

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**

BETWEEN:

MINNOW LAKE RESTORATION GROUP INC.

Applicant

and

CITY OF GREATER SUDBURY

Respondent

**RESPONDING APPLICATION RECORD**

Date: October 18, 2021

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Court File No. 670/21

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**MINNOW LAKE RESTORATION GROUP INC.**

Applicant

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**CITY OF GREATER SUDBURY**

Respondent

**AFFIDAVIT OF ERIC LABELLE  
(sworn October 13, 2021)**

I, Eric Labelle, of the City of Greater Sudbury, in the Province of Ontario, MAKE OATH  
AND SAY:

1. I am the City Solicitor and Clerk at the City of Greater Sudbury (the “**City**”). I have been in this role since 2017, and at the City since 2004. I therefore have knowledge of the matters to which I hereinafter depose. If my knowledge is not direct, but is based on information that I have obtained from others, then I have indicated the source of that information, and I believe it to be true.
  
2. The Applicant, Minnow Lake Restoration Group Inc. (“**Minnow Lake**”), has brought this application for judicial review of City of Greater Sudbury Council (“**Council**”) Resolution Number CC2021-227, which, among other things, directed City Staff to advance the work required to develop a combined arena and event centre (the “**Event Centre**”) to be built in the Kingsway area of the City, in accordance with an existing and previously approved cost sharing agreement between the City, Gateway Casinos & Entertainment Limited (“**Gateway**”), a casino operator and

the developer of the casino project, and 1916596 Ontario Ltd., the owner of lands slated for construction of the Event Centre. There is a long history to the Event Centre project, which I set out below.

### **Overview of the KED Development**

3. I understand that since 2010, City Council has discussed, debated and directed Staff to study and report on a plan and location for the development of new arena infrastructure within the City. Numerous reports, both from City Staff and City-retained consultants, have been completed and considered by Council. The City has engaged in multiple public consultations about the project. In 2017, after years of consideration and public debate, Council approved the location and development of the Event Centre at the east end of the City, outside of the downtown area, in an area known as “The Kingsway”. The landowner proposed to create a regional entertainment district around the Event Centre, with a hotel, as well as associated retail and parking, colloquially known as the Kingsway Entertainment District (the “**KED**”). Leading up to Council’s decision, Gateway announced that it intended to relocate the Sudbury OLG Slots casino to the KED.

4. Decisions to develop the Event Centre and casino at the Kingsway have been judicially and administratively reviewed on several occasions. In 2019, City resident Tom Fortin commenced an application in the Superior Court of Justice which challenged the legality of the by-laws which allowed for the development of the Event Centre and casino at the KED. The by-laws approved by the City -- which included an Official Plan Amendment and three Zoning By-law Amendments required to develop the casino, the Event Centre and a parking facility in the Kingsway -- were appealed to the Local Planning Appeal Tribunal (presently the Ontario Land Tribunal). Both Mr. Fortin’s application, and the appeals, were dismissed. These proceedings are briefly described below.

### Mr. Fortin's Challenge and the Court's Dismissal (September 4, 2020)

5. Mr. Fortin brought an application under section 273 of the *Municipal Act, 2001*, S.O. 2001, c. 25 to quash four by-laws adopted by the City under the *Planning Act*, R.S.O. 1990, c. P.13 ("**Planning Act**"). As noted above, the by-laws are planning instruments which permit the development of the Event Centre and a casino at the KED. Mr. Fortin alleged, among other things, that in approving the KED by-laws, Council was biased, improperly fettered and/or delegated its discretion, and acted in bad faith. He argued that approval of the KED by-laws constituted an error of law which rendered the by-laws null and void. Mr. Fortin also raised the issue of the economic impact of the selection of the Kingsway area for the Event Centre in the application.

6. On September 4, 2020, Regional Senior Justice Ellies issued Reasons for Decision in *Fortin v Sudbury (City)*, 2020 ONSC 5300 ("**Fortin**"). This decision laid out in detail the events leading up to Council's selection of the Kingsway as the location for the Event Centre in June 2017 and the subsequent passage of the KED by-laws at paragraphs 4 through 54 of the decision.

7. Ultimately, the Court dismissed Mr. Fortin's application to quash the KED by-laws on the basis that Mr. Fortin had neither established any statutory breach nor breach of common law procedural fairness in the process leading up to the passage of the KED by-laws.

8. In his Reasons for Decision, Regional Senior Justice Ellies found as follows:

[...] I am satisfied that the decision as to where the arena/event centre would be located was made after a careful study of the potential effects of locating it there, as part of a robust democratic process in which the members of City Council were legally entitled to hold a view on behalf of their constituents. Council did not suffer disqualifying bias in the Planning Act process that followed Council's decision simply because the City entered into agreements to develop the KED after that decision was made or because Council ultimately approved the City's Planning Act applications. The by-laws were passed following a process that complied with both the



letter and the spirit of the Planning Act, a process in which the applicant and other members of the public were given ample opportunity to persuade the Planning Committee and Council not to pass them. The fact that their efforts failed does not render the by-laws illegal.

9. Attached hereto as **Exhibit 1** is a copy of the *Fortin* decision.

**Project Now: Renovating Sudbury Community Arena (September to December 2020)**

10. Four days after the issuance of the *Fortin* decision, on September 8, 2020, Councillors McCausland and Signoretti presented a Motion at a Council meeting to study a complete renovation of the Sudbury Community Arena, the existing arena located in Downtown Sudbury, known as "Project Now". This Motion stemmed from a local architectural company's idea to renovate the existing Sudbury Community Arena in the downtown into a multi-function event centre at a lower cost than building a new multi-function event centre on the Kingsway. The renovation of the Sudbury Community Arena had previously been explored by the City in the years leading up to the selection of the Kingsway as the site for the Event Centre.

11. That Motion was further amended and ultimately voted upon on December 15, 2020. The amended Motion, in part, states:

THEREFORE BE IT RESOLVED that the City of Greater Sudbury Council instruct the City's Large Projects Steering Committee to evaluate the Project Now plan and report back to council in the form of a report focusing on answering four questions:

1. Will the Project Now plan result in a multi-function event centre suitable to the city's needs as prescribed in the 2017 PWC report?;
2. Are the timelines associated with the Project Now plan feasible?;
3. What implications, if any, does the Project Now plan present that address the City's ongoing plans to address downtown parking needs or the City's other Large Projects?;
4. Is the cost structure of the Project Now plan reasonable for developing a clear understanding about the level of financing required for the plan's full cost?

5. To identify whether the Project Now plan would be eligible for Federal and Provincial Funding programs for energy retrofits.

12. After a lengthy debate by Council, the Motion was defeated (6-6<sup>1</sup>). Attached hereto as **Exhibit 2** is a copy of the minutes of the December 15, 2020 Council meeting.

13. This Motion was reconsidered at the July 14, 2021 Council meeting as a result of technical difficulties that one member of Council stated he had experienced during his participation in the virtual Council meeting on December 15, 2020. The member of Council stated that he mistakenly thought he was voting on a deferral of the motion rather than the motion itself and voted “no” even though he intended to vote “yes” to the motion. The reconsideration of the Motion was voted upon and was defeated by a vote of 4-7 (with two Councillors absent).<sup>2</sup> Attached hereto as **Exhibit 3** is a copy of the minutes of the July 14, 2021 Council meeting.

14. This Motion sought to advance the study of an alternative to the decision of locating the Event Centre on the Kingsway that had been made by Council in 2017.

#### **Local Planning Appeal Tribunal Decision (December 23, 2020)**

15. As noted above, City Council had approved the planning instruments required to permit the KED development, the KED by-laws. Subsequent to the approval, a group of appellants including the Applicant, Minnow Lake, appealed the planning instruments to the Local Planning Appeal Tribunal pursuant to the *Planning Act* on the basis that the approved planning instruments were inconsistent with or did not conform to the applicable provincial and municipal plans.

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<sup>1</sup> The City's Procedure By-law (<https://www.greatersudbury.ca/city-hall/by-laws/by-law-pdfs-en/procedure-by-law/>) requires a majority vote in order to pass a matter, and that in the event of a tie vote, a motion is deemed to be lost, except where otherwise provided by statute.

<sup>2</sup> Pursuant to the City's Procedure By-law, a motion for reconsideration requires a two-thirds majority vote in order to be carried.

16. On December 23, 2020, the Tribunal issued a Decision and Order in Case Number PL180494 dismissing all of the appeals and upholding the City's approval of the planning instruments that would permit the KED development. In reaching its decision, the Tribunal cited and relied upon extensive evidence and oral submissions given by the parties to adjudicate the merits of the planning issues raised. Ultimately, the Tribunal found that the appellants' assertions were without merit and that the appellants had failed to establish that the approval of the planning instruments was contrary to the *Planning Act*.

17. Attached hereto as **Exhibit 4** is a copy of the Tribunal's decision.

#### **Council Received Updates on Status of Event Centre Project at KED (January 12, 2021)**

18. On January 12, 2021, City Staff presented an update on the status of the Event Centre project at the KED, reported on the outcome of the legal challenges to Council's planning approvals, and sought Council's direction on next steps. Council directed that City Staff report back at the February 9, 2021 Council meeting. Attached hereto as **Exhibit 5** is a copy of Staff's presentation to Council on January 12, 2021.

#### **Council Approved Scope of Work for Event Centre Project (February 9, 2021)**

19. On February 9, 2021, Council considered a Staff Report entitled Event Centre Update Report. The stated purpose of this report was to allow Council to approve the scope of work and terms of reference for a further report which would compile all of the available information associated with the KED project and, where necessary, provide updates based on events following Council's June 2017 decision to proceed with the project in the Kingsway location. Among other things, Staff recommended in the report that, given continued community interest, the review would include all information of two alternative previously identified locations for the Event Centre, including a renovation of the existing Sudbury Community Arena.

20. The following resolution was voted on and carried:

THAT the City of Greater Sudbury direct staff to review and compile the facts associated with the Event Centre Project and, where necessary, provide updated information based on events subsequent to Council's June 2017 decision to proceed with the project in accordance with the Terms of Reference described in this report;

AND THAT staff provide the compiled information in an information report at a Special Meeting of Council on June 16, 2021;

AND THAT the Executive Director of Strategic Initiatives, Communications and Citizen Services be delegated authority to procure the required professional services to complete the work, subject to an upset limit of \$125,000 from the Event Centre Project Budget and on a single source basis if required, outlined in the report entitled Event Centre Update Report as presented to Council on February 9, 2021.

21. Attached hereto respectively as **Exhibits 6, 7 and 8** are copies of the Staff Report dated February 9, 2021, minutes of the Council meeting and the resolution that was passed (CC2021-43) in respect of the Event Centre project.

**Event Centre Project Update Report prepared by PwC / IMA / WT Partnership (June 2021)**

22. City Staff's Event Centre Update Report dated June 16, 2021, was prepared in response to Council directions on February 9, 2021 to provide Council with updated information regarding the Event Centre project. I describe the contents of the Staff Report in the following paragraphs.

23. As set out in the Staff Report, Staff were directed to address the following two questions: (1) since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different?; and (2) since 2017, and especially considering the effects of the COVID-19 virus, have there been any changes in the operating environment that would affect the project's success?

24. The Staff Report stated that the scope of the work undertaken included a review of three different approaches to the project previously considered by Council, namely: (1) new construction on the current, approved site on the Kingsway using property that was now owned by the City; (2) new construction on the Shaughnessy-Minto block, which would require land acquisition/assembly; and (3) a renovation of the existing Sudbury Community Arena.

25. The Staff Report provided a summary of, and attached the updated report to reports that were previously prepared by the consultant hired to advise Council with respect to the location of the project, PricewaterhouseCoopers Real Estate Inc. (“**PwC**”). PwC’s updated report was entitled Sudbury Events Centre Update Report (June 2021). The PwC report included the Assessment Study for the Expansion of the Sudbury Community Arena prepared by Ian McKay Architect Inc. and WT Partnership (May 31, 2021) and the Renovation & Expansion Program Cost Plan R1 prepared by WT Partnership (May 24, 2021) (collectively, the “**PwC Update Report**”).

26. The PwC Update Report included a summary and update of PwC’s previous report, a detailed assessment of the requirements, costs and anticipated benefits associated with refurbishing the Sudbury Community Arena, a comparative risk assessment, an economic impact benefits analysis for each of the three sites, and the anticipated impact on the project of COVID-19.

27. The Staff Report highlights key findings of the PwC Update Report, including the following:

- New aspects of the current, approved Kingsway site makes it the approach that offers the highest economic benefits and the lowest cost;
- Agreements now in place between the City, Gateway Casinos and the hotel developer that did not exist in 2017 offer the highest direct financial returns;
- The proposed operating model for a new Event Centre requires a lower annual operating subsidy than a remodeled Event Centre, and offers more flexibility for hosting more events;

- A remodeled Event Centre can be produced, but at a higher total cost and with a higher annual operating subsidy. It would not be able to offer the same range of events or visitor experience as a new Event Centre. Development of this option would also be complicated by a reduction in events and potential relocation of the Sudbury Wolves and Sudbury 5 for two seasons at additional expense to the project;
- A new Event Centre presents a more favorable risk profile than remodeling the existing Event Centre. From a cost and timing perspective, the Kingsway location presents the lowest risk;
- Direct financial benefits to the City are highest with the Kingsway location; expected direct revenue of \$4.264M through increased assessment and 1,600 jobs; and
- [...] The economic analysis conducted by PwC, and reflected in the attached report, includes defined and known projects in the Downtown and Kingsway locations and other nearby development. It describes the direct benefits that would accrue to the City of Greater Sudbury and the local community. [...]

28. The Staff Report presented the following updated costs estimates for the three locations, with a new arena on the Kingsway estimated to have the lowest projected costs in 2021:

	Modernized SCA 2021	Kingsway		Downtown	
		2017	2021	2017	2021
Facility Development Cost	\$115.4M to \$118.6M	\$80M	\$87M to \$92.8M	\$80M	\$87M to \$92.8M
Land, Site Development and Off-site Improvement	\$10M+ Note 1	\$15M to \$20M	\$17.4M to \$23.2M Note 2	\$15M to \$20M	\$17.9M to \$23.7M Note 3
Festival Square and Other Site Ancillary Items	Not Included	Included	Included	Not Included	Not Included
Parking	Not Included	Included	Included	Not Included	Not Included
<b>Total</b>	<b>\$125.4M to \$128.6M</b>	<b>\$98.3M</b>	<b>\$113.8M</b>	<b>\$99.6M</b>	<b>\$115.8M</b>

29. Specifically, regarding the current development status of the casino and hotel at the KED, the PwC Update Report noted that:

- The owner of the Kingsway Site has continued to advance plans for the construction of a hotel on the Kingsway Site, including obtaining expressions of interest from hospitality companies to “flag” / “brand” the hotel, as well as an expression of interest from a prospective hotel operator / investor. Per discussions

with the hospitality entity, their view of the project in 2017/18 was that it was a “good / interesting project”; their current viewpoint is that the project is “even more compelling” today.

- Based on discussions with Gateway, our understanding is that Gateway remains supportive of the overall Kingsway Entertainment District project and have written the City indicating their continued excitement to be a part of the overall development.

30. Attached hereto respectively as **Exhibits 9** and **10** are copies of the Staff Report and the PwC Update Report.

#### **Additional Context to PwC Update Report provided from Staff to Council (June 13, 2021)**

31. On June 13, 2021, three days prior to the Special Meeting of Council, Ian Wood, the City’s Executive Director of Strategic Initiatives and Citizen Services, circulated an email to the Mayor and Members of Council in advance of the Special Meeting on June 16, 2021. Mr. Wood indicated in his email that its purpose was to provide additional context to the Event Centre Update Report, and to respond to questions raised by Members of Council and in the local media.

32. In this email, Mr. Wood covered various topics including: A. Council Direction and Basis for the Report; B. Economic Impact; C. “The Roaring 20s”; D. Federal Funding Opportunities; E. KED Hotel Meeting Facilities; F. Parking; G. Community Energy and Emissions Plan (“**CEEP**”); H. Alternate Casino Site; and, I. Binding Commitment of Partners.

33. With respect to the review of a potential renovation of the Sudbury Community Arena, Mr. Wood clarified that “there was no direction from Council to undertake a detailed evaluation of [Project Now]” and as such the “latest evaluation reflects an approach to renovating the existing arena that would result in a building and visitor experience that is as close as possible to the proposed new building approved in 2017 and to identify shortcomings, if any.”

34. As set out above, in December 2020, Council considered the Project Now proposal, but voted against exploring the proposal further by a vote of 6-6.

35. With respect to economic impact, Mr. Wood stated that while the PwC Update Report did not include a full analysis on economic impact, the report did provide information and numbers on event centre projects in other cities, and on recent development activity in the downtown and in the Kingsway area. Mr. Wood noted that economic impact analysis, which is no longer performed by PwC, ultimately relies on subjective assessments and assumptions open to interpretation. Mr. Wood then goes on to comment on the various impacts that a renovation of the Sudbury Community Arena or construction of the new Event Centre as part of the KED at the Kingsway would have. Mr. Wood writes that while PwC did not specifically address the impact of a restored Sudbury Community Arena, PwC did comment that a restored arena would generate fewer events than the new Event Centre. A recent (2019) City-initiated study of development interest in the downtown related to the Junction West project, a multi-purpose and live performance facility, stated that there was little foot traffic in the downtown area after businesses closed and on weekends, despite the Sudbury Community Arena being operational at this time. Mr. Wood concluded that accordingly it could be inferred from that 2019 study, that a modernized arena in the downtown would have little to no beneficial economic impact in that area.

36. Mr. Wood commented on the potential for federal funding associated with green infrastructure renewal. He noted that, although not included in the report, Staff have explored the potential for assistance from federal green infrastructure programs, including programs through the Canada Infrastructure Bank, and have concluded that federal funding is not available to buildings that are used for professional sports teams.

37. With respect to how the three sites considered in the PwC Update Report aligned with the CEEP, Mr. Wood answered questions pertaining to the building and construction of the project



itself, as well as pertaining to transportation and transit considerations aimed at lowering carbon emissions in that area. With respect to building construction, Mr. Wood stated that since that “Council has not made a decision on the repurposing or reuse of the Sudbury Community Arena site, and therefore an analysis on the GHG emissions cannot be undertaken.” On the second question, Mr. Wood explained that the 2017 Traffic Operational Assessment for the Greater Sudbury Arena (prepared by an external consultant) remains valid and sets out how each site aligns with the CEEP.

38. Lastly, regarding the binding commitment of partners to develop a casino and hotel at the KED, Mr. Wood indicated:

- Although staff have not received any additional details, we are aware that a hotel consultant was retained in recent months by [the landowner of the KED] to update a feasibility study on the hotel and associated meeting facilities. Council will recall that, at the request of the [City], [the owner] agreed to make reasonable efforts to secure additional amenities at the Kingsway site, including the casino. This obligation was written into the land purchase agreement reflected in the staff report to the June [sic] is contractually obligated to deliver a “Conference Centre” and other amenities within 5 years of the execution of the City’s purchase agreement or pay liquidated damages to the City of Greater Sudbury each year from that point forward.
- All parties are bound by the cost-sharing agreement which came into effect in January 2019. All members of Council received the complete document from Ms. Gravelle on January 17, 2019. [...] This agreement is legally binding and remains in effect. It indicates that the parties will agree on a schedule of when to begin the site alteration work and, from that point forward, obligates each to pay their full share of the costs.

39. Attached hereto as **Exhibit 11** is a copy of Mr. Wood’s email dated June 13, 2021.

### **Council Discussed and Debated PwC Update Report on Event Centre (June 16, 2021)**

40. On June 16, 2021, Council held a Special Meeting to discuss the PwC Update Report. Ron Bidulka and Conrad Boychuk, authors of the PwC Update Report, presented to Council, highlighting the key findings of the report. At the conclusion of the presentations, Council was given an opportunity to ask questions.

41. The discussion at this Special Meeting lasted for over four hours. Every member of Council had an opportunity to speak, comment on or ask questions about the PwC Update Report. Topics that were discussed at the Special Meeting included: comparable arena/event centre development sites in Canada and their economic outcome, economic impact of and current market conditions for an arena/event centre, casino and hotel development in the KED and the downtown, effect of COVID-19 on the KED development, the data and assumptions on which the PwC Update Report based its conclusions, projected costs of a renovated arena in comparison with building a new arena, potential hotel investors and operators for the site, among others.

42. Mr. Bidulka had an opportunity to expand on the market condition for a hotel and casino development in the KED when asked. He noted that PwC have had conversations with two hotel businesses and both commented that the market for a hotel is even stronger today than a few years ago due to the “critical mass of uses” that is now permitted at the KED. He also noted that there was a market study completed that corroborates those comments. He concluded that his sense is the hotel industry is ready and willing to invest in the KED. Regarding the casino, Mr. Bidulka noted that Gateway provided a letter to Council in February 2021 indicating their commitment to the project and wanted their name specifically referenced in the PwC Update Report, which Mr. Bidulka infers is an indication of their commitment to the project. Attached hereto as **Exhibit 12** is a copy of Gateway's letter to the City.

43. Some members of Council voiced their disappointment with the outcome of the PwC Update Report. One such criticism was about the lack of information on eligibility for federal grants and funding for the arena. On that point, Mr. Wood clarified at the meeting that City Staff had enquired with provincial and federal departments and agencies about the possibility for funding and would follow up with Council.

44. Other members of Council praised the outcome of the PwC Update Report, remarking that the report appropriately addressed Council's earlier directions. Some councillors indicated that their constituents were frustrated by the delays of the progress of the KED development and hoped to "get a shovel in the ground".

45. At the conclusion of the June 16 Special Meeting, Council passed a resolution (CC2021-190) in respect of the Staff Event Centre Update Report which stated "THAT the discussion on the Event Centre Information matter be considered completed." The resolution was carried by a vote of 7-6.

46. Attached hereto respectively as **Exhibits 13** and **14** are copies of the minutes of the Special Meeting of Council and the resolution that was passed (CC2021-190).

#### **Council Defeated Motions for Further Reports on Event Centre (June 29, 2021)**

47. As is customary and permitted pursuant to the City's Procedure By-law, members of Council may request information or reports from City Staff. Where the preparation of the information or reports will require more than two hours of Staff time, the request must receive the consent of the majority of members of Council present on any motion in respect of the request.

48. At the June 29, 2021 City Council meeting Councillor McCausland brought forward two Motions requesting information and reports related to the Event Centre project (they are reproduced below). Before the vote was called, each member of Council had an opportunity to speak on the Motions. It was clear that some members were against, while others were in support of the Motions. Attached hereto as **Exhibit 15** is a copy of a transcript of Council's discussion on these two Motions.

49. The first Motion (moved by Councillor McCausland and seconded by Councillor Signoretti) was in respect of modernizing the Sudbury Community Arena and stated:

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

- Retains the required elements for the facility to serve as a contemporary sports venue for professional league play, an event centre that hosts paid performances such as concerts, trade shows and other similar community events and a community space available for year-round rental.
- Delivers a financing plan that requires no more than 70% of the anticipated construction cost required for a new event centre and a five-year operating cost forecast that supports comparisons with a new event centre's operation.
- Clearly describes the changes needed to either the facility's required elements and/or the financing plan to produce a solution that effectively meets functionality and cost expectations

50. The second Motion (moved by Councillor McCausland and seconded by Councillor Montpellier) was in respect of providing further information related to the new event centre and stated:

THAT staff produce a report that provides additional, detailed information to enhance Council's understanding of issues related to the construction of a new Event Centre which includes, for each Event Centre development approach, the following:

- An economic impact analysis completed by a suitable third party that includes projections of the potential direct and indirect financial implications for the whole community related to employment, productivity, competitiveness and operating costs;
- An analysis of the alignment with all CEEP goals;
- Further analysis of senior government funding opportunities;
- Further analysis of transit implications, with an emphasis on projected costs and ability to provide equitable access;
- An assessment, based on a review of public consultation already completed for the project, of the ability each approach has for meeting public expectations regarding desired amenities surrounding the Event Centre.

AND THAT funding for the economic impact analysis be provided in an amount not to exceed the available funds in the existing project budget.

51. Both Motions were defeated by votes of 7-6.

52. Attached hereto respectively as **Exhibits 16** and **17** are copies of the minutes of the Council meeting and the resolutions that were defeated (CC2021-210 and CC2021-211).

**Council Approved Next Steps for Event Centre Project at KED (July 14, 2021)**

53. At the July 14, 2021 City Council Meeting, a Staff Report regarding next steps for, and the status of the Event Centre project at the KED, were presented to Council. A recommendation for procurement of professional services to advance the project in a timely manner was also provided for Council's consideration.

54. Further to the Staff Report, Council considered the following resolution:

THAT staff proceed to advance the work required to develop the Event Centre without further delay in accordance with the existing, approved Cost Sharing Agreement, a project schedule that produces a facility which is ready for use in 2024, and regular progress reporting to City Council;

AND THAT the Executive Director of Communications, Strategic Initiatives and Citizen Service be delegated authority to negotiate, execute and subsequently amend or extend any agreements to produce the work required for delivering the Event Centre Project in 2024, subject to Council's approval of the following three decision points:

- a) Confirmation of the site preparation contract, including the commencement date established with the site development partners
- b) Confirmation of the Venue Operator
- c) Confirmation of final budget based on the result of the Design/Build Request for Proposals

55. The resolution was carried by a vote of 8-3 (with two Councillors absent). Attached hereto respectively as **Exhibits 18, 19 and 20** are copies of the Staff Report, the resolution that was carried (CC2021-227), and a copy of a transcript of Council's discussion on the resolution. Minutes of the July 14, 2021 Council meeting were previously attached as Exhibit 3.

56. At the June 16, June 29 and July 14, 2021 Special Council and Council meetings, no community delegations made requests to be heard on the Event Centre project.

57. On August 17, 2021, By-law 2021-153 to implement Resolution No. CC2021-227, being a By-law to delegate certain authority regarding development of entertainment district and event centre/arena, was adopted by Council. Attached hereto respectively as **Exhibits 21** and **22** are copies of the minutes of the August 17, 2021 Council meeting and By-law 2021-153.

### **Minnow Lake's Challenge and the City's Request for Particulars**

58. On August 13, 2021, Minnow Lake served a Notice of Application for Judicial Review on the City. Subsequently, on September 17, 2021, Minnow Lake served the Application Record containing the Notice of Application and excerpts of transcripts from some of the above-noted City Council meetings.

59. The Applicant seeks a declaration that the resolution of City Council of July 14, 2021 (CC2021-227), pertaining to the Event Centre is of no force and effect. The Applicant does not appear to challenge the corresponding By-law, By-law 2021-153.

60. I am advised by Danielle Muise, who is one of the lawyers at Aird & Berlis LLP with carriage of this matter, that Ms. Muise wrote to the Applicant's lawyers and requests particulars of the issues raised in the Application, as the particulars of the matters in dispute were not evident upon review of the Application Record. In response counsel for the Applicant, Eric Gillespie, wrote on September 21, 2021 that specifically the Applicant alleges that the City failed to comply with the rules of procedural fairness by failing to provide "additional information that was to be provided to Council prior to the vote that occurred on July 14, 2021." Mr. Gillespie specified that the alleged missing information "included an analysis of previously available materials, as well as consideration of the City's Climate Emergency [*sic*] and Emissions Plan ("CEEP"), an economic impact analysis, the identity of the proposed owner of the on-site hotel and the financial situation of Gateway the proposed casino operator." The Applicant further alleges that this information, if available, "would likely have affected the result." No further particulars have been provided.

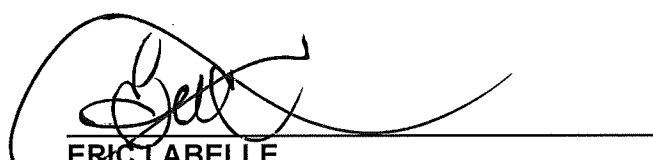
Attached hereto as **Exhibit 23** is a copy of the correspondence from Mr. Gillespie responding to the City's request for particulars.

61. I am further advised by Ms. Muise that Mr. Gillespie has indicated that the Applicant does not intend to file any affidavit in support of the Application and will rely on the excerpts of transcripts that were attached to the Application Record as documentary evidence.

62. I make this affidavit to state the facts herein and for no improper purposes.

**SWORN BEFORE ME** at the City of )  
 Greater Sudbury, this 13<sup>th</sup> day of October, )  
 2021. )

  
 Commissioner for taking affidavits

  
 \_\_\_\_\_  
**ERIC LABELLE**

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.  
 46097082.8

Attached is Exhibit "1"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.



**CITATION:** Fortin v. Sudbury (City), 2020 ONSC 5300

**COURT FILE NO.:** CV-19-8313-00

**DATE:** 2020/09/04

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

<b>BETWEEN:</b>	)	
	)	
TOM FORTIN	)	<i>G. Petch and S. Fleming, for the Applicant</i>
	)	
Applicant	)	
	)	
<b>– and –</b>	)	
	)	
	)	
CITY OF GREATER SUDBURY	)	<i>T. Halinski, C. V. Raphael and D. Muise, for</i>
	)	<i>the Respondent</i>
Respondent	)	
	)	
	)	
<b>– and –</b>	)	
	)	
	)	
GATEWAY CASINOS &	)	
ENTERTAINMENT LIMITED	)	<i>R. B. Swan, A. Jeanrie and I. W. Thompson,</i>
	)	<i>for the Intervenor</i>
Intervenor	)	
	)	<b>HEARD:</b> June 29 and 30, 2020

2020 ONSC 5300 (CanLII)

**REASONS FOR DECISION**

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**Ellies R.S.J.**

## **OVERVIEW**

- [1] The applicant, Tom Fortin, applies under s. 273 of the *Municipal Act, 2001* to quash four by-laws adopted by the City of Greater Sudbury (“the City”) under the *Planning Act*, R.S.O. 1990, c. P.13. The by-laws permit the development of an arena/event centre and a casino outside of Sudbury’s downtown area, at a location now known as the “Kingsway Entertainment District” (the “KED”).
- [2] The applicant contends that the by-laws were passed following a flawed process, by a biased City Council, in bad faith.
- [3] These reasons explain why the applicant has failed to persuade me that any of these things are true. To the contrary, I am satisfied that the decision as to where the arena/event centre would be located was made after a careful study of the potential effects of locating it there, as part of a robust democratic process in which the members of City Council were legally entitled to hold a view on behalf of their constituents. Council did not suffer disqualifying bias in the *Planning Act* process that followed Council’s decision simply because the City entered into agreements to develop the KED after that decision was made or because Council ultimately approved the City’s *Planning Act* applications. The by-laws were passed following a process that complied with both the letter and the spirit of the *Planning Act*, a process in which the applicant and other members of the public were given ample opportunity to persuade the Planning Committee and Council not to pass them. The fact that their efforts failed does not render the by-laws illegal.

## **FACTS**

- [4] The events leading up to this application involve the histories of two separate facilities whose paths converged at a Council meeting held on June 27, 2017. It was at that meeting that Council determined that a new arena/event centre to be built by the City should be located on the same site as a new casino to be built by the intervenor, Gateway Casinos & Entertainment Limited (“Gateway”). The site is at the east end of the City, outside of the downtown area, in an area known as “The Kingsway”. The site is owned by 1916596 Ontario Ltd. (“191”), a company controlled by Dario Zulich, the owner of Sudbury’s Ontario Hockey League team, the Sudbury Wolves.
- [5] As the parties did in their materials, I will begin with the history of the casino.

### **The Casino**

- [6] Prior to 2012, gaming in the City had been conducted at a racetrack called “Sudbury Downs”, located in the former town of Rayside Balfour. On March 12, 2012, the Ontario Lottery and Gaming Corporation (“OLG”) set out a plan to modernize and privatize the operations of certain lottery and gaming facilities in Ontario (the “Modernization Plan”). As part of the Modernization Plan, OLG identified “Gaming Zones” within the province, in which a single gaming facility could be located. Gaming Zones, in turn, were organized

into “Gaming Bundles”, each of which could be bid upon by private sector organizations. One of those Gaming Bundles was the “Northern Gaming Bundle”, which included Gaming Zones in Sudbury, Sault Ste. Marie, North Bay, Thunder Bay, and Kenora.

- [7] After the release of OLG’s Modernization Plan in March 2012, Council unanimously passed a resolution at a meeting held on May 15, 2012 that the City would continue to support gaming and would continue to be a willing host for gaming as it evolved (the “Willing Host” resolution).
- [8] A few days later, OLG began a process by which it would determine who would be eligible to bid on the establishment of a casino with 600 slots and table games in Sudbury. As part of that process, the City was required to provide OLG with information on a possible site for the casino. City staff contacted 14 interested parties, who predominantly favoured one of four sites for the new casino: Four Corners, Kingsway East, Downtown Sudbury, and the existing Sudbury Downs location. In order to consider all of these sites, the City asked OLG to extend the boundaries of the Sudbury Gaming Zone to include the Kingsway area, which includes what ultimately became the KED.
- [9] On June 1, 2012, a new regulation concerning gaming came into effect. Ontario Regulation 81/12 made under the *Ontario Lottery and Gaming Corporation Act, 1999*, S.O. 1999, c. 12 requires that, before OLG can authorize a gaming site, it must ensure that a municipality has sought “public input into the establishment of the proposed gaming site and...passes a resolution supporting the establishment of the gaming site in the municipality” (: s. 2.(2), para. 3.).
- [10] On August 14, 2012, Council passed a resolution directing City staff to initiate an open house information session to seek public input into the four locations identified by staff as possible sites for the casino. In the resolution, Council welcomed the results of OLG’s modernization initiative, committed to working with the successful proponent, and encouraged gaming proponents to “maximize benefits to the community by identifying and developing opportunities for ancillary and complementary amenities as part of their proposal”.
- [11] As part of the City’s efforts to attract and educate gaming proponents, City staff prepared an investment document entitled “City of Greater Sudbury Casino Opportunity”, in which proponents were provided with information about the City, in general, and about the four potential casino sites, in particular.
- [12] As directed by Council, City staff also held an open house on October 10, 2012. The event was widely advertised in advance and citizens were asked to complete an on-line survey in which they answered questions relating mainly to the design of the new casino. However, the survey included a question asking whether the casino should be located in an urban or a rural setting and one asking respondents to note “anything else that [they] would like to share regarding the future of gaming in Greater Sudbury”. The survey was completed by 466 respondents.
- [13] An analysis of the survey results prepared by City staff was presented to Council on February 26, 2013. It showed that a majority of those who responded preferred to locate the casino where gambling was already permitted, namely at Sudbury Downs. Based on

the responses obtained regarding possible complementary amenities, Council unanimously passed a resolution requiring gaming proponents “to maximize economic opportunities to the community by working with local groups to develop ancillary and complementary amenities” including, but not limited to “a hotel, a convention or multi-use centre, a performing arts centre and/or an Ontario Hockey League-ready arena”. The resolution also reaffirmed Council’s commitment to developing the casino at one of the four sites referred to above.

- [14] It is important to note that neither this resolution nor the Willing Host resolution are the subject of these proceedings. There is no evidence that either has ever been challenged. Further, in the years since the Willing Host resolution was passed, no councillor has ever put forward a motion to change the City’s official position.
- [15] In January 2015, OLG wrote to the City to confirm that the requirements of O. Reg. 81/12 had been satisfied. In November 2015, OLG issued a Request for Proposals from the proponents it had selected through a pre-qualification process. On December 13, 2016, OLG announced that Gateway had been chosen as the Northern Gaming Bundle service provider. On May 30, 2017, Gateway took over operations of the slots at the former Sudbury Downs (now “Gateway Casinos Sudbury”). On June 13, 2017, Gateway announced that it had signed a letter of intent with 191 to relocate the Sudbury Downs to the KED.
- [16] That was the state of affairs as they related to the casino as the question of the location of the arena/event centre was about to be determined by Council at a meeting scheduled for June 27, 2017.

### **The Arena/Event Centre**

- [17] In April 2010, the City began to consider whether to renovate existing arenas or to construct new ones. The arenas under consideration included the Sudbury Community Arena, home to the Sudbury Wolves, which is located in downtown Sudbury. To assist in Council’s decision-making, the City retained a third-party consultant, Coldwell Banker Richard Ellis (“CBRE”), to prepare a report on the alternatives available to Council. The CBRE report, presented to Council on March 31, 2015, showed that the cost of renovating the Sudbury Community Arena, which had been built in 1951, was significant.
- [18] In the years leading up to the CBRE report, the City sought to develop a plan to revitalize the downtown area. In 2012, the Greater Sudbury Development Corporation (the “GSDC”), the City’s economic development arm, completed the “Downtown Sudbury Master Plan and Action Strategy” (the “DTMP”). The DTMP set out a vision for Sudbury’s downtown area and identified over 50 projects that would fulfill that vision.
- [19] Shortly after the CBRE report was delivered, the City began to solicit input from the public and from private stakeholders for “large projects” that would serve to revitalize areas of the city, including the downtown area. A public input session was held on November 27, 2015, in which 16 such projects were presented to Council. One of those projects included a 6,000 seat sports and entertainment complex located in the Kingsway area, presented by the True North Strong Group, a group of which Zulich was a member. Following the session, City staff undertook an analysis and prepared a report entitled

“Summary and Analysis Report on Large Projects at Public Input Meeting of November 27, 2015” (the “Large Projects Report”).

- [20] On April 26, 2016, Council endorsed four of the large projects: a convention and performance centre, a combined art gallery and library, a multi-use arts and cultural centre (“Place des Arts”), and an arena/event centre. At that same meeting, Council recognized the possibility of additional, complementary, uses to the large projects (such as a hotel) and the possibility of the City partnering with the builders of the new casino to develop these projects.
- [21] There appears to have been no question that three of the large projects approved by Council were to be located in the downtown area. The exception was the arena/event centre. With respect to the location of that large project, Council resolved to hire a consultant to advise it. On July 12, 2016, PricewaterhouseCoopers Real Estate Inc. (“PWC”) was retained for that purpose.
- [22] On February 21, 2017, PWC delivered the first of two reports to Council. In the February report, PWC recommended the creation of a “Site Evaluation Matrix” to assist in selecting a site for the arena/event centre. PWC provided a draft matrix in its report, which listed eight main criteria:
- vision
  - complementary benefits
  - ease of development
  - access
  - parking
  - cost impact
  - economic impact; and
  - city-building
- [23] PWC recommended that “[p]rior to embarking on any locational assessment [the] City agree to the individual weights assigned to each respective criteria and sub-criteria.”
- [24] On March 7, 2017, Council approved both the site evaluation criteria and the weight assigned to each of them by PWC in its report. However, according to a City staff report dated March 29, 2017, following that meeting:
- ... comments by several councilors (*sic*) indicated an expectation to further review and perhaps adjust elements of [the Site Evaluation Matrix]. Specifically, there was some interest in confirming the scope of each evaluation category and the relative weight all categories had on the overall evaluation result.
- [25] Accordingly, at a meeting held on April 11, 2017, Council considered four different options prepared by City staff. Ultimately, Council chose an option that ranked cost, economic impact, and parking of highest importance, with complementary benefits, access, and ease of development of next highest importance, followed by vision and city-building.

- [26] PWC completed its second report, entitled “Greater Sudbury Event Centre Site Evaluation”, in June 2017. As explained in the report, an “Event Centre Site Evaluation Team” comprised of a group of individuals drawn from the City’s Economic Development, Planning, Engineering, and Real Estate departments, together with third parties including architects, PWC, and a special advisor to the City’s CAO, reviewed 23 potential sites for the arena/event centre, based on the priorities set by Council. The team eventually narrowed the group of potential sites down to four: a 19.2 acre site on MacIsaac Drive, a 22 acre site on Algonquin Road, a 23.2 acre site on the Kingsway, and a 3.5 acre site downtown, adjacent to the existing Sudbury Community Arena.
- [27] Using the matrix decided upon by Council at its April 11 meeting, the report concluded that the downtown site ranked highest overall, followed by the Kingsway site, the MacIsaac Drive site, and the Algonquin Road site, in that order. Notably, in terms of the criteria that were deemed by Council to be of the highest importance, the Kingsway site ranked highest overall. Although the authors of the report ultimately recommended the downtown site, they wrote of the Kingsway site:

While ranking second, the Kingsway Site scored high and would constitute a viable location.

### ***The Option Agreements***

- [28] Following the identification of the four potential sites for the arena/event centre, City staff began negotiating agreements giving the City the option to purchase the lands in question. By June 23, 2017, staff had succeeded at negotiating seven option agreements with respect to the four sites (the downtown site required more than one agreement). Each of these agreements was expressly conditional upon the approval of Council and would not be binding unless approved by a by-law. Four of the seven agreements, including the Kingsway site option agreement (the “Kingsway option agreement”), permitted the City to apply to rezone the property to meet the City’s intended use.

### **The June 27, 2017 Council Meeting**

- [29] The second PWC report was presented to Council at a public meeting held on June 27, 2017. During the presentation, Council members were given an opportunity to ask questions of both PWC and City staff. Following the presentation, many of the Council members made statements in which they explained why they intended to vote a certain way.
- [30] Council was then asked to vote on two potential resolutions. The first was a resolution to locate the arena/event centre at the downtown site. That resolution failed because the vote was tied at 6-6.
- [31] The second was a resolution to locate the arena/event centre at the Kingsway site. Before the resolution was read, the Mayor proposed that it be amended to require certain guarantees by the True North Strong Group (191) to build additional facilities at the site, including a casino, a resort, a motorsport park, and a conference centre. Following further debate, the motion to amend was defeated 7-4. After the motion was defeated, Council was asked to vote on the second resolution as it had been originally drafted. The

resolution to locate the arena/event centre at the Kingsway site passed by a margin of 10-2.

- [32] At the same meeting, Council then passed a resolution authorizing the City to execute the option agreement on the Kingsway site and to provide up to \$100 million from various reserve funds to build the arena/event centre. The City exercised the option to purchase the Kingsway site on January 14, 2019.

### **Collaboration on Development of the KED**

- [33] Following the selection of the Kingsway site, discussions began between Gateway, 191, and the City regarding development of the site. On August 22, 2017, Council resolved to invest in the creation of a Site Design Strategy in collaboration with Gateway and 191, to take advantage of the economies available in developing several facilities at the same time. Council authorized City staff to retain a firm of architects, Cumulus Architects Inc. (“Cumulus”), to develop the strategy.
- [34] Both before and after the August 22 meeting, the City entered into agreements with 191 and with Gateway relating to the development of the KED. The first was a “Servicing, Contribution and Road Transfer Agreement” (a “servicing agreement”), which was appended to the Kingsway option agreement dated June 8, 2017. This agreement provided that the City would be responsible for up to \$1,000,000 for roads and servicing.
- [35] Later, the City entered into three further cost contribution agreements: one in January 2018, another in May 2018, and another in January 2019. Like the Kingsway option agreement, all of these agreements were subject to approvals being obtained under the *Planning Act*, and all of them could be terminated if the City determined that it would not be proceeding with the arena/event centre.

### **Public Consultation on the Design of the KED**

- [36] At the same time as it was collaborating with Gateway and 191 regarding development of the KED, the City began a process of public consultation to obtain the views of Sudbury citizens on how the finished product should look. This process occurred in two phases.
- [37] In the first, two “walk-through” open-house sessions were held in September 2017. Displays had been set up and representatives of Gateway, 191, and Cumulus were present to explain the project, record comments, and answer questions. The first phase also involved an online survey. Between September 20 and October 4, 2017, the survey garnered 227 individual responses.
- [38] City staff presented a Draft Site Design at a public meeting of Council on November 1, 2017, which included information on the public input obtained to that point.
- [39] In the second phase of consultation, 18 open houses were held over five days in November 2017 to present the Draft Site Design. Another online survey was also available, with respect to which approximately 500 citizens responded. Using the feedback obtained in this second phase, a Final Site Design was prepared and presented to Council at a public meeting held on November 22, 2017. Council passed a resolution that evening to approve the Final Site Design as presented.



### **The *Planning Act* Approvals**

- [40] At its August 22, 2017 meeting, Council also authorized City staff to submit a rezoning application, with the consent of 191, to allow a “public arena” as a permitted use at the Kingsway site. A third party, Dillon Consulting Limited (“Dillon”), was retained to provide land use planning advice and to submit applications on behalf of the City, Gateway, and 191 to permit the uses contemplated by each, including overflow parking, at the KED. In due course, Dillon submitted applications:
- (a) for an official plan amendment and zoning by-law amendment to permit the development of a place of amusement in the form of a casino on certain of the KED lands (the “casino application”) on behalf of Gateway;
  - (b) for a zoning by-law amendment to permit the development of a “community recreation centre” in the form of a public arena (the “arena application”) on behalf of the City on certain of the KED lands (a private arena was already a permitted use); and
  - (c) for a zoning by-law amendment to permit a “parking lot” as a principal use on certain of the KED lands (the “parking lot application”) on behalf of 191.
- [41] No application was necessary to permit the planned construction by 191 of a hotel on the site because 191 had successfully applied to rezone the Kingsway site in September 2014 to accommodate, among other things, a hotel.
- [42] In accordance with the *Planning Act*, the applications were submitted to the City’s Planning Services department. As required by that Act, the City declared the casino and arena applications complete in December 2017 and the parking lot application complete in January 2018. The City published Notices of Complete Applications in two local newspapers. The Notices invited anyone wishing to comment on the application to write to Planning Services. A notice published in December 2017 advised that further information was available through Planning Services and provided contact information for anyone wishing it.
- [43] In addition to providing the public with an opportunity to comment in writing, the City provided two other opportunities for citizens to provide input in person during the planning approval process. Since 2007, the City has followed a two-stage public meeting process for larger *Planning Act* applications such as those involved in this case. The first is a “pre-hearing”, designed to provide information to stakeholders and members of the public and to obtain information from them.
- [44] The pre-hearing with respect to these applications was held on January 22, 2018. During that meeting, the Planning Committee heard from a considerable number of people, many of whom opposed the rezoning and official plan amendments being sought. The Minutes show that no one who wanted to say something was denied that opportunity.
- [45] After hearing from members of the public, the committee resolved that the submissions be received by the committee (meaning “accepted”), that City staff complete their review of the applications, and that a further public meeting be scheduled when that review was complete.

- [46] The second public hearing before the Planning Committee took place on March 26, 2018. That hearing was restricted to the casino application. Prior to the hearing, the applicant had retained his own planning experts, urbanMetrics. urbanMetrics prepared a report dated March 12, 2018, which was received by the Planning Department after their reports were completed, but before the March 26 meeting. The report was provided to the Planning Committee before the meeting convened. Not surprisingly, given the applicant's position on this application, the report concluded:

In our opinion, the proposed Kingsway Entertainment District would be contrary to a number of key municipal and Provincial policies, including the Official Plan, the Downtown Master Plan, the Economic Development Strategy and the Growth Plan for Northern Ontario.

Our analysis also concludes that the Kingsway Entertainment District is not a project that would make economic sense for the City of Greater Sudbury in that the benefits it would produce would be overshadowed by its economic and financial costs.

- [47] As happened at the January 22 pre-hearing, a significant number of people spoke out against the proposed rezoning application. The applicant was one of those people. The minutes of the meeting make it clear that, for many of the speakers, the central issue was whether Sudbury should have a casino at all, and not whether it should be located at the Kingsway site. However, not all of the speakers were opposed to the rezoning. Members of the City's Planning Department, members of other City departments, and even Council members not forming part of the Planning Committee made submissions to the Planning Committee in favour of the application.
- [48] The final hearing before the Planning Committee was held two days later, on March 28, 2018. That hearing dealt with the arena/event centre application. As with the other meetings, many people spoke out against the application, although the minutes reflect that the issues raised by opponents to the application were somewhat more concrete than the social issues raised at the March 26 meeting regarding the casino application. Like the March 26 meeting, staff members from other City departments were present to address concerns that had been raised at the pre-hearing. Unlike the March 26 meeting, however, at this meeting the applicant had two professionals present. The first was the author of the urbanMetrics report, Rowan Faludi. The other was the applicant's lawyer in this application. Again, not surprisingly, both spoke out against the application.
- [49] Notwithstanding the opposition expressed by people who attended the January 22 hearing, City staff ultimately recommended in two reports dated March 14, 2018 that the applications before the Planning Committee be approved. In the opinion of Planning Department staff, the Official Plan amendment and rezoning applications were consistent with the Provincial Policy Statement, in conformity with both the Northern Ontario Growth Plan and the relevant sections of the City of Greater Sudbury Official Plan, and represented "good planning ... in the public interest."
- [50] At the conclusion of both the March 26 and March 28 meetings, the Planning Committee approved the applications.

[51] At a Council meeting held on April 10, 2018, Council adopted the recommendation of the Planning Committee and passed the four by-laws that are the subject of this application (the “KED by-laws”):

- (a) By-law 2018-60P approving Official Plan Amendment No. 92 (permitting the development of a place of amusement in the form of a casino on the KED lands);
- (b) Zoning By-law 2018-61Z, as amended by By-law 2018-70Z (permitting a casino on KED lands);
- (c) Zoning By-law 2018-63Z, as amended by By-law 2018-72Z (permitting a public arena on the KED lands); and
- (d) Zoning By-law 2018-62Z, as amended by By-law 2018-71Z (permitting a “parking lot” as a principal use on the KED lands).

[52] The mayor and 11 councillors voted in favour of the casino application, while the mayor and 8 councillors voted in favour of the arena/event centre application.

### **Challenges to the By-Laws**

[53] In May 2018, 12 appeals were commenced relating to the KED by-laws under the *Planning Act* by several appellants, including the applicant.

[54] The present application was commenced on April 8, 2019. The *Planning Act* appeals remained to be heard before the Local Planning Appeal Tribunal (“LPAT”) at the time that this application was argued.

### **ISSUES**

[55] This application is brought under s. 273 of the *Municipal Act, 2001*, which reads:

273 (1) Upon the application of any person, the Superior Court of Justice may quash a by-law of a municipality in whole or in part for illegality.

[56] As I will explain, courts have quashed by-laws as being illegal under s. 273 for a number of different reasons. In addition to quashing by-laws that are enacted beyond the scope of a municipality’s statutory authority, courts have quashed by-laws where a municipality has failed to follow statutorily-mandated or common law procedural requirements, where Council has demonstrated bias, and where Council has demonstrated bad faith. The applicant attacks the KED by-laws on all three of these legal grounds.

[57] The applicant alleges that Council and City staff committed a host of improprieties leading up to and following the passage of the KED by-laws. These include:

- (1) failing to disclose important documents;
- (2) misleading the public;
- (3) failing to comply with statutory and common law procedural requirements;

- (4) limiting the public's ability to make meaningful representations at public meetings
- (5) aligning with Gateway and 191 in the *Planning Act* applications; and
- (6) using threats and intimidation to silence opponents of the arena/event centre and casino projects.

- [58] Counsel for the applicant submits, correctly, that many of the improprieties alleged, if proven, could result in the by-laws being quashed on more than one legal basis. Procedural defects can be evidence that a by-law was passed in bad faith, for example. In the analysis that follows I propose to address all of these allegations in the context of a discussion about each of the three legal grounds upon which the by-laws have been challenged. Although many of the factual allegations made by the applicant could be addressed under each of the three grounds, where possible, I will address them only once.
- [59] I will begin the next section with a general discussion of the law under s. 273. Before I do that, however, I must address one other legal issue on which the parties are unable to agree, namely, the appropriate standard of review to be applied in an application under s. 273.

## ANALYSIS

### Standard of Review

- [60] One of the most important cases governing the scope of judicial review of municipal decision-making is the Supreme Court of Canada's decision in *Shell Canada Products Ltd. v. Vancouver (City)*, [1994] 1 S.C.R. 231. In *Shell Canada*, the Supreme Court was asked to review two resolutions passed by Vancouver city council in which council resolved that the city would not do business with Shell Canada while Shell continued to trade with the apartheid regime of South Africa. Two questions were before the Supreme Court. One was whether the city had the power to pass such resolutions. The other was the scope of a court's power to review them.
- [61] The majority, whose decision was delivered by Sopinka J., struck down the resolutions as being beyond the city's jurisdiction. In many ways, however, the decision in *Shell Canada* is more important for what was said by McLachlin J. (as she then was) in dissent than what was said by the majority. McLachlin J. argued in favour of a more deferential approach to the review of municipal acts. Beginning at p. 243, she reminded the court of its decision in *R. v. Greenbaum*:

This Court has pronounced, on at least one occasion, in favour of a generous approach to the construction of municipal powers.

...

In *R. v. Greenbaum*, 1993 CanLII 166 (SCC), [1993] 1 S.C.R. 674, in a passage cited on this appeal by Sopinka J., Iacobucci J., speaking for the Court, commented (at p. 687) that:

Municipalities are entirely the creatures of provincial statutes. Accordingly, they can exercise only those powers which are explicitly conferred upon them by a provincial statute.

However, the same reasons (at p. 688) advocated a "benevolent construction" of the provincial enabling legislation...

The weight of current commentary tends to be critical of the narrow, pro-interventionist approach to the review of municipal powers, supporting instead a more generous, deferential approach: [citations omitted]. Such criticism is not unfounded. Rather than confining themselves to rectification of clear excesses of authority, courts under the guise of vague doctrinal terms such as "irrelevant considerations", "improper purpose", "reasonableness", or "bad faith", have not infrequently arrogated to themselves a wide and sweeping power to substitute their views for those of the elected representatives of municipalities.

...

Recent commentary suggests an emerging consensus that courts must respect the responsibility of elected municipal bodies to serve the people who elected them and exercise caution to avoid substituting their views of what is best for the citizens for those of municipal councils. Barring clear demonstration that a municipal decision was beyond its powers, courts should not so hold. In cases where powers are not expressly conferred but may be implied, courts must be prepared to adopt the "benevolent construction" which this Court referred to in *Greenbaum*, and confer the powers by reasonable implication. Whatever rules of construction are applied, they must not be used to usurp the legitimate role of municipal bodies as community representatives.

- [62] McLachlin J.'s dissent in *Shell Canada* on the approach to judicial review of municipal acts was adopted by a majority of the Supreme Court in *Nanaimo (City) v. Rascal Trucking Ltd.*, 2000 SCC 13, [2000] 1 S.C.R. 342. The court in *Rascal Trucking* held that the standard of review of municipal decisions involving legal questions such as the scope of the municipality's authority was correctness (at para. 29). However, with respect to the review of decisions made *within* the scope of a municipality's authority, the court held that the standard of review was deference. On behalf of a unanimous court, Major J. wrote (at para. 35):

In light of the conclusion that Nanaimo acted within its jurisdiction in passing the resolutions at issue, it is necessary to consider the standard upon which the courts may review those *intra vires* municipal decisions. Municipal councillors are elected by the constituents they represent and as such are more conversant with

the exigencies of their community than are the courts. The fact that municipal councils are elected representatives of their community, and accountable to their constituents, is relevant in scrutinizing *intra vires* decisions. The reality that municipalities often balance complex and divergent interests in arriving at decisions in the public interest is of similar importance. In short, these considerations warrant that the *intra vires* decision of municipalities be reviewed upon a deferential standard.

- [63] However, on behalf of the applicant, counsel submits that the appropriate standard of review under s. 273 is correctness. He argues that the deferential standard referred to in *Shell Canada* and *Rascal Trucking* has been overtaken by the more recent decision of the Supreme Court of Canada in *London (City) v. RSJ Holdings*, 2007 SCC 29, [2007] 2 S.C.R. 588. He relies on the following passage from the latter decision, in which Charron J., on behalf of the court, commented on the decision in *Shell Canada* (at para. 38):

In light of the particular statutory provision that occupies us — the open meeting requirement — I would add the following comment on the principle of deference. The dissent of McLachlin J. (as she then was) in *Shell Canada* is often cited as a broad statement of the deference that courts owe to municipal governments. In large part, this deference is founded upon the democratic character of municipal decisions. Indeed, McLachlin J. recognized that deference to municipal decisions “adheres to the fundamental axiom that courts must accord proper respect to the democratic responsibilities of elected municipal officials and the rights of those who elect them” (p. 245). Municipal law was changed to require that municipal governments hold meetings that are open to the public, in order to imbue municipal governments with a robust democratic legitimacy. The democratic legitimacy of municipal decisions does not spring solely from periodic elections, but also from a decision-making process that is transparent, accessible to the public, and mandated by law. When a municipal government improperly acts with secrecy, this undermines the democratic legitimacy of its decision, and such decisions, even when *intra vires*, are less worthy of deference.

