

DATE: August 12, 2024

REPORT NO: PD-36-2024

SUBJECT: Recommendation Report – Additional Background Information – Service Level Agreement (Planning) with the Region of Niagara

CONTACT: Brian Treble, Director of Planning & Building

OVERVIEW:

- On October 10, 2023, Administration presented a report (PD-50-2023) relating to the signing of an agreement with the Region of Niagara to provide planning review in areas of expertise and services that West Lincoln is currently not resourced to deliver internally.
- The previous report was generated because of a proposal in Provincial Bill 23 that proposed to remove upper-tier planning responsibilities from the Region of Niagara. This proposal is now anticipated to take effect within the next couple of months, potentially as soon as late September 2024.
- As a result, Administration believes it necessary to act further on the review and availability of planning expertise at the local level. Staff have been inquiring on alternatives to address Council’s concerns, but private sector expertise is consistently more expensive.
- Planning review and analysis of individual planning applications requires review against Provincial and Regional policy which includes environmental review by a number of environmental experts such as biologists and arborists whose hourly rates start at \$100+ per hour. While the expertise of others such as a water resource analyst starts at \$150+ per hour.
- Until such time that Administration is able to recommend a new staffing model to Council to support the internal delivery of the downloaded planning services, it is recommended that West Lincoln contract these services from the Region with whom existing processes and relationships already exist with a mutual understanding of the operating environment.
- Previous staff report PD-50-2023 is attached and included significant background detail that this report now supplements. This report was referred back to staff for further research and investigation, which has now been completed.
- Administration recommends that Council endorses West Lincoln entering into a Service Level Agreement (SLA) with the Region of Niagara for a period not exceeding 2 years, which provides opportunity the Township to discuss and approve a new planning service delivery model.

RECOMMENDATION:

1. That, Recommendation Report PD-36-2024, titled “Recommendation Report – Additional Background Information – Service Level Agreement (Planning) with the Region of Niagara” dated August 12, 2024, be received; and,
2. That, Council receives and supports the proposal to pay for back up professional planning expertise from Regional planning after the date of proclamation (date when Region is no longer a planning approval authority) for a term not exceeding two years; and,
3. That, the CAO be authorized to negotiate the services for which such agreement shall be required and to then sign the Agreement on behalf of the Township following the date of provincial proclamation of the amendments to the Planning Act related to upper-tier municipal planning responsibilities for a 2-year term; and
4. That, Council directs Administration staff to develop and recommend to Council a service delivery model to support local delivery of planning services currently supported by Region of Niagara, by the end of 2025.

ALIGNMENT TO STRATEGIC PLAN:

Theme

- **CHAMPION** strategic and responsible growth

BACKGROUND:

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Theme

- **CHAMPION** strategic and responsible growth

BACKGROUND:

Bill 23, an Omnibus Bill which proposed significant changes to the Planning Act received Royal Assent on November 28th, 2022, following a short consultation period.

One significant change made to the Planning Act through Bill 23 was the removal of planning responsibilities for several upper-tier municipalities, including the Niagara Region. This change will mean that much of the planning and planning-related functions that Niagara Region currently has responsibility for, will be downloaded to local municipalities. Although the planning responsibilities will be removed, upper-tier municipalities are permitted to provide advice and assistance to a lower-tier municipality with the permission of the local Council. Recently, Administration has been advised that the best “guess” as to when this change will take effect is late September 2024. In late 2022 and early 2023, Administration, and representatives from Niagara Region and other area municipalities met several times to discuss the transfer of planning review functions that Niagara Region has traditionally performed. The Region retained a facilitator to guide discussions to develop a new planning service delivery framework that responded to the changes to provincial legislation, expected growth needs across the Region and an improved customer-service approach.

To date, most municipalities have expressed a willingness to enter an agreement with the Region for at least some of the Services. The exceptions are Fort Erie and Welland. Fort Erie and Welland will not sign the SLA agreement and are already aligning staff needs to achieve local service delivery.

Given a variety of competing budget pressures, Administration is not prepared at this time to recommend additional planning positions be established until such time that Council is able to consider and support a new planning service delivery model for West Lincoln.

