



**TOWN OF AURORA  
ADDITIONAL ITEMS  
FOR COUNCIL MEETING**

***Tuesday, February 11, 2014  
6 p.m.  
Council Chambers***

- **Delegation (a) Svetoslava Topouzova, Resident  
Re: Item 1(1) – CAO14-001 – Hillary-McIntyre Park**
  
- **Delegation (b) David Heard, Resident  
Re: Item 1(1) – CAO14-001 – Hillary-McIntyre Park**
  
- **Additional Information: Re: Item 1(1) – CAO14-001 – Hillary-McIntyre Park  
Memorandum from Chief Administrative Officer Re: Hillary-McIntyre Park**

RECOMMENDED:

THAT the memorandum regarding Hillary-McIntyre Additional Information be received for information.

- **Memorandum from Director of Corporate and Financial Services - Treasurer  
Re: Amended Recommendation: Agenda Item 8 – CFS14-007 – Development Charges Study – Requirement for Public Meeting**

RECOMMENDED:

THAT the memorandum regarding Amended Recommendation: Agenda Item 8 – CFS14-007 – Development Charges Study – Requirement for Public Meeting be received for information.

➤ **Item 11 – LLS14-003 – Recent Developments and Several Liability – AMO Request**

RECOMMENDED:

THAT Council receive Report No. LLS14-003 for information; and

THAT the Mayor, and any Councillor who so wishes, sign a copy of the attached form letter from the Association of Municipalities of Ontario (AMO), and send such letter to The Hon. John Gerretsen, Attorney General of Ontario, urging the provincial government to make legislative changes to joint and several liability in Ontario; and

THAT Council supports AMO in its efforts to seek joint and several liability reform in Ontario and calls on the provincial government to pursue much needed changes to the Negligence Act; and

THAT Council supports the resolution of Randy Pettapiece, Member of Provincial Parliament for Perth-Wellington calling upon the provincial government to reform joint and several liability in Ontario.

➤ **Item 12 – Memorandum from Director of Legal and Legislative Services/Town Solicitor Re: By-law numbers 5587-14 and 5588-14**

RECOMMENDED:

THAT By-law numbers 5587-14 and 5588-14 be removed from the agenda, and the amended By-law number 5587-14 be added to the agenda for adoption.



Delegation (a)  
Customer and Legislative Services  
905-727-3123  
councilsecretariatstaff@aurora.ca

Town of Aurora  
100 John West Way, Box 1000  
Aurora, ON L4G 6J1

**DELEGATION REQUEST**

This Delegation Request form and any written submissions or background information for consideration by either Council or Committees of Council must be submitted to the Clerk's office by the following deadline:

**4:30 P.M. ON THE BUSINESS DAY PRIOR TO THE REQUESTED MEETING DATE**

COUNCIL/COMMITTEE/ADVISORY COMMITTEE DATE: February 11, 2014

SUBJECT: Hillary McIntyre Park

NAME OF SPOKESPERSON: Svetoslava Topouzova

NAME OF GROUP OR PERSON(S) BEING REPRESENTED (if applicable):  
\_\_\_\_\_

**BRIEF SUMMARY OF ISSUE OR PURPOSE OF DELEGATION:**

As a Citizen of Aurora and AHS member I would like to see the area of Hillary-McIntyre Park renewed, revitalized and protected. As historical district of the town - including all the 3 houses there.

**PLEASE COMPLETE THE FOLLOWING:**

Have you been in contact with a Town staff or Council member regarding your matter of interest?

Yes  No  IF YES, WITH WHOM \_\_\_\_\_ DATE \_\_\_\_\_

I acknowledge that the Procedural By-law permits five (5) minutes for Delegations.





**DELEGATION REQUEST**

14 FEB 10 1:54PM 2013

This Delegation Request form and any written submissions or background information for consideration by either Council or Committees of Council must be submitted to the Clerk's office by the following deadline:

**4:30 P.M. ON THE BUSINESS DAY PRIOR TO THE REQUESTED MEETING DATE**

COUNCIL/COMMITTEE/ADVISORY COMMITTEE DATE: Feb 11/2013

SUBJECT: Heritage Park /

NAME OF SPOKESPERSON: David Heard

NAME OF GROUP OR PERSON(S) BEING REPRESENTED (if applicable):

BRIEF SUMMARY OF ISSUE OR PURPOSE OF DELEGATION:

- Lack of public input.

