

THE REGIONAL MUNICIPALITY OF NIAGARA
SPECIAL PROCEEDINGS OF COUNCIL
SMOKE-FREE PUBLIC PLACES AND WORKPLACES BY-LAW

REPORT CL 19-2001

The Municipal Council of the Regional Municipality of Niagara met in Closed Session in the Council Chamber, Regional Municipal Building, Thorold, Ontario, on Thursday, November 22, 2001, commencing at 7:05 p.m.

ATTENDANCE

Council: Councillors Zimmerman, Regional Chair; Adams, Andreychuk, Badawey, Bailey, Beamer, Bentley, Brickell, Burroughs, Collins, Davidson, Eke, Forster, Harry, Hildreth, Konkle, Marshall, Martin, McMullan, Nicholson, Partington, Redekop, Rigby, Saracino, Smeaton, Thomson, Timms, Trombetta.

Staff: Messrs. Trojan, Chief Administrative Officer; Hollick, Regional Clerk; Banting, Director, Legal Services; Dr. Williams, Medical Officer of Health; Dr. Lee, Associate Medical Officer of Health; Mr. McQueen, Supervisor, Tobacco Program; Ms. Gilroy, Assistant Clerk/Supervisor, Council Support.

443.

INTRODUCTION

Regional Chair Zimmerman advised that the purpose of the meeting was to discuss the options on the Smoke-free Public Places and Workplaces By-law as presented to the Community and Health Services Committee on November 5, 2001. She noted that if a consensus on the options could not be reached, members of Council could put forward alternative options for consideration.

Regional Chair Zimmerman expressed appreciation to Councillors Eke, Chair, and Bentley, Brickell, Harry and Timms, members, of the Ad Hoc Committee on Smoke-free Public Places and Workplaces By-law, for their work on this committee. She also extended thanks to all staff: Gail Reilly and Thomas R. Hollick of the Clerk's Office, and Chris McQueen, Dan Pilon, Dr. Lee of the Public Health Department, and Bruce Banting, Legal Services, for their assistance. A special thank you was extended to Dr. Williams, Medical Officer of Health.

The Regional Chair provided a brief outline of the process to date, making particular note of the thoughtful input received at the public meetings through presentations and written submissions.

444. **CONFLICT OF INTEREST**

Councillor Burroughs declared an indirect pecuniary interest with respect to the Smoke-free Public Places and Workplaces By-law, as he owns a restaurant outside of the Niagara Region, and he therefore excused himself from the meeting, and took no part in the discussion of, or voting, on this matter.

445. **INTRODUCTION (continued)**

Councillor Eke, Chair, Ad Hoc Committee on Smoke-free Public Places and Workplaces By-law, expressed appreciation to the Councillors and staff for their hard work on this committee, and the citizens of Niagara for closely following this issue and responding through presentations and written submissions.

Dr. Williams, Medical Officer of Health, reiterated her concerns with respect to the health issues associated with smoking, and the negative effects of second-hand smoke. Dr. Williams summarized health-related statistics related to environmental tobacco smoke and urged Councillors to support the recommendations of the Public Health Department. She also reported the results of public feedback, on a percentage basis, respecting those recommendations.

446. **COMMUNITY AND HEALTH SERVICES COMMITTEE**
RECOMMENDATIONS

Council had for consideration the four options on the Smoke-free Public Places and Workplaces By-law.

The four options read as follows:

OPTION	WORKPLACES	RESTAURANTS	BARS	BINGO HALLS	RACETRACK/ CASINO
1 Smoke-free Niagara Proposal	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free by May, 2002
2 Non-serviced designated smoking room	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free with provision for non-serviced DSR (25%) by May, 2003 (no admittance under 19 years).	40% smoke-free with provisions for non-serviced DSR (60%) by May, 2002- separate enclosures and May, 2004 – separate ventilation.	100% smoke-free with provision for non-serviced DSR (25%) by May, 2003
3 Non-serviced designated smoking room	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free with provision for non-serviced DSR (25%) by May, 2003 (no admittance under 10 years).	40% smoke-free with provisions for non-serviced DSR (60%) by May, 2002- separate enclosures and May, 2004 – separate ventilation	No provision, with entire by-law subject to review by 2006.
4 Amended BARco proposal	100% smoke-free with serviced DSR (25%)	100% smoke-free with serviced DSR (25%)	No provision (no admittance under 19 yrs.).	40% smoke-free with provisions for non-serviced DSR (60%) by May, 2002- separate enclosures and May, 2004 – separate ventilation	No provision.