On October 19, 2023, the previous report, PD-50-2023 was referred back to staff with the following resolution:

That, Recommendation Report PD-50-2023 regarding “Service Level Agreement (Plan) with the Region of Niagara”, be referred back to staff to report back at a future Planning/Building/Environmental Committee meeting in order for staff to do a further cost analysis of the services offered by the Region, compared to the potential lack of participation by neighbouring municipalities or third party consulting.

CURRENT SITUATION:

On October 10, 2023, Planning Staff presented a report (PD-50-2023) relating to the signing of an agreement with the Region of Niagara to provide planning review in areas of planning expertise in order to support Township staff with planning review. The report was generated because of a proposal in Provincial Bill 23 that proposed to remove upper-tier planning responsibilities from the Region of Niagara eminently.

The current understanding is that this decision could happen as early as late September 2024. As a result, Administration is recommending entering into a short term two year SLA with the Niagara Region to support the delivery of planning services. During this time, Administration will review staff now believe that it is necessary to act further on the short term need for additional planning expertise provided to the local level.

Planning review and analysis requires environmental review by a variety of environmental expertise such as biologists and arborists whose hourly rate starts at \$100+ per hour in the private sector. While the expertise of others such as a water resource analyst starts at \$150 per hour.

Previous staff report PD-50-2023 is attached and included significant background detail that this report now supplements.

The proposed draft planning services agreement prepared by the Region also includes an escape clause where if either party wishes to terminate the agreement, this can occur with 18 months' notice to either party. The draft agreement is attached in Schedule B.

The services for which planning expertise shall be required will be further reviewed and refined by Administration to best fit the needs of West Lincoln prior to its signing.

All direction outlined by the October 19, 2023 referral has been addressed. Most lower tier municipalities (except Fort Erie and Welland), including our immediate neighbours will be continuing to work closely with Regional Planning Staff beyond the date of proclamation.

If proclamation does not occur and the Region maintains their planning authority, the service level agreement will not be required and the planning review function that currently takes place will continue with the Region providing comments and collecting separate fees.

FINANCIAL IMPLICATIONS:

For the short term, an agreement with the Region is the most cost effective option and requires the least amount of Administrative resources to enter into. Any relationship with a third party would establish a new working relationship with new processes and an overall loss of corporate knowledge held by Regional staff. In this regard, the SLA with the Region also will provide the most efficient service to stakeholders as processes are already in place. Development review fees charged by the Region would be a flow through to applicants and will not have an impact on the Township's operating budget. These costs however do have an impact on the cost of housing and as a result it is in the public interest to keep fees as efficient as possible.

Below are the estimated comparative costs, should West Lincoln instead choose to enter into a contract with a private sector planning consultant. These costs assume a peer review takes upwards of 50 hrs/study/application the consultant costs would be about double the Region's costs.

Consultant	Region
50 hrs @ \$150/hr = \$7,500	50 hrs @ \$85/hr = \$4,250

The development review function as it relates to planning and development applications will continue to be revenue neutral for the Township. It may be required that the Township's Planning Fees may need to reflect Regional costs found in Appendix 'B'. This will be addressed in an amended fee bylaw to Council within the 90 days following proclamation. Further discussion with Regional staff and Township Administration staff will need to occur prior to implementation of the agreement.

INTER-DEPARTMENTAL COMMENTS:

Discussions have taken place with the Region of Niagara and Administration staff.

CONCLUSION:

Given the above analysis, Administration recommends that the Service Level Agreement with the Region of Niagara be signed for a term not exceeding two years in order to provide time for the Township to implement a new staffing model and establish the internal capacity necessary to deliver the planning services currently provided by the Region.

SCHEDULES:

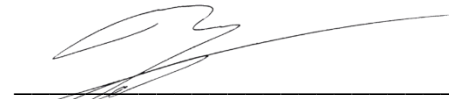
1. Staff Report PD-50-2023
2. Draft Planning Services Agreement with Schedules

Prepared & Submitted by:



Brian Treble
Director of Planning & Building

Approved by:



Truper McBride
CAO