PLEASE COMPLETE THE FOLLOWING:

Have you been in contact with a Town staff or Council member regarding your matter of interest?

Yes

No

IF YES, WITH WHOM [Signature] DATE Jan 2014

Out-going Clerk

I acknowledge that the Procedural By-law permits five (5) minutes for Delegations.





100 John West Way  
Box 1000  
Aurora, Ontario  
L4G 6J1  
**Phone:** 905-727-3123 ext. 4744  
**Email:** ngarbe@aurora.ca  
**www.aurora.ca**

Additional Information

Re: Item 1(1)

**Town of Aurora  
Administration Department**

## MEMORANDUM

**DATE:** February 11, 2014  
**TO:** Mayor Dawe and Members of Council  
**FROM:** Neil Garbe, Chief Administrative Officer  
**RE:** Hillary-McIntyre Park – Additional Information

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### RECOMMENDATIONS

***THAT this memorandum be received for information.***

### COMMENTS

Following the February 4, 2014 General Committee meeting, a member of Council had additional questions for the consultant related to the Hillary-McIntyre proposal. The questions are in **bold** and the responses from Jonathan Hack, Director, Sierra Planning & Management, follow:

***"I'd like to get further comment on the points made in Slide 3 of their presentation  
"Results of Analysis - Heritage Park Development on-site would be more likely be  
successful IF"***

***"There is a greater proportion of private sector uses than public ones"***

***Can you please expand on this and repeat your comments from Tuesday?  
What proportion do you feel is best 60/40, 70/30, more?***

Our comment on Tuesday was that any building project that was predominantly museum space would in all likelihood not be attractive to the private sector, would likely only be funded from public funds and would require public subsidy in its operations. It is important to note that many museums achieve funding from provincial sources as well as from donations, but it is also true that the majority of community museums are reliant on subsidy from municipalities and other sources in order to achieve revenue neutrality.

Our report makes clear that in order to be viable, without burdening the Town on an ongoing basis, a museum should represent a much smaller portion of the developed gross floor area; the largest share should be private sector commercial development. In this circumstance, there is the potential for a museum or other public space to be successfully included in a

redevelopment, undertaken by the private sector. BUT, as we state in the report, this is only the case if the museum space represents rented space so that the private sector developer/operator of the new building can achieve a return.

As regards the Horton House, the Town could opt to retain it as a museum or, as we suggest, permit this building to be adaptively re-used by a commercial developer/user. Achieving that end is likely riskier than enabling new development on-site around the shell of the Readman House, however, as part of a comprehensive development it becomes more achievable.

As the Probus report is not a detailed plan, we are not able to predict the viable ratio of private to public uses – it all depends on the proposal in question and a detailed financial feasibility assessment. However, to assist Council, the vast majority of the development would need to be commercial achieving maximum rent, while the proportion of museum space would need to be small in order for a lower rent to be secured. By having a museum or other public use on-site, this may help create demand for the private uses – or otherwise create an atmosphere conducive to the balance of uses on the site, such that a lower rent associated with this space still achieves advantages for the developer.

Bottom line – any space dedicated to a museum would likely require capital contribution by the public sector and potentially (but not necessarily) operating support. Hence, the aim would be to minimise the amount of new build given over to the museum and focus on the existing resource in the Horton House. Whatever % of the development this represents might also represent the maximum amount of viable public sector museum use on the site. In all cases, there is no private market assumed to build and operate space as museum. This is distinct from gallery and other space which could well represent viable commercial space. Keep in mind also that Horton House may also be suitable for adaptive re-use as a boutique hotel or professional offices, even a private home, any of which of these conversions would likely meet the current owner's wishes and provide rental income, assuming that the Town retains ownership at least initially. In that case, a small amount of museum space could be located elsewhere on the site, in the new development.

***Does private sector uses refer to commercial development, residential housing, both and/or others?***

The uses refer to commercial only and can include a range of uses such as outlined in the report: office, specialist professional office, health and wellness, medical, possibly retail ... and within that some potential for small meeting space, gallery, and food and beverage. There is no contemplation of residential on the site and we believe that such uses (other than continued occupation of Horton House) do not represent the highest and best use given the heritage assets on-site and adjacent (Hillary House).