- [64] In my view, the decision in *RSJ Holdings* does not stand for the proposition that correctness is the standard to apply in every case in which a municipal by-law or resolution is being attacked. *RSJ Holdings* was a case in which the attack on the by-law was based on statutory non-compliance, raising a legal question akin to the question of jurisdiction, which the court was at least as well-equipped to decide as was the municipality. In *RSJ Holdings*, the question before the Supreme Court was whether an interim control by-law passed under the *Planning Act* in secrecy during two closed meetings of council should be quashed under s. 273. Section 239 of the *Municipal Act, 2001* requires that meetings be open to the public unless one of the statutory exemptions applies. One of those exemptions permitted closed meetings where they were allowed

under another statute. The municipality argued that council was entitled to meet secretly because an interim control by-law could be passed under the *Planning Act* without prior notice and without holding a public meeting.

- [65] The Supreme Court disagreed. In delivering the court’s decision, Charron J. made it clear that the question before the court was a purely legal one. She wrote (at para. 37):

[T]he City argues that the overarching principle which should govern the court on a s. 273 review of a municipal by-law is one of deference. While this approach may be appropriate on a review of the merits of a municipal decision, in my view, the City’s argument is misguided here. Municipalities are creatures of statute and can only act within the powers conferred on them by the provincial legislature: *Shell Canada Products Ltd. v. Vancouver (City)*, 1994 CanLII 115 (SCC), [1994] 1 S.C.R. 231, at p. 273. On the question of “illegality” which is central to a s. 273 review, municipalities do not possess any greater institutional expertise than the courts — “[t]he test on jurisdiction and questions of law is correctness”: *Nanaimo (City) v. Rascal Trucking Ltd.*, [2000] 1 S.C.R. 342, 2000 SCC 13, at para. 29.

- [66] However, as McLachlin J. pointed out in *Shell Canada*, and as we shall see, courts have quashed municipal by-laws for many reasons going beyond those relating only to jurisdiction. As Charron J. explained, this power to quash a by-law under s. 273 that is not *ultra vires* is a discretionary one (at para. 39):

The power to quash a by-law for illegality contained in s. 273(1) of the *Municipal Act, 2001* is discretionary. Of course, in exercising its discretion, the court cannot act in an arbitrary manner. The discretion must be exercised judicially and in accordance with established principles of law. Hence, when there is a total absence of jurisdiction, a court acting judicially will quash the by-law. In other cases, a number of factors may inform the court’s exercise of discretion including, the nature of the by-law in question, the seriousness of the illegality committed, its consequences, delay, and mootness.

- [67] Thus, there are differing standards of review depending on whether the question is one of *vires* or not: *Wpd Sumac Ridge Wind Inc. v. Kawartha Lakes (City)*, 2015 ONSC 4164 (Div. Ct.), at paras. 20-21. I believe that what can be safely gleaned from the decision in *RSJ Holdings* is that the degree of deference to be shown to municipal acts will depend on the extent to which the illegality in question involves a question of law and the extent to which it affects the democratic legitimacy of its decision.

- [68] In the case before me, the KED by-laws are not being attacked on a purely jurisdictional basis. Rather, they are being attacked for other reasons, including bias and bad faith. These are not purely questions of law and, therefore, depending on the effect of the impugned conduct on the democratic process, the acts of the City and Council may attract deference.

[69] In any event, as I will explain, I am not satisfied that the applicant has made out a factual basis for most of his claims, making the standard of review an irrelevant issue with respect to those claims.

### **Onus of Proof**

[70] While the standard of review may differ depending on the nature of the attack being made, the onus of proof under s. 273 remains constant. The onus is on the person challenging the by-law to prove illegality: *Ottawa (City) v. Boyd Builders Ltd.*, [1965] S.C.R. 408, at p. 413.

### **“Illegality” Under Section 273 of the *Municipal Act, 2001***

[71] As Charron J. made clear in *RSJ Holdings* when discussing s. 273 (at para. 35):

“Illegality” is not defined under the statute. In its ordinary meaning, it is a broad generic term that encompasses any non-compliance with the law.

[72] As McLachlin J. pointed out in *Shell Canada* (at p. 244), by-laws need not have been passed outside of a municipality’s statutory authority to be declared illegal. Courts have quashed by-laws, or considered doing so, where:

- (a) there has been statutory procedural non-compliance: *RSJ Holdings*;
- (b) there has been procedural unfairness: see *Re. McGill and City of Brantford* (1980), 28 O.R. (2d) 721 (Ont. Div. Ct.);
- (c) a party’s reasonable expectation of being heard has not been met: see *West Nipissing Police Services Board v. Municipality of West Nipissing*, 2018 ONSC 6454 (Div. Ct.);
- (d) a by-law has been passed for an improper purpose: *Shell Canada*; see also *Barrick Gold Corporation v. Ontario* (2000), 51 O.R. (3d) 194 (C.A.); *Grosvenor v. East Luther Grand Valley (Township)*, 2007 ONCA 55; *Wpd Sumac; Xentel DM Inc. v. Windsor (City)*, 2004 CarswellOnt 3608 (S.C.);
- (e) council has suffered from disqualifying bias: *Old St. Boniface Residents v. Winnipeg*, [1990] 3 S.C.R. 1170.; and
- (f) the by-law was passed “in bad faith”: see *Re. H. G. Winton Ltd. and Borough of North York* (1978), 20 O.R. (2d) 737 (Div. Ct.); *Luxor Entertainment Corp. v. North York* (1996), 27 O.R. (2d) 259 (Gen. Div.); *Equity Waste Management of Canada v. Halton Hills (Town)* (1997), 35 O.R. (3d) 321 (C.A.).

[73] The applicant argues that the KED by-laws should be quashed for all of these reasons.

[74] I will begin with his allegations of statutory non-compliance.

### **Statutory Non-compliance/Procedural Unfairness**

[75] As the decision in *RSJ Holdings* demonstrates, the failure of a municipality to follow the procedures required by a statute will usually result in a by-law being quashed for illegality because the power conferred upon a municipality is purely statutory.



- [76] The applicant argues that the City and Council failed to comply with the provisions of both the *Ontario Lottery and Gaming Corporation Act, 1999* and the *Planning Act*.

***Non-compliance Under the Ontario Lottery and Gaming Corporation Act, 1999***

- [77] The applicant makes two allegations of statutory non-compliance under the *Ontario Lottery and Gaming Corporation Act, 1999*.

*Resolution v. Referendum*

- [78] First, the applicant argues that the Willing Host resolution passed in May 2012 was not enough under the *Ontario Lottery and Gaming Corporation Act, 1999*. He submits that, at the time it was adopted, the law required a referendum, not a mere resolution. He is right about that. Before it was replaced with O. Reg. 81/12 on June 1, 2012, the regulation governing the establishment of a casino in a municipality was O. Reg. 347/00. That regulation required that the municipality hold a referendum on the question of whether a casino should be established and prescribed the question that citizens were required to answer in that regard, which the applicant refers to in his materials as the “Fundamental Question”.

- [79] However, at the time that the casino was actually being established in Sudbury, a referendum was no longer required. All that was required was a resolution. Ontario Reg. 81/12 did not specify when the resolution had to be passed. There was no statutory requirement that the resolution be passed after June 1, 2012. The fact that it was passed a few weeks before that date is of no legal consequence, in my view.

*Public Consultation on the “Fundamental Question”*

- [80] Second, the applicant argues that O. Reg. 81/12 required that the City consult the public on the Fundamental Question of *whether* there should be a casino before it consulted the public on *where* the casino should be located. He is wrong about that. There is nothing in the regulation that could reasonably be interpreted as imposing this requirement. The relevant parts of the regulation read:

2. (1) Subject to subsections (2) and (3), the Corporation [OLG] may authorize the establishment of a gaming site on an electronic channel or, at premises approved by the Corporation, in a municipality or on a reserve.

(2) The Corporation shall not authorize the establishment of a gaming site until after the Corporation takes the steps and requires that the conditions are met as follows:

...

3. In the case of a proposed gaming site to be established at premises in a municipality or on a reserve,

i. the municipal council or the council of the band, as the case may be, seeks public input into the establishment of *the proposed gaming site* and gives the Corporation, in writing, a description of the

steps it took to do so and a summary of the public input it received, and

ii. the municipal council or the council of the band, as the case may be, passes a resolution supporting the establishment of *the gaming site* in the municipality or on the band's reserve and gives a copy of the resolution to the Corporation. [Emphasis added.]

- [81] I agree with the City's interpretation of the regulation, namely, that it requires the City to seek public input into the proposed *location* of the casino, not on whether there should be one. This view is obviously shared by the OLG, who wrote to the City on January 14, 2015 to confirm that the requirements of O. Reg. 81/12 had been met.
- [82] I also agree with the City's submission that the applicant's allegations of statutory non-compliance under the *Ontario Lottery and Gaming Corporation Act, 1999* amount to nothing more than a stale attack on the Willing Host resolution. Section 273 of the *Municipal Act, 2001* applies both to by-laws and to resolutions: s. 273(2). An application to quash under that section must be brought within one year of the passage of the resolution: s. 273(5). The applicant is too late to attack the resolution now.

#### ***Non-compliance Under the Planning Act***

- [83] The applicant also makes two allegations of statutory non-compliance under the *Planning Act*.

##### *Failure to Study*

- [84] The applicant relies in two ways on a submission that the City failed to study the effects of locating the arena/event centre at the Kingsway site. First, he submits that the City failed to comply with the *Planning Act* by failing to study the social and economic effects of its decision. I will deal fully with that submission here.
- [85] The applicant also submits that the fact that Council passed the KED by-laws without a proper study is evidence of bad faith. I will return very briefly to this submission when I address the topic of bad faith.
- [86] In support of his position on this application, the applicant has filed a lengthy affidavit sworn by Rowan Faludi, the author of the urbanMetrics report. Faludi deposes that both he and another expert retained by the applicant believe that the failure of the City to perform an "economic impact analysis" of the effect of establishing an entertainment district outside of the downtown area of Sudbury "is not consistent with" the 2014 Provincial Planning Statement, does not "conform with" and "conflicts with" the Growth Plan for Northern Ontario, and "is not in conformity with" the City's Official Plan.
- [87] These are all matters of opinion. As I set out above, the City's professional planning staff were of the opposite opinion. Although Faludi has highlighted various provisions referring to the importance of social and economic considerations under the *Planning Act*, I have not been referred to any provision in that Act specifically requiring a social or economic "impact analysis". While it might be said that, if Faludi is correct, the City

failed to comply with the *Planning Act* in a certain sense, that is not the sense in which by-laws should be quashed for illegality. Those are merits-based issues for the LPAT to decide. As it relates to the issues I have to decide, the City's interpretation must be shown deference. For this reason, the applicant has failed to satisfy me that there was any breach of the provisions of the *Planning Act* that rendered Council's decision illegal under s. 273.

- [88] However, the applicant also submits that a municipality must comply both with the letter of the law, and with its spirit: *Barrick Gold Corporation*. I have concluded that the City and Council did both. The City did study and Council did consider the social and economic impact of locating the arena/event centre at the Kingsway site.
- [89] Contrary to the submissions made on behalf of the applicant, PWC did study the economic impact that locating the arena/event centre would have on the downtown. As Faludi admits, PWC evaluated economic and social benefits of a proposed sports and entertainment centre as part of its scope of review. "Economic impacts" was one of the eight factors comprising the matrix used by PWC in making its recommendations. Indeed, as Faludi sets out in his affidavit, in concluding that the downtown was the recommended site, PWC wrote that "it scored highest in terms of economic development". The fact that Council chose the second most highly recommended site does not mean that the downtown location was not sufficiently studied.
- [90] The impact of locating the arena/event centre outside of the downtown area was studied even before PWC became involved. On April 6, 2016 the Greater Sudbury Development Corporation submitted a report to Council in which it made what Faludi described as "preliminary comments on the positive benefits" of two proposals to locate the facility outside of the downtown.
- [91] As I mentioned earlier, PWC was only one member of a task force formed to evaluate the potential sites for the arena/event centre. City staff from numerous departments were also involved. In addition to PWC's report, a report dated June 15, 2017 was submitted to Council by the City's General Manager. That report clearly addressed the economic and social impacts of locating the arena/event centre at the Kingsway site versus the downtown site. As Faludi notes, the General Manager advised that the downtown site would provide immediate and long-term financial benefits to the downtown area and was "best aligned with the stated long-term vision for the City". The General Manager also highlighted the uncertainty that other amenities would be built at the Kingsway site and that other cities that had built event centres outside of their downtown areas did not realize the anticipated economic benefits from surrounding developments.
- [92] It is also clear from the minutes of the June 27, 2017 meeting that Council considered the economic and social impacts associated with locating the arena/event centre at either the downtown or Kingsway site. Practically every member of Council present that night asked questions of PWC or City staff or made comments in the speeches they gave about the economic and/or social benefits of locating the arena/event centre in one place or the other before casting their votes.
- [93] Thus, the record before me reveals that the social and economic issues were both studied and considered. The simple fact is that Council opted for the Kingsway site over the downtown site. As Faludi concedes, Council is free to do that.

- [94] For these reasons, the applicant has not demonstrated that the City or Council failed to comply with either the letter or the spirit of the *Planning Act* by failing to study or to consider the social and economic impact of its decision to locate the arena/event centre outside of the downtown area.

*Denial of Public Input at the June 27, 2017 Meeting*

- [95] The applicant also submits that Council failed to comply with the *Planning Act* by denying the public the right to be heard on June 27, 2017. Section 61 of that Act provides:

61 Where, in passing a by-law under this Act, a council is required by this Act, by the provisions of an official plan or otherwise by law, to afford any person an opportunity to make representation in respect of the subject-matter of the by-law, the council shall afford such person a fair opportunity to make representation but throughout the course of passing the by-law the council shall be deemed to be performing a legislative and not a judicial function.

- [96] Other provisions of the *Planning Act* require that at least one public meeting be held before an Official Plan is prepared or a zoning by-law is passed at which the public is permitted to make representations in respect of the proposed plan or by-law, as the case may be: ss. 17(15) and 34(12).
- [97] The applicant submits that Council made a final decision at the June 27 meeting to locate both the arena/event centre and the casino at the Kingsway site and that the meeting failed to comply with the *Planning Act* because the public was not permitted to make representations at that meeting. I will address the submission about statutory non-compliance here. Because the applicant also relies on this submission in support of his argument that the by-laws should be quashed for disqualifying bias, I will return to his submission about the arena/event centre when I address the subject of disqualifying bias. I will also discuss the distinction between legislative and judicial functions referred to in s. 61 of the *Planning Act* at that time.
- [98] I would start my analysis with this observation: contrary to the submissions made on behalf of the applicant, Council did not decide on June 27, 2017 to locate the casino at the KED. Council never decided on where the casino should be located. What it did was fulfill the requirement of O. Reg 81/12 that the City consult with the public on where the casino should be located. The result of that consultation was to narrow the potential sites to four, one of which was the Kingsway site. The decision as to which of those four sites would ultimately be used was left to the successful proponent and to the *Planning Act* process, which I will address in more detail below.
- [99] While Council did make a decision about the location of the arena/event centre on June 27, 2017, it was not one to which the procedural provisions of the *Planning Act* applied. The applicant's submission that *Planning Act* procedural provisions applied to the June 27 meeting fundamentally misinterprets the purpose of that meeting. At the risk of oversimplifying, the June 27 meeting was held for the purpose of deciding where the

arena/event centre *should* go, not where it *would* go. That would eventually be decided at the meeting held on April 10, 2018.

- [100] In any event, there is no evidence that the applicant ever sought to make representations at the June 27 meeting. All of the meetings at which the applicant alleges he was denied the right to be heard were governed by a procedural by-law. The by-law required that notice be given of Council's agenda by posting it on the City's website. A notice for the June 27 meeting was posted on June 19. The notice advised that "site selection for the arena/events centre" would be discussed and provided a link to the agenda for the meeting. That link, in turn, provided links to both the PWC June report and the General Manager's June 15 report. The by-law provided that individuals wishing to make presentations could apply to the City clerk to be designated as a "community delegation" in advance of the meeting, in which case the delegation could make a presentation to Council, provided the subject of the presentation was on Council's agenda.
- [101] The applicant does not allege that the procedural by-law was in any way breached. The fact is that the applicant never asked to make a presentation at the Council meeting of June 27, 2017. According to the City, no one did.

### ***Procedural Unfairness***

- [102] A by-law may be quashed for procedural shortcomings even where there has been no statutory breach leading up to its passage. In certain circumstances, a person may be entitled to a higher level of procedural fairness than that called for by a statute or by-law. The facts in *Pedwell v. Pelham (Town)*, 2003 CanLII 1701 (Ont. C.A.) provide a good example of circumstances in which that may happen. In *Pedwell*, the municipality enacted an interim control by-law to prevent a developer from taking advantage of a provision in the *Planning Act* that allowed him to avoid having to file a plan of subdivision and obtain approval of the plan by the municipality. The Court of Appeal refused to interfere with the trial judge's finding that the municipality ought to have given the respondent notice of its intention to pass the interim control by-law even though such notice was not required under the *Planning Act*, because the municipality was already engaged with the respondents over the issue.
- [103] As cases like *Pedwell* demonstrate, statutory decision makers must observe the rules of natural justice: see also *Old St. Boniface*, at p. 1190. The rules of natural justice require that the City ensure procedural fairness in its decision making by providing adequate notice, appropriate disclosure, and a meaningful right to be heard: *Re. McGill*, at p. 728. The applicant submits that he and other members of the public were denied all three of these aspects of procedural fairness during the process leading up to passage of the KED by-laws.
- [104] I will begin with the allegations of non-disclosure and misleading.

#### *Non-disclosure*

- [105] The applicant submits that the City failed to disclose the existence of "crucial" documents "which would have drastically affected public perception and representations in respect of" the arena/event centre. By this, he means the option agreements, in general, and the Kingsway option agreement, in particular. I will address the applicant's submissions

about non-disclosure of all of the option agreements in this part of my reasons. I will address the applicant's submissions about the Kingsway option agreement when I address his allegations of disqualifying bias and bad faith.

- [106] The applicant submits that the public should have been informed that City staff had been instructed to enter into option agreements with respect to the four potential sites for the arena/event centre before the June 27, 2017 meeting. I cannot see why. The only effect of the option agreements was to provide Council with the ability to choose any of the four sites identified by the Event Centre Evaluation Team. I fail to see how disclosing them to the public could have drastically affected public perception or public input into the location of the arena/event centre.
- [107] The applicant submits that the option agreements were not even disclosed to Council members. However, it is clear from the transcript of the June 27, 2017 meeting that the members of Council were not only aware of the agreements but were also familiar with their terms. This is not surprising, given that the basic terms of the agreements were noted by PWC in their June report, which was attached to the City staff report to Council of June 15, 2017 and made available to the public on June 19, 2017.

*Misleading Statements*

- [108] The applicant contends that City staff misled Council and members of the public once during the March 26 Planning Committee meeting and twice during the Council meeting at which the KED by-laws were passed on April 10, 2018.
- [109] During the March 26 meeting, the Director of Planning Services was asked by the chair of the committee why the socio-economic impacts of gambling fell outside of the land-use issues the committee was to consider. The applicant submits that the Director misled the committee and the public when he responded that they had already been considered at the time the Willing Host resolution was passed. The evidence does not support this submission.
- [110] I have not been taken to any evidence showing what was discussed at the Council meeting leading to the passage of the Willing Host resolution. The only evidence I have are the minutes of the meeting and they do not purport to be a *verbatim* record of the discussions that were held during that meeting.
- [111] The applicant submits that the Director also misled Council and the public at the April 10, 2018 meeting. He alleges that, when asked why a Preliminary Planning Report prepared by City staff dated December 18, 2017 failed to mention that the DTMP and other strategic planning documents had recommended locating the arena/event centre downtown, the Director of Planning Services falsely advised that they had not been approved in Sudbury's Official Plan and were, therefore, irrelevant.
- [112] Whether these documents were relevant is an issue for the LPAT to determine. As this statement relates to the issues I have to decide, I am not persuaded that the statement was false. The applicant's own expert's evidence is that neither the DTMP nor the 2015 Economic Development Strategy were incorporated into the Official Plan at the time.

*Denial of the Right to be Heard*

- [113] The applicant submits that he was denied the right to be heard on three occasions leading up to the passage of the KED by-laws. First, submits that he had been assured by members of Council that he would be given a chance to make representations before Council on the Fundamental Question and that he was not given that chance. Second, he submits that he was not permitted to make representations during the November 22, 2017 meeting at which Council approved the Final Site Design strategy for the KED. Third, he submits that, although the public was permitted to make representations before the Planning Committee during the meetings it held in January and March 2018, the Committee “drastically” limited the scope of those submissions, making the meetings “a sham”.
- [114] I will start with the applicant’s expectation that he would be given a chance to make representations about whether there should be a casino in Sudbury.
- (a) The Applicant’s Expectations
- [115] Counsel for the applicant submits that the applicant and other members of the public were assured by the Mayor, the Director of Economic Development, and a Council member that they would have an opportunity to make submissions on the Fundamental Question before Council considered any particular site for the casino.
- [116] There is nothing in the evidence to support this submission as it relates to the Mayor and the Director of Economic Development. With respect to the Council member, the applicant deposes that he was assured by a Council member during a one-on-one meeting in June 2013 that the public would have an opportunity to persuade Council “not to approve expanded gambling in the City at any proposed site”. He deposes further that, based partly on this assurance, he stopped a campaign he had begun against the casino. He argues that he was never given the opportunity he was promised and that, therefore, he was denied procedural fairness.
- [117] To understand why the applicant’s unmet expectations might amount to procedural unfairness even where the procedural by-law was not breached, a brief discussion about procedural fairness is necessary.
- [118] The exact scope of the common law duty of procedural fairness depends on the context in which a decision is being made. In *Baker v. Canada (Minister of Citizenship & Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court set out five relevant factors to consider in defining the scope of the duty:
- (1) the nature of the decision and the decision process followed;
  - (2) the statutory scheme pursuant to which the body operates;
  - (3) the importance of the decision to the individual affected;
  - (4) the legitimate expectations of the person challenging the decision; and
  - (5) the nature of deference accorded to the administrative body.
- [119] The applicant’s submission focuses on the fourth factor listed above. As I stated earlier, in certain circumstances, a person may be entitled to additional procedural protection than that provided by a statute or a by-law. One of those circumstances arises where a person

has been promised additional or alternative procedural rights. This is known in law as the doctrine of “legitimate expectations”. However, before a party can successfully argue that he had a legitimate expectation that he would be given an enhanced opportunity to participate in a municipal context, he must establish that:

- (1) a government official made a representation within the scope of his or her authority about an administrative process that the government will follow;
- (2) the representations were clear, unambiguous, and unqualified; and
- (3) the representations were procedural in nature and not in conflict with the decision maker’s statutory duty: *Mavi v. Canada (Attorney General)*, 2011 SCC 30, [2011] 2 S.C.R. 504, at para. 68.

[120] The representations must be such that, if made in a private law context, they would be certain enough to be capable of enforcement: *West Nipissing Police Services Board*, at para. 52.

[121] The applicant has not established either of the first two prerequisites to relief under the doctrine of legitimate expectations. The representation was far too vague to be enforceable. For one, it was made four years before any of the meetings at which the applicant says he was not given a fair right to be heard. Further, there is no evidence that the Council member in question had any authority to make such a representation.

(b) The November 22, 2017 Meeting

[122] The applicant deposes that he was not permitted to make representations at the Council meeting held on November 22, 2017 at which Council approved the Final Site Design strategy for the KED. He says that he called the City clerk on November 21 to inquire about making a presentation to Council as a community delegation and was told that “Council had a very full schedule and a presentation was not possible for many months.” The inference I am asked to draw is that the applicant reasonably assumed he would not be permitted to make a presentation. The evidence does not support that inference.

[123] Following his inquiry, the applicant received an e-mail from the City. The e-mail simply asks that he make a formal written request to the Clerk “describing the purpose of your presentation as well as a description of how your presentation relates to existing or proposed municipal policies or initiatives.” There was no reasonable basis for the applicant to conclude from the e-mail that he would be denied the right to make a presentation, provided that it related to the City’s policies or initiatives. Even if he was justified in believing that the Clerk would deny him what he wanted, the procedural by-law in force at the time provided that the applicant could request to appear as a community delegation up until the moment the meeting started, provided that two-thirds of the Council members present then voted in favour of hearing from him.

[124] In my view, the reasonable inference to draw is that what the applicant wanted to say on November 22 did not relate to what was to be discussed at the meeting. Indeed, the applicant complains about the fact that, during the November 22 meeting, one of the Councillors stated publicly that neither the location nor the development of the casino was up for debate that night. The Councillor was correct. Neither of these issues were before Council on November 22, 2017. Those decisions had already been made.



[125] For these reasons, the applicant has not satisfied me that he was denied procedural fairness regarding that meeting.

(c) The *Planning Act* Meetings

[126] The applicant makes similar complaints about the January 22, March 28, and April 10, 2018 *Planning Act* meetings. He complains that at the pre-hearing on January 22, the Chair of the Committee advised those in attendance that they were only looking for comments on the rezoning of the arena/event centre, which barred discussion on the location of the arena/event centre near the casino and the social issues related to gambling. He complains that at the hearing on March 28, the Chair again advised that the location of the arena/event centre was not open for discussion because that had already been decided on June 27, 2017. Finally, he complains that Councillors took the position at the meeting on April 10, 2018 that the decision regarding the location of the arena/event centre had been made on June 27, 2017 and that the meeting that night was “strictly and purely a decision on land use questions”.

[127] The Councillors were right. The applicant consistently attempted to challenge a decision about expanded gambling that he failed to challenge in a timely way by raising the location of the arena/event centre in the wrong forum. Then, as now, he conflated the purpose of the *Planning Act* meetings. To use the phraseology I used earlier, the January and March meetings were held for the purpose of deciding whether the arena/event centre *could* go where Council wanted it to go, not whether it *should* go there. The meeting on April 10, 2018 was held for the purpose of deciding whether it *would* go there.

[128] In any event, the applicant *was* heard, not only on the location issue, but also on the casino issue, during the *Planning Act* meetings. Notwithstanding the fact that those present at the meeting on January 22 had been told that the committee was only looking for comments on the rezoning for the arena/event centre, the applicant made a presentation that night outlining his opposition to the applications based on the lack of input and public discussion on the casino. In addition, after that meeting, he wrote to the Chair of the Planning Committee asking that the approval process relating to the casino application be suspended pending further City-sponsored input sessions.

[129] Before the next meeting in March, the applicant’s lawyer provided the City with the urbanMetrics report, in which Faludi says he advised “of the long term economic impacts on the Downtown” [of locating the arena/event centre at the Kingsway site] and “the economic impact of expanded gambling at the KED on the City’s economy as a whole”.

[130] The applicant appeared again at the March 26 meeting and gave a presentation, this time highlighting parts of the urbanMetrics report. Both the applicant’s lawyer and his expert attended the March 28 meeting, and both were given an opportunity to address the Planning Committee. Clearly, the applicant was provided with the right to be heard at the January and March meetings, even where what he had to say was off topic.

[131] The applicant’s submission that he was denied the right to be heard at the April 10 meeting ignores completely the provisions of the *Planning Act* and the procedural by-law in effect at the time. The January and March Planning Committee meetings fulfilled the *Planning Act* requirement that the public be given an opportunity to provide input into the

planning applications. The procedural by-law provided that, where a public hearing has been held by a committee pursuant to a statute, community delegations are not permitted. This is entirely reasonable.

- [132] The fact that the Planning Committee approved the applications and that Council adopted the committee's recommendation does not mean that the applicant and his professional advisors were not heard. Faludi himself admits that Council is entitled to make decisions contrary to the recommendations of retained consultants and even of City staff. In this case, the applicant's retained consultants were at odds with City staff. The Committee and members of Council were free to accept the advice of City staff over that of the applicant's consultants without breaching the applicant's right to be heard.

### **Disqualifying Bias**

- [133] The applicant alleges that he was denied the right to a fair hearing in another important way.
- [134] The right to be heard requires that the decision maker be open to persuasion. The leading case on this aspect of procedural fairness in the municipal context is the decision of the Supreme Court of Canada in *Old St. Boniface*. *Old St. Boniface* involved a proposed condominium complex which was opposed by a residents' association in the Old St. Boniface area of Winnipeg. To develop the complex, the developer needed to buy land from the city and to have the property rezoned. A member of city council appeared before a committee of council, of which he was not a member, to advocate on behalf of the developer of the complex and to urge the committee to grant the developer an option to purchase the land it needed. That same councillor later sat as a member of another committee that recommended to council that the developer's rezoning application be allowed, which it later was. The issues before the Supreme Court included whether the councillor was disqualified by bias from participating in the rezoning application. The Supreme Court held he was not.
- [135] The Supreme Court quoted extensively in its reasons from two decisions written by Henry J. on behalf of the Ontario Divisional Court. As Henry J. explained in *Re. McGill*, municipalities exercise a legislative, rather than an adjudicative, function (at p. 726):

The members of the Council are elected representatives who, in a democracy, are responsive to the concerns of their constituents, who have given them their mandate. It goes without saying that they are not Judges. The process of governing and legislating is not a judicial process; it is a political function, the ultimate sanction of which lies in the electorate. To put the matter shortly, it would manifestly be impossible for a legislative body, such as a municipal council, to govern on the basis that each decision affecting some citizens adversely had to be made judicially, as if it were a Court. To the contrary, its collective decisions are political, based on the fundamentals of responsible Government, reflecting the needs and mandates of the electorate as a whole.

[136] See also: *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, [2012] 1 S.C.R. 5, at para. 19.

[137] As Henry J. explained in *Re. Cadillac Development Corp. Ltd. and City of Toronto* (1973), 1 O.R. 20, the legislative function of a municipal council means that council members are *expected* to have views on matters coming before council (at p. 43):

A municipal council is an elected body having a legislative function within a limited and delegated jurisdiction. Under the democratic process the elected representatives are expected to form views as to matters of public policy affecting the municipality. Indeed, they will have been elected in order to give effect to public views as to important policies to be effected in the community.

[138] Ultimately, the Supreme Court in *Old St. Boniface* adopted Henry J.'s concept of the type of bias that will disqualify a council member in the municipal context. At p. 1197, Sopinka J. wrote on behalf of the majority:

In my opinion, the test that is consistent with the functions of a municipal councillor and enables him or her to carry out the political and legislative duties entrusted to the councillor is one which requires that the objectors or supporters be heard by members of council who are capable of being persuaded. The legislature could not have intended to have a hearing before a body who has already made a decision which is irreversible. The party alleging disqualifying bias must establish that there is a prejudgment of the matter, in fact, to the extent that any representations at variance with the view, which has been adopted, would be futile. Statements by individual members of council, while they may very well give rise to an appearance of bias, will not satisfy the test unless the court concludes that they are the expression of a final opinion on the matter, which cannot be dislodged. In this regard it is important to keep in mind that support in favour of a measure before a committee and a vote in favour will not constitute disqualifying bias in the absence of some indication that the position taken is incapable of change. The contrary conclusion would result in the disqualification of a majority of council in respect of all matters that are decided at public meetings at which objectors are entitled to be heard.

[139] Counsel for the applicant submits that even an apprehension of bias on the part of council is enough. This is not correct. This submission directly contradicts the decision in *Old St. Boniface*. As Sopinka J. explained, there is a difference between a degree of prejudgment in a municipal councillor, and a conflict of interest. He wrote (at p. 1198):

It was error, therefore, for the learned judge to apply the reasonable apprehension of bias test. This test would have been appropriate if it had been found that the Councillor had a personal interest in the development, either pecuniary or by reason of a

relationship with the developer. In such circumstances, the test is that which applies to all public officials: Would a reasonably well-informed person consider that the interest might have an influence on the exercise of the official's public duty? If that duty is to hear and decide, the test is expressed in terms of a reasonable apprehension of bias. As I have stated above, there is nothing arising from the political and legislative nature of a councillor's duties that requires a relaxation of this test. The situation is quite distinct from a prejudgment case. In this case no personal interest exists or was found and it is purely a prejudgment case. Councillor Savoie had not prejudged the case to the extent that he was disqualified on the basis of the principles outlined above.

[140] Like the situation in *Old St. Boniface*, the applicant does not allege that there was a conflict of interest in this case; he alleges that there was prejudgment. He must, therefore, establish that a majority of the members of council had prejudged the issue of the location of the arena/event centre such that they were incapable of being persuaded to change their minds.

[141] I have already dealt with and dismissed the applicant's argument that the *Planning Act* meetings were a sham; an allegation that he relies on to argue that Council suffered from disqualifying bias, as well. However, the applicant also points to other evidence that he says shows disqualifying bias, some of which preceded the June 27 meeting and some of which followed it.

[142] I will deal with that evidence now.

***No Questions of the Applicant or His Experts During the Planning Committee Meetings***

[143] The applicant submits that the fact that neither he nor his retained professionals were asked any questions at the Planning Committee meetings in January and March is evidence of bias and bad faith. I cannot draw any such inference on the evidence before me.

[144] The minutes of the Planning Committee meetings shows that each of them were long affairs, with many people making presentations. The fact that the committee asked no questions is just as consistent with the need to leave time for other presenters and the fact that the applicant and his experts were still making representations on issues not before the committee as it is with the applicant's submission that the Planning Committee was not listening.

[145] Just as importantly, the applicant has not alleged, nor can I find any evidence, that the committee asked questions of any other presenter, with the exception of City staff, whom I understand were present for that purpose.

***Alliance with 191 and Gateway***

[146] The applicant relies on the Kingsway option agreement in support of his arguments about procedural unfairness and disqualifying bias. I have already addressed the Kingsway option agreement in the context of the applicant's submissions about procedural fairness. I will address it here in the context of the applicant's submissions on disqualifying bias.

- [147] The applicant submits that the servicing agreement attached to the Kingsway option agreement is evidence that the City had already formed an alliance with 191 before the June 27, 2017 meeting was held. He relies on the fact that the servicing agreement says on its face that it was “Last revised May 30, 2017”. He deposes that it is reasonable to assume from this that negotiations began as early as April 2017, before Council revised the selection criteria used by PWC to select the site for the arena/event centre. He contrasts this with the only other servicing agreement attached to an option agreement, which had not yet been negotiated at the time of the June 27, 2017 meeting.
- [148] This evidence fails as evidence of disqualifying bias and bad faith for two principle reasons. The first is that it is pure speculation to suggest that the agreement was being negotiated prior to April 11, 2017, when Council decided to alter the weight being assigned to each factor in PWC’s matrix.
- [149] The second is that, until it was approved by Council, there was no agreement, regardless of when it was negotiated. As I have already pointed out, all of the option agreements were conditional upon Council’s decision to locate the arena/event centre at the site in question. Therefore, there was no reason for Council to prefer one over the other, regardless of whether one option agreement was more complete than another.
- [150] The applicant also relies on the statements made by some Councillors following the June 27, 2017 meeting that the City was “in partnership” with Gateway and 191 in the development of the KED. That was, in effect, true. One of the reasons Council chose the Kingsway site was the possibility that it might benefit from sharing the costs of developing the site with both Gateway and 191. However, I am not persuaded that this partnership lead to disqualifying bias on the part of Council.
- [151] All of the agreements that the City entered into with 191 and Gateway were contingent on the City receiving *Planning Act* approvals. As I will discuss below, the evidence reveals that those approvals were not assured.
- [152] More importantly, all of the agreements also contained terms that terminated the City’s obligations under the agreements if the City determined ultimately that it would not be proceeding with the arena/event centre.

### ***The Terms of the Kingsway Option Agreement***

- [153] Pursuant to the agreement as it was originally negotiated, 191 was to bear all of the costs of servicing up front and the City was only required to contribute its share, capped at \$1 million, later.
- [154] The applicant argues that the Kingsway option agreement was always “too good to be true”. He highlights that the agreement was subsequently amended to increase the City’s contribution to \$13 million. As I understand the argument, the applicant is suggesting that there was some kind of “bait and switch” going on. He relies on this as evidence of disqualifying bias and bad faith. I need only address this argument once, in the context of the applicant’s submissions about disqualifying bias, to show what it does not support quashing the KED by-laws on either ground. There are at least three problems with this argument.

- [155] First, the City never expected to get a free ride when it came to constructing the arena/event centre and no one at the City ever represented to Council or the public that it would. It is true that, as early as August 14, 2012, Council had expressed a hope that gaming facility proponents would identify and develop “opportunities for ancillary and complementary amenities as part of their proposal”. However, it would be unreasonable for anyone to believe that the successful proponent was going to build or entirely pay for the event centre if it was built downtown. Both the CBRE report of March 2015 and the City staff’s Large Projects Report made it clear that significant investment by the City would be necessary even if the arena/event centre was built downtown.
- [156] Second, the City has satisfactorily explained why final amendments to the contribution agreement were necessary. As the City explains, the original cost sharing agreement did not address expenses associated with various common elements of the KED project. This is easy to accept because the Final Site Design strategy was not decided upon until November 22, 2017, months after the original Kingsway option agreement was reached.
- [157] Finally, I note that the City has been transparent about the amendments to the original cost-sharing agreement since Council approved the Kingsway location. Since then, details have been available to members of the public on an ongoing basis via the Internet. It is unlikely that the City would be so transparent if the purpose of the original servicing agreement was to enlist public support for the KED under false pretenses.

#### ***Deciding Its Own Planning Act Applications***

- [158] In his affidavit, the applicant expresses concern about the fact that Council decided on its own rezoning and Official Plan amendment applications and seems to suggest that this is evidence of disqualifying bias.
- [159] As counsel for the applicant concedes, however, this is a common occurrence. The City is not exempt from the provisions of the *Planning Act*, even though it is empowered to approve applications under that Act. In this case, notwithstanding the usual practice, the City made efforts to ensure that the staff that worked on the development of the arena/event centre reported to a different manager than did the staff that worked on the *Planning Act* applications.
- [160] The applicant also submits that Council prejudged the *Planning Act* applications, which is a different, but related, submission. There are a number of facts that undermine this submission.
- [161] First, the City began an advertising campaign in January 2018 to promote the Kingsway as the location of the arena/event centre. This hardly seems necessary if the result of the applications was a foregone conclusion.
- [162] Second, councillors other than those who sat on the Planning Committee attended the committee meetings to make presentations in favour of and against the site chosen for the arena/event centre. Again, this hardly seems necessary if the game was in the bag.
- [163] Third, the votes at Council were not unanimously in favour of the applications, nor were they the same with respect to all of them. I note, in particular, that the Chair of the Planning Committee voted against the arena/event centre application on April 10, 2018,

even though she had voted in favour of it during the committee meeting relating to that application.

[164] I am not persuaded on the evidence that a majority of Council members prejudged the KED by-law applications.

### **Threats**

[165] The applicant deposes that, following the June 27, 2017 meeting, he renewed his campaign against the establishment of a casino and against locating the arena/event centre at the Kingsway site. According to the applicant, he enlisted the support of many local businesses, some of whom were prepared to make their support known to the public, and some of whom were not. Among those who were prepared to allow their support to be disclosed to the public was the Downtown Sudbury Business Improvement Area Board of Management (the “Downtown BIA”). The Downtown BIA is a corporation constituted under s. 204 of the *Municipal Act, 2001* to promote and oversee the development of the downtown area, which was designated as a Business Improvement Area under that Act.

[166] The applicant contends that, as soon as Council became aware of the Downtown BIA’s support for his campaign, one councillor in particular became the “leader and voice of Council promoting the KED”, who “commenced a highly public, intimidating, and divisive smear campaign not only against the applicant and the [Downtown] BIA but also against local businesses and residents who voiced opposition.” Only part of this is borne out by the evidence.

[167] It is true that one councillor did become very vocal against those who opposed the KED. That councillor became the subject of an investigation by the Integrity Commissioner, who found that the councillor repeatedly abused and harassed members of the public, in contravention of the Code of Conduct for Council and Local Boards, as well as the prior Code of Ethics.

[168] However, the applicant has not shown that this councillor represented a majority of Council. While I am prepared to accept that as many as two other councillors also expressed disapproval of what the applicant was doing, that is a far cry from establishing that the councillor in question represented a majority of Council. The evidence is to the contrary. The councillor in question was reprimanded by Council following the Integrity Commissioner’s report on his conduct.

### **Bad Faith**

[169] I come now to the third and final legal basis on which the applicant has attacked the KED by-laws under s. 273: bad faith.

[170] As I pointed out earlier, there is no definition of illegality in s. 273 and it has been defined by the courts to include many things, including bad faith: *Grosvenor*, at para. 27.

[171] Like the term “illegality”, there is no definition of “bad faith” in the *Municipal Act, 2001* and that term, too, has been defined by the courts. In *Equity Waste Management*, our Court of Appeal adopted the following definition of bad faith (at p. 340):

Bad faith by a municipality connotes a lack of candour, frankness and impartiality. It includes arbitrary or unfair conduct and the

exercise of power to serve private purposes at the expense of the public interest.

[172] As Laskin J.A. pointed out on behalf of the court, the onus to prove bad faith is on the challenger, who must show that a majority of the council members acted other than in the public interest (at p. 343). The onus is a heavy one: *Friends of Lansdowne Inc. v. Ottawa*, 2012 ONCA 273, at para. 79.

[173] Consistent with the law as it relates to disqualifying bias, it is entirely proper for councillors to take into account the views of the electorate in making decisions. As Laskin J.A. wrote (at p.343):

A court should not be quick to find bad faith because members of a municipal council, influenced by their constituents, express strong views against a project.

[174] The same is true, of course, of councillors who express a strong view *in favour* of a project.

[175] Rarely is it possible to find direct evidence of bad faith. Instead, courts have relied on circumstantial evidence (“*indicia*” or “badges”) of bad faith, including many of the circumstances that might allow a court to quash a by-law for illegality on the basis of procedural failures or disqualifying bias.

[176] The applicant submits that, in addition to the evidence that I have addressed above, there is other evidence of bad faith on the part of the City and Council in this case.

#### ***Changing the PWC Site Selection Matrix***

[177] Both the applicant and Faludi suggest in their affidavits that there was something improper about the fact that Council voted to change the weighting in the selection matrix originally proposed by PWC and adopted by Council. They suggest that the weighting was changed to favour the Kingsway site. This suggestion is not supported by the evidence.

[178] There is nothing beyond the bald assertions of the applicant and Faludi that the weighting eventually chosen by Council seemed to favour selection of the Kingsway site over the downtown site. Neither goes on to explain why they hold that opinion.

[179] More importantly, neither opinion is borne out by the result of the application of the new weighting scheme. The downtown site still came out the number one choice.

[180] Even if it could be said that the change favoured the Kingsway site, there is no evidence that the change was made for that purpose. Instead, the evidence suggests that the changes were made to reflect Council’s priorities, not to favour one site over the other.

#### ***Haste in Passing the KED By-laws***

[181] Haste in passing a by-law may be a sign that the by-law was passed in bad faith: *Re. H.G. Winton Ltd.*, at p. 745. The applicant submits that the KED by-laws were passed with unusual haste. He relies on the evidence of Faludi in this respect.



- [182] According to the evidence of the City's Director of Planning Services, the *Planning Act* requires that applications to amend Official Plans be processed within 180 days and that rezoning applications be processed within 120 days. Council made its decision on the KED *Planning Act* applications 116 days after the last of the applications was deemed complete. That is only four days before the time limit expired on the rezoning applications and roughly two-thirds of the time permitted to process the Official Plan amendment application. This does not strike me as particularly fast, especially when one considers that the Official Plan amendment application was running in tandem with the rezoning application regarding the casino.
- [183] I would point out, as well, that apart from the applicant's allegation that the June 27, 2017 meeting constituted a *Planning Act* meeting, which I have dismissed as unfounded, the KED by-law applications were passed only after the City fulfilled all of the statutory prerequisites, including the Planning Committee meetings in January and March 2018.
- [184] While it may be true that some *Planning Act* applications take longer, I cannot agree that the KED by-laws were passed with the kind of haste that would make one suspect bad faith.

#### ***Unreasonableness of the KED By-laws***

- [185] In Ontario, a municipal by-law cannot be attacked on the basis of reasonableness unless it was enacted in bad faith: *Municipal Act, 2001*, s. 272; *Friends of Lansdowne Inc.*, at paras. 13 and 77. However, the unreasonableness of a by-law may nonetheless constitute evidence of bad faith: *Equity Waste Management*, at p. 340.
- [186] The applicant submits that the KED by-laws were unreasonable because they were contrary to the plans and policies adopted by the City relating to the downtown area that existed at the time the by-laws were passed.
- [187] Like the allegation that the City was required under the *Planning Act* to study in greater detail the social and economic effects of locating the arena/event centre at the Kingsway site, this allegation is largely beyond the scope of the present application. To the extent that the content of the by-laws might provide evidence of bad faith, I cannot agree with the applicant.
- [188] There were many reasons why the Kingsway site might be better than the downtown site. These were identified by PWC in its report and in the report of the City's General Manager and considered by Council during the June 27 meeting. They included the fact that option agreements had not been signed before the meeting with all of the property owners whose property was required to build the facility downtown, problems with parking, and the prospect of partnering with the casino developers to share costs. In light of these concerns, I cannot conclude that it was unreasonable not to build the arena/event centre downtown.
- [189] This leads me to the allegation that I wish to address last.

#### ***Improper Purpose***

- [190] A by-law passed for a purpose other than that envisaged by the statutory power under which it is enacted may be quashed for bad faith: *Grosvenor*, at paras. 36 and 37.

- [191] The applicant alleges that the City acted for an improper purpose in passing the KED by-laws. I have saved this allegation for last because, in a general way, it underlies all of the applicant's allegations and, because it is without foundation, it also undermines them. The applicant submits that, rather than acting in accordance with the "intent and purpose" of the *Planning Act* and the *Municipal Act, 2001*, "[t]he purpose of the City was simply to obtain the approval of the project, speedily and without interference."
- [192] I have already demonstrated that the City did not act to avoid interference or in too much haste. However, even if this were true, the applicant has never identified *why* the City would want to do that. No inference of impropriety arises simply because the City wanted to pass by-laws within the statutory time limits. The submission that the City was in a hurry to pass the by-laws is really only a submission that there is circumstantial evidence that the City had an improper purpose. But what is that purpose? The applicant has never pointed to anything that would motivate the City or Council to act in bad faith. This stands in stark contrast to the cases on bad faith to which I have been referred by counsel in this application.
- [193] In *H.G. Winton Ltd.*, the municipality passed a rezoning by-law that prevented a religious organization from practicing its faith in a residential area. The by-law was passed without the usual notice, without the usual public hearing, and without any report from the municipality's planning staff. It was the only amendment that had ever been made to the by-law in question and, once passed, the by-law was the only zoning by-law in the municipality that barred a church in a residential area.
- [194] In *Markham v. Sandwich South (Township of)*, 1998 CanLII 5312 (ON CA), council enacted a by-law directed specifically at the appellants to collect tipping fees and to do so retroactively (by eight and one-half years) where there was ongoing litigation in which the municipality was trying to do the same thing. The by-law was passed without notice to the appellants and while a motion for summary judgment was outstanding in the litigation between the appellants and the municipality.
- [195] In *Grosvenor*, council enacted a by-law designating a 10.5 kilometre railway right-of-way it had purchased as a "highway" to bring it within an exception to provincial legislation that otherwise would have required the municipality to erect a fence on either side of the right-of-way. The by-law was passed without notice to anyone and given first, second, and third reading in one sitting, just before inspections were to take place under the fencing legislation in question.
- [196] In *Wpd Sumac Ridge*, council adopted a resolution to prevent wpd from realizing on permits it had been issued by the province to build wind turbines. The municipality had earlier adopted a resolution calling on the provincial government to reject wpd's planned wind energy project, which required that it obtain the municipality's permission to open, upgrade, and use a particular road. The impugned resolution resolved to deny wpd access to the road when it had never expressed any concerns about access during the process leading to wpd being granted a permit, even though it opposed the application.
- [197] In all of these cases, the motive on the part of the municipality to act in bad faith was obvious. As the Court of Appeal said in *Equity Waste Management*, there must be some evidence that a majority of Council acted other than in the public interest. There is no

evidence of that in this case. The only evidence I have before me is that there were good reasons to select either the downtown or the Kingsway sites for the arena/event centre. Choosing one over the other could only be improper if the choice was made for reasons other than the public interest. There is no evidence that the decision of Council was based on anything other than those interests. Indeed, the evidence suggests that the opposite is true.

[198] Therefore, the applicant has failed to demonstrate that the City acted in bad faith.

### **CONCLUSION**

[199] The applicant has failed to establish that there was any statutory breach or that he was denied common law procedural fairness in the process leading up to the passage of the KED by-laws. The evidence relied upon by the applicant, whether considered in isolation or in its entirety, is insufficient to support his allegations of disqualifying bias and bad faith.

[200] The applicant has failed to meet his onus. His application to quash the by-laws must be dismissed.

### **COSTS**

[201] Unless agreed upon, the parties may make written submissions on costs, limited to ten type-written pages excluding attachments, as follows:

- (a) the City shall deliver its submissions within 30 days;
- (b) the applicant shall have 30 days from receipt of the submissions of the City to deliver responding submissions;
- (c) the City shall have 10 days from receipt of the applicant's submissions to deliver any necessary reply.

[202] By virtue of Kurke J.'s order of January 24, 2020 granting Gateway intervenor status, Gateway is not entitled to seek its costs.

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Ellies R.S.J.

**Released:** September 4, 2020

**CITATION:** Fortin v. Sudbury (City), 2020 ONSC 5300  
**COURT FILE NO.:** CV-19-8313-00  
**DATE:** 2020/09/04

**BETWEEN:**

TOM FORTIN

Applicant

– and –

CITY OF GREATER SUDBURY

Respondent

– and –

GATEWAY CASINOS & ENTERTAINMENT  
LIMITED

Intervenor

Attached is Exhibit "2"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.



## Minutes

**For the City Council Meeting held  
Tuesday, December 15, 2020**

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Location: Tom Davies Square -  
Council Chamber /  
Electronic Participation

Commencement: 4:30 PM

Adjournment: 9:37 PM

### Deputy Mayor Landry-Altman, In the Chair

Present	Councillors Signoretti, Vagnini, Montpellier, McCausland, Kirwan, Jakubo, Sizer, McIntosh, Leduc, Landry-Altman
City Officials	Ed Archer, Chief Administrative Officer; Kevin Fowke, General Manager of Corporate Services; Eric Labelle, City Solicitor and Clerk; Joanne Kelly, Director of Human Resources and Organizational Development; Gabrielle Servais, Human Resources Business Partner
Closed Session	The following resolution was presented:  CC2020-299 Kirwan/Signoretti: THAT the City of Greater Sudbury Council move to Closed Session to deal with one (1) Personal Matter (Identifiable Individual(s)) / Labour Relations / Employee Negotiations item regarding a procurement matter in accordance with the <i>Municipal Act, 2001</i> , s. 239(2)(b) and (d). <b>CARRIED</b>  At 4:34 p.m., Council moved into closed session.
Recess	At 5:52 p.m., Council recessed.
Reconvene	At 6:25 p.m., Council commenced the Open Session in the Council Chamber

### Deputy Mayor Landry-Altman, In the Chair

Present	Councillors Signoretti [D 6:57 p.m., A 7:02 p.m.], Vagnini [D 6:52 p.m., A 7:33 p.m.], Montpellier, McCausland, Kirwan, Lapierre, Jakubo, Sizer, McIntosh, Cormier, Leduc, Landry-Altman
City Officials	Ed Archer, Chief Administrative Officer; Kevin Fowke, General Manager of Corporate Services; Tony Cecutti, General Manager of Growth and Infrastructure; Steve Jacques, General Manager of Community Development; Joseph Nicholls, General Manager of Community Safety; Ian Wood, Executive Director of Strategic Initiatives, Communication and Citizen Services; Brett Williamson, Director of Economic Development; Ed Stankiewicz, Executive Director of Finance, Assets and Fleet; Marie Litalien, Acting Director of Communications and Community Engagements; Kelly Gravelle, Deputy City Solicitor; Joanne Kelly, Director of Human Resources and Organizational Development; Tyler Campbell, Director of Social Services; Jeff Pafford, Director of Leisure Services; Keith Forrester, Manager of Real Estate; Ron Foster, Auditor General; Eric Labelle, City Solicitor and Clerk; Lisa Locken, Clerk's Services Assistant Anessa Basso, Clerk's Services Assistant;

## DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None declared.

### Rules of Procedure

Councillor Landry-Altman moved that the order of the agenda be altered to deal with Correspondence for Information Only item I-6, Members' Motions and then Managers' Report R-6 immediately after the Consent Agenda.

**CARRIED BY TWO-THIRDS MAJORITY**

## Matters Arising from the Closed Session

Deputy Mayor Landry-Altman, Chair of the Closed Session, reported that Council met in Closed Session to deal with one (1) Personal Matter (Identifiable Individual(s)) /Labour Relations / Employee Negotiations item regarding a procurement matter in accordance with the Municipal Act, 2001, s. 239(2)(b) and (d). Direction was given to staff in regards to the matter.

## Matters Arising from Community Services Committee

November 16, 2020

Councillor Lapierre, as Chair of the Community Services Committee, reported on the matters arising from the Community Services Committee meeting of November 16, 2020

The following resolution was presented:

CC2020-300 Lapierre/Leduc: THAT the City of Greater Sudbury approves Community Services Committee resolutions CS2020-23 to CS2020-25 inclusive from the meeting of November 16, 2020.  
**CARRIED**

The following are the Community Services Committee resolutions:

### **Request for a business case to advance the Valley East Twin Pad Multipurpose Sports Complex**

CS2020-23 Lapierre/Kirwan: WHEREAS at the June 19, 2017 Community Services Committee meeting, Council directed staff to prepare a business case to replace various arenas and/or ice pads, with the build of a multi-pad/multi-purpose arena facility in Valley East;

AND WHEREAS Council has approved building program elements and site schematic for a Valley East Twin Pad Multi-Purpose Sports Complex to be located on Howard Armstrong Recreation Centre property, a 28 acre parcel of municipally owned parkland, which would not only provide space for the recreation complex and ample parking, but would create a convenient one stop destination for multigenerational households as it is also the site of the Valley East Public Library and Citizen Service Centre and provides a variety of outdoor recreational opportunities;

AND WHEREAS during the 2020 budget deliberations, \$227,000, was approved to advance the Valley East Twin Pad Multipurpose Sports Complex funded by reallocated capital dollars;

AND WHEREAS the City's arena infrastructure is aging and in need of major capital reinvestment over the next 10 years to remain viable and to meet Accessibility requirements, particularly those in the Valley East area, which make them ideal candidates to be decommissioned or repurposed;

AND WHEREAS this project would reduce the supply of ice pads to match existing and future demands;

AND WHEREAS during the October 20th, 2020 Finance and Administration Committee meeting, Council directed staff to include a business case for rationalizing facilities and improving utilization in the 2021 budget;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury directs staff to present a business case for Council's consideration during the 2021 budget deliberations to advance the Valley East Twin Pad Multipurpose Sports Complex based on the development of the twin pad and potential reduction of other facilities.

