Staff Recommendation: For the consideration of Sub-committee.

André Morin, Director of Corporate Services

_____
Rob Horne, Chief Administrative Officer

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CITY OF STRATFORD 2017 GRANT APPLICATION FORM

(deadline: Sept 15,2016)

RECEIVED FEB 09 2017 CITY OF STRATFORD TREASURERS OFFICE

Before submitting your application:
Please review the 2017 Grant Application Guidelines on the City's website. Following these instructions will ensure your application is complete and accurate.

1.Grant Information

Amount requested for this grant: $ $200 per player total $3600

Which category does your grant request fall under:
(●) Arts, Heritage, Culture ( ) Environment, Beautification ( ) Social, Health Services ( ) Recreation
( ) Other (please explain): This falls into Culture and promotes our city.Some girls would never get to experience other cultures like Italy wit

Please indicate how the grant funds will be used:
The funds will be used towards tournament fees and travel costs for players only

How will this funding request contribute to the City's strategi priorities?
This event promotes Active Healthy Living as a part of Canada's #1 growing sport and puts Stratford,Ontario on the world stage in soccer.

2.General Organization Information

Organization Name: Stratford Strikers GU17

Contact Name: Lynda Sauve

Mailing Address:

City/Town: Postal Code:

Telephone No.: Fax No.:

Email:

Web Site:

Briefly state your organization's missions/goals: We provide world class soccer training to every girl with an opportunity to play soccer at her highest level in a safe and supportive environment that encourages the development of soccer skills and the love of the game. Our mission is to foster the physical, mental and emotional growth and development of Stratford's youth through the sport of soccer and competition.

Please attach a list of your organizational structure (*where applicable*):
- Board of Directors, Executive Officers, Staff (*indicate which staff positions are paid*)
****** do not include personal information** such as home addresses/telephone nos.******

Number of volunteers: 6 parents as chaperones

Does the organization operate as a not-for-profit? ( ) Yes (●) No

The personal information collected on this form or in background material included with your application is collected under the authority of the *Municipal Act, 2001* and will be used by Corporate Services staff and City Council for the purpose of reviewing grant applications and other related administrative purposes. Questions regarding the collection and use of this information may be made to the City Clerk, P.O.Box 818, Stratford, ON, N5A 6W1 or by telephone 519-271-0250 ext. 235 during business hours.

CITY OF STRATFORD 2017 GRANT APPLICATION FORM **Page 2**

Is the organization incorporated? If yes, please provide date:	◯ Yes ◉ No Date of Incorporation
Does the organization have charitable status? If yes, please provide charitable number:	◯ Yes ◉ No Charitable No.
Are fees charged for membership or for any of the services/activities you provide? If yes, please explain:	◉ Yes ◯ No
There is a registration fee for all players on the team. We have 18 players	
Does anyone other than City of Stratford residents belong to your organization, or benefit from your services/activities? If yes, please explain:	◉ Yes ◯ No
We have four girls that live in our surrounding area not in town.	

3.Program Information

Attach supporting information to illustrate your organization's programs and activities, and how they meet the Community Grants Program eligibility criteria.

4.Financial Information

Attach the following financial information:

- Most recent year-end financial statements
- Budget for the year in which the funds are being requested
- Indicate separately any funding requested or received from other levels of government and other agencies, and the status of each application.

5.Name of Individual completing this form

Name: Lynda Sauve	Application Date: Feb. 2017
Position: treasuer	

If you require this form in an alternate format, contact Corporate Services Department at 519-271-0250 ext. 202 or TTY at 519-271-5241

The personal information collected on this form or in background material included with your application is collected under the authority of the *Municipal Act, 2001* and will be used by Corporate Services staff and City Council for the purpose of reviewing grant applications and other related administrative purposes. Questions regarding the collection and use of this information may be made to the City Clerk, P.O.Box 818, Stratford, ON, N5A 6W1 or by telephone 519-271-0250 ext. 235 during business hours.

Total Costs per player

Italy Tour – SanMarino Cup

06 nights / 08 days trip

4 stars standard hotel

Triple Room 1.630,00Euros / 2.280,00Cad$

Double Room 1.670,00Euros / 2.330,00Cad$

Single Room 1.830,00Euros / 2.550,00Cad$

*** If number of people change significantly, we reserve the right to update the price.**

**** Prices are changed into Cad $ with a rate Euro exchange at 1,00 Euro = 1,40 Cad $ and subject to change if you don't pay in CAD$ - no subject to change if you pay in Euros.**

INCLUSIONS:

Flights

- From Toronto to Rome and back;

- Taxes / surcharges included;

Meals & Accommodation

- Dinner and breakfast daily;

- 6 nights in quality hotel in San Marino/Rimini Riviera area;

Transportation

- Full time private bus for all your stay (approx 12 hours per day); All transfers as per the daily program;

Assistance

- Full time private and well experienced Tour Manager during all your stay speaking Italian & English;

Excursions

- Free time on the Rimini Riviera;

- Free time in San Marino Republic;

Tournament

- Tournament registration fee;

- San Marino Super Card for all the participants;

- Free sports gadget for all the participants;

- San Marino Cup Souvenir;

- Medals for all the participants;

- Entry at Opening Olympic style Ceremony;

- Welcome gala Dinner for 2 coaches;

- Tournament Assistance;

- Disco night for players

- 4 matches guaranteed;

2016/17 SYS BOARD OF DIRECTORS

NAME	POSITION	EMAIL
Graham Bunting	President / Photos	
Mike Vancea	Vice-President / Tournament	
Kevin Machado	Treasurer	
Tony Hunter	Secretary	
Frank Misuraca	Sponsors	
Gabriele Nemeth	Head of House League / Indoor	
Lucy Doney	SMSC Rep.	
Don Herlick	Head of Travel	
Carla Vancea	Uniforms & Equipment	
John De Boeck	Field maintenance	
Lynda Sauve	Travel assistant	

Anita Dube	House League assistant
Todd Steel	Director
Carla Binns	Director
Mike Binns	Director

2016/17 STAFF

NAME	POSITION	EMAIL
Maureen Mitchell	Administrator	
Lori Misuraca	Communications Administrator	
Holly Deighton	Referee Scheduler	
Tom Charette	House League Technical Director	

Fundraising For The San Marnio Trip

-Feb 11th-14th selling mint smoothies at Zehrs profit $500-$700

-May, June, July BBQ's at different locations in Stratford profit estimated at $1000

-May, Bottle drive profit estimated $1000

-April, Boston Pizza "All you can Eat" night profit anywhere from $1000-$3000

-Silent Auction late March profit estimated at $1500

-Car wash in June profit estimated $500

-Toonie ask at the till at Zehrs profit estimated $500-$1000

-Happy Hands event at Central School in late June profit estimated $1000

We are trying to explore any and all fundraising ideas.

SAN MARINO CUP
International Youth Soccer Tournament
SAN MARINO CUP
10th - 15th JULY 2017
www.sanmarinocup.com

A GREAT SPORT, SOCIAL AND CULTURE EXPERIENCE WITH A UNIQUE INTERNATIONAL ATMOSPHERE.

The largest Italian youth soccer tournament for boys and girls: 16th edition in 2017. 100 Teams, 18 Countries, 4 Continents and more than 3000 participants. The tournament is open to Football / Soccer Clubs, Schools and Academy teams for boys aged 12 to 19 (teams organized in 5 categories) and girls 13 and older (3 categories). The tournament starts on Monday, July 10th, and finishes on Saturday, July 15th with finals. Matches will be played on 12 grass and astroturf fields in the Rimini Riviera and San Marino Republic.

CATEGORIES

BOYS

Category **A**: born in 2006/2007 (7 a-side)
Category **B**: born in 2004/2005
Category **C**: born in 2002/2003
Category **D**: born in 2000/2001
Category **E**: born in 1998/1999

GIRLS

Category **F**: born in 2003/2004/2005
Category **G**: born in 2001/2002
Category **H**: born in 1998/1999/2000

PLAYING TIMES

Category **A**: 2 halves of 18 minutes each (20 minutes for finals)
Category **B**: 2 halves of 20 minutes each (25 minutes for finals)
Categories **C - F**: 2 halves of 25 minutes each (30 minutes for finals)
Categories **D - E - G - H**: 2 halves of 30 minutes each (40 minutes for finals)

OVERAGE PLAYERS

It's allowed a maximum of 3 overage players in the field (max 1 year older - born on the previous year) to play at the same time during a game (only 2 for the 7 a-side A Category). You can bring as many overage players as you want, but only 3 players can play simultaneously in the playing field.

---

* Special dispensation for US & English teams: players born from 1st Aug to 31st Dec of the previous year will not be considered overage players.

100 TEAMS
18 COUNTRIES
4 CONTINENTS
MINIMUM OF **4** GAMES
50 STAFF MEMBERS
12 NEW TURF AND GRASS PITCHES

WEEKLY PROGRAM

Monday, July 10th - Arrival at the tournament headquarter in San Marino for the check-in. The team will get all the information and documents to participate in the event. Remember to bring with you Players' Passports in order to check the age even if you have already sent copies to the tournament! (All the teams must be at the check-in no later than 07.00 pm). Final transfer to your selected hotel and check-in.

Tuesday, July 11th - After breakfast, qualification games start today according to your games schedule. Leisure time during the day depending on your tournament schedule. Tonight: Opening ceremony at 09.30 pm.

Wednesday, July 12th - After breakfast, qualification games continue in the morning and in the afternoon, depending on your tournament schedule.

Thursday, July 13th - Tournament games. Tonight Coaches party for 2 coaches of each team.

Friday, July 14th - During all the day last quarter finals and semi-final games for all categories according to your games schedule. Tonight at 09.30 p.m. the San Marino Cup tournament disco will open. It is reserved to boys and girls attending the tournament (special entry for owners of Super Card).

Saturday, July 15th - After breakfast, hotel check-out and final games for each category in the morning and in the early afternoon. At the end of all finals, prize-giving ceremony with medals for all players and trophies for winners of each category. Departure.

MAIN RULES

Note 1: flying substitutions are not allowed.

Note 2: players replaced during the game cannot re-enter during the same match.

Note 3: maximum 24 players can be listed per team (except Cat A - 7 a-side - that has 18 players in the list).

Note 4: maximum 7 substitutions are allowed for game per team.

Note 5: a player can play with more teams registered in different categories (max in 2 categories), but not with more teams playing in the same category (We need to be informed in advance about this and prepare a special dispensation for these players).

Note 6: except the Cat A and Cat B, girls can't play with boys teams and boys with girls teams. Girls are able to play with boys only in the A Category without limit of numbers (and max 1 year older than Boys) and in the B category with a limit of 3 Girls players and same age of Boys (not older).

Note 7: additional note from the tournament office: maximum 3 overage players (max 1 year older - born on the previous year) are allowed to play at the same time during a game (only 2 for the A Category 7 a-side). You can bring as many overage players as you want, but only 3 players can play simultaneously in the playing field.

Note 8: Each player t-shirt must have the number on the back.

Note 9: The Soccer pitches will be both natural grass and astroturf, bring with you the right footwear (You can't use Metal/Aluminium Studs on astroturf Pitches).

Note 10: For preliminary tournament matches, a person of your staff will do the linesman. The tournament organization will provide linesman only for finals.

Note 11: Special dispensation for US & English teams: players born from 1st Aug to 31st Dec of the previous year will not be considered overage players.

Note 12: Age control: before arrival all players must confirm their age. We'll need to receive colour Passport / Identity card copies which will be stamped and validated at the check-in the day of arrivall at the tournament (That day we will verify the original Passport / ID Card). At the end of the age control will be given the list of Passport copies that will be used as official document in order to play the games.

FAIR PLAY RULE - We inform clubs that the handshake between players and coaches of the two opponent teams before the beginning of the match will be considered a compulsory rule.

MATCHES WILL BE PLAYED IN SAN MARINO AND IN THE RIMINI RIVIERA

Our 11 a-side and 7 a-side fields are Astroturf 3rd generation as well as natural grass.

There is tournament staff in each sports center to welcome the teams. There will be at your disposal changing rooms, physio rooms, showers, official balls, first aid.

FIELDS & MAP

Trento
Udine
Aosta
Milan
Venice
Turin
Bologna
Genova
Florence
Ancona
Perugia
ROME
L'Aquila
Campobasso
Bari
Naples
Potenza
Cagliari
Palermo
Reggio
Calabria

The oldest republic in the world is 657m above sea level and only 10 km from the Adriatic Sea, the 61 km² Repubblica di San Marino boasts and old town worth to visit and the views all around are quite spectacular.

Today Riccione/Rimini/Misano are well known all over the world for their tourism, hotel hospitality, shows and sport cultural events. They are considered the diamonds of the Adriatic coast. The beaches with a very fine sand and with the sunshine from daybreak to sunset are certainly one of the most important attractions that the cities offer to their hosts.

ACCOMMODATION

There are different options in the hotel category.
We have a great selection of 2 stars, 3 stars, 3 stars superior, 4 stars hotels and all of them suitable to the team needs and budget. Some of the hotels are located in the San Marino Republic and some on the beach at just a few minutes walking distance from the seaside. All the hotels are in good position and very close to restaurants, city centres pubs, clubs, shops, markets. Coaches and parents can book twin or single rooms while players will be booked in rooms with 3 or 4 beds according to their request and to the hotel availability. Basic accommodation package includes 2 meals a day (breakfast and dinner). Breakfast and dinners are always served at the hotel and if you desire to include lunch we'll provide the extra cost.

TRANSPORTATION

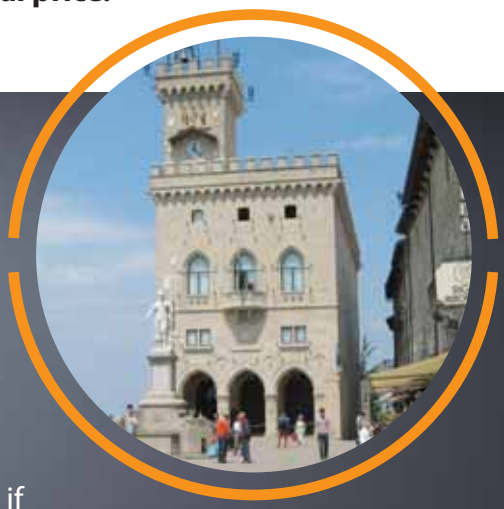
By bus
Highway A14 – Rimini Sud exit

By train
Rimini railway station

By plane
International airports:
Rimini airport 5 kms - Ancona airport 90 kms
Bologna airport 100 kms - Florence airport 220 kms - Venice airport 260 kms - Pescara airport 260 kms
Treviso airport 280 kms - Pisa airport 290 kms - Milan Linate airport 320 kms - Bergamo airport 350 kms
Milan Malpensa airport 380 kms - Rome airport 400 kms

The tournament organization will provide transfer from / to Railway stations and international airports at a special price.

HOW TO MOVE DURING THE SAN MARINO CUP



1st Option - Rent your private bus
Teams can rent their own private bus for all the week in relation to their group size. It is a private bus service. Extra cost will be charged if the services exceed 12h per day or 250 kms per day.
For more information and costs ask a quote through our contact form.

2nd Option - Tournament Shuttle bus
The tournament organization is able to provide the shuttle bus service.
You'll be able to reach the soccer fields and the events venues (opening ceremony, tournament disco and prize giving ceremony) at a very special price! Drivers / Buses can change every transfer.

ACTIVITIES

OPENING ***CEREMONY***

COACHES *DINNER*

TOURNAMENT ***DISCO***

PRIZE-GIVING *CEREMONY*

DEADLINES

Non European teams:
April 3rd, 2016

European teams:
May 1st, 2016

SUPER CARD

Your passport to the tournament

Super Card, the official pass to the tournament activities, to the great Opening Ceremony and Prize Giving Ceremony. Your Super Card will be ready upon your arrival: take the chance to enjoy the many opportunities it offers.
With your super card you will have discounts in some shops and entry fees with reductions. Bring your super card always with you!

EXCURSIONS

AQUAFAN
The largest Italian Water park.
The complex is divided into 4 themed areas: children's games, water games, relaxation, and sport & fun, with attractions to please all tastes.

GRADARA CASTLE
Situated in one of the best medieval villages of Italy and a popular destination for day-trippers offers some interesting historical attractions, that include the imposing fortress.

FOOD/WINE TASTING
You will have the possibility to explore the fascinating itinerary of the Route of Wines and Flavours of Rimini's Hills, which gives tourists the possibility to taste genuine local staples.

TRAIN PUB TOUR
The San Marino train will take you in some of the best pub of the old Republic.

SAN MARINO CUP

FOLLOW US ON:

www.sanmarinocup.com
info@sanmarinocup.com

Tournament organized by

DREAM
Team Sports Tours

YOUR SOCCER TRAVEL AGENCY

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Other countries: P. 0039.031.200.943
www.dreamteamsportstours.com
info@dreamteamsportstours.com • Skype: sportstours1

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Corporate Services Department

MANAGEMENT REPORT

Date: February 21, 2017
To: Finance & Labour Relations Sub-committee
From: Marilyn Pickering, Supervisor of Tax Revenue
Report#: FIN17-005
Attachments: Summary of Tax Adjustments – February 21, 2017

Title: Tax Adjustments – February 21, 2017

Objective: To consider approval of tax adjustments under Section 357 for 2016 and to receive Assessment Review Board Decisions for 2013-2016.

Background: Section 357 of the Municipal Act, 2001 states in part 'upon application to the treasurer, the local municipality may cancel, reduce or refund all or part of taxes levied on land in the year in respect of which the application is made.' Details of the tax adjustments for approval are attached.

Assessment Review Board Decisions are for information purposes.

Analysis: Summary is attached.

Financial Impact: There has been an allowance made in the 2017 Budget for anticipated tax adjustments.

Staff Recommendation: THAT the Report of the Supervisor of Tax Revenue dated February 21, 2017 regarding the approval of tax adjustments under Section 357 for 2016 be approved;

AND THAT the Assessment Review Board Decisions for 2013-2016 be received for information.