***"Adaptive re-use ... offers sufficient GFA to attract private sector investment"  
Any idea what sufficient GFA would look like? Would a condo with ground floor retail be sufficient?***

The existing development proposed on Readman property calls for about 13,154 sq. ft. of development within 5 townhouses which include retaining the Readman House itself. To protect the heritage assets, this was appropriate. A viable new build condominium (given the floodline restrictions on the depth of development) would probably (but not necessarily) result in a building toward the front of the site and may require careful design of parking solutions. While we cannot rule out an acceptable form of such development, or the potential for ground floor uses, it is precisely for these reasons that our report recommends a master plan process to determine exactly the site development configuration and range of densities, blocking and massing, as well as parking solutions that will work.

That master plan process would result in some clear choices between heritage protection versus maximizing development potential, environmental and other constraints versus designed solutions and their cost, to overcome such constraints.

As to sufficient GFA, this is determined on a project specific basis because it is an outcome of financial feasibility analysis – higher yielding uses (high end offices created in an heritage setting) may enable a lower GFA to create sufficient value, whereas lower yielding uses require more space.

Individually each site has constraints that may limit GFA – combined, these sites may achieve a more creative form of development and potentially greater GFA.

***"Current Probus proposal ... does not fit these criteria at this time"***

***Can you please expand on this and repeat your comments from Tuesday?***

The Probus plan is a vision and illustrative concept. Without detailed business planning to demonstrate how the project will be undertaken and what risks exist to the Town, it cannot be seen as meeting the criteria.

***If the current proposal doesn't fit the criteria can you help me envision what would? For me the examples in the study (peel, discovery centre) are too different or too large and so I'm hoping you can help.***

***Probus plan had a number of examples of adaptive re-use, all of which were impressive and some of which were on a scale which is not in keeping with the opportunity as Hillary House. Our report attempts to provide more direct examples of adaptive re-use. The Discovery Centre (now Aquatarium) is interesting for the following reason:***

1. Having written the Town of Brockville Brownfields CIP, I was involved in the initial planning of the condominium development and funding support for the complex within which both the public use and the private residential use were to be created. It is an example of the ability for a public-private partnership to exist – but as in such partnerships, there is still a requirement for public funding. Notwithstanding, this project is an example of how a detailed planning process can, over time, lead to

development of public and private uses together on a site. The project was not an easy one.

2. Additionally, we would hope that Council recognize that there is no simple solution to achieving the protection of the site that doesn't involve the Town – there is no ready market able to buy and build tomorrow (as we indicated), but with the controlling influence of the Town (and that requires likely more than zoning controls), it is possible to deliver to the market an assembled property that has been subject to a master plan that recognizes as a key principle the need to enable sufficient development on site to make it attractive to the private sector. The purpose of the examples is to demonstrate that private solutions can exist but require manipulation and creation by the public sector to effectively position the properties for investment.

***Briefly, in your experience, what do you think it could look like in 10 years' time?"***

In our experience, if the Town seeks to enable sympathetic private development on-site, this may require an innovative approach to maintaining the integrity of Hillary House, and its gardens, while promoting relatively dense development on the Readman property and adaptive reuse of the Horton house which may also include additional GFA.

In 10 years, the property would not be in municipal hands, would be a private development, likely commercial, than includes public spaces which celebrate the grounds, the buildings and which link to the trails systems. These public spaces would have been established as part of approved plans.

If the Town insists on a high degree of parkland on-site, the project will effectively be more public in nature and may not be as attractive to the private sector or have as much sustainable private uses. If, however, the focus of the park is on rehabilitating the Hillary House gardens while developing Readman and Horton, which walkway connections across the site, a more private-oriented development is possible.

Further comments from Jonathan Hack, Director, Sierra Planning & Management

In its totality, the role of the Municipality is to translate the site into one that will generate a private-led future for the site – within that, some limited museum, Hall of Fame and other uses are possible and desirable. Emphasis on translation – through a master planning process which involves financial analysis and iterative review to achieve a market-oriented development while protecting the key heritage features.

There are risks, not the least of which are expectations on the part of the Town to preserve and maintain the properties. However, we have assumed that full-scale public use of the site is not viable at this time.