**CARRIED****Children's Aid Transit Bus Pass Subsidy**

CS2020-24 McIntosh/Kirwan: THAT the City of Greater Sudbury approves the utilization of the Children Services reserve to offset the projected provincial child care administration funding reduction for the 2021 budget year, as outlined in the report entitled "2021 Provincial Child Care Administration Funding Reduction", from the General Manager of Community Development, presented at the Community Services Committee meeting on November 16, 2020.

**CARRIED****2021 Provincial Child Care Administration Funding Reduction**

CS2020-25 Leduc/Kirwan: THAT the City of Greater Sudbury directs staff to prepare a business case to support funding for the Children's Aid Society as defined in option number 1 - Concession Fare Rate, and as outlined in the Report entitled "Children's Aid Transit Bus Pass Subsidy", from the General Manager of Community Development, presented at the Community Services Committee Meeting on November 16, 2020, for consideration for inclusion in the 2021 municipal budget process.

**CARRIED****Matters Arising from Finance and Administration Committee**

November 17, 2020

Councillor Jakubo, as Chair of the Finance and Administration Committee, reported on the matters arising from the Finance and Administration Committee meeting of November 17, 2020.

The following resolution was presented:

CC2020-301 Jakubo/McIntosh: THAT the City of Greater Sudbury approves Finance and Administration Committee resolutions FA2020-69 to FA2020-73 inclusive from the meeting of November 17, 2020.

**CARRIED**

The following are the Finance and Administration Committee resolutions:

**Economic Recovery Action Items**

FA2020-69 Bigger/Kirwan: THAT the City of Greater Sudbury directs staff to incorporate the action items into the 2021 Work Plan, as outlined in the report entitled "Economic Recovery Action Items", from the General Manager of Growth and Infrastructure, presented at the Finance and Administration Committee meeting on November 17, 2020.

**CARRIED****Community Improvement Plans - 2020 Intake and Status Update**

Resolution 1:

FA2020-70 Signoretti/Lapierre: THAT the City of Greater Sudbury directs staff to prepare a business case for the 2021 Budget for the twelve (12) eligible and complete applications received as part of the 2020 Community Improvement Plan Intake;

AND THAT the City of Greater Sudbury directs staff to request a Stage 2 proposal of the proponents from the 300 Elgin Block application to be submitted by January 15, 2021, as outlined in the report entitled "Community Improvement Plans - 2020 Intake and Status Update", from the General Manager of Growth and Infrastructure, presented at the Finance and Administration Committee meeting on November 17, 2020.

**CARRIED**

Resolution 2:

FA2020-71 Lapierre/Signoretti: THAT the City of Greater Sudbury directs staff to allow executed CIP agreements, where the project has not commenced, to lapse on December 31, 2020, as outlined in the report entitled "Community Improvement Plans - 2020 Intake and Status Update", from the General Manager of Growth and Infrastructure, presented at the Finance and Administration Committee meeting on November 17, 2020.

**CARRIED**

Resolution 3:

FA2020-72 Sizer/Signoretti: THAT the City of Greater Sudbury rescinds all 2017-2019 Community Improvement Plan approvals, and amends the necessary by-laws, where the implementing agreements have not been executed by the applicant by January 15, 2021; AND THAT the City of Greater Sudbury directs staff to contribute any unspent CIP funds to the Tax Rate Stabilization Reserve - Committed, as outlined in the report entitled "Community Improvement Plans - 2020



Intake and Status Update", from the General Manager of Growth and Infrastructure, presented at the Finance and Administration Committee meeting on November 17, 2020.

**CARRIED**

Resolution 4:

FA2020-73 McIntosh/Signoretti: THAT the City of Greater Sudbury approves a Feasibility Study Grant application for up to \$5,000 under the existing Town Centre Community Improvement Plan for 519 Notre-Dame Ave, Sudbury, as outlined in the report entitled "Community Improvement Plans – 2020 Intake and Status Update", from the General Manager of Growth and Infrastructure, presented at the Finance and Administration Committee meeting on November 17, 2020.

**CARRIED**

## **Matters Arising from Operations Committee**

November 16, 2020

Councillor McIntosh, as Chair of the Operations Committee, reported on the matters arising from the Operations Committee meeting of November 16, 2020.

Rules of Procedure

Resolution OP2020-28 was dealt with separately as it was defeated at committee.

The following resolution was presented:

CC2020-302 McIntosh/Signoretti: THAT the City of Greater Sudbury approves Operations Committee resolutions OP2020-27 and OP2020-29 to OP2020-31 inclusive from the meeting of November 16, 2020.

**CARRIED**

The following are the Operations Committee resolutions:

### **Traffic and Parking By-law Amendment - Designated Centre Lane of Roadway for Left Turns Only on Elm Street**

OP2020-27 Signoretti/Leduc: THAT the City of Greater Sudbury designates the centre lane of Elm Street for left turns only from 190 metres west of Ethelbert Street to Regent Street/Beatty Street;

AND THAT the City of Greater Sudbury directs staff to prepare a by-law to amend Traffic and Traffic and Parking By-law 2010-1 in the City of Greater Sudbury to implement the recommended changes, as outlined in the report entitled "Traffic and Parking By-law Amendment – Designated Centre Lane of Roadway for Left Turns Only on Elm Street", from the General Manager of Growth and Infrastructure, presented at the Operations Committee meeting on November 16, 2020.

**CARRIED**

### **Open Streets in Greater Sudbury**

OP2020-29 Kirwan/McCausland: THAT the City of Greater Sudbury direct staff to explore opportunities to expand the Open Streets program to consider alternative municipal streets to Maley Drive and host future car-free events in 2022 and beyond, as outlined in the report entitled "Open Streets in Greater Sudbury", from the General Manager of Growth and Infrastructure, presented at the Operations Committee meeting on November 16, 2020.

**CARRIED**

### **Request for traffic calming study - Attlee Avenue and Westmount Avenue**

OP2020-30 Leduc/Kirwan: WHEREAS speed humps have proven effective in reducing speeds on local roads as part of traffic calming measures;

AND WHEREAS residents along Attlee Avenue, between Soloy Drive and Stonegate Drive, as well as on Westmount Avenue between Barrydowne Road and Attlee Avenue are very concerned about excessive traffic and speeds along those corridors and have requested that speed humps be installed in those locations;

AND WHEREAS speed humps have successfully been installed on Attlee Avenue near Lasalle Boulevard;

AND WHEREAS the traffic calming priority list is currently being reviewed and Westmount Avenue may be added to that list;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury direct staff to conduct a traffic calming study for Attlee Avenue, between Soloy Drive and Stonegate Drive, as well as on Westmount Avenue between Barrydowne Road and Attlee Avenue.

**CARRIED**

### **Request for a business case to create an Urban Forest Master Plan**

OP2020-31 McIntosh/McCausland: WHEREAS trees are a valued asset and should be retained and maintained to keep them healthy;

AND WHEREAS trees in urban areas provide environmental benefits including air and water quality improvements, stormwater retention, summer cooling of the built environment, decreased soil erosion, carbon sequestration, wildlife habitat, shade canopy and beautification of our streets and neighbourhoods;

AND WHEREAS the City of Greater Sudbury's Official Plan supports the enhancement of the urban tree canopy through the development of a municipal tree planting initiative to increase the tree cover in the City's Living Areas and Employment Areas, as well as the retention of trees and major woodlots on private lands, whenever possible, as a method of maintaining visual relief and conserving natural resources;

AND WHEREAS on May 28th, 2019, Council for the City of Greater Sudbury unanimously passed a resolution declaring a climate emergency, reaffirming the City's action as a strategic priority, and directing the creation of a Climate Change Adaptation & Mitigation Plan;

AND WHEREAS on September 22nd, 2020, Council for the City of Greater Sudbury unanimously approved the Greater Sudbury Community Energy and Emissions Plan (CEEP) and authorized staff to proceed with next steps in the implementation of the CEEP, which includes Goal 18 – to increase the reforestation efforts of the Regreening Program to provide trees to sequester enough carbon to bridge the emissions gap remaining after Reduce-Improve-Switch actions have been taken;

AND WHEREAS site alteration or development activity should, whenever possible, consider a site's existing natural features such as trees in the proposal;

AND WHEREAS an Urban Forest Master Plan could create positive changes that would lead to:

- Changes in Right of Way Strategic Plans, and corresponding budget implications to manage right of way trees;
- Changes in the Official Plan and Zoning By-law to incorporate land use policy objectives and development adaptations;
- Make the community more resilient to impacts of climate change such as invasive species and flooding;
- Reduce greenhouse gas emissions through the promotion of carbon sequestering;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury direct staff to present a business case for Council's consideration during the 2021 budget deliberations to develop an Urban Forest Master Plan.

**CARRIED**

### **Open Streets in Greater Sudbury**

*OP2020-28 was dealt with separately:*

The following resolution was presented:

CC2020-303 (OP2020-28) Signoretti/Kirwan: THAT the City of Greater Sudbury directs staff to prepare a business case for consideration during the 2021 Budget process to host four Open Streets events on Maley Drive in 2021 at a total cost of \$40,000, from the General Manager of Growth and Infrastructure, presented at the Operations Committee meeting on November 16, 2020.

#### **Rules of Procedure**

A Recorded Vote was held:

**NAYS:** Councillors Signoretti, Vagnini, Montpellier, McCausland, Kirwan, Lapierre, Jakubo, Sizer, McIntosh, Cormier, Leduc, Landry-Altmann

**DEFEATED**

*Councillor Vagnini departed at 6:52 p.m.*

## **Matters Arising from Planning Committee**

November 23, 2020

Councillor Cormier, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of November 23, 2020.

Rules of Procedure

Councillor Leduc requested that Planning Committee resolution PL2020-154 be pulled and dealt with separately.

**Declarations of Pecuniary Interest**

Councillor Signoretti declared a conflict of interest for item PL2020-154 as his was on the board of the Canadian Mental Health Association (CMHA) at the time this item was originally passed.

The following resolution was presented:

CC2020-304 Cormier/McCausland: THAT the City of Greater Sudbury approves Planning Committee resolutions PL2020-151 to PL2020-153 and PL2020-155 to PL2020-157 and PL2020-159 to to PL2020-162 inclusive from the meeting of November 23, 2020.

**CARRIED**

The following are the Planning Committee resolutions:

**380 Second Avenue North, Sudbury**

PL2020-151 Kirwan/Sizer: THAT the City of Greater Sudbury approves the application by Barrydowne Animal Hospital to amend Zoning By-law 2010-100Z by changing the zoning classification from "H14C2(80)", Holding General Commercial Special to a revised "C2(80)", General Commercial Special on lands described as PIN 73573-0006, Parcel 53669 S.E.S., Parts 1, 3 & 4, Plan 53R-15217 in Lot 12, Concession 4, Township of Neelon, as outlined in the report entitled "380 Second Avenue North, Sudbury", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020, subject to the following conditions:

- a) That the H14 holding provision be deleted; and,
- b) That the "C2(80)", General Commercial Special zoning be amended in order to permit the following uses:

art gallery, commercial recreation centre, commercial school, custom print or copy shop, institutional use, office, personal service shop, pet grooming establishment, pharmacy, residential uses as permitted under Table 7.1, restaurant, retail store, scientific or medical laboratory, veterinary clinic and related accessory uses.

**CARRIED**

**0 Gravel Drive, Hanmer**

Resolution Regarding Official Plan Amendment:

PL2020-152 Kirwan/McCausland: THAT the City of Greater Sudbury approves the application by Michael and Carole Leblanc to amend the Official Plan for the City of Greater Sudbury in order to facilitate the creation of one new rural lot with both the proposed severed and retained lands having a minimum of 61 metres of lot frontage onto a public road, on those lands described as PINs 73504-3070 & 73504-3071, Parcel 18575, Part 1, Plan 53R-20725, as outlined in the report entitled "0 Gravel Drive, Hanmer", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020.

**CARRIED**

Resolution Regarding Rezoning:

PL2020-153 Kirwan/Landry-Altman: THAT the City of Greater Sudbury approves the application by Michael and Carole Leblanc to amend By law 2010-100Z being the Zoning By law for the City of Greater Sudbury by changing the zoning classification on a portion of the lands from "RU", Rural to "RU(S)", Rural Special, on those lands described as PINs 73504-3070 & 73504-3071, Parcel 18575, Part 1, Plan 53R-20725, as outlined in the report entitled "0 Gravel Drive, Hanmer", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020, subject to a condition that the amending zoning by-law contain a site-specific development standard permitting minimum lot frontages of 61 metres.

**CARRIED**

**Purchase of Land – MR 35, Chelmsford**

PL2020-155 Sizer/McCausland: THAT the City of Greater Sudbury authorize the purchase of part of 4446 Municipal Road 35, Chelmsford, legally described as part of PIN's 73347-0908(LT) and 73347-0038(LT) being Parts 1, 2 and 3, Plan 53R-21288, Township of Rayside;

AND THAT the acquisition be funded from the Municipal Road 35. Road Capital Project Account;

AND THAT a by-law be prepared to authorize the purchase and the execution of the documents required to complete the real estate transaction.

**CARRIED**

PL2020-156 Kirwan/Landry-Altman: THAT the City of Greater Sudbury authorize the purchase of part of 4496 Municipal Road 35, Chelmsford, legally described as part of PIN73347-1276(LT), Part 5, Plan 53R-21288, Township of Rayside;

AND THAT the acquisition be funded from the Municipal Road 35. Road Capital Project Account;

AND THAT a by-law be prepared to authorize the purchase and the execution of the documents required to complete the real estate transaction.

**CARRIED**

PL2020-157 Sizer/Landry-Altman: THAT the City of Greater Sudbury authorize the purchase of part of 4514 Municipal Road 35, Chelmsford, legally described as part of PIN 73347-0866(LT), being Parts 1 and 2, Plan 53R-21300 and Part 4, Plan 53R-21288, Township of Rayside;

AND THAT the acquisition be funded from the Municipal Road 35. Road Capital Project Account;

AND THAT a by-law be prepared to authorize the purchase and the execution of the documents required to complete the real estate transaction.

**CARRIED**

**Cote Boulevard, Hanmer**

PL2020-159 Kirwan/Sizer: THAT the City of Greater Sudbury's delegated official be directed to amend the conditions of draft approval for the draft plan of subdivision on lands described as Part of PIN 73508-1102, Part of Parcel 698 S.E.S., in Lot 12, Concession 3, Township of Capreol, City of Greater Sudbury, File 780 7/08006, in the report entitled "Cote Boulevard, Hanmer", from the General Manager of Growth and Infrastructure, presented at the Planning Hanmer", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020, as follows:

a) By deleting Condition #10 and replacing it with the following:

"That this draft approval shall lapse on September 30, 2022."

b) By deleting Condition #13 and replacing it with the following:

"That Street E will require a sidewalk to be constructed on both sides of the roadway as it will be designated a Collector Road."

c) By adding the following to Condition #19:

"The geotechnical engineer will be required to address On-site and Excess Soil Management when O. Reg. 406/19 comes into force. A soils caution agreement shall be registered on title, if required, to the satisfaction of the Chief Building Official and the City Solicitor. The owner shall be responsible for the legal costs of preparing and registering the agreement."

d) By adding the following to Condition #20:

"A lot grading agreement shall be registered on title, if required, to the satisfaction of the Director of Planning Services and the City Solicitor. The owner shall be responsible for the legal costs of preparing and registering the agreement."

e) By deleting Condition #21 and adding the following as Condition #35:

"A stormwater management report and associated plans must be submitted by the Owner's Consulting Engineer for approval by the City. The report must address the following requirements:

- The underground storm sewer system within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City's 5 year design storm. The permissible minor storm discharge from the subject development must be limited to the existing pre-development site runoff resulting from a 5 year design storm. Any resulting post development runoff in excess of this permissible discharge rate must be controlled and detained within the plan of subdivision.
- The underground storm sewer system within future right-of-way classified as collector, within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City's 10 year design storm.
- The overland flow system within the plan of subdivision must be designed to accommodate and/or convey the major storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City's 100 year design storm or Regional storm event, whichever is

greater, without causing damage to proposed and adjacent public and private properties. The permissible major storm discharge from the subject development must be limited to the existing pre-development runoff resulting from a 100 year design storm or Regional storm event, whichever is greater.

- “Enhanced” level must be used for the design of stormwater quality controls as defined by the Ministry of the Environment, Conservation and Parks.
- Stormwater management must follow the recommendations of the Whitson River Subwatershed Study.
- The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any stormwater management plan.
- The final grading of the lands shall be such that the surface water originating on or tributary to the said lands, including roof water from buildings and surface water from paved areas, will be discharged in a manner satisfactory to the General Manager of Growth and Infrastructure.
- Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties.
- Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted.

The owner shall be responsible for the design and construction of any required stormwater management works to the satisfaction of the General Manager of Growth and Infrastructure as part of the servicing plans for the subdivision and the owner shall dedicate the lands for stormwater management works as a condition of this development.

f) By adding the following as Condition #36:

“That Streets F, A, B, C and D must connect to St. Michel Street as part of the development.”

g) By adding the following as Condition #37:

“That in accordance with Section 59(4) of the Development Charges Act, a notice of agreement shall be registered on title to ensure that persons who first purchase the subdivided land after registration of the plan of subdivision are informed, at the time the land is transferred, of all development charges related to development.”

h) By adding the following as Condition #38:

“That prior to the signing of the final plan, the owner shall satisfy Canada Post with respect to mail delivery facilities for the site.”

#### **CARRIED**

#### **Kingsway Boulevard, Sudbury**

PL2020-160 Kirwan/Sizer: THAT the City of Greater Sudbury’s delegated official be directed to amend the conditions of draft approval for a plan of subdivision on those lands described as PINs 73561-0258, 73561-0261 & 73561-0264, Lots 9 & 10, Concession 4, Township of Neelon, File # 780-6/10002, in the report entitled “Kingsway Boulevard, Sudbury”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020, upon payment of the City’s processing fee in the amount of \$2266.17, as follows:

1. In Conditions #2, 3, 4, 5, 7, and 28 by replacing the word ‘Municipality’ or ‘City of Greater Sudbury’ with ‘City’;

2. By deleting Condition #18 and replacing it with the following:

“18. A stormwater management report and associated plans must be submitted by the Owner’s Consulting Engineer for approval by the City and the Nickel District Conservation Authority. The report must address the following requirements:

- The underground storm sewer system within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City’s 5 year design storm. The permissible minor storm discharge from the subject development must be limited to the existing pre-development site runoff resulting from a 5 year design storm. Any resulting post development runoff in excess of this permissible discharge rate must be controlled and detained within the plan of subdivision.
- The underground storm sewer system within future right-of-way classified as collector, within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City’s 10 year design storm.
- The overland flow system within the plan of subdivision must be designed to accommodate and/or

convey the major storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City's 100 year design storm or Regional storm event, whichever is greater, without causing damage to proposed and adjacent public and private properties. The permissible major storm discharge from the subject development must be limited to the existing pre-development runoff resulting from a 100 year design storm or Regional storm event, whichever is greater.

- "Enhanced" level must be used for the design of stormwater quality controls and 20% overcontrol of peak flows as defined by the Ministry of the Environment, Conservation and Parks.
- Stormwater management must follow the recommendations of the Ramsey Lake Subwatershed Study.
- The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any stormwater management plan.
- The final grading of the lands shall be such that the surface water originating on or tributary to the said lands, including roof water from buildings and surface water from paved areas, will be discharged in a manner satisfactory to the General Manager of Growth and Infrastructure.
- Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties.
- Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted.

The owner shall be responsible for the design and construction of any required stormwater management works to the satisfaction of the General Manager of Growth and Infrastructure as part of the servicing plans for the subdivision and the owner shall dedicate the lands for stormwater management works as a condition of this development."

3. By deleting Condition #10 and replacing it with the following:

"10. That this draft approval shall lapse on October 26, 2022."

4. By deleting Condition #25 and replacing it with the following:

"25. That the applicant/owner shall provide to the City, as part of the submission of servicing plans a Sediment and Erosion Control Plan detailing the location and types of sediment and erosion control measures to be implemented during the construction of each phase of the project. Said plan shall be to the satisfaction of the General Manager of Growth and Infrastructure and the Nickel District Conservation Authority. The siltation control shall remain in place until all disturbed areas have been stabilized. All sediment and erosion control measures shall be inspected daily to ensure that they are functioning properly and are maintained and/or updated as required. If the sediment and erosion control measures are not functioning properly, no further work shall occur until the sediment and/or erosion problem is addressed."

5. In Condition #34 and 37, by replacing the word 'developer' with 'owner'.

6. In Condition #9 and 39, by adding the word 'Services' after the words 'Director of Planning'.

7. In Condition #40, by deleting the reference to the General Manager of Growth and Development.

**CARRIED**

### **185 & 227 Lorne Street, Sudbury**

PL2020-161 Kirwan/Sizer: THAT the City of Greater Sudbury approves the application by Oldenburg Inc. to extend the approval of a Zoning By-law Amendment Application, File #751-6/15-26, on those lands described as PINs 73585-0909 & 73585-1128 & Part of PIN 73585-1085, Lots 88 & 89, Plan M-31S, Part of Alder Street Located South of Victoria Street & North of Willow Street, Lot 6, Concession 3, Township of Mckim, for a period of one year until November 22, 2021, as outlined in the report entitled "185 & 227 Lornes Street, Sudbury", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020.

**CARRIED**

### **Commercial Vehicle Parking Standards**

PL2020-162 Sizer/Landry-Altman: THAT the City of Greater Sudbury directs staff to initiate an amendment to the Zoning By-law to permit commercial vehicle (tow truck) parking within the Agricultural and Rural Zones, as outlined in the report entitled "Commercial Vehicle Parking Standards", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on November 23, 2020.

**CARRIED**

### **Lourdes Street, Sudbury**

*PL2020-154 was dealt with separately.*

Councillor Signoretti, having declared a conflict of interest in the foregoing matter, did not take part in the discussion or vote on the matter.

The following resolution was presented:

CC2020-305 Sizer/Kirwan (PL2020-154): Sizer/Kirwan: THAT the City of Greater Sudbury authorize the sale of 291 Lourdes Street, Sudbury, legally described as PIN 73583-0183(LT) and PIN 73584-0882(LT), City of Greater Sudbury;

AND THAT a by-law be presented authorizing the sale and the execution of the documents required to complete the real estate transaction;

AND THAT the net proceeds of the sale are credited to the Capital Financing Reserve Fund -General.

Rules of Procedure

A Recorded Vote was held:

**YEAS:** Councillors Montpellier, McCausland, Lapierre, Jakubo, Sizer, McIntosh, Cormier, Leduc, Landry-Altman

**NAYS:** Councillors Kirwan, Leduc

**CARRIED**

December 14, 2020

Councillor Cormier, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of November 23, 2020.

The following resolution was presented:

CC2020-306 Cormier/McCausland: THAT the City of Greater Sudbury approves Planning Committee resolutions PL2020-164 and PL2020-165 from the meeting of December 14, 2020.

**CARRIED**

The following are the Planning Committee resolutions:

**Moonlight Ridge Subdivision, Sudbury**

PL2020-164 Kirwan/Sizer: THAT the City of Greater Sudbury approves the application by Dalron Construction Limited to amend Zoning By-law 2010-100Z by changing the zoning classification from "R1-5", Low Density Residential One to "R2-2 Special", Low Density Residential Two Special on lands described as Part of PINs 73575-0516 and 73575-0664, Part of Parts 6 & 9, Plan 53R-19231, Parts 1 to 4, Plan 53R-20294 in Lot 9, Concession 3, Township of Neelon, as outlined in the report entitled "Moonlight Ridge Subdivision, Sudbury", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on December 14, 2020, subject to the following conditions:

- a) That prior to the adoption of the amending by-law, the owner shall provide the Development Approvals Section with a final plan of survey in order to enact the amending by-law. Proposed Lot 7 shall be identified as a separate part on the plan in order to implement the necessary site-specific relief;
- b) That the amending by-law include the following site-specific provisions:
  - i) The minimum rear yard on proposed Lot 7 shall be 3.7 metres; and,
  - ii) The minimum lot depth on proposed Lot 7 shall be 25 metres.
- c) Conditional approval shall lapse on December 15, 2022 unless Condition a) above has been met or an extension has been granted by Council.

**CARRIED**

**Proposed Zoning By-law Amendment for Commercial Parking Standards and the Shopping Centre Commercial Zone**

PL2020-165 McCausland/Kirwan: THAT the City of Greater Sudbury approves the attached by-law which introduces residential uses in the C5 Zone and revisions to commercial parking standards, as outlined in the report entitled "Proposed Zoning By-law Amendment for Commercial Parking Standards and the Shopping Centre Commercial Zone", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on December 14, 2020;

THAT Appendix 3 of the draft by-law showing GOVA routes 1 + 2 be deleted;

AND THAT section 5.3.1 delete any reference to GOVA Routes 1 + 2 and Appendix 3.

**CARRIED**

## Adopting, Approving or Receiving Items in the Consent Agenda

The following resolution was presented:

CC2020-307 Cormier/Jakubo: THAT the City of Greater Sudbury approves Consent Agenda items C-1 to C-6.

**CARRIED**

The following are the Consent Agenda Items:

### Minutes

C-1 . Finance and Administration Committee Minutes of October 20, 2020

CC2020-308 Cormier/Jakubo: THAT the City of Greater Sudbury adopts the Finance and Administration Committee meeting of October 20, 2020.

**CARRIED**

C-2 . Finance and Administration Committee Minutes of November 3, 2020

CC2020-309 Cormier/Jakubo: THAT the City of Greater Sudbury adopts the Finance and Administration Committee meeting minutes of November 3, 2020.

**CARRIED**

C-3 . Planning Committee Minutes of November 9, 2020

CC2020-310 Cormier/Jakubo: THAT the City of Greater Sudbury adopts the Planning Committee meeting minutes of November 9, 2020.

**CARRIED**

C-4 . City Council Minutes of November 10, 2020

CC2020-311 Cormier/Jakubo: THAT the City of Greater Sudbury adopts the City Council meeting minutes of November 10, 2020.

**CARRIED**

C-5 . Operations Committee Minutes of November 16, 2020

CC2020-312 Cormier/Jakubo: THAT the City of Greater Sudbury adopts the Operations Committee meeting minutes of November 16, 2020.

**CARRIED**

C-6 . Community Services Committee Minutes of November 16, 2020

CC2020-313 Cormier/Jakubo: THAT the City of Greater Sudbury adopts the Community Services Committee meeting minutes of November 16, 2020.

**CARRIED**

### Correspondence for Information Only

I-6 . Homelessness Consultation in Greater Sudbury

Report dated December 2, 2020 from the General Manager of Community Development regarding Homelessness Consultation in Greater Sudbury.

For Information Only.

*Councillor Vagnini returned at 7:33 p.m.*

### Members' Motions

M-1 . Warming Station Services

Motion for Deferral

Councillor Landry-Altman moved to refer this item to the Special Finance and Administration Committee meeting of December 21, 2020.

A Recorded Vote was held:



**YEAS:** Councillors Signoretti, Vagnini, Montpellier, McCausland, Kirwan, Lapierre, McIntosh, Cormier, Leduc, Landry-Altman

**NAYS:** Councillors Jakubo, Sizer  
**REFERRED**

M-2 . **Request For Amendment to By-Law 2010-1 To Permit On-Street Parking On Prete Street**

The following resolution was presented:

CC2020-314 Cormier/McIntosh: WHEREAS parking is currently prohibited on both sides of Prete Street between Benny Street and Connaught Avenue;

AND WHEREAS there are a number of multi-unit buildings on Prete Street;

AND WHEREAS the parking restrictions are creating challenges for visitors of those multi-unit buildings, often home and health care service providers, who have nowhere to park;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury directs staff to present a by-law at the January 12th, 2021 City Council meeting to amend Traffic and Parking By-law 2010-1, as amended, to permit on street parking on the East side of Prete Street, between 15 meters south of Benny Street to 46 meters south of Benny Street.

**CARRIED**

M-3 . **Studying a Complete Renovation of the Sudbury Community Arena**

The following resolution was presented:

CC2020-315 McCausland/Signoretti: WHEREAS a local architecture company, 3rd Line Studio, has developed a plan to renovate the Sudbury Community Arena into a multi-function event centre, and to do so for as little as 60% of the cost of building a new multi-function event centre;

AND WHEREAS the 3rdLine Studio plan, entitled Project Now, also includes an indoor parking facility which could address an identified parking need in Downtown Sudbury;

AND WHEREAS realizing up to 40% savings by renovating the historic Sudbury Community Arena into a multi-function event centre would potentially save up to \$40 million that the city could invest in other community recreation and infrastructure projects;

AND WHEREAS it has been proposed that design and engineering work on Project Now could begin immediately and construction could proceed without negatively affecting the operations of the Sudbury Wolves and Sudbury Five over a three-year construction period;

THEREFORE BE ITRESOLVED that the City of Greater Sudbury Council instruct the City's Large Projects Steering Committee to evaluate the Project Now plan and report back to council in the form of a report focusing on answering four questions:

1. Will the Project Now plan result in a multi-function event centre suitable to the city's needs as prescribed in the 2017 PWC report?;
2. Are the timelines associated with the Project Now plan feasible?;
3. What implications, if any, does the Project Now plan present that address the City's ongoing plans to address downtown parking needs or the City's other Large Projects?;
4. Is the cost structure of the Project Now plan reasonable for developing a clear understanding about the level of financing required for the plan's full cost?

AND THAT this evaluation include liaising with the Project Now team, and review of previous staff reports on renovating the Sudbury Community Arena;

AND THAT this report be presented to council at the January 12th, 2021 City Council meeting.

**Rules of Procedure**

Councillor McCausland presented a friendly amendment to include "5. To identify whether the Project Now plan would be eligible for Federal and Provincial Funding programs for energy retrofits."

The following is the resolution with the inclusion of the friendly amendment:

CC2020-315 McCausland/Signoretti: WHEREAS a local architecture company, 3rd Line Studio, has developed a plan to renovate the Sudbury Community Arena into a multi-function event centre, and to do so for as little as 60% of the cost of building a new multi-function event centre;

AND WHEREAS the 3rdLine Studio plan, entitled Project Now, also includes an indoor parking facility which could address an identified parking need in Downtown Sudbury;

AND WHEREAS realizing up to 40% savings by renovating the historic Sudbury Community Arena into

a multi-function event centre would potentially save up to \$40 million that the city could invest in other community recreation and infrastructure projects;

AND WHEREAS it has been proposed that design and engineering work on Project Now could begin immediately and construction could proceed without negatively affecting the operations of the Sudbury Wolves and Sudbury Five over a three-year construction period;

THEREFORE BE ITRESOLVED that the City of Greater Sudbury Council instruct the City's Large Projects Steering Committee to evaluate the Project Now plan and report back to council in the form of a report focusing on answering four questions:

1. Will the Project Now plan result in a multi-function event centre suitable to the city's needs as prescribed in the 2017 PWC report?;
2. Are the timelines associated with the Project Now plan feasible?;
3. What implications, if any, does the Project Now plan present that address the City's ongoing plans to address downtown parking needs or the City's other Large Projects?;
4. Is the cost structure of the Project Now plan reasonable for developing a clear understanding about the level of financing required for the plan's full cost?
5. To identify whether the Project Now plan would be eligible for Federal and Provincial Funding programs for energy retrofits.

AND THAT this evaluation include liaising with the Project Now team, and review of previous staff reports on renovating the Sudbury Community Arena;

AND THAT this report be presented to council at the January 12th, 2021 City Council meeting.

#### Rules of Procedure

A Recorded Vote was held:

**YEAS:** Councillors Signoretti, Montpellier, McCausland, Lapierre, McIntosh, Cormier

**NAYS:** Councillors Vagnini, Kirwan, Jakubo, Sizer, Leduc, Landry-Altman  
**LOST**

#### Resolution to Proceed past 9:25 p.m.

CC2020-316 McIntosh: THAT this meeting proceeds past the hour of 9:25 p.m.

#### Rules of Procedure

A Recorded Vote was held:

**YEAS:** Councillors Vagnini, Montpellier, Kirwan, Cormier, Leduc, Landry-Altman

**NAYS:** Councillors Signoretti, McCausland, Lapierre, Jakubo, Sizer, McIntosh  
**DEFEATED**

## **By-Laws**

The following resolution was presented:

CC2020-317 Cormier/Jakubo: THAT the City of Greater Sudbury read and pass By-law 2020-170 to and including By-law 2020-192.

**CARRIED**

The following are the by-laws:

2020-170

A By-law of the City of Greater Sudbury to Confirm the Proceedings of Council at its Meeting of December 15th, 2020

2020-171

A By-law of the City of Greater Sudbury to Amend By-law 2017-5 being a By-law of the City of Greater Sudbury Respecting the Delegation of Authority to Various Employees of the City (This by-law updates the Delegation By-law with respect to the title for the Director of Long Term Care Services (Pioneer Manor) and to provide authority to sign the Pioneer Manor Admission Agreement.)

2020-172

A By-law of the City of Greater Sudbury to Amend By-law 2018-121 being A By-law of the City of Greater Sudbury Respecting the Appointment of Officials of the City  
(This by-law updates certain appointments to reflect staff changes.)

2020-173

By-law of the City of Greater Sudbury to Amend By-law 2010-1 being a By-law to Regulate Traffic and Parking on Roads in the City of Greater Sudbury  
Operations Committee Resolutions #OP2020-27  
(This by-law amends By-law 2010-1 to reflect current parking and traffic regulations.)

2020-174

A By-law of the City of Greater Sudbury to Levy and Collect Omitted and Supplementary Realty Taxes for the Year 2021  
(This by-law authorizes the 2021 omitted and supplementary tax billing and sets the dates for omitted and supplementary assessments added after each of June 1, July 1, August 1, September 1, October 1, November 1 and December 1, 2021.)

Report dated November 5, 2020 from the General Manager of Corporate Services regarding 2021 Omitted and Supplementary Tax Billing.

2020-175

A By-law of the City of Greater Sudbury to set an Interim Tax Levy and Tax Billing Dates Prior to the Development of the 2021 Tax Policy  
(Section 317(1) of the Municipal Act, 2001, provides the authority for an interim tax levy prior to the adoption of the final estimates. For 2021 the interim due dates have been established as March 1st and April 1st, 2021.)

Report dated November 13, 2020 from the General Manager of Corporate Services regarding 2021 Interim Tax Billing.

2020-176

A By-law of the City of Greater Sudbury to Authorize the Neighbourhood Association Grants for the Year 2020  
(This By-law authorizes the making of grants to Neighbourhood Associations for the 2020 calendar year.)

Report dated November 23, 2020 from the General Manager of Community Development regarding 2020 Neighbourhood Association Annual Grant Allocation By-Law.

2020-177

A By-law of the City of Greater Sudbury to Amend By-law 2018-80 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Downtown Sudbury Community Improvement Plan  
Finance and Administration Committee Resolution #FA2020-72  
(This amending By-law implements a deadline of January 15, 2021 for execution of implementing agreements provided for in By-law 2018-80 being A By-law of the City of Greater Sudbury to Authorize Façade Improvement Grants Under the Downtown Sudbury Community Improvement Plan.)

2020-178

A By-law of the City of Greater Sudbury to Amend By-law 2019-67 being A By-law of the City of Greater Sudbury to Authorize Façade Improvement Grants Under the Downtown Sudbury Community Improvement Plan  
Finance and Administration Committee Resolution #FA2020-72  
(This amending By-law implements a deadline of January 15, 2021 for execution of implementing agreements provided for in By-law 2019-67 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Downtown Sudbury Community Improvement Plan.)

2020-179

A By-law of the City of Greater Sudbury to Amend By-law 2019-82 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Downtown Sudbury Community Improvement Plan  
Finance and Administration Committee Resolution #FA2020-72  
(This amending By-law implements a deadline of January 15, 2021 for execution of implementing agreements provided for in By-law 2019-82 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Downtown Sudbury Community Improvement Plan.)

2020-180

A By-law of the City of Greater Sudbury to Amend By-law 2019-102 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Greater Sudbury Brownfield Strategy and Community Improvement Plan  
Finance and Administration Committee Resolution #FA2020-72  
(This amending By-law implements a deadline of January 15, 2021 for execution of implementing agreements provided for in By-law 2019-102 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Greater Sudbury Brownfield Strategy and Community Improvement Plan.)

2020-181

A By-law of the City of Greater Sudbury to Amend By-law 2019-102 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Greater Sudbury Brownfield Strategy and Community Improvement Plan  
Finance and Administration Committee Resolution #FA2020-72  
(This amending By-law implements a deadline of January 15, 2021 for execution of implementing agreements provided for in By-law 2019-102 being A By-law of the City of Greater Sudbury to Authorize Grants Under the Greater Sudbury Brownfield Strategy and Community Improvement Plan.)

2020-182

A By-law of the City of Greater Sudbury to Declare Certain Parcels of Land to be Part of the City Road System  
(This by-law is presented to Council from time to time. It provides for all the small "bits and pieces" of roadway that have been purchased or otherwise acquired by the City for road purposes to be formally declared as roads.)

2020-183

A By-Law of the City of Greater Sudbury to Designate the Property Municipally Known as 162 MacKenzie Street as a Property of Cultural Heritage Value or Interest Under Section 29, Part IV of the Ontario Heritage Act  
City Council Resolution #CC2020-266  
(This by-law designates 162 MacKenzie Street, Sudbury as a property of Cultural Heritage Value or Interest.)

2020-184

A By-law of the City of Greater Sudbury to Authorize the Sale of 291 Lourdes Street in Sudbury Described as PIN 73583-0183(LT) and PIN 73584-0882(LT) to 2380363 Ontario Limited  
Planning Committee Resolution #PL2020-154  
(This by-law authorized the sale of 291 Lourdes Street, Sudbury and delegates authority to sign all documents necessary to effect the sale.)

2020-185

A By-law of the City of Greater Sudbury to Authorize the Purchase of Part of 4446 Municipal Road 35, Chelmsford Described as Parts 1, 2 and 3, Plan 53R-21288 from Daniel Caza  
Planning Committee Resolution #PL2020-155  
(This by-law authorizes the acquisition of part of 4446 MR 35, Chelmsford as part of the MR35 Road Widening and Watermain Improvement project.)

2020-186

A By-law of the City of Greater Sudbury to Authorize the Purchase of Part of 4496 Municipal Road 35, Chelmsford Described as Part 5, Plan 53R-21288 from Airtech 1 Inc.  
 Planning Committee Resolution #PL2020-155  
 (This by-law authorizes the acquisition of part of 4496 MR 35, Chelmsford as part of the MR35 Road Widening and Watermain Improvement project.)

2020-187

A By-law of the City of Greater Sudbury to Authorize the Purchase of Part of 4514 Municipal Road 35, Chelmsford Described as Parts 1 and 2 on Plan 53R-21300 and Part 4, Plan 53R-21288 from Cindy Poulin and Guy Poulin  
 Planning Committee Resolution #PL2020-157  
 (This by-law authorizes the acquisition of part of 4514 MR 35, Chelmsford as part of the MR35 Road Widening and Watermain Improvement project.)

2020-188

A By-law of the City of Greater Sudbury to Close Part of the Unopened Dufferin Street in Sudbury Described PIN 02135-0260, Being Part of Block B, Plan 3SA  
 Planning Committee Resolution #PL2020-143  
 (This by-law closes up part of unopened Dufferin Street, Sudbury to make the lands available for use as a municipal parking lot.)

2020-189P

A By-law of the City of Greater Sudbury to Adopt Official Plan Amendment No. 109 to the Official Plan for the City of Greater Sudbury  
 Planning Committee Resolution #PL2020-152  
 (This by-law authorizes a site-specific amendment to provide an exception to Section 5.2.2(2) in order to facilitate the creation of one new rural lot with both the severed and retained lands having less than the minimum required 90 metres of lot frontage onto a public road.)

2020-190Z

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
 Planning Committee Resolution #PL2020-153  
 (This by-law rezones the subject subject lands in order to facilitate the creation of one new rural lot having frontage on Gravel Drive in Hanmer. The new rural lot to be created and two retained lots are each required to provide for a minimum lot frontage of 61 metres onto Gravel Drive, Hanmer - Michael Leblanc and Carole Leblanc.)

2020-191Z

A By-law of the City of Greater Sudbury to Amend By-law 2019-197Z being a By-law of the City of Greater Sudbury to Amend By-law 2010-100Z Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
 (This amending by-law implements a clerical correction in By-law 2019-197.)

2020-192

A By-law of the City of Greater Sudbury to Amend By-law 2016-145 being a By-law of the City of Greater Sudbury for the Licensing, Regulating and Governing of Vehicles for Hire  
 City Council Resolution #CC2020-296  
 (This amending by-law increases the taxi fare drop rate and rolling rate in the Vehicle for Hire By-law by 5%.)

## **Adjournment**

Automatic Adjournment at 9:37 p.m.

The following items were not addressed at the meeting:

## **Managers' Reports**

- R-6 . [Investing in Canada Infrastructure Program: COVID-19 Resilience Stream](#)
- R-1 . [COVID-19 Update - November 24, 2020](#)
- R-2 . [COVID-19 Update - December 15, 2020](#)
- R-3 . [Primary Health Care Recruitment Program Update](#)
- R-4 . [Cultural Heritage Evaluation – 7 Serpentine Street, Copper Cliff](#)
- R-5 . [Lobbyist Registry](#)
- R-7 . [Large Projects Update](#)

## **Members' Motions**

- M-4 . [\*\*Fire Protection Service Level Adjustment\*\*](#)
- M-5 . [\*\*Submission To The Ontario Long Term Care Commission\*\*](#)
- M-6 . [\*\*Business Case for LED Lighting in the Downtown Core\*\*](#)

## **Correspondence for Information Only**

- I-1 . [Employment Land Strategy Update](#)
- I-2 . [2020 Operating Budget Variance Report - October](#)
- I-3 . [Proposed Designation By-Law - 162 Mackenzie](#)
- I-4 . [Greater Sudbury Community Energy & Emissions Plan \(CEEP\) Implementation: Municipal Actions \(2021 - 2025\)](#)
- I-5 . [Fleet Electrification Update](#)

## **Addendum**

## **Civic Petitions**

## Question Period

Mayor Brian Bigger, Chair

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Eric Labelle, City Solicitor and Clerk

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Attached is Exhibit "3"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.



## **Minutes**

### **For the City Council Meeting**

July 14, 2021  
Tom Davies Square

Present (Mayor and Councillors)	Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altman, Mayor Bigger
City Officials	Ed Archer, Chief Administrative Officer, Kevin Fowke, General Manager of Corporate Services, Tony Cecutti, General Manager of Growth and Infrastructure, Ed Stankiewicz, Executive Director of Finance, Assets and Fleet, Ian Wood, Executive Director of Strategic Initiatives and Citizen Services, Joanne Kelly, Director of Human Resources and Organizational Development, Kelly Gravelle, Deputy City Solicitor, Brett Williamson, Director of Economic Development, Ron Foster, Auditor General, Hugh Kruzel, Chief of Staff, Brigitte Sobush, Manager of Clerk's Services/Deputy City Clerk, Danielle Derochie, Legislative Compliance Coordinator, Christine Hodgins, Legislative Compliance Coordinator, Anyse Vermette, Legislative Compliance Coordinator, Lisa Locken, Clerk's Services Assistant, Vickie Hartley, Clerk's Services Assistant, Michel Lalonde, Clerk's Services Assistant

#### **His Worship Mayor Brian Bigger, In the Chair**

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**1. Call to Order**

The meeting commenced at 10:04 a.m.

**2. Roll Call**

A roll call was conducted prior to the commencement of moving into closed session.

**3. Closed Session**

The following resolution was presented:

**CC2021-213**

Moved By Mayor Bigger

Seconded By Councillor Jakubo

THAT the City of Greater Sudbury moves to Closed Session to deal with one (1) Security of Municipal Property item regarding the City's information technology systems and data, one (1) Labour Relations or Employee Negotiations item regarding negotiations with ONA and one (1) Acquisition or Disposition of Land / Position, Plan or Instructions to be Applied to Negotiations item regarding Junction East in accordance with the Municipal Act, 2001, s. 239(2) (a), (c), (d) and (k).

**CARRIED**

At 10:07 a.m., Council moved into Closed Session.

**4. Recess**

At 12:02 p.m., Council recessed.

**5. Open Session**

At 1:01 p.m., Council commenced the Open Session.

**6. Moment of Silent Reflection**

Those present at the meeting observed a moment of silent reflection.

**7. Roll Call**

A roll call was conducted.

**8. Declarations of Pecuniary Interest and the General Nature Thereof**

Councillor Montpellier declared a conflict of pecuniary interest in regards to item 16.2, Code of Conduct Complaint Report - July 2021.

*Councillor Landry-Altman arrived at 1:10 p.m.*

**9. Matters Arising from the Closed Session**

Deputy Mayor Landry-Altman, Chair of the Closed Session, reported that Council met in Closed Session to deal with one (1) Security of Municipal Property item regarding the City's information technology systems and data, one (1) Labour Relations or Employee Negotiations item regarding negotiations with ONA and one (1) Acquisition or Disposition of Land / Position, Plan or Instructions to be Applied to Negotiations item regarding Junction East in accordance with the Municipal Act, 2001, s. 239(2) (a), (c), (d) and (k). Direction was given to staff with respect to the matters.

**10. Matters Arising from Community Services Committee****10.1 July 12, 2021**

Councillor McCausland, as Chair of the Community Services Committee, reported on the matters arising from the Community Services Committee meeting of July 12, 2021. No resolutions emanated from this meeting.

## **11. Matters Arising from Finance and Administration Committee**

### **11.1 July 13, 2021**

Councillor Jakubo, as Chair of the Finance and Administration Committee, reported on the matters arising from the Finance and Administration Committee meeting of July 13, 2021. No resolutions emanated from this meeting.

## **12. Matters Arising from Operations Committee**

### **12.1 July 12, 2021**

Councillor McIntosh, as Chair of the Operations Committee, reported on the matters arising from the Operations Committee meeting of July 12, 2021.

The following resolution was presented:

#### **CC2021-214**

Moved By Councillor McIntosh

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury approves Operations Committee resolutions OP2021-11 to OP2021-12 from the meeting of July 12, 2021.

#### **CARRIED**

The resolutions for the July 12, 2021 Operations Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

## **13. Matters Arising from Planning Committee**

### **13.1 June 28, 2021**

Councillor Kirwan, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of June 28, 2021.

The following resolution was presented:

#### **CC2021-215**

Moved By Councillor Kirwan

Seconded By Councillor McCausland

THAT the City of Greater Sudbury approves Planning Committee resolutions PL2021-107 to PL2021-111 and PL2021-113 from the meeting of June 28, 2021.

#### **CARRIED**

The resolutions for the June 28, 2021 Planning Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

### **13.2 July 12, 2021**

Councillor Kirwan, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of July 12, 2021.

The following resolution was presented:

#### **CC2021-216**

Moved By Councillor Kirwan

Seconded By Councillor McCausland

THAT the City of Greater Sudbury approves Planning Committee resolution PL2021-114 from the meeting of July 12, 2021.

#### **CARRIED**

The resolutions for the July 12, 2021 Planning Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

## **14. Consent Agenda**

The following resolution was presented:

#### **CC2021-217**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury approves Consent Agenda items 14.1.1 to 14.1.6.

#### **CARRIED**

The following are the Consent Agenda items:

### **14.1 Adoption of Minutes**

#### **14.1.1 Finance and Administration Committee Meeting Minutes of April 6, 2021**

##### **CC2021-218**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the Finance and Administration Committee meeting minutes of April 6, 2021.

#### **CARRIED**

#### **14.1.2 Operations Committee Meeting Minutes of May 17, 2021**

**CC2021-219**

Moved By Mayor Bigger  
Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts Operations Committee meeting minutes of May 17, 2021.

**CARRIED**

**14.1.3 Community Services Committee Meeting Minutes of May 17, 2021****CC2021-220**

Moved By Mayor Bigger  
Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts Community Services Committee meeting minutes of May 17, 2021.

**CARRIED**

**14.1.4 Finance and Administration Committee Minutes of May 18, 2021****CC2021-221**

Moved By Mayor Bigger  
Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts Finance and Administration Committee meeting minutes of May 18, 2021

**CARRIED**

**14.1.5 City Council Meeting Minutes of May 25, 2021****CC2021-222**

Moved By Mayor Bigger  
Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the City Council meeting minutes of May 25, 2021.

**CARRIED**

**14.1.6 Special City Council Meeting Minutes of May 25, 2021****CC2021-223**

Moved By Mayor Bigger  
Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the Special City Council meeting minutes of May 25, 2021.

**CARRIED**

#### **14.1.7 Planning Committee Minutes of May 26, 2021**

**CC2021-224**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts Planning Committee meeting minutes of May 26, 2021.

**CARRIED**

#### **14.1.8 Audit Committee Minutes of May 31, 2021**

**CC2021-225**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts Audit Committee meeting minutes of May 31, 2021.

**CARRIED**

*Councillor Cormier departed at 1:50 p.m.*

### **15. Presentations**

#### **15.1 Large Projects Update Presentation**

Ian Wood, Executive Director of Strategic Initiatives, Communications and Citizen Services, provided an electronic presentation regarding Large Projects Update Presentation for information only.

Rules of Procedure

Councillors McCausland and McIntosh presented the following resolution:

Moved By Councillor McCausland

Seconded By Councillor McIntosh

WHEREAS there is strong community support for the concept of the Junction East project, when providing final approval for construction of the detailed design, Council wishes to ensure that there is a balance between form, function and cost;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury direct staff to develop a draft process to provide a lower cost alternative to the

recommended design when the project is brought forward for future decisions. This alternative should clearly outline changes in building form and design, as well as any impacts on program, usage, partnerships or operational costs;

FURTHER, THAT a report detailing the steps required for this alternative process, as well as the cost and time implications of this approach for the project, be prepared for Council's consideration at the meeting of August 17, 2021.

Motion for Deferral

Councillor Vagnini moved to defer this item to a later date.

Rules of Procedure

A Recorded Vote was held:

YEAS: (1): Councillor Vagnini

NAYS: (11): Councillor Signoretti, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Leduc, Councillor Landry-Altman, and Mayor Bigger

Absent (1): Councillor Cormier

**DEFEATED (1 to 11)**

Rules of Procedure

Councillors McCausland and McIntosh moved to withdraw their resolution.

**CARRIED**

## **16. Managers' Reports**

### **16.1 COVID-19 Response Update - July 14, 2021**

For Information Only.

Rules of Procedure

Councillor Leduc moved to alter the order of the agenda to deal with Managers' Report 16.4 immediately following 16.2.

**CARRIED BY TWO-THIRDS MAJORITY**

Recess

At 3:08 p.m., Council recessed.

Reconvened

At 3:16 p.m., Council reconvened.

Councillor Leduc moved to alter the order of the agenda to deal with Managers' Reports 16.4 next.

Rule of Procedure

A Recorded Vote was held:

YEAS: (4): Councillor Kirwan, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (7): Councillor Signoretti, Councillor Vagnini, Councillor McCausland, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, and Councillor McIntosh

Absent (2): Councillor Montpellier, and Councillor Cormier

**DEFEATED (4 to 7)**

## **16.2 Code of Conduct Complaint Report - July 2021**

Councillor Montpellier, having declared a conflict of interest, did not vote on the matter.

The following resolution was presented:

### **CC2021-226**

Moved By Mayor Bigger

Seconded By Councillor Leduc

THAT the Council for the City of Greater Sudbury approve the sanction recommended by the City's Integrity Commissioner that Councillor Montpellier's remuneration be suspended for a duration of 60 days in accordance with the report from the Integrity Commissioner presented at the Council meeting of July 14, 2021.

Rules of Procedure

Councillor Kirwan presented the following amendment:

### **Amendment:**

#### **CC2021-226-A1**

Moved By Councillor Kirwan

Seconded By Councillor Leduc

That the resolution be amended by replacing it with the following:

THAT the City of Greater Sudbury reprimands Councillor Gerry Montpellier for the contravention of the Code of Conduct described in the Integrity Commissioner's report presented to City Council on July 14th, 2021.



Rules of Procedure

A Recorded Vote was held:

YEAS: (8): Councillor Signoretti, Councillor Vagnini, Councillor Kirwan, Councillor Lapierre, Councillor McIntosh, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (3): Councillor McCausland, Councillor Jakubo, and Councillor Sizer

Absent (2): Councillor Montpellier, and Councillor Cormier

**CARRIED (8 to 3)**

Proceed Past 4:00 p.m.

Rules of Procedure

A Recorded Vote was held:

YEAS: (9): Councillor Vagnini, Councillor Montpellier, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (3): Councillor Signoretti, Councillor McCausland, and Councillor McIntosh

Absent (1): Councillor Cormier

**CARRIED (9 to 3)**

The following is the resolution as amended:

**CC2021-226**

Moved By Mayor Bigger

Seconded By Councillor Leduc

As amended:

THAT the City of Greater Sudbury reprimands Councillor Gerry Montpellier for the contravention of the Code of Conduct described in the Integrity Commissioner's report presented to City Council on July 14th, 2021.

Rules of Procedure

A Recorded Vote was held:

YEAS: (10): Councillor Signoretti, Councillor Vagnini, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor McIntosh, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (1): Councillor Sizer

Absent (2): Councillor Montpellier, and Councillor Cormier

**CARRIED (10 to 1)**

*Councillor Montpellier departed at 4:38 p.m.*

#### **16.4 Greater Sudbury Event Centre Next Steps**

The following resolution was presented:

**CC2021-227**

Moved By Mayor Bigger

Seconded By Councillor Leduc

THAT staff proceed to advance the work required to develop the Event Centre without further delay in accordance with the existing, approved Cost Sharing Agreement, a project schedule that produces a facility which is ready for use in 2024, and regular progress reporting to City Council;

AND THAT the Executive Director of Communications, Strategic Initiatives and Citizen Service be delegated authority to negotiate, execute and subsequently amend or extend any agreements to produce the work required for delivering the Event Centre Project in 2024, subject to Council's approval of the following three decision points:

- a) Confirmation of the site preparation contract, including the commencement date established with the site development partners
- b) Confirmation of the Venue Operator
- c) Confirmation of final budget based on the result of the Design/Build Request for Proposals

Rules of Procedure

A Recorded Vote was held:

YEAS: (8): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (3): Councillor Signoretti, Councillor Vagnini, and Councillor McCausland

Absent (2): Councillor Montpellier, and Councillor Cormier

**CARRIED (8 to 3)**

*Councillor Montpellier returned at 4:44 p.m.*

*Councillor Signoretti departed at 4:44 p.m.*

### **16.3 Automated Meter Infrastructure (AMI) Project Update and Service Contract Approval**

The following resolution was presented:

#### **CC2021-228**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury directs staff to approve the negotiated service agreement between Olameter, Inc. and the City of Greater Sudbury to provide water meter reading services through the implementation of the AMI project and on an as needed basis after completion of the project, as outlined in the report entitled "Automated Meter Infrastructure (AMI) Project Update and Service Contract Approval, from the General Manager of Growth and Infrastructure presented at the City Council meeting on July 14, 2021

**CARRIED**

## **17. By-laws**

The following resolution was presented:

#### **CC2021-229**

Moved By Mayor Bigger

Seconded By Councillor McIntosh

THAT the City of Greater Sudbury read and pass By-law 2021-131 to By-law 2021-141Z.

**CARRIED**

The following are the by-laws:

### **17.1 By-laws 2021-131 to 2021-141Z**

#### **2021-131**

A By-law of the City of Greater Sudbury to Confirm the Proceedings of Council at its Special Meeting of June 16th, 2021 and its Regular Meeting of July 14th, 2021

#### **2021-132**

A By-law of the City Of Greater Sudbury to Authorize the Payment of Grants to Various Non-Profit Community Organizations in the Leisure Services Sector

This by-law authorizes payment of the 2021 annual grants authorized as

part of the budget process. Grants are generally used by recipients towards operating costs and costs to deliver special events and programs.