_____
Marilyn Pickering, Supervisor of Tax Revenue

_____
Andre Morin, Director of Corporate Services

_____
Rob Horne, Chief Administrative Officer

SUMMARY OF TAX ADJUSTMENTS - FEBRUARY 21, 2017

APP. NO.	ROLL NO.	PROPERTY ADDRESS	REASON FOR APPLICATION AND ASSESSMENT AMOUNT	COVERED IN DAYS	TOTAL ADJMT	LEDGER REDUCTION	CASH REBATE	CITY CENTRE	TOTAL ADJMT
		SECTION 357 DECISIONS - 2016							
1	2-6-094	313 DELAMERE AVE	NO LONGER OPERATING B&B ASSESSMENT - RT 37,000	244	346.07	346.07	0.00	0.00	346.07
2	4-7-012	551 ONTARIO ST	HOUSE DEMOLISHED ASSESSMENT - RT 66,000	34	86.02	86.02	0.00	0.00	86.02
			TOTAL		**432.09**	**432.09**	**0.00**	**0.00**	**432.09**
		ASSESSMENT REVIEW BOARD DECISION UNDER SECTION 40 - 2013							
1	5-1-085	145-155 ERIE ST	ASSESSMENT REDUCED ASSESSMENT - CT 146,250	365	5,683.51	0.00	5,683.51	322.02	6,005.53
			TOTAL		**5,683.51**	**0.00**	**5,683.51**	**322.02**	**6,005.53**
		ASSESSMENT REVIEW BOARD DECISION UNDER SECTION 40 - 2014							
1	5-1-085	145-145 ERIE ST	ASSESSMENT REDUCED ASSESSMENT - CT 185,500	365	7,123.09	0.00	7,123.09	403.58	7,526.67
			TOTAL		**7,123.09**	**0.00**	**7,123.09**	**403.58**	**7,526.67**
		ASSESSMENT REVIEW BOARD DECISION UNDER SECTION 40 - 2015							
1	5-1-085	145-155 ERIE ST	ASSESSMENT REDUCED ASSESSMENT - CT 224,750	365	8,580.82	0.00	8.580.82	551.79	9,132.61
			TOTAL		**8,580.82**	**0.00**	**8,580.82**	**551.79**	**9,132.61**
		ASSESSMENT REVIEW BOARD DECISIONS UNDER SECTION 40 - 2016							
1	5-1-085	145-155 ERIE ST	ASSESSMENT REDUCED ASSESSMENT - CT 264,000	356	9,759.80	0.00	9,759.80	621.65	10,381.45
2	5-1-085	145-155 ERIE ST	ASSESSMENT REDUCED ASSESSMENT - CT 264,000	10	274.15	0.00	274.15	17.46	291.61
			TOTAL		**10,033.95**	**0.00**	**10,033.95**	**639.11**	**10,673.06**

Information on this form is compiled by the City under the authority of the Municipal Act, 2001 for the purpose of considering applications for cancellation, reduction or refund of taxes by the City and for administrative purposes. This information may be included in material available in acordance with the provisions of the Municipal Freedom of Information and Protections of Privacy Act.
Questions regarding the use and disclosure of this information may be directed to the City Clerk 1 Wellington Street, Stratford ON N5A 6W1, telephone 519-271-0250 ext. 235 during business hours.

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Corporate Services Department

MANAGEMENT REPORT

Date: February 9, 2017
To: Finance and Labour Relations Sub-committee
From: Marilyn Pickering, Supervisor of Tax Revenue
Report#: FIN17-006
Attachments: Ministry of Finance 2017 Taxation Update

Title: Ministry of Finance Update on Property Tax

Objective: To update members of Sub-committee on a provincial review taking place on a number of property tax policies for the 2017 taxation year.

Background:

Vacant Rebate and Reduction Programs: The Vacant Unit Rebate Program provides property tax relief to owners of vacant commercial and industrial buildings through rebates issued by municipalities and governed by the Municipal Act, 2001 s364. The current rebate is 30% of the property tax for vacant commercial space and 35% for vacant industrial space.

The Province is moving forward in providing municipalities broader flexibility for 2017 and future years. Municipalities will be able to tailor the vacant rebate to their own needs and circumstances, while considering the interests of local businesses. Options to consider may include: eliminating the rebate, reducing the amount of the rebate, phasing out the rebate for a limited number of years, or granting the rebate as long as certain conditions are met.

Business Property Tax Capping: All business properties are paying at current value assessment. A by-law was passed September 26, 2016 to exit the tax capping program for commercial, industrial and multi-residential property classes for 2016 and subsequent taxation years.

Multi-Residential Properties: Regarding multi-residential properties, the Province is currently reviewing Stratford's tax ratio and will advise if a levy restriction will need to be implemented for 2017.

Analysis: Any change to the Vacant Unit Rebate Program would be in effect for the 2017 taxation year, meaning rebate applications submitted to the City for 2016 taxes would not be affected. There were 78 rebate requests in 2016 for the 2015 taxation year which totalled $285,500 – a rebate of $180,000 in municipal taxes and a rebate of $105,500 in education taxes.

In order to make any changes to the Vacancy Rebate Program, the City must consult with the business community and apply to the Minister for any changes.

Financial Impact: Any changes to the vacancy rebate program would not impact the 2017 budget. The budget amount for 2018 and future years for the Vacant Unit Rebate Program would be presented based on any options being considered for the program.

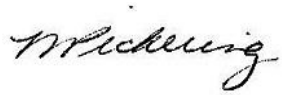
The impact of a Multi-Residential tax ratio cap will be presented at a future meeting.

Staff Recommendation: If Sub-committee would like staff to perform public consultation around possible changes to the Vacancy Rebate Program, the following motion should be made:

That staff be directed to obtain stakeholder input regarding the Vacancy Rebate Program and prepare a recommendation report for the consideration of Council;

Alternatively, Sub-committee can pass the following motion:

That the report be received for information.



Marilyn Pickering, Manager of Tax Revenue

Andre Morin, Director of Corporate Services

Rob Horne, Chief Administrative Officer

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Ontario

December 21, 2016

2017

Dear Municipal Treasurer,

I am writing to advise you of a number of important decisions for the 2017 taxation year related to municipal flexibility in setting tax policy and to provide a property assessment update.

Please note that all of these decisions will be reflected in the Online Property Tax Analysis (OPTA) system to support municipal property tax analysis and policy implementation.

The Province will update municipalities when regulations implementing the property tax policy decisions are in place.

Property Tax - *2016 Ontario Economic Outlook and Fiscal Review* Update

Vacant Rebate and Reduction Programs

As you may know, the Province has been reviewing the Vacant Unit Rebate and Vacant/Excess Land Subclasses. The review was initiated in response to municipal concerns regarding the appropriateness of the lower tax level provided through these programs and any unintended implications this may have for local economies.

Since the 1990s, these programs have provided tax rebates and reductions to property owners who have vacancies in commercial and industrial buildings or land. In response to municipal requests, the Province introduced a legislative framework through the *2016 Ontario Budget* to facilitate potential program changes as a result of the ongoing review.

The Province is now moving forward with providing municipalities broad flexibility for 2017 and future years to tailor the programs to reflect community needs and circumstances, while considering the interests of local businesses. Municipalities can implement changes by notifying the Minister of Finance of their intent to utilize this flexibility and providing details of the proposed changes along with a council resolution.

As you are aware, the Province has an interest in continuing to ensure tax competitiveness and consistency for taxpayers and as such, will be encouraging municipalities to engage with their local business community.

To accommodate different municipal budgeting schedules, an administrative process has been put in place to provide municipalities three opportunities to notify the Minister of their intent. The Minister can be notified by one of the following dates to ensure requested amendments are included in regulation in a timely fashion:

- March 1, 2017
- April 1, 2017
- July 1, 2017

To further support the municipal implementation of any changes, the Ministry of Finance will provide a check-list. The check-list will include considerations for making changes to the programs, including engaging with your local business sector. To request a copy of the check-list or if you have any questions, please email info.propertytax@ontario.ca.

Business Property Tax Capping

The Province is providing municipalities with increased flexibility to manage business property taxes through the business property tax capping program. This builds on 2016 enhancements to the capping program that provided municipalities increased flexibility to accelerate progress to current value assessment (CVA) level taxes, as well as the option to exit or phase-out from the program.

Beginning in 2017, eligibility criteria to allow municipalities to phase out the capping program are more extensive. Municipalities may choose to exclude vacant land from the phase-out eligibility criteria where all properties must be within 50% of CVA level taxes. Municipalities will also have the option to limit capping protection only to reassessment-related changes prior to 2017. For municipalities that select this option, reassessment-related increases, beginning in 2017, would not be subject to the cap.

The adoption of any flexibility measure is a municipal decision and would be enacted through a municipal by-law.

Multi-Residential Properties

The Province has heard concerns about the significantly higher property tax burden for multi-residential apartment buildings and its potential implications for housing affordability in the rental market. In response to these concerns, the Province has announced it will review the property taxation of multi-residential apartment buildings. The review will involve extensive consultations with municipalities, as well as other affected stakeholders, including renters and apartment building owners. Consultations are anticipated to begin in early 2017.

Currently, the average municipal property tax burden on multi-residential apartment buildings is more than double that of residential properties. In many cases, multi-residential properties are taxed by municipalities at nearly three times the rate of residential properties. The inequity resulting from this higher property tax burden is especially concerning given the lower average incomes of tenants in multi-residential apartment buildings. In fact, the average income of apartment renters is less than half of other residential households.

While the review is under way, the Province will take steps to ensure that high municipal tax burdens on multi-residential properties do not increase. For these municipalities, this means that the municipal property tax burden for multi-residential properties will be no higher in 2017 than it was in 2016.

For the 2017 tax year, municipalities with a multi-residential tax rate that is double the residential rate or higher will be restricted from increasing this burden. This means, where the multi-residential tax ratio is greater than 2.0, a full levy restriction will be implemented and reassessment related shifts onto the multi-residential class will be prevented.

Since 1998, the Province has treated all forms of housing similarly by prescribing a uniform province-wide education tax rate for the residential and multi-residential property classes. To ensure equitable taxation for education purposes, the Province will continue to treat all forms of housing equally.

Other Property Tax Decisions

Property Tax Rate Calculation Adjustment

In response to municipal requests, a technical adjustment to the provincially prescribed notional property tax rate calculation was announced in the *2016 Ontario Budget*. This adjustment ensures that when calculating notional tax rates, municipalities and the Province are able to address any unintended effects due to specific in-year property assessment changes, such as assessment appeal losses.

Municipalities have the option to adjust the year-end assessment used in the notional property tax rate calculation to offset changes resulting from certain in-year reassessment related changes, including:

- Assessment Review Board decisions;
- Request for Reconsiderations;
- Post Roll Amended Notices; and
- Special Advisory Notices.

Applying the technical adjustment is an annual municipal decision and requires a council resolution.

In 2016, regulations were enacted for each municipality that adopted the adjustment. For 2017 and future years, the Ministry has taken steps to ensure a more streamlined process, which will not require further regulations. Adoption of the adjustment can be implemented for any municipality by selecting the adjustment through the OPTA system. Municipalities that do not use OPTA are required to send information including their calculations supporting their adjustment to the Ministry via email to info.propertytax@ontario.ca.

To ensure the ongoing integrity of education property tax revenues, the property tax rate calculation adjustment is also applied to education property tax rates.

Tax Ratio Flexibility

Municipalities will continue to be provided with tax ratio flexibility to avoid most tax shifts that may occur between property classes as a result of phased-in reassessment impacts. For the 2017 tax year, municipalities that tax multi-residential properties at more than double the rate of residential properties will continue to have tax ratio flexibility, but will not be able to increase the multi-residential tax ratio. These municipalities will still be able to choose whether to use tax flexibility in response to reassessment-related tax shifts among other property classes.

Modified Levy Restriction

Municipalities with property classes subject to the levy restriction will continue to have the flexibility to apply a municipal tax increase to those classes of up to 50 per cent of any increase applied to the residential class. For instance, a municipality levying a 2 per cent increase in residential taxes could raise taxes on any restricted class by up to 1 per cent. As noted above, a full levy restriction will apply to multi-residential properties with a tax ratio greater than 2.0 in 2017.

Property Assessment Update

Landfills Assessment Review

Earlier this year, the Ministry engaged former Cabinet Minister John Wilkinson to lead a review on the assessment methodology for landfills and make recommendations for the 2016 reassessment. Mr. Wilkinson delivered a report which recommended using an historic valuation approach for 2017 to 2020, implementing a new income approach for 2021 and future years, creating a new landfill property class, and excluding the value of environmental protection features from the assessed value of landfills. The Minister of Finance accepted these recommendations in June 2016.

In November 2016, Mr. Wilkinson submitted a second report advising on the technical implementation of his recommendations regarding the definition of the new landfill property class and the proposed tax ratio framework. Both reports on Landfills Assessment Review can be accessed from the Ministry's website at: http://www.fin.gov.on.ca/en/consultations/par/.

On December 13, 2016, an amendment to *Ontario Regulation 282/98* under the *Assessment Act* was filed, which implements several of the Landfills Assessment Review recommendations. The regulation:

- prescribes the use of the historic valuation methodology to assess landfills for the 2016 reassessment. The historic methodology values landfills as vacant industrial land, with structures assessed based on the replacement cost approach;
- prescribes the exclusion of environmental protection features from the assessed value of landfills; and
- establishes a new landfill property class, which is defined as recommended by Mr. Wilkinson.

The Minister's decisions regarding the tax ratio framework for the new landfill property class for 2017-2020 are anticipated in the near future.

Special Purpose Business Property Assessment Review

The Ministry worked in partnership with municipalities, the Municipal Property Assessment Corporation (MPAC) and stakeholders to complete the implementation of the recommendations of the Assessment Review (Special Purpose Business Property Assessment Review) to improve the property assessment system for the 2016 reassessment.

One of the key recommendations from the Assessment Review was the introduction of an advance disclosure process for special purpose business properties that involve complex assessment methodologies. MPAC completed the implementation of this process for the 2016 reassessment, which enabled affected municipalities and businesses to contribute to the determination of assessed values before the assessment roll was finalized.

The Ministry has published a final progress update bulletin which will summarize how each of the Assessment Review recommendations were implemented

The implementation plans for the Assessment Review recommendations were guided by the Assessment Review Reference Committee, which included municipal staff representatives. The insights and contributions from the Reference Committee were a crucial factor for the successful implementation of the Assessment Review recommendations.

Property Tax and Assessment Municipal Advisory Committee

The Ministry is committed to ongoing collaboration with municipalities to strengthen Ontario's property tax and assessment system.

Following the implementation of the Assessment Review recommendations, the Ministry will continue to engage with municipalities on assessment and tax policy matters. To further support this work, the Ministry established a Property Tax and Assessment Municipal Advisory Committee in spring 2016, which provides a collaborative environment for municipalities and the Province to discuss property tax and assessment policy issues.

Contact Information

If you have any questions related to property tax policy decisions, please contact Andrea Chow, Manager, Property Tax Policy Unit at 416-327-0252 or Andrea.Chow@ontario.ca.

For questions related to the property assessment update, please contact Carolina Torres, Manager, Assessment Policy Unit at 416-325-4754 or Carolina.Torres@ontario.ca.

Sincerely,

Allan Doheny
Assistant Deputy Minister

Stratford
ONTARIO CANADA
Dramatically Different!

Corporate Services Department

MANAGEMENT REPORT

Date:	February 13, 2017
To:	Finance and Labour Relations Sub-committee
From:	Joan Thomson, City Clerk
Report#:	FIN17-009
Attachments:	AMO Submission concerning the 2015 Municipal Act Five-year Review and Conflict of Interest Review AMCTO Submission on the Municipal Act and Municipal Conflict of Interest Act Ministry of Municipal Affairs Release – Modernizing Ontario's Municipal Legislation Act

Title: Bill 68 – Modernizing Ontario's Municipal Legislation Act

Objective: To advise Sub-committee regarding proposed amendments to certain municipal legislation that regulates municipalities and municipal councils.

Background: Bill 68 has received 2nd Reading and is under debate in the Legislature. The Bill if adopted would introduce change to municipal governance in the Municipal Act, Municipal Elections Act, Municipal Conflict of Interest Act, Planning Act and Building Code Act.

The Association of Municipalities of Ontario (AMO) and the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) have been actively involved in the Province's review of municipal legislation. Each made submissions to the Province as part of the Review and copies are attached.

The following is a summary of some of the Bill 68 amendments to enhance accountable and transparency measures regarding Council operations:

1. Term of elected office for Council would change:

   May 1 – Start of filing candidate nomination papers for the 2018 election;
   July 27 – Nomination Day (last day for candidates to file);
   October 22 – Voting Day for the 2018 election;

November 15 – new term of Council begins (currently Inaugural Council is early December)

2. Provision for electronic participation in meetings by elected members of Council. This would apply only to meetings open to the public. Member participation by electronic means would not count toward quorum. Councillor(s) can participate in meetings electronically if there is in-person quorum.

3. Clearer definitions of meetings under open meeting provisions. The definition of "meeting" would change under Bill 68 to include:
   a) quorum of members present
   b) that members discuss or otherwise deal with any matter in a way that materially advances the business or decision making of the Council

4. Expansion of the number of discretionary exemptions where Council may meet in In-camera Session.
   The expanded exemptions for meeting In-camera would better align with the Municipal Freedom of Information and Protection of Privacy Act to protect categories of records from disclosure, including commercially confidential and proprietary matters. Categories would be added for:

   - plans, instructions or positions to be carried out in negotiation;
   - information supplied in confidence;
   - commercially confidential material

5. Additional accountably measures are included in Bill 68. It would be mandatory for Council to have the function of an Integrity Commissioner available and mandatory to have a Council Code of Conduct and other rules governing ethical behaviour of members.

   Furthermore, the role of the Integrity Commissioner would be expanded under Bill 68. The Integrity Commissioner would be able to initiate and conduct inquiries as to whether or not members of Council have contravened their Code of Conduct or the provisions of the Municipal Conflict of Interest Act. The Integrity Commissioner would also be authorized to provide advisory role and education to members of Council on the Code of Conduct and conflicts of interest.

6. Relationship with officers and employees. Bill 68 requires that Council adopt a policy governing the relationship between members of Council and officers and employees of the municipality.

7. Climate Change and Environmental Matters. Bill 68 would provide general power for municipalities to regulate with respect to the environment, climate change and energy conservation. By-laws could be adopted respecting "economic, social & environmental well-being of the Municipality including respecting climate change".

Amendments to the Planning Act would stipulate mitigation of greenhouse gas emissions and adaption to a changing climate as matters of provincial interest. The provisions for a municipality to also partner in energy conservation programs would be strengthened to provide for long term planning for energy use, including consider of energy conservation, climate change and green energy.

There would also be a requirement to have policies on tree conservation and canopy cover and "the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality".

8. Bill 68 would expand the availability of administrative penalties to all municipal by-laws, rather than currently only for parking by-laws. An admin penalty is an alternate mechanism for enforcement of a by-law and is intended to promote compliance with the By-law rather than punishment for contravention. An offender can appeal the penalty to a hearing officer appointed by the Municipality and any unpaid penalty would become a debt owed to the municipality.

9. Bill 68 provides clarification that Member vacancy conditions in the Municipal Act do not apply to a member who is absent for up to 20 consecutive weeks if absent as a result of the Member's pregnancy, birth of the member's child or adoption of a child by the Member.

10. A Member declaring an interest under Municipal Conflict of Interest Act would be required to file a written statement of the interest and general nature with the Clerk. The municipality would need to create a registry that tracks these registered conflicts of interest provided to the Clerk. The registry would be made available to the public.

    There are new penalties proposed under the Act that include suspension and fines for a Member found to be in contravention of the Act. A judge would have the authority to reprimand a member, suspend a Member's remuneration for up to 90 days, declare the Member's seat vacant on Council or disqualify a Member or former Member from being a Member for up to seven years after the order is made. If there was a financial gain, a judge could order the Member to make restitution to an affected part(ies).

    Furthermore, there would be a time limit for a person applying to a judge for a determination whether a Member or former Member (while a Member) has contravened the Municipal Conflict of Interest Act. A person can also apply to the Integrity Commissioner for an inquiry and again, there is a time limit to do so.

11. In addition to other changes to the Municipal Elections Act from 2016, the Clerk would be required to provide a certificate of municipal allowance campaign expenses at the time of filing of nomination of a candidate.

Bill 68 would increase maximum individual contributions to any one candidate from $750 to $1200. Further, the maximum contribution by a candidate (or spouse) to his/her own campaign, combined shall not exceed the lesser of:

- $25,000
- for head of council $7,500 plus 20 cents for each elector
- for member of council $5,000 plus 20 cents for each elector

Analysis: Once Bill 68 is proclaimed by the Province and the legislative changes comes into effect, staff will review for further analysis. It is expected that Bill 68 will create new areas of jurisdiction, amend Council operations and responsibilities and have other legal implications for the municipality.

