

City of Port Colborne

Council Meeting Minutes

Date: Tuesday, April 26, 2022
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

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

Member(s) Absent: F. Danch, Councillor

Staff Present: S. Luey, Chief Administrative Officer
C. Madden, Deputy Clerk
B. Boles, Director of Corporate Services/Treasurer
C. Kalimootoo, Director of Public Works
S. Lawson, Fire Chief
S. Tufail, Acting Deputy Clerk (minutes)
N. Rubli, Acting City Clerk

1. Call to Order

Mayor Steele called the meeting to order at approximately 5:00 pm.

2. Confidential Items

Moved by Councillor A. Desmarais
Seconded by Councillor M. Bagu

That Council proceed into closed session at 5:05 pm in order to address the following items:

2.1 Minutes of the closed session portion of the February 22, 2022 Council Meeting; and

2.2 Chief Administrative Office Report 2022-52, pursuant to the Municipal Act, 2001, Subsection 239(2) (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Carried

2.1 Minutes of the closed session portion of the February 22, 2022 Council Meeting

2.2 Chief Administrative Office Report 2022-52, Advice that is Subject to Solicitor-Client Privilege

3. Closed Meeting Report-Out

Council reconvened into Open Session at approximately 5:45 p.m.

Council recessed at approximately 5:45 p.m.

Council reconvened into Open Session at approximately 6:35 p.m.

On April 26, 2022 at 5:05 p.m. Council met in Closed Session to discuss an item pursuant to Section 239(2)(f) of the Municipal Act, 2001, as amended:

Item 2.2 – Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

As a result of that meeting, direction has been given to Staff in accordance with the Municipal Act.

4. National Anthem

5. Land Acknowledgment

6. Proclamations

6.1 Doctor's Day, May 1, 2022

Moved by Councillor M. Bagu

Seconded by Councillor D. Kalailieff

That May 1, 2022 be proclaimed as Doctors' Day in the City of Port Colborne.

Carried

6.2 May is Museum Month, 2022

Moved by Councillor M. Bagu
Seconded by Councillor D. Kalailieff

That the month of May 2022 be proclaimed as Museum Month in the City of Port Colborne.

Carried

7. Adoption of Agenda

Moved by Councillor E. Beauregard
Seconded by Councillor A. Desmarais

That the agenda dated April 26, 2022 be confirmed, as amended.

Carried

8. Disclosures of Interest

9. Approval of Minutes

9.1 Regular Meeting of Council-April 12, 2022

Moved by Councillor H. Wells
Seconded by Councillor R. Bodner

That the minutes of the regular meeting of Council, held on April 12, 2022, be approved as circulated.

Carried

10. Staff Reports

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

That items 10.1 to 10.5 be approved, and the recommendations contained therein be adopted.

Carried

10.1 Billing of the Schihl Municipal Drain, 2022-67

That Corporate Services Department Report 2022-67 be received;

That the billing for the Schihl Municipal Drain be invoiced in accordance with the Drainage Act, as outlined in Appendix A of Public Works Department Report 2022-67; and

That the Schihl Drain Levy By-law be approved.

10.2 Downtown Cruise Nights, 2022-82

That Corporate Services Department Report 2022-82 be received;

That the following road closures be approved on Thursday evenings from 5 p.m. to 9 p.m. from May 19, 2022, to September 8, 2022, as shown in Appendix A:

- Clarence street, from the eastern limit of Catherine Street to the western limit of King Street;
- Clarence street, from the eastern limit of King Street to the western limit of West Street;
- Catherine Street from the southern limit of Clarence Street to the Northern limit of Charlotte Street;
- The Northern parking spaces in Market Square on the southern border of King George Park.

That the Port Colborne Downtown Cruiser's Association (PCDCA) be required to file a Certificate of Insurance, naming the City as an additional insured, in the amount of \$2,000,000, prior to the event;

That the fees be waived for the use of King George Park and access to hydro for the staging of the Cruise Night events; and

That the fee for a Noise By-law Exemption application be waived.

10.3 Equipment Purchase Opportunity, 2022-86

That Public Works Department Report 2022-86 be received; and

That the Director of Public Works be directed to purchase the equipment as outlined within Public Works Department report 2022-86.

10.4 Parking and Traffic By-law (89-2000), 2022-79

That Community Safety and Enforcement Department Report 2022-79 be received; and

That Council approve repealing By-law 89-2000, as amended, a by-law to provide for parking and traffic regulations, prohibitions, and enforcement; and

That Council approve enacting as a re-enactment By-law 89-2000 attached as Appendix A to Community Safety & Enforcement Department Report 2022-79.