Neil Garbe, Chief Administrative Officer





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Aurora, Ontario  
L4G 6J1  
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Email: delliot@aurora.ca  
www.aurora.ca

## MEMORANDUM

**DATE:** February 11, 2014

**TO:** Mayor Dawe, Members of Council

**FROM:** Dan Elliott, Director of Corporate and Financial Services - Treasurer

**RE:** Amended Recommendation: Agenda Item 8 – CFS14-007 – Development Charges Study – Requirement for Public Meeting

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Due to detailed requirements for the publication of notice, the proposed date for the public meeting to be held for purposes of public input and comment with regard to the Development Charges Background Study and draft by-law needs to be delayed. Staff recommend that the public meeting outlined in report CFS14-007 be changed from March 4, 2014 at 6:00 p.m. to now occur at the scheduled Special Council - Public Planning meeting on March 26, 2014 at 7 p.m.

Having heard any comments and input, staff will prepare a final report addressing those matters for presentation of the final Development Charges bylaw for adoption at the Council meeting on April 8, 2014.

The amended recommendation for report CFS14-007 is therefor as follows:

***THAT report CFS14-007 be received for information; and***

***THAT the draft development charges study and related draft bylaw be received and reviewed, and feedback and input be heard from any member of the public at the Special Council – Public Planning meeting scheduled for March 26<sup>th</sup>, 2014 at 7 p.m.; and***

***THAT staff publish the necessary statutory notice required by the Development Charges Act.***

**TOWN OF AURORA  
COUNCIL REPORT****No. LLS14-003**

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**SUBJECT:** *Recent Developments in Joint and Several Liability – AMO Request***FROM:** *Warren Mar, Director of Legal & Legislative Services/Town Solicitor***DATE:** *February 11, 2014*

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**RECOMMENDATIONS**

***THAT Council receive Report No. LLS14-003 for information;***

***THAT the Mayor, and any Councillor who so wishes, sign a copy of the attached form letter from the Association of Municipalities of Ontario (AMO), and send such letter to The Hon. John Gerretsen, Attorney General of Ontario, urging the provincial government to make legislative changes to joint and several liability in Ontario;***

***THAT Council supports AMO in its efforts to seek joint and several liability reform in Ontario and calls on the provincial government to pursue much needed changes to the Negligence Act; and***

***THAT Council supports the resolution of Randy Pettapiece, Member of Provincial Parliament for Perth-Wellington calling upon the provincial government to reform joint and several liability in Ontario.***

**PURPOSE OF THE REPORT**

The purpose of this report is to respond to the February 7, 2014 AMO request for municipal action, as attached hereto in Attachment #1.

**BACKGROUND**

In 2008 the Association of Municipalities of Ontario (“AMO”) established the Municipal Liability Reform Working Group to address concerns about Ontario’s joint and several liability regime and its impact on increased insurance costs for municipalities.

AMO presented a draft paper for municipal comment in September 2009, and circulated a final copy to municipalities in April 2010. In addition, at that latter time AMO sought support from municipalities to urge the Ontario government to undertake joint and several liability reform by making the necessary changes to the *Negligence Act*. To date, as far as could be determined by a search of the Town’s public records, such a matter was not formally addressed on a Council agenda and Council has not stated a position on this matter.

On January 16, 2013, in accordance with the standard circulation procedure, Council received a copy of a letter from Randy Pettapiece, Member of Provincial Parliament for

Perth-Wellington, calling upon the provincial government to reform joint and several liability in Ontario (attached hereto). Finally, on February 7, 2014, AMO sent out a further notification to municipalities requesting additional support in their goal in this matter. Specifically, AMO is requesting that municipal councils across Ontario sign and deliver the attached form letter to the Attorney General, to show support for AMO's goal to reform joint and several liability in Ontario. A response is requested by February 14.