Financial Impact: There may be an impact on future operating budgets with respect to Bill 68. For example, the cost for an Integrity Commissioner may need to be added to the budget and could be covered by existing reserves and a small increase in annual contribution to the reserve as needed. Other implications could involve more substantial budget implications. Full details will be provided once the details of Bill 68 are passed by the Ontario government.

Staff Recommendation: THAT the report on Bill 68 – Modernizing Ontario's Legislation Act, be received as information.

Joan Thomson

_____

Joan Thomson, City Clerk

_____

André Morin, Director of Corporate Services

Rob Horne

_____

Rob Horne, Chief Administrative Officer

Ontario

Ministry of Municipal Affairs and Ministry of Housing

Modernizing Ontario's Municipal Legislation Act – what's being proposed:

Email this page

Ontario is committed to helping local governments be more open, flexible and accountable to the people they serve.

Legislative amendments to three key pieces of municipal legislation have been proposed in the Modernizing Ontario's Municipal Legislation Act [insert link to Act].

- The Municipal Act, 2001 sets out many of the roles, responsibilities and powers for Ontario's municipalities.
- The City of Toronto Act, 2006 sets a similar framework specifically for the City of Toronto, while reflecting Toronto's status as Ontario's largest municipality.
- The Municipal Conflict of Interest Act sets out conflict of interest rules for municipal council members and members of local boards.

Consultation on these three pieces of legislation took place between June and October 2015.

Accountability and transparency

Ontario aims to make the rules clearer, more effective and responsive to local needs. If passed, these changes would:

- Require municipalities to establish codes of conduct for members of municipal council and local boards, which could include rules that guide the ethical conduct of those members. This proposal would help ensure that every municipality in Ontario has a code of conduct for council members, and also for members of certain local boards.
- Provide the public and municipal councillors with access to an integrity commissioner with broadened powers to investigate complaints, provide advice to councillors and initiate investigations related to conflicts of interest and the municipality's code of conduct.
- Enhance justice by providing a broader range of penalties for contraventions to the Municipal Conflict of Interest Act.

- Update the definition of "meeting" in certain cases within the legislation to help ensure that rules would be clearer for municipal officials, local board members and the public.
- Provide more options to use modern technology to participate in meetings.

Municipal financial sustainability

Ontario is supporting strong and financially sustainable local governments by giving eligible municipalities the option to invest according to the prudent investor standard. This may enable them to earn better investment returns by building a more diverse portfolio of investments.

The proposed legislation would also shorten the length of time a municipality has to wait to initiate a tax sale of a property to two years.

Responsive and flexible service delivery

New measures that would, if passed, support local governments by providing the powers and the flexibility they need to be creative and responsive to their communities, include:

- Clarifying that municipalities may pass climate change by-laws, and participate in long-term planning for energy use, which could help to lessen and address the impacts of climate change in their communities.
- Requiring reviews of regional council composition after every second municipal election, beginning in 2018, to strengthen democratic representation at the local level.

Pregnancy or Parental Leave

Ontario is increasing fairness and reducing barriers, by ensuring that women and parents are entitled to take time off for pregnancy or parental leave, without fear of being removed from elected office. While some municipalities have either formal or informal policies on this matter, the proposed legislation would require all municipalities to have a policy on pregnancy and parental leave for council members.
The offices of members of council would be protected during an absence related to pregnancy, birth or the adoption of a member's child for up to 20 consecutive weeks.

There are a number of other changes being proposed as part of the Modernizing Ontario's Municipal Legislation Act. You can find all of the proposed changes under the Modernizing Ontario's Municipal Legislation Act.

CONTACT-US | ACCESSIBILITY | PRIVACY | TERMS OF USE | SITE MAP

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- LAST MODIFIED:WEDNESDAY, NOVEMBER 16, 2016

AMCTO SUBMISSION *on the* **MUNICIPAL ACT & MUNICIPAL CONFLICT OF INTEREST ACT**

OCTOBER 2015

AMCTO
THE MUNICIPAL EXPERTS

About AMCTO:
AMCTO represents excellence in local government management and leadership. AMCTO has provided education, accreditation, leadership and implementation expertise for Ontario's municipal professionals for over 75 years.

With approximately 2,200 members working in 98 per cent of municipalities across Ontario, AMCTO is Canada's largest voluntary association of local government professionals, and the leading professional development organization for municipal administrative staff.

Our mission is to provide management and leadership service to municipal professionals through continuous learning opportunities, member support, and legislative advocacy.

For more information about this submission, contact:
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AMCTO
THE MUNICIPAL EXPERTS

October 30, 2015

Honourable Ted McMeekin
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

Dear Minister McMeekin

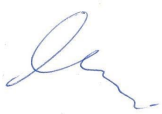
RE: Municipal Legislation Review

I am writing on behalf of AMCTO and the more than 2,200 municipal professionals who make up our membership, to present our submission as part of the Municipal Legislation Review.

AMCTO is pleased to present our submission which contains recommendations on the themes of modernization, accountability and transparency, financial fairness, good governance and clarity. We would encourage the government to carefully consider these recommendations and those that are being put forward by other associations and municipalities. Our goal is to ensure that the *Municipal Act* and *Municipal Conflict of Interest Act* function as effective documents that enable local governments to operate in an efficient, effective manner while offering high quality services to their citizens.

We appreciate your consideration of our suggestions and look forward to hearing back in a timely manner. Should you have any questions about this submission, please do not hesitate to contact Rick Johal, Director of Member & Sector Relations at AMCTO. He is best reached at rjohal@amcto.com or 905 602 4294 Ext. 232.

Yours sincerely,



Chris Wray
AMCTO President

C. Deputy Minister Laurie LeBlanc
C. Assistant Deputy Minister Kate Manson-Smith
C. Pat Vinini, Executive Director – Association of Municipalities of Ontario (AMO)

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THE CONTEXT

Local governments in Ontario are in a period of transition and change, and as with all transitions, the implications are significant. This period of transition, in particular, will impact the way that local governments fund services, staff key positions, interact with their citizens, and maintain critical infrastructure in the future. The Government of Ontario's review of municipal legislation, therefore, comes at a fortuitous time. It offers municipalities, municipal professionals, associations, public servants and elected officials a unique opportunity to engage in a sustained conversation about the most important issues faced by the municipal sector.

Since the time that local government was first envisioned in the Baldwin Act (*Municipal Corporations Act*) of 1849, municipalities have become increasingly complex, expanding into a range of activities not originally envisioned at their conception. As the province of Ontario grew in size and industrialized it was only natural for local governments to take on increased responsibilities beyond providing and maintaining roads, sewers and streetlights. Municipalities are now responsible for a range of substantive and complex programs and services, including economic development, infrastructure, public health, housing, and a range of human and social service programs.[1] Yet despite the expansion of responsibility for local governments, the intergovernmental relationship between the province and municipalities has remained skewed, with most of the power for the regulatory, legal, operational, and financial levers of local government left with the province.[2]

Outside of the intergovernmental relationship, the world outside local government has also shifted to become more complex. Steady urbanization, rapid technological advancements, demographic transformation, and globalization have all produced monumental changes in society.[3] Local governments have worked to adapt to these changes by adopting new approaches to planning and development, service delivery, law enforcement, public safety, representation and advocacy. Yet, citizens in Ontario, Canada, and around the world have nevertheless come to expect their governments to deliver faster, cheaper, and better quality public services, while at the same time, technology has enabled an instantaneous feedback loop that leaves a very small margin of error for governments to experiment or make mistakes.[4]

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[1] Andre Cote and Michael Fenn, "Approaching an Inflection Point in Ontario's Provincial-Municipal Relations," IMFG Perspectives, No. 6, 2014, 2

[2] Cote and Fenn, 2014, 2

[3] Richard Dobbs et al., "How to you govern a disrupted world?" *McKinsey & Company*, May 2015

[4] Dobbs, 2015

Accountability and transparency

Expectations are now higher than ever, and growing rapidly, for increased accountability and transparency in government. In 2014 the government of Ontario passed Bill 8, the *Public Sector and MPP Accountability and Transparency Act*, 2014, which amongst other things extended the oversight authority of the Ontario Ombudsman to cover municipalities, as well as hospitals, universities and school boards. Bill 8 is the latest in a growing accountability and transparency regime for municipalities that includes existing provincial oversight, reporting, and statutory requirements for everything from financial management to conflict of interest and local elections.[5] Canadians have high aspirations and expectations for open and transparent decision-making, and low tolerance for behaviour seen to be unethical. These expectations carry important implications, as there is a strong correlation between even perceptions of corruption or unethical behaviour and public trust in government.[6]

In many ways the current thrust for strong accountability and transparency is reflective of declining levels of trust in government, which are at an all-time low. While there are many explanations for this declining trust, including high profile scandals and the 2008 financial crisis, the trend has been clear for several decades. In Canada, trust in government has fallen from approximately 60 percent in the early 1970s to 24 percent in 2013, according to research done by Canadian polling firm EKOS.[7] Similar work done by the Organization for Economic Cooperation and Development (OECD) found that between 2006-2008 and 2011-2012, confidence in government fell by at least six percentage points in 18 of 34 OECD member states (figure 1).[8] In fact by 2012 an average of only four of every 10 people in OECD member countries expressed confidence in their government.[9] For governments at all levels maintaining citizen trust satisfaction is now more difficult than ever.[10]

Figure 1:

---

[5] Cote and Fenn, 2014, 5

[6] OECD, Government at a Glance 2013, OECD Publishing, 2013, 22

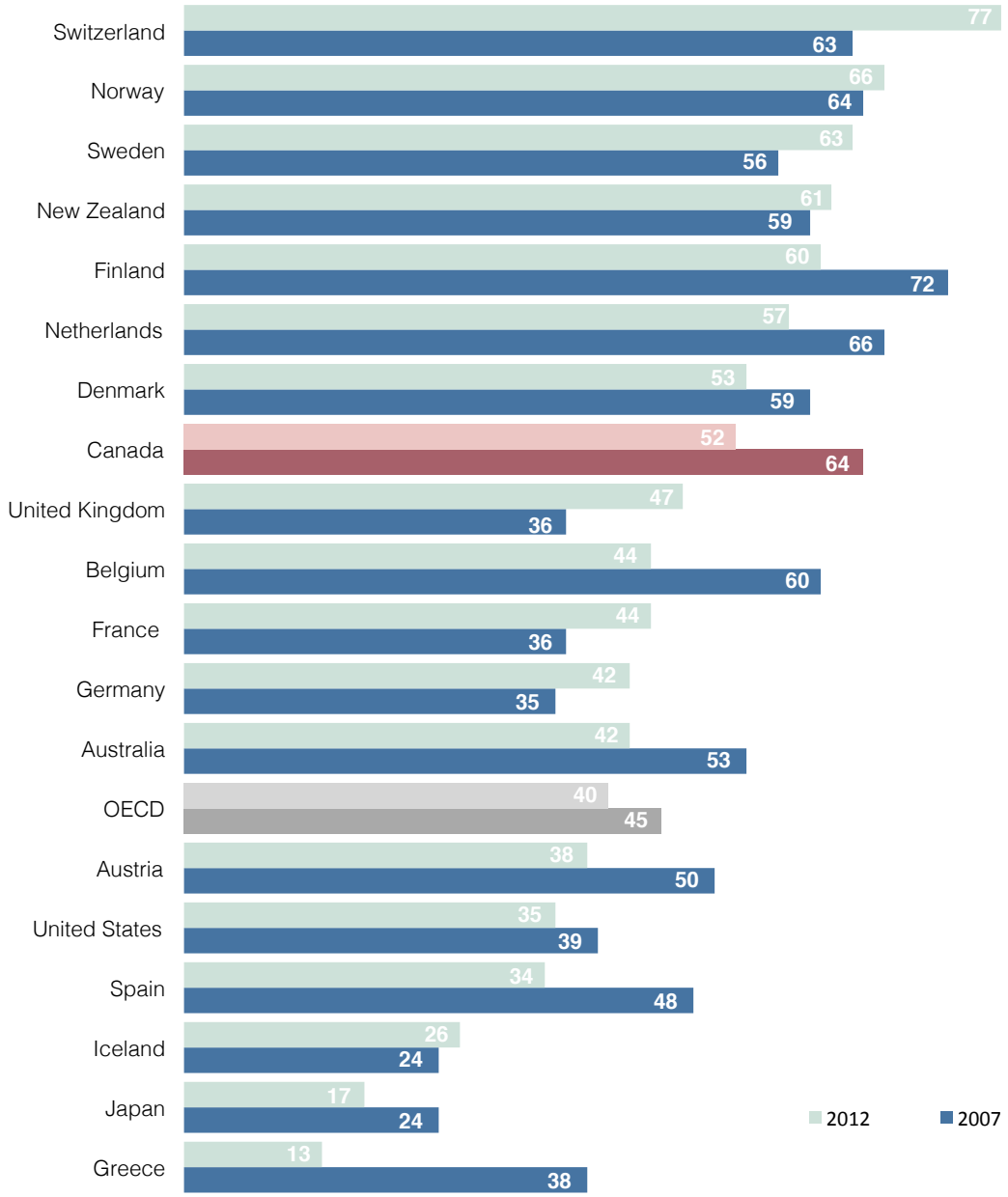
[7] Frank Graves, "The EKOS poll: Democracy and the death of trust," *iPolitics,* January 2, 2014

[8] Drew Silver, "Confidence in government falls in much of the developed world," *Pew Research Centre*, November 2, 2013

[9] OECD, 2013, 20

[10] OECD, 2013, 20

Confidence in OECD National Governments, 2006-8 to 2011-12[11]



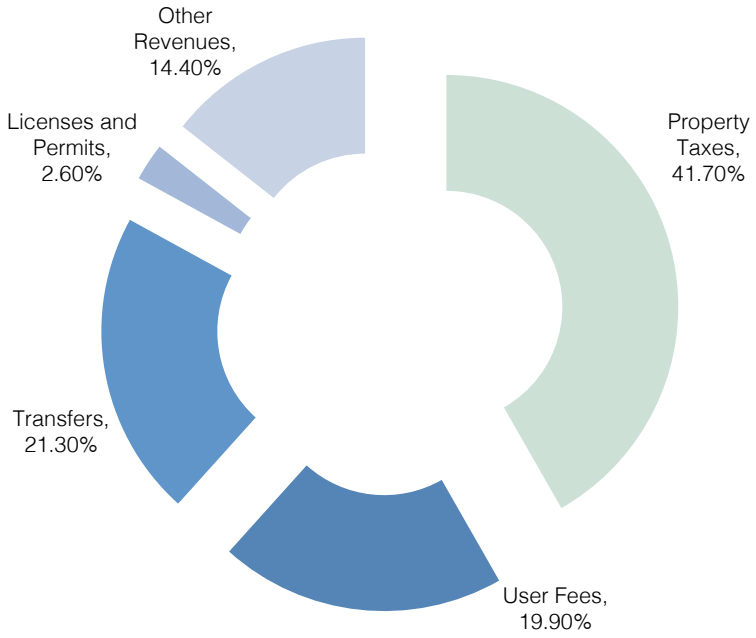
Source: OECD, Government at a Glance 2013, OECD Publishing, 2013, 22

Fiscal pressure

[11] Percentage of 'yes' in answer to question: Do you have confidence in your national government?

Local governments in Ontario are also facing a fiscal squeeze as the services they offer are becoming more expensive and complex to administer. Many Canadian municipalities are concerned about their ability to provide services to their citizens with existing sources of revenue. There is concern about both maintaining current high service standards, as well as the probable growth of complexity and demand in the future.[12] Most projections expect that municipal operating expenditures will continue to grow significantly over the next decade.[13] Yet, despite these pressures municipalities still have relatively limited sources of revenue (figure 2).

Figure 2:
Sources of Municipal Revenue (2013):



Source: Ministry of Municipal Affairs and Housing, Financial Information Returns, 2013.

Within their current powers, the majority of municipal revenues still come from property taxes, followed by conditional grants and user fees.[14] The Association of Municipalities

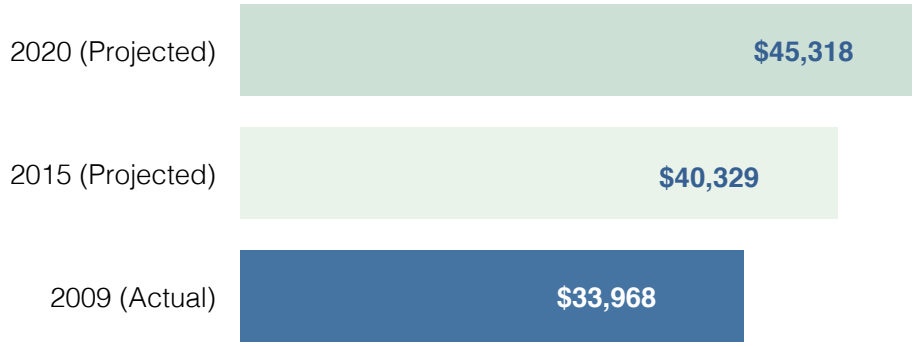
[12] Enid Slack et al., "Fiscal Health of Ontario Large Cities: Is there Something to Worry About?" Draft Paper, Conference on Measuring Urban Fiscal Health, Institute of Municipal Finance and Governance, 2013, 3

[13] Association of Municipalities Ontario (AMO), What's Next Ontario? Imagining a prosperous future for our communities, 2015, 4

[14] Slack et al., 3

Ontario (AMO) predicts that if all other sources of revenue remain unchanged, property taxes will need to increase by 4.51%[15] per year over the next decade for municipalities to be able to meet current service standards (Figure 3).[16] For a more detailed breakdown of projected operating costs see Appendix A.

Figure 3:
Projected Ontario Municipal Operating Costs to 2020 (in millions)



Source: Association of Municipalities Ontario (AMO), What's Next Ontario? Imagining a prosperous future for our communities, 2015, 4

The largest area of expenditure for municipalities is salaries, wages and employee benefits. In 2011 these costs represented approximately 43 percent of municipal operating spending, which was a 37 percent increase from 2001. Most municipal workers are unionized, which in combination with the highly fragmented environment for collective bargaining makes it difficult to control costs, as high agreements or settlements in one municipality act as precedents for all of the others. This problem is especially acute when it comes to emergency services. Police, fire, and paramedics are not permitted to strike, which leaves municipalities with little control over costs, as arbitrators replicate agreements in different municipalities with little regard for local economic conditions or ability to pay.[17] As a result, over the past 10 years, base wages for police officers and firefighters have grown at an average of 3.3 percent per year, compared to 2.7 for other unionized municipal workers and 2.2 for those in the private

[15] An earlier version of this submission put this figure at 10%. This number was based upon projections done by AMO in April of 2015, which they later retracted and revised to the current figure of 4.51%. The initial calculation did not factor other sources of revenue, while the current figure assumes all non-property tax revenue remains stable at $21 billion annually to 2025.