10.5 Corporate Use of Resources Policy – Municipal Election, 2022-91

That Development and Legislative Services Report 2022-91 be received; and

That the Use of Corporate Resources for Election Purposes policy, amended and attached as Appendix A of Development and Legislative Services Report 2022-91 be approved.

11. Correspondence Items

Moved by Councillor G. Bruno

Seconded by Councillor A. Desmarais

That items 11.1 to 11.11 be received for information.

Carried

11.1 Niagara Region - Action Required - Report PW 15-2022 - Moving Transit Forward - Initial Transition Activities and Next Steps

11.2 Niagara Region - Report of the Ontario Housing Affordability Task Force

11.3 Niagara Region - 2022 Property Tax Policy, Ratios and Rates

11.4 Niagara Region - Motion respecting Ontario's Entrepreneurial Wine Industry

11.5 City of Port Colborne - Resolution regarding Social Determinants of Health Advisory Committee - Everyone Matters - Early Learning and Child Care Plan - Letters of Support

11.6 Niagara Peninsula Conservation Authority - Board Meeting Minutes, March 25, 2022

11.7 Ministry of Municipal Affairs and Housing - MMAH Orders under the Reopening Ontario Act

11.8 AMCTO - Local Government Priorities for the 2022 Provincial Election - Request Endorsement

- a. AMCTO Document - Local Government Priorities for the 2022 Provincial Election**
- b. AMCTO - 2021 Overview**
- c. AMCTO - Pre-Budget Submission**
- d. Municipal Financial Sustainability Document - Issue at a Glance**
- e. Municipal Infrastructure Document - Issue at a Glance**
- f. Municipal Reporting Burden Document - Issue at a Glance**

11.9 Municipality of Mississippi Mills - Abandoned Operating Cemeteries

11.10 Town of Collingwood - Termination of the Town of Collingwood's Membership in the OMWA

11.11 City of Waterloo, Town of Halton Hills - Ontario Must Build it Right the First Time

12. Presentations

12.1 Community Living Port Colborne-Wainfleet - Request for Proclamation of May is Community Living Month

Joanna Mataya, CEO Community Living Port Colborne-Wainfleet provided a presentation and shared updates on Community Living events.

Moved by Councillor H. Wells

Seconded by Councillor R. Bodner

That the month of May be proclaimed as Community Living Month in the City of Port Colborne.

Carried

- a. Joanna Mataya, CEO Community Living Port Colborne-Wainfleet**

12.2 Family and Children Services Niagara - Request for Proclamation of Mountainview LemonAID Day

Darlene McDowell, Past President, FACS Foundation Board and Brett Sweeney, FACS Niagara provided a presentation on FACS Niagara's and Mountainview Homes' initiative.

Moved by Councillor M. Bagu
Seconded by Councillor D. Kalailieff

That June 12, 2022 be proclaimed as Mountainview LemonAID Day in the City of Port Colborne.

Carried

a. Darlene McDowell, Past President, FACS Foundation Board and Brett Sweeney, FACS Niagara

13. Delegations

14. Mayor's Report

A copy of the Mayor's report is attached.

15. Regional Councillor's Report

16. Staff Remarks

16.1 Automatic Aid Agreement Update (Lawson)

The Fire Chief informed Council that Fire Crews from the City of Port Colborne and Township of Wainfleet responded to emergencies recently and that the Automatic Aid Agreement is working well.

16.2 Short-Term Rentals (Lawson)

The Fire Chief advised Council on the launch of Short-Term Rentals education campaign and registration program.

17. Councillors' Remarks

17.1 Hate Language (Desmarais)

In response to Councillor's Desmarais inquiry in regards to whether there is a By-Law in place to address hate language, the Fire Chief advised that the matter is being discussed with Legal and will come before Council at a future meeting.

17.2 Dirt Bikes Noise Complaints (Beauregard)

Councillor Beauregard requested the issue of noise from dirt bikes be addressed in the North-End of Port Colborne. The Mayor informed Council that he would notify the Niagara Regional Police Staff Sergeant of this issue.

17.3 Volunteer Opportunities (Kalailieff)

Councillor Desmarais encouraged City of Port Colborne residents to volunteer at various facilities through-out the City. She further informed residents to visit the Friday morning Farmer's Market for additional opportunities.

17.4 Eagle Marsh Drainage (Kalailieff)

In response to Councillor Kalailieff's request for an update on the Eagle Marsh Drainage, the Drainage Superintendent reported that there were no immediate concerns and repairs are scheduled for April 27, 2022.

17.5 Volunteer Recruitment (Bagu)

In response to Councillor Bagu's inquiry regarding the Region's firefighter volunteer recruitment, the Fire Chief informed Council that the City would not be recruiting until August.