**2021-133**

A By-law of the City of Greater Sudbury to Authorize the Payment of Grants from the Healthy Community Initiative Fund, Various Wards Finance & Administration Committee Resolution #FA2021-52

This by-law authorizes grants funded through the Healthy Community Initiative Fund for various Wards.

**2021-134**

A By-law of the City of Greater Sudbury to Authorize the Lease Agreement Between 43 Elm Street Inc., as Landlord and the City of Greater Sudbury as Tenant for Office Space Located at 43 Elm Street, Sudbury Planning Committee Resolution #PL2021-111

This by-law authorizes lease of office space at 43 Elm Street for use as Downtown Business Incubator.

**2021-135**

A By-law of the City of Greater Sudbury to Authorize the Cancellation, Reduction or Refund of Realty Taxes Hearing Committee Resolution #HC2021-05

This by-law provides for tax adjustments under Sections 357 and 358 of the Municipal Act, 2001 for properties eligible for cancellation, reduction or refund of realty taxes.

**2021-136**

A By-law of the City of Greater Sudbury to Close Part of the Unopened Martindale Lane East of Martindale Road, Described as Part of PIN 73589-0032(LT), being Parts 1 to 4 on Plan 53R-21502 Planning Committee Resolution #PL2017-67

This by-law closes an unopened laneway to make the lands available for sale.

**2021-137**

A By-law of the City of Greater Sudbury to Authorize the Sale of Part of the Unopened Martindale Lane East of Martindale Road, Described as Part of PIN 73589-0032(LT), being Parts 1 to 4 on Plan 53R-21502, to CHC Properties Inc. Planning Committee Resolution #PL2021-52

This by-law authorizes the sale of part of an unopened land to an abutting land owner and delegates authority to sign all documents necessary to effect the sale.

**2021-138Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z  
Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2021-97

This by-law amends the definition of Carnival in the Zoning By-law.

#### **2021-139Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z  
Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2021-107

This by-law does not rezone the subject property. Pursuant to Section 39.1(4) of the Planning Act, Council has extended a temporary use by-law in order to continue the use of a garden suite for a maximum period of three (3) years - 3027 Vern Drive, Val Caron – Alain & Sandra Chouinard.

#### **2021-140Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z  
Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2021-100

This by-law rezones the subject property to a revised “I(49)”, Institutional Special in order to permit an expanded long-term care facility with a total of 320 beds - Extendicare (Canada) Inc. – Nottingham Avenue, Sudbury.

#### **2021-141Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z  
Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2021-80

This by-law rezones the subject the subject property in order to permit an elementary school and day care centre on vacant lands zoned for future development - Georgette Paquette - Municipal Road 80, Val Therese.

## **18. Members' Motions**

### **18.1 Reconsideration of Project Now Motion**

The following resolution was presented:

#### **CC2021-230**

Moved By Councillor Vagnini

Seconded By Councillor Montpellier

WHEREAS on December 15th, 2020, City Council, by way of resolution CC2020-315, defeated the motion requesting an evaluation of the Project Now proposal, by way of a tied vote;

AND WHEREAS Councillor Vagnini, as a result of technical difficulties he experienced during his participation in the virtual Council meeting of December 15th, mistakenly thought he was voting on a deferral of the motion, which resulted in him voting “No”;

AND WHEREAS Councillor Vagnini fully intended to vote “Yes” to the proposed motion;

THEREFORE BE IT RESOLVED that resolution CC2020-315 related to a request for an evaluation of the Project Now proposal be reconsidered.

YEAS: (4): Councillor Vagnini, Councillor Montpellier, Councillor McCausland, and Councillor McIntosh

NAYS: (7): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Leduc, Councillor Landry-Altman, and Mayor Bigger

Absent (2): Councillor Signoretti, and Councillor Cormier

**DEFEATED (4 to 7)**

## 19. **Addendum**

The following resolution was presented:

### **CC2021-231**

Moved By Mayor Bigger

Seconded By Councillor Sizer

THAT the City of Greater Sudbury deals with the items on the Addendum to the Agenda at this time.

**CARRIED**

### **Declarations of Pecuniary Interest and the General Nature Thereof**

None declared.

### **Lively Area Recreational Amenities Advisory Panel Terms of Reference**

The following resolution was presented:

### **CC2021-232**

Moved By Councillor Vagnini

Seconded By Mayor Bigger

THAT the City of Greater Sudbury approves the terms of reference for the Lively Recreation Advisory Panel as outlined in the report entitled “Lively Area Recreational Amenities Advisory Panel Terms of Reference” from the Chief Administrative Officer presented at the City Council meeting on July 14, 2021.

**CARRIED**

### **By-Laws**

The following resolution was presented:

**CC2021-233**

Moved By Mayor Bigger  
 Seconded By Councillor Sizer

That the City of Greater Sudbury read and pass By-law 2021-142.

**CARRIED**

The following is the by-law:

**2021-142**

A By-law of the City of Greater Sudbury to Amend By-law 2015-160 being a By-law of the City of Greater Sudbury to Adopt Terms of Reference for Advisory Panels for the City of Greater Sudbury.

This amending by-law adopts the terms of Reference for Advisory Panels for the City of Greater Sudbury.

**22. Adjournment**

Proceed Past 5:00 p.m.

**DEFEATED**

Automatic Adjournment at 5:16 p.m.

The following items were not addressed at this meeting:

**20. Civic Petitions****21. Question Period**

Attached is Exhibit "4"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

**Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.**



**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** December 23, 2020

**CASE NO(S):** PL180494

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Christopher Duncanson-Hales
Appellant:	Sudbury Business Improvement Area
Appellant:	Tom Fortin
Subject:	Proposed Official Plan Amendment No. OPA 92
Municipality:	City of Greater Sudbury
OMB Case No.:	PL180494
OMB File No.:	PL180494
OMB Case Name:	Duncanson-Hales v. Greater Sudbury (City)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Christopher Duncanson-Hales
Appellant:	Sudbury Business Improvement Area
Appellant:	Tom Fortin
Subject:	By-law No. 2018-61Z (Casino)
Municipality:	City of Greater Sudbury
OMB Case No.:	PL180494
OMB File No.:	PL180495

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Sudbury Business Improvement Area
Appellant:	Tom Fortin
Appellant:	Minnow Lake Restoration Group Inc.
Subject:	By-law No. 2018-62Z (Parking)
Municipality:	City of Greater Sudbury
LPAT Case No.:	PL180494
LPAT File No.:	PL180496

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Sudbury Business Improvement Area  
 Appellant: Tom Fortin  
 Appellant: Steve May  
 Subject: By-law No. 2018-72Z (Arena)  
 Municipality: City of Greater Sudbury  
 LPAT Case No.: PL180494  
 LPAT File No.: PL180497

**Heard:** September 17, 2020 by telephone hearing and October 19, 2020, with additional written submissions

**APPEARANCES:**

**Parties**

**Counsel/Representative\***

City of Greater Sudbury (“City”)	Stephen Watt
Christopher Duncanson-Hales (“Duncanson-Hales”)	Gordon Petch
Tom Fortin (“Fortin”)	Gordon Petch
Sudbury Business Improvement Area (the “BIA”)	Gordon Petch
Steve May (“May”)	Self-Represented
Gateway Casinos and Entertainment Limited (“Gateway”)	Andrew Jeanrie
1916596 Ontario Limited (“Applicant”)	Daniel Artenosi, Michael Cara

**DECISION DELIVERED BY DAVID L. LANTHIER AND ORDER OF THE TRIBUNAL**

**INTRODUCTION AND BACKGROUND**

[1] This final decision now issues in the hearing of the Appeals before the Tribunal brought pursuant to s. 17(24) and 34(19) of the *Planning Act* (“*Act*”). The Applicant applied to the City for a site-specific amendment to the City’s Official Plan (the “OPA”), and certain site-specific amendments to the City’s comprehensive Zoning By-law No.

2010-100Z (the “ZBLAs”) to permit a development that would include a place of amusement in the form of a casino, as well as an arena and a parking facility. Appeals were filed by Duncanson-Hales against the approval of the casino, by Fortin and the BIA against the entire proposal, and by May against the approval of the arena. Minnow Lake also appealed against the approval of the parking facility but following a motion to dismiss pursuant to s. 34(25) of the *Act* that Appeal was dismissed by the Tribunal in its Decision issued on March 18, 2020.

[2] The proposed development on a site described in the record (“Site”), currently within an industrial plan of subdivision results in the creation of an entertainment district development in the area of the City known as the Kingsway, and hence the Site is often referred to as the Kingsway Entertainment District, or the “KED”. This “entertainment district”, as it describes the development proposal, does not constitute a formal planning designation in the City of Sudbury.

[3] As the Applications were decided by the City, and the planning instruments approved, the KED development (“Development”) will include two components. First, the KED would see the development of a 5,800-seat public arena and events centre, which would host the City’s Ontario Hockey League team, thus relocating the arena event location from Downtown Sudbury where it is currently located. The second component includes a new casino, hotel, restaurants and other related retail and commercial opportunities. The KED Development also necessitates accommodation of substantial parking and thus the need to address parking within the planning instruments.

[4] The planning instruments approved by the City (collectively the “Approved Instruments”) can be grouped into four parts for the purposes of this Decision:

- (a) The proposed OPA would permit the development of a place of amusement in an area designated as General Industrial.
- (b) The ZBLA for the casino (“Casino ZBLA”) would rezone the location of the casino from M1-1, Business Industrial to M1-1(16), Business Industrial

Special, to permit the casino and associated facilities.

- (c) The ZBLA for the arena (“Arena ZBLA”) changes the zoning of the location of the arena from M1-1 Business Industrial and M2 Light Industrial, which would permit a private arena, to M1-1(17), Business Industrial Special which adds permission for a public arena.
- (d) The ZBLA for the parking facility (“Parking ZBLA”) would rezone lands from M2, Light Industrial to M2(15), Light Industrial Special and from M3, Heavy Industrial to M3(15), Heavy Industrial Special to permit the parking area.

[5] The Development is to occur on the Site owned by the Applicant, and developed by Gateway. The OPA was adopted by City Council on April 10, 2018 and the ZBLAs were passed on April 24, 2018. The Appellants then appealed those decisions as indicated above. The City, and the Applicant and Gateway as added joint parties, are referred to collectively as the “Respondents” to the Appeal

[6] These Appeals are to be determined under the *Act* and the *Local Planning Appeal Tribunal Act* as they were amended by Bill 139. Although there is a lack of precision in doing so, for efficiencies of reference, such appeals are sometimes, and will occasionally in this decision be, referred to as “Bill 139 Appeals”

## **EVIDENTIARY RECORD AND MATERIALS BEFORE THE TRIBUNAL**

[7] The evidentiary and advocacy elements of the written and oral hearing of these Bill 139 Appeals, under the legislation, the Tribunal’s *Rules of Practice and Procedure*, and the directives of the Tribunal in the case management and the hearing of the Appeals, are comprised of the following:

- (a) The evidentiary record that was before Council, as collected and filed with the Tribunal, referred to the Enhanced Municipal Record, as it was organized and provided to the Tribunal for the purposes of the hearing;

- (b) The Case Synopsis, Appeal Record and Book of Authorities collectively filed on behalf of Duncanson-Hales, Fortin and the BIA and the Case Synopsis and Appeal Record filed by May. The Appeal Record of Duncanson-Hales, Fortin and the BIA includes the affidavit evidence of a qualified land use planning expert, Mr. Robert Dragicevic, and of a qualified land use planning expert and land economist, Mr. Rowan Faludi;
- (c) The Case Synopses and Appeal Books filed by the City to each of the two sets of materials from the Appellants. The City's Appeal Books includes the affidavit evidence of a number of qualified expert witnesses on the subjects of water and wastewater management, hydrogeological impact assessments, traffic and transportation engineering, and a land use planning expert, Mr. Alex Singbush;
- (d) The Joint Case Synopses and Appeal Books filed by Gateway and the Applicant to each of the two sets of materials from the Appellants. This includes the affidavit evidence of a qualified land use planning expert, Mr. Karl Tanner;
- (e) The additional authorities received from the City and from Gateway and the Applicant;
- (f) The written responses received to The Tribunal's Questions issued on August 12, 2020 and directed to the identified expert witnesses. Specifically: the Affidavit of Karl Tanner sworn September 1, 2020; the Affidavit of Alex Singbush sworn September 1, 2020; and the Affidavit of Robert E. Dragicevic sworn September 1, 2020;
- (g) The additional clarification received from counsel for the collective Appellants dated September 21, 2020, on the consent of the parties, with respect to the wording of the draft of OPA 88 that was presented to the Planning Committee. Although this OPA was adopted after the evidentiary record was compiled, the draft was within the record and as a result of the

inquiry of the Tribunal, the parties agreed that the final form of OPA 88, inclusive of the changes made from the initial draft, represented relevant evidence for the Tribunal's consideration.

[8] As a final background matter to the hearing of these Appeals, the receipt of oral argument was preceded by a separate Application before the Ontario Superior Court of Justice to quash the OPA and the ZBLAs on the basis that there was a statutory breach and a denial of common law procedural fairness leading to the passage of the by-laws, and that the City acted in bad faith. That Application to the Court, brought by Fortin under the *Municipal Act*, with the Applicant and Gateway appearing as Intervenors, was argued on June 29 and 30, 2020, and the decision of His Honour Justice Ellies was released on September 4, 2020. A copy of the Decision was made available to the Tribunal by the Court staff on that day. The Application was dismissed, and in his decision, His Honour made reference to certain aspects of the these Appeals before the Tribunal, which were addressed in the course of oral argument.

[9] The Tribunal was advised, on the day of the hearing, that counsel for the Applicant in the Court Application had received instructions to appeal the decision of the Ontario Superior Court of Justice, and subsequently the Tribunal received formal confirmation in that regard. As a result of the Appeal the Appellants raised an issue as to the ability of the Tribunal to render its decision prior to the determination of the Appeal as a result of s. 18 of the *Local Planning Appeal Tribunal Act*.

[10] The Tribunal requested, and received, supplementary written submissions from the Parties on October 19, 2020, on the issue of how, and if, the pending appeal before Ontario Court of Appeal impacted the Tribunal's ability to issue its decision in these Appeals. Ultimately, before this decision was issued, the Tribunal was subsequently advised that the Appellants had withdrawn the appeal of the Decision of Justice Ellies as a result of a resolution reached with the City and there was accordingly no longer any objection to the issuance of the Tribunal's Decision and Order.

## THE BILL 139 LEGAL FRAMEWORK

[11] Given that these Appeals are within the Tribunal's group of proceedings governed by Bill 139, before undertaking the analysis of the evidence, and the determination of the issues before the Tribunal, it is important to set out the legislative framework and legal construct that must be considered. As discussed herein, the amendments to the legislation under Bill 139 represented a significant change in the way the Tribunal determines appeals of municipal planning decisions.

### **The Appeals of the Official Plan Amendment – s. 17(24.0.1)**

[12] The Appeals of the decision of Council adopting the OPA, are brought under s. 17(24) and thus s. 17(24.0.1) of the *Act* sets out the narrowed basis for an appeal under this section is as follows:

#### **Basis for appeal**

17(24.0.1) An appeal under subsection (24) may only be made on the basis that the part of the decision to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3(1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan.

As the City is not a lower-tier municipality, the latter of the three bases for the Appeal does not apply.

[13] As previously indicated by this Panel Member in the decision of *Corbett v. Town of Arnprior* (PL180501), under s. 17(47) of the *Act*, the Appellants bear the onus of establishing to the Tribunal that the OPA does not meet the consistency and conformity tests. It is important to emphasize that this onus on an appellant does not, however, obviate the continuing responsibility of the Tribunal to be satisfied that Council's approval of the OPA meets the requirements for consistency with the Provincial Policy Statement ("PPS") and conformity with the Growth Plan for Northern Ontario ("GPNO") under s. 3(5) of the *Act* or to have regard to those matters of provincial interest set out in s. 2 of the *Act*.

[14] The City, in its submissions, asserted that the legal framework does not require the City to demonstrate that there is consistency and conformity, but that the Respondents have nevertheless demonstrated that the decisions do satisfy the requirements of consistency and conformity. Given the importance of s. 3(5) and s. 2 of the *Act*, it is the Tribunal's view that under the Bill 139 regime, the necessity of conversely establishing to the Tribunal that the decisions are consistent to the PPS and conform to the GPNO is not voluntary, but rather, a crucial determination to be made by the Tribunal under its legislative mandate.

[15] If the Tribunal finds that the Appellants have not met their onus and also finds, concurrently, that the requirements of s. 3(5) of the *Act* have also been satisfied, having regard for the matters of provincial interest in s. 2, then the Tribunal must dismiss the Appeals and Council's decision approving the OPA is determined to be final and comes into force and effect.

### **The Appeals of the Zoning By-law Amendments – s. 34(19.0.1)**

[16] With respect to the Appeals relating to the ZBLAs under s. 34(19) the basis for these Appeals under the *Act*, as it was amended by Bill 139, is set out in s. 34(19.0.1)

#### **Basis for appeal**

(19.0.1) An appeal under subsection (19) may only be made on the basis that the by-law is inconsistent with a policy statement issued under subsection 3(1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan.

[17] Similarly, as with the onus of the Appellants, and the mandate of the Tribunal, under s. 17(24.0.1) pursuant to s. 34(26) of the *Act* if the Appellants fail to establish to the Tribunal that each of the ZBLAs fail to meet the consistency and conformity requirements set out in the legislation, and if the Tribunal is also conversely satisfied that the decision of Council is consistent with the PPS and conforms to the GPNO, and has regard to matters of provincial interest under s. 2, then the Tribunal must dismiss the Appeals and the decisions of Council enacting the ZBLAs are then in force and effect.



## The Substantive and Procedural Context

[18] The fundamental underpinning of any Bill 139 appeal is that the appeal is, under the mandatory directive of each of the bases sections giving rise to the right of appeal, strictly limited “only” (as that term of exclusivity is found in each right-of-appeal section) to an issue of inconsistency with Provincial Policy or non-conformity with a provincial plan or, in the case of a zoning by-law amendment, an applicable official plan. (Other sections set out additional matters that must also be established by the Appellant to succeed but they do not apply in this case). Gone are the broader considerations of “good planning” and matters of general public interest that were, and again are, within the scope of the Tribunal’s adjudicative jurisdiction, before and after the Bill 139 planning regime.

[19] As the substantive grounds for the appeal have been fundamentally changed for Bill 139 appeals, such as these now before the Tribunal, so too have the processes and procedures of the Tribunal been significantly altered. Rather than a new hearing on the merits, based on a full breadth of relevant evidence including expert opinion evidence, the Tribunal instead assumes a more “appellate-like” function looking only to the body of evidence that was before Council and the assembled case synopses and appeal records submitted by the parties to support their argument. To the extent directed by the legislation, the Tribunal is also permitted to seek out additional documents or request answers to directed questions it determines are necessary, and in accordance with the decision of the Divisional Court in *Craft Acquisitions Corp. v. Toronto (City)*, [2019] O.J. No. 3085 (the “*Craft Decision*”) that too is constrained as it excludes any intrusion by the parties into such investigative powers granted to the Tribunal.

[20] Finally, as the legislation now applies to these Bill 139 Appeals, the Tribunal recognizes the duality of the stringent obligations that are imposed by the *Act*. First, the obligation is placed upon the Appellant to satisfy the onus under both s. 17(24.0.1) and s. 34(19.0.1) of the *Act*, to establish the required inconsistency and/or non-conformity under the limited grounds enumerated in the sections. If that onus is not met by the Appellant, and the Tribunal is satisfied that the consistency and conformity requirements of s. 3(5) are met, and having regard to matters of provincial interest under s. 2, it is

then obligated, under the mandatory language of sections 17(47) and 34(26), to dismiss the Appeals. There is no discretion otherwise granted to the Tribunal.

### **The Higher Order Planning Policy**

[21] As this Panel Member has previously indicated, and as set out above, the changes to the legislative framework under Bill 139 have strictly limited the circumstances in which planning instruments adopted and enacted by a municipal Council will be set aside under appeal and focuses upon the question of whether there is clear conflict with higher order planning policies.

[22] The three fundamental planning determinations to be made by the Tribunal in these Appeals are therefore whether, as a matter of fact and law, the adoption or approval of the planning instruments: (1) are consistent, or inconsistent with the 2020 PPS; (2) conform or fail to conform, or conflict with, the applicable GPNO; and (3) in the case of the ZBLAs conform, or fail to conform, with the City's Official Plan (the "City OP").

### **Inconsistency with the PPS**

[23] As to consistency, or inconsistency, within the hierarchy of planning legislation, the test of consistency imports a high standard and has an ordinary and well-understood meaning. This issue of consistency under Bill 139 is being examined in isolation from the previous (and current) "qualitatively different" standard of good planning and is thus a strict and narrow test, as noted by the Divisional Court.

[24] In its plain meaning, to be consistent the planning instrument must be clearly "in agreement with", and "not contradictory to, or varying from", the policies of the PPS. Notwithstanding the fact that this high threshold of inconsistency must be established by the Appellant the high-level character of planning policy under the PPS is practically of importance in the determination of consistency. What the appealed instruments must be consistent *with* is the consolidated statement of the Province's broad and over-arching land use policies which address identified high-order land use planning issues

that must, of necessity, prevail in a comprehensive fashion across the Province. The provincially mandated planning policies in the PPS thus govern the primary local decision-makers in each individual community who then adopt official plans and make planning-related decisions at the local level. In the hierarchy of the planning policy “pyramid”, this means that consistency with the PPS must be understood to mean that the more focused, community-specific and site-specific policies and fact-specific planning instruments, at the local level, are achieving consistency with the broader province-wide policy “above it”.

[25] The result is that while the requirement of consistency may itself be rigid and unequivocal, the higher-order provincial policies to which the official plan amendment or zoning by-law amendment must be consistent, do nevertheless allow for a measure of flexibility and fact-specific, community-specific, and site-specific implementation of those broad province-wide policies. Two different municipalities may, for example, have entirely different approaches to a planning matter relating to promoting intensification and infrastructure planning under the policies in s. 1.1.3 of the PPS, but the two different approaches used to adopt policy or approve a planning instrument by each municipality may nevertheless still be *consistent* with those provincial policies, despite their differences.

[26] It is the Tribunal’s view that the focus upon consistency with the PPS must thus be seen to occur in the context of the Province’s planning policy hierarchy and as such, recognizes that there may be different paths to achieve consistency. And when the consideration of “good planning” is no longer “part of the equation” in a Bill 139 Appeal, and there is no consideration of new and fresh evidence, the focus upon consistency alone as a ground for the Appeals may result in a more striking deference to the *means*, by which a municipal Council has, in making its decision, achieved consistency to broadly applied provincial policy. To be clear, as indicated above, this analysis does not amount to full deference to the *decision* of Council, as the requirements of s. 3(5) of the *Act* do not permit the Tribunal to defer absolutely to Council’s final decision, but as indicated, the Tribunal will be mindful that the local application of the broader planning policies, and consistency with those policies, may be achieved by different paths.

### **Non-Conformity, or Conflict with, the Growth Plan for Northern Ontario**

[27] The approach to the issue of non-conformity with a provincial plan such as the GPNO is similar to the contextual approach for inconsistency. Once again, the approvals made by Council are community-specific, site specific, and fact-specific local decisions that require conformity with the higher-level provincial plan that contains broad regional policies applicable to all of northern Ontario. Again, the parameters within which the municipal Council may achieve conformity with the broad higher-order Provincial plan are not constrained to one means or form, and the Appellant is tasked with establishing clear non-conformity, or a conflict with, a regional-based growth plan and not a disagreement with the manner of achieving conformity.

[28] Within the hierarchy of planning legislation, the test of conformity is, like that of consistency, also a high standard requirement that demands that the planning instrument be in harmony with the provincial plans such that it has been drafted, and will be effective, in a compliant fashion with the higher order policies that prevail above it. As well, the instrument cannot be in obvious conflict with those policies. As a conformity determination is generally undertaken, the examined planning instrument, to conform, cannot be selective and conform to only some, but ignore other, aspects of the plan's policies. But for the reasons indicated, because the issue is conformity with higher order provincial policy, at the same time neither is the means by which Council has achieved conformity to the broader Provincial plan fixed to a single path since there may be many ways to achieve adherence to the higher order policies in the GPNO.

### **Non-Conformity with the City's Official Plan**

[29] Given the grounds asserted by the Appellants with respect to the ZBLAs, the Tribunal must also be convinced that they do not conform with the City's OP. Generally the determination of non-conformity with the OP will be a process similar to that of determining whether there is non-conformity with respect to a provincial plan, save and except, of course, that in the hierarchy of planning legislation, the test demands that the proposed development and the approved ZBLA planning instruments be in harmony with the OP of the municipality (as it will, in this case, have been modified by the OPA)

such that it exists in a compliant fashion with City's own higher order in-force policies that prevail above the ZBLAs, but "below" the provincial policies and plans. In determining non-conformity, or conformity, of the ZBLAs, the policies of the City's OP may be somewhat less broad than the provincial policies that govern, and more defined and specific in their form. This would practically narrow the focus of the Tribunal to the issue of conformity with the specific and relevant cited policies of the OP as they exist at the time the Applications are complete.

### **The Qualitatively Different Proceeding**

[30] Finally, it is helpful, before turning to the issues, and the analysis of the evidentiary record and submissions, to return to the fundamental differences between a Bill 139 appeal, and those appeals preceding, and now following, the Bill 139 Regime. In the analysis of the Appellants' grounds, this difference is of significance.

[31] Justices Linhares de Sousa, and Wilton-Siegel, speaking for the majority of the panel of the Divisional Court, in the *Craft Decision*, indicated (in paragraph 114) that in the new contextual framework, a Bill 139 appeal is a "qualitatively different proceeding" from the *de novo* appeals, which were, and now are again with Bill 108, actions "between the parties that [are] determined on the basis of 'good planning'". The Divisional Court confirmed that Bill 139 Appeals are (a) not an action between the parties or between two competing development proposals; (b) are not hearings *de novo*; and (c) are not decided on the planning merits of a proposed development.

[32] The Tribunal would add that neither are the Appeals decided on the merits of alternative development options. Instead, the issues relate to whether the municipal decision is *non-compliant*, as the tests of consistency and conformity are narrowly identified in each of the sections of the *Act*.

### **THE ISSUES**

[33] The Tribunal previously ruled on the ability of the Tribunal to adjudicate a number of the issues raised by the Appellants, Fortin, Duncanson-Hales and the BIA, and as a

result, a number of the issues were struck from the Appeals. The Tribunal has reviewed all of the written materials, and considered the oral submissions, of all of the Appellants and as the issues are before the Tribunal, they are focused on three primary matters with two secondary issues:

1. Whether the OPA and the ZBLA that enable the Casino Development are (a) inconsistent with the PPS (specifically sections 1.0, 1.1.1 and 3.0 and the “social factors” referred to in Part III of the PPS); and (b) in the case of the Casino ZBLA fail to conform to the City OP (specifically sections 16.0, 16.2.7.5, 17.5.1 and 20.0) as modified by the OPA;

because:

Council failed to consider socio-economic issues relating to gambling as legitimate land use issues, and, the Appellants assert that this failure to consider such socio-economic issues stemmed from the determination of City planning staff that such issues were not legitimate land use issues.

2. Whether the approvals of Council (a) were inconsistent with the PPS (specifically 1.7.1(d); (b) did not conform with, or were in conflict with, the GPNO (specifically s. 4.1, 4.3.3.d); and (c) in the case of the ZBLA did not conform to the City OP (specifically s. 1.2, Fifth Vision Statement, Part II, s. 4.1(c), s. 4.2.1(i),(ii), and (iii), s. 4.2.1.1(i), s. 4.2.1.2(s), 16.2.3.1 and 2 and 2.19.1);

because:

community plans, specifically the Downtown Master Plan (2012) (“2012 DMP”) and the “Community Economic Development Strategic Plan from the Ground UP 2015” (the “Ground Up EDSP”) (collectively the “The 2012/2015 Studies” or the “Studies”) were given no weight and not considered when approving the OPA and the ZBLAs. This issue focuses primarily on the

failure of Council to consider the 2012 DMP and the Ground Up EDSP as the arena facility was to be located at the KED and not in the Downtown. The May appeal generally raises this same issue, asserting generally that the decisions fail to consider impacts upon the City's Downtown.

3. Whether the approvals of Council (a) were inconsistent with the PPS (specifically s. 1.11.a (sic) and 1.7.1.(d)); and (b) in the case of the ZBLA did not conform to the City OP (specifically s. 1.2, 1.3.2, 1.3.4, Part II Managing Growth, s. 4.1(c), s. 4.2.1. (i)(ii) and (iii), s. 4.2.1.1(i), s. 4.2.1.2, s. 16.2.3.1 and 2 and s.19.1);

because:

Council failed to consider the economic impact study prepared by the Appellants' consultant, urbanMetrics and failed to undertake and produce its own independent expert economic impact study before approving the Appealed Instruments.

4. Whether the entire proposed Development, as the Appellants assert, creates a "new regional entertainment district", should be assessed and approved as a single official plan amendment, and not limited as it is. If so, is the limited OPA, as adopted, failing to conform to the City OP as modified by the OPA?
5. Whether either the (a) approval of the OPA, permitting a casino with associated restaurants and other retail commercial uses, or (b) the proposed Development of the KED as an "Entertainment District", or (c) the rezoning of fields for parking lot use, represents a conversion of employment lands for which no "comprehensive review" has been undertaken, contrary to 1.3.2.2 of the PPS, and therefore inconsistent with the PPS.

[34] As indicated in the overview of the legal framework, concurrent with these five specific issues the Tribunal must be satisfied that the decisions of Council are

consistent with the 2020 PPS and conform to the GPNO as required by s. 3(5) of the *Act*, and have regard to the Provincial interests outlined in s. 2 of the *Act*.

[35] To complete the matter of the issues, the May Appeal also raised the additional issue of whether the City fully considered the impacts of the decisions on the water quality of Ramsay Lake. The Tribunal has considered all of the evidence and submissions of May, and the Respondents, and finds that there is an absence of any persuasive evidence from May that would represent a qualitative analysis sufficient to challenge the pre-consultation and initial assessment processes that were undertaken prior to the approvals such as would give rise to an issue of inconsistency or non-conformity. The Tribunal has considered the submissions of Mr. May, and of the Respondents, and in its view, this issue is a non-issue. Mr. May's conjecture on a number of points, his criticisms of a Risk Management Plan which is not properly before the Tribunal in this Appeal, and his general apprehensions regarding potential risks to water quality, are wholly unsubstantiated and without any discernible supporting evidence that would give rise to a real issue of inconsistency or non-conformity under the *Act*.

### **THE PLANNING INSTRUMENTS – EFFECTIVE PURPOSE AND THE ISSUES**

[36] In the course of the written and oral submissions the Tribunal determined that an understanding of what the four subject Approved Instruments were effectively and practically doing, from a planning perspective, is important as it informs the precise issues arising from the grounds advanced by the Appellants. This has conversely been addressed by the City as also understanding what these instruments do not do, and thus what is not relevant to the issues of consistency and conformity in the Appeals. Determinations on this subject may be helpful in the analysis of the issues raised by the Appellants and the Tribunal makes the following findings as to the nature of the subject instruments.

[37] The OPA and Casino ZBLA do not decide the question of whether a newer, larger and relocated gaming facility should, at the community level, be located in Sudbury, as a willing host. As explained herein, that decision-making process was



completed at another time (in 2012 and 2013) in the context of the Provincial gaming regulatory processes, and resulted in the unanimous endorsement of the hosted relocation of a Casino to one of four locations in the City. The OPA and the Casino ZBLA instead more precisely decide whether the presence of the Casino on a portion of *this* Site, as an additional permitted commercial land use, is appropriate and thus gives rise only to the narrow planning issue of whether a Casino on *this* Site meets the consistency and conformity tests identified in relation to the PPS, the GPNO and the City OP.

[38] The Arena ZBLA, as it adds the permitted use of a public arena on the designation portion of the Site, decides only whether a public arena (where a private facility is already permitted) is appropriate at this location and thus gives rise to the narrow planning issue of whether the introduction of this additional public institutional land use on *this* subject Site, meets the consistency and conformity tests with respect to the PPS, GPNO and the City OP. The Arena ZBLA does not address the quite-different determination of whether this Site, in the KED, is the preferred location of the arena rather than some other location in the City, such as the Downtown.

[39] That decision, as to where the Arena should be located, (i.e. – not in the Downtown) was previously made by Council on June 27, 2017, when it considered the results of the PricewaterhouseCoopers Reports (“PwC”), undertook a the site evaluation process, considered the weighting of the criteria and made the decision as to where the Arena should be located. Accordingly, where the Arena should be located was not determined by the Arena ZBLA in April of 2018 when, in the context of the Applications, Council determined whether the Arena would be located on the subject Site as part of the Development. The relative nature of the two resolutions – deciding where the Arena *should* be located in June of 2017, and deciding where the Arena *would* be located in April of 2018 – was a finding of the Court in paragraphs 99 and 127 (the Application to Quash) and the Tribunal makes a similar finding upon the evidentiary record in these Appeals.

[40] The Arena ZBLA *might*, in the Tribunal’s view, indirectly give rise to possible questions of conformity with the City OP, *only* if the Tribunal determines that the City

OP expressly addresses the matter of the location of the Arena and provides policy direction in regards to the choosing of one site, over another, for an arena. If that decision-making process has not been undertaken, or improperly undertaken such that there is non-conformity with the policies in the City OP, then this might be relevant to the issues in these Appeals. This is addressed below, and the Tribunal has determined that the in-force City OP provided no such direction at the time that the decisions of Council were made.

[41] The Parking ZBLA decides that rezoning the portions of the Site to special Industrial zones is appropriate to allow for adequate parking for the Arena, Casino and KED land uses and thus gives rise to the narrow planning issue of whether the addition of parking as a permitted land use on the Site meets the consistency and conformity tests.

### **ISSUE 1 – FAILURE TO CONSIDER THE SOCIO-ECONOMIC IMPACTS OF THE CASINO**

[42] Having reviewed the evidentiary record, the planning evidence, and the submissions of the Parties, the Tribunal has determined that the analysis and determination of the first issue can be undertaken under the following framework:

1. The Tribunal must first determine whether the policies of the PPS require that the City consider socio-economic issues relating to gaming as part of the necessary land use planning considerations and approval of the OPA and the Casino ZBLA.
2. Similarly, the Tribunal must examine whether the GPNO and the City OP require that the City examine the socio-economic impacts of the casino and gambling operations as necessary land use planning considerations before approving the Casino instruments.
3. If the result of the first two determinations lead the Tribunal to conclude that the examination of socio-economic impacts of approving the location of the

Casino at this Site was a pre-requisite to approval, it must then determine if the City sufficiently and appropriately considered such socio-economic impacts before approving the OPA and the Casino ZBLA.

4. Upon that analysis the Tribunal can then determine whether the Appellants have established that the approval of these two instruments, that would permit the Casino operations, is inconsistent with the PPS, and/or fails to conform to the GPNO or, in the case of the Casino ZBLA, fails to conform with the OP (or conflicts with).

### **1. The PPS Policies and the Socio-Economic Impacts of Gambling**

[43] The Appellants have identified the specific policies of the PPS which they submit, have been abrogated by the approval of the subject Instruments and result in inconsistency. The enumerated sections of the PPS identified by Mr. Dragicevic in support of his planning opinions, and relied upon by the Appellants, are addressed in the order listed in the Case Synopses.

[44] Before addressing the various sections identified by the Appellants with respect to these grounds, some general findings and determinations can be made by the Tribunal.

[45] Decisions as to the inclusion or exclusion of casinos within a community are dealt with at a community level and are aligned with the Provincial regulatory framework that governs lotteries and gaming and exists separate and apart from the *Act*, the PPS and Provincial growth plans. Accordingly, if matters relating to gaming are not otherwise somehow incorporated into the PPS, the lack of consideration of socio-economic issues by Council relating to gambling as a policy issue, cannot therefore represent inconsistency with the PPS.

[46] The Appellants have attempted to tether their concerns as to whether Sudbury needs, or wants, a casino of this form, size and location to general references to social well-being and health and safety in the PPS. In the Tribunal's view this is an ill-

conceived attachment. As addressed below in the analysis of those sections, considerations of health and safety are not to be confused with considerations of societal mores, social preferences and personal pastimes and preferences. For the reasons that follow below, it is the finding of the Tribunal that the PPS, and the Provincial growth plans, do not address, as planning matters, matters of personal, recreational or social preferences and pastimes, or societal tolerance or encouragement of gaming any more than they address societal tolerance of such personal preferences as the consumption of alcohol, the use of cannabis products, or tobacco habits.

[47] Provincial planning (and local planning) may involve the determination of locations where such activities may be located, and there may be provincial and local regulation of such activities, but at the highest level, provincial planning policies do not govern community standards, tolerance or preferences for such activities. Gaming, alcohol, cannabis and tobacco uses are clearly provincially and federally regulated, and the legislation is obviously permissive of such activities in our society. In examining the Appellants' submissions and grounds in relation to this issue, the Tribunal must conclude that the Appellants are attempting to extract and apply, as planning issues, the examination of such socio-cultural issues in a judgmental manner. This is not supported by the nature of the planning framework and regulatory framework in place, in Ontario, as it relates to gaming.

[48] The Tribunal agrees with the submissions of the City, and the Applicant and Gateway, that on the record, the presence of gaming in the City has been long established as there is already an existing Casino in Chelmsford, albeit in a much more moderate form. The evidence before the Tribunal is clear that in 2012 the Ontario government, through the Ontario Lottery Gaming Corporation initiated a modernized approach to Ontario's lottery and gaming industry, at which time Greater Sudbury was identified as a site for expanded gaming opportunities. The processes initiated in 2012 by Council, to acknowledge the City's willingness to host a new and larger Casino, as indicated, led to the resolution in 2013 reaffirming Council's commitment to develop a Casino somewhere in Sudbury. This, again, long pre-dated the OPA and the Casino ZBLA that decided the subject Site would be approved as the site for the Casino, thus leading to the Tribunal's conclusion that in April of 2018 the Approved Instruments were

not dealing with that issue at all, let alone as a planning issue.

[49] These earlier processes highlight the fact that the Appellant's attempts to now cloak the social issues relating to the ills and negative consequences of embracing gaming as planning issues, fails to acknowledge that such matters are, and were, addressed through the *Ontario Lottery and Gaming Corporation Act* and prior decisions made in relation to Provincial regulation of gaming. The Tribunal agrees with the Respondents' position that there is a comprehensive regulatory regime established by the Province that reviews and deals with all aspects of gaming, including the responsibilities and choices of individual communities to promote gaming in their communities. These regulatory matters are not within the jurisdiction of the Tribunal.

[50] The Tribunal accordingly agrees with the City's submission that the OPA and the ZBLAs which are the subject of the Appeals, do not deal with whether or not a casino should, or should not, be within the City of Sudbury – that was already determined through non-planning processes.

[51] If the presence of gaming and a casino in the City were matters that *could* be identified as related to the PPS, it is the Tribunal's view that they would, if anything, arise only in the context of s. 1.0 of the PPS which, in addressing the building of "Strong Healthy Communities", identifies, as one fact, to the importance of "facilitating economic growth". Economic growth is something which the City Council addressed squarely when it previously adopted the by-law that expressly stated the municipality's receptive position on potential casino development and encouraged gaming facility investment proponents to consider proposals to maximize benefits to the community.

[52] With this general overview, it remains to be determined if the PPS otherwise addresses the subject of gaming, as a planning issue and the sections of the PPS identified by the Appellants as supporting a finding of inconsistency under the PPS, can be examined.

### **Part III – The Reference to “social factors” in “How to Interpret the PPS”**

[53] First, The Appellant identifies the Part III statement that the provincial policy-led planning system recognizes and addresses the complex interrelationships among environmental, economic and “social” factors in land use planning.

[54] The Tribunal’s view is that this very broad introductory statement in the section of the PPS entitled “How to Read the Provincial Policy Statement” leads to the second sentence which provides that the PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages between the policy areas. In the Tribunal’s view the context in which this instructive statement is made regarding the interpretation of the PPS using an integrated approach to land use planning is greatly distanced from, and inapplicable to, the finally nuanced application of the word “social” that the Appellants would like to have the Tribunal utilize and apply. The Appellants urge the Tribunal to conclude that because of this reference to a “social” factor in this context, the passage of the OPA and the ZBLA demanded a full assessment of the social impacts of gaming on the community and a detailed economic analysis and micro business plan as to the financial benefits of a Casino at this new location.

[55] Although the Tribunal recognizes that social factors must be considered amongst the complexities of many factors considered in land use planning, the Tribunal cannot agree that this section of the PPS attains the directional force given to it by the Appellants, as referenced by Mr. Dragicevic.

#### **s. 1.0 and 3.0 – References to “social well being” in Policy Introductory Paragraphs**

[56] The Appellant also refers the Tribunal to the wording in s. 1.0 of Part IV, that speaks to “social well-being”, along with “Ontario’s long-term prosperity”, and “environmental health” (therein consistent with the references to “environmental, economic and “social factors in land use planning” in Part III) as being dependent upon the wise management of change and the promotion of efficient land use and development patterns. The same reference is made within the first line of the

introductory paragraph to s. 3.0 “Protecting Public Health and Safety” that “social well-being” is dependent upon wise management and efficient land use.

[57] It is the Tribunal’s view that, as with the reference to social factors in the introduction to Part III, the likewise broad references in the PPS to “social well-being” in the context of these two introductory paragraphs, state the obvious and over-arching proposition that land use planning impacts the Provinces trifecta of “long-term prosperity, environmental health and social well-being”. Such broad policy tenets of the PPS cannot be reasonably, or even sensibly, applied in the literal manner suggested by the Appellants.

[58] The Appellants’ submission in this regard would mean that Council was required to utilize a very broad social consideration in the PPS to then initiate a micro-analysis of whether gaming has adverse social effects on nearby neighbourhoods, or on the residents and visitors to the City of Sudbury or whether, on a balance sheet approach, the casino will result in economic gains or benefits to the City relative to such adverse social impacts. To interpret the presence of the words “social well-being” in the Province’s high-order planning system, in this context, as a means to arguing that the PPS directs that the socio-economic impacts of gaming must first undergo a high scrutiny before a micro-level decision is made approving a casino use on a particular site in the City is not, in the Tribunal’s view, a tenable approach to the application of the test of consistency.

[59] Further, the reference in s. 3.0 “Protecting Public Health and Safety” to the important point that Ontario’s “social well-being”, as well as long-term prosperity and environmental health, depend upon reducing risks to “natural or human-made hazards” further illustrates that in this context, social well-being is being considered with a view to planning appropriately to protect against both Natural Hazards and Human-Made Hazards. The policies in s. 3.0 address the policy goals of reducing risks to the social well being of Ontario’s residents from such things as floods, dynamic beach hazards, erosion, hazardous substances, or mine hazards which give rise to public health and safety concerns.

[60] Both types of Hazards are addressed in the PPS. Natural hazards related to defined “*hazardous lands*” associated with such things as flooding, erosion, dynamic beach hazards, or risk of forest fires - the types of situations that are obviously not remotely connected to gambling. There is little doubt that gaming does not fall into the category of natural hazards. In the whole of the PPS, neither is it reasonable to consider that “*Human-Made Hazards*” that deal with hazards arising from mining or petroleum resource operations encompass gaming. To make not too fine a point of it, it is not reasonable for the Tribunal to consider that betting one’s money in a casino falls within the meaning of “*hazardous*” as that term is defined in the PPS and as it applies to forest types susceptible to wildland fire, or to lands, sites or contaminants from mines. Such planning concerns, for the Tribunal, are properly identified concerns of “public health”.

[61] While there are arguments to be made that the social impacts of gambling might possibly affect the public health of the Province’s citizens, this does not mean that the use of the term “public health” in the PPS planning policies necessarily creates an imperative that such social concerns be considered. Accordingly, it is the view of the Tribunal that the Appellants’ submission that these policies of the PPS governing health and safety relate to the potential social ills of gambling, and create a clear imperative of consistency of two planning instruments that permit the use of a Casino on the Site, is strained and unreasonable.

**s. 1.1.1(c) – “public health and safety concerns”**

[62] Under s. 1.1 of the PPS entitled “Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, s. 1.1.1 identifies those things that sustain “healthy, liveable and safe communities, one of which is item (c), “avoiding development and land use patterns which may cause environmental or public health and safety concerns”. This is identified by the Appellants as relevant to the issue of the OPA and the Casino ZBLA being inconsistent with the PPS.

[63] The Tribunal has unfortunately received no explanation within the opinions provided by Mr. Dragicevic, or Mr. Faludi, that would compel the Tribunal to consider



that the potential detrimental social effects of Provincial-sanctioned gaming are encompassed within these policies of the PPS that relate to public health and safety concerns. For the reasons indicated above, gaming is not something covered by the public health and safety policy umbrella.

[64] The Tribunal prefers the more reasonable opinion expressed by Mr. Tanner, and by Mr. Singbush, that the policies of the PPS protecting public health and safety address development within natural and human-made hazards. They conclude that the site-specific planning instruments, as they do permit a casino use, have already thoroughly considered any such concerns as to real hazards and municipal emergency services and there is no evidence of such concerns raised in these appeals.

[65] Mr. Tanner has indicated that much of the social and economic planning considerations arising from the creation of a new regional entertainment district at the KED, addressed in the PwC Feasibility and Business Case Assessment for the Proposed Sports and Entertainment Centre, and City of Greater Sudbury Event Centre Site Evaluation, were considered then, and also previously in 2012 and 2013, when Sudbury studied and decided whether to host an enhanced casino facility within the context of the Provincial regulatory system. All such considerations were undertaken well before the planning approval of the instruments, but even so, again considered on March 26, 2018, as noted by Mr. Ferrigan as he discussed the input received on this subject at the first Public Hearing. Accordingly, Mr. Tanner opined that such socio-related impacts of gambling were adequately considered were, and are, not planning matters relating to the PPS that are now to be addressed. The Tribunal agrees with this view and specifically, considers Mr. Tanner's summary overview and opinion set out in paragraphs 25 to 41 of his Affidavit sworn September 1, 2020, responding to the questions of the Tribunal, to be wholly supported by the evidentiary record before it in these Appeals.

### **s. 1.2.3 – “social planning considerations”**

[66] Finally, s. 1.2.3 of the PPS, the section on “Coordination”, provides that “emergency management” should be coordinated with “social planning” as well as

(consistently) with economic and environmental consideration. Planning authorities are directed to “..coordinate emergency management and other economic, environmental and social planning considerations to support efficient and resilient communities”.

[67] Upon the same basis outlined above, the Tribunal prefers the approach of the City, and the Applicant and Gateway, that such references to coordinating emergency management and the trifecta of planning considerations, to support efficient and resilient communities, are not reasonably applicable to the subject of gambling. Neither do they give rise to a requirement for the kind of socio-economic impact studies the Appellants believe were required by Council, and not completed, before approving the subject instruments.

### **Conclusion – Socio-economic impacts of gambling are not in the PPS**

[68] The Tribunal has considered the specific policies of the PPS referred to by the Appellants and for the reasons indicated above cannot conclude that the PPS’s broad policies give rise to any type of obligation on the part of the City to consider socio-economic issues relating to gaming as part of the necessary land use planning considerations for approved instruments relating to the Casino. As the City submits, there is nothing in these sections which are engaged by the OPA or the Casino ZBLA applications.

[69] Moreover, the Tribunal accepts the planning opinions of Mr. Tanner and Mr. Singbush, and the submissions of the City, and the Applicant and Gateway, that no part of the PPS contains anything that would require a study of the socio-economics of gambling as a pre-requisite to the approval of the OPA or the Casino ZBLA, nor does it contain any reference to gaming or gambling.

[70] It is the finding of the Tribunal that the PPS does not address the propriety of gaming tables and slot machines in the City of Sudbury, nor any community in Ontario. There are no references to gaming, gambling or casinos anywhere in the PPS, or the Growth Plan for Northern Ontario.

[71] The Tribunal has considered the extensive planning evidence of Mr. Singbush and Mr. Tanner as they reviewed the various other policies of the PPS, including those that touch upon economic growth, and addressed the subject of the Approved Instruments' consistency with the PPS. The Tribunal finds that the OPA and the Casino ZBLA, (and the Arena and Parking ZBLAs) are otherwise consistent with the PPS.

## **2. The Growth Plan for Northern Ontario and City Official Plan and the Socio-Economic Impacts of Gambling**

[72] As to the City OP the Tribunal has considered the written and oral submissions of the Appellants in relation to the alleged non-conformity with the City OP, and the opinion evidence provided by Mr. Faludi and Mr. Dragicevic in their Affidavits. Despite the grounds asserted and the submissions of the Appellants, it is the Tribunal's findings that there is no persuasive planning evidence of any kind before it to indicate that the City OP requires any such examination of socio-economic consequences of gambling or economic benefits accruing from the presence of a casino at the KED location as a prerequisite to the approval of the subject planning instruments.

[73] Mr. Dragicevic was asked, in further questioning by the Tribunal, to assist in explaining the planning opinion basis for such grounds of non-conformity with the City OP. Reference was made to a number of sections relating to long-term economic strategies, growth management and to the Downtown Master Plan. The Tribunal's analysis of the Appellants' arguments in regards to these matters is addressed below. It is otherwise the finding of the Tribunal that that none of the sections of the City OP referenced by Mr. Dragicevic in his responses call for such independent study of the socio-economic consequences of gambling. Neither do the sections require separate studies relating to pure economic benefits accruing from the presence of a casino in the manner suggested by the Appellants beyond what has been considered by Council. The Tribunal accepts the opinions of Mr. Tanner in this regard that there is nothing within the City OP that would require an economic feasibility study or examination of social impacts of gambling upon the City of Sudbury to be undertaken prior to the passage of the subject By-laws with their focused and limited nature and purpose of the instruments as determined by the Tribunal in this Decision.

[74] The Tribunal also agrees with the opinion of Mr. Singbush, that is consistent with the advice to Council, that such socio-economic issues related to gambling were, and are, not legitimate land use planning issues when considering the Applications that led to the Approved Instruments. The municipal record amply confirms the extent to which Council for the City did undertake a lengthy process of consultation, study and deliberations regarding the location of an enhanced Casino operation in substitution for the City's existing gaming facility at the Sudbury Downs. Having undertaken prior processes begun in 2012 to decide whether Sudbury would be a host community, and through a lengthy and ample consultation process, City Council had already endorsed the relocation and expansion of gaming in the City from its current limited location at Sudbury Downs. There is accordingly nothing that could possibly lead the Tribunal to conclude that the subject Instruments do not conform with the City OP in relation to this asserted requirement for additional consideration of gaming-impacts upon the Sudbury community.

[75] On the evidence before the Tribunal, to summarize, it finds that socio-economic issues relating to gambling were not, and are not, legitimate land use issues when determining the applications for the Approved Instruments relating to the Casino. Neither the PPS, the City OP (nor the GPNO) require that the socio-economic impacts of gaming be determined through studies before the adopting and enactment of the OPA and the Casino ZBLA.

### **3. Were the Socio-economic Impacts of Gaming Considered by the City?**

[76] Having concluded that the PPS does not include any high level policy that addresses gaming as a societal matter for consideration in a planning context and having concluded that the City OP does not specifically require the examination of socio-economic impacts of approving the location of the Casino at this Site as a pre-requisite planning consideration before approving the OPA and the Casino ZBLA, it is unnecessary to determine if the City sufficiently and appropriately considered such socio-economic impacts before approving the OPA and the Casino ZBLA.

[77] Nevertheless, the fact that such socio-economic impacts were indeed

investigated, subjected to public consultation and considered by the City, but in an entirely different context, and years earlier. This further underscores the fact that such considerations were, by distinction, not properly land use planning issues that needed to *again* be examined when Council was later considering the applications for the Casino which dealt only with the issue of permitting the Casino use at the subject Site.

[78] The municipal record amply confirms to the Tribunal the extent to which Council for the City undertook a lengthy process of considering and making a decision regarding the presence of gaming in the City of Sudbury in 2012 and 2013 when it resolved to continue to support gaming and would continue to be a willing host. The Staff Planning Report of March 12, 2018 relating to the OPA and the casino, presented at the meeting on March 26, 2018, includes full detail as to the background to casino gaming. The consultations and deliberations as to the location of an enhanced Casino operation in substitution for the City's existing gaming facility at the Sudbury Downs followed thereafter and in 2018 the location of the Casino at the KED was given consideration based on extensive input. Those considerations included the Appellants' urbanMetrics Report and, according to the municipal record, included hearing from a number of opponents to the location of the casino at the KED, but also opposed to the presence of gaming in the City. The Superior Court has made findings in this regard as well, in relation to the issues it had before it. The Tribunal's findings are the same.

[79] The evidence before the Tribunal confirms that at the later point in time, on March 26, 2018, Planning Staff confirmed to the Planning Committee and Council, that matters relating to the socio-economic impacts of gaming were not proper land-use issues for Council to consider in its deliberations on the Approved Instruments. The basis for this advice was evident from the record, and in the Tribunal's view, quite correct. Such matters of socio-economic impacts, which led to the decision of Council to support the continued presence of gaming in Sudbury, had already been considered and determined years before the meetings in March and April 2018. Sudbury Council had by then, on the record, long-since determined that responding to the Ontario Lottery and Gaming Corporation's new modernized gaming regime was appropriate and would result in economic benefits to the community. Council had thus passed, well-before considering the Applications for the Approved Instruments, what has been referred to as

the “Willing Host” resolution.

[80] No aspect of those prior decision-making processes were therefore before Council when it passed the Approved Instruments relating to the casino at the KED, and hence the Tribunal makes the finding that planning staff was correct when it advised Council in March 2018 that the socio-economic impacts of gambling fell outside the scope of the land use planning matters relating to the subject Applications.

[81] The Ontario Superior Court of Justice has determined that aside from the merit-based issues to be determined by this Tribunal with respect to consistency and conformity, the Appellants have otherwise failed to satisfy the Court that there was any breach of the *Planning Act* that rendered Council’s decisions relating to the Approved Instruments, without a study of the social and economic effects of its decisions, illegal under section 273 of the *Municipal Act*. The Court also found that there was no evidence to support the submission that the Director of Planning acted in bad faith when he advised Council that the socio-economic impacts of gambling fell outside of the land-use issues that were to be considered, since they had already been considered at the time the Willing Host resolution was passed and because Council had already fully and appropriately considered issues relating to the social and economic appropriateness of gaming in the community years previous to the approval of the subject planning instruments that are the subject of these Appeals.

[82] These findings of the Court are separate and apart from the issues before the Tribunal, but the evidentiary record before the Tribunal in these Appeals is consistent with the background reviewed by the Court. This evidence leads to the finding of the Tribunal that as a matter of planning, the socio-economic impacts of gambling fell outside the scope of the land use planning matters relating to the subject Applications, as they were before Council.

#### **4. Conclusion – The Appellants have Failed to Satisfy the Tests**

[83] Accordingly for these reasons, and upon these findings, the Appellants have failed to establish that the approval of the OPA and the Casino ZBLA, that would permit

the Casino operations, are inconsistent with the PPS, or in the case of the Casino ZBLA, fails to conform with, or conflicts with, the City OP.

[84] These grounds for Appeal in relation to Issue 2 accordingly fail and the Appellants have not satisfied the onus under the legislation in regard to these grounds.