[16] AMO, 2015, 4

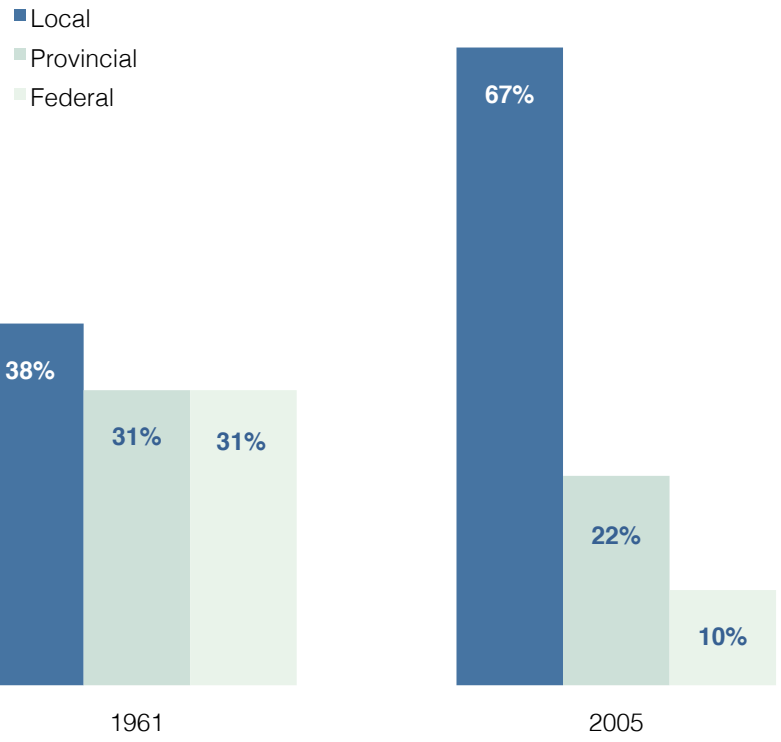
[17] Cote and Fenn, 2014, 6

sector.[18] Ontarians now pay the highest policing costs in the country, of which 86 percent goes to staffing.[19]

The infrastructure deficit

However, perhaps the most significant fiscal pressure facing municipalities is the infrastructure deficit. Approximately 40 per cent of public infrastructure in Ontario is owned by municipalities (when factoring in hospitals and educational facilities), including a number of roads and bridges, water and wastewater facilities, transit systems, social housing, and government buildings (figure 4).

Figure 4:
Federal, Provincial, and Municipal Asset Ownership, 1961 — 2005 (excluding provincially-owned infrastructure dedicated to education and healthcare)



Source: Association of Municipalities Ontario (AMO), What's Next Ontario? Imagining a prosperous future for our communities, 2015, 23

[18] Cote and Fenn, 2014, 6

[19] AMO, 2015, 13

In 2008, the infrastructure deficit was estimated to be approximately $60 billion, not including tourism-related cultural assets, parks and recreation facilities, or the costs for social housing units, which are valued at an additional $40 billion.[20] According to AMO, in order to close that gap, municipalities would have to levy an additional 3.84% of property taxes, which would mean a combined 8.35%[21] increase in property taxes until 2025.[22]

While the gas tax, as a dedicated source of predictable long-term funding, has helped, it is not enough to fill the gap. The current infrastructure deficit is too vast, and systemic to be covered under the current structure. Take the GTHA for example, where population growth and increased density are projected to increase the regional population to 8.6 million people by 2021, and where traffic congestion is said to already cost the economy $6 billion in lost productivity a year.[23]

A similar situation exists with the provinces roads and bridges. Municipalities are responsible for over 140,000 kilometers of roads and 15,000 bridges and large culverts in Ontario. The Provincial-Municipal Fiscal and Service Delivery Review in 2008 estimated that roads and bridges account for $2.8 billion, or approximately half of the infrastructure gap. These costs are expected to grow 19 percent between 2009-2020.[24] This is not a problem that can be solved without bold action or direct support from senior orders of government.

Succession planning

In addition to critical infrastructure assets, many municipalities in the province are also staring down a deficit of critical human infrastructure, as the current generation of municipal professionals prepares to retire. The public sector work force is generally older than the private sector and thus more vulnerable to the effects of demographic change.[25] As many experienced municipal professionals leave, they will take significant accumulated knowledge, expertise and experience with them. While this provides

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[20] Cote and Fenn, 2014, 6

[21] An earlier version of this submission put this figure at 19%. This number was based upon projections done by AMO in April of 2015, which they later retracted and revised to the current figure of 8.35%. The initial calculation did not factor other sources of revenue, while the current figure assumes all non-property tax revenue remains stable at $21 billion annually to 2025.

[22] AMO, 2015, 4

[23] AMO, 2015, 10

[24] AMO, 2015, 11

[25] Bonnie G. Munslow, "Succession Planning: Building a strategy to address a critical need for a mid-sized municipality," *AMCTO,* 2010, 3

exciting opportunities for new professionals and new ideas to enter the sector, it also presents those same individuals with a steep learning curve. Many municipalities are working on strategies to mitigate the effects of these demographic changes that are likely to cause serious turnover in the municipal sector, as a significant number of baby-boom aged senior managers retire. Many municipalities are not.[26]

Government transformation

In the face of all of these challenges, many governments are responding by launching both small- and large-scale transformation initiatives. In general the government transformation agenda has crystallized around a number of trends, including citizen-centred services, sharing responsibility for policy development, integrating operations across government departments, and crucially the adoption of digital technology.[27] It is especially the opportunities offered by emerging digital technologies, big data, and the growth of mobile computing that are pushing governments to adapt and transform.[28] Transactions in Canada are now increasingly happening online, as consumers and citizens alike now bank, study, socialize, shop and in some cases even vote in a completely digital environment. Many of these changes have been pushed by demographic transformation,[29] as traditional notions of customer service are changing, and consumers are increasingly in favour of interacting with institutions through the use of digital, streamlined, mobile-friendly, web-based applications.[30] Many municipalities have responded through open data/open government initiatives, and by pioneering the use of Internet voting, however, there is still significant work to be done to automate operations and modernize service delivery.

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[26] Jessie Carson, "Managing the Future: Why Some Ontario Municipalities Are Not Engaging in Succession Planning," *Queen's University Discussion Paper,* No. 2009-01, 2009

[27] Sunil Johal, et al., "Reprogramming Government for the Digital Era," *Mowat Centre,* 2014, 1

[28] Johal, 2014, 2

[29] This shift is perhaps best exemplified in the rise of the sharing economy; where in Ontario 40 percent of those in the crucial 18-43 demographic are active consumers (Source: Andrea Holmes and Liam McGuinty, "Harnessing the Power of the Sharing Economy: Next Steps for Ontario," *Ontario Chamber of Commerce*, 2015)

[30] Mitch Solomon, "Millennials Don't Want More Customer Service—They Want Different Customer Service," *Forbes,* August 27, 2015

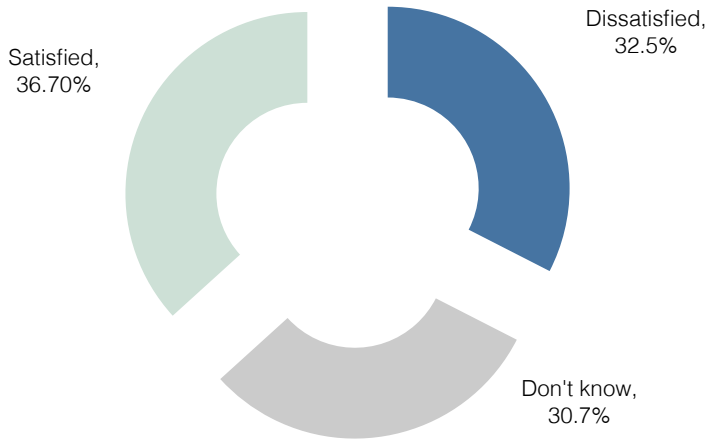
MAKING THIS REVIEW MATTER

The motivation to transform government is largely the result of eroding public trust and steadily declining satisfaction with government services.[31] According to research conducted by IPSOS MORI in 2014, only 36.7 percent of Canadians were satisfied with the way the government was running the country.[32] While this places Canada above a number of other countries, it sets a low bar for citizen satisfaction. Declining citizen satisfaction levels are especially important for municipalities, who are the primary face of government in most communities and offer the most direct and tangible services to the public. Municipalities are also the level of government where citizens think that most decisions about public services should be made.[33]

Governments at the local level are generally well managed,[34] and well liked by citizens, compared to other levels of government.[35] Yet the challenge of declining citizen satisfaction and trust remains even in the municipal sector. IPSOS MORI found the same level of citizen satisfaction (36.7) for local public services, as it did for government services at the federal level (figure 5).[36]

Figure 5:

Overall, how satisfied or dissatisfied are you with local public services (e.g. public transportation, public education, public safety and social services)?



Source: IPSOS MORI, Global Trends 2014, http://www.ipsosglobaltrends.com/local.html

[31] Emma Dudley et al., "Implementing a citizen-centric approach to delivering government services," *McKinsey & Company*, July 2015

[32] IPSOS MORI, Global Trends 2014, http://www.ipsosglobaltrends.com/local.html

[33] IPSOS MORI, Global Trends 2014, http://www.ipsosglobaltrends.com/local.html

[34] Cote and Fenn, 2015, 1

[35] Michael Fenn, "Successful Staff/Council Relations: Old Lessons For New Challenges," *AMCTO Policy and Management Briefs,* Issue 02, August 17, 2015, 1

[36] IPSOS MORI, Global Trends 2014, http://www.ipsosglobaltrends.com/local.html

Given the constraints faced by municipalities, the initiatives currently underway to transform public services, and declining trust and satisfaction with government, this legislative review comes at an important time. Public servants at all levels need to redouble their efforts to improve service delivery and good governance. Municipalities need an enabling environment that encourages cooperation, innovation, continuous-improvement, and autonomy. There are a lot of ways that this can be created, from moving towards smart regulation, to empowering municipalities to become fiscally sustainable. However, there is no silver bullet; there is no one policy or program that can achieve this goal. Rather, to do so requires seizing upon every opportunity to give municipalities the tools they need to respond to and engage their citizens. This legislative review is one of those opportunities.

This submission contains recommendations across the themes of modernization, accountability and transparency, financial fairness, good governance, and clarity.[37] They are the result of an intensive process of research and review conducted by an advisory group of local government professionals from across the province. We would encourage the government to carefully consider these recommendations and those that are being put forward by other association and municipalities. Our goal is to ensure that the *Municipal Act* functions as an effective document that enables local governments to operate in an efficient, effective manner while offering high quality services to their citizens. There are three high-level principles that we believe will help achieve this goal, and should become essential elements of the intergovernmental framework for municipal-provincial relations going forward.

Respecting municipal diversity

Too often the province develops policy based on the assumption that all municipalities are the same. Yet the challenges and strengths of each local government is different, especially in rural vs. urban, small vs. large, and north vs. south. The default inclination to treat all municipalities as if they are same, ignores the fact that some municipalities have fewer than 5 employees who are deeply connected to the local community and some are larger than provincial governments and have robust financial controls, rigorous accountability regimes, and sophisticated policy-making functions.[38] This “one size fits all” approach often creates perverse outcomes that would scarcely be tolerated in other sectors. For instance, there is a substantial effort made to differentiate the regulatory and enabling environments for small businesses, compared to large- and medium-size enterprises. Yet in the municipal sector, the government frequently imposes the same regulations on Wawa as it does on Mississauga.

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[37] This submission primarily contains recommendations for the *Municipal Act*, however, there are several recommendations with implications for the *Municipal Conflict of Interest Act* as well.

[38] Cote and Fenn, 2015, 3

Responsible orders of government

In addition to respecting diversity, the province should also treat municipalities like responsible orders of government. Local governments in Canada have often been referred to as 'creatures of the provinces' because Canada's Constitution assigns the provinces responsibility for local institutions, and all of the provinces in Canada have some legislation governing their municipalities.[39] Yet the province has repeatedly declared that Ontario's municipalities are responsible orders of government in their own right.[40] If that is so, than they should be treated as such. To do so, is the best opportunity for promoting effective governance and management at the local level. If municipalities are driven strictly by compliance and rote functionality they will struggle to truly become modern, fiscally sustainable agents of good governance, who promote professionalism, ethics, and accountability.

Legislating outcomes, and not behaviours

Nevertheless, the province is the regulator of local government and there is a role for it to play in guiding policy and practice within the sector. However, regulation should focus on outcomes and not behaviours. While there is no need for legislation with overly specific proscription, such as requirements to send documents via official mail, there is space for the province to provide broad guidance and direction. Yet far too often, policy from the province is far too proscriptive and developed without a concrete understanding of the complex factors that affect its implementation. The province should focus on legislating high-level outcomes and leave the specific implementation details to the public servants working in municipalities that bear the responsibility for understanding and executing those details.

[39] Slack et al., 2013, 2

[40] Ministry of Municipal Affairs and Housing, Municipal Legislation Review Public Consultation Guide, June 2015, 22

RECOMMENDATIONS:

RECOMMENDATION 1: Modernize council decision-making by allowing a broader range of decisions to be made without the use of a formal instrument, such as a by-law or resolution

RECOMMENDATION 2: Clarify the requirements for retention of electronic records, and consider giving municipalities more latitude to develop their own retention protocols, including with respect to the accessibility of electronic backups

RECOMMENDATION 3: Consider a new regulatory approach for the sharing economy, recognizing the limited ability of municipalities to regulate activities that are no longer constrained to traditional borders or boundaries

RECOMMENDATION 4: Establish a clear definition of a meeting

RECOMMENDATION 5: Review the circumstances where council can meet in closed session, providing clarity about when a municipality may meet in the absence of the public to discuss the security of its tangible assets and intangible property, and to deal with confidential information of government entities and third parties

RECOMMENDATION 6: Require all municipalities to adopt their own 'Codes of Conduct' for council and staff

RECOMMENDATION 7: Create additional rules for Integrity Commissioners (ICs) to promote greater consistency in investigations, specifically by providing more guidance on how investigations are conducted and reported, while giving ICs extended powers to consider a broader range of penalties

RECOMMENDATION 8: Establish an accountability mechanism for accountability officers and meetings investigators

RECOMMENDATION 9: Clarify Council's responsibility for ensuring local boards are accountable (including BIAs and Conservation Authorities)

RECOMMENDATION 10: Review Ontario's Joint and Several Liability tort system, with the goal of ensuring that it more fairly balances the needs of all parties

RECOMMENDATION 11: Allow lower tier municipalities to factor tax arrears into their requisitions to school boards and the upper tier

RECOMMENDATION 12: Implement recommendations made by the Municipal Finance Officers Association (Appendix B)

RECOMMENDATION 13: Promote greater knowledge of municipal issues in the judicial system, and explore the creation of a specific provincial tribunal to handle local government issues

RECOMMENDATION 14: Enhance the enforcement provisions of the Act

RECOMMENDATION 15: Establish more precise rules for the transition period between elections

RECOMMENDATION 16: Give municipalities more flexibility to determine the time frame for filling council vacancies

RECOMMENDATION 17: Consider reorganizing the Act in a more consistent, logical manner

RECOMMENDATION 18: Clarify the principles for ward boundary reviews, specifically by aligning the timelines with the federal and provincial governments (every 10 years), creating guidelines for how consultations are to be conducted, embedding the principles that support effective representation, eliminating the petition process, and requiring upper tier municipalities to adjust their council composition to ensure fair representation of each lower tier

RECOMMENDATION 19: Review the definitions and descriptions of 'administration' and 'council,' and remove the 'CEO' title from the description of the head of council

RECOMMENDATION 20: Clarify the process and tests to follow when dealing with potentially conflicting roles, responsibilities, and legislation between different orders of government

RECOMMENDATION 21: Clarify the role of municipal services corporations and the applicability of municipal provisions

RECOMMENDATION 22: Create clearer procedures for boundary lines, roads and bridges

RECOMMENDATION 23: Review how the MA interacts with MFIPPA, and look for ways to create greater alignment of MFIPPA with the Act

RECOMMENDATION 24: Remove the 'subject to the approval of the municipal auditor' wording from sec. 255(1)(3)

RECOMMENDATION 25: Provide greater clarity and a clearer definition for indirect conflicts of interest in the Municipal Conflict of Interest Act

PART I: MODERNIZATION

Over the past several decades the boom in electronic and digital technology has radically transformed society and presented governments with new challenges and opportunities. Organizations all across the public sector have begun to integrate technology into their operations, processes and services. Some sectors, such as healthcare, have firmly embraced the transformational power of technology, and are using it to introduce new service-level improvements, such as electronic health records, telemedicine, and e-prescriptions.[41] Within the municipal sector, a number of local governments have embraced Internet voting, moved services online, and integrated digital automation to make their operations more efficient.

These changes represent what some are calling the "first wave of digitization"—taking simple, transactional services and moving them online.[42] Future changes will look at more advanced functions like the current open data/open government movement, and will have even more significant implications for government. As these changes take place it is important that both the legislative and regulatory frameworks that govern society keep pace, and for the province to look for new ways to remove barriers and enable municipalities in Ontario to modernize. There area a range of options from simple things like removing the requirements to use registered mail, to more complex measures.

However, any movement towards modernization in the municipal sector will likely involve a discussion of whether or not to allow councils to meet or make decisions electronically. While there are some obvious benefits and advantages to such an idea, it is not a decision that should be taken lightly. AMCTO would urge the government to take a cautious approach when considering the possibility of electronic council meetings, and look for ways to balance the imperative of modernization with the importance of preserving and protecting the democratic process.

Outside of electronic meetings there are other ways that the government can modernize the council decision-making process. Municipal councils are now making decisions on a range of increasingly complex issues that affect public policy and administration at the local level, from wastewater treatment, to managing infrastructure, and social services. As the number and type of decisions being made by councils continues to grow, municipal councils need more flexibility in how they make decisions.

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[41] ITAC, Advancing Health and Prosperity: A Brief to the Advisory Panel on Healthcare Innovation, 2014

[42] Johal, 2014

Currently the *Municipal Act* allows municipal councils to exercise their powers primarily through two formal legal instruments: a bylaw or resolution of council. However, while these legal instruments have generally served municipalities well, there is a range of decisions that a council must undertake that do not need to be encumbered with the weight or formality of an official bylaw or resolution. For example, according to the *Act* Municipal Clerks must all be officially appointed by bylaw. Similarly decisions about where a municipality places its traffic lights and street signs are all made with bylaws. As a result of these requirements municipalities pass an inordinate number of bylaws. The City of Toronto, for example, has already passed almost 1,000 in 2015 alone. Councils in municipalities across the province need more freedom to simply render decisions.

RECOMMENDATION 1: Modernize council decision-making by allowing a broader range of decisions to be made without the use of a formal instrument, such as a by-law or resolution

Currently the *Municipal Act* contains a detailed section on records retention. This section includes detailed and specific provisions for destruction, transfer, inspection and copying official records of the municipality. However, there are no detailed provisions for how municipalities should deal with electronic records.

The rise of the digital age has created an explosion of data and the number of electronic documents that are now being created and shared has grown exponentially. Governments in highly industrialized countries are now creating and receiving more documents, data and 'records' than could have possibly been imagined even 10 years ago. While there are no exact figures, some estimates from Europe indicate that up to 90 percent of the records generated by governments are now electronic.[43] While this number might be higher in Europe, where government e-initiatives have pushed more activity onto electronic platforms, it paints a picture of where we are headed in the future. Governments in Ontario, at all three levels, will continue to produce more and more electronic records. While the rise of electronic records has provided interesting opportunities for government transparency (open government) and more detailed data collection and analysis to improve policy development and program delivery, it also creates serious challenges for those tasked with managing and maintaining those records.