17.6 H.H. Knoll Lakeview Park Maintenance (Bagu)

In response to Councillor Bagu's inquiry regarding issues and potential solutions to the maintenance of H.H. Knoll Park, the Director of Public Works informed Council that he will investigate resolutions.

17.7 Splash Pads (Bagu)

Councillor Bagu inquired if staff have considered opening of the splash pads earlier than the scheduled timeline. The Director of Public Works informed Council that his staff will keep an eye on the weather and plan for an earlier opening accordingly.

17.8 Boat Ramp (Bagu)

Councillor Bagu expressed appreciation towards staff for opening of the Boat Ramps.

17.9 Earth Day (Wells)

Councillor Wells informed Council that he attended the opening of the City of Thorold's Walker Sports Centre and the clean up project at the

Wildwood Beach for Earth Day. He expressed gratitude towards the public for taking part in it.

17.10 In-Person Council Meetings Protocol (Bruno)

In response to Councillor Bruno's inquiry in respect to whether Councillors are required to stand when speaking during Council meetings, the Mayor advised that they may stay seated when speaking at this time.

17.11 Mainstreet B.I.A Meeting (Bruno on behalf of Danch)

Councillor Danch informed Council that he will be attending the scheduled Mainstreet B.I.A meeting at City Hall on April 27, 2022.

17.12 CAA Niagara's Worst Road (Bruno)

Councillor Bruno commented on the recent survey initiated by CAA Niagara and expressed gratitude towards his fellow Councillors for their support.

17.13 Watermain and Wastewater Piping Installation Along West Street (Bruno)

In response to Councillor Bruno's request for staff to consider Watermain installation and Wastewater piping installation along West Street concurrently as one construction project, the Director of Public Works informed Council that the projects will be conducted in the most efficient manner.

18. Consideration of Items Requiring Separate Discussion

18.1 Architectural and Engineering Design Services for the Waterfront Centre, 2022-63

Moved by Councillor H. Wells

Seconded by Councillor G. Bruno

That Office of the Chief Administrative Officer Report 2022-63 be received; and

That Council approve and award an architectural and engineering design services contract for the waterfront centre to J.P. Thomson Architects Ltd.

Carried

18.2 2021 Year End Surplus and Project Close Out, 2022-73

Moved by Councillor H. Wells
Seconded by Councillor M. Bagu

That Corporate Service Department 2022-73 be received; and

That the capital and related project and reserve balances of Appendices E, F and G of Corporate Service Department Report 2022-73 be approved; and

That the following capital and related projects be approved as highlighted in the presentation attached as Appendix A to Corporate Service Department Report 2022-73;

- \$1,000,000 for the Vale Health and Wellness Roof Repair
- \$200,000 for enhancements to the roads base and resurfacing program
- \$150,000 for the tangible capital asset reserve
- \$130,000 for Cemetery land acquisition
- \$68,607 for energy audits and monitoring
- \$66,200 for Electrical Vehicle (EV) charging stations; and

That Council support the Lions Field Enhancement application to the Public Realm Investment program and if successful, up to \$200,000 be approved and funded from the roads base and resurfacing program.

Carried

18.3 2022 Property Tax and Storm Sewer By-Law, 2022-76

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

That Corporate Services Department Report 2022-76 be received;

That the 2022 property tax rates outlined in Appendix A of Corporate Services Report 2022-76 be approved; and

That the 2022 Property Tax Rate By-law attached as Appendix B of Corporate Services Report 2022-76 be approved.

Carried

18.4 2022 Marina Updates, 2022-81

Moved by Councillor G. Bruno

Seconded by Councillor R. Bodner

That Corporate Services Department Report 2022-81 be received for information.

Carried

18.5 CAO Department – Annual Update, 2022-77

Moved by Councillor D. Kalailieff

Seconded by Councillor A. Desmarais

That Office of the Chief Administrative Officer Report 2022-77 be received.

Carried

18.6 Niagara Water Protection Alliance - Response to Ontario Stone, Sand and Gravel Association correspondence dated March 22, 2022

Moved by Councillor H. Wells

Seconded by Councillor R. Bodner

That the correspondence from Niagara Water Protection Alliance regarding Response to Ontario Stone, Sand and Gravel Association be supported.