## **ISSUE 2 – FAILURE TO GIVE ANY WEIGHT OR CONSIDERATION TO THE 2012 DOWNTOWN MASTER PLAN AND THE GROUND UP ECONOMIC DEVELOPMENT STRATEGIC PLAN**

[85] The second issue is whether Council's decisions approving the Approved Instruments is inconsistent with the PPS, the GPNO and the City OP because the 2012 DMP and the City's economic development strategy contained within the Ground Up EDSP (collectively the "2012/2015 Studies") were given no weight and consideration when considering all of the Applications. As noted, the focus of this issue primarily revolves around whether the Tribunal ignored aspects of each of these two 2012/2015 Studies that addressed the City's arena facility remaining in the Downtown.

[86] A similar, but more abbreviated analysis framework, can be utilized for Issue 2, but this issue requires that the Tribunal first consider and determine the status of the two 2012/2015 Studies that are the focus of the Appeals in this issue and accordingly the analysis is as follows:

1. First, what is the status and character of each of the 2012 DMP and the Ground UP EDSP as planning policy, impacting planning decisions in the City of Sudbury.
2. Do the policies of the PPS require that the City give weight or consideration to either of the 2012 DMP and/or the Ground UP EDSP in considering the Applications.
3. Do the GPNO and the City OP also require the City to give weight or consideration to either the 2012 DMP and/or the Ground UP EDSP in

considering the Applications.

4. If the Tribunal determines Council was required to give weight or consideration to the two Studies, did the City give sufficient weight or consideration to them before approving the Approved Instruments. (This analysis will, to avoid duplication, also address whether the City gave sufficient weight or consideration to the urbanMetrics Report).
5. Upon that analysis the Tribunal can determine whether the Appellants have established that Council's approval of the Instruments, that would permit the Development, is inconsistent with the PPS, and/or fails to conform to the GPNO and/or to conform with the City OP (or conflicts with the City OP)

### **1. The Status of the 2012 Downtown Master Plan and the Ground Up Economic Development Strategic Plan**

[87] The starting point for the Tribunal, in this case, is to first determine whether the 2012/2015 Studies constitute planning policy or alternatively are merely studies or guidelines which may provide assistance in planning and development decisions but are not part of the City's planning policy framework.

[88] It is the finding of the Tribunal that the 2012 DMP and the Ground Up EDSP do not form part of the existing policy framework of the City's policy instruments, for the following reasons:

- (a) Neither of these studies or plans were, as of the time that the Applications were complete, or as Council's decisions were rendered, formally adopted as policy within the City's OP, any Secondary Plan or other policy document that would have undergone the scrutiny of public consultation or formal adoption or enactment under the *Act*.
- (b) The Ground UP EDSP, as examined, is a background study that examines economic development through the entirety of Sudbury and not the Downtown exclusively. The document is identified as a community



economic development strategic plan, that: speaks to an action plan and possible strategies to meet identified goals and objectives; deals with a wide breadth of matters, focused as it is on economic development, some of which are separate and apart from planning; identifies possible “next steps” for the implementation of identified strategies that may (or may not) be adopted by Council; and addresses the use of reporting and performance indicators to achieve identified goals and objectives for economic development, some of which, again, do involve planning decisions.

- (c) Although the 2012/2015 Studies might be given some consideration in a variety of decision-making processes, the Ground UP EDSP document is, in the Tribunal’s view, clearly not an in-force planning policy document. As the document was prepared, matters that do relate to land use planning within the Ground UP EDSP *could* be considered by Council, and certain aspects of the study *could* ultimately be proposed for inclusion within the City OP, and thus eventually reviewed through public consultation processes, possibly revised in accordance with the *Act*, and possibly approved by the Ministry of Municipal Affairs and Housing. None of these things had occurred at the time the Applications were before Council. In the Tribunal’s view the Ground UP EDSP is not a document that contains accepted planning policy, nor is it even an approved guideline in final form that governs the location of the arena facility.
- (d) In the case of the 2012 DMP, this document is similarly a study undertaken for the stated purpose of presenting a series of recommendations to reinforce the Downtown’s role in the City, outlining possible strategies for improving such things as the downtown’s level of economic, cultural and retail activity, and suggesting ways in which “the City of Greater Sudbury can position itself as the “Capital of the North”. The study included a number of recommended amendments to the City’s OP and to the Zoning By-law recognizing that City Staff might identify additional suitable updates to implement certain elements of the 2012 DMP.

- (e) Aspects of the 2012 DMP study and plan were eventually adopted by Council as in-force planning policy when Official Plan Amendment 88 (“OPA 88”) was adopted on April 26, 2019. This was after the subject Instruments were approved. Of consequence, and illustrative of the fact that studies, guidelines and policies cannot be considered authoritative in-force planning policy requiring conformity until adopted as such through an instrument such as OPA 88, is that OPA 88, as it eventually was drafted, expressly excluded any policy that would require the arena to be located in downtown Sudbury. As OPA 88 directs the City to continue to work to implement the 2012 DMP it sets out a list of projects to advance in the Downtown in accordance with the 2012 DMP which notably does not include the arena.
- (f) Upon initial review it was the Tribunal’s view that Mr. Dragicevic’s affidavit in the Appellants’ Appeal Record was rather limited in specifics as to what portion of these detailed studies or the City OP supported his opinion that the 2012/2015 Studies represented a policy imperative as to the importance or necessity of the arena remaining in the Downtown, which was referred to as a “preferred location” for the arena. In an effort to ensure that the Tribunal understood the exact content of the Plans that supported this opinion Mr. Dragicevic was specifically questioned by the Tribunal on this point.
- (g) Mr. Dragicevic’s planning opinions as to the effective status of the 2012/2015 Studies rely in part upon s. 19.3 of the City OP which addresses “Detailed Development Plans” and provides that the City may undertake small area studies and prepared Detailed Development Plans to provide guidance for the City and the Public. Mr. Dragicevic, in response, has concluded that “removing a significant and proven amenity” such as the Arena to the KED represents the removal of a cornerstone of the Downtown “as a matter of policy, detailed planning, and related fiscal review”. It is the Tribunal’s view that Mr. Dragicevic’s reference to the 2012/2015 Studies, which recognize the arena facility as having significance in the Downtown, as “policy” and as “detailed planning” unfortunately do not make them so.

For the reasons indicated, if the 2012/2015 Studies have not been adopted as in-force adopted planning policy, they are not, in the Tribunal's view, either "policy" or "detailed planning".

- (h) As Mr. Dragicevic points out in his affidavit evidence, s. 19.3 expressly provides that such studies or plans do not require Ministerial Approval "as they will not have the status of Official Plan Amendments". The studies do indeed "provide guidance" and the Tribunal would conclude that, without question, they contain details, strategies and options regarding economic development in the Downtown, and elsewhere in the City, *but* – and this is a crucial qualification for the Tribunal – they are a malleable collection of studied and informed options, potential strategies, ideas, and possibilities which are not yet binding policy until embodied in an Official Plan Amendment. Council's prerogative is to weigh all such options and guidance and move forward with the adoption and approval of planning policy under the *Planning Act*. Until then it is a misstatement to subsume the 2012-2015 Studies within actual detailed planning policy and are to be accorded a status that requires conformity under planning law. As a matter of process, this approach works both ways and the Tribunal has in the past also refused to accord a municipal council's studies-based directives to planning staff the status of planning policy, even if "endorsed by Council" through resolution only, since such directives have not undergone the rigours of formal consultation, adoption and approval.
- (i) Having carefully reviewed both the 2012 DMP and the Ground Up EDSP, and for the reasons indicated, the Tribunal prefers, and would agree with, the opinion of Mr. Tanner and the position taken by City Planning Staff, and finds that neither of the 2012/2015 Studies have status as planning policy.

[89] Having determined that the 2012/2015 Studies do not represent planning policy, it is the Tribunal's view that the Appellants' assertion that Council's approval of the Approved Instruments is inconsistent with the PPS and fails to conform with the City OP and the GPNO because these studies and working plans were given no weight and

consideration, is first grounded upon a weakened premise. The Appellants' arguments are premised upon a planning assertion that the 2012/2015 Studies are elevated to planning policy. If Council has instead failed to give adequate weight to studies, strategic plans intended as guidelines and go-forward strategic community goals and objectives, that are not planning policy, can this possibly constitute inconsistency with the Province's highest-order planning policy?

[90] To answer this question, the Tribunal must consider the PPS section which the Appellants argue has been ignored as a result of Council's failure to give weight and consideration to the 2012/2015 Studies.

## **2. The PPS and the 2012/2015 Studies**

[91] The Appellants refer the Tribunal to s. 1.7.1(d) of the PPS (previously 1.7.1(c)) which provides that, among the twelve enumerated items, long-term economic prosperity should be supported by "(d) maintaining and, where possible, enhancing the vitality and viability of downtowns and mainstreets". In support of this submission the Appellants rely upon the planning opinions of Mr. Dragicevic and additionally the evidence of Mr. Faludi, the author of the urbanMetrics Report.

[92] The Appellants' approach starts with the fact that the existing Arena is in the Downtown. From that, the Appellants' grounds for this part of the Appeal are that the 2012 DMP, and as well, the 2015 Ground Up EDSP, include within their guidelines, strategies and recommendations that the Arena in the Downtown be upgraded, and initiatives pursued, to develop a multi-purpose facility or facilities in the Downtown which includes, amongst the five elements, an arena/sports complex, in addition to conference facilities, a performing arts centre, an art gallery and accommodations. The Appellants thus submit that because s. 1.7.1(d), speaks to the vitality and viability of downtowns, and because of their importance as "a matter of Official Plan policy" (based upon s. 19.3 of the City OP and Mr. Dragicevic's opinions as to the status of the 2012/2015 Studies) the lack of weight or consideration given to them by Council thus offends this specific PPS policy.

[93] The Tribunal is unable to accept this analysis and cannot conclude that s. 1.7.1(d) of the PPS operates to demand that a municipal authority give weight and consideration to what is contained in these two studies and guidelines, or that a failure to do so would constitute inconsistency with the PPS.

[94] First, as indicated above, the 2012 DMP and the 2015 Ground Up EDSP do not have the status of planning policy that the Appellants would assign to these two Studies.

[95] Second, as set out in the initial analysis of the Bill 139 legislation, the test to be determined is whether the decision to which the notice of appeal relates, is inconsistent with a policy statement in the PPS. The Tribunal, upon the evidence, finds that the Appellants' basis for asserting that there has been inconsistency relates to a failing of Council to consider one very specific and very limited detail – that the arena should be in the Downtown and not out at the Kingsway – forms a very small part of two extensive studies, one of which applied to the whole of the City of Sudbury. The Tribunal agrees with the City and the Applicant that there is nothing in the PPS, or the specific policy identified by the Appellants, that requires each and every development application to consider and accept the content (and thus conform with) studies prepared by or for a municipality. There can therefore be no inconsistency. The Appellants acknowledge that s. 1.7.1(d) of the PPS does not obligate the City to undertake such an economic assessment, but neither does it say you do nothing. In the Tribunal's view, as it has found, Council did not "do nothing" and did consider a multitude of information, input, and economic strategic planning options and recommendations, a portion of which was clearly not in-force planning policy.

[96] Third, to connect a failure to consider the discussions, strategies, options and recommendations relating to a single public facility in the Downtown, contained in the 2012/2015 Studies, to one isolated policy consideration in the PPS, in s. 1.7.1(d) intended to achieve long-term economic prosperity, represents a tenuous connection that is insufficient to establish inconsistency.

[97] Returning to the nature of the test, the Tribunal does not find that the failure of Council to consider the discussions/recommendations regarding the arena, within the

context of the entirety of the 2012/2015 Studies, represents inconsistency with s. 1.7.1(d) of the PPS merely because it includes a reference, as one means of supporting long-term economic prosperity, to maintaining or enhancing the vitality and viability of downtowns and mainstreets. There are many other policy considerations relating to long-term economic prosperity to be considered and the fact that City Council has considered many other aspects of long-term economic prosperity for the whole of the City, some relating to the hosting of an enhanced casino facility, and the synergies achieved from its proximity to the arena and other elements proposed for the KED, are but some examples of considerations.

[98] As Mr. Dragicevic indicates, the content of the 2012/2015 Studies that are referred to in support of the Appellants' planning opinion, do indeed recognize the importance of upgrading the arena to accommodate larger scale concerts and conventions and does identify an "arena/sports complex" of one of a number of facilities warranting development. However, the documents also refer to much more. The Tribunal is inclined to prefer Mr. Singbush's characterization of the 2012/2015 Studies as a "series of recommendations" that contained a great many economic development strategies that related to the whole of Greater Sudbury and not just the Downtown. The 2012 DMP did not require that all identified facilities remain in the Downtown, but rather, identified a number of different facilities for consideration, some of which are clearly identified in OPA 88.

[99] The Tribunal must agree that when read as a whole, in the context of the Community Economic Development Strategy, the reports indicated that a new arena/entertainment complex could help with continued growth and economic prosperity but they do *not* state that the arena must be in the Downtown. Ultimately, the Appealed Arena ZBLA obviously provides otherwise as Council went in another direction. The 2012/2015 Studies did not fetter the discretion of Council to make such decisions, including the prior decision not to locate the arena in the Downtown.

[100] Since the Approved Instruments were passed by Council, and based upon the 2012/2015 Studies, City Council has instead focused on a number of other strategies and recommendations for facilities in the Downtown, in addition to the decisions now

appealed by the Appellants. When taken together this speaks to the ability of a Council to make focused, community-specific and site-specific decisions planning decisions but still achieve consistency with the broad Provincial planning policies. There are many elements to consider, and many paths to choose from, for City Council to achieve the long-term economic prosperity addressed in s. 1.7.1 of the PPS. The fact that the Appellants may disagree with the priorities assigned to strategies and options contained in the 2012/2015 Studies, or the plans chosen by Council to achieve long-term economic property at the local level does not, in the Tribunal's view, mean that Council failed to consider the 2012/2015 Studies.

[101] Furthermore the decisions made by Council, as they considered a great many considerations, including the 2012/2015 Studies, do not, in the Tribunal's view, require Council to given weight and consideration to those Studies in a manner which would give absolute paramountcy to the single option of keeping the Arena in the Downtown.

[102] In the Tribunal's view, for the reasons indicated, the decision of Council which approved the Arena ZBLA cannot amount to inconsistency with the broad policies of the PPS that encourage long-term economic prosperity, or general inconsistency with the PPS policies when considered in the manner directed by the PPS.

### **3. The Growth Plan for Northern Ontario, the City Official Plan and the 2012/2015 Studies**

[103] The Appellants, again primarily upon Mr. Dragicevic's opinion evidence, assert that the lack of consideration of the 2012/2015 Studies also represented non-conformity with the GPNO. The Tribunal will not repeat the analysis outlined above as it relates to the question of whether the PPS requires that the City give weight or consideration to the 2012/2015 Studies but upon the same analysis the Tribunal determines that the higher order policies in the GPNO do not, as the Appellants submit, and as Mr. Dragicevic opines, impose such obligation.

[104] Mr. Dragicevic has referred the Tribunal to sections 4.1 and 4.3.3.d of the GPNO. In the Tribunal's view, the Preamble in s. 4.1 of the GPNO, while referencing "economic

plans” as effective tools and approaches to determining the views of residents and business owners to future economic and long term sustainability, along with official plans and participation in community planning efforts, does not vault the multitude of content contained in such studies and strategic plans to the level of binding directive policies. This is again, at the broad northern Ontario regional level, recognition that planning for growth, and balancing the same three over-arching priorities of human, economic and environmental health, includes a variety of elements. The Tribunal accepts the Respondents’ position as reasonable that such studies are, at their core, only recommendations and suggestions for how Council may choose to allocate its resources and make economic development strategy Section 4.1 does not constitute a policy that requires each application for development to conform with studies prepared by or for a municipality.

[105] Applying the same analysis relating to the PPS, the Tribunal does not agree that s. 4.3.3.(d), which encourages a significant portion of future employment development to locate in existing downtown areas (as well as intensification corridors and strategic core areas) as one of a number of strategies to be included in planning, amounts to a requirement that all elements of studies and plans such as the 2012/2015 Studies must be considered, in their entirety, as binding. Council’s prerogative includes the ability to consider the manner in which economic and service hubs are to be supported and developed and there again may be a variety of options which may be different, and yet all may conform to the broad policies of the GPNO.

[106] The decisions to approve the Approved Instruments that permitted the components of the KED, including the Arena, in the context of the broader economic, growth and development planning in the City, did not, as the Appellants argue, set aside and ignore the substance and recommendations of the 2012/2015 Studies just because the Arena was not to be in the Downtown. Such an application of the GPNO imposes a subjective and selective approach to the Studies which amounts to nothing more or less than a difference of opinion with Council’s decision. The GPNO, as regional planning policies for Northern Ontario, does not, in this case, require that the Appellants’ approach be followed.



[107] With respect to the City OP, the Tribunal does not find that there is anything contained therein which requires an application, including the applications giving rise to the Approved Instruments, to conform to strategic economic development studies, such as the 2012/2015 Studies. More specifically, as with the PPS and the GPNO, there is nothing in the City OP which gives rise to an obligation on the part of Council to follow-through and adopt and implement each and every aspect of such strategic planning studies until, and unless, they become adopted planning policy through an OPA. As has been determined by the Tribunal, that is not the case.

#### **4. Was Sufficient Weight or Consideration Given to the 2012/2015 Studies**

[108] Given the above analysis, the concise determination of this issue is that: (a) Council was required to give little weight, and ultimately had the discretion to accord no weight, to the referenced recommendations in the 2012 DMP relating to the benefits of retaining the arena in the Downtown, if indeed that was a penultimate recommendation within the Studies, and (b) Council did nevertheless give consideration to the 2012/2015 Studies, but such consideration was not a necessity giving rise to obligations of consistency and conformity.

[109] The analysis that follows, for convenience and ease of organization, will also address the extent to which Council gave weight or consideration to the urbanMetrics Report, as this same question is addressed in Issue 3 below.

[110] As has been determined above, the Tribunal is unable to conclude that the 2012/2015 Studies have the status as planning policy that is attributed by the Appellants and neither does the Tribunal agree, as the grounds have been advanced by the Appellants, that each of the PPS, the GPNO or the City OP required that Council accept, as binding and determinative. Council was not required to give weighted consideration to the 2012/2015 Studies in considering the Applications and approving the Approved Instruments.

[111] However, notwithstanding this conclusion the Tribunal finds that Council did give more than sufficient *consideration* to the 2012/2015 Studies. What is clear is that

Council ultimately assigned little weight to the discussion within the Studies that addressed the option of keeping the arena in the Downtown, and determined the Arena should go elsewhere.

[112] Weight and consideration are two different things. The Tribunal has found that Council did not err when it chose not to give weight to the singular aspect of the 2012/2015 Studies that recommended the continued presence of the Arena in the Downtown, and instead preferred the information and advice received elsewhere, including the PwC Reports. Council was free to accord no weight to this recommendation/option since this aspect of the Studies was not in-force binding planning policy. It is however ultimately the Tribunal's finding that Council did give more than sufficient *consideration* to such a recommended, but nevertheless optional, strategy within the entirety of Council's economic development and strategic planning. *If* the decision approving the Arena ZBLA involved a consideration of whether the Arena should be Downtown or elsewhere, it was considered to the extent that this issue had already been determined by Council.

[113] This Appellants' submission that Council failed to listen to the Appellants, and in particular the BIA and the Downtown business interests, is made clear from the submissions of the Appellants. In oral submissions, counsel for the Appellants, noting that they represented a broad cross-section of the community that genuinely wanted to be heard, submitted: "It is one thing to invite them to a meeting and another to genuinely listen to them." After considering the evidentiary record, the content of the Appeals and the submissions of the parties, it is the Tribunal's view that the Appellants were, in the process, genuinely heard. As the Appellants have pointed out, Council also had before them reports from City Planning Staff also addressing potential impacts of the KED on the Downtown. However, as they are capable of doing, after listening and considering the Appellants' voiced opinions, including those through their experts Mr. Faludi and Mr. Dragicevic, and all of the information and advice from all sources, the majority of Council members disagreed with what they heard from the Appellants. This is not a unique occurrence in the public consultation process in planning and development. In the Tribunal's view, having carefully considered the Appellants' submissions, as indicated herein, that disagreement does not result in the decisions of Council

necessarily being inconsistent or in non-conformity under the legislation.

[114] The Tribunal has read the Decision of the Ontario Superior Court of Justice as it determined the Applications to quash. While that decision is not determinative of the planning issues that are before this Tribunal, there are findings made there which are consistent with the findings of this Tribunal as it relates to the history of Council deliberations on the matter of what site would ultimately be preferential for the arena. At paragraph 93 of the Decision, the Court determined that on the record before it, the social and economic issues relating to the establishment of an entertainment outside of the Downtown, inclusive of the arena, “were both studied and considered”. Council opted for the Kingsway site over the Downtown site and, as Mr. Faludi conceded, Council is free to do that. At paragraph 127, the Court distinguished between the decisions made by Council with respect to the location of the arena/event centre.

[115] Upon the evidentiary record before it, the Tribunal arrives at the same conclusions. Council had previously, and thoroughly, considered social and economic issues and impacts including the question of the location of the Arena, as well as the hosting of a Casino and the development of the KED – in addition to the later deliberations relating to the Approved Instruments. At various times, in the well-summarized history of public meetings, deliberations, reports, and decision making, City Council had: considered the urbanMetrics Report; considered the PwC Reports; received submissions from the Appellants and heard from counsel for the Appellants which included the 2012 DMP and the Ground Up EDSP; received input from the experts retained by the Appellants; considered the substantial collective public input; and considered the advice and recommendations provided by City Planning Staff. The Planning Staff report to Council of March 14, 2018 (relating to the Arena ZBLA) demonstrates the extent to which staff provided the overview of the background to the Arena/Event Centre. In January and March of 2018, Council considered where the Arena should be located – not whether it would be located at the KED. That decision as to where the Arena should be located decided that it would not be in the Downtown.

[116] On April 10, 2018 Council then decided whether the Arena would be located at the KED sight, as the Arena ZBLA then approved the introduction of the additional

institutional land use for an arena was appropriate on the Site.

[117] The Tribunal has, in determining these Appeals, reviewed the entirety of the evidentiary record which has included the video/audio recording of meetings held before the Planning Committee. This does not include the April 20, 2018 meeting but does include the March 26, 2018 meeting where the Appellants assert that Council and the public were improperly advised by Planning Staff that the 2012/2015 Studies, which had recommended locating the arena/event centre downtown, were irrelevant to the issues before Council because they were not approved through official plan amendments.

[118] As indicated in the analysis above, as that was communicated to Council, the Tribunal has found that this was indeed the correct status of these strategic studies and thus such advice from Planning Staff was correct.

[119] The Tribunal has watched and listened carefully to the audio-recording of the conduct of the hearings held on March 26, 2018 before the Planning Committee, and reviewed the transcript of that portion of the meeting provided by the Appellants at Tab 20 of the Appellants' Appeal Record. Mr. Ferrigan, the Director of Planning Services for the City, whose comments regarding the non-application of the master plan or economic strategic planning studies have been criticized by the Appellants, indicated the following at the meeting of March 26, 2018 in response to the Chair's question regarding the opinion provided by planning staff (emphasis added):

In the creation of that opinion we look to several policy documents to guide our work. The first is the Act itself, the Ontario Planning Act. The second is the Provincial Policy Statement of Ontario in effect as of 2014, for the purposes of these applications. The third would be the Growth Plan for Northern Ontario which has been effect since the mid-2000's. And lastly, is the City's own Official Plan, and that is the in-effect version of the Official Plan and so if I understand your question correctly Madam Chair, we review this Application in accordance with the policies that are in effect at the time of the Application itself. **So policies which may be under consideration by City Council but which have not yet been approved or which have not yet come into effect do not form part of the analysis.** Also as part of our analysis, we consider laws or policies which are engaged as a result of either the Site itself, or the proposal. And a good example of that in the Staff Report this evening is the discussion around the *Clean Water Act* and the *Source Water Protection Plan*. That is an example of policies that have been engaged because of the location of this Development and the Proposal itself. **We do not look**

**at other policies that the City has created and have not found their way into the Official Plan yet. And a good example of that would be the City's new economic development strategy and the other example would be the Downtown Master Plan.**

[120] The record indicates that Councillor Cormier, seeking clarification as to why the 2012/2015 Studies were not being considered as part of the City OP, expressed concern that the City's "very expensive" and "time-consuming" master plans developed through countless hours of development and crafting, should be given "credibility" and carry weight in decisions such as this. In oral argument the Appellants have directed the Tribunal to Mr. Ferrigan's response, which again reiterated that the 2012 DMP and the economic development strategy did not form part of the planning framework that was used to evaluate these applications and explained that changes were eventually made. Mr. Ferrigan correctly explained that the City OP adopted by Council in 2006, which had then been approved by the Minister of Municipal Affairs and Housing with modifications in 2007, appealed to the Ontario Municipal Board in its entirety and upheld by the Board as being consistent with the PPS, was in effect at that time in a series of decisions beginning in 2008. He also correctly confirmed that the master plans are eventually brought into the planning documents. The evidence before the Tribunal is that OPA 88 eventually was adopted incorporating some, but not all, aspects of the 2012 DMP, pointedly excluding the arena as a facility in the Downtown.

[121] In the Tribunal's view, this advice to Planning Committee, and eventually to Council, was thus correct and accurate as it recognized the important distinctions to be drawn between studies, recommendations or guidelines arising from investigative and consultation processes on the one hand, and the eventual in-force planning policy that is adopted by a municipal council.

[122] For that reason, and those outlined above, the Tribunal is unfortunately unable to agree with Mr. Dragicevic's, nor Mr. Faludi's opinions, that the two Studies were highly relevant, important and should have been given "significant weight in the evaluation of the subject Applications as required by the GPNO".

[123] The Tribunal concludes that Council, during the chronology of Council business during the months and years preceding the approval of the Approved Instruments, gave

adequate consideration to all aspects of the Appellants' concerns, as advanced, in particular, by Mr. Faludi through the urbanMetrics report, and by Mr. Dragicevic and their counsel, inclusive of the 2012/2015 Studies, to the extent that they contained recommendations and options for Council to adopt or not, as it related to the location of the Arena (and the decision to host the Casino).

[124] There is little doubt, on the evidentiary record before the Tribunal that there is some basis for the view of the Appellants that the content of the 2012/2015 Studies, and the urbanMetrics report, provided an argued basis to support the views of the Appellants. There was nothing disingenuous about the advocated position of the Appellants on the issues, including the value of retaining the Arena in the Downtown. Much of Mr. May's expressed concerns relate to the difference of opinion as to the adequacy of consideration of impact of relocating the Arena, or options for renovation or reuse of the existing arena, which are again, genuine and in the Tribunal's view, grounded in the 2012 DMP.

[125] Equally genuine, upon the evidentiary record, is that City Council was making its decisions with respect to the economic and planning issues to, and including April, 2018, based upon all of the information and data before them, including the 2012/2015 Studies, and the urbanMetrics Report, but obviously giving weight instead to other information and considerations supporting the placement of the arena in the KED, and the benefits arising from that option. These polarized differences in views, despite the arguments of the Appellants, nevertheless do not give rise to facts which satisfy the required onus of establishing inconsistency with the PPS, or non-conformity with the GPNO or the City OP. As the Tribunal has indicated in the discussion of the legal framework, there may be many different paths to achieve consistency or conformity with the higher-order planning policies, and the fact that Council may have chosen one means, over another, speaks to the process followed. The Appellants' disagreement with the means by which consistency and conformity were achieved is only that – a disagreement, and in the Tribunal's view, consistency and conformity nevertheless exist.

## **5. No Inconsistency or Non-conformity Arising from Lack of Weight/Consideration to the 2012/2015 Studies**

[126] In summary, the Tribunal finds that no aspect of Council's approval of the Approved Instruments was inconsistent with the PPS or failed to conform with the GPNO or the City OP by reason of a failure on the part of Council to give any weight or consideration to the 2012/2015 Studies. The Appellants have failed to meet the onus with respect to these grounds relating to the 2012/2015 Studies.

### **ISSUE 3 – FAILURE TO CONSIDER THE URBANMETRICS REPORT OR TO DIRECT FURTHER STUDY**

[127] The third issue arising from the Appellants grounds for the Appeals, like Issue 2, is based upon Council's purported failure to consider information before making its decisions on the Approved Instruments. Specifically, the Appellants assert that the economic impact study prepared by the Appellants' consultant urbanMetrics and Mr. Faludi was not considered and also, a further independent expert economic impact study which the Appellants argue, should have been obtained. They refer to s. 3(5)(a) of the *Act* and the policy section identified in the PPS as the basis for inconsistency is the same as Issue 2, (being s. 1.7.1(d)). Section 1.11.a is also referred to which is not a section in the PPS. The policy sections of the City OP identified to argue non-conformity are also substantially the same as those addressed in Issue 2.

[128] Given the nature of the analysis set out with respect to Issue 2, and the findings made by the Tribunal, it is unnecessary to undertake a similarly detailed analysis here, as the conclusions and findings of the Tribunal, on the evidentiary record, essentially follow the same analytical approach.

[129] With respect to the argument that Council was required to secure a further independent expert economic impact study, the Tribunal agrees with the City's submission, and Mr. Tanner's and Mr. Singbush's planning opinions, and finds, that there is nothing within the PPS that requires economic impact studies to weigh the possible impacts of development within a municipality or between designated

employment areas to be completed before considering and approving a development proposal. If no such policy requirement exists, then on a preliminary basis there is no specific inconsistency relating to policy 1.7.1(d) or any other identified policy in the PPS.

[130] Similarly, the Tribunal also concurs with the Respondents, and Mr. Singbush and Mr. Tanner's evidence, and finds, that there is nothing in the City OP that requires the City to first obtain economic impact studies before making the planning decisions that were made by Council approving the Development. If there is no such requirement in the City OP then the decision by Council to proceed on the information and input received from the staff review and the consultation process, cannot be found to be in non-conformity with the City OP.

[131] The sections of the City OP relating to the Downtown, relied upon again by the Appellants, have been addressed fully in considering Issue 2. The sections requiring that Council have regard for the City's economic development strategic planning are noted but they do not require the City to require an independent economic impact study for each development application in the City.

[132] In the absence of any clear policy at either the Provincial or municipal level, requiring Council to initiate and consider an economic impact study or requisition an independent study before making planning decisions such as the ones made by Council in relation to the KED, there cannot therefore be non-compliance if Council fails to requisition a further study. If there can be no such non-compliance, then there is no technical basis to establish inconsistency with the PPS or non-conformity with the OP.

[133] This leaves the Appellants' assertion that Council failed to consider the urbanMetrics Report. In the Tribunal's view, this ground for the Appeals really amounts, again, to a criticism of the process followed by Council and, in its barest form, an objection to the fact that Council considered other information, ignored information provided by the Appellants or failed to seek additional information to address the kinds of concerns raised in the urbanMetrics Report, and ultimately made a decision that did not align with the contrary information, opinions and economic analysis undertaken by their experts. Again, for the reasons indicated by it, in the analysis of Issue 2, and on



the facts before it, the Tribunal finds that these criticisms of the process, or the sufficiency of the process, and the weight accorded to the Appellants' expert's input, do not give rise to valid bases for inconsistency or non-conformity.

[134] The Tribunal has provided the overview of the law and made its findings as to the manner in which the PPS, as broad over-arching Provincial policy, addresses a great many facets of planning policy relating to environmental, economic and societal considerations. Policy 4.2 of the PPS provides that the PPS is to be read in its entirety and all relevant policies are to be applied to each situation. As has already been indicated by the Tribunal in this Decision, the Appellants, supported by Mr. Dragicevic's opinions, have drilled down to narrowly focus upon one sub-paragraph, s. 1.7.1(d), relating to downtown areas of communities which, although certainly not to be ignored, does not require absolute adherence to achieve consistency, and must be read in conjunction with the whole of the PPS.

[135] With respect to the City OP, it too provides a number of general and specific policies which address a variety of planning considerations relating to economic development and the management of growth and change across the entirety of the City, employment areas, community improvement, the Downtown, and the interrelationship of the varied aspects of City planning. The City OP, as it states, is based on four broad principles: a healthy community, economic development, sustainable development and a focus on opportunities that improve the community. Decision making by Council must consider all these policies based upon those broad underlying principles.

[136] The fact that the urbanMetrics Report and Mr. Faludi's opinions focus upon the Downtown, and provides a critical analysis of the decisions of Council as they might have economic impacts upon the Downtown, or fail to reap the economic benefits expected for Greater Sudbury, does not itself represent evidence of inconsistency of Council's decision with the PPS. Neither does the failure of Council, in the opinion of the Appellants, to give satisfactory consideration to the urbanMetrics Report and Mr. Faludi's opinions, amount to non-conformity with the City OP. The existence of reports, or the possible availability of other information from economic studies, which provide, or might provide, an opinion different from that of Council, which led to the approval of the

Development and the Approved Instruments, does not constitute a matter of inconsistency with the PPS or non-conformity with the City OP. Council had before it other planning opinions and advice from experts to rely upon in their decision. Under the approach of Bill 139 Appeals, this is again Council exercising its decision-making prerogative.

[137] To return to the Bill 139 Framework discussed in this Decision, it is the Tribunal's view that the Appellants' grounds in this issue (and in Issue 2) fail to recognize the fundamental shift to a "qualitatively different proceeding" under a Bill 139 Appeal referred to by the Divisional Court in the *Craft Decision*. The issue is limited to whether Council's decisions, resulting in the KED Development, are non-compliant. Were the issues to involve the examination of alternative development locations, the relative merits of development in the Downtown or in the KED, and generally involve a fresh and fulsome examination of all the evidence to determine whether each of the decisions of Council represents "good planning" then perhaps some examination of the relative strengths or weaknesses of the opinions expressed by Mr. Faludi in the urbanMetrics Report might be undertaken by the Tribunal.

[138] But that is not the legal and procedural framework that applies to these Appeals. Since these Appeals are instead governed by Bill 139, the weight given by Council to the urbanMetrics Report, and the absence of a further economic study, are not relevant considerations for the Tribunal as they are not, as indicated, of relevance to the narrow issues of consistency and conformity.

[139] In any event, on the evidentiary record, the Tribunal finds that Council *did* in fact, in the public consultation process, have the opportunity to consider the urbanMetrics Report, and with it, the opportunity to give it the consideration or weight it wished, or to decide if further study was required. Council clearly did not agree with the approach or concerns voiced by Mr. Faludi, or that there was a need for further study. Of significance to the Tribunal is the fact that Mr. Faludi, the author of the urbanMetrics Report, clearly made a presentation before the Planning Committee in March of 2018 to support the Report.

[140] The Tribunal also makes a finding consistent with the finding of the Ontario Superior Court of Justice in paragraph 93 of the Decision, that in addition to considering input from Mr. Faludi and the urbanMetrics Report, City Council studied and considered both the social *and* economic issues arising from the proposed Development through the chronology of consultations and meetings outlined in the evidentiary Record before the Tribunal. As a planning decision, in June of 2017, Council had previously considered all the options for the location of the arena and decided where the arena should go as a matter of Site selection – which was not the Downtown.

[141] Council then considered the Development applications before it and confirmed the KED as the site for the arena – based upon the cumulative extended review and investigative processes relating to the economic impacts of the arena’s location (and the casino). It is the finding of the Tribunal that by the time Council approved the Approved Instruments and made its planning decisions in April of 2018 it had fully considered the long term economic impacts of the KED on the Downtown, which included the location of the arena and the presence of an enhanced gaming operation. This consideration of economic impacts included the urbanMetrics Report. The considerations of Council also determined that the inquiries to that date were sufficient without the need for any further independent expert economic impact study.

[142] Accordingly, although the Tribunal has found that the sufficiency of Council’s consideration of the urbanMetrics Report, and the absence of a further independent experts economic study, do not constitute inconsistency with the PPS or non-conformity with the City OP, it is the Tribunal’s further finding that Council did sufficiently consider the Appellants’ relied-upon economic study as part of the overall consideration of economic and social impacts of the planning decisions made in April 2018.

#### **ISSUE 4 – WAS A MORE EXTENSIVE OPA REQUIRED FOR THE DEVELOPMENT**

[143] The Appellants assert an additional ground for the Appeals that because the Development creates a “new regional entertainment district”, it should be assessed and approved as a single official plan amendment. The Appellants argue that the too-limited OPA, as adopted, thus fails to conform to the City OP.

[144] The whole of the evidentiary record before the Tribunal confirms that there is no official plan designation or zoning which relates to an “entertainment district” in the City’s planning instruments. It is the view of the Tribunal that the Approved OPA which is before the Tribunal has, on the evidence, been appropriately drafted to address the limited required amendments to the City OP.

[145] The fact that the consideration of the Development by Council recognized the synergies and planning benefits achieved by the shared location of the different components of the KED does not, in the Tribunal’s view, require an OPA applicable to all those components, since the Tribunal has not been persuaded that the City OP requires all of the Development Applications to be considered under one amendment to the OP, or that any other aspect of the proposed Development requires an amendment to the City OP other than what is contained in the OPA.

[146] The Tribunal has considered Mr. Dragicevic’s opinion that the failure to approve one comprehensive City OP amendment for the KED is contrary to the overall intent and requirements of the City OP and that the Arena, Casino and Parking ZBLAs are thus contrary to the City OP. This opinion is also based on the critical view that the KED Development was a single “integrated” entertainment complex and instead of being considered as one entire “Entertainment District” the different Applications were considered and approved separately. On this basis, Mr. Dragicevic considers the failure of the City to consider the Development as a significant “package” ignored the creation of a “new and potentially significant land use with the synergies of these uses” and was not good planning as it failed to consider the “cumulative effect” rather than its separate individual components.

[147] The Tribunal does not find Mr. Dragicevic’s criticisms and conclusions to be supportable or sufficient to support this opinion for a number of reasons.

[148] First, the Tribunal is unable to conclude that there is any such “overall intent and requirements” within the City OP to support this opinion or that the limited amendments approved under the OPA represent any such significant departure from the policy goals and objectives of the City OP. Although that general opinion has been provided by Mr.

Dragicevic, in response to the Tribunal's inquiries, he has not provided the Tribunal with specific policy, goals or objectives that are offended by the limited and pointed form of the OPA as it was approved by Council and is now before the Tribunal.

[149] Second, for the reasons set out below, the Tribunal is unable to accept Mr. Dragicevic's opinion that the Approved Instruments represent a conversion of employment lands under s. 1.3.2.5 of the 2020 PPS and therefore cannot conclude that Council's approval of the OPA relating to the Casino use is deficient because the "cumulative considerations for the introduction of non-employment uses as defined in that section of the 2020 PPS" have not been adequately addressed.

[150] As well, municipal councils, and the Tribunal, often deal with multiple applications relating to a multi-faceted development on a Site, and in doing so, undertake a comprehensive planning review of each of the individual components both separately and holistically. Council did so in this case, and the Tribunal is now similarly reviewing and considering the decisions of Council for all the Approved Instruments collectively. The efficiencies and realities of this process do not then practically require that the whole of the Development be governed by one comprehensive OPA where the amendment that is required relates only to the one use – i.e. the development of a gaming casino. Neither is there any legislative requirement for such an expansive OPA just because a Development contains multiple components, all of which are permitted uses under the Designations, save and except for one.

[151] To this point, the Tribunal agrees with the City's submission, supported by the evidence, that s. 4.4, and 4.5.1.2 of the City OP confirms that institutional uses, which include community facilities intended for public use, are permitted throughout Greater Sudbury, and that the hotel, restaurant, banquet hall, parking lot and commercial recreation centers are permitted as-of-right in the designations and thus no OPA is required for the presence of the proposed Arena facility or the hotel, and related uses, or the parking lot. The OPA is required only for the casino use. The Tribunal considers Mr. Tanner's conclusions in this regard to be correct and supported by the evidence. The Tribunal fails to understand how the "synergies" of the Development's components changes these planning conclusions, as suggested by Mr. Dragicevic.

[152] Finally, the Tribunal accepts Mr. Tanner's planning evidence that with these conclusions, the Tribunal finds that the proposed OPA amends the City OPA and is not a stand-alone official plan for the purposes of s. 16(1) and (2) of the *Act* and, as well, that the use of the notwithstanding language in the OP does not, as it is utilized, exempt the Site and its development from all other policies of the City OP.

[153] Upon these findings, and these reasons, the Tribunal finds that the Appellants have failed to demonstrate that there is any lack of conformity of the Approved Instruments with the City OP in relation to this assertion of inadequacy with respect to the OPA as drafted and approved by Council.

#### **ISSUE 5 – DO THE APPROVALS RESULT IN A CONVERSION OF EMPLOYMENT LANDS**

[154] The Appellants assert that either the (a) approval of the OPA, permitting a casino with associated restaurants and other retail commercial uses, or (b) the proposed Development of the KED as an "Entertainment District", or (c) the rezoning of fields for parking lot use, represent a conversion of employment lands for which no "comprehensive review" has been undertaken, contrary to s. 1.3.2.2 of the PPS, and therefore inconsistent with the PPS

[155] The Tribunal has reviewed the entirety of the evidentiary record, and considering the planning opinions and responses to the Tribunal's questions provided by Mr. Tanner, Mr. Singbush and Mr. Dragicevic, and the Tribunal finds that the Development, as it is permitted by the Approved Instruments does not represent a conversion to non-employment uses for the purposes of s. 1.3.2.5 of the 2020 PPS.

[156] It is clear to the Tribunal, as the Respondents' planning witnesses indicate, that the KED will contain no residential uses and will remain as an employment generator with the combined uses of the casino, the arena, the hotel, all associated restaurant and retail components, as well as the necessary parking areas required to accommodate attendance, as proposed on the Site. In the Tribunal's view the entirety of the KED will constitute a new employment area in the City.

[157] In the Tribunal's view, the evidence demonstrates overwhelmingly that the driving impetus of Council to endorse the presence of an enhanced gaming facility in Sudbury, and to support the KED as it will represent an economic development to benefit the community, itself establishes that the objective is to facilitate employment opportunities arising from the Development on this Site. Generally, it is therefore difficult to understand the Appellants' contention that the Site, as approved for the Development, will be used for non-employment uses.

[158] An "employment area" is defined in the PPS; an "employment use" is not. When examining the PPS, the Tribunal prefers the opinion of Mr. Tanner over that of Mr. Dragicevic, when considering the Appellants' assertions of an improper conversion to "non-employment use".

[159] The definition of "employment area" in the PPS refers to those areas "designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities" (emphasis added). Mr. Tanner concludes that the casino, hotel, restaurant, retail and other activities of the KED clearly constitute an employment area as provided for in the PPS and the Tribunal must agree.

[160] Conversely, when examined against the PPS definition of employment area, the Tribunal does not consider Mr. Dragicevic's opinion that a casino and entertainment complex or the associated retail and ancillary facilities are not employment uses is supported by the whole of the evidentiary record. Mr. Dragicevic's analysis ignores (a) the plain meaning of a "cluster" of "business and economic activities"; (b) the expansive inclusionary wording of "including, but not limited to" contained in the definition; and (c) the plain meaning of "associated retail and ancillary facilities" as the PPS identifies an employment area.

[161] As well, the Tribunal does not consider the Appellants' focus on the "conversion" of "employment uses" under the PPS to be precisely correct since s. 1.3.2 of the PPS addresses the policy concerns relating to the conversion of lands within "employment areas" to non-employment uses. The lands in the KED Site are, as indicated, found to

be lands within an employment area, and the Tribunal finds that the Approved Instruments do not effect any change to the uses that will occur on the Site to non-employment uses. The uses of the lands in the Development will, in fact, represent and remain employment uses.

[162] Upon these findings the Tribunal is unable to conclude that there is any inconsistency with the PPS 2020 arising as a result of any conversion of any lands in the KED, as an employment area, to a designation that permits non-employment uses. If no such conversion has occurred then the Appellant's submission that the City has failed to undertake the assessment, clearly now, required under the revisions to the 2020 PPS in sections 1.3.2.4 and 1.3.2.5, has no basis as there is no need for the comprehensive review or update referred to in those sections.

#### **CONSISTENCY WITH THE PPS AND CONFORMITY WITH THE GROWTH PLAN FOR NORTHERN ONTARIO**

[163] In undertaking the review of the evidence and the above-outlined analysis of the evidentiary record, and the submissions of the parties, the Tribunal has determined that the decisions of Council approving all of the Approved Instruments are consistent with the PPS.

[164] The Tribunal prefers and accepts the totality of the planning evidence provided by Messrs. Tanner and Singbush, and those opinions and recommendations that were originally set out by Planning Staff and Mr. Ferrigan and concludes that when considering the PPS as a whole, the proposed Development is consistent with the policies that are contained therein. For the reasons set out in this Decision the Tribunal has been unable to accept the approach adopted by Mr. Dragicevic or Mr. Faludi in relation to many of the issues relating to consistency and conformity under the Bill 139 Regime. Due to the qualitatively different proceeding that occurs under these Appeals, and the absence of any examination of good planning or specific merits of competing or alternative development proposals, as a hearing *de novo*, Mr. Dragicevic's and Mr. Faludi's critical opinions as to the sufficiency of Council's process of receiving and agreeing with the Appellants' views does not constitute inconsistency and non-



conformity. To the contrary, the Tribunal finds that the processes and paths by which Council achieved consistency with the higher order policies of the PPS, has successfully resulted in consistency with those policies.

[165] The Tribunal also finds that the Approved Instruments, as they will permit the Development, also conform to the GPNO, agrees with the submissions of the Respondents, and accepts the planning evidence provided by Mr. Tanner, Mr. Singbush and the City Planning Staff, as they have reviewed and opined on the issue of conformity with the GPNO. The Tribunal agrees with the Respondents' submissions and finds that the proposed Development will generate and foster development, through a public and private partnership that is intended to take advantage to the synergies and benefits achieved by the various components in the KED as the "sum will be greater than its parts". The Development is intended to promote long-term economic benefits and growth for the Greater Sudbury area and as such, and upon review of the GPNO policies, will achieve conformity with those policies. The Tribunal accepts Mr. Tanner's focused opinion that as s. 1.3.1 of the PPS has been amended in 2020, the Approved Instruments are consistent with the policies directing that the City promote economic development and competitiveness by facilitating the conditions for economic investment by identifying strategic sites. Mr. Tanner indicates that the integrated nature of the KED's components and symbiotic relationship between the casino and the arena is consistent with this policy as the KED has been identified as a strategic site for investment and removes barriers to investment "by combining land uses and synergies between public and private investment".

[166] The evidentiary record before the Tribunal further indicates that the decisions of Council with respect to the KED, as they conform to the GPNO have occurred concurrently with those planning consultation and policy implementation processes and strategies now approved by Council for the Downtown. This observation is not essential to the determination of the issues in this hearing but further demonstrates that the PPS consistency and GPNO conformity of the Decisions approving the Approved Instruments for the KED Development has occurred in tandem with the decisions of Council as they later led to the adoption of OPA 88 as that planning policy addressed the Downtown, which also were found to be consistent with the PPS and in conformity

with the GPNO.

## **SUMMARY OF FINDINGS AND CONCLUSIONS**

[167] With respect to the grounds of Appeal asserted by the Appellants, and the issues arising from those grounds as set out in this decision, upon all of the evidentiary record, and upon the various findings made herein, the Tribunal concludes as follows:

1. As to Issue 1, the Tribunal finds that Council did not fail to consider socio-economic issues relating to gambling as neither the PPS, nor the City OP, require such considerations as legitimate land use planning issues. In the Tribunal's view the Appellants have applied an untenable approach to references to public health and safety in the PPS, that have no application to the merits or detriments of gaming. The PPS does not address matters of societal tolerance or encouragement of gaming, just as they similarly do not address personal preferences or lifestyle choices relating to the consumption of alcohol, cannabis or tobacco, all of which are elsewhere regulated and approved by government. That being said, the Tribunal concludes that Council, before making its decisions approving the Development and the Approved Instruments as they will result in a Casino on the Site, had already undergone an extensive consultation process regarding gaming, and the hosting of an enhanced casino facility in Greater Sudbury in 2012 and 2013. Upon these grounds, the Tribunal finds that the Appellants have failed to establish that the Approved Instruments are inconsistent with the PPS, or fail to conform to the City OP.
2. As to Issue 2, the Tribunal finds that Council did not fail to give weight or consideration to the 2012/2015 Studies, primarily because, as Planning Staff correctly indicated, these Studies were not in-force planning policy for the purposes of the Applications when the decisions of Council were made and are, and were, studies providing options, recommendations, and strategies which, ultimately became partially incorporated into the City's planning policies through OPA 88, adopted in 2019. Neither the PPS (including s.

- 1.7.1(d)), the GPNO, nor the City OP require that such economic assessments be carried out as a pre-requisite to considering or approving the Approved Instruments. Ultimately, and notwithstanding the absence of any basis for the Appellants' assertion that the 2012/2015 Studies had to be considered or given weight, the Tribunal finds that Council, in making its decision, did give consideration to these Studies and did listen to, and consider the opinions and input provided by the Appellants based upon the 2012/2015 Studies, and which urged the retention of the Arena in the Downtown. After listening and considering, City Council made a different decision which, in relation to the Approved Instruments, including the Arena ZBLA, does not represent inconsistency with the PPS, or non-conformity with either the GPNO or the City OP. Upon these grounds, the Tribunal finds that the Appellants have failed to establish that the Approved Instruments are inconsistent with the PPS, fail to conform with, or are in conflict with, the GPNO or fail to conform to the City OP.
3. With respect to Issue 3, upon a similar, or the same, analysis applied to Issue 2, the Tribunal finds that the Appellants have failed to establish that the Approved Instruments are inconsistent with the PPS or fail to conform to the City OP, because Council failed to consider the economic impact study prepared by the Appellants' consultant Mr. Faludi, of urbanMetrics or failed to initiate further independent assessment of the economic impacts of the decisions. The Tribunal finds that there is nothing within the PPS or the City OP which require such independent study and assessment and to the contrary the Tribunal finds that Council did consider the urbanMetrics Report
  4. In regards to Issue 4, the Tribunal finds that there was no error with respect to the OPA that was adopted by Council as asserted by the Appellants such that there was non-conformity with the City OP. The Tribunal finds that the OPA that was adopted was all that was required and the Appellants' focus on the "synergies" and multi-component nature of the Development, combining a number of different land use elements, does not support a requirement for a comprehensive OPA for an entertainment district (a designation that does not

exist in the City's planning policies). Further, the Tribunal does not find that the language utilized in the OPA results in an exemption of the Site or the Development from all other policies in the City OP.

5. Finally, as to Issue 5, the Tribunal finds that the proposed uses that will occur within the employment area of the KED do not represent a conversion of lands from employment uses to non-employment uses. To the contrary, the Tribunal finds that the employment area (as that term is defined in the PPS) of the Development will result in continued use of the Site for employment, and accordingly the requirements for a full comprehensive review or update in policy is not triggered. As such, the Appellants have failed to demonstrate that the decisions approving the Approved Instruments are inconsistent with the PPS.

[168] Having found that the Appellants have failed to meet the onus of establishing inconsistency and non-conformity, it remains for the Tribunal to determine that the Approved Instruments are consistent with the 2020 PPS and are in conformity with the GPNO pursuant to s. 3(5) of the *Act*. The Respondents have sufficiently established, and the Tribunal finds as follows:

1. The Tribunal, in undertaking the review of the evidence and the above-outlined analysis of the evidentiary record, and the submissions of the parties, has determined that the decisions of Council approving all of the Approved Instruments is consistent with the PPS. The Tribunal agrees with the submissions of the Respondents to the Appeal and prefers and accepts the totality of the planning evidence provided by Messrs. Tanner and Singbush, and those opinions and recommendations that were originally set out by Planning Staff and Mr. Ferrigan and concludes that when considering the PPS as a whole, the proposed Development as it will be permitted by the Approved Instruments, is consistent with the policies that are contained therein.
2. For the reasons set out in this decision the Tribunal finds that the processes

and paths by which Council achieved consistency with the higher order policies of the PPS, and the decisions, have resulted in consistency with the policies in the PPS.

3. The Tribunal also finds that the Approved Instruments, as they will permit the Development, also conform to the GPNO and agrees with the submissions of the Respondents and accepts the planning evidence provided by Mr. Tanner, Mr. Singbush and the City Planning Staff as they have reviewed and opined on the issue of conformity of the Approved Instruments with the GPNO.

[169] In making these findings, and in considering the Approved Instruments as approved by Council, the Tribunal has also had regard to those matters of Provincial interest set out in s. 2 of the *Act*.

## **ORDER**

[170] The Tribunal Orders that all of the Appeals under s. 17(24) and 34(19) of the *Planning Act* are dismissed.

*“David L. Lanthier”*

DAVID L. LANTHIER  
VICE-CHAIR

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

### **Local Planning Appeal Tribunal**

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Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Attached is Exhibit "5"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

**Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.**



Kingsway  
Entertainment District



Place des Arts



The Junction



# Large Projects Update #23

January 12, 2021

# Place des Arts

## Construction Status

- Achieved 50% completion
- Building now closed in and weather-tight
- Focus on internal systems, behind-the-wall networks, wiring and plumbing
- Daycare to be prioritized for occupation
- Occupancy planned for Q4 2021

Large Projects  
**Update**

#23

January 12, 2021



# Place des Arts

## CGS Funding

- \$1.5 million of \$5 million commitment disbursed to date
- Next payment of \$1.5 million triggered by 50% completion
  - To be disbursed by end of January

# Junction West

## Current Status

- Analysis of land and options for separate parcel for hotel investment and development

## Monitoring Market Conditions

- Determine effect of COVID-19 on industry
- Determine timing and approach to solicit private sector interest
- Evaluate impact on business plan to determine need for review
- Evaluate potential to issue EOI or RFPPQ

# Junction East

Building Design consortium led by WZMH Architects is fully engaged

Consortium includes specialized expertise in library design and art gallery design

Internal CGS Technical Team established to provide seamless information and support to project

- Library and Art Gallery staff also directly involved
- Significant information exchange is occurring daily as project momentum begins to build

Large Projects  
**Update**

#23

January 12, 2021

# Junction East

Initial design team focus on potential integration of Theatre Centre and Multicultural Centre into project

- Options being finalized now and expected at Council later in Q1

Staff continue to pursue funding opportunities on several fronts

- Focus now is on support for design phase
- Also working on energy-related grants and other support

Large Projects  
**Update**

#23

January 12, 2021

# Junction East Engagement

Official launch and community engagement tentatively set for first week of February

Extensive engagement schedule runs for 10 to 12 weeks

- Innovative approaches will be used due to pandemic constraints
- Online and more traditional access at libraries

Many distinct audiences and user groups will be engaged

# The Junction Cost to date

**Approximate costs to date for The Junction**  
(both Junction East and Junction West)

**\$1,206,984.27**

or 1.08 % of total project budget

Large Projects  
**Update**

#23

January 12, 2021

# Event Centre at KED

**Project has been on hold, subject to further direction from Council**

- Direction dependent on LPAT outcome

**Staff preparing analysis and advice for Council**

- No decisions or recommendations today
- Draft schedule for Council's consideration
  - Next report and recommendation planned for meeting of February 9

Large Projects  
**Update**

#23

January 12, 2021

# Event Centre at KED

## **Final LPAT decision issued December 23**

- All matters dismissed
- Limited avenues for further appeal
  - Review period ends on January 19

## **LPAT and Superior Court Decisions**

- CGS position prevailed in all matters
- Validation of Council decisions
  - All deemed complete, legal and clear



# Event Centre at KED

## **All project partners remain committed and working together**

- Pandemic has created temporary challenges for all partners
- Over past two years, all partners have continued to invest in detailed design and engineering, planning and legal fees for LPAT and Superior Court
- This investment is continuing today and regular project meetings are occurring
- Draft timeline responds to current situation and outlines next steps and Council decision points

# Event Centre at KED

## Draft Timeline

Draft Timeline	2021												2022																							
	Q1			Q2			Q3			Q4			Q1			Q2			Q3			Q4														
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D												
Retain Event Centre Operator	CD																																			
Design Build RFP													CD																							
Design Build Drawings																																				
Event Centre Construction																															to Q1 2024 ➤					
Site Grading Construction													CD																							

**CD** = Council Decision Required

Large Projects Update #23

January 12, 2021

# Event Centre at KED

## Key points to reduce current uncertainty

- Retain an experienced Event Centre Operator
  - Will have experience with events in North American COVID-19 context
  - Can share insights and best practices with Design-Build teams
- Issue the Design-Build RFP anticipating building construction start in Spring 2022
- Site grading and capital construction could start in Fall 2021 when there is more certainty

# Event Centre at KED

## Key points to reduce current uncertainty

- Legal cost-sharing agreements provide Council opportunity to cancel or delay the start of site grading
- Site grading contract is part of the overall cost-sharing agreement and the costs are apportioned to all partners, including a future hotel partner
  - Developer currently responsible for all hotel related obligations

# Event Centre Costs to Date

**Approximate costs to date for The Event Centre at the Kingsway Entertainment District**

**\$2,636,628.00**

or 2.6 % of total project budget

Large Projects  
**Update**

#23

January 12, 2021

# Next Steps

## Junction East

- Launch of community engagement
- Formalize partnerships

## Junction West

- Continued market sounding and analysis

## Event Centre at KED

- Revise timelines and required steps
- Council approval required prior to moving forward

**Next Event Centre Update on February 9**

**Next Junction Update on February 26**

Large Projects  
**Update**

#23

January 12, 2021

Large Projects  
**Update**  
#23

January 12, 2021

Questions?  
Thank you

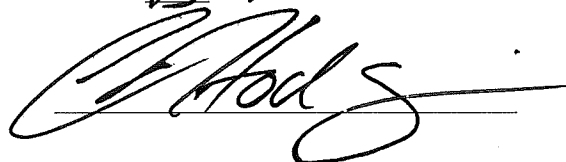
Attached is Exhibit "6"

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this 13 day of October 2021



Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for  
Affidavits in and for the Courts of Ontario, and also  
the Territorial District of Sudbury and whole of the  
as a Deputy-Clerk for the City of Greater Sudbury.