[43] James Manyika, et al., "Big Data: The next frontier for innovation, competition, and productivity," *McKinsey Global Institute*, 2011, 56

Within this context, there is a need for more clarity within the *Municipal Act* about how municipalities should handle electronic records. Key to this clarity is flexibility, ensuring that each local government has the ability to develop a policy that is appropriate for their own municipality, given that the volume and types of records varies from community to community. The protocols needed in Toronto are vastly different from those that are needed in Sioux Lookout. As the number of records produced in the digital age continues to duplicate at an exponential rate, municipalities should be given the flexibility to develop their own retention protocols, bearing in mind that each government operates in its own distinct context.

RECOMMENDATION 2: Clarify the requirements for retention of electronic records, and consider giving municipalities more latitude to develop their own retention protocols, including with respect to the accessibility of electronic backups

In addition to changes in how municipal governments make decisions and store electronic records, there is also a need for the province to recognize the changes that have taken place in the consumer market, and explore more modern approaches to regulation. At the end of September, Toronto's City Council voted in favour of incorporating ride-sharing service Uber into its regulatory framework that governs taxis. The decision came as municipalities have been struggling to respond to Uber and similar services that now make up the 'sharing economy.' Once peripheral, these services have now become dominant players in the service industry. For instance according to research done by the Ontario Chamber of Commerce and PwC, 1 in 5 residents in the GTA have used Uber, while 45 per cent of Canadians are willing to rent their belongings to others, and 42 percent are will to rent from others.[44]

1 in 5 residents in the GTA have used Uber, while 45 per cent of Canadians are willing to rent their belongings to others, and 42 percent are willing to rent from others.

The mere existence of the sharing economy is not new, nor is the change or challenges that it has introduced. However, the quick growth of services like Uber and AirBnB has exposed the limited ability of our current regulatory framework to adapt to such

[44] Andrea Holmes and Liam McGuinty, "Harnessing the Power of the Sharing Economy: Next Steps for Ontario," *Ontario Chamber of Commerce*, 2015, 4

shocks.[45] Toronto was the first municipality in Ontario to begin incorporating the sharing economy into its regulatory infrastructure, but it will not be the last. More and more municipalities will begin to follow suit in the coming months. However, the result will be a fragmented, ad-hoc regulatory framework for services that are not local in scope, but exist at the sub-national, national and international level. They are emblematic of our increasingly globalized world, and the way that many services and sectors are no longer constrained to traditional legal boundaries or borders. The province should recognize that this is not an isolated event, rather a tectonic shift in the service industry, and take the led on a proactive and progressive set of regulations. This means taking a holistic approach, and not leaving it to the provinces 444 municipalities to attempt a piecemeal solution to what is a provincial problem.

There are precedents from other jurisdictions where higher orders of government have taken the lead, and attempted to determine the best approach to regulating the sharing economy. For instance in the in the UK, the national government launched a commission to review and better understand the economic and societal issues that the growth of the sharing economy had exposed. Following months of consultation and study, the result was reform of 1970s-era laws restricting short-term rental space and updates to zoning guidance to allow sharing parking spaces.[46] The government of Ontario could do the same.

RECOMMENDATION 3: Consider a new regulatory approach for the sharing economy, recognizing the limited ability of municipalities to regulate activities that are no longer constrained to traditional borders or boundaries

[45] Sunil Johal and Noah Zon, "Policy Making for the Sharing Economy: Beyond Whack-A-Mole," *Mowat Centre*, 2015, 4

[46] Holmes and McGuinty, 2015, 5

PART II: ACCOUNTABILITY & TRANSPARENCY

Accountability and transparency are key features of democratic governance and increasingly important to Canadians. Currently at the municipal level, the infrastructure for accountability and transparency includes a range of oversight and reporting requirements. This section contains recommendations that are designed to fill gaps and ensure that accountability and transparency initiatives at the local level are effective and achieve their objectives.

Closed meeting investigations have been one of the most prominent accountability measures in the past several years. Despite some media portrayals, decision-making at the municipal level is perhaps the most transparent of any level of government in Canada. The *Municipal Act* requires that meetings of municipal councils be open to the public, and only happen behind closed doors in limited circumstances. Comparatively, most decisions made by provincial or the federal governments are made away from the public, at closed-door cabinet or caucus meetings.

Part of the process for ensuring that open meeting rules are followed is closed meeting investigations conducted under Section 239 of the *Act*. However, while these investigations are an important way of ensuring transparency and accountability, they are currently premised on an unclear definition of what defines a 'meeting.' Moreover different closed meeting investigators conduct their investigations using different definitions. The Ontario Ombudsman's office, in particular, has taken an expansive view of what constitutes a meeting. The *Municipal Act* for its part does not provide a clear or specific definition stating only that a meeting is a "regular, special, or other meeting of council, of a local board or of a committee of either of them."[47]

Section 239(1): Except as provided in this section, all meetings shall be open to the public

The current ambiguity about what constitutes a meeting has had negative and perverse repercussions for municipal governance. For instance, one councilor in the City of London has taken to carrying around a flow chart listing which of his fellow councilors sit on which committees, to ensure that he is not at risk of contravening the rules for

[47] Andrew Sancton, "What is a Meeting? Municipal Councils and the Ontario Ombudsman: Draft," *Political Science Publications*, paper 34, 2014, 10

closed meetings.[48] Even more harmful, however, the ambiguity around what constitutes a meeting has prohibited some members of council from openly discussing policy issues with their colleagues outside of the council chambers. The Mayor of Greater Sudbury for instance won't talk to other councilors or lobby for support on any issues before council because she is worried about breaking the rules.[49] While it is undeniably important to ensure that the publics business is conducted in the open, when it is reasonable to do so, it is equally important that the rules to govern that process are clear and easily understandable.

RECOMMENDATION 1: Establish a clear definition of a meeting

In addition to clarifying the rules around what constitutes a meeting, there also needs to be more clarity about the circumstances where council is permitted to meet in closed session. Given the scrutiny that surrounds closed session meetings, this is not a section of the *Act* that benefits from ambiguity. There are a number of circumstances where it is important or necessary for council to meet in a confidential setting. Whether it is to discuss human resource matters or to develop strategy for commercial negotiations or intergovernmental relations, municipalities need to have the confidence of knowing that their actions fall within the scope of reasonable behaviour.

In these circumstances, the *Municipal Act* should clearly articulate that closed meetings are appropriate and acceptable. This is especially important, given the ambiguity in the *Act* surrounding 'security of the property' and circumstances where council is requested or required by a third party (often a provincial government ministry) to meeting behind closed doors. Around security of the property, in particular, while there is currently an exemption to the open meeting rule, previous rulings from the IPC and others have indicated that municipal councils should be required to hold these meetings in public, which would force them to publicly discuss the details of business negotiations.

RECOMMENDATION 2: Review the circumstances where council can meet in closed session, providing clarity about when a municipality may meet in the absence of the public to discuss the security of its tangible assets and intangible property, and to deal with confidential information of government entities and third parties

[48] Patrick Maloney, "London politician forced to go to absurd lengths to avoid breaching uncle law against illegal secret meeting," *London Free Press,* September 30, 2015

[49] Sanction, 2014, 12

Many municipalities have rules and policies governing the ethical behaviour of their staff, councilors, and members of local boards. Codes of Conduct address a broad range of issues, including how to handle gifts and benefits, proper use of municipal resources, proper conduct at council meetings and how to behave when acting on behalf of the municipality. These codes range from general principles to prescriptive lists of rules, and are generally left to each municipality to develop based on the unique needs of their community.

"The ethical culture of an organization is the set of values operating within it. Those values constitute the first line of defence against unethical behaviour, and they exert by far the most powerful influence. In any organization, there is a formal ethical culture and an informal ethical culture. Formal culture is written policy. Informal is learned behaviour of others—and it usually prevails. Ideally, formal culture and informal culture are the same, and the values set down on paper reflect the real values at work in the organization every day."

—The Honourable Madame Justice Denise E Bellamy, Report on the Toronto Computer Leasing Inquiry

Codes of Conduct are an important and useful plank in the ethical framework of governments at all levels. While many large municipalities have created formal codes of conduct to embed proper practices for ethical behaviour, most medium or small sized municipalities have not.[50] However, if they are important for some municipalities, they should be important for all. Codes of Conduct should be made mandatory in the *Municipal Act* for all municipalities (with separate codes for council and staff). However, while the *Act* should proscribe that each municipality is responsible for creating a Code of Conduct, it should leave the responsibility for creating the code to municipalities themselves. This would allow each community to create a Code of Conduct that is appropriate for its municipality.

RECOMMENDATION 3: Require all municipalities to adopt their own 'Codes of Conduct' for council and staff

Central to ensuring that municipal Codes of Conduct are upheld, are investigations and oversight provided by Integrity Commissioners. The *Municipal Statute Law Amendment Act*, 2006 (Bill 130), which amended the *Municipal Act* and entered into effect on

[50] Ministry of Municipal Affairs and Housing, Municipal Legislation Review Public Consultation Guide, June 2015, 7

January 1st 2007 gave municipalities the option of appointing an Integrity Commissioner, who would report to council, but functionally would be tasked with independently ensuring that the municipality is operating in an ethical manner. Initially recommended by Justice Bellamy, following her probe of the Toronto Computer Leasing program, not all municipalities handle their ICs the same way. While most look at how members of council comply with ethical standards of behaviour, in some municipalities they are also tasked with educational training or providing advice on ethics and professional conduct.

RAISING THE BAR ON ETHICAL BEHAVIOUR
Recommendation 3 falls in line with a broader range of work that AMCTO has undertaken in 2015 to develop a new Code of Ethics & Values. This work is designed to heighten awareness of the importance of ethics and accountability and point towards the efforts of current public servants who are raising the bar on ethical leadership in the municipal sector. While this effort is aimed specifically at AMCTO members, it cannot replace the importance of each municipality having its own set of values and ethics.

At this point, still early in the lifespan of the role of the Integrity Commissioner, there is a need for more structure to be created around the position. There is still far too much variability in how Integrity Commissioners exercise their roles, and how they investigate and report back to council. The *Act* should contain more guidance for ICs, so that investigations are being conducted more consistently across the province. It would also be useful to broaden the range of penalties that ICs have at their disposal and give them greater powers to impose a wider range of penalties when infractions are discovered. Currently if an Integrity Commissioner reports that a member of council or local board has contravened that municipality's code of conduct, the municipality can offer either a reprimand, or a suspension of pay for up to 90 days. This is a very limited range of options, and does not provide the IC or the municipality with a range of options that might be better suited to the offence. Integrity Commissioners are important, but there is still work to be done to increase their impact, and improve consistency across the province.

RECOMMENDATION 4: Create additional rules for Integrity Commissioners (ICs) to promote greater consistency in investigations, specifically by providing more guidance on how investigations are conducted and reported, while giving ICs extended powers to consider a broader range of penalties

Just as there are gaps in the position of Integrity Commissioner, there are similar gaps around mechanisms for ensuring the accountability of accountability officers themselves. In addition to an Integrity Commissioner, Justice Bellamy also

recommended three other accountability officers that are now available to municipalities, including a Lobbyist Registrar, Auditor General, and Ombudsman. A meetings investigator has since rounded out these positions, to monitor compliance with the *Act's* open meeting provisions.

These are all important positions critical to the oversight of municipal governance, but they are themselves not immune from ethical or professional lapses, and should not be placed outside the reach of oversight. While there is not currently a section within the *Act* that establishes an accountability mechanism for accountability officers, one should be created.

RECOMMENDATION 5: Establish an accountability mechanism for accountability officers and meetings investigators

Finally, one remaining gap in the accountability and transparency framework surrounds the position of local boards. As agents of the municipal corporation, local boards, including Conservation Authorities and Business Improvement Areas (BIAs), should be required to maintain and uphold the same standards of ethical, professional, and accountable conduct as all other municipal representatives and employees. Yet, there are currently few provisions within the *Act* that clearly define the accountability and transparency requirements for local boards.

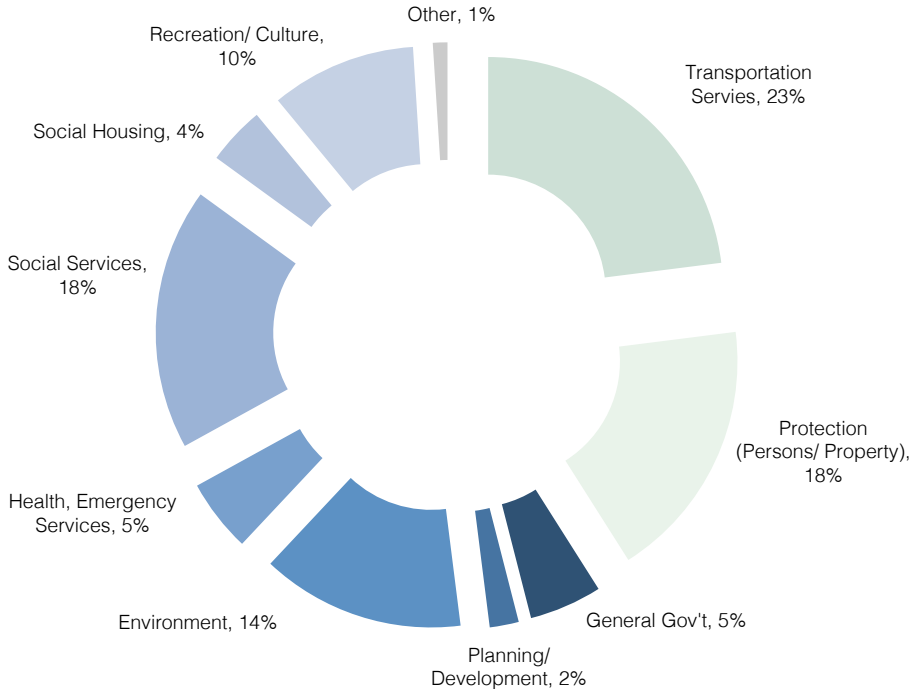
All local boards, including Conservation Authorities, BIAs, and Health, Library and Police Services Boards, should be brought into the local government accountability regime. They should be responsible for monitoring their own accountability and transparency, and upholding the same principles of the municipality they belong to. They should be regularly audited, have Codes of Conduct, be required to have open meetings, and to record minutes of all meetings and make them publicly accessible.

RECOMMENDATION 6: Clarify Council's responsibility for ensuring local boards are accountable (including BIAs and Conservation Authorities)

PART III: FINANCIAL FAIRNESS

The fiscal challenges faced by the province's local governments are complex, and there is no single solution. What is needed is a broader conversation that looks beyond the current tools and revenue streams currently on offer. In the interim, however, there are a series of smaller steps that the government can take, many as part of this legislative review, to improve the financial footing of many municipalities. This section contains a series of recommendations that are designed to help improve the financial fairness for local governments in Ontario. Some of the recommendations emerged through AMCTO's review process, while others are the work of our partner associations.

Figure 6:
Ontario Municipal Expenses, by Service (2013)



Source: Ministry of Municipal Affairs and Housing, Financial Information Returns, 2013.

One of the more significant hurdles to fiscal sustainability in the municipal sector is the province's joint and several liability provisions, often referred to as the 1 per cent rule. This system requires that even defendants in a civil suit who are found as little as 1 per cent at fault can still be made to pay 100 per cent of the damages. This system has

often resulted in local governments, who are presumed to have vast financial resources, becoming the targets of litigation and inevitably covering the cost of other defendants, who do not have the means to pay high damage rewards, but may bear a greater proportion of the liability. Joint and several liability not only places disproportionate liability on municipalities, it has also created a context where municipalities are forced to offer generous out of court settlements to avoid protracted and expensive court battles.[51]

In the past AMCTO has raised its concerns about Joint and Several Liability, and the province declared its interest in reforming this system, before reversing course in 2014. However, if the province is serious about improving the fiscal sustainability of local governments, joint and several liability reform would be a good place to start. There are a range of reform options. Most come from other jurisdictions and have been successfully implemented, while providing reasonable protection for the needs of both plaintiffs and defendants. These options include proportionate liability, a reallocation model, a percentage threshold, or a specific joint and several liability that is based on the type of damage, as exists in California, New York, Mississippi, Nevada and Nebraska.[52] Whatever the solution, there is a pressing need to implement a system that is fairer for all parties.

RECOMMENDATION 1: Review Ontario's Joint and Several Liability tort system, with the goal of ensuring that it more fairly balances the needs of all parties

Aside from reforming joint and several liability, smaller lower-tier municipalities across the province would also benefit from greater flexibility and accommodation with respect to their requisitions to school boards and the upper tier. Specifically there needs to be consideration for the tax arrears that a municipality is holdings on its books, and how this affects their ability to pay these requisitions quarterly. Lower tiers have to pay upper-tier and school board requisitions on predetermined timelines, regardless of if the municipality has collected taxes or is faced with a significant number of properties in arrears. As a result, municipalities are in effect acting as lenders for those who pay their property taxes late, or who fail to make their payments entirely. This carries significant implications for a municipality and can leave it with severe cash flow problems, and cause lower tiers to engage in unnecessary short- or long-term borrowing to cover for citizens who do not pay their taxes. Rather than borrowing to invest in priority projects,

[51] Association of Municipalities Ontario (AMO), The Case for Joint and Several Liability Reform in Ontario, April 1, 2010

[52] AMO, 2010, 27-28

these municipalities are forced to use up potential investment income to cover for negligent taxpayers. Requisition schedules for school boards and upper tier municipalities need to factor in a municipality's tax arrears position.

RECOMMENDATION 2: Allow lower tier municipalities to factor tax arrears into their requisitions to school boards and the upper tier

In addition to the recommendations that AMCTO has developed through our own review process, we would also like to endorse and recommend that the government implement the recommendations made by the Municipal Finance Officers Association (MFOA). These recommendations have been developed by MFOA with input and advice from treasurers and municipal finance professionals from across the province.

RECOMMENDATION 3: Implement recommendations made by the Municipal Finance Officers Association (Appendix A)

PART IV: GOOD GOVERNANCE

As the level of government closest to the people in communities across the province, municipalities provide important public services that are crucial to keep Ontario's communities moving. It is especially important, therefore, that municipalities have the freedom and autonomy to govern well and respond to the needs of their citizens. The province has repeatedly declared that it views municipalities as responsible and accountable orders of government and that it wants to make sure that they have "the flexibility they need to govern."[53] This section contains recommendations that are designed to allow municipalities to do just that.

One of the most pervasive challenges to good governance in the municipal sector is the lack of knowledge within the court system about municipal issues. AMCTO has highlighted this concern previously, specifically surrounding the *Municipal Elections Act*. Recently in *Gleeson v. Conseil Scolaire du district catholique des aurores boreales*, 2015 and A*shby v. Town of Ajax*, 2015, the courts chose to ignore clear contraventions of the province's election laws.

However, these issues are not limited to elections and exist throughout all areas of municipal jurisprudence. Other common issues that are endemic to the justice system include a lack of knowledge amongst Justices of the Peace about enforcement of municipal provisions, an unwillingness to utilize existing enforcement provisions, a lack of respect for by-laws passed by municipalities, and a general lack of knowledge about that statutes that govern municipal affairs. For example in *Myshrall v. Toronto* the court decided that claimants should not be responsible for identifying the date and location of an accident when making a claim related to municipal road repair, despite the fact that this makes it next to impossible for municipalities to defend themselves.

As part of its review of municipal legislation, the government should look for ways that it can increase knowledge of municipal issues in the judicial system. This is an initiative that AMCTO would support and be willing and interested in partnering with the government to achieve. However, the government should also go further and consider what other actions it could take to ensure that the principles of good governance are being upheld in the judicial system. One option worth exploring would be the creation of a specific tribunal to handle local government adjudication.