Carried

19. Motions

19.1 Memorandum from Councillor Desmarais - Motion to dissolve Ontario Land Tribunal

Moved by Councillor A. Desmarais

Seconded by Councillor H. Wells

Whereas Municipalities across this province collectively spend millions of dollars of taxpayer money and municipal resources developing Official Plans that meet current Provincial Planning Policy; and

Whereas an Official Plan is developed through months of public consultation to ensure, “that future planning and development will meet the specific needs of our community”; and Memorandum

Whereas our Official Plan includes zoning provisions that encourage development of the “missing middle” or “gentle density” to meet the need for attainable housing in our community; and Whereas our Official Plan is ultimately approved by the province; and

Whereas it is within the legislative purview of Municipal Council to approve Official Plan amendments or Zoning By-law changes that better the community or fit within the vision of the City of Port Colborne Official Plan; and

Whereas it is also within the legislative purview of Municipal Council to deny Official Plan amendments or Zoning By-law changes that do not better the community or do not fit within the vision of the City of Port Colborne Official Plan; and Whereas municipal planning decisions may be appealed to the Ontario Land Tribunal (OLT; formerly the Ontario Municipal Board or “OMB”), an unelected, appointed body that is not accountable to the residents of Port Colborne; and

Whereas the OLT has the authority to make a final decision on planning matters based on a “best planning outcome” and not whether the proposed development is in compliance with municipal Official Plans and Provincial Planning Policy; and

Whereas all decisions—save planning decisions—made by Municipal Council are only subject to appeal by judicial review and such appeals are limited to questions of law and or process; and Whereas Ontario is the only province in Canada that empowers a separate adjudicative tribunal to review and overrule local decisions applying provincially approved plans; and

Whereas towns and cities across this Province are repeatedly forced to spend millions of dollars defending Official Plans that have already been approved by the province in expensive, time consuming and ultimately futile OLT hearings; and

Whereas lengthy, costly OLT hearings act as a barrier to the development of attainable housing;

1. Now Therefore Be It Hereby Resolved That the City of Port Colborne requests the Government of Ontario to dissolve the OLT immediately

thereby eliminating one of the most significant sources of red tape delaying the development of more attainable housing in Ontario; and

2. Be It Further Resolved That a copy of this Motion be sent to the Honourable Doug Ford, Premier of Ontario, the Minister of Municipal Affairs and Housing, the Leader of the Opposition, the Leaders of the Liberal and Green Party, all MPPs in the Province of Ontario; the Large Urban Mayors' Caucus of Ontario, the Small Urban GTHA Mayors and Regional Chairs of Ontario; and

3. Be It Further Resolved That Municipalities of a copy of this Motion be sent to the Association of Ontario (AMO) and all Ontario municipalities for their consideration.

Amendment:

Moved by Councillor A. Desmarais

Seconded by Councillor E. Beauregard

Whereas Municipalities across this province collectively spend millions of dollars of taxpayer money and municipal resources developing Official Plans that meet current Provincial Planning Policy; and

Whereas an Official Plan is developed through months of public consultation to ensure, "that future planning and development will meet the specific needs of our community"; and Memorandum

Whereas our Official Plan includes zoning provisions that encourage development of the "missing middle" or "gentle density" to meet the need for attainable housing in our community; and Whereas our Official Plan is ultimately approved by the province; and

Whereas it is within the legislative purview of Municipal Council to approve Official Plan amendments or Zoning By-law changes that better the community or fit within the vision of the City of Port Colborne Official Plan; and

Whereas it is also within the legislative purview of Municipal Council to deny Official Plan amendments or Zoning By-law changes that do not better the community or do not fit within the vision of the City of Port Colborne Official Plan; and Whereas municipal planning decisions may be appealed to the Ontario Land Tribunal (OLT; formerly the Ontario Municipal Board or "OMB"), an unelected, appointed body that is not accountable to the residents of Port Colborne; and

Whereas the OLT has the authority to make a final decision on planning matters based on a “best planning outcome” and not whether the proposed development is in compliance with municipal Official Plans and Provincial Planning Policy; and

Whereas all decisions—save planning decisions—made by Municipal Council are only subject to appeal by judicial review and such appeals are limited to questions of law and or process; and Whereas Ontario is the only province in Canada that empowers a separate adjudicative tribunal to review and overrule local decisions applying provincially approved plans; and

Whereas towns and cities across this Province are repeatedly forced to spend millions of dollars defending Official Plans that have already been approved by the province in expensive, time consuming and ultimately futile OLT hearings; and

Whereas lengthy, costly OLT hearings act as a barrier to the development of attainable housing;

1. Now Therefore be it, hereby resolved that the City of Port Colborne request the Government of Ontario move to reform the Ontario Land Tribunal immediately thereby reducing one of the most significant resources of red tape delaying the development of more attainable housing in Ontario; and

2. Be It Further Resolved That a copy of this Motion be sent to the Honourable Doug Ford, Premier of Ontario, the Minister of Municipal Affairs and Housing, the Leader of the Opposition, the Leaders of the Liberal and Green Party, all MPPs in the Province of Ontario; the Large Urban Mayors’ Caucus of Ontario, the Small Urban GTHA Mayors and Regional Chairs of Ontario; and

3. Be It Further Resolved That Municipalities of a copy of this Motion be sent to the Association of Ontario (AMO) and all Ontario municipalities for their consideration.