Type of Decision								
Meeting Date	February 9, 2021				Report Date	February 1, 2021		
Decision Requested	X	Yes		No	Priority		High	Low
	Direction Only				Type of Meeting	X	Open	Closed


Report Title
EVENT CENTRE UPDATE REPORT

Resolution	Relationship to the Strategic Plan/Health Impact Assessment
<p>THAT the City of Greater Sudbury direct staff to review and compile the facts associated with the Event Centre Project and, where necessary, provide updated information based on events subsequent to Council's June 2017 decision to proceed with the project in accordance with the Terms of Reference described in this report;</p> <p>AND THAT staff provide the compiled information in an information report at a Special Meeting of Council on June 16, 2021;</p> <p>AND THAT the Executive Director of Strategic Initiatives, Communications and Citizen Services be delegated authority to procure the required professional services to complete the work, subject to an upset limit of \$125,000 from the Event Centre Project Budget and on a single source basis if required, outlined in the report entitled Event Centre Update Report as presented to Council on February 9, 2021.</p>	<p>This report is informed by the following Strategic Objectives outlined in the City of Greater Sudbury Strategic Plan 2019-2027, specifically:</p> <ul style="list-style-type: none"> <li>• Asset Management and Service Excellence</li> <li>• Business Attraction, Development and Retention</li> <li>• Economic Capacity and Investment Readiness</li> <li>• Create a Healthier Community</li> <li>• Strengthen Community Vibrancy</li> </ul>
<b>Resolution Continued</b>	<b>Background Attached</b>

Report Summary	Financial Implications
<p>The purpose of this report is to approve the scope of work and terms of reference for a report which will compile all of the facts associated with the Kingsway Entertainment District project and, where necessary, provide updated information based on events following Council's June 2017 decision to proceed with the project.</p> <p>This report also describes the anticipated timing for the work, with a final report anticipated at a special Council meeting in the second quarter.</p> <p>Finally, it also intends to secure delegated authority for the Executive Director, Strategic Initiatives, Communications and Citizen Services for the acquisition of sufficient, appropriate third party expertise at a total cost of not more than \$125,000, with funding provided by the Event Centre Project Budget.</p>	<p>Should Council approve, a budget of up to \$125,000 will be utilized to secure required professional services. The funding will come from the Event Centre Project Budget.</p>

Report Prepared By	Division Review
	 David Shelsted Director of Engineering Services

Recommended by the Department	Financial Implications
 Ian Wood Executive Director of Strategic Initiatives, Communications and Citizen Services	 Steve Facey Manager of Financial Planning and Budgeting

Recommended by the C.A.O.
 Ed Archer Chief Administrative Officer

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## A: INTRODUCTION

The purpose of this report is to approve the scope of the work Mayor Bigger requested to compile all of the facts associated with the Kingsway Entertainment District project and, where necessary, provide updated information based on events following Council's June 2017 decision to proceed with the project. This report also describes the anticipated timing for the work, with a final report anticipated at a special Council meeting in the second quarter. Finally, it also intends to secure delegated authority for the Executive Director, Strategic Initiatives, Communications and Citizen Services for the acquisition of sufficient, appropriate third party expertise at a total cost of not more than \$125,000, with funding provided by the Event Centre Project Budget.

At the Council meeting of January 12, 2021, Mayor Bigger requested that staff update the factual information on the proposed Event Centre and return with a comprehensive report in the second quarter of 2021. Following this meeting and further discussions with Mayor Bigger, staff considered potential terms of reference for the report. There are two main questions which staff believe can assist Council in achieving clarity in their direction:

1. Since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different?
2. Since 2017, and especially considering the effects of the Covid-19 virus, have there been any changes in the operating environment that would affect the project's success?

Mayor Bigger stressed the need for evidence-based analysis. Considering the level of due diligence associated with the current direction, staff do not propose to examine or update information on any sites outside the city core other than the Kingsway (KED) location. Given continued community interest, however, staff believe the review should include the facts associated with two significant alternative locations identified previously. Specifically, these are a new-build on the Shaughnessy-Minto block and a renovation of the existing Sudbury Community Arena.

Staff do not anticipate providing recommendations in this report. Council's direction to construct an event centre at the Kingsway Entertainment District in partnership with the landowner and Gateway Casinos remains in place, and Council approval is required to initiate further steps on this file.

## B: TIMING OF REPORT

Staff is proposing to deliver the requested report at a Special Council Meeting on Wednesday June 16, 2021.

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## C: REPORT APPROACH

As requested, staff will review and analyze available information and will provide the most current factual details in a report. The report will provide current information, or confirm the information provided in 2017 remains appropriate.

There has been much discussion about the influence of the COVID-19 virus on this project. This is an example of an environmental factor that could generally affect the project's operations and/or its potential for long-term success. The review will evaluate the environment in which the planned Event Centre will operate and assess whether the risks associated with it influence the project's potential for success.

In order to ensure that the described timeline can be achieved and that Council has the benefit of professional insights into the current situation facing event centres across North America, including the impact of the pandemic, staff are seeking approval to secure outside expertise to assist in this effort. At a minimum, this expertise will include Ron Bidulka of PWC. Mr. Bidulka has confirmed his potential availability to carry out this work on the recommended timeline and the continuity and context he can bring to this initiative will be extremely beneficial. Other experts will be recruited based on need as the work unfolds but will include expertise in economic impact assessment and event centre architectural requirements. Staff are requesting approval of up to \$125,000 to secure this expertise as well as delegated authority for the Executive Director of Strategic Initiatives to engage the best available consultants on a single source basis.

## D: TERMS OF REFERENCE

At a minimum, this information report will contain a review, and updates as appropriate, of the information from the June 2017 Site Evaluation report under the following eight evaluation criteria as excerpted from the report itself and as approved by Council on March 7, 2017:

- A. Vision – which speaks to the development of an Event Centre on a particular site being consistent with the overall long-term strategic vision of Greater Sudbury and its pattern of strategic growth. Any site being considered for the Event Centre should be considered within the broader parameters of long term strategic community benefits rather than as simply an appropriately sized property for a specific building.
- B. Complimentary Benefits – which speaks to the ability of an Event Centre being able to enhance the neighbouring area and its context. This question applies equally to a downtown or suburban site and measures the extent to which there is a synergistic opportunity for enhanced benefits. The extent to which those benefits accrue within Greater Sudbury is key to this question. For a downtown site, those benefits could include a more vibrant and renewed urban core, while

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for a suburban site the benefits could include fast-tracking the development of an area that might otherwise evolve over the longer term.

- C. Ease of Development – which speaks to the added costs and timing associated with the development of an Event Centre on a particular site. For example, are there environmental or geotechnical issues that impact the development process and / or could be expected to add to the time and / or cost of building the Event Centre? An Event Centre has a very large footprint and the building will require an extremely flat floor built on a solid under-base. A particular site could have a significant cost impact on the overall project and on the development of the site (for example, is blasting or piling required for the development of an Event Centre on a particular site and would either of these have a direct impact in terms of the freedom of developing the most appropriate design). In addition to geotechnical and environmental issues, other considerations to be considered include whether there exists issues with a particular site from an infrastructure / services availability perspective (i.e., does sufficient electrical, water, sewer, storm water, etc. services exist at / to the site, or must these be brought to the site / replaced and at what cost). A final consideration includes the ability of the project to avoid a lengthy or prolonged due diligence or approvals process. For example, will the site require rezoning and / or an Official Plan amendment which would add to the length of time required to commence construction? Could such decisions be appealed and therefore add further delay to the commencement of construction? Will environmental and / or geotechnical investigations require additional time and expense which could similarly serve to lengthen the period of when construction of the Event Centre could commence?
- D. Access – which seeks to address whether a site is or can be made easily accessible from a vehicular, pedestrian, and transit (both current and future) perspective. Are improvements / modifications required to support the site? Is it realistic to implement episodic transit specific to major events? Are improvements to the existing road network required to facilitate vehicular access (for example, road improvements / widenings, new signalizations, etc.).  
Background | Initial Assessment of Potential Sites | Site Evaluation Criteria | Site Evaluation | Summary and Recommendation PwC City of Greater Sudbury – Greater Sudbury Event Centre Site Evaluation June 2017 Three classifications of criteria were enunciated by Greater Sudbury City Council to guide the site evaluation process, including those of “highest importance”, “extremely important” and “important”
- E. Parking – how much parking is required for the Event Centre and how many parking spaces currently exist in the vicinity of the site to support the Event Centre? Is there sufficient parking in the area that can reasonably be used to accommodate demand? Can parking be added whether on or off-site? If additional parking is required, would it be well-used on a daily basis for other purposes. Would the creation of additional parking be a prudent investment?

- 
- F. Cost – this speaks to the total cost of development, including land acquisition, site preparation costs, other site costs and offsite improvements. For example, does the City already own the site or would the City need to acquire the property? Are there issues associated with the development of the site that could result in higher project construction costs? Can some of these costs be shared (for example with adjoining land owners)? These questions apply not only to the site under consideration, but also to costs beyond the boundaries or perimeter of the site (some of which are dealt with under Ease of Development). It should be noted that such additional development costs should not necessarily be seen as a liability if they help facilitate future investment and development.
  - G. Economic Impact – does the development of a particular site have an enhanced economic impact for the surrounding neighbourhood, for Greater Sudbury and / or the broader region? Would the development of a particular site maximize the ability of an Event Centre to bring positive economic impacts to the area? Is the positive impact spread over a narrow spectrum of beneficiaries or a broad one?
  - H. City Building; can the siting of the SEC on a particular site enhance the process of “city-building” by contributing to economic growth, quality of life, citizen satisfaction and community pride?

## **E: ADDITIONAL CONSIDERATIONS**

In addition to the headings above, staff anticipate the analysis will include the following elements to ensure complete, current information is available:

- I. Assessment of Renovation of Sudbury Community Arena  
Information presented to Council on March 31, 2015 will be reviewed and updated to the present context, including the most recent technical requirements for event centre facilities.
- J. Assessment of Project Risk  
An updated risk/benefit assessment for the Event Centre Project, including controllable and uncontrollable risks under various scenarios.
- K. Relationship to Junction East and Junction West Projects  
The Junction projects have evolved since 2017 and details of potential synergies and impacts related to the Event Centre Project will be summarized within this section.
- L. Information on COVID-19 Implications  
This will include an update on market conditions, demand scenarios and future forecasts that may change the draft operational considerations and the pro forma developed as part of the previous business plans.

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M. Details of Project Expenditures to Date

A detailed breakdown of the costs incurred in the Event Centre project to date.

N. Next steps

Subject to the disposition of the planned report, an assessment of next steps and timing will follow

## **F: REFERENCES**

Arena Renewal Strategy and Sudbury Community Arena Options, Report to Council March 31, 2015 –

<https://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&action=navigator&lang=en&id=811&itemid=9364>

Arena Presentation, Report to Council March 15, 2017 –

<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=1&id=1124>

Arena/Event Centre Update, Report to Council June 27, 2017 –

<https://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=1&id=1130>

Attached is Exhibit "7"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.





## Minutes

**For the City Council Meeting held  
Tuesday, February 9, 2021**

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Location: Tom Davies Square -  
Council Chamber /  
Electronic Participation

Commencement: 4:00 PM

Adjournment: 9:44 PM

### His Worship, Mayor Brian Bigger, In the Chair

- Present** Councillors Signoretti, Vagnini, McCausland, Kirwan, Lapierre, Jakubo, Sizer, McIntosh, Leduc, Mayor Bigger
- City Officials** Ed Archer, Chief Administrative Officer; Kevin Fowke, General Manager of Corporate Services; Tony Cecutti, General Manager of Growth and Infrastructure Services; Steve Jacques, General Manager of Community Development [D 4:50 p.m.]; Joseph Nicholls, General Manager of Community Safety [D 4:50 p.m.]; Eric Labelle, City Solicitor and Clerk; Kelly Gravelle, Deputy City Solicitor; Meredith Armstrong, Acting Director of Economic Development [D 4:50 p.m.]; Renee Brownlee, Director of Environmental Services; Jeff Pafford, Director of Leisure Services [D 4:50 p.m.]; Scott MacHattie, Assistant City Solicitor; Jody Cameron, Manager of Arenas [D 4:50 p.m.]; Steve Facey, Manager of Financial Planning and Budgeting; Keith Forrester, Manager of Real Estate [D 4:50 p.m.]; Dana Jennings, Business Development Officer [D 4:50 p.m.]; Ron Foster, Auditor General; Melissa Zanette, Chief of Staff
- Closed Session** The following resolution was presented:  
CC2021-34 Leduc/Jakubo: THAT the City of Greater Sudbury move to Closed Session to deal with one (1) Acquisition or Disposition of Land item regarding property on Meehan Avenue, Capreol and one (1) Litigation or Potential Litigation / Solicitor-Client Privilege item regarding a service contract in accordance with the Municipal Act, 2001, s. 239(2)(c), (e) and (f).  
**CARRIED**  
At 4:02 p.m., Council moved into Closed Session.
- Recess** At 5:38 p.m., Council recessed.
- Reconvene** At 6:13 p.m., Council commenced the Open Session in the Council Chamber.

### His Worship Mayor Brian Bigger, In the Chair

- Present** Councillors Signoretti, Vagnini, Montpellier [D 9:09 p.m.], McCausland, Kirwan, Lapierre [D 8:12 p.m.], Jakubo, Sizer, McIntosh, Cormier [D 9:12 p.m.], Leduc, Landry-Altman, Mayor Bigger

## City Officials

Ed Archer, Chief Administrative Officer; Kevin Fowke, General Manager of Corporate Services; Tony Cecutti, General Manager of Growth and Infrastructure; Steve Jacques, General Manager of Community Development; Joseph Nicholls, General Manager of Community Safety; Ian Wood, Executive Director of Strategic Initiatives, Communication and Citizen Services; Ed Stankiewicz, Executive Director of Finance, Assets and Fleet; Kelly Gravelle, Deputy City Solicitor; Joanne Kelly, Director of Human Resources and Organizational Development; Marie Litalien, Director of Communications and Community Engagements; Brett Williamson, Director of Economic Development; Melissa Zanette, Chief of Staff; Ron Foster, Auditor General; Jeff Pafford, Director of Leisure Services; Stephen Monet, Acting Director of Planning Services; Alex Singbush, Manager of Development Approvals; Mauro Manzon, Senior Planner; Eric Labelle, City Solicitor and Clerk; Anessa Basso, Clerk's Services Assistant; Lisa Locken, Clerk's Services Assistant

## DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF

None declared.

### Matters Arising from the Closed Session

Deputy Mayor Sizer, Chair of the Closed Session, reported that Council met in Closed Session to deal with one (1) Acquisition or Disposition of Land item regarding property on Meehan Avenue, Capreol and one (1) Litigation or Potential Litigation / Solicitor-Client Privilege item regarding a service contract in accordance with the *Municipal Act, 2001*, s. 239(2) (e) and (f). Direction was given to staff regarding the first matter.

### Matters Arising from Community Services Committee

Councillor McCausland, as Chair of the Community Services Committee, reported on the matters arising from the Community Services Committee meeting of January 18, 2021.

The following resolution was presented:

CC2021-35 McCausland/Leduc: THAT the City of Greater Sudbury approves the Community Services Committee resolutions CS2021-01 to CS2021-03 and CS2021-05 from the meeting of January 18, 2021.

**CARRIED**

The following are the Community Services Committee resolutions:

#### **Appointment of Chair and Vice-Chair - Community Services Committee**

CS2021-01 McCausland/McIntosh: That the City of Greater Sudbury appoints Councillor McCausland as Chair and Councillor Lapierre as Vice-Chair of the Community Services Committee for the term ending November 14, 2022, as outlined in the report entitled "Appointment of Chair and Vice-Chair - Community Services Committee", from the General Manager of Corporate Services, presented at the Community Services Committee meeting on January 18, 2021.

**CARRIED**

#### **Municipal Trailer Park Review**

CS2021-02 Lapierre/Sizer: WHEREAS City of Greater Sudbury trailer parks are currently operated under a purchase service agreement;

AND WHEREAS the Core Services Review identified opportunities to fully outsource the operation of municipal trailer parks;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury issues an Expression of Interest for the potential outsourcing of Centennial, Ella and Whitewater trailer park operations and report back to the Community Services Committee in Q2 of 2021.

**CARRIED**

#### **Rapid Mobilization Table program (RMT)**

CS2021-03 Lapierre/McIntosh: WHEREAS the Canadian Mental Health Association (CMHA) has been the lead agency on the Rapid Mobilization Table program (RMT);

AND WHEREAS the total annual cost of operations of \$130,000 for this program has been a multi-partner shared expense;

AND WHEREAS the funding allocation for this program from various partners is approaching its end;

AND WHEREAS in other jurisdictions and municipalities of Ontario, this program is funded by the LHINS (Local Health Integrated Network);

AND WHEREAS the Rapid Mobilization Table is a program that has demonstrated its success in harm reduction to our vulnerable population;

AND WHEREAS this RMT program has decreased calls for service as well as Health Sciences North hospital visits;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury directs the Mayor to work with CMHA and the appropriate city staff to write a letter to the Northeast Local Health Integration Network (NELHIN) petitioning that they fully fund this program, so it may continue to provide the RMT service to our community, and that the letter be sent no later than January 31st, 2021.

**CARRIED**

**Social Services Relief Fund (SSRF) Phase 2 Funding Proposal**

CS2021-05 Lapierre/Kirwan: THAT the City of Greater Sudbury approves the allocation of funds from the Social Services Relief Fund Phase 2 funding from the Ministry of Municipal Affairs and Housing as described in the report entitled "Social Services Relief Fund (SSRF) Phase 2 Funding Proposal" from the General Manager of Community Development dated January 18, 2021.

**CARRIED**

## **Matters Arising from Finance and Administration Committee**

Councillor Jakubo, as Chair of the Finance and Administration Committee, reported on the matters arising from the Finance and Administration Committee meeting of January 19, 2021.

The following resolution was presented:

CC2021-36 Jakubo/McIntosh: THAT the City of Greater Sudbury approves Finance and Administration Committee resolution FA2021-02 from the meeting of January 19, 2021.

**CARRIED**

The following is the Finance and Administration Committee resolution:

**Appointment of Chair and Vice-Chair - Finance and Administration Committee.**

FA2021-02 McCausland/Leduc: THAT the City of Greater Sudbury appoints Councillor Jakubo as Chair and Councillor McIntosh as Vice-Chair of the Finance and Administration Committee for the term ending November 14, 2022, as outlined in the report entitled "Appointment of Chair and Vice-Chair - Finance and Administration Committee", from the General Manager of Corporate Services, presented at the Finance and Administration Committee meeting on January 19, 2021.

**CARRIED**

## **Matters Arising from Operations Committee**

Councillor McIntosh, as Chair of the Operations Committee, reported on the matters arising from the Operations Committee meeting of January 18, 2021.

The following resolution was presented:

CC2021-37 McIntosh/Signoretti: THAT the City of Greater Sudbury approves Operations Committee resolutions OP2021-01 to OP2021-04 from the meeting of January 18, 2021.

**CARRIED**

The following are the Operations Committee resolutions:

**Appointment of Chair and Vice-Chair - Operations Committee.**

OP2021-01 Leduc/Landry-Altman: That the City of Greater Sudbury appoints Councillor McIntosh as Chair and Councillor Signoretti as Vice-Chair of the Operations Committee for the term ending November 14, 2022, as outlined in the report entitled "Appointment of Chair and Vice-Chair - Operations Committee", from the General Manager of Corporate Services, presented at the Operations Committee meeting on January 18, 2021.

**CARRIED**

**Enhancing the Residential Inflow and Infiltration Subsidy**

OP2021-02 Kirwan/McCausland: THAT the City of Greater Sudbury adds a new category to the RIISP program for a connection to the storm sewer system up to a maximum of \$15,000 per premises;

AND THAT the City of Greater Sudbury authorizes the transfer of \$150,000 from the wastewater

holding reserve to the Residential Inflow and Infiltration Subsidy Program account;

AND THAT the City of Greater Sudbury directs staff to prepare a by-law to amend the Water and Wastewater Rates and Charges by-law 2020-194, the Sewer Use by-law 2010-188, and the Residential Inflow and Infiltration Subsidy Program by-law 2018-34 to implement the recommended changes, as outlined in the report entitled "Enhancing the Residential Inflow and Infiltration Subsidy", from the General Manager of Growth and Infrastructure, presented at Operations Committee meeting on the January 18, 2021.

**CARRIED**

**M.R. 80 Corridor Review - Old Hwy 69 North to Cote Blvd.**

OP2021-03 Leduc/Landry-Altman: THAT the City of Greater Sudbury adopts the recommendations, as outlined in the report entitled "M.R. 80 Corridor Review - Old Hwy 69 North to Cote Blvd.", from the General Manager of Growth and Infrastructure, presented at the Operations Committee on January 18, 2021;

AND THAT the City of Greater Sudbury directs staff to prepare a by-law to amend Traffic and Parking By-Law 2010-1 to implement the recommended changes.

**CARRIED**

**Traffic Control - Nottingham Avenue at Dorsett Drive**

OP2021-04 Leduc/Landry-Altman: THAT the City of Greater Sudbury controls the intersection of Nottingham Avenue at Dorsett Drive with a stop sign facing eastbound traffic on Dorsett Drive as outlined in the report entitled "Traffic Control – Nottingham Avenue at Dorsett Drive", from the General Manager of Growth and Infrastructure, presented at the Operations Committee meeting on January 18, 2021;

AND THAT the City of Greater Sudbury directs staff to prepare a by-law to amend Traffic and Parking By-Law 2010-1 to implement the recommended change.

**CARRIED**

## **Matters Arising from Planning Committee**

Councillor Kirwan, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of January 25, 2021.

The following resolution was presented:

CC2021-38 Kirwan/McCausland: THAT the City of Greater Sudbury approves Planning Committee resolutions PL2021-18 and PL2021-20 to PL2021-21 and PL2021-23 from the meeting of January 25, 2021.

**CARRIED**

The following are the Planning Committee resolutions:

**12 Collins Drive, Copper Cliff**

PL2021-18 McCausland/Landry-Altman: THAT the City of Greater Sudbury approves the application by Thomas Groves to amend Zoning By-law 2010-100Z by changing the zoning classification from "I" Institutional, to "R1-5 Special", Low Density Residential One Special on lands described as PIN 73599-0239, Parcel 40878 S.E.S., Lot 12, Plan M-1025 in Lot 12, Concession 2, Township of McKim, as outlined in the report entitled "12 Collins Drive, Copper Cliff", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on January 25, 2021, subject to the following conditions:

- a) One (1) required parking space shall be permitted within the required front yard; and,
- b) The height and location of the existing building shall be permitted.

**CARRIED**

**Commercial Vehicle Parking Standards**

PL2021-20 Landry-Altman/Sizer: THAT the City of Greater Sudbury approves the proposed By-law amendment, which would permit the parking of commercial vehicles in the form of tow trucks, on Agricultural (A) and Rural (RU) zoned properties, as outlined in the report entitled "Commercial Vehicle Parking Standards", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on January 25, 2021.

**CARRIED**

**Right of Entry Agreement and Option Agreement**

PL2021-21 Landry-Altman/McCausland: THAT the City of Greater Sudbury authorize a 3 year extension to the Right of Entry Agreement and Option Agreement for vacant land north of Fairbank Lake Road, legally described as: PIN 73382-0212(LT), PIN 73382-0213(LT), part of PIN

73382-0726(LT) and part of PIN 73382-0728(LT), Township of Denison, City of Greater Sudbury;  
AND THAT the net proceeds of the sale and production agreement be credited to the Capital Financing Reserve Fund;

AND THAT a by-law be prepared to authorize the execution of all required documents.

**CARRIED**

**Coniston Seniors Non-Profit Housing Corporation - Application for Modification to a Cost Sharing Agreement**

PL2021-23 Sizer/McCausland: THAT the City of Greater Sudbury approves the request for modification to the cost sharing request by the Coniston Seniors Non-Profit Housing Corporation for the upgrading of approximately 283m length of 200mm watermain on Concession Street for the proposed Seniors Development on Part of PIN's 73561-0035 and 75360-1248, Lot 4, Concessions 3 & 4, Township of Neelon, Elm Street, Coniston as outlined in the report entitled "Coniston Seniors Non-Profit Housing Corporation - Application for Modification to a Cost Sharing Agreement", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on January 25, 2021.

**CARRIED**

*Resolution PL2021-19 was dealt with separately as it was the subject of a tied vote at Committee.*

The following resolution was presented:

PL2021-19 Sizer/McCausland: THAT the City of Greater Sudbury denies the application by L.S. Bock Developments Inc. to amend Zoning By-law 2010-100Z by changing the zoning classification from "R2-2", Low Density Residential Two to "R3 Special", Medium Density Residential Special on lands described as PIN 73582-0090, Parcel 13056 S.E.S., Lot 116, Plan M-131 in Lot 3, Concession 3, Township of McKim, as outlined in the report entitled "953 Howey Drive, Sudbury", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on January 25, 2021.

Motion for Deferral

Councillor Lapierre moved to defer this item to the City Council meeting of February 23, 2021 in order to allow Council Members to review the report and associated information.

**DEFERRED**

## Adopting, Approving or Receiving Items in the Consent Agenda

The following resolution was presented:

CC2021-39 Bigger/Lapierre: THAT the City of Greater Sudbury approves Consent Agenda Items C-1 to C-3.

**CARRIED**

The following are the Consent Agenda Items:

### Minutes

C-1 . City Council Minutes of December 15, 2020

CC2021-40 Bigger/Lapierre: THAT the City of Greater Sudbury adopts the City Council meeting minutes of December 15, 2020.

**CARRIED**

C-2 . Finance and Administration Committee Minutes of December 21, 2020

CC2021-41 Bigger/Lapierre: THAT the City of Greater Sudbury adopts the Finance and Administration Committee meeting minutes of December 21, 2020.

**CARRIED**

C-3 . Special City Council Minutes of December 21, 2020

CC2021-42 Bigger/Lapierre: THAT the City of Greater Sudbury approves the Special City Council meeting minutes of December 21, 2020.

**CARRIED**

### Managers' Reports

R-1 . COVID-19 Response Update

Report dated January 8, 2021 from the Chief Administrative Officer regarding COVID-19 Response Update.

For Information Only.

R-2 . Event Centre Update Report

Report dated January 26, 2021 from the Chief Administrative Officer regarding Event Centre Update Report.

The following resolution was presented:

CC2021-43 Bigger/McIntosh: THAT the City of Greater Sudbury direct staff to review and compile the facts associated with the Event Centre Project and, where necessary, provide updated information based on events subsequent to Council's June 2017 decision to proceed with the project in accordance with the Terms of Reference described in this report;

AND THAT staff provide the compiled information in an information report at a Special Meeting of Council on June 16, 2021;

AND THAT the Executive Director of Strategic Initiatives, Communications and Citizen Services be delegated authority to procure the required professional services to complete the work, subject to an upset limit of \$125,000 from the Event Centre Project Budget and on a single source basis if required, outlined in the report entitled Event Centre Update Report as presented to Council on February 9, 2021.

Motion for Deferral

Councillor Leduc moved to defer this item to the City Council meeting of September 28, 2021 to allow staff more time to collect information due to the impact of COVID-19.

Rules of Procedure

A Recorded Vote was held:

**YEAS:** Councillors Kirwan, Leduc, Landry-Altman

**NAYS:** Councillors Signoretti, Vagnini, Montpellier, McCausland, Lapierre, Jakubo, Sizer, McIntosh, Cormier, Mayor Bigger

**DEFEATED**

CC2021-43 Bigger/McIntosh: THAT the City of Greater Sudbury direct staff to review and compile the facts associated with the Event Centre Project and, where necessary, provide updated information based on events subsequent to Council's June 2017 decision to proceed with the project in accordance with the Terms of Reference described in this report;

AND THAT staff provide the compiled information in an information report at a Special Meeting of Council on June 16, 2021;

AND THAT the Executive Director of Strategic Initiatives, Communications and Citizen Services be delegated authority to procure the required professional services to complete the work, subject to an upset limit of \$125,000 from the Event Centre Project Budget and on a single source basis if required, outlined in the report entitled Event Centre Update Report as presented to Council on February 9, 2021.

Rules of Procedure

A Recorded Vote was held:

**YEAS:** Councillors Vagnini, McCausland, Kirwan, Lapierre, Jakubo, Sizer, McIntosh, Cormier, Landry-Altman, Mayor Bigger

**NAYS:** Councillors Signoretti, Montpellier, Leduc  
**CARRIED**

*At 8:12 p.m., Councillor Lapierre departed.*

**By-Laws**

The following resolution was presented:

CC2021-44 Bigger/Jakubo: THAT the City of Greater Sudbury read and pass By-law 2021-14 to and including By-law 2021-21Z.

**CARRIED**

The following are the by-laws:

2021-14

A By-law of the City of Greater Sudbury to Confirm the Proceedings of Council at its Meeting of February 9th, 2021

2021-15

A By-Law of the City of Greater Sudbury to Amend By-law 2018-45 being a By-law to Establish Water and Wastewater Policy and Water and Wastewater Rates and Charges in General and for Special Projects  
Operations Committee Resolution #OP2021-02

(This by-law amends By-law 2018-45 to incorporate fees with respect to sanitary sewer discharge agreements.)

2021-16

A By-law of the City of Greater Sudbury to Amend By-law 2010-188 being a By-law to Prohibit, Regulate and Control Discharges Into Bodies of Waters Within City Boundaries or Into the City Sanitary Sewers, Storm Sewers, Sanitary Sewage Works and all Tributary Sewer Systems  
Operations Committee Resolution #OP2021-02

(This by-law amends By-law 2010-188 to authorize residential sanitary sewer discharge agreement to permit sump pump and weeping tiles to be temporarily connected to the sanitary sewer system to eliminate a public safety hazard while a permanent solution is designed and built and makes some housekeeping changes.)

2021-17

A By-law of the City of Greater Sudbury to Amend By-law 2018-34 being a By-law of the City of Greater Sudbury to Adopt a Residential Inflow and Infiltration Subsidy Program  
Operations Committee Resolution #OP2021-02

(This by-law amends By-law 2018-34 by updating and replacing the program attached to the By-law.)

2021-18

A By-law of the City of Greater Sudbury to Authorize the Purchase of 241 St. Charles Street in Sudbury Described as PIN 02131-0045(LT), Lot 397 on Plan 18SB from David Myc  
Planning Committee Resolution # PL2021-06

(This by-law authorizes the acquisition and demolition of 241 St. Charles Street in Sudbury for the St. Charles Street Lift Station project.)

2021-19

A By-law of the City of Greater Sudbury to Authorize the Purchase of Part 685 Notre Dame Avenue in Sudbury Described as PIN 02127-0196(LT), Part 1 on Plan 53R-21386 from Sudbury Developmental Services/Services pour handicaps de développement de Sudbury  
Planning Committee Resolution #PL2021-07

(This by-law authorizes the acquisition of part of 685 Notre Dame Avenue in Sudbury for the St. Paris Notre Dame Bikeway project.)

2021-20Z

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2020-151

(This by-law repeals By-law 2021-05Z and lifts the "H", Holding Designation on the subject land following construction of a left-turn lane on Second Avenue - Barrydowne Animal Hospital - 380 Second Avenue North, Sudbury).

2021-21Z

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
 Planning Committee Resolution #PL2020-151  
 (This by-law rezones the subject property to a revised "C2(80)", General Commercial Special in order to expand the range of commercial uses - Barrydowne Animal Hospital – 380 Second Avenue North, Sudbury).

## Members' Motions

M-1 . The following resolution was presented:

CC2021-45 Bigger/Kirwan: WHEREAS St. Joseph's Villa is celebrating 18 years of compassionate and caring service to their long-term care residents and their families;

AND WHEREAS most are long-term Sudbury residents;

AND WHEREAS St. Joseph's Villa has set the standard for committed, caring, friendly and compassionate care for 128 residents, their families and loved ones;

AND WHEREAS their entire team is committed to moving forward with this high-level of service and caring;

AND WHEREAS St. Joseph's Villa has undertaken a Caring Beyond Capital Campaign to ensure that they can continue to serve the community at the highest standards possible, with a focus on the highest standards of care;

AND WHEREAS after 18 years of operation, St. Joseph's must upgrade and rejuvenate the facility, which includes a new roof, upgrading of heating, ventilation and air conditioning, therapeutic tubs, resident lifts and kitchen equipment;

AND WHEREAS a letter received on November 30, 2020 from the Co-Chairs of this Campaign is requesting the City of Greater Sudbury partner in this campaign, contributing \$1 million to the organization over three years;

THEREFORE BE IT RESOLVED THAT the City of Greater Sudbury directs staff to prepare a business case for the St. Joseph's Villa request, to be presented during the 2021 budget deliberations.

### Rules of Procedure

A Recorded Vote was held:

**YEAS:** Councillors Vagnini, Kirwan, Jakubo, Sizer, Cormier, Mayor Bigger

**NAYS:** Councillors Signoretti, Montpellier, McCausland, McIntosh

**CARRIED**

*At 9:09 p.m., Councillor Montpellier departed.*

Mayor Bigger presented a Members' Motion regarding the establishment of awareness checkpoints along Highway 69 to discourage travel and asked that the notice be waived.

**WAIVED BY TWO-THIRDS MAJORITY**

*At 9:12 p.m., Councillor Cormier departed.*

### **Resolution to Proceed past 9:13 p.m.**

CC2021-46 Bigger: THAT the meeting proceeds past the hour of 9:13 p.m.

**CARRIED BY TWO-THIRDS MAJORITY**

The following resolution was presented:

WHEREAS COVID-19 is a real and present risk in our community;

AND WHEREAS as a community we are doing everything we can to prevent the spread of COVID-19;

AND WHEREAS much of the community transmission has been seen largely through travel into Greater Sudbury;

AND WHEREAS there is widespread community concern about stopping unnecessarily travel into our community;

AND WHEREAS Public Health Sudbury and Districts has reported that variant strains have arrived in Greater Sudbury and these strains are highly contagious and travel with a frightening speed;

AND WHEREAS we have also learned of breakouts recently at Health Sciences North, Pioneer Manor



and the Elizabeth Centre.

AND WHEREAS These new developments reinforce our consistent messaging of stay at home, mask up and please do not travel in or out of the region unless absolutely necessary.;

THEREFORE BE IT RESOLVED THAT City Council directs the Mayor to send a letter to the Premier of Ontario to request the establishment of awareness checkpoints along Highway 69 to discourage travel, similar to those in Quebec to dissuade those individuals to travel to our community for non-essential reasons, while still allowing the transport of goods, groceries or essential items.

**CARRIED**

Councillor Leduc presented a Members' Motion in regards to a one stop location for homelessness services, which will be presented at the next City Council meeting.

## Correspondence for Information Only

- I-1 . Employment Land Strategy Update  
Report dated January 21, 2021 from the General Manager of Growth and Infrastructure regarding Employment Land Strategy Update.  
For Information Only.
- I-2 . 2020 Operating Budget Variance Report - October  
Report dated January 21, 2021 from the General Manager of Corporate Services regarding 2020 Operating Budget Variance Report - October.  
For Information Only.
- I-3 . Greater Sudbury Community Energy & Emissions Plan (CEEP) Implementation: Municipal Actions (2021 - 2025)  
Report dated January 21, 2021 from the General Manager of Growth and Infrastructure regarding Greater Sudbury Community Energy & Emissions Plan (CEEP) Implementation: Municipal Actions (2021 - 2025).  
For Information Only.
- I-4 . Fleet Electrification Update  
Report dated January 21, 2021 from the General Manager of Corporate Services regarding Fleet Electrification Update.  
For Information Only.

## Addendum

No Addendum was presented.

## Civic Petitions

No Civic Petitions were submitted.

## Question Period

No Questions were asked.

## Adjournment

CC2021-48 McIntosh/Sizer: THAT this meeting does now adjourn. Time: 9:44 p.m.

Attached is Exhibit "8"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", is written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

R-2



Moved By Mayor Bigger No. CC2021-43

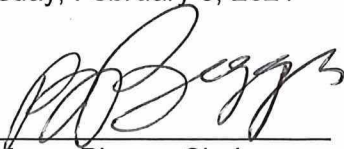
Seconded By Councillor McEntosh Date Tuesday, February 9, 2021

THAT the City of Greater Sudbury direct staff to review and compile the facts associated with the Event Centre Project and, where necessary, provide updated information based on events subsequent to Council's June 2017 decision to proceed with the project in accordance with the Terms of Reference described in this report;

AND THAT staff provide the compiled information in an information report at a Special Meeting of Council on June 16, 2021;

AND THAT the Executive Director of Strategic Initiatives, Communications and Citizen Services be delegated authority to procure the required professional services to complete the work, subject to an upset limit of \$125,000 from the Event Centre Project Budget and on a single source basis if required, outlined in the report entitled Event Centre Update Report as presented to Council on February 9, 2021.

CARRIED  
 Tuesday, February 9, 2021




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Mayor Bigger, Chair

Attached is Exhibit "9"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', is written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for  
Affidavits in and for the Courts of Ontario, while  
the Territorial District of Sudbury and while appearing  
as a Deputy-Clerk for the City of Greater Sudbury.



## Event Centre Update Report

Presented To:	Special City Council
Meeting Date:	June 16, 2021
Type:	Presentations
Prepared by:	Ian Wood Strategic Initiatives, Communications and Citizen Services
Recommended by:	Chief Administrative Officer

## Report Summary

This report responds to Council direction provided on February 9, 2021 to provide Council with updated information on the Event Centre Project.

### Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report addresses the strategic goal of Asset Management and Service Excellence as outlined in the City of Greater Sudbury Strategic Plan 2019-2027. The report aligns with the goals identified in the City of Greater Sudbury Community Energy and Emissions Plan.

## Financial Implications

There are no direct financial implications associated with this report.

## Introduction

The purpose of this report is to respond to Council Resolution CC2021-43 that directed staff to compile all of the facts associated with the Kingsway Entertainment District project and provide updated information based on events following Council's June 2017 decision to proceed with the project.

At the January 12, 2021 Council meeting, Mayor Bigger requested that staff update the factual information on the proposed Event Centre and return with a comprehensive report in the second quarter of 2021. Staff were directed to address two questions:

1. Since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different?
2. Since 2017, and especially considering the effects of the Covid-19 virus, have there been any changes in the operating environment that would affect the project's success?

Mayor Bigger stressed the need for evidence-based analysis. The scope included reviewing elements associated with the three approaches Council considered in 2017:

- New construction on the current, approved site on the Kingsway using property that is now owned by the City of Greater Sudbury
- New construction on the Shaughnessy-Minto block, which would require land acquisition/assembly, and
- A renovation of the existing Sudbury Community Arena.

Council's direction to construct an event centre at the Kingsway Entertainment District in partnership with the landowner and Gateway Casinos remains in place. Council approval is required to initiate further steps on this file.

## PwC's Approach

As outlined in the February 9, 2020, Council Report, PricewaterhouseCoopers LLP "PwC" was retained to ensure Council's timing requirement for a report to be delivered in the second quarter could be met, and to ensure that Council has the benefit of professional insights into the state of the Event Centre market across North America. This included assessing the impact of the pandemic.

To complete the Assessment Study for the Expansion of the Sudbury Community Arena, PwC included Ian McKay Architect Inc. and WT Partnership on their project team. Mr. Ron Bidulka led the project from PwC, and the lead architect from Ian McKay Architect Inc. was Mr. Conrad Boychuk. These are the key team members that prepared the 2017 Business Case and the 2017 Greater Sudbury Event Centre Site Evaluation.

The PwC report, "Sudbury Event Centre Update Report", is attached. The report includes:

- A summary of the 2017 Business Case,
- A detailed assessment of the requirements, costs and anticipated benefits associated with refurbishing the Sudbury Community Arena,
- An update to the 2017 Business Case,
- A comparative risk assessment,
- An economic impact benefits analysis for each of the three sites, and
- The anticipated impact of COVID-19.

## PwC's Analysis

While PwC's report and the accompanying appendices should be read in their entirety to fully understand the due diligence and thoroughness of its work, key findings are:

- New aspects of the current, approved Kingsway site makes it the approach that offers the highest economic benefits and the lowest cost
- Agreements now in place between the City, Gateway casinos and the hotel developer that did not exist in 2017 offer the highest direct financial returns
- The proposed operating model for a new Event Centre requires a lower annual operating subsidy than a remodeled Event Centre, and offers more flexibility for hosting more events
- A remodeled Event Centre can be produced, but at a higher total cost and with a higher annual operating subsidy. It would not be able to offer the same range of events or visitor experience as a new Event Centre. Development of this option would also be complicated by a reduction in events and potential relocation of the Sudbury Wolves and Sudbury 5 for two seasons at additional expense

to the project.

- The market for Event Centres looks positive; the effects of Covid-19 create unique opportunities for mid-sized Event Centres to attract performances that might not traditionally have considered them as suitable locations. This is due, in part, to the effects of Covid-19, as both performers and patrons rebound from the effects of worldwide lockdowns and relatively low economic activity. Early indications show significant pent-up demand, with performers competing for the same venues showing a willingness to expand their reach by selecting mid-size venues that would not normally have been part of their tours.
- A new Event Centre presents a more favorable risk profile than remodeling the existing Event Centre. From a cost and timing perspective, the Kingsway location presents the lowest risk.
- Direct financial benefits to the City of Greater Sudbury are highest with the Kingsway location; expected direct revenue of \$4.264M through increased assessment and 1,600 jobs
- While uncertainty regarding Covid-19 impacts remains high, current expectations are that the live event market will reflect 2019 levels by 2024/25. The economic analysis conducted by PwC, and reflected in the attached report, includes defined and known projects in the Downtown and Kingsway locations and other nearby development. It describes the direct benefits that would accrue to the City of Greater Sudbury and the local community. Where PwC could not establish evidence-based inputs to support its analysis, it was not included in its benefits assessment.

## Project Cost Estimates

PwC and the project team estimated the cost of the Modernized Sudbury Community Arena (page 20) and updated the estimated cost for a new Event Centre (page 27) while considering the cost impacts of COVID-19. The impacts of the pandemic include rising labour costs, labour shortages, material availability, material cost and general productivity due to health and safety protocols. Based on this information the table summarizing costs from the PwC 2017 Greater Sudbury Event Centre Site Evaluation has been updated:

	Modernized SCA 2021	Kingsway		Downtown	
		2017	2021	2017	2021
Facility Development Cost	\$115.4M to \$118.6M	\$80M	\$87M to \$92.8M	\$80M	\$87M to \$92.8M
Land, Site Development and Off-site Improvement	\$10M+ Note 1	\$15M to \$20M	\$17.4M to \$23.2M Note 2	\$15M to \$20M	\$17.9M to \$23.7M Note 3
Festival Square and Other Site Ancillary Items	Not Included	Included	Included	Not Included	Not Included
Parking	Not Included	Included	Included	Not Included	Not Included
<b>Total</b>	\$125.4M to \$128.6M	\$98.3M	\$113.8M	\$99.6M	\$115.8M

### Notes:

1. Site development costs other than restoring the immediate perimeter of the SCA were not included in the Facility Development Cost. There will be additional costs to accommodate the work on Minto and Grey Street as well as other off-site improvements similar to the adjacent Downtown site.

2. The Land, Site Development and Off-site Improvement costs have been updated with a 5% annual construction cost escalation as indicated by WT Partnership for the Sudbury area. The land for the Kingsway site has been acquired for a nominal sum. Cost sharing agreements for the site development and off-site improvements have been signed, and the detailed design has progressed that indicate that the costs are at the low end of the range provided.
3. The Land, Site Development and Off-site Improvement costs have been updated with a 5% annual construction cost escalation as indicated by WT Partnership for the Sudbury area. However as noted in PwC's Comparative Risk Assessment some of the lands for the Downtown site are privately held, and the City no longer holds options on these properties. As a result, staff has included an acquisition escalation factor in the outlined costs. In addition, some of the commercial properties at this site have made building improvements since 2017, which will further escalate the cost identified. If these owners are not willing sellers, then any scheduled construction will be further delayed. This cost includes the contribution from the Downtown BIA as outlined in the 2017 PwC Site Evaluation Report.

## **Community Energy and Emission Plan**

As part of the CEEP there are three goals for Energy Efficient Buildings. Included in the analysis of the Sudbury Community Arena Modernization is work that would replace/upgrade the building envelope, the HVAC system, and the refrigeration plant to meet the equivalent energy efficiency of a new Event Centre.

For the purpose of this report, a renovated arena or a new build would therefore reflect equivalent energy efficiency. As noted in the cost estimates, retrofit costs would differ from those incurred in a new build, with increased risk of cost variances.

## **Next Steps**

Staff anticipate returning to Council with a detailed schedule of tasks in contemplation of proceeding with the current, approved direction. This schedule will also outline the timing of Council's decision points as the project progresses to completion. In general, the following major tasks need to be completed and will be identified in the report.

- Retain a Venue Operator
- Issue the Design/Build RFP
- Site Development, including grading, road and intersection construction
- Develop Detailed Design Drawings
- Event Centre Construction



Attached is Exhibit "10"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021



Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

# *City of Greater Sudbury*

## Sudbury Events Centre Update Report

June 2021



# Executive Summary

- The development of the Kingsway Site has continued to advance since 2017, with the construction of a casino, hotel and other recently planned and proposed projects continuing to move closer to being developed. Casino and hotel development partners have reaffirmed their participation and interest in the development. It is noted, however, that the development of some of these projects are dependent on the construction of the New Events Centre.
- Since 2017, the City has continued to take steps to improve downtown Sudbury from a development investment perspective, with these programs and initiatives yielding a number of proposed projects; these initiatives and projects help lay a foundation for generating complementary development from catalyst projects. The potential exists for Greater Sudbury's catalyst projects to support this broader revitalization, consistent with what has occurred within other communities. The timing associated with realizing such complementary developments will, however, depend on local real estate development economics and conditions.
- Overall direct benefits associated with the Kingsway Site are estimated to be greater.
- Expectations are that planned projects at the Kingsway Site will be constructed upon final confirmation of the New Events Centre. The foregoing compares with the Downtown Site where, based on precedent experiences of other municipalities, the *potential* for additional ancillary / complementary development *could* occur; the exact form or nature of which is currently not known.
- Expectations are that once large indoor gatherings are again allowed (with some expecting this to occur in late 2021 / early 2022), demand by consumers to attend live events is expected to surge for a period of between 18 and 36 months (with this period referred to as the "roaring 20s"). Thereafter, demand for attending live events is expected to decline to pre-COVID levels. There does not appear to be a basis for supporting a change to the event or revenue assumptions contained in the 2017 Business Case Report.
- The cost of a 5,800-seat events centre in \$2021 is estimated to range between \$15,000 to \$16,000 per seat, or \$87.0 million to \$92.8 million (excluding site development costs), up from the previous estimate (\$2018) of \$80.0 million.
- The cost of modernizing the Sudbury Community Arena ("SCA") to a standard consistent with a New Events Centre is preliminarily anticipated to be between \$115.4 million (if implemented in a single phase) and \$118.6 million (if implemented in two phases).
- If implemented in a single phase, no events would be able to take place in the SCA for a period of at least two years, requiring the Sudbury Wolves and Sudbury Five to relocate to an alternative venue. If implemented in two phases, only hockey and basketball would be able take place in the SCA for a period of at least three years.
- A modernized SCA would likely generate a higher operating deficit compared to a New Events Centre; a modernized SCA would also have a higher risk profile compared to a new build Events Centre on either the Kingsway Site or Downtown Site.

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## DISCLAIMER

This Update Report has been prepared exclusively for the City of Greater Sudbury. No other person or entity shall place any reliance upon the accuracy or completeness of the statements made herein. PricewaterhouseCoopers LLP does not assume any responsibility to persons other than the City of Greater Sudbury with respect to the contents of this Update Report. In no event shall PwC have any liability for damages, costs or losses suffered by reason of any reliance upon the contents of this Report by any person other than the City of Greater Sudbury.

# *Summary*

## Summary

- At the City Council meeting on January 12, 2021, City Council requested that City staff update the 2017 Business Case Report with current available information, to address two specific questions:
  - *Since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different; and*
  - *Since 2017, and especially considering the effects of the COVID-19 pandemic, have there been any changes in the operating environment that would affect the project's success.*

### **Since 2017, and considering the effects of the COVID-19 pandemic, what changes in the operating environment have occurred that would affect the project's success**

- Based on discussions with event promoters and venue managers from across North America, the following observations were noted:
  - The COVID-19 pandemic has had a detrimental impact on the live events industry and on sports and entertainment facilities. Since March 2020, COVID-19 caused the cancellation of live events and shuttered most facilities in North America.
  - While most facilities remained shuttered throughout 2020, a gradual reopening of facilities has occurred in 2021, with venues initially offering up a reduced number of “socially distanced seats”.
  - Expectations are that once large indoor gatherings are again allowed (with some expecting this to occur in late 2021 / early 2022), demand by consumers to attend live events will surge for a period of between 18 and 36 months (with this period referred to as the “roaring 20s”). Thereafter, demand for attending live events is expected to decline to pre-COVID levels.
- General perceptions were that the Greater Sudbury market could continue to support in the range of eight to 12 concerts per year, with majority of these events showcasing domestic artists.
- From a venue design perspective, the COVID-19 pandemic does not appear to have caused noticeable long-term impacts on venue design apart from potential changes to HVAC / air handling requirements and building circulation (for example, building / building component entrances / exits). Venues which have opened in 2021 (principally in the US) have done so with reduced capacities (i.e., only selling seats located on aisles and in the middle of rows of seats, with one or two empty rows between them).
- Based on commentary provided by event promoters and venue managers, there does not appear to be a basis for supporting a change to the event assumptions contained in the 2017 Business Case Report. The reader should note, however, that the permitting of large indoor gatherings will continue to be dependent upon vaccine take-up, the potential for additional “waves” of infection, the availability and need for additional “booster shots”, and the health and safety protocols and policies implemented by facilities and local health units.
- The 2017 Business Case Report identified a prospective cost, in \$2018, for a New Events Centre in the range of \$13,700 per seat, or \$80.0 million for a 5,800-seat facility (excluding site development costs). Using a similar methodology as in the 2017 Business Case Report, it is preliminarily estimated that the cost of a New Events Centre could now be in the range of \$15,000 to \$16,000 per seat, or in the range of \$87.0 million to \$92.8 million (excluding site development costs).

**Since 2017, have any of the elements changed such that its potential for producing the desired outcomes is markedly different**

**Modernized Sudbury Community Arena**

- Based on a review completed by Ian McKay Architect Inc., it was determined that:
  - While the SCA could be modernized to bring it up to a level approaching the proposed New Events Centre, the SCA would continue to have a number of limitations from a functionality perspective.
  - A modernized SCA could achieve almost 5,200 fixed-seats and be improved with 150 Club Seats, 12 10-seat private suites and 13 4-seat loge boxes in addition to 4,850 general admission seats. Such capacities and seating counts would be lower than the proposed New Events Centre. The cost to effect these improvements is preliminarily anticipated by IMA to be in the range of \$115.4 million if implemented in a single phase, to \$118.6 million if implemented in two phases.
  - Depending on how the modernization is implemented, improving this facility could result in the loss of two full seasons if implemented in a single phase or impact three seasons if implemented over two sequential phases.
  - If the modernization was undertaken in a single phase, no events would be able to take place.
  - If the modernization was undertaken in two phases, no events other than hockey and basketball would be likely during phase 1; during phase 2, it is unlikely that events other than hockey and basketball would be able to take place.
  - Based on commentary provided by event promoters and venue managers, a modernized SCA would be unable to host events until at least 2025, missing the period between late 2021 / late 2023 which is anticipated to have both a high supply of and demand for events (the so-called “roaring 20’s”).
  - From an operations perspective, a modernized SCA is expected to generate a higher net cashflow deficit compared to the proposed New Events Centre. In particular,
    - With potentially fewer events, total attendance may be negatively impacted, impacting net concession revenue, merchandise revenue, revenues from advertising and sponsorships, ticket surcharge revenue and box office revenue.
    - With fewer suites and club seats (offset somewhat by the three additional loge boxes), the amount of revenue potentially available from the licensing of suites and club seats is likely to be lower.

**Kingsway Site**

- Based on a review of available information and various discussions, including with the owner of the Kingsway Site and Gateway Casinos, it is noted that the development of the Kingsway Site has continued to advance since 2017. It is noted that:
  - Preliminary site designs for the Kingsway Site have been advanced.
  - A memorandum of understanding regarding the sharing of site development costs has been agreed to between the City, the property owner and Gateway.
  - The Local Planning Appeals Tribunal dismissed all objections to the development of the Kingsway Site.
  - Plans for the development of a hotel on the site continue to be advanced.
  - Gateway remains supportive and have written the City indicating their continued excitement to be a part of the overall development.

**Since 2017, have any of the elements changed such that its potential for producing the desired outcomes is markedly different (continued)**

**Kingsway Site (continued)**

- A proposal to develop a film and television studio has been advanced.
- The owner of the Kingsway Site has received letters of intent to lease and / or sell various plots of land for commercial / retail uses.
- It is specifically noted that these projects / initiatives are dependent upon the construction of the New Events Centre on the Kingsway Site.