RECOMMENDATION 1: Promote greater knowledge of municipal issues in the judicial system, and explore the creation of a specific provincial tribunal to handle

[53] Ministry of Municipal Affairs and Housing, Municipal Legislation Review Public Consultation Guide, June 2015, 22

In addition to enhancing the capacity of the judicial system to enforce municipal provisions, the actual enforcement provisions themselves should also be reviewed. The current enforcement mechanisms do not effectively uphold the statutes. There is still considerable work to be to ensure that enforcement provisions, such as those in Part XIV of the *Municipal Act*, are adequately structured to meet the nature of the offences. We would encourage the government to conduct a wholesale review of the penalties and oversight contained within the *Act* in order to create rules that are actually followed, and penalties that meet the nature of the offence and are upheld by the courts.

RECOMMENDATION 2: Enhance the enforcement provisions of the Act
local government issues

Outside of enforcement and the courts, there are a few other gaps and rigidities that, once addressed, will help municipalities govern more effectively. One such gap that currently exists within the *Municipal Act* relates to the transition period following an election, before a new council is sworn in. Peaceful transitions from one government to another are a hallmark of democratic governance, and therefore an incredibly important period for municipalities. However, the current guidance in the *Act* is vague. Newly elected representatives are always eager to get to work, which leaves Municipal Clerks in an uncomfortable position of trying to work with two separate councils, without clear guidelines on what to do.

The transition period would be improved by including more specific protocols and rules to govern the time after the election before the new council takes over. Specifically, there needs to be a set of guidelines for outgoing councilors and a set of guidelines for incoming members, so that both understand their responsibilities and obligations.

Municipalities would also benefit from greater flexibility to schedule and prepare for their inauguration along a timeline that best suits their particular context. As mentioned in the introduction, each municipality operates in a different environment, and uniform rules for every municipality in the province do not often produce good outcomes or lead to good governance.

RECOMMENDATION 3: Establish more precise rules for the transition period between elections

In addition to greater flexibility to schedule their inauguration, municipalities would also benefit from greater flexibility when it comes to filling vacancies on council. Section 263 of the *Municipal Act* sets out the procedures for filling a council vacancy, namely that a municipality has 60 days following a declaration of vacancy to either appoint a replacement or pass a by-law to hold a by-election to select a replacement. However, this section is too prescriptive and does not give municipalities enough flexibility to act in the interests of good government. While 60 days may be appropriate in certain circumstances, there are others, such as holidays or the summer, where 60 days does not give a local council sufficient time to meet and determine the best course of action, or staff enough time to prepare for that outcome. Just as legislatures at the provincial and federal level break for holidays and the summer, so too do municipal councils. At present the leadership of federal and provincial governments have more flexibility about when to call a by-election and there is little justification to not give municipalities that same latitude.

Section 263: (1) If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section, (a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or (b) require a by-election to be held to fill the vacancy in accordance with the Municipal Elections Act.

RECOMMENDATION 4: Give municipalities more flexibility to determine the time frame for filling council vacancies

PART V: CLARITY

One of they key challenges faced by municipalities when working with municipal legislation is a lack of clarity. This is a concern that was highlighted by AMCTO's submission on the *Municipal Elections Act*, and is a matter of equal importance for this review of municipal legislation. Far too many pieces of the legislation that govern municipal operations are unclear, and difficult to interpret. This problem is exacerbated by the reluctance of the Ministry of Municipal Affairs and Housing to help municipalities interpret municipal legislation. As a result local governments are left to either spend taxpayer dollars on legal opinions, or attempt to interpret the statutes themselves, creating the risk of litigation. This is a particular challenge for smaller municipalities who do not have a City Solicitor or in-house counsel. This section contains recommendations that are meant to highlight sections of the *Municipal Act* that would benefit from greater clarity.

ORGANIZATION OF THE MUNICIPAL ACT:
Part I General
Part II General Municipal Powers
Part III Specific Municipal Powers
Part IV Licences
Part V Municipal Reorganization
Part V Accountability and Transparency
Part VI Practices and Procedures
Part VII Financial Administration
Part VIII Municipal Taxation
Part IX Limitation on Taxes for Certain Property Classes
Part X Tax Collection
Part XI Sale of Land for Tax Arrears
Part XII Fees and Charges

One of the most significant steps that could be taken to provide greater clarity to the *Act* would be to reorganize and restructure it in a more consistent, logical manner. The current *Municipal Act* has a sclerotic organizational framework that seemingly jumps from one topic to another at random. The *Act* opens with municipal powers, and then moves on to licences, municipal reorganization, accountability and transparency and doesn't discuss general items of practice and procedure (the section of the *Act* spells out the role of council, administration, and the first meeting of council) until Part VI, by which point it has already covered municipal reorganization, and accountability and transparency. It is illogical for the *Act* to discuss reorganization of a municipality before it discusses organization, and accountability and transparency for council, before it even discusses the role of council. If this review is able to enhance the clarity of the *Act*, it should start at the beginning and reorganize it in a more consistent, logical manner.

RECOMMENDATION 1: Consider reorganizing the *Act* in a more consistent, logical manner

Another area of the *Act* that would benefit from greater clarity is the section that lays out the power for municipalities to conduct ward boundary reviews. Section 222 of the *Municipal Act* gives local governments the power to "divide or redivide the municipality into wards or to dissolve existing wards." What follows are provisions to deal with conflicts, providing notice to citizens and MPAC, appeals to the OMB, and a process for petitions. However, these provisions remain vague, which is problematic for a process that carries such significant political implications.

Section 222: (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to divide or redivide the municipality into wards or to dissolve the existing wards.

There needs to be greater clarity and structure around the ward boundary review process. It would make sense for there to be greater alignment between these reviews at the local level, and those at that also take place federally and provincially every 10 years. There also needs to be more coherent guidelines for how the consultations are to be conducted, ensuring that notice given and feedback sought by municipalities is both genuine and effective. A genuine and effective process for consultation and notice, however, makes the petition process redundant and unnecessary. As part of the review process, upper tier municipalities should also be required to adjust the composition of their Council to ensure that, based on census data, they are fairly and equitably representing each of the lower tier municipalities in their region.

Finally, there is now a sufficient body of case law that lays out the principles of effective representation. As these principles are fundamental to the theory and practice of democratic representation and to creating and reviewing wards, they should be embedded within the *Act*.

RECOMMENDATION 2: Clarify the principles for ward boundary reviews, specifically by aligning the timelines with the federal and provincial governments (every 10 years), creating guidelines for how consultations are to be conducted, embedding the principles that support effective representation, eliminating the petition process, and requiring upper tier municipalities to adjust their council composition to ensure fair representation of each lower tier

Another area that would benefit from greater clarity are the definitions of 'council' and 'administration.' As discussed in the introduction to this submission the world of local government has, and will continue to, undergo a significant period of transition. Within that context the traditional definitions of council and administration should be reviewed, to ensure that the specific definitions contained within Part VI of the *Act* are still relevant to the new environment for municipal governance. Specifically, it would be worth reexamining the definition for the CAO and the Head of Council.

Section 229: A municipality may appoint a chief administrative officer who shall be responsible for,
(a) exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality; and
(b) performing such other duties as are assigned by the municipality.

The CAO position has changed considerably over the past several decades. While originally focused on the operational management of a municipality, the role of CAO has now evolved into a position that is dedicated to strategic leadership. However, the definition currently in the *Act* still presents the role as responsible for "general control and management." This definition no longer fits with the way that the CAO position has evolved. For one, most CAOs no longer directly manage operations or even use their institutional power or authority, preferring influence and strategic leadership.[54] Rather, the CAO is now one of the most important positions within the community, increasingly responsible for economic competitiveness, relations with other orders of government and defining the municipality's place in a world that is quickly globalizing and increasingly international.[55] The definition in the *Municipal Act* should recognize and incorporate this evolution.

Section 226(1): As chief executive officer of a municipality, the head of council shall, (a) uphold and promote the purposes of the municipality; (b) promote public involvement in the municipality's activities;(c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and (d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

[54] David Siegel, "What Do CAOs Really Do?" *AMCTO Policy and Management Briefs,* Issue 01, 2015, 2 – 3

[55] Patrick Eamon O'Flynn, "The Evolving Role of the Municipal Chief Administrative Officer in Canada, 1985-2010," *M.A. Thesis,* University of Guelph, 2011, 3 – 5

The definition of the head of council as 'Chief Executive Officer,' located in section 226.1 of the *Act*, is also deeply problematic and needs to be revisited. We typically associate the role of Chief Executive Officer as a position of asymmetrical power, with absolute authority over an organization's administrative structure.[56] However this definition does not align with the role of head of council. Ontario has what is commonly described as a 'weak mayor' system.[57] While heads of council have the power to preside over meetings of council, convene special meetings, and sit on committees, they have only one vote and generally exercise their power through more informal mechanisms, such as persuasion and consensus building. Moreover, the head of council is not responsible for the administrative policies, practices and procedures of the municipality, which the *Municipal Act* places with the CAO, who sits atop the administrative structure.[58] The CEO definition creates confusion, and misrepresents the role of both council and its head.

RECOMMENDATION 3: Review the definitions and descriptions of 'administration' and 'council,' and remove the 'CEO' title from the description of the head of council

An additional area of confusion is conflicting legislation, and the roles and responsibility between different orders of government. There is currently not enough clarity about how municipalities are supposed to react when faced with policies or laws from the provincial or federal government that conflict with their own statutes.

For example, during this year's federal election there was a dispute between a number of municipalities and political candidates over election signs. Some municipalities, such as the Cities of Vaughan and Markham, have by-laws governing the posting of election signs, specifically regarding the amount of time that they can be up for, and locations where signs cannot be placed. Lawyers representing political candidates, however, have issued letters threatening legal action, by arguing that these bylaws violate the *Canadian Elections Act*, which prohibits anyone from attempting to "prevent or impair the transmission to the public of an election advertising message without the consent of a person with authority to authorize its transmission."

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[56] A.G. Lawley, "What Only the CEO Can Do," *Harvard Business Review,* May 2009

[57] Royson James, "How to be mayor in Toronto's weak-mayor system," *The Toronto Star,* November 1, 2014

[58] Ken Strong, "Heading the Round Table," *Municipal World*, April 2008, 6

A similar conflict has emerged between municipalities and Canada Post, a federal crown corporation, over its decision to end home delivery in approximately 1,000,000 homes across the country in favour of community mailboxes. Specifically municipalities have objected to Canada Post claiming its federal mandate allows it to place so called 'super-mailboxes' wherever it would like, without consent of the municipality. The City of Hamilton passed a bylaw to regulate this activity and is now engaged in a lengthy court battle with Canada Post,[59] while in Montreal the Mayor drew headlines by literally taking a jackhammer to a concrete slab of a future community mailbox in protest.[60][61]

There is no clear process to guide municipalities who are attempting to navigate these complex situations, and far too often the province remains silent during these disputes. The government should give some thought to how municipalities are meant to determine which laws to follow if both come from duly elected representatives of the people. There needs to be clearer tests for municipalities to follow when handling these conflicts.

The government also needs to give serious thought to the way that it determines responsibility for regulation. Municipalities still retain responsibility for regulating a set of activities and industries that are no longer neatly confined to traditional borders or boundaries. The sharing economy is one example, but there are numerous others like the towing or medical marijuana where local governments are responsible for regulating activities that operate across municipal jurisdictions, or are subject to conflicting laws from other orders of government. It's time for the province to review the way that it allocates regulatory responsibility.

RECOMMENDATION 4: Clarify the process and tests to follow when dealing with potentially conflicting roles, responsibilities, and legislation between different orders of government

Another area in need of clarity is the role of municipal services corporations. Outside of indicating that corporations created by municipalities "shall comply with such requirements as may be prescribed," there is no clear explanation of how or to what

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[59] Samantha Craggs, "Hamilton will appeal Canada Post super mailbox court decision," *CBC*, June 18, 2015

[60] Kalina Laframboise, "Coderre delivers on promise to remove concrete base installed by Canada Post," *Montreal Gazette,* August 13, 2015

[61] Shortly after the 2015 federal election, which resulted in a change in government, Canada Post announced a temporary moratorium on the end of home delivery and installation of community mailboxes, saying it would consult with the new government, which had as a central plank of its platform a pledge to restore home delivery services.

extent municipal provisions apply to municipal services corporations. Given that these entities exercise authority on behalf of the municipality, but exist with a separate "incorporator, director, officer or member," this is an issue that is not easily resolved without greater clarity in the *Act*.

RECOMMENDATION 5: Clarify the role of municipal services corporations and the applicability of municipal provisions

Greater clarity is also needed around boundary lines, roads and bridges. While section 11 of the *Municipal Act* discusses spheres of jurisdiction and section 19 provides the rules around geographic boundaries, neither specifically lays out how to determine responsibility for areas that are shared by two municipalities. Specifically there needs to be greater clarity about the planning, development, and maintenance of these bordering areas. Who is responsible for plowing a bridge that connects two separate municipalities? How should planning decisions be made along a road that splits one municipality from another? These are all questions with no clear answer, and can lead to inconsistency, conflict or inaction.

RECOMMENDATION 6: Create clearer procedures for boundary lines, roads and bridges

There also needs to be a greater balance between the *Municipal Act* and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), specifically by finding new ways to align MFIPPA with the *Act*. Municipalities are currently faced with a difficult balancing act between the protection of privacy on the one hand, and responding to the desire of citizens to have greater transparency and accountability in government on the other. These are not irreconcilable differences, but they do require clear guidance, and an open dialogue.

RECOMMENDATION 7: Review how the MA interacts with MFIPPA, and look for ways to create greater alignment of MFIPPA with the *Act*

Section 255(1)(3) of the *Municipal Act* requires that the municipal auditor approve retention periods during which "the records of the municipality and local boards of the municipality must be retained and preserved in accordance with section 254." Records retention requirements are incredibly important for governments at all levels. They help to preserve the historical record of policy development, decision-making and execution, but also help to encourage and enhance accountability. At the local level, Municipal Clerks dedicate significant time and resources to determining the best methods to retain this information, and place great importance in their statutory responsibility to do so. This provision of the *Act*, however, does not contribute, reinforce, or even encourage their ability to do so. Requiring auditors to give their 'approval' for retention periods while a useful idea in theory, does not deliver sound or effective outcomes in practice. Most auditors are reluctant to give 'approval,' because the issues that generally arise, such limitation periods, are not in their purview. There may be a role for auditors in this process, but it should be to advise the municipality about whether the proper process was followed to derive its retention periods, and not to sign off or give approval.

Section 255(1)(3): A municipality may, subject to the approval of the municipal auditor, establish retention periods during which the records of the municipality and local boards of the municipality must be retained and preserved in accordance with section 254.

RECOMMENDATION 8: Remove the 'subject to the approval of the municipal auditor' wording from sec. 255(1)(3)

Finally, greater clarity is also needed around conflicts of interest. There are numerous references inside the *Municipal Conflict of Interest Act (MCIA)* to 'indirect' conflicts of interest. For instance sec. 5(1) states "Where a member, either in his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member…." However, despite this reference to an 'indirect' interest, the definition for an indirect conflict is vague and lacking specifics. As has been noted by other organizations, it is important for the municipal accountability framework to be straightforward and written in plain language so that it can be easily understood. If municipal councilors are going to be held to this standard, it needs to be explained with greater clarity.

RECOMMENDATION 9: Provide greater clarity and a clearer definition for indirect conflicts of interest in the *Municipal Conflict of Interest Act*

CONCLUSION

Over its 77 years of representing the municipal profession, AMCTO has remained dedicated to professionalism, leadership and good governance at the local level. The recommendations in this submission are designed to improve the *Municipal Act* and *Municipal Conflict of Interest Act* and help ensure that it continues to function as an effective statutory enabler of effective municipal governance. We would encourage the government to use the occasion of this review to engage in a sustained discussion about a variety of issues, and listen to the feedback that it hears from municipalities themselves, as well as their respective associations, and other stakeholders.

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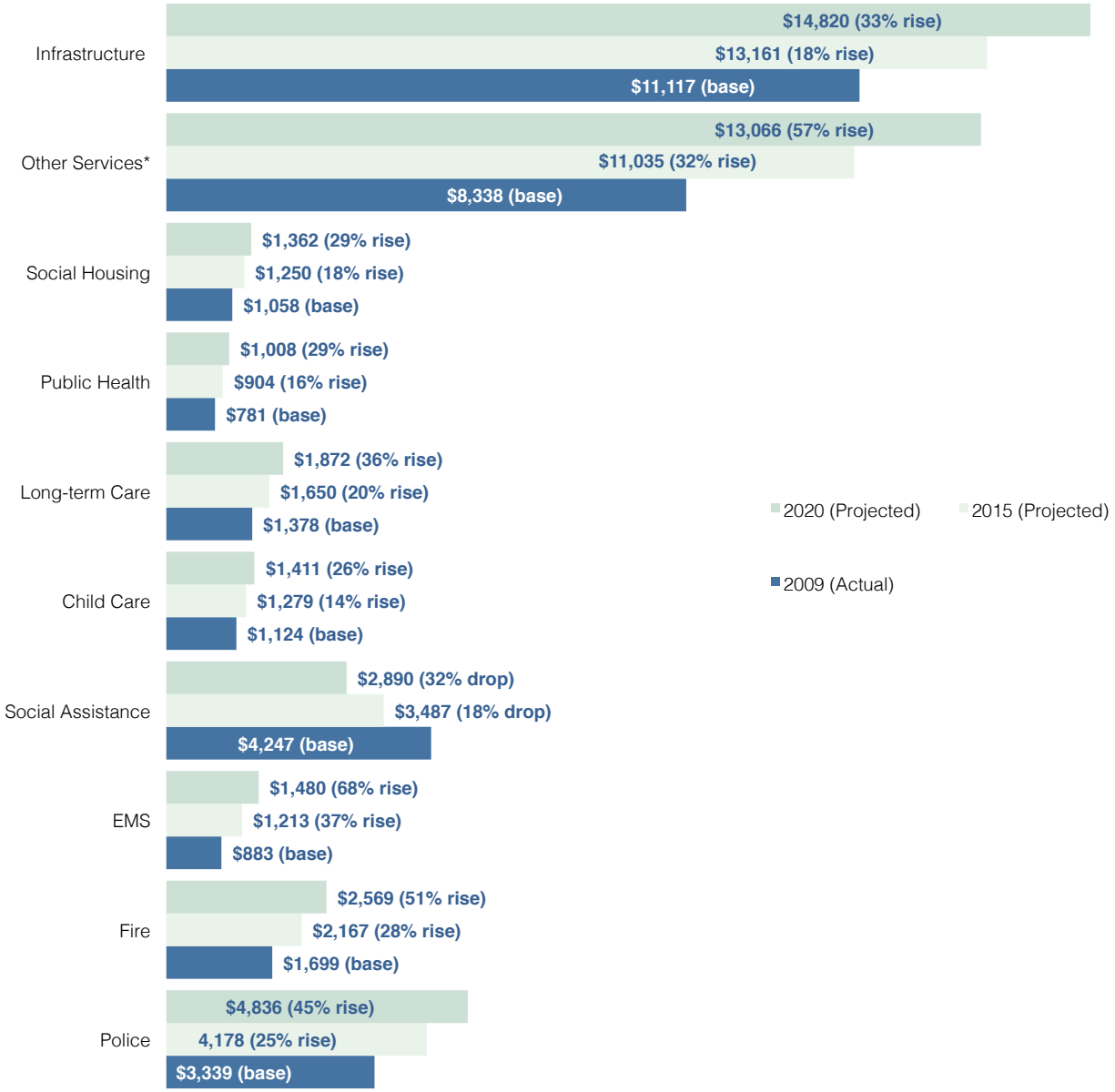
APPENDIX A: Projected Ontario Municipal Operating Costs to 2020 (in millions)



* Other services include: general government, winter control, street-lighting, recreation, culture, libraries, etc.)