## **COMMENTS**

As explained in AMO's paper, "The Case for Joint and Several Liability Reform in Ontario" (a copy of which is available on the AMO website):

*"Under the current joint and several liability system in Ontario, a defendant whom is found to be only 1% liable for damages caused to the injured party can be burdened with responsibility for paying the entire damage award if the co-defendants lack the ability to pay. This situation has a profound impact on municipalities in particular. As "deep pocket" defendants with seemingly limitless public resources at their disposal through the power of taxation, municipalities have often become the targets of litigation when other defendants do not have the means to pay high damage awards.*

*According to current legislation; the Negligence Act, joint and several liability dictates that damages may be recovered from any of the defendants regardless of their individual share of the liability. For municipalities, as public organizations with "deep pockets", this often means even a finding of slight or minimal liability can result in responsibility for millions of dollars in damage awards, especially in cases where other liable parties do not have sufficient assets.*

*The effects of joint and several liability on municipalities are manifest in several areas including claims related to motor vehicle accidents, road safety, building inspections, and facility and event safety. It is a contributing factor in the slow pace Brownfield site redevelopment. The loss of economic activity this could create, particularly with sites located in prime urban areas that are ripe for new development. It has also resulted in increased insurance premiums and in many communities, has caused municipal governments to scale back the scope of the services provided to citizens in an effort to limit liability exposure and the duty of care."<sup>1</sup>*

Currently, the provincial government is considering two models to reform the law of joint and several liability in Ontario. The first is the "Saskatchewan" model: where a plaintiff is contributorily negligent in an action, and a defendant cannot pay a cost award against it, the shortfall in any award is divided among the remaining defendants and the plaintiff in proportion to their fault, rather than solely to one defendant (usually the deep-

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<sup>1</sup> "The Case for Joint and Several Liability Reform in Ontario", AMO, April 1, 2010, page 4.

pocketed and insured municipality).

The second model is the multiplier model: a defendant (such as a municipality) would never be liable for more than two times its proportionate share of the damages, even if a plaintiff does not fully recover its damages.

Either model would be supported by staff as an improvement on the current joint and several liability regime in Ontario.

### **FINANCIAL IMPLICATIONS**

None.

### **ALTERNATIVE(S) TO THE RECOMMENDATIONS**

1. Council may decline to support the reform of joint and several liability, and decline to endorse the AMO form letter.
2. Other options as Council may direct.

### **CONCLUSIONS**

Given the impact on the current joint and several liability regime in Ontario, and its impact on municipal insurance premiums, reform will be beneficial to the Town. AMO's consistent work on this matter has moved this matter forward with the provincial government, and an expression of support (as now requested by AMO) should be supported by Council.

### **ATTACHMENTS**

- Attachment #1: AMO Breaking News – Recent Developments in Joint and Several Liability – Municipal Action Needed, dated February 7, 2014.
- Attachment #2: Letter from Randy Pettapiece, MPP Perth-Wellington, dated January 13, 2014.
- Attachment #3: AMO Communication – Case for Joint and Several Liability Reform, dated April 1, 2010.
- Attachment #4: AMO Communication – Joint and Several Liability Reform Draft Paper, dated September 21, 2009.

***Prepared by: Warren Mar, Director of Legal & Legislative Services/Town Solicitor***



***Warren Mar  
Director of Legal & Legislative Services/  
Town Solicitor***

Date: February 7, 2014

## Recent Developments in Joint and Several Liability – Municipal Action Needed

Two recent developments are worthy of the immediate written support of municipal councils and municipal solicitors.

The first is a private member's resolution introduced by Randy Pettapiece, MPP for Perth-Wellington. It calls on the government to implement comprehensive reform to joint and several liability by June 2014. Debate on this motion is scheduled for February 27, 2014. While a resolution of the Ontario Legislature is not a specific legislative plan, it does capture the spirit of municipal concerns. Mr. Pettapiece has written directly to all councils seeking your support; AMO encourages your reply.

Of immediate significance, the Ministry of the Attorney General has recently written to members of the legal community seeking their input on two specific proposals under consideration. Feedback is due by February 14, 2014. The proposals include a modified version of proportionate liability that applies in cases where a plaintiff is contributorily negligent (the Saskatchewan model). Also under consideration is a limit on awards such that a municipality would never be liable for more than two times its proportion of damages (the Multiplier model). AMO supports the adoption of both of these measures.

This is a positive development for municipalities and a step in the right direction. The adoption of both reforms would be a significant incremental step to addressing a pressing municipal issue. The written support of municipal councils and solicitors is requested. Below is a draft letter for municipalities to submit to the provincial government by February 14, 2014. Please add your voice of support.

