



Staff Report

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Report To: Council

Date of Meeting: April 14, 2020

Report Number: CAO-012-20

Reviewed By: Andrew C. Allison, CAO

By-law Number:

File Number:

Resolution#:

Report Subject: COVID-19 Business Continuity Planning

Recommendation:

1. That Report CAO-012-20 be received for information.

Report Overview

In 2008, the Municipality approved a Business Continuity Plan. The purpose of the Plan is to provide a guide to maintain essential services in the event of a nation-wide pandemic. This report specifically addresses staffing issues in relation to the maintenance of Municipal services during the COVID-19 pandemic.

1. Background

Emergency Planning

- 1.1 Through Report COD-27-08, Council endorsed a Municipal Business Continuity Plan (the “Plan”) to guide municipal departments in the event of a pandemic or similar emergency. The Plan is part of the Municipality’s overall Emergency Plan. It was developed in anticipation of a pandemic caused by contagious respiratory illnesses such as COVID-19.
- 1.2 The Plan was prepared to supplement Provincial and Regional Plans. It specifically states that “[t]he health care of Clarington residents will remain the responsibility of the Region of Durham, assisted by the Municipality as required.”
- 1.3 The aim of the Plan is to outline operational concepts, roles, responsibilities and procedures that will support the Municipality in its efforts to prepare for, respond to, and recover from a pandemic. The focus of this Report is those parts of the Plan that address issues respecting the maintenance of essential services and functions, and related staffing issues.
- 1.4 The Plan recognizes six pandemic phases. Amongst other things, Phase 5 requires the Municipality to monitor and sustain most municipal services, limit public assembly and implement social distancing (close indoor and outdoor recreation facilities, public parks for public assembly and programs) and initiate a work-from-home program for identified staff where applicable.
- 1.5 We are now in Phase 6 which is the final phase of the Plan. One of the stated actions in Phase 6 is to “sustain essential services only”. This requires every Municipal Department to assess its operational requirements (including staffing) that are required to maintain essential services.
- 1.6 The Plan anticipates that, similar to SARS and the Power Outage in 2003, residents will have an expectation of service continuance in the event of a pandemic.

- 1.7 At the Joint Committee meeting on April 6, 2020, the following resolution was referred to the April 14, 2020 meeting of Council:

That the CAO be directed to lay off all non-essential staff on May 1, 2020 if the COVID emergency is still in effect as of that date.

- 1.8 This draft resolution is discussed in sections 2.18 through 2.20 of this Report.

2. Business Continuity

Essential Services

- 2.1 The Province has issued several orders under the *Emergency Management and Civil Protection Act* (EMCPA) that impact municipalities and the delivery of their services. The following closure orders directly impact Clarington:
1. Facilities providing indoor recreational programs (ordered on March 17, 2020 and subsequently extended to April 13, 2020);
 2. Public libraries (ordered on March 17, 2020 and subsequently extended to April 13, 2020);
 3. Outdoor playgrounds, portions of park and recreational areas containing outdoor fitness equipment and outdoor sports facilities, however maintenance of these facilities is permitted (ordered on March 30, 2020 for 14 days with possible extension).
- 2.2 Orders made under the EMCPA are for 14 days and may be renewed by the Province for a subsequent 14-day period. The current Order requiring recreation facilities to remain closed will expire on April 13, 2020 unless extended.
- 2.3 On March 23, 2020, the Province ordered the immediate closure of “non-essential businesses” (Regulation 82/20). Regulation 82/20 does not apply to municipalities.
- 2.4 On April 3, 2020, the Province announced revisions to the essential services list (Regulation 119/20), however there was no change to the exemption for municipal operations or delivery of services.
- 2.5 The extent to which municipal capital projects are impacted by the updated list of essential businesses is less clear. While some municipalities have taken the position that all municipal capital projects are exempted from the closures, we have taken a more cautious approach – one that recognizes the Province’s concern for public health in the construction industry. The Province’s regulation that defines essential services (82/20 as amended by 119/20) provides for the continuation of construction projects

related to critical infrastructure, and many municipal capital projects fall into this category. The regulation also deems as essential any business that delivers or supports the delivery of a number of community services including roads, sewers, and provision of water. This work will continue, but these job sites will be strictly controlled to prevent the risk of infection and will be subject to a project specific COVID-19 health and safety work plan. Municipal infrastructure projects that cannot demonstrate implementation of adequate health and safety measures will be temporarily suspended.