Source: Association of Municipalities Ontario (AMO), What's Next Ontario? Imagining a prosperous future for our communities, 2015, 21

APPENDIX B: MFOA Municipal Act Review Recommendations

Section	Currently	MFOA Position
Amendments to the Municipal Act, 2001		
COTA S267 "City of Toronto Revenue Tools	The City of Toronto may impose direct taxes with a few exceptions. Examples of permitted direct taxes include: land transfer, amusement, sin, billboard, and vehicle registration taxes.	Amend the Municipal Act, 2001, to include a broad power to impose taxes beyond the property tax as is found in section 267 of the City of Toronto Act, 2006. The power to impose non-traditional taxes must also include any ancillary enforcement powers as well as powers to impose fines and penalties in cases of non-compliance.
Hotel/ accommodation tax	Ontario is the only province that does not authorize municipalities to levy hotel taxes, but major hotels in a number of Ontario cities have voluntarily agreed to collect a 3% destination marketing fee. The funds are earmarked for tourism marketing and development purposes, and are overseen by industry associations.	Amend the MA to include the power to impose hotel/ accommodation tax.
Tax capping	Introduced in 1998, the end of tax capping is long overdue as the program was first made redundant by the four-year phase-in program creates inequitable tax treatment, and is cumbersome to administer.	That Part IX of the Act be amended to give municipalities the authority to opt out of the provisions of tax capping.

Tax administration	Multiple amendments are needed including: • Allowing surplus funds to be collected from a readvertised tax sale (MA s 380.1) to be applied to amounts that were previously written off. • Removing the error in paragraph 3 of Form 10 Final Notice of Readvertisement, as it is in contravention of MA s 378 (1). • Expanding the list of methods of payments to include certified cheques from credit unions (Rule 25). • Eliminating the stalemate that occurs due to conflicting legislation when a purchaser has paid balance owing and has been declared the successful purchaser, but refuses to sign the documents required to register tax deed.	That the proposed amendments for streamlining and clarifying various elements of tax administration be implemented.
MA Section 110	Restrictions in the Act are overly limiting and do not align with the broad powers of the Act.	That subsection 110(1) be amended to permit a municipality to enter into agreements for the provision of municipal capital facilities by any person, including another municipality.
Conservation authority land	Municipalities should be able to avoid the current situation whereby conservation authorities levy municipalities to pay municipal taxes.	That the Municipal Act, 2001, be amended to include the power to exempt conservation authority land from municipal tax as it is found in section 451 of the City of Toronto Act, 2006.
MA Subsection 106(2): Bonusing	There is some ambiguity in the language in subsection 106(2) which may unintentionally limit the scope of municipal activities that would not normally be considered akin to granting a bonus.	That Municipal Act, 2001, Subsection 106(2) be amended to include "where any of the actions referred to in subparagraphs (a) to (d) above, both inclusive, would result in the granting of a bonus."
MA Section 17: Federal Insolvency Legislation	The Act fails to the Companies' Creditors Arrangement Act, a key piece of Canadian insolvency legislation. To be prudent, Section 17 should make it clear that the entire federal insolvency legislative regime does not apply to Ontario municipalities.	That Municipal Act, 2001, Section 17 be amended to include a reference to the Companies' Creditors Arrangement Act.

MA Section 413: Use of money received	To ensure funds raised via the insurance of debentures are used as intended.	That section 413 of Municipal Act, 2001, be amended to restrict the uses to which an Ontario municipality can apply the proceeds of sale from a property financed through the issuance of debentures while the debentures remain outstanding.
		That section 413(2)(b) of the Municipal Act, 2001, be amended to address an ambiguity to clarify the uses to which an Ontario municipality can apply debenture proceeds that are in excess of or are not required for the purpose for which the debentures were issued while the debentures remain outstanding.
Amendments to Regulations		
MA Section 323: "Heads and Beads"	A number of properties in Ontario are subject to taxation, but not based on current value assessment. Currently the "Heads and Beds" rate is set at $75. This rate was established in 1987 and has not been adjusted in the subsequent 25 year period.	The current "Heads and Beds" rate of $75 be raised to the $140 beginning in 2016 and reset every 5 years with each review of the Municipal Act, reflecting inflation in the Ontario consumer price index.
MA Section 315: "Right of way" rates	The rates on railway assets and electrical corridors have not been amended since 1998.	That the railway "right of way" and electrical corridors tax rates be updated and reset regularly.
Road pricing	Once a regulation is made, a municipality may designate a highway as a toll highway and operate and maintain the designated highway as a toll highway. While this provision has been in the Act for over 10 years, no regulations have been formulated.	The Province should issue regulations under subsection 40(3) of the Municipal Act, 2001, to permit municipalities to adopt road pricing mechanisms.
MA Section 305: Sale of debt	Once a regulation is issued, a municipality may sell any prescribed debt payable to the municipality to any other person in accordance with the prescribed rules and conditions. To date no regulations have been issued.	The Province should issue regulations to permit the sale of debt payable to a municipality as provided in section 305.

Section 418: Investment	Expand eligible investment powers to include, prudent investor status, among other items: • U.S. Dollar Investments • AAA Rated Maple Bonds and TransLink (New Category) • Bond Forward Agreements • 15 Percent Limit on Swapped Loans • Income Trusts and Real Estate Investment Trusts • BBB Rated Bonds	That O. Reg. 438/97 be amended to set out in the CHUMS/LAS submission tot he Debt and Investment Committee and that the regulation to be amended to provide the One Investment Program with prudent investor status. It is also recommended that the regulation be amended to permit municipalities to hold US dollar denominated securities.
		That O. Reg 438/97 be amended to provide the authority to: • unwind commodity hedges; • extend the settlement period of bond forward agreements to 365 days; and • collapse or sell bond forward agreements
Section 203: Power to establish corporations	Members have suggested that restrictions placed on the ownership structure of municipal services corporations inhibit their usage.	That O. Reg. 599/06 Municipal Services Corporations be reviewed.
Amendment to the notional rate	Corrections of MPAC errors are made during the four years of phase-in, rather than on an annual basis. This omission is costly for both the province and municipalities.	That O. Reg. 73/03 is amended by adding a paragraph 3 to subsection (2) of section 12 of O. Reg. 73/03 as follows: • The municipality may adjust the total assessment for property in the property classes to which the levy applied in paragraph (1) by corrections resulting from requests for reconsideration, appeals or applications under section 39.1, 40, of 46 of the Assessment Act as reported by the assessment corporation.

Annual repayment limit (ARL)	No one size fits all and there are inconsistencies in the current calculation. O. Reg. 289/11 sets a precedence by amending the ARL for York Region.	Extend provisions 4.1 of O. Reg. 403/02 to other high growth municipalities or, alternatively, the provisions of O. Reg. 610/06 under the City of Toronto Act, 2006 which allows the City to establish its own debt limit.
Other issues		
Fixed rates in other legalstion	Municipalities are affected by rates in fixed regulations of other Acts. For example, airport levies (Assessment Act, 1990), license and tonnage fees (Aggregate Resources Act, 1990), and rates for nuclear generating facilities (Assessment Act, 1990).	That tax rates fixed under Acts other than the Municipal Act, 2001 that affect municipalities (such as airports under the Assessment Act, 1990) be updated to reflect inflation in the Ontario consumer price index.
Municipal implications of the Education Act	Section 58 of the Education Act, 1990 gives school boards the authority to refuse to pay their water and wastewater bills. This authority has not been used to date.	That the municipal fiscal implications of Section 58 of the Education Act, 1990 be reviewed.
Vacant Unit Rebates	the definition of a vacancy has been broadened since inception.	Amend section 364 of the Municipal Act, 2001, to ensure vacant unit rebates are used in the manner intended by the Act. This amendment should be enacted sooner rather than later.

APPENDIX C: Members of AMCTO's Municipal Legislation Review Advisory Team

AMCTO would like to thank the following members of its Municipal Act Advisory Team for providing the technical expertise for this submission. Please note that the recommendations and opinions included in this report are AMCTO positions, and do not necessarily reflected the views of individual members.

- Jeff Abrams, City Clerk, City of Vaughan (Chair)
- Kimberley Kitteringham, City Clerk, City of Markham
- Angela Morgan, City Clerk, City of Burlington
- Pam Hillock, County Clerk, Director of Corporate Services, County of Dufferin
- Vanessa Bennett-Metcalfe, Director of Financial Services/ Treasurer, United Counties of Storming, Dundas, and Glengarry
- Nancie Irving, Clerk/ Lottery Licensing Officer, Town of Aylmer
- Leslie Donnelly, Deputy Clerk, City of Ottawa

AMCTO
THE MUNICIPAL EXPERTS

Association of Municipalities Ontario

AMO Submission to the Minister of Municipal Affairs and Housing concerning the 2015 Municipal Act Five-Year Review and Conflict of Interest Review

September 8, 2015

The Board has had several discussions about the Ministry's Municipal Legislation Review and makes this initial submission which addresses both the *Municipal Act* and the *Conflict of Interest Act*.

We recognize that the Ministry is likely to receive input from others outside municipal government in response to the review of the authorities, accountability and transparency elements. We'd be pleased to provide practical, operational commentary to the Ministry on the input of others. At the end of the day, the ability to implement policy is just as important as any policy change itself. New policy needs the lens of operational considerations so that consequences are understood and can be avoided at best or mitigated.

A. *Municipal Act Review*

Background:

The current framework of the *Municipal Act* sets out the broad powers of municipal government, spheres of jurisdiction as well as natural person powers, all of which are the outcomes of previous major change to the Act.

These were changes that municipal governments had championed for years. A more modern Act was introduced, ending a legislative framework that for far too long told municipal governments how to do their business in very specified detail, treating all municipal governments in the same manner.

AMO, along with various staff associations[1] worked together and in the fall of 2004 established nine key principles to direct the Province in the review of the *Municipal Act*, 2001 and any future legislation affecting municipalities in Ontario. Those principles are:

Principles for a Mature Provincial-Municipal Relationship:

1. Municipalities are responsible and accountable governments.
2. New legislation shall enhance existing municipal powers.
3. The Province shall stop micromanaging municipal governments.
4. Where there is a compelling provincial interest the Province shall, when regulating municipal government, define at the outset that interest.
5. Provincial legislation shall be drafted with the expectation of responsible municipal government behaviour and not as a remedial tool.
6. Accountability means mutual respect between municipal government, the Province and other public agencies.

[1]Association of Municipal Clerks and Treasurers of Ontario (AMCTO), the Municipal Finance Officers' Association (MFOA), the Ontario Municipal Administrators' Association (OMAA), the Municipal Law Departments Association of Ontario (MLDAO) and the Ontario Good Roads Association (OGRA),

7. Resources for municipal governments shall be sustainable and commensurate with the level of responsibility.
8. The *Municipal Act* shall include principles that will protect the *Municipal Act* and municipal powers from provincial legislation.
9. The Province shall commit to increasing the understanding and awareness of municipal government within all ministries.

The review commenced in 2005 by then Premier, Hon. Dalton McGuinty was done with special attention to ensuring the province was not micro-managing municipalities. On more than one occasion, the Premier said that he was not elected to run municipal government but rather that is what municipal elections served. There was mutual agreement that providing a municipal governing framework that permitted local solutions within the context of local circumstances would be better than a top down, provincially prescribed rules based, one-size fits all approach, which was the historical approach of the Act.

The nine (9) principles above guided that work and AMO made significant recommendations to the government during the pre-consultation phase and in its submission to the Standing Committee on General Government. Many of those recommendations found their way into the 2006 legislation (Bill 130, *Municipal Statute Law Act)* which took effect January 1, 2007. It required a municipal council and administration to be less reliant as a 'ward' of the province and to use its 'own legs' – determining the policy and procedures that made sense within the community and to change them when needed.

With the changes to the Act in 2006, the province moved a good distance to end its micromanagement approach and AMO saw it "as yet another milestone in the advancement of a more collaborative and respectful relationship." Greater local authority and greater choice meant better local responsibility. It certainly helped reduce the number of Bills including private member Bills being introduced in the House to deal with a local matter as one example of the benefit of the new framework.

<u>Today:</u>

AMO's principles used 10 years ago still hold true for this five-year review and the Board has re-confirmed them.

Basically, the *Municipal Act's* framework is working well and there is no major overhaul needed, but rather some clarity and some additional authority.

In addition to this submission, we will be looking at some technical amendments being developed by several staff associations, in particular the Municipal Finance Officers Association's review of the financial areas of the Act and we will provide further comment.

In considering the above, AMO's recommendations in this initial submission on the *Municipal Act* are:

1. As a measure to help diversify the municipal revenue base, incorporate into the Act the taxing authority that resides in the City of Toronto Act. In making this recommendation, AMO wishes to make it clear that this additional permissive taxing authority may be helpful to several municipal governments but it will not bring fiscal sustainability across Ontario, even to those that might use some of that authority. We have witnessed the campaigns of special interest groups, e.g., real estate industry against the use of the land transfer tax, which is the vulnerability of such authority.

City of Toronto Act

267. (1) The City may, by by-law, impose a tax in the City if the tax is a direct tax, if the by-law satisfies the criteria described in subsection (3) and if such other conditions as may be prescribed are also satisfied. 2006, c. 11, Sched. A, s. 267 (1).

Exclusions, types of tax

(2) The City is not authorized to impose any of the following taxes:

1. A tax imposed on a person in respect of the person's income, revenue, profits, receipts or other similar amounts.

2. A tax imposed on a person in respect of the person's paid up capital, reserves, earned surplus, capital surplus or any other surplus, indebtedness or in respect of similar amounts.

3. A tax imposed on a person in respect of machinery and equipment used in research and development or used in manufacturing and processing and in respect of any assets used to enhance productivity, including computer hardware and software.

4. A tax imposed on a person in respect of remuneration for services, including non-monetary remuneration, that is paid or payable by the person or that is conferred or to be conferred by the person.

5. A sales tax imposed on a person in respect of the acquisition or purchase of any tangible personal property, any service or any intangible property, other than a tax imposed on the person,

i. for the purchase of admission to a place of amusement as defined in the *Retail Sales Tax Act*,

ii. for the purchase of liquor as defined in section 1 of the *Liquor Licence Act* for use or consumption,

iii. for the production by the person of beer or wine, as defined in section 1 of the *Liquor Licence Act*, at a brew on premise facility, as defined in section 1 of that Act, for use or consumption, or

iv. for the purchase of tobacco as defined in section 1 of the *Tobacco Tax Act* for use or consumption.

6. A tax imposed on a person in respect of lodging in or the use of the rooms or other facilities of a hotel, motel, hostel, apartment house, lodging house, boarding house, club or other similar type of accommodation, including a tax in respect of services provided by the owner of the accommodation that are related to the lodging or that are related to the use of the rooms or other facilities, but not a tax described in subparagraphs 5 i to iv.

7. A tax imposed on a person in respect of the acquisition of any gas or liquid that may be used for the purpose of generating power by means of internal combustion and in respect of any special product or any substance that may be added to the gas or liquid.

8. A tax imposed on a person in respect of the person's consumption or use of energy, including electricity.

9. A tax on a person's wealth, including an inheritance tax and a tax in respect of,

i. the total value of assets or the total value of two or more classes of assets owned by the person, or

ii. any monetary assets or financial instruments owned by the person.

10. A poll tax imposed on an individual by reason only of his or her presence or residence in the City or in part of it.

11. A tax on the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources.

12. A tax on the supply of natural gas or artificial gas.

13. A tax on the use of a highway (as defined in subsection 1 (1) of the *Highway Traffic Act*) by a person in respect of equipment placed under, on or over the highway for the purpose of supplying a service to the public. 2006, c. 11, Sched. A, s. 267 (2).

Across Ontario, there is a significant infrastructure gap in municipal core infrastructure (over $60 billion). In addition, there is other capital and operating demands such as the housing stock transferred to municipal governments in the late 1990s, which is not captured in this gap figure, nor are the recreation, park and cultural facilities that contribute to quality of life and vibrancy of community.

The municipal fiscal challenges cannot be met with the nine cents of every household tax dollar that municipal governments in Ontario receive. It can only be tackled in a substantive manner with a more predictable and secure approach. AMO is currently working on a project "What's Next Ontario?" to develop in concert with its membership a framework for municipal fiscal sustainability and will share with the province the outcomes of this work as it develops. In the meantime, as noted, some municipal governments may be in a position to utilize Toronto's additional special tax tools authority.

2. The *Municipal Act* must contain a better definition of a "meeting". The need for this has become readily apparent as a result of closed meeting investigations conducted under Section 239. The current regime did not anticipate that closed meeting investigators would hold different approaches as to what constitutes a meeting for the purposes of the Act. The broad definition used by the Ontario Ombudsman means that any gathering of members of council or a committee would constitute a meeting. For example, a delegation of council members to meet with a Minister could be captured by the Ombudsman's definition. This is confusing to not only councils but the people who advise them about the rules for open meetings as well as the public.

   As we did with Bill 8, we recommend that the common law definition of meeting be included in the Act to provide clarity and consistency for all participants. We have suggested that a meeting be defined as when a quorum of elected officials gathers to deal with matters which would ordinarily form the basis of council or a local board or committee's business and acts in such a way as to move them materially along the way.

The definition of meeting should not be as broad as the Ontario Ombudsman's. The Ombudsman for British Columbia has brought some common sense to this by differentiating between a meeting and a gathering as follows:

> *"A gathering is less likely a meeting if:*
> - *there is no quorum of board, council or committee members present*
> - *the gathering takes place in a location not under the control of the council or board members*
> - *it is not a regularly scheduled event*
> - *it does not follow formal procedures*
> - *no voting occurs and/or*
> - *those in attendance are gathered strictly to receive information or to receive or provide training*
>
> *A gathering is more likely a meeting if:*
> - *a quorum of council, board or committee members are present*
> - *it takes place at the council or board's normal meeting place or in an area completely under the control of the council or board*
> - *it is a regularly scheduled event*
> - *formal procedures are followed*
> - *the attendees hold a vote and/or*
> - *the attendees are discussing matters that would normally form the basis of the council's business and dealing with the matters in a way that moves them toward the possible application of the council's authority."*

It is unfortunate that in Ontario we need to legislate what constitutes a meeting, but the current conflicting approaches cannot continue and a reasonable definition, one that has support in jurisprudence should be incorporated in the Act.

3. Apply prudent investment standard to One Investment Program, which would enable this pooled investment authority to provide its participants with greater diversification. It would provide for the management of funds based on return potential and risk rather than the "legal list" approach of the statute. A legal list cannot keep pace with evolving investment markets.

   The One Investment Program has a solid track record, with a very active oversight Board and accountability to its participants. It needs to move from the "legal list" to letting professional investment managers manage portfolios according to the market. Prudent investment status would allow the municipal governments to better utilize investments as a source of revenue. Additional revenue would help municipal budgets and related capital financing plans.