As you know, municipal governments have long advocated for liability reform because the legal regime of joint and several liability makes municipalities and property taxpayers an easy target for litigation.

It has been two years since AMO conducted the first ever municipal insurance survey, which found that municipal liability premiums had increased 22 per cent over 5 years and 4 years since AMO presented a comprehensive report detailing municipal challenges to the Attorney General. We have argued for some time that the heavy insurance burden and legal environment is unsustainable for Ontario's communities.

**AMO Contact:** Matthew Wilson, Senior Advisor, [mwilson@amo.on.ca](mailto:mwilson@amo.on.ca) - 416.971.9856 ext. 323.

The Honourable John Gerretsen  
Attorney General  
McMurtry-Scott Building  
720 Bay Street – 11<sup>th</sup> Floor  
Toronto ON M7A 2S9

Dear Attorney General:

[I or we] support the government's consideration and adoption of measures which limit the punishing impact of joint and several liability on municipalities.

The provisions of the *Negligence Act* have not been updated for decades and the legislation was never intended to place the burden of insurer of last resort on municipalities. It is entirely unfair to ask municipalities to carry the lion's share of a damage award when at minimal fault or to assume responsibility for someone else's mistake. Other jurisdictions have recognized the current model of joint and several liability is not sustainable. It is time for Ontario to do the same.

If this situation continues, the scaling back on public services in order to limit liability exposure and insurance costs will only continue. Regrettably, it will be at the expense of the communities we all call home.

For this reason, [I or we] support the adoption of both models under consideration as a significant incremental step to addressing a pressing municipal issue.

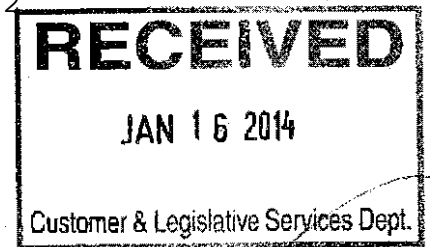
Sincerely,

Name

cc: The Honourable Kathleen Wynne, Premier of Ontario  
The Honourable Linda Jeffrey, Minister of Municipal Affairs and Housing



**Randy Pettapiece, MPP**  
Perth-Wellington



Queen's Park  
Toronto, Ontario

January 13, 2014

John D. Leach  
Clerk  
Town of Aurora  
100 John West Way  
Box 1000  
Aurora, ON L4G 6J1

Dear Mr. Leach:

**Re: Resolution on Joint and Several Liability**

Rising municipal insurance premiums must be reined in. For years, municipalities have asked the province to address joint and several liability, which is the primary contributor to rising premiums. Municipalities, often targeted as insurers of last resort, can be on the hook for massive damage awards even if they are deemed just one percent responsible.

We are told that 38 U.S. states have enacted some form of proportionate liability, and that other jurisdictions are also pursuing reform. Municipalities have said that we in Ontario cannot afford to wait any longer. I agree. As a former member of a municipal council, I fully appreciate the impact of rapidly rising insurance premiums. It is unfair and unrealistic for the provincial government to allow this situation to continue – especially as it affects small and rural municipalities, which can least afford to pay.

Municipalities have heard many promises for discussion, including former Premier Dalton McGuinty's commitment at the 2011 AMO conference. But the time for discussion is over. We need to impress upon the government, in a constructive way, that it must take meaningful action. Recently I introduced the following private member's resolution in the Ontario legislature:

**That, in the opinion of this House, the government should protect taxpayers from higher property taxes by implementing a comprehensive, long-term solution to reform joint and several liability insurance for municipalities by no later than June 2014, addressing the alarming rise in insurance premiums due to rising litigation and claim costs.**

Because this issue affects municipalities across the province, I believe there is good reason for all MPPs, regardless of party affiliation, to support my resolution. I also believe it is important that the government act by June, before the legislature breaks for the summer.

.../2

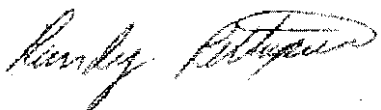


**If your municipality supports the intent of my resolution, I would encourage you to consider passing a formal resolution to support it.** If your Council decides to proceed in this way, I would appreciate receiving a copy of your resolution as soon as possible. Debate on this resolution is scheduled for February 27, 2014.