- 2.6 Certain capital projects involve work by construction contractors that do not fall within the scope of an essential business under the regulation. These projects fall outside of work that is considered in the regulation to be necessary to ensure the safe and reliable operations of critical infrastructure. Staff will be required to make a case-by-case determination of which municipal capital projects are captured by the regulation. For example, the capital improvements to the Bowmanville Branch of the library have been identified as a construction project that is not permitted under the regulation, and work has therefore been temporarily suspended. Also identified as falling outside of the regulation are the accessibility improvements to the Orono Town Hall. The tender award on the Council agenda for April 14 can be approved, and a construction schedule will be finalized after the emergency business closure order expires or is revoked.

Continuity Plans

- 2.7 Consistent with the Pandemic Plan, staff have prepared continuity plans for each department. These plans do not take into account any proposed corporate restructuring. They also do not consider any additional workload impacts related to the pandemic. Only potential workload reductions that are COVID-19 related have been considered. However, it is important to recognize that COVID-19 has significantly (but hopefully temporarily) increased workload in some areas of the organization.
- 2.8 The first step in the business continuity planning process was to see which of the Municipality's services should continue to be delivered. Attachment 2 to Report CAO-004-14 identified a total of 145 services that were being delivered across the organization. Department Heads looked to that list as a guide to determine which services could and should continue. As is the case in every municipality that we have communicated with, our overall conclusion was that other than services that cannot continue (e.g. recreation services and crossing guard services), most municipal services should continue, subject to the qualifications set out in sections 2.5 and 2.6 above. This, in part, is premised on a desire to do everything possible to deliver Council's approved mandate of services in 2020.
- 2.9 The second step was to determine the level of staffing required to maintain services until the end of April (Phase 1), end of May (Phase 2), and June 30 (Phase 3). This step required a critical analysis of the responsibilities of every employee in every department other than Emergency and Fire Services. That analysis led to the conclusion that there

are some positions that likely will not be able to carry on beyond some of the critical dates. As an example, even before the Province passed Regulation 119/20 to remove some construction projects from the list of essential services amended its list of non-essential services, Building Services (part of the Engineering Department) was identified as an area where staffing levels would be impacted if development activity decreased. Regulation 119/20, passed on April 3, 2020, will allow some industrial projects to proceed, but most commercial projects cannot. Residential construction projects can also proceed, but only if either a footing permit or above grade structural permit have been issued (e.g. Parkview Lodge) or renovations were started before April 4, 2020. Obviously, these changes may temporarily impact staffing levels in Building Services. We are still legally required to accept and process building applications, but the volume of applications will likely decrease. Another example was Municipal By-law Enforcement - but that was before the Province delegated enforcement responsibilities for Provincial orders under EMCPA to municipalities.

- 2.10 The third step was to assess how best to ensure that the necessary level of staffing is maintained to ensure business continuity, recognizing that we have an obligation to protect the health and safety of our employees and the public while doing so.

Staffing Levels

- 2.11 The overall conclusion out of our business continuity planning was that in order to maintain those services that will continue, current staffing levels should be maintained at this time. The analysis recognized possible declines or changes in business activity, what is required to maintain a business presence, and potential redeployment. The specific rationale in support of this conclusion is set out in sections 2.12 through 2.17 below.
- 2.12 **Current Levels** - Staffing levels throughout the corporation are already below normal levels.

On March 26, 2020, 339 part-time staff were advised that they would be placed on Declared Emergency Leaves (DELS) as provided for under Provincial legislation. There simply was no opportunity to meaningfully redeploy all of these valuable staff members.

Existing staff levels are lower than normal because we have positions that are currently vacant as a result of (a) the reorganization (7 full-time); (b) a freeze that we placed on new positions approved in the 2020 budget (3 full-time equivalents), (c) recent retirements (3 full-time), (d) maternity and paternity leaves (1 full-time), (e) freeze on all seasonal hires (5 full-time); (f) long term sick leave vacancies not back filled (6 full-time); and (g) voluntary leaves of absence (1 full-time). These total 26 full-time equivalents. The full-time positions reflected in this figure (25) equate to approximately 9.6% of Clarington's normal full-time labour force (excluding Emergency and Fire Services). These figures do not include the 339 non-voluntary DELS, one voluntary DEL, or the

absenteeism numbers below. They also do not include any figures from Emergency and Fire Services.