   AMO and its Local Authority Services subsidiary, and the Municipal Finance Officers Association of Ontario have managed this pooled investment plan with solid rates of return for 15 years. We have provided vast amounts of documented evidence over the years as we have pursued this change. Our current understanding is that the Ministry is contemplating giving the City of Toronto prudent investment status. There is no barrier to the City participating in the One Investment Program. If other large municipalities are designated as such and the One Investment Program does not receive the status, we will not be able to compete and the pooled program will erode, resulting in higher fees with fewer investment options. AMO choses to believe that the province would not take any action that would undermine the investment program and three important municipal organizations.

4. There are also several changes that would lend clarity and further modernize the Act.

   - Develop a provision to clearly provide parental leave for Mayors and Councillors by cross-referencing the parental leave legislation. This should be done in such a manner that parental leave does not require authorization from Council under the *Municipal Act*, and that it does not constitute an absence from meetings of Section 259 (1).

   - Permit a council to establish a policy, if it chooses, on when participation at its meetings, committee and local board meetings, including accessibility advisory committee meetings might be conducted by using telephone or video conferencing. Section 40(7) of the *Northern Services Board Act* permits meetings by tele-conference, video-conference or other means of distance communication.

Council could include in its policy provisions related to the frequency and method of conferencing, other limitations and when council's policy should be reviewed. Where a council prepares such a policy, it would form part of the municipal government's procedures. There can be situations where remote participation supports the representative role of councillors. It is our view that individual members of council would use this authority judiciously. We recognize that this recommendation would not be enabled in parts of Ontario because of technology limitations, but it does reflect the principles articulated above.

Summary:

By and large, the *Municipal Act* is working well and our review did not reveal any major failings. It provides municipal governments with broad authority so that councils' policy decisions can reflect local circumstances and local needs as they evolve over time. These initial recommendations on authority are made to add some clarity and modernity and as previously noted, we will be providing further advice based on the technical recommendations of the various staff associations.

B. Transparency and Accountability

Background:

Appendix A provides a summary of the existing accountability framework within the *Municipal Act* and the *Municipal Conflict of Interest Act* (MCIA). The latter Act has not had any major review over the years.

Municipal ethics is concerned with ensuring that the standards of behaviour of municipal officials adhere to the core values of the municipality. The public consistently rates municipalities as the most trusted order of government in Canada. If a municipal government does not have the public's trust, it then holds every reason to earn it. Simply put, good government is best served when municipal governments and their designated bodies meet that goal independently rather than through provincial micromanagement and specific oversight.

The government's focus on accountability and transparency in this Review is related to integrity situations that have occurred during the last few years that have received a great deal of public attention. The recommendations that follow have benefited from the insight and advice from municipal associations, senior municipal staff and experts on municipal governance and accountability, including lawyers and integrity commissioners.

The AMO Board believes that the following should form the desired outcomes of this review:

- ✓ Any municipal accountability framework shall recognize that municipal governments are mature, responsible and accountable levels of government. The provincial government has recognized municipalities both generally and specifically as responsible governments and, as such, any changes should not undermine this position.
- ✓ Any municipal accountability framework should be straightforward and it should be easily understood by elected officials and the public. In other words, it should not be complex or legalistic. Additionally, any changes to the framework must not expose staff and municipal governments to increased liability.
- ✓ Elected officials should have access to a person who is able to provide them with advice on potential conflicts of interest and they should be able to rely on that advice. Certainty and affordability are key values in any process, including conflicts of interest.
- ✓ An accountability framework should have safeguards to prevent and to address frivolous and vexatious complaints. Without these safeguards, it could be misused for political and other ends.

Specific Recommendations:

In addition to the above desired outcomes, the following recommendations are being made to the Ministry:

1. The existing municipal accountability framework is confusing and needs to be structured in a way that allows elected officials to understand their obligations and to conduct themselves in a way that complies with those obligations. The *MCIA* is overly legalistic and it is difficult to understand, particularly by elected officials who bear personal responsibility for complying with the *Act.*

2. The term "pecuniary interest" is an outdated term. The *MCIA* should be updated to incorporate modern language and overarching principles of ethics and integrity.

3. The *MCIA* is rather draconian and the penalties are too severe. It should be amended to provide for a broader range of penalties. Removal from office should be reserved for the most egregious conduct.

4. Elected officials should be able to seek advice from a municipal integrity commissioner for *MCIA* as well as municipal code of conduct advice and they should be able to rely on the advice received. As with the closed meeting investigation and ombudsman framework, the provincial integrity commissioner could be the default advisor for municipal governments.

5. An appointed municipal integrity commissioner should be able to investigate complaints related to conflict of interest matters under the *Municipal Conflict of Interest Act*, with the authority to impose penalties. A municipal integrity commissioner can be appointed under the *Municipal Act* to deal with codes of conduct complaints. The provincial integrity commissioner could act as a default investigator for those municipalities that do not appoint their own.

6. Where an integrity commissioner has the ability to remove someone from office for an offence under the *MCIA*, there should be a process for judicial review.

7. An accountability framework should give clear authority and set out safeguards to prevent and to address frivolous and vexatious complaints.

8. Some codes of conduct are drafted to include conflicts of interest arising from a member's financial interest, raising the possibility that a single action could breach both the *MCIA* and a council's code of conduct. Personal financial interests should be separate from code of conduct matters. Codes of conduct should focus on councils' behaviour; e.g. use of workplace assets, 'gifts', staff/council member interaction, etc. Combining all potential ethical matters in a code of conduct can create confusion.

9. Require that accountability and transparency training is completed within 90 days of taking office. Council members are already required to do mandatory training on their personal liabilities with respect to the *Safe Drinking Water Act*. Human behaviour cannot be legislated, however solid upfront knowledge, the clarity of law, and reliable advice are important inputs to judgement and action for both elected officials and others.

10. One of the outcomes of Bill 8's amendment process is to exempt the City of Toronto from the 'final oversight' of the Ontario Ombudsman. In the Committee's review process, it did not exempt other municipal governments who appoint their own municipal ombudsman. There is no reasonable rationale for such a dual standard and this should be rectified.

Summary:

The already extensive and complex municipal accountability framework should not be made even more complex and legalistic. There will no doubt be differing perspectives on how to 'reform' the accountability framework, including the *Municipal Conflict of Interest Act.* AMO remains open to discussing with the Ministry ideas for change that may come from others.

At the end of the day, municipal governments are the most accessible and accountable order of government. Any change to the accountability framework needs to complement this rather than detract from it. The desired outcomes articulated above have merit and should be used in evaluating any legislative change. In addition, there needs to be an across-the-board view in making any changes to any part of the framework.

Conclusion:

AMO's Board submits these comments and recommendations for consideration. As noted, there may be some additional technical amendments from municipal staff associations. As always, AMO is available for government to government discussions on these and any other recommendations the Ministry receives.

Appendix "A"

The Existing Accountability Framework

Ontario does not have a comprehensive statute or regulation that addresses municipal accountability and transparency. Codes of conduct and integrity commissioners are addressed in Part V.1: Accountability and Transparency of the *Municipal Act*, while open meetings are addressed in Part VI: Practices and Procedures of the *Municipal Act*. Financial conflicts of interest are dealt with in the *Municipal Conflict of Interest Act*. Additional sources of municipal accountability and transparency rules include the *Criminal Code*, judicial inquiries/common law and, as of January 2016, the *Ombudsman Act*.

The Municipal Act

Codes of Conduct

The *Municipal Act* permits municipalities to establish local codes of conduct for members of council and local boards. Codes of conduct are bylaws that establish standards for ethical behaviour when members are acting in their official capacity and for compliance with the municipality's rules, policies and procedures. Common issues addressed in codes of conduct include relations with other members of council, staff and the public, gifts and benefits, confidentiality, use of property and discrimination/harassment. Some codes have gone beyond these areas and touch upon financial interest, which can be confusing.

It is up to a municipality to determine the content of its code of conduct, the complaints process and many of the rules around its enforcement. However, a municipality cannot make it an offence to breach the code of conduct. The only two penalties available for breaching the code of conduct are a reprimand or a suspension of pay for up to 90 days. Responsibility for overseeing the code of conduct is normally assigned to a municipal integrity commissioner appointed by the municipality.

Integrity Officers

The *Municipal Act* permits municipalities to appoint the following integrity officers to help increase accountability and transparency at the local level:

- Integrity Commissioner
- Municipal Ombudsman
- Auditor General
- Lobbyist Registry

Integrity Commissioner: A municipality may appoint an integrity commissioner who is independent of council to interpret its code of conduct, to provide confidential advice to members on their obligations under the code and other rules, procedures and policies. In carrying out his or her responsibilities, the integrity commissioner may exercise such powers and perform such duties as are lawfully assigned by the municipality. Generally, a municipal integrity commissioner may investigate an alleged code violation and make recommendations to council about penalties. Other processes are in place to do this. If council accepts the integrity commissioner's recommendation, it may either reprimand the member or suspend the member's pay for up to 90 days. Councils do

not have the ability to impose other types of penalties or to make a breach of the code of conduct an offence punishable by law. The Integrity Commissioner has no authority for assigning penalties; this is a matter for Council as a body in the public domain.

Municipal Ombudsman: A municipality may appoint a municipal ombudsman to investigate complaints or self-identified investigations (i.e. system reviews) of matters that deal with the administration of the municipality and its agencies, boards and commissions. A municipal ombudsman shall conduct all investigations in private and maintain confidentiality. The municipal ombudsman's power is limited to reporting and making recommendations to council. Aside from Toronto, which is required to appoint a municipal ombudsman, no Ontario municipalities have availed themselves of this authority.

Auditor General: A municipality may appoint an Auditor General who reports to council and is responsible for assisting the council in holding itself and its administrators accountable for the quality of stewardship over public funds and for achievement of value for money in municipal operations. Most municipalities rely on their internal or external auditor to determine the municipal government's financial picture and financial statements. Aside from Toronto, which is required to have an Auditor General, Ottawa appears to be the only municipality that currently has an Auditor General. The Provincial Auditor General already holds the ability to investigate use of provincial grant funds for a specific purpose or as a systemic review/value for money of a funding program.

Lobbyist Registry: A municipality may establish a public registry for lobbyists, establish a code of conduct for lobbyists and prohibit former public office holders from lobbying for a designated period of time. Toronto, Ottawa and Hamilton currently have lobbyist registries.

Open Meetings

Meetings of councils and local boards must be held in public, unless they fall into one of the limited closed meeting exemptions in Section 239 of the *Municipal Act*. For example, meetings may be closed for discussion of matters that are before the courts, a pending purchase or sale of land, or personal matters about an identifiable individual.

Municipalities may appoint an independent open meeting investigator to investigate whether a meeting was properly closed to the public. Municipalities have appointed individuals or investigative services or have defaulted to the Ontario Ombudsman as the closed meeting investigator. Open meeting investigations often hinge on determining whether a meeting has in fact occurred.

Judicial Inquiries

The *Municipal Act* authorizes a municipality to pass a resolution requesting that a judge conduct an inquiry under the *Public Inquiries Act*, to investigate any supposed breach of trust or other misconduct, to inquire into any matter connected with the good government of the municipality or to inquire into the conduct of any part of the public business of the municipality. In conducting an inquiry, a judge has the extensive investigatory powers. However, a judge does not have any enforcement powers; he or she can only make recommendations to the municipal council.

There have been two high profile municipal inquiries in Ontario in recent years. In 2005, Justice Denise Bellamy delivered her report of the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry. The inquiry resulted from allegations of conflict of interest, bribery and corruption in the newly amalgamated City of Toronto's procurement practices. Justice Bellamy found that there were a number of improprieties in the City's dealings with its external contractors and she made 241 recommendations to Council.

With respect to ethics, Justice Bellamy recommended that council appoint an integrity commissioner to provide advice to councillors and staff, investigate complaints and recommend an appropriate range of sanctions for misconduct. She also recommended an expansion of the existing code of conduct to include broader principles and conflicts of interest and more stringent rules around lobbying, including the creation of a lobbyist registry. Some of Justice Bellamy's recommendations were adopted in new accountability and transparency sections of the *City of Toronto Act* and the *Municipal Act* during the 2006 legislation review.

In 2011, Justice Douglas Cunningham released his final report of the Mississauga Judicial Inquiry, titled "Updating the Ethical Infrastructure". The second part of the inquiry stemmed from allegations that Mayor Hazel McCallion improperly inserted herself into a land development deal between the City of Mississauga and a private company in which her adult son had a financial interest. Justice Cunningham found that Mayor McCallion had a "real and apparent conflict of interest", but she did not breach the narrow rules laid out in the *MCIA*.

Justice Cunningham made 27 recommendations pertaining to municipal accountability. Similar to Justice Bellamy, he recommended expanding the code of conduct and definition of a conflict of interest and appointing an integrity commissioner to provide advice, investigate complaints and make recommendations to Council. He also recommended providing safeguards to preserve the independence of the integrity commissioner such as security of tenure and indemnification.

Justice Cunningham spent a substantial amount of time discussing the *MCIA* and the need to clarify and coordinate the respective roles of integrity commissioners and judges in regulating conflict of interest. Some of Justice Cunningham's recommendations would require municipalities and staff to take on some responsibility for conflict of interest compliance such as publishing a list of conflicts and providing comfort letters to parties doing business with a municipality.

The *Municipal Conflict of Interest Act*

The *Municipal Conflict of Interest Act (MCIA)* regulates how elected officials are to conduct themselves when they have a 'pecuniary' or financial interest in a matter that is being considered by council or a committee. Conflicts of interest arise where there is a clash between a member's private financial interest and their public duty. When present at a meeting in which a matter is to be considered, a member who has a direct or indirect financial interest in the matter must declare a conflict of interest, describe the nature of the conflict and recuse himself or herself from voting on the matter. The member is also prohibited from influencing or attempting to influence the vote on a matter in which they have a financial interest. The financial interests of a member's parent, spouse or child that are known to the member are deemed to be the financial interests of the member for the purposes of the *Act.*

The *Act* provides some exceptions to the general rule on conflict of interest, including where the member has a financial interest in common with electors generally or where the interest of the member is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

Within six weeks of becoming aware of the conflict, an "elector" who believes that a member has contravened the *MCIA* may apply to a court to determine the question. A judge is required to declare the seat of a member vacant where a conflict of interest exists, unless the judge finds that the member contravened the *MCIA* through inadvertence or an error in judgment. While the *MCIA* provides for some additional discretionary penalties, the consequences for breaching the *Act* are severe. Individual members bear personal responsibility for complying with the *MCIA* and must seek their own independent legal advice about potential conflicts of interest.

As the *MCIA* is interpreted and enforced by the courts, much of the law on conflict of interest is found in court decisions. Additionally, confusion arises when there is an overlap between codes of conduct and the *MCIA*. Some codes of conduct address conflicts of interest arising from a member's financial interest, raising the possibility that a single action could breach both the *MCIA* and a council's code of conduct. It is not often clear whether a municipal integrity commissioner may continue to investigate in these circumstances and how a court proceeding will affect a municipal integrity commissioner's investigation.

The Criminal Code

It is a criminal offence for a municipal official to commit fraud or a breach of trust in connection with their duties of office. It is also a criminal offence to corrupt a municipal official or to use threats, deceit or other unlawful means to influence a municipal official. The maximum penalty for breaching the municipal provisions in the Criminal Code is five years imprisonment.

The *Ontario Ombudsman Act*

As of January 1, 2016, the Ontario Ombudsman will have expanded oversight of municipal governments. The following changes will be made to the municipal accountability framework:

- The Ontario Ombudsman will become the default ombudsman for municipal governments that do not appoint a municipal ombudsman, except in the City of Toronto.
- The Ontario Ombudsman will have 'final oversight' of individual complaints where a municipal ombudsman has been appointed, except in the City of Toronto.
- The Ontario Ombudsman will have oversight of municipal auditors general and integrity commissioners. The government has not provided clarification on the scope of the Ontario Ombudsman's powers in these areas.
- The Ontario Ombudsman will be able to conduct 'systemic' investigations of all municipal governments, including the City of Toronto.
- The existing closed meeting investigation regime will be maintained and there will be no ability to refer a matter for 'final oversight' to the provincial Ombudsman. The Ontario Ombudsman will continue to be the default closed meeting investigator where a municipality has not appointed a closed meeting investigator.
- By regulation, boards of health, library boards, long-term care homes and police services boards are to be excluded from an Ombudsman's oversight. It is not clear what, if any, role the Ontario Ombudsman will play in enforcing codes of conduct and whether the Ontario Ombudsman's role will be limited to maladministration. There is also concern that municipal integrity officers will be required to breach their confidentiality requirements under the *Municipal Act* by turning over confidential documents and information to the Ontario Ombudsman.

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CORPORATE SERVICES DEPARTMENT

Project Update to
Finance & Labour Relations Sub-Committee
February 21, 2017

Director's Office

Asset Management:

Staff is working on an RFP for a new Work order system and Asset tracking and management system – RFP will be in the marketplace by the end of February.

Development Charges:

DC background study released for public comment.
Public meeting being held on March 27, 2017.
Staff have engaged Dillon Consulting to assist with the forward-looking Transit statistics required for the Transit DC charge.

Staffing:

New Deputy Clerk started on February 13, 2017.
New Business Analyst position will be posted at the end of February.
New Finance position description being created and will be posted in March.

Finance/Tax

Ebidding:

We currently have 4 quotes, 2 tenders and 2 RFP's on our bids and tenders website. The first one closed Feb 15.

Multi-Residential Ratio Cap:

New regulations have been passed and staff will be providing a full report on any property tax rate calculation changes required.

2016 Audit:

Staff are working to complete 2016 entries in preparation for upcoming audit.

Information Technology (I.T.)

Parking Software Upgrade:

Phase 1 (upgrading parking ticketing software) - Completed.
Phase 2 for 2017 (online payment of parking tickets).

Network Security Assessment:

I.T. Division completed a network security assessment last year. As per recommendations, new password policies and idle timeouts for desktops across all City devices will be enforced – Completed.

eProcurement Tool:

I.T. is working with purchasing to implement and facilitate training for the new eProcurement tool going live in late January 2017 – Completed.

Unified Communications:

I.T. is working with different departments across the City to gather requirements and prepare an RFP with regards to unified communications and cellular system.

GIS Upgrade and Internal Viewer:

I.T. is working on upgrading the internal GIS viewer. The upgrade will allow for better and more efficient communication between the viewer users especially in Fire and Water departments. This upgrade will also allow for new 2015 Ortho Image to be available for internal GIS applications.

Clerks

Review of Delegation of Authority By-Law & Policy:

- The Delegation of Authority By-law is a by-law adopted by Council that consolidates and centralizes the delegated authority of Council.
- The Municipal Act sets out the parameters for the delegation of Council's authority and also requires that Council have a Policy with how Council delegates certain matters.
- Council has a policy in place on Delegation of Authority.
- The By-law is the authority for certain staff, committees and bodies of the City to take action on routine matters.
- Specific by-laws and policies are still also required to establish the terms and conditions for which the delegated authority is administered by staff. Some of these also require updating.
- Staff and Legal Counsel have reviewed the current Delegation of Authority By-laws and policies. There is one main by-law and over time, individual by-laws and policies were adopted that should be consolidated into one delegation of authority by-law.
- This review also identified additional powers and duties for consideration of delegation by Council.
- A report has been prepared that identifies these matters and will be presented next month following review by CLT.
- The report and background document may require a separate meeting to review with Committee, legal counsel and directors present.