**Downtown Site**

- Since 2017, the City has been able to advance new “catalyst” projects within its downtown, including Place des Arts and the planned Junction East project; the City as also implemented the DSCIP to incentivize development within downtown Sudbury. In addition, the City has convened a Task Team to address issues faced by the downtown and increase collaboration amongst key partners.
- While the City’s DSCIP program has been able to generate a number of new development proposals, it is noted that the majority of applications have been for façade improvements which do not generate assessment growth. It is noted that parking remains an issue in the downtown, and with the planned and proposed development of Junction East and Le Ledo, parking issues could be made worse.
- The potential exists for Greater Sudbury’s catalyst projects to support the broader revitalization of downtown Sudbury, consistent with what has occurred within other communities. The timing associated with realizing such complementary developments will, however, depend on local real estate development economics and conditions.

**Benefits Assessment**

**Kingsway Site**

- The siting of the New Events Centre on the Kingsway Site is assumed to be able to give rise to the following benefits:
  - The realization of a new casino, hotel, conference centre, new retail / commercial uses and a new film and television studio. These projects are anticipated to have a total development cost in excess of \$160 million.
 

The operations of these projects are preliminarily estimated to support in the range of 1,600 jobs, including 250 net new jobs at the casino, an estimated 250 at the hotel / conference centre, an estimated 1,000 jobs at the film / television studio, and an estimated 100 jobs at other proposed developments; and
  - Assuming the assessed value of these projects is equivalent to their construction value, these projects could generate in the range of \$4.264 million per year (assuming a tax rate, municipal portion only, of 2.664914% and an assessed value of \$160 million).
- Assuming all developments proceed with the construction of the New Events Centre, the level of development activity proposed for the Kingsway Site would be in excess of that realized in Moncton, NB, in the three years following the opening of that facility.
- In addition to the aforementioned benefits, the Kingsway Site would be envisioned to have created a “critical mass” of uses developed concurrently with the New Events Centre, allowing it to spawn additional commercial developments in the future (including restaurants and other complementary uses).



## Benefits Assessment (continued)

### Downtown Site

- The siting of the New Events Centre on the Downtown Site is assumed to be able to give rise to the following benefits:
  - The proposed development of the Le Ledo project is anticipated to have a total construction value in the range of \$45 million (per the DSCIP application); including other proposed projects received under the DSCIP, the total construction value would approach \$75 million;
  - The operations of these projects could support in the range of 800 jobs (based on assumed building efficiency ratios and employment densities); and
  - Assuming an assessed value equivalent to its construction cost, these projects could generate municipal property taxes in the range of \$1.999 million per year (assuming a tax rate, municipal portion only, of 2.664914% and an assessed value of \$75 million).
- Similar to other municipalities, the siting of the New Events Centre on the Downtown Site could have the potential to support additional development, including commercial and residential projects:
  - Sudbury has supported potential growth in its downtown through the pursuit of various planned and proposed “catalyst projects”, including Places des Arts and Junction East; and
  - Sudbury has instituted various facilitative policies designed to entice development, including its DSCIP.
  - It should be noted, however, that development activity in downtown Sudbury has been focused on façade improvements which is noted by the City as not impacting assessed property values.

### Summary

- Complementary development projects planned for the Kingsway Site have become more advanced since 2017, such that expectations are they will be constructed upon final confirmation of the New Events Centre. The foregoing compares with the Downtown Site where, based on precedent experiences of other municipalities, the *potential* for additional ancillary / complementary development *could* occur; the exact form or nature of which is currently not known.

**Figure 1 – Comparative benefits assessment (private sector projects only)**

	Kingsway Site	Downtown Site
Construction Value	\$160 million	\$75 million
Employment	1,600 jobs	800
Propert Taxes	\$4.264 million	\$1.999 million
Additional Ancillary Development	t.b.d	t.b.d

Source: PricewaterhouseCoopers LLP, 2021 (based on information provided by the City of Greater Sudbury and Kingsway Entertainment District)

# *Background*

## ***At its meeting on February 9, 2021, City of Greater Sudbury Council directed staff and PwC to update the 2017 Business Case Assessment Report***

### **Background**

- In 2016, the City of Greater Sudbury (the “City”) retained PricewaterhouseCoopers Real Estate Inc. (“PwC RE”) to prepare a business case assessment of a proposed new events centre (“New Events Centre”). This report (the “2017 Business Case Report”) was presented to Greater Sudbury City Council (“City Council”) in March 2017.
- Following City Council’s acceptance of this report, PwC RE then undertook an evaluation of alternative locations for the New Events Centre (the “2017 Site Assessment Report”) using criteria agreed to by Council; this report was presented to City Council in June 2017, whereat City Council selected the Kingsway Site as its preferred location for the New Events Centre.
- At the City Council meeting on February 9, 2021, City Council directed City staff to update the 2017 Business Case Report with current available information, to address two specific questions:
  - *Since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different; and*
  - *Since 2017, and especially considering the effects of the COVID-19 pandemic, have there been any changes in the operating environment that would affect the project’s success.*
- Per the Staff Report prepared for the February 9, 2021 City Council meeting, the City retained a team led by PricewaterhouseCoopers LLP (“PwC”) to prepare an Update Report (the “Update Report”) focusing exclusively on three locations (the “Three Locations”):
  - the Kingsway Site;
  - the Shaughnessy-Minto Block (the “Downtown Site”); and
  - a renovation to the existing Sudbury Community Arena (“SCA”).

### **Scope of Work**

- In completing this assignment, PwC undertook the following scope of work.

#### **Renovation Assessment**

- with Ian McKay Architect Inc. (“IMA”), undertook an assessment of the SCA to identify the ability to, and the potential costs associated with, renovating the SCA to a level consistent with the building contemplated in the 2017 Business Case Report;
- identified key venue modernizations needed to be undertaken to the SCA in order for it to be consistent with the building contemplated in the 2017 Business Case Report;
- evaluated, at a high level, the ability to effect / implement these modernizations (including considering potential construction processes and phasing relative to maintaining ongoing operations);
- identified, at a high level, risks associated with undertaking those renovations;
- contacted cities in Canada (including North Bay, Peterborough and Kitchener) who have undertaken renovation projects at their facilities to note their experiences;
- developed conceptual cost estimates for renovating the SCA; and
- evaluated the directional impacts from a revenue and operating perspective on the business case for the New Events Centre.

#### **Business Case Update**

- reviewed the findings of the 2017 Business Case Report;
- reviewed operating statements for the SCA (from 2015 through 2020) to familiarize ourselves with how its operations have changed since 2017;

## ***The Update Report is to address two key questions of City Council – project elements that may have changed and changes in the operating environment that could affect the New Event Centre’s success***

### **Scope of Work (continued)**

- obtained information detailing development activity in downtown Sudbury and in the vicinity of the Kingsway Site;
- held discussions with the City re the Junction project;
- held discussions with City staff and local business officials (landowners and developers) and the Downtown Sudbury BIA to identify how real estate and economic development conditions have changed since 2017;
- held discussions with third-party venue managers, event promoters and other entertainment industry contacts to obtain insights into the current and potential future impacts of COVID-19 on indoor events facilities;
- held discussions with the owners of the Kingsway Site and Gateway Casinos to understand their development intentions for the property;
- identified elements contained within the 2017 Business Case Report which may have changed, noting their directional impact;
- identified directional impacts which the COVID-19 pandemic could be expected have on the operating environment of sports and entertainment venues when the New Events Centre is anticipated to open in 2024/25 (compared to the 2017 Business Case Report);
- updated, as required, the findings contained in the 2017 Business Case Report to reflect more recent information;
- prepared an assessment of project risks on a comparative basis between the Three Locations; and
- prepared this Update Report.

### **Use of the Update Report**

- This Update Report has been prepared for the exclusive use of the City of Greater Sudbury.
- PwC owes no duty of care to any other party or any party gaining access to PwC’s report. PwC accepts no responsibility for any claims, losses, liabilities and damages, including, without limitation, any claims, losses, liabilities and damages in negligence or negligent misrepresentation, arising from any unauthorized or improper use of this Update Report.
- The impacts and the duration of those impacts associated with the novel coronavirus disease (“COVID-19”) on the local, regional, provincial and national economies and on the real estate, entertainment, hospitality and sports, recreation and leisure industries remains uncertain as of the date of this Update Report, and the impacts of COVID-19 on the New Event Centre’s performance, operations, programming and / or results could be material. PwC is not responsible nor liable for any consequences, impacts, implications, direct or indirect, of COVID-19 arising from or related to the information and analysis contained in this Update Report.
- The use of any projections made in conjunction with this Update Report may not be appropriate for use outside of its intended purpose. The projections, which will not reflect actual development, economic, demographic and / or financial results, may reflect a possible scenario for the operations of the New Events Centre, a modernized SCA or the economic development benefits which could result therefrom.
- Since future events are not subject to precise projections, some assumptions will not materialize in the exact form presented in this Update Report.

## ***The Update Report additionally includes an assessment of an potential modernization to the Sudbury Community Arena***

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### **Use of the Update Report (continued)**

- In addition, other unanticipated events and circumstances may occur which could influence the future performance of the Facilities. While there is no recourse to predicting these matters with certainty apart from informed and reasoned judgments, it must be stated that future events will lead to variations in performance which may materially alter the success and performance of the Facilities. PwC does not warrant that actual results achieved will be the same, in whole or in part, as those shown in the projections. The projections are based on hypotheses and there is a significant risk that actual results will vary, perhaps materially, from the results projected.

### **Report Structure**

- This Update Report includes the following sections:
  - Summary (report summary);
  - Background (describing PwC's scope of work);
  - 2017 Business Case Assessment (summary of the 2017 Business Case Assessment report);
  - Business Case Update (identifying and evaluating elements associated with the project that may have changed since 2017, including as a result of the COVID-19 pandemic); and
  - Sudbury Community Arena Modernization (describing the ability of, and the potential costs associated with, renovating the SCA);.

# ***2017 Business Case Assessment Summary***

***The 2017 Business Case Report identified a “supportable” building size in the range of 5,500 to 6,000 fixed seats, with a target of 5,800 fixed seats. At such a size, the total seating capacity could approach 6,500 spectators for concerts (in an end-stage configuration)***

### **Background**

- In March, 2017, PwC RE prepared a Business Case Assessment of a proposed New Events Centre in the City of Greater Sudbury. The 2017 Business Case Report included the following sections:
  - Market Overview section, profiling Greater Sudbury from a socio-economic and demographic perspective;
  - An overview of the Ontario Hockey League, profiling teams, attendance and trends in new building construction;
  - A profile of the Sudbury Community Arena from an operations and event hosting perspective;
  - An assessment of the Greater Sudbury market and its ability to support a new events centre, focusing on market potential and identifying a “supportable building size”;
  - A profile of location criteria typically used in evaluating potential locations for a new events centre;
  - An assessment of prospective building operations, including from an event attraction, attendance and financial perspective;
  - A high-level assessment of project financing; and
  - An assessment of potential economic benefits.
- The following provides a summary of the principal findings, conclusions and observations from the 2017 Business Case Report from a building size, features and operations perspective.
- With 5,800 fixed seats, the total seating capacity for other entertainment events, including concerts in an end-stage configuration could be excess of 6,500 (assuming retractable seating and limited “seat kills” behind and beside the stage).
- Discussions with entertainment promoters and marketers felt a new building with a total sizing / capacity in the range of 5,500 to 6,000 seats would be within the ideal target range for a market like Greater Sudbury.

### **Design Features**

#### **Front-of-House**

- Front-of-House (“FOH”) components are those components that create and provide an “overall experience” for spectators prior to them taking their seat. The FOH components identified for the New Events Centre include:
  - Main lobby;
  - Secure access for suite holders and VIPs;
  - Box office / ticketing area;
  - Public concourses with an average width of 16 feet (or more) for a continuous concourse and 20 feet (or more) for a horseshoe concourse;
  - Commercial space, with a minimum size of approximately 500 square feet;
  - Concession areas, with the number of fixed or permanent “points of sale” (“POS”) equal to the total fixed seating capacity of the facility divided by 175 as a minimum and 150 as a preferred (i.e., 33 to 40). In addition there should be sufficient space in the concourses for portable POS kiosks (with access to power);

### **Building Size**

- The 2017 Business Case Report identified a New Events Centre with a total sizing / capacity in the range of 5,500 to 6,000 fixed seats, and a target of 5,800 seats, would be in the ideal target range for a market like the City of Greater Sudbury.

***With a fixed seating capacity of 5,800, the New Events Centre is assumed to include 5,020 general admission seats, 500 club seats, 240 seats in private suites and 40 seats in loge boxes***

## **Design Features (continued)**

### **Front of House (continued)**

- Washrooms; and
- Building administration offices.

### **House**

- The House is the actual seating area surrounding the rink slab or flat floor area. The House includes all of the fixed seats, temporary floor seating (for concerts, assemblies and centre-stage events), and private suites / loge boxes. As noted above, the New Events Centre would have a targeted fixed-seating capacity of 5,800 and contain a combination of general seating and enhanced / club seating and suites:
  - General seating – approximately 5,020 “general admission” seats;
  - Club seating – some 500 Club seats (reserved seating areas generally providing the spectator with greater proximity and better sightlines to the playing surface);
  - Private suites – some 24 private seats (containing 240 total fixed seats);
  - Loge boxes – approximately 10 loge boxes (providing 40 fixed seats). Loge boxes are “semi-private suites” providing in-seat services, exclusive access to a “premium lounge” and parking passes.
- Also included in the House is a media booth (elevated above the ice surface and seating areas with unobstructed views and measuring approximately 60 feet in length).

### **Back-of-House**

- The Back-of-House (“BOH”) is the area not generally accessible to the general public and is the realm of the entertainer / performer /

athlete, along with infrastructure that supports events and the building. Building elements included in the BOH include:

- Home team dressing room (including an entry lounge, dressing room, washroom, showers, a trainer room, coaches’ areas, a workshop, a laundry room and secure storage; additional areas could include a steam room / sauna / therapy pool, a fitness area and a media / interview room);
- Community dressing rooms (four to six dressing rooms, with two rooms comprising adjoining rooms and used by visiting Ontario Hockey League teams);
- Officials / multi-purpose dressing rooms;
- Multi-purpose meeting room / Green room (an amenity area for performers and event promoters);
- Kitchen and commissary storage (comprising a commercial kitchen for concessions with a storage area located either directly adjacent to, or in close proximity to both the kitchen and the BOH loading area);
- Control Centre area (the main BOH point of entry so building operations staff can oversee all traffic / individuals entering the building; the control centre was identified to have space for two offices, an open work area with space for four workstations, a first aid room, and a secure holding room);
- Ice Resurfacing Room / Workshop (including the ice resurfacing / Zamboni room) and a workshop;
- Marshalling / Open Storage (a large area between the rink entry and the main loading area and used for the movement of traffic and the non-secure storage of fixtures and equipment);



## ***The 2017 Business Case Report outlined a series of “Front of House”, “House”, “Back of House” and building technical / performance criteria and features***

### **Design Features (continued)**

#### **Back of House (continued)**

- Secure storage;
- Mechanical rooms (including a refrigeration room, mechanical room and electrical room); and
- Vehicle Entry (accommodating two sloped bays for trucks backing up to the building, and an entrance allowing for vehicle entry and truck access directly into the building and onto the event floor; the path from this door to the ice surface / event floor should have a clear-height of approximately 14 feet along the complete travel path).

#### **Building Technical / Performance Commentary**

- The 2017 Business Case Report noted that a multipurpose events centre is a complex building that needs to respond to a broad range of uses and programs. While mid-size event centres are almost always associated with hockey, the most challenging design aspects of these facilities relate to the other activities that can occur within the building and how quickly the building can convert from one configuration to another. The planning and design of a New Events Centre has a number of objectives but three are fundamental:
  - Fitting into and enhancing the existing physical context, whether within a downtown or greenfield location;
  - Taking advantage of the existing and potential market context and responding to it with a highly flexible and adaptive event-driven facility to maximize revenues; and
  - Providing an operationally efficient building with the goal of minimizing energy and staffing costs.
- The effective operation of a New Events Centre was noted to require:
  - Easy and direct access to all House and FOH components by ticket holders regardless of the event.
  - Controlled separation between the FOH, House and BOH areas, with the audience not being placed in a position to directly interact with performers, athletes, or machinery associated with an event (unless that interaction is part of the event and controlled by either the facility or the event team).
  - A high level of flexibility in terms of venue transformation / re-configuration (one of the main goals in the design of an events centre is to provide operators with the greatest flexibility and opportunity to maximize their “event calendar”, and fundamental to that flexibility is the ability to quickly change from one event to another).
  - An open-type roof structure capable of accommodating show heights and show load / rigging requirements. The clear height from the event floor to the underside of structure over the ice surface should be a minimum of 45 feet (with 50 feet being ideal). Speaker / lighting loads are often in the 50,000 to 75,000 pound range and need to be easily and quickly suspended from the underside of the roof structure. A rigging grid should be provided especially over the location of the stage in end-stage configuration. The underside of the rigging grid should be at least 44 feet above the event level floor.
  - Access to the structure through catwalks for show setup, spotlight locations, lighting adjustments, and general servicing of both spot lighting and building lighting.

## **The 2017 Business Case Report additionally identified an event calendar comprising 78 total events, including OHL games, concerts, family shows, other sporting events, trade and consumer shows and other rentals**

### **Building Technical / Performance Commentary (continued)**

- Event floor lighting to allow for various levels of operation (maintenance only, public programs, events); for events, lighting should be designed for television broadcasting and have the capacity for instant on / off (all lighting should be accessible and serviceable from the catwalk system);
- Appropriate power distribution throughout the building, with critical areas of power concentration being BOH (for concerts and end-stage events), the bowl corners (used for even distribution of power for trade shows and other floor type events), catwalk level (for spot lights and special lighting), and shore power that is readily accessible by show-oriented vehicles including television broadcasting support;
- The main air handling system for the spectator area should be designed to minimize ambient noise, with major ducts being appropriately insulated acoustically, and the location of main mechanical supply units placed so as not to create either noise or vibration within the House;
- A separate exhaust system for smoke removal associated with pyrotechnics, vehicle exhaust (for example, during motocross events) and air-borne dirt (for example, during motocross events, rodeos, circuses, etc.);
- Energy efficiency through the use of high efficiency refrigeration plants, boilers, chillers, pumps and fans, and control systems that allow for easy monitoring and optimum efficiency adjustments; and
- Universal accessibility, with all aspects of the design accommodating patrons with disabilities. Access to all parts of

the publicly accessible facility (which may vary from event to event) should allow those with disabilities to take the same route as their able-bodied companions.

### **Calendar of Events**

- The New Events Centre was preliminarily estimated to be able to attract in the range of 78 events. This event profile was comprised of the following events:
  - 36 OHL games (2 exhibition games and 34 regular season home games);
  - 9 concerts;
  - 5 family shows;
  - 4 other sporting events;
  - 5 other entertainment events; and
  - three three-day trade and consumer shows and ten other rentals.

**Figure 2 – Prospective Calendar of Events**

User / Tenant	Annual Number of Event Days	Average Attendance	Annual Attendance	% of Capacity
Sudbury Wolves	36	4,350	153,900	73.7%
Concerts	9	4,500	40,500	77.6%
Family Shows	5	3,500	17,500	60.3%
Other Sports	4	4,500	18,000	77.6%
Other Entertainment	5	3,500	17,500	60.3%
Trade & Consumer Shows / Day Rentals	19	n/a	n/a	n/a
<b>TOTALS</b>	<b>78</b>		<b>247,400</b>	<b>42.3%</b>

Source: PricewaterhouseCoopers Real Estate Inc., 2017 (p.50)

***The 2017 Business Case Report identified that a New Events Centre could generate in the range of \$2.609 million in revenue and incur a net operating deficit, after management fees and capital reserves in the range of \$655,700***

**Calendar of Events (continued)**

- In addition, it was also assumed that the New Events Centre would be available for use by minor and youth organizations on a regular basis throughout the winter season (approximately September 1 through April 30), including minor hockey (boys and girls), adult hockey, etc. It was also assumed that the ice would be removed between May 1 and July 31, during which time the New Events Centre could be utilized for a broad range of floor events. During August, it was presumed that the ice would be reinstalled and that the Events Centre would be used for various hockey camps, training camps and other ice uses.
- In projecting this calendar of events, consideration was given to comments forwarded to PwC RE by members of the concert and event promotion industry, including promoters, agents, production officials and management with the Sudbury Wolves and staff at the SCA.
- Among the comments, opinions and perceptions forwarded by this group were the following:
  - The configuration and amenities contained in the existing SCA serve as an impediment to attracting events and attendees;
  - While centring a large trade area, weather and travel issues will dictate that the majority of event attendees come from the local area (apart of marquee acts);
  - A number of promoters and agents cautioned that despite the presence of a new venue, operating as a pure rental venue (i.e., not taking show risk of any sort) could hinder its ability to secure acts. Despite this, it was still felt that a venue in the range of

5,800 seats (6,500 in an end-stage concert setting) would be supportive in helping attract a broad range of events, including concerts (classic rock and country in particular), other sporting / entertainment events (whether curling, figure skating, monster trucks / motor cross, combative sporting events, other sports), and a range of family shows.

**Summary of Operations**

- The 2017 Business Case Report included an illustrative operating proforma depicting the potential operations of a proposed 5,800-fixed seat New Events Centre (illustrated in Figure 3, on page 16, following).
- Based on the assumptions described above (and in more detail in the 2017 Business Case Report), the New Events Centre was projected to potentially generate operating revenues of some \$2.609 million and incur direct facility operating expenses, excluding management fees and capital reserves, of \$2.890 million, yielding a net operating deficit, prior to management fees and capital reserves of approximately \$280,700.
- After allowing for management fees and capital reserves, the proposed 5,800-fixed seat New Events Centre was projected to generate an operating deficit of some \$655,700 in its first full year of operations.

**Over time, the projected operating deficit of the New Events Centre was projected to increase to approximately \$825,000 by its fifth year of operation**

**Figure 3 – Projected Operations, proposed Greater Sudbury New Events Centre**

	Year 1	Year 2	Year 3	Year 4	Year 5
<b>FACILITY REVENUES</b>					
Sudbury Wolves	\$ 282,500	\$ 289,600	\$ 296,800	\$ 304,200	\$ 311,800
Other events	403,100	413,200	423,500	434,100	445,000
Net concession revenue	233,900	239,700	245,700	251,800	258,100
Net merchandise revenue	57,500	58,900	60,400	61,900	63,400
Advertising and Sponsorships	397,300	402,900	408,600	414,400	420,400
Suites / Loge Box license revenue	328,100	328,100	328,100	328,100	328,100
Club seat license revenue	153,100	153,100	153,100	153,100	153,100
Ticket surcharge	574,800	589,200	603,900	619,000	634,500
Box office revenue	109,700	112,400	115,200	118,100	121,100
Ice rental revenue	69,300	71,000	72,800	74,600	76,500
<b>Total Revenues</b>	<b>\$ 2,609,300</b>	<b>\$ 2,658,100</b>	<b>\$ 2,708,100</b>	<b>\$ 2,759,300</b>	<b>\$ 2,812,000</b>
<b>FACILITY EXPENSES</b>					
Personnel costs	\$ 1,590,000	\$ 1,629,800	\$ 1,670,500	\$ 1,712,300	\$ 1,755,100
Utilities	500,000	520,000	540,800	562,400	584,900
Operations, maintenance & repairs	250,000	256,300	262,700	269,300	276,000
Marketing	75,000	76,900	78,800	80,800	82,800
Insurance	100,000	102,500	105,100	107,700	110,400
Other miscellaneous expenses	175,000	179,400	183,900	188,500	193,200
Event costs	200,000	205,000	210,100	215,400	220,800
<b>Total Expenses</b>	<b>\$ 2,890,000</b>	<b>\$ 2,969,900</b>	<b>\$ 3,051,900</b>	<b>\$ 3,136,400</b>	<b>\$ 3,223,200</b>
<b>Net Cash Flow Before Management Fees / Capital Reserve</b>	<b>\$ (280,700)</b>	<b>\$ (311,800)</b>	<b>\$ (343,800)</b>	<b>\$ (377,100)</b>	<b>\$ (411,200)</b>
Management fee	175,000	179,400	183,900	188,500	193,200
Capital Reserve	200,000	205,000	210,100	215,400	220,800
<b>NET CASH FLOW</b>	<b>\$ (655,700)</b>	<b>\$ (696,200)</b>	<b>\$ (737,800)</b>	<b>\$ (781,000)</b>	<b>\$ (825,200)</b>

Source: PricewaterhouseCoopers Real Estate Inc., 2017 (p.63)

## ***The proposed New Events Centre was projected to have a fixed seating capacity of 5,800 and a total capacity of 6,500***

### **Summary**

- Figure 4, opposite, summarizes the main building components (from a seating capacity and building amenity perspective) from the 2017 Business Case Report.

***Figure 4 – Summary of main building components associated with the proposed New Events Centre***

<b>Venue Components</b>	
Venue Capacity	5,800 fixed seats 6,500 total capacity
General Seating	5,020 seats
Club Seating	500 seats
Private Suites	24 suites 240 seats
Loge Boxes	10 loge boxes 40 seats
Private Suite Amenities	Lounge & party room
Commercial Space	500 - 1,000 square feet
Concession Points of Sale	33 to 40 plus portable kiosks

*Source: PricewaterhouseCoopers Real Estate Inc., 2017*

# ***Business Case Update***

## ***The COVID-19 pandemic has had a detrimental impact on the live events industry and on sports and entertainment facilities. Since March 2020, COVID-19 caused the cancellation of live events and shuttered most facilities in North America***

### **Background**

- Per the February 9, 2021 Council Report, PwC was requested to update the 2017 Business Case Report with current available information to address two specific questions:
  - Since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different; and
  - Since 2017, and especially considering the effects of the COVID-19 pandemic, have there been any changes in the operating environment that would affect the project's success.
- In preparing this Update Report, PwC:
  - held discussions with third-party venue managers, event promoters and other entertainment industry contacts to obtain insights into the current and potential future impacts of COVID-19 on indoor events facilities;
  - obtained and analyzed information detailing development activity in downtown Sudbury and in the vicinity of the Kingsway Site;
  - held discussions with the City re the Junction project;
  - held discussions with City staff and local business officials and the Downtown Sudbury BIA to identify how real estate and economic development conditions have changed since 2017;
  - held discussions with the owners of the Kingsway Site and Gateway to understand current their development intentions for the property;
  - identified elements contained within the 2017 Business Case Report which may have changed, noting their directional impact; and

identified directional impacts which the COVID-19 pandemic could be expected have on the operating environment of sports and entertainment venues when the New Events Centre is anticipated to open in 2024/25 (compared to the 2017 Business Case Report).

### **Impact of the COVID-19 pandemic on sports and entertainment facilities**

- The COVID-19 pandemic, and the cancellation of indoor gatherings, has had a detrimental impact on live entertainment, with the “live events industry”, including sports, concerts, other live performances, tradeshow, and other entertainment, having been shuttered since March 2020. The COVID-19 pandemic has caused the cancellation or postponement of shows and events, resulting in financial loss and economic hardship within an industry estimated to employ in excess of 12 million people and generate approximately one trillion US dollars in annual revenue across North America. The COVID-19 pandemic has impacted both facilities as well as performers / artists and their respective employees and families.
- While the majority of facilities remained shuttered throughout 2020, a gradual reopening of facilities has occurred in 2021. The opening of facilities to live events has occurred in select markets across the United States (and for a period of time in Quebec and Atlantic Canada in late 2020), with venues offering up a reduced number of “socially distanced seats” (and in some arenas, additionally implementing health and safety guidelines related to non-medical masks, hand hygiene, physical distancing, and contact tracing).

## ***The live events industry is anticipating that tours will recommence in late 2021 / early 2022 and return to pre-2020 levels prior to 2024/25; demand for live entertainment events at a New Events Centre is not expected to be materially changed from that outlined in the 2017 Business Case Report***

### **Impact of the COVID-19 pandemic on sports and entertainment facilities (continued)**

In an effort to gain an understanding of emerging trends and practices, PwC engaged with a number of event promoters (including some who have previously brought events into the SCA), and venue managers from across North America to obtain their views and opinions on the impact which the COVID-19 pandemic has had on sports and entertainment facilities, and the impact of the pandemic going forward. Among the commentary and opinions forwarded from these 14 consultations were the following:

- It was generally agreed that the COVID-19 pandemic has generated significant pent-up demand for consumers to attend live events. In addition, the COVID-19 pandemic has significantly increased savings rates of Canadians (the Bank of Canada notes that forced and precautionary savings of Canadians caused by the COVID-19 pandemic has totaled approximately \$180 billion). Expectations of both promoters and venue managers is that once large indoor gatherings are again allowed (with some expecting this to occur in late 2021 / early 2022), demand by consumers for attending live events (including sports, concerts, family entertainment, etc.) will surge for a period of between 18 and 36 months (two entities consulted with referred to this period as the “roaring 20s”). Thereafter, demand for attending live events is expected to approximate pre-COVID levels.
- Musical groups / artists, family shows and other entertainment which tour and perform in sports and entertainment venues have similarly had a significant portion of their incomes reduced / eliminated because of the COVID-19 pandemic. Should restrictions be eased and large indoor gatherings again be allowed, expectations are that many of these acts will again go “on tour” resulting in multiple artists on tour at the same time. As venues have only so many available dates, not all touring acts will play larger markets, potentially opening up venues located in mid-sized and smaller markets. Greater Sudbury could therefore be a beneficiary of this initial surge. Supporting these viewpoints, it is noted that a number of promoters have / are looking to secure dates in venues in numerous secondary markets across Canada.
- General perceptions were that the Greater Sudbury market could continue to support in the range of eight to 12 concerts per year, with the majority of these events showcasing domestic artists.
- Uncertainty with respect to the COVID-19 pandemic remains high with the opening of venues to large mass gatherings dependent upon vaccine take-up, the potential for additional “waves” of infection, and the availability and need for additional “booster shots”. Current expectations are, however, that by 2024/25, the live events market would be similar to that which existed pre-pandemic.
- From a venue design perspective, the COVID-19 pandemic does not appear to have caused noticeable long-term impacts on venue design apart from potential changes to HVAC / air handling requirements and building circulation (for example, building / building component entrances / exits). As noted above, venues which have opened have done so with reduced



## ***The COVID-19 pandemic has impacted construction projects and prices, causing supply chain disruptions and completion delays, and increasing the cost of certain building materials***

### **Impact of the COVID-19 pandemic on sports and entertainment facilities (continued)**

capacities (for example, selling seats located on aisles and in the middle of rows of seats, with one or two empty rows between them).

- Per PwC’s 2021 “Emerging Trends in Real Estate” publication, the COVID-19 pandemic has had significant impacts on corporate budgets which has directly impacted in-person conferences, meetings, and business travel. Depending on the degree to which populations are vaccinated, business travel decisions will continue to be affected. In the US, the recovery pace for convention centres in larger urban cities is expected to be slower than in smaller cities / towns and suburban areas. However, while general perceptions are that business travel and large-group industry meetings may not return to pre-pandemic levels, perceptions are that pent-up demand for in-person meetings will continue to support business-to-business and business-to-consumer conferences, conventions and trade shows.
- Based on commentary provided by event promoters and venue managers, there does not appear to be a basis for supporting a change to the event assumptions contained in the 2017 Business Case Report (permitting large indoor gatherings will continue to be dependent upon vaccine take-up, the potential for additional “waves” of infection, the availability and need for additional “booster shots”, and the health and safety protocols and policies implemented by facilities and local health units).

### **Impact of the COVID-19 pandemic on construction costs**

- The COVID-19 pandemic has had a number of impacts on construction projects and construction prices, including:

**Figure 5 – New Events Centre calendar of events**

User / Tenant	Annual Number of Event Days	Average Attendance	Annual Attendance	% of Capacity
Sudbury Wolves	36	4,350	153,900	73.7%
Concerts	9	4,500	40,500	77.6%
Family Shows	5	3,500	17,500	60.3%
Other Sports	4	4,500	18,000	77.6%
Other Entertainment	5	3,500	17,500	60.3%
Trade & Consumer Shows / Day Rentals	19	n/a	n/a	n/a
<b>TOTALS</b>	<b>78</b>		<b>247,400</b>	<b>42.3%</b>

Source: PricewaterhouseCoopers Real Estate Inc, 2017

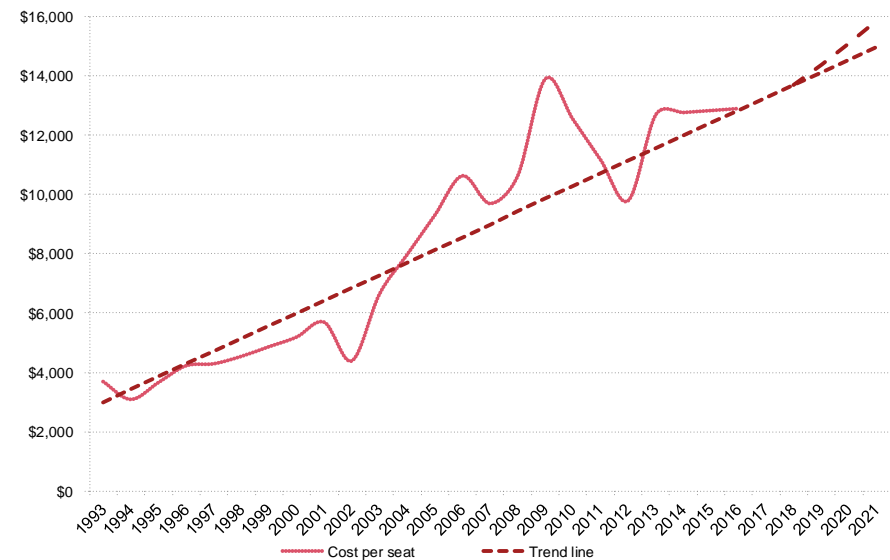
- delays and cancellations of construction projects;
- decreased productivity caused by reduced workforces and physical distancing protocols on construction sites;
- supply chain issues and disruptions caused by shortages of key materials (particularly lumber);
- commodity prices have reduced, a trend the World Bank forecasts may continue in the short to medium term (particularly for aluminum, iron ore and copper); and
- labour costs, particularly for specialty trades have increased.
- The Commercial Construction Index (“CCI”), a quarterly economic indicator designed to gauge the health of the construction industry in the US, rose to 60 in Q4 2020, a level below the 74 recorded at the start of 2020; the CCI did, however, increase by 5.3% from Q3 2020. The index also shows material prices are on the rise with steel and other key products reporting multiple planned price increases into 2021. Trade contractors in the US have also reported that material delays are expected to last at least into Q2 of 2021 and that a number of current projects are behind schedule and are struggling to find labour.

## **The cost of a New Events Centre could now range between \$15,000 and \$16,000 per seat, or between \$87.0 million and \$92.8 million, up from the initial estimate of \$80.0 million (\$2018)**

### **Impact of the COVID-19 pandemic on construction costs (continued)**

- The Turner Construction Company's Turner Building Cost Index (TBCI<sup>TM</sup>), which measures costs in the non-residential building construction market in the United States, remained unchanged in Q4 2020 from Q3 2020, and decreased by 0.5% percent from Q4 2019. The TBCI notes that raw material costs have continued to fluctuate due to the COVID-19 pandemic, with fuel, copper, steel and aluminum having experienced modest increases, while concrete slightly decreased; these increases were, however, offset by increased competition by trade contractors.
- Statistics Canada identify that non-residential construction prices in Canada's largest 11 Census Metropolitan Areas increased at an average annual rate of 3.0% between 2018 and 2021. In Montreal, Ottawa and Toronto, this average annual increase ranged between 3.7% and 4.8% over this period.
- BTY Group project that construction prices will increase by between 3.0% and 5.0% in Ontario in 2021, a rate which is in keeping with information provided by WT Partnership (the entity which provided construction cost estimates for a modernized SCA).
- The 2017 Business Case Report identified a prospective cost for the New Events Centre in the range of \$13,700 per seat (in \$2018), or \$80.0 million for a 5,800-seat facility.
- Since 2017, one additional sports and entertainment centre was constructed in Canada, the Avenir Centre in Moncton, NB. This project is reported to have had a total construction cost of \$95.0 million; including architectural fees and related design and engineering expenses, and the cost of creating an adjacent plaza, the total cost of this projected is reported to have been \$113.2 million (\$12,900 per seat).

**Figure 6 – Trend in Per Seat Costs of Recently Built Event Centres**



Source: PricewaterhouseCoopers LLP, 2021 (based on publicly available information)

- Using a similar methodology as in the 2017 Business Case Report, the cost of the New Events Centre in \$2021 could approximate \$15,000 to \$16,000 per seat, or in the range of \$87.0 million to \$92.8 million (excluding site development costs).
- At \$87.0 million to \$92.8 million, cost inflation would approximate 2.8% to 5.1% per year, a range which is in keeping with the aforementioned cost inflation estimates.

***Since 2017, the development of the Kingsway Site has continued to advance, with the parties involved agreeing to a site development cost sharing agreement, and the property owner advancing and firming up their development plans for the site***

## **Kingsway Site**

### **Background**

- In the 2017 Site Assessment Report, PwC RE noted the following with respect to the Kingsway Site:
  - Generally, the ability of “greenfield” event centres to spawn new developments / enhanced development opportunities within its neighbouring area has been lower in the short term. If such ancillary / complementary developments are to occur, they will generally evolve over a longer period, and will tend to evolve more as a function of local economic conditions and development trends than purely because of the presence of the events centre.
- The 2017 Business Case Report noted the following with respect to event centres:
  - The Barrie Molson Centre was built on a greenfield site just east of Highway 400 in the southern section of the city of Barrie on land donated by Molson Breweries. At the time of its development in 1994 and 1995, the lands around the facility were mostly vacant. With the ongoing development of the city, this area has evolved into a major retail node, focused along Highway 400. In this regard, the development of the surrounding area is due more to traditional market forces brought about by significant residential and commercial development, along with its location next to a major highway, than due to siting of the Barrie Molson Centre in this location.
  - In Medicine Hat, AB, the city notes that the Canalta Centre (now Co-op Place), which opened in 2015 on land donated by a private developer, influenced development in and around that facility, including a hotel, restaurants and retail facilities (the location was already being developed as a highway commercial / retail node and according to the city, the offer and subsequent development of Co-op Place on this site helped spur and advance development in the area).
  - In Wilkes-Barre / Scranton Pennsylvania, the Mohegan Sun Arena at Casey Plaza (home of the AHL affiliate of the Pittsburgh Penguins) has generally been viewed as a catalyst for significant additional development which has taken place around this facility. Prior to this building’s construction, the surrounding area was generally characterized as comprising “some of the most worthless property in northeastern Pennsylvania”. Since the venue’s development, the area was reported to be one of the busiest retail districts in the region, with a number of hotels, restaurants and retail developments having been completed since the arena’s opening in 1999. It is also worth noting that the success which this facility and region have enjoyed is also due, in part, to its location in a growing regional economy (the Wilkes-Barre / Scranton area comprises the third largest market in Pennsylvania with a total population of some 14 million people within a 100-mile radius).
- In a follow-up discussion with economic development officials with the City of Medicine Hat, it was noted that limited additional development had occurred in the vicinity of Co-op Place since 2017.
- Medicine Hat economic development officials also noted that no negative fall-out has resulted from the arena relocating out of the city’s downtown core in 2015.

## ***Planned development projects for the Kingsway Site include a casino, a hotel and conference centre, film and television studio and various commercial and retail uses***

### **Kingsway Site (continued)**

#### **Background (continued)**

- The 2017 Site Assessment Report noted that a benefit of the Kingsway Site was that the Events Centre would be part of a larger entertainment district development that is to include a casino as well as various hospitality, retail and other entertainment uses. The 2017 Site Assessment Report additionally noted that:
  - Such a development, if built, could create a “critical mass” of uses that are generally required to support ancillary uses.
- In order to provide a degree of comfort that the Kingsway Site would be developed, the property owner agreed to use reasonable efforts to substantially affect the development of the property, failing which the City would be entitled to receive monetary payment.

#### **Current Development Status**

- Since 2017, the development of the Kingsway Site has continued to advance:
  - In 2017 and 2018, the City and the owner of the Kingsway Site advanced a preliminary site design for the Kingsway Site;
  - In 2018, the City, the owner of the Kingsway Site and Gateway Casinos (“Gateway”) entered into a memorandum of understanding regarding the sharing of the Kingsway Site’s site development costs (including, for example, clearing the site of trees, shrubs and other growth, blasting and crushing of rock to create level building sites, a storm water management pond, internal access roads, transit access roads and associated common area spaces, etc.);
  - In 2020, the Local Planning Appeals Tribunal dismissed all objections to the development of the Kingsway Site;
  - The owner of the Kingsway Site has continued to advanced plans for the construction of a hotel on the Kingsway Site, including obtaining expressions of interest from hospitality companies to “flag” / “brand” the hotel, as well as an expression of interest from a prospective hotel operator / investor. Per discussions with the hospitality entity, their view of the project in 2017/18 was that it was a “good / interesting project”; their current viewpoint is that the project is “even more compelling” today.
  - The owner of the Kingsway Site is additionally proposing the construction of a 16,000 square foot meeting and banquet facility as part of their proposed hotel development;
  - Based on discussions with Gateway, our understanding is that Gateway remains supportive of the overall Kingsway Entertainment District project and have written the City indicating their continued excitement to be a part of the overall development. Our understanding is that Gateway will be looking to time the construction of their project such that both the casino and the New Events Centre would be completed and opened concurrently, and we additionally understand that a potential opening of the Events Centre by September 2024 may meet Gateway's anticipated scheduling requirements. We note that Gateway has indicated that any potential development timing assumes that there are no further challenges to the project, that the impact of the COVID-19 pandemic on Gateway’s business has been mitigated and that Gateway’s existing properties have been able to reopen and return to operations without restrictions on a reasonable timeline.

## Projects associated with the Kingsway Entertainment District are dependent upon the construction of the New Events Centre

### Kingsway Site (continued)

#### Current Development Status (continued)

Per Gateway's June 2017 press release, Gateway's proposed casino will comprise a \$60 million investment that will bring up to 250 new jobs to Sudbury (growing Gateway's workforce to over 400 employees).

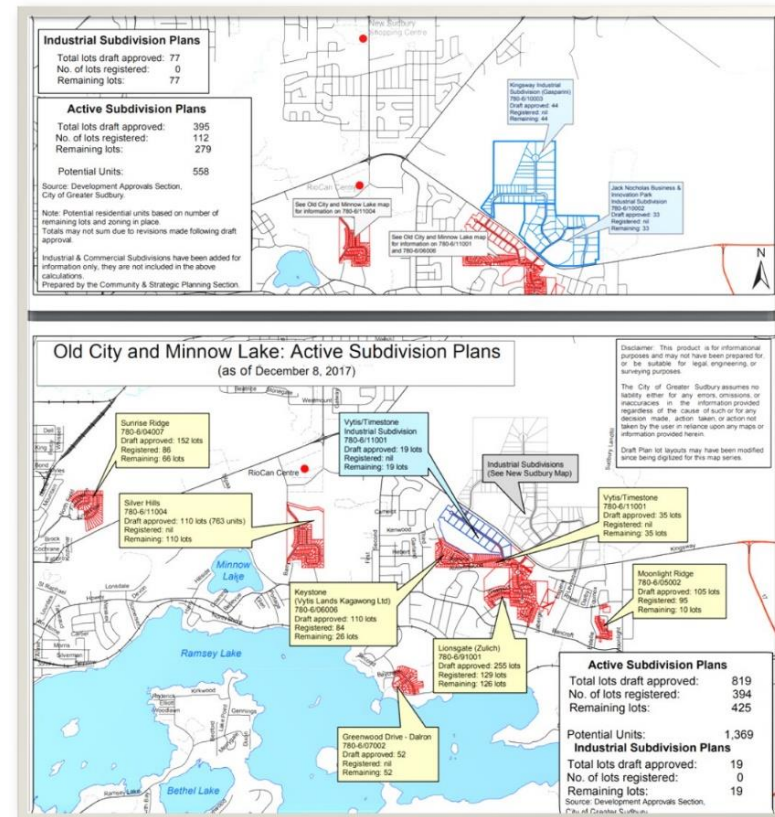
Per Gateway, the company is continuing with work on its North Bay casino project and will continue to assess its other potential development projects in Ontario once COVID restrictions have been lifted and business operations have begun to normalize.

- The owner of the Kingsway Site has additionally advanced a proposal to develop a purpose-built 116,000 square foot film and television studio on the Kingsway Site; and
- The owner of the Kingsway Site has received letters of intent to lease and / or sell various plots of land for commercial / retail uses.
- It is specifically noted that some of the projects / initiatives planned for Kingsway Site (including the casino, hotel, conference centre and some proposed retail / commercial projects) are dependent upon the construction of the New Events Centre on the Kingsway Site.
- These planned and proposed developments on the Kingsway Site are in addition to various draft plan approved residential, commercial and industrial development projects which we understand will come on line over the next few years.

### Summary

- The development of the Kingsway Site has continued to advance since 2017, with the construction of the casino, hotel and conference centre, and other recently planned and proposed

**Figure 7 – Draft plan approved development projects in the vicinity of the Kingsway Site**



Source: City of Greater Sudbury

projects continuing to move closer to being developed. In addition, casino and hotel development partners have reaffirmed their participation and interest in the development. It is noted, however, that the development of some of these projects are dependent on the construction of the New Events Centre.

## ***Events centres constructed in downtown locations have supported new complementary developments within their vicinity, including facilities developed in downtown London, Kingston, Oshawa, Guelph and Moncton***

### **Downtown Site**

#### **Background**

- In the 2017 Site Assessment Report, PwC RE noted the following with respect to the Downtown Site:
  - The development of an Events Centre is viewed as being able to potentially impart a number of complementary benefits within the downtown area, including taking advantage of existing infrastructure, enhancing the existing urban fabric with compatible projects and assisting with the revitalization of downtown Sudbury.
  - The potential exists for the Events Centre to support the broader revitalization of downtown Sudbury, consistent with what has occurred within other communities which have developed new event centres in their downtown cores.
  - Precedent examples illustrate that the development of an events centre adjacent to existing development has supported some immediate development impacts and provided potential for new development to occur in the medium to longer term.
  - An Events Centre developed within Sudbury's downtown could support investment in the core, with such investments complementing other existing investments and planned future investments including the McEwan School of Architecture, Place des Arts and a Performing Arts Centre.
- The 2017 Business Case Report noted the following with respect to new event centres developed within downtown cores:
  - In London, Budweiser Gardens partly assisted in revitalizing an area of the city's downtown core where it has been noted that following its opening, there was a 40% increase in the area's housing stock, office and retail vacancies fell, commercial rental rates improved and building permit activity increased. Overall in the 10-year period from when Budweiser Gardens was first opened, total property assessment values increased by 61% including from numerous new retail, restaurants, office and residential developments.
  - In Kingston, where between the opening of the Rogers K-Rock Centre (now known as the Leon's Centre) in 2008 and 2012, the number of new business located in the downtown core of that city increased in every year. In addition, three separate pre-event surveys of Leon's Centre patrons indicated that, on average, 48% of respondents ate in a restaurant prior to attending an event, and of those, 65% ate in a restaurant located in the city's downtown core.
  - In Oshawa, the downtown commercial vacancy rate decreased from approximately 21% in 2006 to approximately 11% within the six years following the opening of the GM Centre (now known as Tribute Communities Centre). In addition, it was noted that 83% of all building permits, by value, issued in downtown Oshawa between 1994 and 2010 were issued after the Tribute Communities Centre opened in 2006 (roughly \$540 million). The Tribute Communities Centre was additionally cited for producing economic spin-offs in this area, attracting non-residents to the city, and driving a "night time economy".
  - In Guelph, investments made in the city's downtown "cultural infrastructure" (including the Sleeman Centre, River Run Theatre and Market Square development) have been able to draw people to the downtown, generate higher property values, support

## ***In order to support new development and investment, Events Centres additionally require supportive municipal policies, development economics and complementary “catalyst” projects to incentivize development***

### **Downtown Site (continued)**

#### **Background (continued)**

enhanced retail economies and provide associated returns from an enhanced tax base.

- In Moncton, NB, their new downtown Events Centre (which was under construction at the time of the 2017 Site Assessment Report) was reportedly spawning new interest in that city’s downtown core, with a reported \$100+ million in downtown development applications having been submitted to the city, including applications for mixed-use projects involving hotels, residential projects, retail projects and restaurants.
- In a follow-up discussion with economic development officials with the City of Moncton, it was noted that the Avenir Centre has exceeded the city’s goals with respect to supporting additional development. In a downtown that had traditionally saw \$8 million to \$20 million in new development per year (building permit value), the city set an aggressive (to the city) target of increasing the total assessment base within the downtown by \$108 million in the five years following the opening on the Avenir Centre (i.e., by 2023). By July 2021 (when municipal assessment updates are completed), the city expects to have surpassed this goal (accomplished within three years).

These developments were facilitated, in part, by the city’s investment in the Avenir Centre, as well as by the city implementing various supportive planning policies (similar to those implemented in London), which incentivize developers. In this regard, it was noted that the city initially implemented a pilot project in 2015/16 and expanded these policies, including community improvement grants, reimbursing development application and permitting fees and providing property tax abatement grants, once the Avenir Centre was confirmed.

Following the opening of the Avenir Centre in 2018, the city realized record development activity (total value of building permits issued), significantly growing the amount of development activity occurring in Moncton’s downtown compared to historical averages.

- Our understanding is that London also implemented a series of supportive planning policies to incentive developers to invest in downtown London and allow the city to capitalize on its investment in Budweiser Gardens and the neighbouring Covent Garden Market (such policies similarly provided property tax forgiveness grants and development application and building permit fee grants for certain developments / development types).
- Best practices from these cities suggest that in order to facilitate development in the vicinity of downtown event centres, these projects need to be considered in conjunction with supportive municipal policies to incentivize developers. Such policies would work to complement local development economics and metrics as well as with other public facilities and catalyst projects to incentivize developers.

#### **City of Greater Sudbury Initiatives**

- The foregoing compares and contrasts with Greater Sudbury and the Downtown Site:
  - In 2012, the City prepared a Master Plan for downtown Sudbury, establishing a strategy to transform the downtown into an active, safe and diverse destination for people, businesses and new investment.

## ***In recent years, and in particular since 2017, the City has been investing in downtown Sudbury, including Place des Arts, the planned Junction East project and proposed Junction West project***

### **Downtown Site (continued)**

#### **Greater Sudbury Initiatives (continued)**

- The City has been investing in its downtown, including pursuing projects such as:
  - Place des Arts, a multidisciplinary arts and cultural centre anticipated to reach substantial completion in 2021 and featuring a 299-seat theatre, a multifunctional studio, a contemporary art gallery, a youth zone, and early childhood artistic centre, a bistro, a bookstore, office space and meeting rooms;
  - Junction East, a planned 62,000 square foot facility that is to include a new Central Library and Art Gallery of Sudbury. The project is anticipated to open in 2024 and is to be developed on a site located immediately east of the Downtown Site; and
  - the proposed Junction West project, a 60,500 square foot convention centre, soft-seat auditorium and performance facility with an initial cost of \$65.5 million. While not confirmed, this project is currently proposed to be developed on the Downtown Site.

As illustrated in Figure 10 (on page 29), the Downtown Site is located immediately west of the planned Junction East project, immediately east of the SCA, and a short distance from Place des Arts. It is noted that each of these three projects / sites are currently / were used (in the case of Place des Arts) for surface parking.

- As / should these sites are developed, it is noted that the downtown will lose a number of parking spaces. Per the 2017 Site Assessment Report, while a sufficient number of parking

**Figure 8 – Place des Arts**



Source: <https://maplacedesarts.ca/en/>

**Figure 9 – Image of the Junction Projects**



Source: City of Greater Sudbury



## ***With the development of catalyst projects in the downtown, parking issues will become exacerbated***

### **Downtown Site (continued)**

#### **Greater Sudbury Initiatives (continued)**

spaces may be available within 600 metres of the Downtown Site, public perception is that many of these spaces are located physically too far from that site; the redevelopment of these three sites (Junction East, Downtown Site and Place des Arts) would remove valuable surface parking located in close proximity to the Downtown Site and the SCA.

Per the 2017 Site Assessment Report, while a parking structure was being considered by a private entity, no consideration was given to any new parking facility (this project did not proceed). Since 2017, our understanding is that no additional parking spaces have been developed within downtown Sudbury (the City has, however, issued a request for expression of interest in 2019).

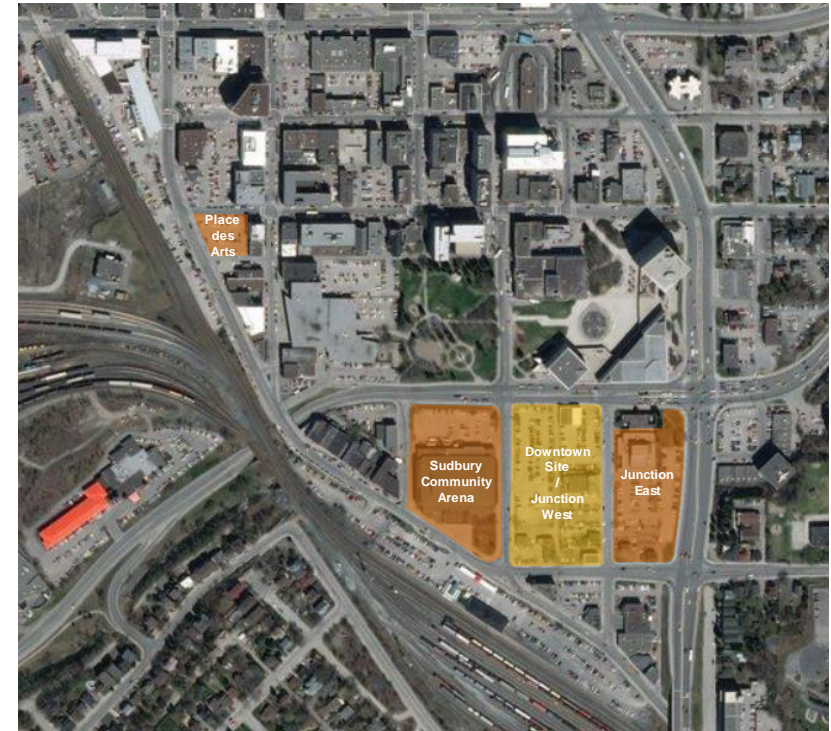
Through consultations with representatives of the Downtown Sudbury BIA and the principals behind the Ledo Hotel redevelopment project (discussed subsequently), we understand that parking remains an issue.

Per consultations with event promoters and venue managers, parking was also noted as a concern. Per one event promoter, location (of a venue) does not matter, what does matter is a venue in a location which allows for easy access by ticket holders” (from home, to parking space, to venue and back).

Should Junction East and the Downtown Site be developed, it would appear, based on the foregoing, that a parking facility should be additionally pursued in conjunction with these projects.

- The City has also implemented a series of supportive Community Improvement Plan (“CIP”) policies to support and incentivize

**Figure 10 – Location of major projects vis-à-vis the Downtown Site**



Source: City of Greater Sudbury

## ***In recent years, and in particular since 2017, the City has also implemented supportive planning policies to incentivize development***

### **Downtown Site (continued)**

#### **Greater Sudbury Initiatives (continued)**

development in downtown Sudbury, including:

- Brownfield Strategy and Community Improvement Plan (“BSCIP”): implemented in 2011, the BSCIP is a program designed to support the redevelopment of brownfield sites (vacant industrial and commercial properties) by providing incentives such as tax assistance during site development / rehabilitation, landfill tipping fee rebates, planning and
- building permit fee rebates, and a tax increment grant program (granting 100% of the incremental increase in the municipal portion of property taxes for up five years); and
- Downtown Sudbury Community Improvement Plan (“DSCIP”): implemented in 2017, the DSCIP provides grants and loans to reduce the cost of development and redevelopment in downtown Sudbury. Available grants / loans include a tax increment grant program, a façade improvement program, a planning and building fee rebate program, a residential incentive program, a feasibility grant program and a downtown Sudbury multi-residential interest-free loan program.