On the assumption that we can run summer programming in Community Services, a total of 71 summer student positions need to be filled across the entire organization (other than Emergency and Fire Services) that are eligible for subsidy under the Federal Government's Canada Summer Jobs Program. These positions had been placed on hold, but as a result of the Federal Government's announcement on April 8, 2020 to subsidize these wages (at \$14 per hour), we will be proceeding with these hires at the appropriate time. The estimated total for this wage subsidy is \$494,000.

- 2.13 **Projected Workforce Absenteeism** – Phase 5 of our Pandemic Plan projects 10–15% absenteeism due to “fear factors” of contracting the virus. The Region's continuity plan projects that all workforces could experience absenteeism as high as 40% in the event of a pandemic. Our Plan notes that “[t]his absenteeism will be caused for several reasons in addition to experiencing virus-like symptoms” and that “[e]mployees may be required to arrange for care of ill family members as health care facilities will be maximized. Children may not be able to attend school due to absenteeism of the educational staff, and, elderly family members may need additional home care.” All of the above conditions qualify for access to a DEL. In addition, we have offered staff the opportunity to use flex time (with no premiums or overtime on flexed hours), voluntary DELS and voluntary leaves of absence.

From March 14, 2020 (the date that we closed our facilities to the public) until April 9, 2020, Clarington has experienced a total of 115 lost days as a direct result the COVID-19 pandemic. This is attributable to employees who cannot work from home but have received health advice to self isolate. Nine employees worked from home through their isolation periods and so there were no lost days for them. We are taking a progressive approach to managing the health risk and erring on the side of public safety – if health guidelines suggest self isolation, then the employee will be expected to self isolate.

The bottom line in terms of pandemic planning is that we should anticipate higher than normal short-term absenteeism during a pandemic.

- 2.14 **Social Distancing** – In order to protect our staff, we have implemented strict social distancing measures in the workplace. This has resulted in some inefficiencies that are unavoidable (e.g. limiting the number of employees travelling in a municipal vehicle and filling of sandbags).
- 2.15 **Redeployment Opportunities** – Every Department has a backlog of work that needs to be undertaken but has been on hold due to resource issues. In some cases, the backlog is several months (e.g. forestry work orders in Operations and records retention and digital conversions in Clerks and Engineering). There is also proactive work that can be undertaken.

If, and to the extent that, staff in one Department can be operationally redeployed to another Department, we can address this backlog. The list of redeployable work compiled by Department Heads is extensive. There is ample redeployable work to keep most (but not necessarily all) staff meaningfully occupied and engaged at least until the end of May.

We have been communicating regularly with the executive of CUPE Local 74. They have worked with their bargaining unit employees to communicate the importance of working together. They have demonstrated a commitment to addressing the challenges presented by this pandemic by being open to redeployment suggestions. They are working cooperatively with management to help control labour costs during this pandemic and potentially save costs when we come out of it (e.g. no shift premiums or overtime). As far as staff are aware, no Greater Toronto and Hamilton Area municipalities (lower, upper or single tier) have laid off any full-time CUPE or non-affiliated employees at this time (other than library staff). Our understanding is that most municipalities are pursuing redeployment of full-time staff as a means of maintaining services for as long as reasonably possible. All non-affiliated staff have also demonstrated exceptional commitment to continuing adjustments to workload, hours of work and other employment related conditions during this time.

The Region of Durham has a very detailed organization-wide Redeployment Strategy that has been designed to respond to the COVID-19 pandemic. Our intention is to adopt a redeployment protocol similar to theirs. The flowchart attached to this Report (Attachment 1) identifies the process each department will go through in order to appropriately reassign staff. This process will respect all the collective agreement provisions and any legislative requirements.

- 2.16 **Economic Stimulus** – The primary purpose of every step that we have taken to date is the need to keep people safe and healthy. This includes our staff and the public. But there is a secondary objective - managing the economic challenges that COVID-19 presents and maintaining as much as possible a resilient local economy. The decisions that have to be made regarding which services should be continued and what staffing levels are necessary to support them must always keep public health and safety top of mind, but this secondary objective must also be considered. Section 2.1 of this Report identified orders from the Province that were clearly focused on public health concerns, but the Provincial and the Federal governments have also issued orders and made policy decisions that are intended to help sustain our economy.