CONSIDERATION OF OPTIONS

447. OPTION 1

Following discussion, it was:

Moved by Councillor Bailey
Seconded by Councillor Brickell

That Option 1, which reads as follows, be approved and adopted.

OPTION	WORKPLACES	RESTAURANTS	BARS	BINGO HALLS	RACETRACK/ CASINO
1 Smoke-free Niagara Proposal	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free by May, 2002	100% smoke-free by May, 2002

Upon a recorded vote being requested on Option 1, Council divided on the motion as follows:

Voting for the Motion

Adams	Eke
Bailey	Harry
Bentley	Hildreth
Brickell	Konkle
Davidson	

(9)

Voting Against the Motion

Andreychuk	Partington
Badawey	Redekop
Beamer	Rigby
Collins	Saracino
Forster	Smeaton
Marshall	Thomson
Martin	Timms
McMullan	Trombetta
Nicholson	

(17)

Upon the recorded vote being taken, the Regional Chair declared the motion on Option 1 was defeated.

448. **RECESS**

Council recessed at 9:20 p.m. The meeting resumed at 9:25.

CONSIDERATION OF OPTIONS (continued)

449. **OPTION 2**

Following continuing discussion, it was:

Moved by Councillor McMullan
Seconded by Councillor Hildreth

That Option 2, which reads as follows, be approved and adopted.

OPTION	WORKPLACES	RESTAURANTS	BARS	BINGO HALLS	RACETRACK/ CASINO
2 Non- serviced designated smoking room	100% smoke- free by May, 2002	100% smoke- free by May, 2002	100% smoke- free with provision for non-serviced DSR (25%) by May, 2003 (no admittance under 19 years).	40% smoke-free with provisions for non-serviced DSR (60%) by May, 2002- separate enclosures and May, 2004 – separate ventilation.	100% smoke- free with provision for non-serviced DSR (25%) by May, 2003

Moved by Councillor McMullan
Seconded by Councillor Redekop

That the recommendation under Racetrack/Casino in Option 2 be amended to read "No provision, with entire by-law subject to review by 2006".

Defeated.

Moved by Councillor Timms
Seconded by Councillor Redekop

That the recommendation under Bingo Halls in Option 2 be amended by removing the prefix "non", and removing the prefix "non" from all other options related to bingo halls.

Carried.

Following discussion, it was:

Moved by Councillor Badawey
Seconded by Councillor Collins

That the question be put.

Carried.

Upon a recorded vote being requested on Option 2, with an amendment to the recommendation under Bingo Halls, as noted, Council divided on the motion as follows:

Voting for the Motion

Adams	Davidson	
Badawey	Eke	
Bailey	Harry	
Bentley	Hildreth	
Brickell	Konkle	(10)

Voting Against the Motion

Andreychuk	Partington	
Beamer	Redekop	
Collins	Rigby	
Forster	Saracino	
Marshall	Smeaton	
Martin	Thomson	
McMullan	Timms	
Nicholson	Trombetta	(16)

Upon the recorded vote being taken, the Regional Chair declared the motion on Option 2, with an amendment to the recommendation under Bingo Halls, as noted, was defeated.

450. OPTIONS 3 and 4

Moved by Councillor Redekop
Seconded by Councillor Thomson

That Option 4, which reads as follows, be considered by this Council, at this time.

OPTION	WORKPLACES	RESTAURANTS	BARS	BINGO HALLS	RACETRACK/ CASINO
4 Amended BARco proposal	100% smoke-free with serviced DSR (25%)	100% smoke-free with serviced DSR (25%)	No provision (no admittance under 19 yrs.).	40% smoke-free with provisions for serviced DSR (60%) by May, 2002- separate enclosures and May, 2004 – separate ventilation	No provision.

In response to direction from Regional Chair Zimmerman, it was:

Moved by Councillor Andreychuk
Seconded by Councillor Timms

That consideration of Option 4 be moved ahead of consideration of Option 3.
Carried.

Council then dealt with Option 4.

451. OPTION 4 – AMENDMENT TO RACETRACK/CASINO AND BARS

Moved by Councillor Forster
Seconded by Councillor McMullan

That the recommendation under Racetrack/Casino in Option 4, be amended to read as follows:

100% smoke-free with provision for serviced DSR (25%) by May, 2003, and

That the recommendation under Bars in Option 4, be amended to read as follows:

100% smoke-free with provision for serviced DSR (25%) by May, 2003 (no admittance under 19 years).

Following some discussion, it was:

Moved by Councillor Forster
Seconded by Councillor McMullan

That the recommendations under Racetrack/Casino and Bars, in Option 4, be considered separately.

Carried.