If you have any feedback on this issue, or if you require any additional information, please don't hesitate to contact me at 519-272-0660 or by email: [randy.pettapiececo@pc.ola.org](mailto:randy.pettapiececo@pc.ola.org).

Thank you very much for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Randy Pettapiece".

Randy Pettapiece, MPP  
Perth-Wellington

RP:sy




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## Case for Joint and Several Liability Reform

AMO presented its paper on joint and several liability reform to the AG highlighting how municipalities have become the targets of litigation when other defendants fail to have the means to pay high damage awards.

04/01/2010

The paper highlights how municipalities have become the targets of litigation when other defendants fail to have the means to pay high damage awards. The price communities are paying is steep - municipal insurance premiums and liability claims continue to increase dramatically. This is despite enormous improvements to safety including new standards for roads, playgrounds, pool safety, better risk management practices, and the scaling back of some services. Municipalities should not be insurers of last resort. Many other common law jurisdictions have better approaches and others are pursuing liability reform. It is time for Ontario to do the same.

### Contact

Matthew Wilson

Senior Advisor


[mwilson@amo.on.ca](mailto:mwilson@amo.on.ca)

T 416.971.9856 ext. 323

TF 1.877.426.6527

F 416.971.6191

### Report

 [Case for Joint and Several](#)

[Liability Reform](#)

Letters of support and resolutions have been received from municipal councils in every corner of the province since the draft paper was released late last year. Councils wishing to add their voice to this issue should send a copy of their resolution to Matthew Wilson, Senior Policy Advisor at [mwilson@amo.on.ca](mailto:mwilson@amo.on.ca) or by mail to the Association's office. All municipal resolutions received will be sent to the Province.

For Council's wishing to support this initiative, below is a draft resolution for consideration:

*That Council supports the Association of Municipalities of Ontario in its efforts to seek joint and several liability reform in Ontario and calls on the Provincial Government to pursue much needed changes to the Negligence Act.*

Resolutions can be forwarded to:

Matthew Wilson  
Senior Policy Advisor  
Association of Municipalities of Ontario  
200 University Avenue, Suite 801  
Toronto, Ontario  
M5H 3C6

Tel.: 416-971-9856 ext. 323

Toll free: 1-877-426-6527

Fax: 416-971-6191

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## Joint and Several Liability Reform Draft Paper

AMO released a draft paper: Seeking Joint and Several Liability Reform.

09/21/2009

### Background:

Under the *Negligence Act*, joint and several liability dictates that damages may be recovered from any of the defendants regardless of their individual share of the liability. For municipalities, as a public organization with taxation power and "deep pockets", this means even a finding of slight or minimal liability can result in responsibility for millions of dollars in damage awards, especially in cases where other liable parties do not have sufficient assets. Municipalities are targeted deliberately in some instances because of this reason. It has resulted in steadily increasing costs for municipalities, well out of proportion to actual responsibility and led some to withdraw services to limit liability exposure.

### Contact

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F 416.971.6191

In support of advocacy on this issue, AMO established the Municipal Liability Reform Working Group last year. Members of the group made a presentation at the August 2009 AMO Annual Conference. Today the group presents a draft paper for municipal comment and feedback. The AMO Board will consider a final version of the paper to be sent to the Attorney General.

### Action:

In support of efforts on this issue, municipalities are encouraged to provide:

- Examples of where services offered to the public have been cut or reduced as a result of liability or risk management concerns;
- Examples of judgements awarded against municipalities where joint and several liability was an issue or where out of court settlements were reached because of it; and
- Thoughts and comments regarding the paper.

Please provide feedback to Matthew Wilson, Senior Policy Advisor at mwilson@amo.on.ca by Friday October 16, 2009.