As an example, the Federal Government's Canada Emergency Wage Subsidy is designed to help businesses keep employees on their payroll through the challenges posed by the COVID-19 pandemic. It provides a 75% wage subsidy to eligible employers for up to 12 weeks, retroactive to March 15, 2020. The subsidy "aims to prevent further job losses, encourage employers to re-hire workers previously laid off as

a result of COVID-19, and help better position Canadian companies and other employers to more easily resume normal operations following the crisis ... It was done with the expectation that employers will do their part by using the subsidy in a manner that supports the health and well-being of their employees.” This wage subsidy does not apply to public bodies (including municipalities), but the policy foundation for the subsidy does – employers (including public bodies) should strive to keep people working. This may explain why there are currently no full-time Federal, Provincial or Municipal staff (other than Library staff) that have temporarily lost their jobs in Ontario (that staff are aware of) and why Premier Ford has publicly stated that he has no plans to reduce staffing levels at the Province (68,000 provincial public servants).

- 2.17 **Labour Implications** – The labour relations issues respecting any reduction in staffing are discussed in a confidential memorandum from Hicks Morley LLP dated April 9, 2020 (Attachment 2 to this Report).

Draft Resolution

- 2.18 At the Joint Committee meeting on April 6, 2020, the following resolution was referred to the April 14, 2020 meeting of Council:

That the CAO be directed to lay off all non-essential staff on May 1, 2020 if the COVID emergency is still in effect as of that date.

- 2.19 The draft resolution raises several issues, some of which have been dealt with above. The issue of what is “non-essential” was discussed in sections 2.1 through 2.6. The legal and practical implications of any layoffs are discussed in Attachment 2.
- 2.20 If there is a decision to reduce staffing, there needs to be clarity regarding when it will be triggered. Staff assume that the “the COVID emergency” referred to in the draft resolution is the date that the Province’s closure orders under EMCPA that impact our facilities are no longer in effect. This likely is a date that will precede the date that the Province’s Declaration of Emergency will be lifted. With the present COVID-19 conditions still escalating, the length of the Province’s Declaration is unpredictable.

3. Financial Implications

- 3.1 The COVID-19 pandemic has had a significant impact on the Municipality’s financial projections. A detailed cashflow analysis will be provided by the Finance Department at a future date. Below are some estimates of revenues lost as a result of service disruption through to the end of May 2020.
- 3.2 Following the decision to suspend recreation programming and close indoor recreation facilities from March 14 to April 5 inclusive, Community Services prepared revenue loss projections for this closure period and beyond. With the subsequent cancellation of

spring recreation programming and indoor facility permits up to May 31, these projections were reviewed again. With a total 2020 budget for revenues of approximately \$5.2M, this significant disruption to normal operations will result in a loss of approximately \$1M. This revenue loss would consist of cancelled program registrations, daily admissions, facility rental permits and fitness/swimming memberships.

- 3.3 Although we are unable to quantify the value at this time, some of the revenue lost could be recovered as we move out of the current crisis and begin to return to normal operations. This could include planning an early start to the 2020/21 ice season to accommodate the lost spring try-outs. Staff will also work with existing fitness and swimming members to extend their memberships rather than process cancellations. This would ensure our existing membership base is retained and the monthly revenues return to their pre COVID-19 levels.
- 3.4 The Clerks Department estimates that lost parking ticket revenue over March, April and May will be \$78,000. This revenue will not be recovered.
- 3.5 The Operations Department estimates that lost field permit revenue over the months of April and May will be approximately \$40,200. It is possible that a small portion of this revenue can be recovered.
- 3.6 Building and Planning revenues were on target until the shut down and have continued, but are starting to decline. We anticipate that they will rebound once the pandemic has eased and construction returns to a normal level, but the timing and extent of the rebound is uncertain.
- 3.7 The estimate savings for part-time compensation budgeted for, but not paid, in Community Services up until the end of May is \$480,460.

4. Conclusion

- 4.1 The recommended course of action in this Report is based on information available as at April 9, 2020. Not unlike every other issue that we have had to respond to in relation to the COVID-19 pandemic, things will change, and our response may therefore have to change.
- 4.2 The recommended approach to staffing is premised on the assumption that staff will continue to be meaningfully engaged in the delivery of Municipal services. If that is not happening, staffing levels will have to be reduced. The business continuity plans prepared by Department Heads recognize this. Depending on how long the pandemic continues, we will eventually lose our ability to meaningful engage or redeploy staff in certain areas of operation. When we reach that point, we will have to consider further staff reductions.

4.3 It is respectfully recommended that this Report be received for information.

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Attachment 1 – Redeployment Flowchart

Attachment 2 – Confidential Memorandum from Hicks Morley LLP dated April 9, 2020