With the consent of Council, the original amendment respecting the recommendation under Racetrack/Casino was withdrawn and it was:

Moved by Councillor Forster
Seconded by Councillor Bailey

That the recommendation under Racetrack/Casino in Option 4, be amended to read as follows:

100% smoke-free with provision for serviced DSR (60%) by May, 2003.

Upon a recorded vote being requested on Option 4, with an amendment to the recommendation under Racetrack/Casino as noted, Council divided on the motion as follows:

Voting for the Motion

Bailey
Brickell
Davidson
Forster
Hildreth (5)

Voting Against the Motion

Adams	McMullan
Andreychuk	Nicholson
Badawey	Partington
Beamer	Redekop
Bentley	Rigby
Collins	Saracino
Eke	Smeaton
Harry	Thomson
Konkle	Timms
Marshall	Trombetta
Martin	(21)

Upon the recorded vote being taken, the Regional Chair declared the motion on Option 4, with an amendment to the recommendation under Racetrack/Casino as noted, was defeated.

Moved by Councillor Forster
Seconded by Councillor Badawey

That the recommendation under Bars in Option 4, be amended to read as follows:

100% smoke-free with provision for serviced DSR (25%) by May, 2003 (no admittance under 19 years).

Upon a recorded vote being requested on Option 4, with an amendment to the recommendation under Bars as noted, Council divided on the motion as follows:

Voting for the Motion

Adams	Forster	
Badawey	Harry	
Bailey	Hildreth	
Bentley	Konkle	
Brickell	McMullan	
Davidson	Saracino	
Eke		(13)

Voting Against the Motion

Andreychuk	Redekop	
Beamer	Rigby	
Collins	Smeaton	
Marshall	Thomson	
Martin	Timms	
Nicholson	Trombetta	
Partington		(13)

Upon the recorded vote being taken on Option 4, with an amendment to the recommendation under Bars as noted, and resulting in a tie vote, the Regional Chair voted in the affirmative, and declared the motion was carried.

452. **EXTENSION OF CURFEW**

Moved by Councillor Brickell
Seconded by Councillor Bentley

That the curfew for the meeting be extended to 11:30 p.m.
Carried by 2/3 of the Council members present.

453. **OPTION 4 (continued - AMENDMENT TO RESTAURANTS AND WORKPLACES**

Moved by Councillor McMullan
Seconded by Councillor Harry

That the recommendations under Restaurants and Workplaces in Option 4, be amended to read as follows:

100% smoke-free by May, 2002.

Following some discussion, it was:

Moved by Councillor Smeaton
Seconded by Councillor McMullan

That the recommendations under Restaurants and Workplaces in Option 4 be considered separately.

Carried.

Moved by Councillor McMullan
Seconded by Councillor Eke

That the recommendation under Restaurants in Option 4, be amended to read as follows:

100% smoke-free by May, 2002.

Upon a recorded vote being requested on Option 4, with an amendment to the recommendation under Restaurants as noted, Council divided on the motion as follows:

Voting for the Motion

Adams	Hildreth	
Bentley	Konkle	
Brickell	McMullan	
Davidson	Nicholson	
Eke	Smeaton	
Harry		(11)

Voting against the Motion

Andreychuk	Partington	
Badawey	Redekop	
Bailey	Rigby	
Beamer	Saracino	
Collins	Thomson	
Forster	Timms	
Marshall	Trombetta	
Martin		(15)

Upon a recorded vote being taken on Option 4, with an amendment to the recommendation under Restaurants as noted, the Regional Chair declared the motion was defeated.

Moved by Councillor McMullan
Seconded by Councillor Eke

That the recommendation under Workplaces in Option 4, be amended to read as follows:

100% smoke-free by May, 2002.

Upon a recorded vote being requested on Option 4, with an amendment to the recommendation under Workplaces as noted, Council divided on the motion as follows:

Voting for the Motion

Adams	Harry	
Bailey	Hildreth	
Bentley	Konkle	
Brickell	Martin	
Davidson	McMullan	
Eke	Nicholson	(12)

Voting against the Motion

Andreychuk	Redekop	
Badawey	Rigby	
Beamer	Saracino	
Collins	Smeaton	
Forster	Thomson	
Marshall	Timms	
Partington	Trombetta	(14)

Upon a recorded vote being taken on Option 4, with an amendment to the recommendation under Workplaces as noted, the Regional Chair declared the motion was defeated.

Following discussion, it was:

Moved by Councillor Beamer
Seconded by Councillor Andreychuk

That the recommendation under Workplaces and Restaurants in Option 4, be amended by adding the date, May, 2003, so that they read as follows:

100% smoke-free with serviced DSR (25%) by May, 2003.