Lost

19.2 Memorandum from Councillor Wells- Motion to Request a Temporary Moratorium on all Aggregate Extraction license applications in Ontario

Moved by Councillor H. Wells
Seconded by Councillor R. Bodner

Whereas the City is comprised of 12,196 hectares of land with approximately 14% or 1,778 hectares identified as Mineral Aggregate and total farmland in the Niagara Region has decreased by 2.1% or 4,660 acres since 2011 and in Port Colborne farmland area in this same period has decreased by 10.7%; and

Whereas the City acknowledges the need to protect the access to strategic mineral aggregate resources and plan for future growth, the City is equally concerned about the potential loss of Prime Agricultural Land from its inventory of good, productive agricultural lands; and

Whereas Ontario currently has over 5,000 licensed pits and quarries located throughout the province that are able to meet the expected near term needs of Ontario's construction industry and growth; and

Whereas applications continue to be submitted without a definitive justification or rationalization for the need of additional supply; and

Whereas aggregate pits and quarries can be destructive and threatening to natural environments such as wood lots, habitats of endangered species and resources such as aquifers as is the case in Port Colborne; and

Whereas pits and quarries can have negative impacts on host communities in terms of noise, air pollution, greenhouse gas emissions and truck traffic;

1. Now therefore be it resolved that the City of Port Colborne hereby respectfully request the Ontario government impose an immediate temporary moratorium on all new aggregate mining applications pending the formation of an independent panel and broad consultation process including First Nations, affected communities, independent experts and scientists to chart a new path forward for aggregate mining in Ontario which:

- Proposes criteria and processes for determining the need for new and expansion of aggregate licenses;
- Recommends updated policies and restrictions for aggregate mining below the water table to be consistent with the Provincial Policy Statement and reflect current groundwater sciences;
- Develops new guidelines for reprocessing in order to ensure sustainable strategic aggregate supplies;

- Recommends a fair levy for aggregate mining that includes compensation for the full environmental and infrastructure maintenance costs to the local community of extraction and distribution of aggregate;
- Provides greater consideration to the input by local municipalities to lessen the impacts from aggregate operations and associated truck traffic through their communities;
- Proposes revisions to application procedures which fully honour First Nations' treaty rights;

2. Be it further resolved that a copy of this resolution be sent to the Honourable Doug Ford Premier of Ontario, the leaders of all Provincial Parties, Minister of Natural Resources and Forestry, the Honourable Ted Arnott MPP, AMO, Region of Niagara, Local Regional Area Municipalities and the Niagara Peninsula Conservation Authority.

Amendment:

Moved by Councillor G. Bruno
Seconded by Councillor M. Bagu

Consideration of the Memorandum from Councillor Wells regarding Motion to request a Temporary Moratorium on all Aggregate Extraction license applications in Ontario be deferred to the June 28, 2022 Council Meeting in order for the Chief Administrative Officer to obtain a legal opinion.

Carried

- a. **Delegation Material from Graham Flint-Co-Chair and Spokesperson, Reform Gravel Mining Coalition**
- b. **Verbal Delegation in favour from Cindy Mitchell President, Niagara Water Protection Alliance**

20. Notice of Motions

21. Minutes of Boards & Committees

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

That items 21.1 and 21.2 be approved, as presented.

Carried

21.1 Environmental Advisory Committee Minutes, February 9, 2022

21.2 Port Colborne Library Board Minutes, March 2, 2022

22. By-laws

Moved by Councillor D. Kalailieff

Seconded by Councillor M. Bagu

That items 22.1 to 22.4 be enacted and passed.

Carried

22.1 By-Law-Amend the Assessment Schedule to Levy the Costs Incurred in Constructing Schihl Municipal Drain

22.2 By-Law to Set and Levy the rates of Taxation for City Purposes

22.3 By-Law Regulating Parking and Traffic on City Roads

22.4 By-law to Adopt, Ratify and Confirm the Proceedings of the Council of The Corporation of the City of Port Colborne

23. Procedural Motions

24. Information items

25. Adjournment

Mayor Steele adjourned the meeting at approximately 9:56 pm.

William C. Steele, Mayor

Nicole Rubli, Acting City Clerk