Housing  
Infrastructure  
Labour  
Planning  
Risk Management  
Social Services  
Waste Management

Events & Training  
Conferences  
Councillor Training  
Symposiums  
Webcasts  
Workshops

Awards  
Board of Directors  
By-Law  
Careers  
Contact Us  
History  
Membership  
Memorandum of Understanding  
Municipal 101  
Products & Services  
Volunteering  
Watch File

MEPCO  
NCMA  
OMKN  
OSUM  
ROMA

Programs  
Gas Tax  
MIDAS



100 John West Way  
Box 1000  
Aurora, Ontario  
L4G 6J1  
Phone: 905-727-3123 ext. 4758  
Email: wmar@aurora.ca  
www.aurora.ca

Item 12

**Town of Aurora**  
**Legal and Legislative Services**

## MEMORANDUM

**DATE:** February 11, 2014  
**TO:** Mayor and Members of Council  
**FROM:** Warren Mar, Director of Legal and Legislative Services/Town Solicitor  
**RE:** By-law Numbers 5587-14 and 5588-14

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RECOMMENDATION:

THAT By-law numbers 5587-14 and 5588-14 be removed from the agenda, and the amended By-law number 5587-14 be added to the agenda for adoption.

A handwritten signature in cursive script that reads "Warren Mar".

Warren Mar  
Director of Legal and Legislative Services/Town Solicitor

**THE CORPORATION OF THE TOWN OF AURORA**

**By-law Number 5587-14**

**BEING A BY-LAW to appoint a Clerk (Acting) and to delegate certain authority to the Clerk (Acting) on behalf of The Corporation of the Town of Aurora.**

**WHEREAS** subsection 228(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "Act"), states that a municipality shall appoint a clerk whose duty it is: (a) to record, without note or comment, all resolutions, decisions and other proceedings of the council; (b) if required by any member present at a vote, to record the name and vote of every member voting on any matter or question; (c) to keep the originals or copies of all by-laws and of all minutes of the proceedings of the council; (d) to perform the other duties required under the Act or under any other statute; and (e) to perform such other duties as are assigned by the municipality;

**AND WHEREAS** subsection 49(1) of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended, ("MFIPPA"), states that a head may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution or another institution subject to such limitations, restrictions, conditions and requirements as the head may set out in the delegation;

**AND WHEREAS** the Council of The Corporation of the Town of Aurora (the "Town") deems it necessary and expedient to appoint a Clerk (Acting);

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AURORA ENACTS AS FOLLOWS:**

1. THAT Warren Carlos Quan-Leung Mar be and is hereby appointed as Clerk (Acting) on behalf of the Town, and his official title may be called "Town Clerk (Acting)".
2. The duties, responsibilities, and delegated authority of the Clerk (Acting) shall be as set forth in Schedule "A" attached hereto and forming part of this By-law.
3. THAT By-law Number 5193-09 be and is hereby repealed.
4. THAT this By-law shall come into full force and effect on the date of final passage hereof.

**READ A FIRST AND SECOND TIME THIS 11<sup>th</sup> DAY OF FEBRUARY, 2014.**

**READ A THIRD TIME AND FINALLY PASSED THIS 11<sup>th</sup> DAY OF FEBRUARY, 2014.**

Approved as to Form  
By Legal Services  
Signature: Wade Ma  
Date: Feb. 11, 2014

\_\_\_\_\_  
GEOFFREY DAWE, MAYOR

\_\_\_\_\_  
CINDY ANNE MAHER, DEPUTY CLERK

**SCHEDULE "A"**

- A. Subject to and together with the provisions of the *Municipal Act, 2001*, S.O. 2001, c. 25 and any other statutes, the duties and responsibilities of the Clerk (Acting) shall include:
1. ensuring that the business of Council is conducted in accordance with the approved procedures of Council;
  2. keeping and preserving all records of the municipality in accordance with statutory and Council requirements;
  3. developing and maintaining a public information function and a public participation function in accordance with statutory and Council requirements;
  4. receiving, recording, distributing, and controlling the disposition of municipal correspondence in accordance with the approved procedures of Council;
  5. recording and maintaining the policies and procedures of Council and its Committees;
  6. conducting elections in accordance with the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended, and acting as the Election Returning Officer; and
  7. carrying out such other duties and responsibilities as may be assigned by Council, or the Chief Administrative Officer.
- B. In addition to the foregoing, the Clerk (Acting) is hereby delegated:
1. the full power, duty, and authority to act as the "head" in accordance with MFIPPA, which powers and duties shall include processing requests for information, responding to inquiries, and conducting appeals on behalf of the Town pursuant to MFIPPA; and
  2. the authority to execute any such documents or ancillary agreements as the Clerk (Acting) may deem necessary to conduct an election, notwithstanding the provisions of the Procurement By-law.