Upon a recorded vote being requested on Option 4, with an amendment to the recommendation under Workplaces and Restaurants as noted, Council divided on the motion as follows:

Voting for the Motion

Bailey	Bentley
Forster	Hildreth
Thomson	Davidson
Eke	Konkle
Trombetta	Badawey
Adams	Beamer
Smeaton	Collins
Harry	Martin
Brickell	Saracino
Rigby	McMullan
Marshall	Timms
Partington	Redekop
Nicholson	(25)

Voting against the Motion

Andreychuk (1)

Upon the recorded vote being taken on Option 4, with an amendment to the recommendation under Workplaces and Restaurants as noted, the Regional Chair declared the motion was carried.

454. OPTION 4 – AMENDMENT TO BINGO HALLS

Moved by Councillor Beamer
Seconded by Councillor Badawey

That the recommendation under Bingo Halls in Option 4 be amended by changing 2002 to 2003, so that it reads as follows:

40% smoke-free with provisions for serviced DSR (60%) by May, 2003-
separate enclosures and May, 2004 – separate ventilation

Carried.

455. OPTION 4 – FURTHER AMENDMENT TO BARS

Moved by Councillor Marshall
Seconded by Councillor Andreychuk

That the recommendation under Bars in Option 4, be further amended with the percentage being changed from 25% to up to 50%, so that it now reads as follows:

100% smoke-free with provision for serviced DSR (up to 50%) by May, 2003 (no admittance under 19 years).

Given that the recommendation under Bars in Option 4 had previously been amended by a recorded tied vote, which was carried as a result of the affirmative vote of the Regional Chair, there was a question as to whether this further amendment was procedurally correct. The Regional Clerk ruled that since this further amendment was proposed at the same meeting, it did not constitute "Reconsideration" and was allowed.

Upon a recorded vote being requested on Option 4, with an amendment to the recommendation under Bars, as noted, Council divided on the motion as follows:

Voting for the Motion

Andreychuk	Partington	
Badawey	Redekop	
Beamer	Rigby	
Collins	Saracino	
Forster	Smeaton	
Marshall	Thomson	
Martin	Timms	
Nicholson	Trombetta	(16)

Voting against the Motion

Adams	Eke	
Bailey	Harry	
Bentley	Hildreth	
Brickell	Konkle	
Davidson	McMullan	(10)

Upon the recorded vote being taken on Option 4, with an amendment to the recommendation under Bars, as noted, the Regional Chair declared the motion was carried.

456.

EXTENSION OF CURFEW

Moved by Councillor Martin
Seconded by Councillor Collins

That the curfew for the meeting be extended to 11:45 p.m.

Carried by 2/3 of the Council members present.

457. OPTION 4 (continued) – AS AMENDED

Following discussion, it was:

Moved by Councillor Adams
Seconded by Councillor Thomson

That the question be put.

Carried.

Upon a recorded vote being requested on Option 4, as amended, Council divided on the motion as follows:

Voting for the Motion

Adams	Marshall
Andreychuk	Martin
Badawey	Nicholson
Bailey	Partington
Beamer	Redekop
Bentley	Rigby
Brickell	Saracino
Collins	Smeaton
Eke	Thomson
Forster	Timms
Harry	Trombetta
Hildreth	(23)

Voting against the Motion

Davidson	
Konkle	
McMullan	(3)

Upon a vote being taken on Option 4, as amended, the Regional Chair declared the motion, which now reads as follows, was carried.

That the following provisions be incorporated into a Smoke-Free Public Places and Workplaces By-law:

OPTION	WORKPLACES	RESTAURANTS	BARS	BINGO HALLS	RACETRACK/ CASINO
4 Amended BARco proposal	100% smoke-free with serviced DSR (25%) by May, 2003	100% smoke-free with serviced DSR (25%) by May, 2003	100% smoke-free with provision for a serviced DSR (up to 50%) by May, 2003 (No admission to DSR under 19 years)	40% smoke-free with provision for a serviced DSR (60%) with separate enclosure by May, 2003 and separate ventilation by May, 2004	No provision.

That the Regional Solicitor be directed to prepare a bylaw incorporating these provisions.

STAFF DIRECTION

Councillor Konkle requested that the approved motion be circulated to the Area Municipal Clerks on Friday, November 23, 2001.

ADJOURNMENT

The Council adjourned at 11:40 p.m.

Debbie M. Zimmerman
Regional Chair

Pam Gilroy
Assistant Clerk and
Supervisor Council Support

Thomas R. Hollick
Regional Clerk