One of the stated goals of these programs is to facilitate increased property assessments and to stimulate the development / redevelopment of un- and under-utilized properties.

CIP applications received by the City since 2017 involving more substantial projects include:

- the redevelopment of the Ledo Hotel (for which a DSCIP application was submitted and which was recommended be

subject to a more comprehensive evaluation). This \$45 million project would redevelop the Ledo Hotel (located immediately south of the Downtown Site) as a 150,000 square foot commercial development (the CIP applications submitted in 2020). Our understanding is that this project will require dedicated access to a number of parking spaces;

- a 6,000 square foot development creating residential space geared for students;
- the conversion of an existing residential and office building to a mid-century style boutique hotel and café / speakeasy;
- a \$23 million expansion to a seniors residence (submitted in 2017), located 1.3 kilometres north of the Downtown Site;
- the renovation of 124 Cedar Street, located 0.5 kilometres north of the Downtown Site, to create 20 new residential units;
- a \$3.5 million mixed-use (commercial / residential) project (submitted in 2017), located 1.2 kilometres north-west of the Downtown Site.

While the City has received multiple applications for funding under these programs, the majority have been for façade improvements, which, as noted in a report to the City’s Finance and Administration Committee (dated November 3, 2020), do not result in a reassessment by the Municipal Property Assessment Corporation.

## ***Since 2017, the City of Greater Sudbury has continued to take steps to lay a foundation to improve downtown Sudbury from a development perspective and increase the potential of catalyst project to facilitate complementary development***

### **Downtown Site (continued)**

#### **Greater Sudbury Initiatives (continued)**

Per this staff report, the quantum of CIP applications which have been submitted are noted as a barometer of investor confidence in Greater Sudbury and the downtown.

- The City also convened a Task Team, comprised of representatives from a local groups and organizations including police, the Downtown Business Improvement Area (“BIA”), the Canadian Mental Health Association, Public Health Sudbury and Districts and the Shkagamik-Kwe Health Centre, to address issues faced by the downtown and increase collaboration amongst key partners.
- Since 2017, the City has been able to advance a number of new “catalyst” projects within its downtown, including Place des Arts, the planned Junction East project and proposed Junction West project, as well as implement the DSCIP to incentivize development within downtown Sudbury. In addition, we understand that the Downtown BIA has also implemented policies and programs aimed at improving the operating environment for business in the downtown (including, for example, a program aimed at increasing street front retail and office vacancies).
- Per a 2019 study undertaken for the City, there is strong and significant interest in the Sudbury’s downtown, particularly from local developers. Participants in this study commented that the proposed Junction Projects would be a key component to invigorate the downtown due to their potential to increase foot traffic. Participants in this study perceived that there was limited foot traffic after businesses closed as well as on weekends (despite the continuing presence of the SCA). In addition, developers from

outside of the local region acknowledged the potential impact of these proposed developments.

- Consultations with the Downtown BIA and local developers undertaken as part of this Update Report identified similar expectations for the New Events Centre and its ability to generate evening and weekend foot traffic. Per one consultation, the business case for a new parking facility will be dependent upon 12 to 16-hour per day parking (as opposed to the current eight-hour per weekday only).

#### **Summary**

- Since 2017, the City has taken steps to improve downtown Sudbury from a development investment perspective, with these programs and initiatives yielding a number of proposed projects. As was noted during the research and consultations undertaken as part of this report, these initiatives and projects help lay a foundation for generating complementary development from catalyst projects.
- The potential exists for Greater Sudbury’s catalyst projects to support the broader revitalization of downtown Sudbury, consistent with what has occurred within other communities. The timing associated with realizing such complementary developments will, however, depend on local real estate development economics and conditions.

***A Modernized SCA is concluded to have the highest risk. Development / construction and operational risks are concluded to exist with both the Downtown Site and the Kingsway Site with the Kingsway offering a reduced risk profile***

**Risk Assessment**

- Figure 11, on pages 33 and 34, following, provide a comparative assessment of project risks between the Three Locations (SCA, Downtown Site, Kingsway Site).
- In summary, modernizing the SCA is concluded to be the location / project with the highest risk. Renovation projects, particularly major renovations to older facilities, despite best efforts and due diligence undertaken prior to commencing the project, have tended to be more likely to incur cost over runs and / or construction delays. By way of example, major renovation projects undertaken in North Bay and Peterborough each went over budget.
- The Downtown Site and Kingsway Site are each preliminarily concluded to have lower risk profiles (compared to modernizing the SCA), but nonetheless, have risk from a site development, tendering, scheduling and cost perspective. The Downtown Site is viewed to carry somewhat higher comparable risks, given potential soil / constructability issues and given that the City would be required to acquire a number of properties in order to assemble a sufficiently sized site on which to construct the New Events Centre.
- From an operations perspective, a modernized SCA is concluded to pose higher risks given that when the facility is being modernized, it would be closed to all activities (if constructed in a single phase) or potentially closed to all non-hockey / basketball events (if constructed in two phases) for a period of up to three years.
- The Downtown Site is viewed as having an additional risk if the planned development of Le Ledo and Junction East remove surface parking and increase the demand for parking within the immediate area around the Downtown Site.
- All sites are viewed as having risk associated with realizing ancillary development in the vicinity of the New Events Centre / SCA. It is specifically noted that a number of development projects are more advanced in the vicinity of the Kingsway Site and that these projects would proceed with the construction of the New Events Centre on that site; this risk is mitigated somewhat with the land owner agreeing to financial penalties. No such full or partial risk mitigation strategy exists for the Downtown Site or Modernized SCA.

**Figure 11 – Comparative risk assessment**

	Modernized SCA	Downtown Site	Kingsway Site
<b>Construction</b>			
Design	Design risk related to the availability of up-to-date drawings of the existing building to enable (a) the preparation of detailed and precise construction drawings, and (b) the preparation of precise cost estimates (i.e., with less built-in contingencies)	Less risk as the project would involve a new build on a vacant site	Less risk as the project would involve a new build on a vacant site
Design Process	Overall design process may be protracted depending on the nature and availability of precise drawings and level of diligence needed to be undertaken on the building to finalize the design	Less risk as the project would involve a new build on a vacant site	Less risk as the project would involve a new build on a vacant site
Site	<p>Will require investigations to confirm the condition of the underlying soils. Per the 2017 Site Assessment Report, the site's geotechnical and soil conditions (soft clay and silts with low bearing strengths) are such that micropilings may be required, similar to the recent development of Laurentian University's School of Architecture</p> <p>Per the 2017 Site Assessment Report, the site may require investigations to confirm the presence of any environment contamination (per Terraprobe and based on the site's proximity to the CP rail lands)</p> <p>Costs associated with the above would be responsibility of the City</p> <p>City already owns the site</p>	<p>Will require investigations to confirm the condition of the underlying soils. Per the 2017 Site Assessment Report, the site's geotechnical and soil conditions (soft clay and silts with low bearing strengths) are such that micropilings may be required, similar to the recent development of Laurentian University's School of Architecture</p> <p>Per the 2017 Site Assessment Report, the site may require investigations to confirm the presence of any environment contamination (per Terraprobe and based on the site's proximity to the CP rail lands)</p> <p>Costs associated with the above would be responsibility of the City</p> <p>Individuals land parcels not already owned by the City would need to be acquired, increasing the project's overall cost and potentially impacting the scheduling of the project (may be mitigated as sites should be acquired prior to finalizing project design)</p>	<p>Site requires blasting and site grading to create a level building site. The cost of blasting / site preparation is part of the cost sharing agreement between the City, the owner of the Kingsway Site and Gateway Casinos</p> <p>City has already acquired the site for a nominal sum</p>
Tendering	Given the nature of the project (major renovation to a facility built in 1951), the project tendering process is unlikely to result in a fixed-price, lump sum bid (would likely have high contingency factor built in)	Given the nature of the project (new build on a level site) more likely to obtain a fixed-price, lump sum bid	Given the nature of the project (new build on a level site) more likely to obtain a fixed-price, lump sum bid
Scheduling	<p>Project will involve demolition and new construction. If undertaken in a single phase, the modernization is preliminarily envisioned to occur over a 24-month period (following a 16-month architect selection, design and construction tendering process). The SCA would be unavailable during this period, necessitating that the Sudbury Wolves and Sudbury Five relocate to another venue until construction has been completed.</p> <p>If undertaken in two phases, the modernization is preliminarily envisioned to occur over a 38-month period (following a 16-month architect selection, design and construction tendering process), with phase 1 involving the expansion of the building and the renovation of all back-of-house areas and phase 2 involving work on the interior seating area of the building. The SCA would be available only for Sudbury Wolves and Sudbury Five games during this period (no concerts or other events would likely occur).</p> <p>Risk exists that construction could extend beyond these dates (depending on the quality of existing building drawings and quality of the existing building that would remain).</p>	<p>Less risk as the project would involve a new build on a vacant site.</p> <p>Project could be delayed depending on the ability of the City to acquire individual land parcels not already owned by the City on a timely basis.</p>	Less risk as the project would involve a new build on a vacant site

Source: PricewaterhouseCoopers LLP, 2021

**Figure 11 – Comparative risk assessment (continued)**

	Modernized SCA	Downtown Site	Kingsway Site
<b>Construction</b>			
Cost	Because this is a major renovation project, risk will exist that the project will experience cost overruns (as has happened in other event centre modernizations)	Less risk of cost overruns on the development of the New Events Centre as the Downtown Site is mostly vacant (it will, however, require demolition of existing structures which will add to the project's overall cost; individual properties will also need to be acquired)	Less risk of cost overruns as this project would involve a new build on a vacant site
Impacts during construction	<p>During a single phase modernization, no events could be held in the facility until construction has completed.</p> <p>During a two-phase modernization, the SCA would only available for hockey and basketball during phase 1 (concerts and other events needing back-of-house access would be prohibited); during phase 2 it is possible that concerts and other events may not be permitted.</p> <p>Because the venue is unavailable, the SCA would not be able to participate in the anticipated period of high concert demand (the "roaring 20's commencing in late 2021 / early 2022 and lasting for approximately 18 to 36 months).</p>	During construction, events would continue to be held in the SCA (including hockey, basketball, concerts and other live entertainment), allowing the City to benefit from the anticipated period of high demand ("roaring 20s")	During construction, events would continue to be held in the SCA (including hockey, basketball, concerts and other live entertainment), allowing the City to benefit from the anticipated period of high demand ("roaring 20s")
<b>Operations</b>			
Financial	Risk that a modernized SCA would generate a higher net cashflow deficit compared to a New Events Centre	n/a	n/a
Programming	Risk that a modernized SCA may not attract as many events, given that improvements to the SCA's roof structure are not contemplated	n/a	n/a
Parking	Risk that with the development of Le Ledo and Junction East (and potentially Junction West), insufficient parking would exist in the downtown, impacting attendance and potentially the number of events attracted to a modernized SCA	Risk that with the development of Le Ledo and Junction East, insufficient parking would exist in the downtown, impacting attendance and potentially the number of events attracted to a New Events Centre. Addressing this risk would require the construction of a new parking facility, increasing the overall cost of the projects.	Risk is felt to be low given the amount of on-site parking to be included on site
Ancillary Development	Risk that a Modernized SCA, whether by itself or in conjunction with other planned and proposed developments in its vicinity (Le Ledo, Junction East), does not create the "critical mass" of uses that can support ancillary development in its vicinity (no full or partial risk mitigation strategy exists)	Risk that a New Events Centre, whether by itself or in conjunction with other planned and proposed developments in its vicinity (Le Ledo, Junction East), does not create the "critical mass" of uses that can support ancillary development in its vicinity (no full or partial risk mitigation strategy exists)	Risk that planned developments within the Kingsway Entertainment District do not materialize or do not create the "critical mass" uses that can support ancillary developments in its vicinity - impact mitigated somewhat by imposition of financial penalties

Source: PricewaterhouseCoopers LLP, 2021

# ***Sudbury Community Arena Modernization***

## ***While the SCA could be modernized to bring it up to a level approaching a New Events Centre, the SCA would continue to have a number of limitations from a functionality perspective***

### **Renovation Assessment**

- Ian McKay Architect Inc. (“IMA”) undertook an assessment of the SCA to identify the ability to, and the potential costs associated with, renovating the SCA to a level consistent with the proposed New Events Centre. IMA’s report is included as Appendix B to this Update Report.

### **Summary of IMA’s Findings**

#### **Description of modernizations**

- IMA developed a concept design and prepared an illustrative estimate of costs for an assumed modernization to the SCA. In summary, IMA concluded that the SCA could be modernized to bring it up to a level approaching the proposed New Events Centre; however, a modernized SCA would continue to have a number of limitations from an overall functionality perspective:
  - The main entrance / entry level of the SCA would need to be redesigned / expanded, allowing for a new spectator entrance, box office, retail store and administrative offices.
  - The lower / ice level would need to be redesigned and reconfigured.
  - In order to accommodate the various BOH functions contemplated within the New Events Centre, the lower / ice level of the SCA would need to be expanded to the north; this expansion is not considered to be overly complex from a constructability perspective and would allow for vehicular access into the facility and onto the ice surface. This expansion would also require the relocation and expansion of Sudbury Wolves’ dressing rooms, administrative areas and coaches’ rooms.
  - In order to provide a more functional concourse around the top of the seating area, the SCA would need to be expanded on all four sides, with this expansion encroaching outside its existing property lines and into Grey Street and Minto Street. Expansion of the concourse is similarly not considered to be complex from a constructability perspective. The expanded concourse would then allow for an estimated 35 permanent concession POS and temporary POS located through the concourse.
  - The location of the existing structure, and in particular the triangular truss columns located within the main seating area, were concluded to make the expansion of the seating bowl difficult in terms of sightlines. As the SCA’s seating bowl does not meet current fan expectations, a new metal bowl “liner” would be installed over the existing concrete structure, allowing for additional seats and increased row-to-row spacing. This modernization is expected to create a more intimate relationship between fans and the ice surface and allow for two additional seating rows to be created, increasing the number of fixed seats from the current 4,470 to approximately 5,000 (including 150 club seats and 4,850 general admission seats).
  - Around the concourse on the north and south sides, 13 loge boxes could be created (providing 52 seats in total) and located between the existing columns.
  - A new private suites level, on the east (Minto Street) side of the SCA would be constructed, allowing for the creation of 12 private seats (containing 120 seats in total).
- As the modernization of the SCA would involve significant demolition and construction, staging the modernizations could allow the Sudbury Wolves and Sudbury Five to play their respective home games during the renovation / expansion of the SCA. However,



## ***A modernized SCA could achieve almost 5,200 fixed-seats and be improved with 150 Club Seats, 12 10-seat private suites and 13 4-seat loge boxes in addition to 4,850 general admission seats***

### **Summary of IMA's Findings (continued)**

staging the construction / modernization would have significant impacts on overall construction and completion timelines.

- In total, the modernization would expand the SCA by some 92,300 square feet, and improve / update the building's existing 72,300 square feet of space (in addition to providing a new steel liner seating bowl insert of almost 27,300 square feet).
- Based on their concept design, IMA estimate that the total fixed seating capacity of a modernized SCA could increase from 4,470 to 5,172:
  - 4,850 general admission seats;
  - 150 Club Seats;
  - 52 seats in 13 loges boxes; and
  - 120 seats in 12 private suites;
- However, because of various constraints within the existing building footprint, it is not envisioned that a modernized SCA could include suite level lounges or party rooms.
- Schematic sketches of the above described modernizations are included in Figures 13 (Event / Entry Level), 14 (Concourse Level), 15 (Private Suites Level) and 16 (Building Cross-sections), on pages 38 and 39.

### **Construction Plans and Scheduling**

- In completing the above described modernizations, IMA prepared illustrative construction schedules under two alternative scenarios:

#### **Single Phase Scenario**

- Under a single phase construction scenario, all proposed modernizations would be undertaken concurrently and would

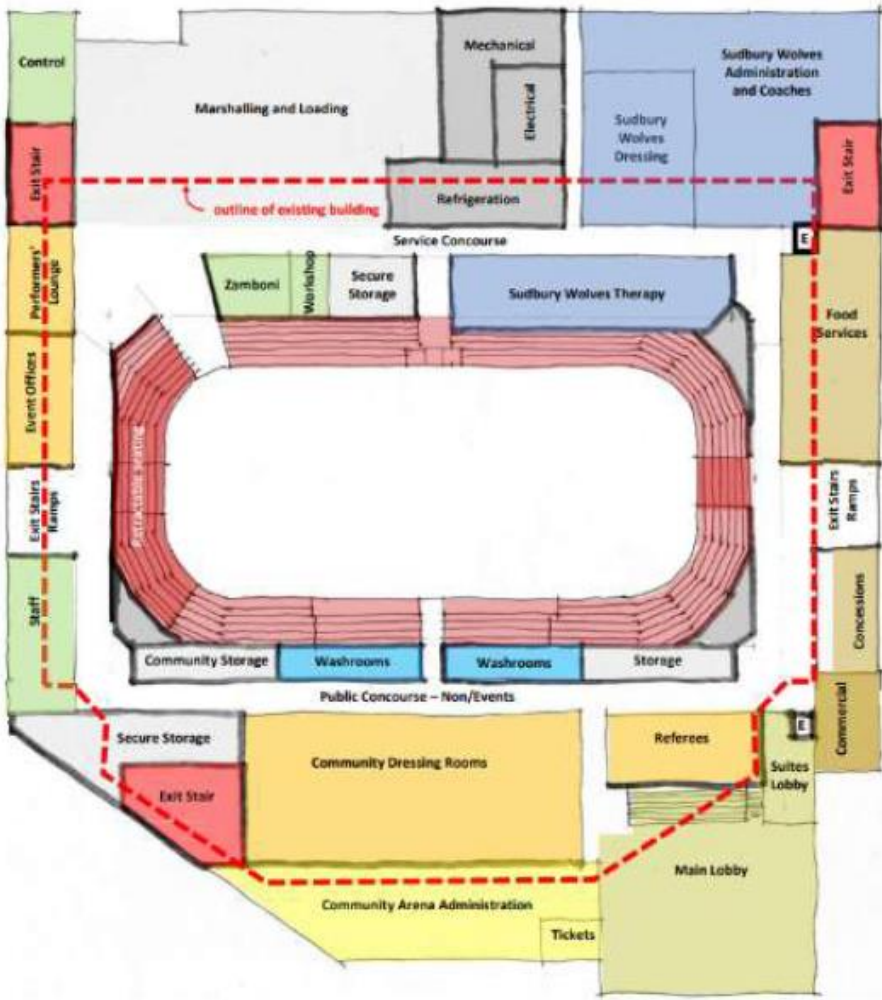
**Figure 12 – Summary of main building components associated with a modernized Sudbury Community Arena**

	Existing SCA	Modernized SCA
Venue Capacity	4,470 fixed seats 5,186 total capacity	5,172 fixed seats 5,200 total capacity
General Seating	4,470 seats	4,850 seats
Club Seating	n/a	150 seats
Private Suites	n/a <sup>1</sup>	12 suites 120 seats
Loge Boxes	n/a	13 loge boxes 52 seats
Private Suite Amenities	n/a	none
Commercial Space	n/a	500 - 1,000 square feet
Concession Points of Sale	12 plus portable kiosks	35 plus portable kiosks

*Note: 1. While 12 suites / loge boxes (of approximately eight seats each) exist in the SCA, they are not equivalent in form, size or function as those contemplated within a Modernized SCA or within a new Events Centre.*

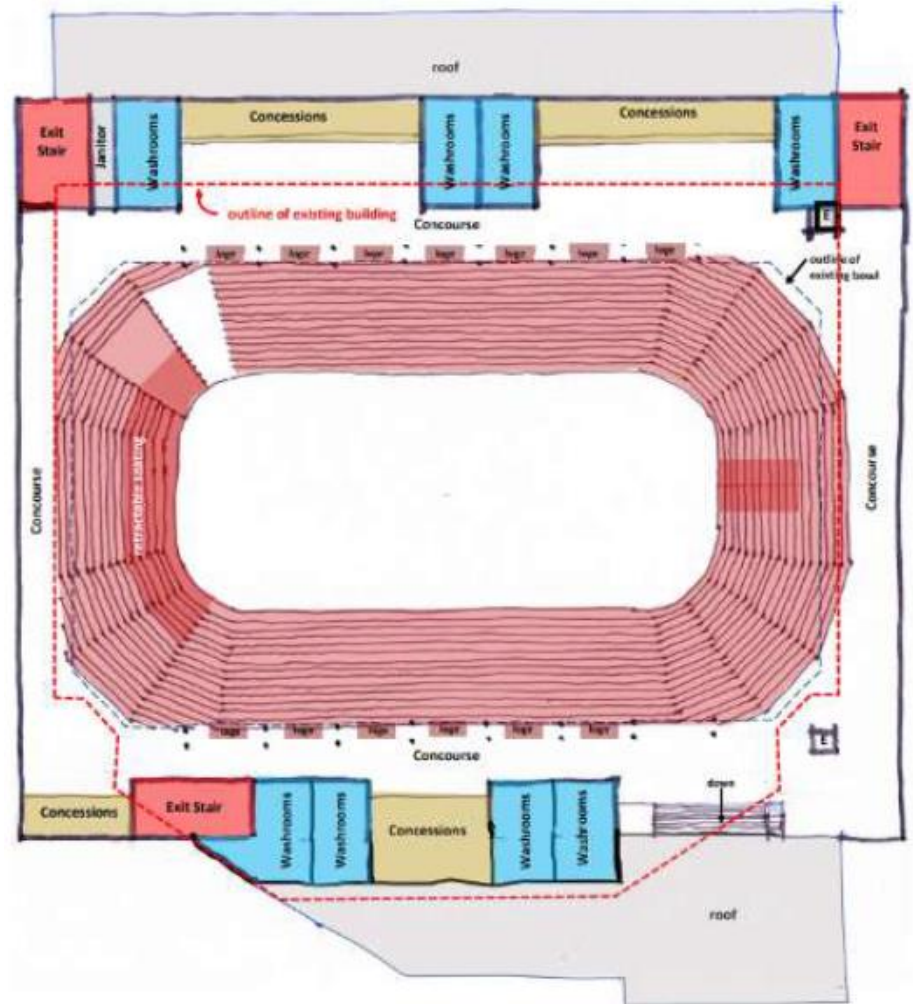
*Source: City of Greater Sudbury, Ian McKay Architect Inc., 2021*

**Figure 13 – Schematic sketch depicting the Event / Entry Level of a Modernized Sudbury Community Arena**



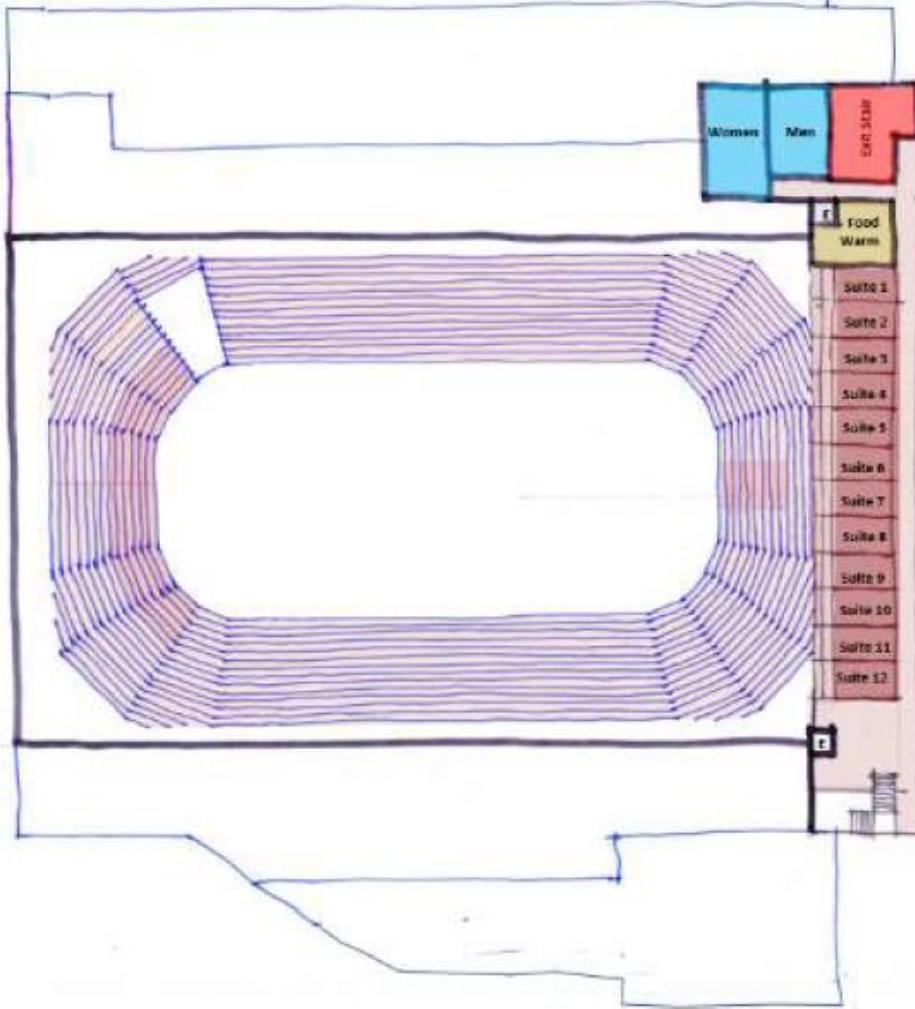
Source: Ian McKay Architect Inc., 2021

**Figure 14 – Schematic sketch depicting the Concourse Level of a Modernized Sudbury Community Arena**



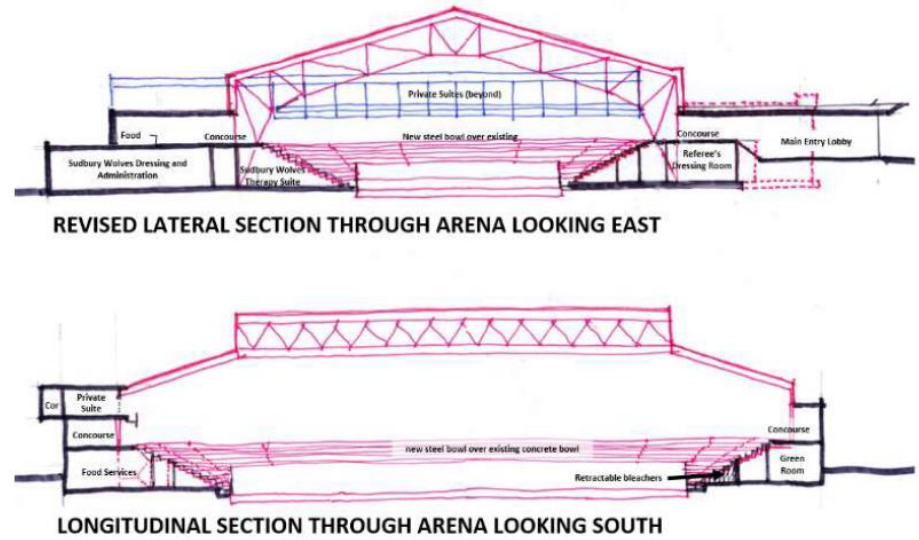
Source: Ian McKay Architect Inc., 2021

**Figure 15 – Schematic sketch depicting the Private Suites Level of a Modernized Sudbury Community Arena**



Source: Ian McKay Architect Inc., 2021

**Figure 16 – Schematic sketch depicting Building Cross-Sections of a Modernized Sudbury Community Arena**



Source: Ian McKay Architect Inc., 2021

**The modernization of the SCA could result in the loss of two hockey seasons if implemented in a single phase or impact three hockey seasons if implemented over two sequential phases**

**Summary of IMA’s Findings (continued)**

**Single Phase Scenario (continued)**

be undertaken over an assumed 24-month period, following an assumed 2-month architect selection process, a 12-month process to finalize the design and construction drawings, and a two-month construction tendering process.

- Assuming project initiation in Q3 2021, IMA preliminarily estimate a modernized SCA could be completed in late 2024 / early 2025.
- Undertaken in a single phase, the SCA would be closed to all activities while construction takes place, requiring the Sudbury Wolves and Sudbury Five to play home games in an alternative venue for at least two seasons (2023/24 and 2024/25 seasons).
- Our understanding is that upgrades may be required to other Sudbury arenas (for example, Countryside) in order for the Sudbury Wolves to play their Ontario Hockey League games in that arena.

**Two Phase Scenario**

- IMA assume that it could be possible to renovate and expand the SCA so that it could continue to accommodate the playing of hockey and basketball during construction. However, IMA note that completing the above described modernizations would have significant impacts on project scheduling and result in three seasons of sports being played in a facility under construction.
- Phase 1 is estimated by IMA to commence following a 2-month architect selection process, a 12-month process to finalize the design and construction drawings and a 2-month construction tendering process. Overall, Phase 1 is envisioned to take approximately 18 months to complete.

**Figure 17 – Schematic schedule depicting the timeframes associated with modernizing the Sudbury Community Arena in a single phase**



Source: Ian McKay Architect Inc., 2021

**Figure 18 – Schematic schedule depicting the timeframes associated with modernizing the Sudbury Community Arena in two sequential phases**



Source: Ian McKay Architect Inc., 2021

*Figure 19 – Schematic sketch depicting the phasing of construction under a 2-phase construction schedule (Event / Entry Level)*



Source: Ian McKay Architect Inc., 2021

*Figure 20 – Schematic sketch depicting the phasing of construction under a 2-phase construction schedule (Concourse Level)*



Source: Ian McKay Architect Inc., 2021

## **The cost of modernizing the SCA is preliminarily estimated to be in the range of \$115.4 million (if implemented in a single phase) to \$118.6 million (if implemented in two phases)**

### **Summary of IMA's Findings (continued)**

Because of the nature of the renovations envisioned (principally the non-seating area components), IMA note that the SCA would not be able to host any events other than hockey and basketball games.

- Phase 2 is assumed to commence immediately following the completion of Phase 1 and take approximately 20 months to complete.
- Assuming a project initiation in Q3 2021, IMA preliminarily estimate that Phase 1 could be completed by mid to late 2024, while Phase 2 would not be completed until mid-2026.
- Under this scenario, it is estimated that three sports seasons would be played within a facility that is under construction.

### **Estimated Costs**

- Project costs, including construction related costs and furniture, fixtures and equipment, were developed by the WT Partnership for IMA. IMA additionally included an allowance for architectural and engineering fees as well as specialty consultants. Per IMA, it is specifically noted that as the concept design extends west onto the sidewalk on Grey Street and east onto Minto Street, any impact on City services or infrastructure related to this expansion are not included.
- Based on their assessment, IMA identify a cost estimate of \$115.4 million if constructed in a single phase, and \$118.6 million if constructed in two phases.

### **Comparison of a Modernized SCA to a New Events Centre**

- While a modernized SCA could offer improved amenities and features, it will nonetheless have several shortcomings in

**Figure 21 – Estimated SCA modernization costs**

<b>Single Phase of Design and Construction</b>	
Total construction costs	\$102,600,000
Site development costs	\$2,300,000
Sub-Total, Construction	\$104,900,000
Architectural, engineering and specialty fees	\$10,500,000
<b>Total</b>	<b>\$115,400,000</b>
<b>Single Phase of Design and Two Phases of Construction</b>	
Total construction costs - Phase 1	\$71,200,000
Total construction costs - Phase 2	\$34,200,000
Site development costs	\$2,400,000
Sub-Total, Construction	\$107,800,000
Architectural, engineering and specialty fees	\$10,800,000
<b>Total</b>	<b>\$118,600,000</b>

Source: Ian McKay Architect Inc., 2021

## ***In comparison to the proposed New Events Centre, a modernized SCA would have fewer fixed seats and a lower total seating capacity***

### **Comparison of a Modernized SCA to a New Events Centre (continued)**

comparison to the proposed new Events Centre:

- a modernized SCA would have approximately 628 fewer fixed seats and a lower total seating capacity in the range of approximately 1,300; a modernized SCA would have 170 fewer general admission seats;
- a modernized SCA would have 350 fewer club seats;
- a modernized SCA would have 12 fewer private suites and 120 fewer seats in private seats; and
- a modernized SCA would not have associated private suite amenities (i.e., lounge and party room).
- A modernized SCA would, however have the ability to have more loge boxes (13 with 52 seats, versus 10 and 40 seats in the proposed new Events Centre).
- Both a modernized SCA and new Events Centre would be able to provide a similar number of concession points of sale, and commercial / retail space.
- PwC evaluated the impact of these differences on the operating proforma presented in the 2017 Business Case Report (Figure 3 on page 16, above) to determine their directional impact on revenues, operating costs and net operating income / deficit:
  - During the actual modernization of the SCA, attendance and the number of events staged at the SCA would likely be impacted negatively as spectators and promoters may be wary about attending events in a venue under construction:
    - Under the single-phased construction approach, the SCA would be unable to host any events during its estimated 24-month

**Figure 22 – Comparison of building capacities and features of the New Events Centre and a Modernized Sudbury Community Arena**

	<b>New Events Centre</b>	<b>Modernized SCA</b>
Venue Capacity	5,800 fixed seats 6,500 total capacity	5,172 fixed seats 5,200 total capacity
General Seating	5,020 seats	4,850 seats
Club Seating	500 seats	150 seats
Private Suites	24 suites 240 seats	12 suites 120 seats
Loge Boxes	10 loge boxes 40 seats	13 loge boxes 52 seats
Private Suite Amenities	Lounge & party room	none
Commercial Space	500 - 1,000 square feet	500 - 1,000 square feet
Concession Points of Sale	33 to 40 plus portable kiosks	35 plus portable kiosks

Source: PricewaterhouseCoopers Real Estate Inc. (2017), Ian McKay Architect Inc. (2021)

## ***A modernized SCA is also expected to generate lower revenue compared to a New Events Centre***

### **Comparison of a Modernized SCA to a New Events Centre (continued)**

construction period. In addition, promoters may be wary of committing to dates until the reopening of the modernized SCA was more certain (the reader should note that promoters will typically look to secure dates within a venue six or more months in advance of the show date).

- Under a two-phased construction approach, no events other than hockey and basketball could be staged under phase 1 (anticipated to be 18-months in duration), while under phase 2, it is unlikely that events could be staged until after the steel seating insert has been installed.
- o Upon opening, it is possible that the Sudbury Wolves could attract an equivalent number of fans per game. The duration over which the team could attract higher than average attendance will be dependent upon the on-ice success of the team and the duration of the modernized venue's "honeymoon period" (the period over which newer venues attract higher than average attendance).
- o Revenue from other events may be negatively impacted as increases in total seating capacities would improve promoter's economics for bringing in shows; however, no modernization improvements are contemplated to be made to the SCA's roof structure, potentially impacting the ability to bring in shows compared to the proposed New Events Centre.
- o With potentially fewer events, total attendance may be negatively impacted, impacting net concession revenue, merchandise revenue, revenues from advertising and sponsorships, ticket surcharge revenue and box office revenue.

**Figure 23 – Directional comparison of impacts on revenue, operating expenses and net operating income of a Modernized Sudbury Community Arena versus the proposed New Events Centre**

	Directional Impact
<b>FACILITY REVENUES</b>	
Sudbury Wolves	↔
Other events	↘
Net concession revenue	↘
Net merchandise revenue	↘
Advertising and Sponsorships	↘
Suites / Loge Box license revenue	↓
Club seat license revenue	↓
Ticket surcharge	↘
Box office revenue	↘
Ice rental revenue	↔
<b>Total Revenues</b>	↘
<b>FACILITY EXPENSES</b>	
Personnel costs	↔
Utilities	↔
Operations, maintenance & repairs	↗
Marketing	↔
Insurance	↔
Other miscellaneous expenses	↔
Event costs	↔
<b>Total Expenses</b>	↗
Management fee	↔
Capital Reserve	↗
<b>NET CASH FLOW</b>	↘

Source: PricewaterhouseCoopers LLP, 2021



## ***A modernized SCA is expected to generate a higher net cashflow deficit compared to a New Events Centre***

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### **Comparison of a Modernized SCA to a New Events Centre (continued)**

- With fewer suites and club seats (offset somewhat by the three additional loge boxes), the amount of revenue potentially available from the licensing of suites and club seats is likely to be lower.
- Total revenues are therefore preliminarily concluded to be lower within a modernized SCA compared to the New Events Centre.
- Facility operating expenses are preliminarily estimated to be similar between a new Events Centre and a modernized SCA. It is, however, possible that operating, maintenance and repair costs could be higher given the underlying age of the SCA (constructed in 1951).
- Total operating expenses are therefore preliminarily concluded to be potentially higher compared to the New Events Centre.
- Major maintenance and capital reserves are preliminarily concluded to be higher compared to the New Events Centre, given the underlying age of the SCA.
- Overall, a modernized SCA is preliminarily concluded to generate a higher cash flow deficit compared to the New Events Centre.

# ***General Assumptions and Limiting Conditions***

1. The use of any projections made in conjunction with this Update Report may not be appropriate for use outside of its intended purpose. The projections, which will not reflect actual development, economic, demographic and / or financial results, may reflect a possible scenario for the operations of the New Events Centre or a modernized SCA (collectively, the “Facilities”) during the projection period, given PwC’s judgment as to a probable set of economic conditions, together with the hypotheses which are consistent with the purpose of the projections. Scenarios produced in conjunction with our analysis may contain hypotheses and assumptions which are based on a set of economic conditions or anticipated courses of action that are not unreasonable, are consistent with the purpose of the projections, but which will not materialize as set out therein. The hypotheses represent plausible circumstances, but need not be, and may not have been fully supported.  
  
Since future events are not subject to precise projections, some assumptions will not materialize in the exact form presented by our analysis. In addition, other unanticipated events and circumstances may occur which could influence the future performance of the Facilities. While there is no recourse to predicting these matters with certainty apart from informed and reasoned judgments, it must be stated that future events will lead to variations in performance which may materially alter the success and performance of the Facilities. PwC does not warrant that actual results achieved will be the same, in whole or in part, as those shown in the projections. The projections are based on hypotheses and there is a significant risk that actual results will vary, perhaps materially, from the results projected.
2. The impacts and the duration of those impacts associated with the novel coronavirus disease (“COVID-19”) on the local, regional, provincial and national economies and on the real estate, entertainment, hospitality and sports, recreation and leisure industries remains uncertain as of the date of this Update Report, and the impacts of COVID-19 on the New Event Centre’s performance, operations, programming and / or results could be material. PwC is not responsible nor liable for any consequences, impacts, implications, direct or indirect, of COVID-19 arising from or related to the information and analysis contained in this Update Report.
3. Information furnished by others, including the City of Greater Sudbury, upon which all or portions of this report are based, is believed to be reliable, but has not been verified in all cases. No warranty is given as to the accuracy of such information.
4. Our report and work product cannot be included, or be referred to, in any prospectus, securities and exchange commission filing or other public investment document.
5. The intended use of this report is to provide an update to the 2017 Business Case Report for a New Events Centre in Greater Sudbury, Ontario.
6. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, provincial, or national government or private entity or organization have been, or can readily be obtained, or renewed for any use on which the estimates provided in this report are based.
7. Responsible and competent management is assumed.
8. No investigation has been made of, and no responsibility is assumed for, the legal description or for legal matters including title or encumbrances.
9. Full compliance with all applicable federal, provincial and local zoning, use, occupancy, environmental, and similar laws and regulations is assumed, unless otherwise stated.
10. No responsibility is taken for changes in market conditions and no obligation is assumed to revise this report to reflect events or conditions which occur subsequent to the effective date of this report.
11. Any financial structure within this report is predicated on the market conditions prevailing as of the date of this report.
12. Areas and dimensions of any property referenced in this report were obtained from sources believed to be reliable. Maps or sketches, if included in this report, are only to assist the reader in visualizing the property / site and no responsibility is assumed for their accuracy. No independent surveys were conducted.

13. It is assumed that there are no hidden or unapparent conditions of the site, subsoil, or structures that affect future use and / or value. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
14. Neither PwC nor any individuals signing or associated with this report shall be required by reason of this report to give further consultation, to provide testimony or appear in court or other legal proceedings, unless specific arrangements thereof have been made.
15. This report has been made only for the purpose stated and shall not be used for any other purpose. Neither this report nor any portions thereof (including without limitation any conclusions, the identity of PwC or any individuals signing or associated with this report, or the professional associations or organizations with which they are affiliated) shall be disseminated to third parties by any means without the prior written consent and approval of PwC.
16. We have not been engaged nor are qualified to detect the existence of hazardous material which may or may not be present on or near the property. The presence of potentially hazardous substances such as asbestos, urea-formaldehyde foam insulation, industrial wastes, etc. may affect the value and future use of a particular site and the viability of using the site for a New Events Centre. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. It is assumed that such reviews and examinations would be made following any decision by Greater Sudbury City Council.

***Ian McKay  
Architect Inc.  
Report***

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# Assessment Study for the Expansion of the Sudbury Community Arena



Ian McKay Architect Inc.  
WT Partnership  
May 31, 2021



# Assessment Study for the Expansion of the Sudbury Community Arena

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- Overall Cost Summary
- Arena Cost Detail
- Sitework Cost Detail



## Assessment Study for the Expansion of the Sudbury Community Arena

### 1 Executive Summary

The City of Greater Sudbury is reviewing the details and outcomes of the proposed development of a new Sports and Entertainment Centre. The project has experienced a significant delay due to appeals to the Local Planning Authority Tribunal regarding the rezoning of the selected Kingsway Site. Given the delay, City Council has directed staff to update all the original information on the project, including the option of renovating and expanding the existing Sudbury Community Arena (SCA) so that it could more closely meet the performance criteria of a new Sports and Entertainment Centre as described and outlined in the draft Design/Build Request for Proposals developed in 2018.

The Terms of Reference for the current review includes the following:

- Determining the cost to renovate and expand the SCA so that it has the same features and performance outcomes of a new Sports and Entertainment Centre as outlined in the 2017 PwC Business Case,
- Identify shortcomings in the expansion that do not comply with the Program of Spaces in the current Design/Build Request for Proposals,
- Provide an option that allows the facility to continue to operate, at least as a venue for the Sudbury Wolves and Sudbury Five, during the construction process, and identify any additional costs associated with that phasing process.

Ian McKay Architect Inc. (IMA) developed a Concept Design driven by the Program of Spaces and worked with the estimating firm of WT Partnership to prepare the Program Cost Plan. In preparing the Concept Design, IMA determined the following:

- Expansion of the facility for back-of-house functions to the north was reasonably straight-forward, and the facility would be able to accommodate the same range of events as a new facility,
- Expansion of the concourse was not difficult from a constructability perspective but since the concourse would need to expand on all four sides, there would be an issue regarding property lines relative to both Grey and Minto Streets,
- The location of the existing main span structure and in particular the triangular truss columns made the expansion of the seating bowl difficult in terms of sightlines – an ongoing issue with the SCA,
- The existing seating bowl does not meet current expectations from a fan or patron perspective – IMA is proposing a new metal bowl “liner” to be installed over the current concrete one allowing for additional seats, increased row-to-row spacing, and a more intimate relationship between fan and field-of-play,
- In terms of revenue-generating components in the Program of Spaces, the Concept Design had the following features:
  - the target of 35 points of sale (cashiers) will be easily achievable on the Concourse Level and there is sufficient space for an additional 15 temporary points of sale,
  - even with additional seating rows the overall seating bowl capacity (excluding club seats) will be 4,850 versus 5,020 identified in the Program of Spaces,
  - the new seating bowl will have retractable seating at one end allowing for the end-stage to be located to minimize behind-stage seating loss – this is equal to the standard for new facilities,
  - total club seating capacity will be 150 versus 500 identified in the Program of Spaces,
  - total number of 4-seat loge boxes is 13 versus 10 identified in the Program of Spaces,
  - total number of suites is 12 regular size with 2 rows of 5 seat maximum in front of the suite – the Program of Spaces identifies 8 small suites with 2 rows of 4 seats, 8 regular suites with 2 rows of 5 seats, and 8 large suites with 2 rows of 6 seats. There are no Suites Level lounges or party rooms as part of the Concept Design,
- It would be possible to renovate and expand the SCA so that it can continue to accommodate the hockey and basketball leagues during construction. However this would have a significant impact on the project schedule and result in three seasons of sports being played in a facility under construction.

## Schematic Schedule



## Summary of Areas

The Concept Design summary of new and renovated areas is as follows:

- **Total Floor Area of Expanded Arena** 191,857 ft<sup>2</sup>
- New Floor Area 92,273 ft<sup>2</sup>
- Renovated Floor Area 72,326 ft<sup>2</sup>
- New Seating Bowl Insert 27,258 ft<sup>2</sup>

## Renovation & Expansion Program Cost Plan

The Program Cost Plan was developed by the WT Partnership and identifies the cost of construction for all activity on the site bound by Brady Street, Grey Street, Elgin Street and Minto Street. The Program Cost Plan was then expanded to include architectural and engineering fees as well as specialty consultants. While the Concept Design expands west onto the sidewalk on Grey Street and east onto Minto Street, any impact on City services or infrastructure related to this expansion are not included.

The Program Cost Plan was developed as a single phase of construction and assumes a design/bid/build approach. The program of spaces is based on the requirements identified in the PwC report of 2017. The option of phasing the project has been explored to maintain the Sudbury Wolves and Sudbury Five seasons and notes the following:

- the phasing of the project as outlined in the Schematic Schedule above,
- relocating of the Contractor's offices and construction area to the south side of the facility once Phase 1 is complete,
- the construction of temporary facilities to accommodate concourse-level exiting during construction of Phase 1,
- while Phase 2 may be part of the scope of work for the overall project, the Contractor may not be prepared to finalize a price until Phase 1 approaches completion.

The Program Cost Plan has identified the following project costs:

### Single Phase of Design and Construction

- Total construction cost for Community Arena expansion \$102,639,993
- Total cost for site development \$2,307,865
- Total construction cost \$104,947,858
- Architectural, engineering and specialty fees at 10% \$10,494,786
- **TOTAL PROJECT COST FOR SINGLE PHASE PROJECT \$115,422,664**

### Single Phase of Design and Two Phases of Construction

- Total construction cost of Phase 1 \$71,236,218
- Total construction cost of Phase 2 with escalation and additional expenses \$34,150,399
- Cost of site development increased by 5% \$2,423,260
- Total construction cost \$107,809,877
- Architectural, engineering and specialty fees at 10% \$10,780,988
- **TOTAL PROJECT COST FOR A TWO PHASED PROJECT \$118,590,865**

## 2 Background

In July of 2016 the City of Greater Sudbury engaged PricewaterhouseCoopers LLP (PwC) to develop a Market Analysis and Business Case Assessment for a new Arena/Event Centre. In addition to the business case, the assignment included:

- A recommendation of a preferred site for a new Arena/Event Centre,
- Issuance of an Expression of Interest for the design/build delivery of a new Arena/Event Centre,
- A review of the submissions and the preparation of a shortlist of design/build teams,
- The preparation of a Request for Proposals to be issued to the shortlisted firms.

The Request for Proposals included contractual/legal requirements as well as a section on **Design and Process Requirements** including:

- Planning and Design Commentary,
- Process,
- Program of Spaces,
- Specification Criteria,
- Design/Build Submission Requirements.

The Request for Proposals captures both the qualitative and quantitative expectations of the City, and defines the project.

In the past the City has considered the expansion of the Sudbury Community Arena, most recently in February of 2015. This study, prepared by CBRE in association with MJMA, proposed a building program that would include:

- total area of 171,000 square feet,
- 68,500 square feet of new construction,
- 46,600 square feet of renovated space,
- cost range between \$44,2365,610 and \$50,000,000.

The CBRE/MJMA proposal cost excluded items such as development and land transfer fees, site plan approval, removal of hazardous material, removal of underground services, and additional charges for either accelerated or phased construction.

In late 2020 the City was presented with an unsolicited proposal to renovate and expand the Community Arena, and in this instance there was a suggestion that this new concept would capture to a large extent the Program of Spaces identified in the Design/Build Request for Proposals. This concept, titled projectNOW and prepared by Third Line Studio would include:

- total gross floor area of 138,000 square feet,
- 65,107 square feet of new construction,
- 50,528 square feet of renovation,
- cost of \$55,551,000.

It does not appear that soft costs (consulting fees) or Fittings + Equipment were included in the proposed cost.

The terms of reference for the current study aims to determine expansion and renovation costs required to provide the Community Arena with, to the best extent possible, the features of a newly constructed multi-purpose arena. Specific initiatives in developing the cost estimate include the following:

- incorporate to the best extent possible the Program of Spaces identified in the Request for Proposals,
- create the same level of value as described in the Request for Proposals so that revenue generation for enhancements such as private suites, loge boxes, and club seats approach those of a new-build,
- develop a back-of-house component that has the capacity to efficiently accommodate current entertainment market demands,
- incorporate a new services infrastructure (electrical, plumbing, mechanical systems) so that replacement of building components in the renovation/expansion would be equal to a new-build.
- Evaluate the feasibility of phasing construction so that the sports franchise teams would not lose a season during the expansion process.

### 3 Process

The IMA team developed a Conceptual Design of components based on the Program of Spaces in the Request for Proposals. This was critical in determining the potential capacity of an expanded Community Arena in terms of:

- General seating capacity,
- Number of private suites and the number of dedicated seats in front of the suite,
- Number of loge boxes and their capacity,
- Number of club seats.

This information would be critical in evaluating the expansion relative to the Business Case originally prepared by PwC.

The Conceptual Design for the expanded Community Arena differs from previous studies and concepts in a number of fundamental ways:

1. The concept design is driven by the Program of Spaces that will be incorporated into the new facility on the Kingsway Site,
2. The concept design and pricing recognize that a major expansion requires building systems that are new, consistent with what would be delivered in the facility planned for the Kingsway Site,
3. While previous approaches to expanding the Community Arena have been centred around maintaining the existing roof structure and seating bowl, the IMA concept design makes a dramatic change to the seating bowl to correct for significant compromises, and substantially enhance the spectator experience,
4. The development of a properly functioning top-fed seating bowl and appropriately-sized concourse necessitates that the building expand to both the east and the west.

The planning and design of any spectator facility starts with an immediate consideration of the seating bowl. Facility designers and operators will look at a configuration that best supports the business case, the main sports franchise, and the overall event calendar. There are several options for a new facility including:

- **Bottom-Fed Bowl** where typically the concourse is at the same level as the ice surface. In this configuration the concourse wraps around three sides of the bowl (two long sides and one short side) and the fourth side is for all the back-of-house services. With both the circulation and the back-of-house being at the same level, the bottom-fed approach tends to require more site for the facility. Access to the bowl is through gates or portals at the bottom of the seating bowl. *See image to the right*
- **Top-Fed Bowl** typically with an open concourse. This is the most common approach for facilities in the range of 6,000 fixed seats or less, and is the format for the GFL Memorial Gardens in Sault Ste. Marie. *Image to the right*
- **Mid-Level Concourse** where most/all of the seating is accessed through gates penetrating the seating bowl. This approach can be used for a facility with 6,000 fixed seats but is better suited to facilities with an excess of 7,000 fixed seats. *Not shown*



The Sudbury Community Arena is a hybrid with spectators moving through the entry on stairs up to a very narrow concourse. Most of the circulation space is at the lower ice level which is also the location for all washrooms and most concessions. The most appropriate improvement to the circulation within an expanded Community Arena would be to maintain the current pattern of moving through the lobby and up the main stairs to a larger concourse sized to accommodate all spectators. This approach is typical of previous concept designs for the expansion of the facility and requires the building to expand in all four directions.

The Concept Design developed by IMA for pricing an expanded Community Arena is illustrated in the schematic sketches on the following pages.

### Event/Entry Level

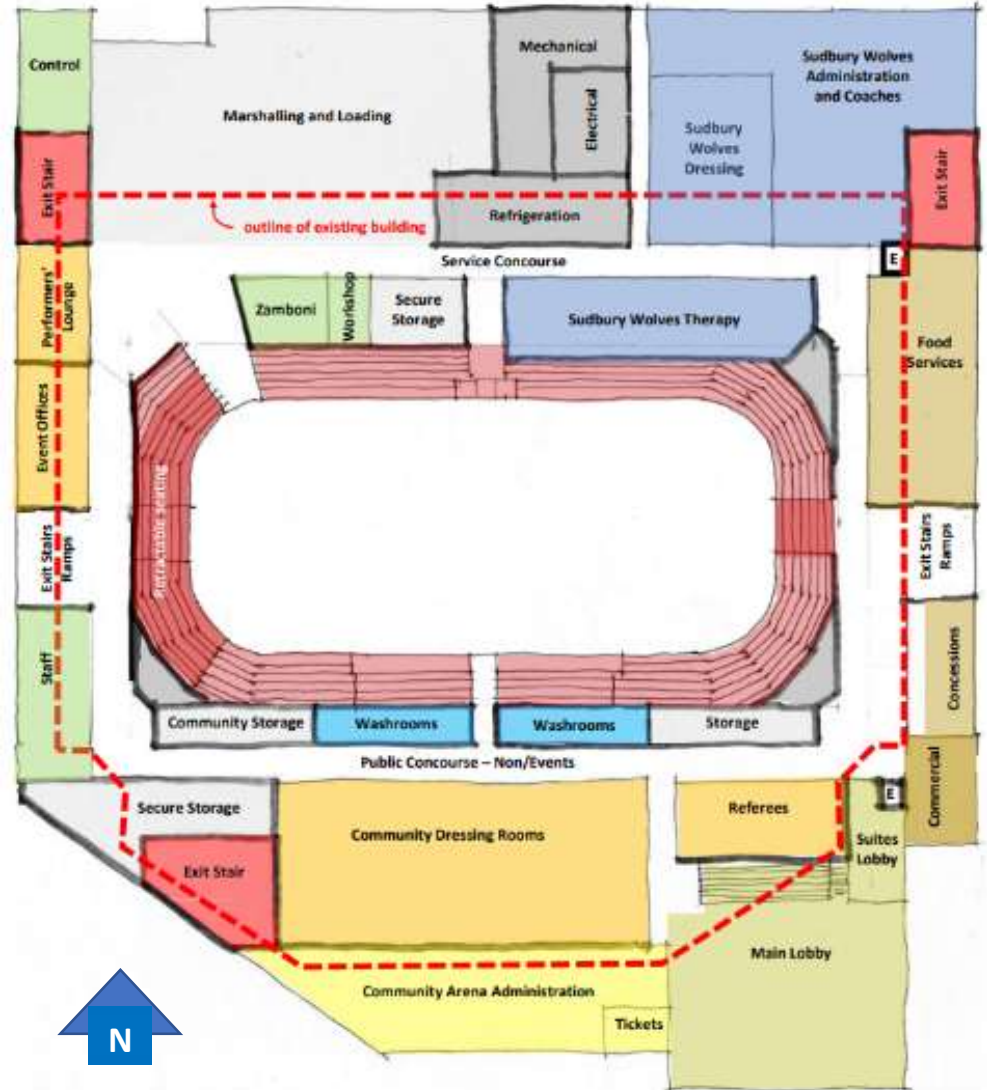
The Concept Design maintains the current approach of entering the building on the south side at grade and ascending by a main staircase to the seating bowl above. The lobby continues to provide access to the dressing room level a half level below. This is the main similarity between the Concept Design and the existing facility and is consistent with other concepts prepared by other design firms.

The Concept Design features at the entry level:

- A Main Lobby moved to the south east corner and incorporating both a Suites Lobby and an elevator,
- An Administration Area off the Main Lobby,
- A stand-alone Commercial Space directly east of the Suites Lobby.

Moving from the Main Lobby down a ramp to the Event Level are:

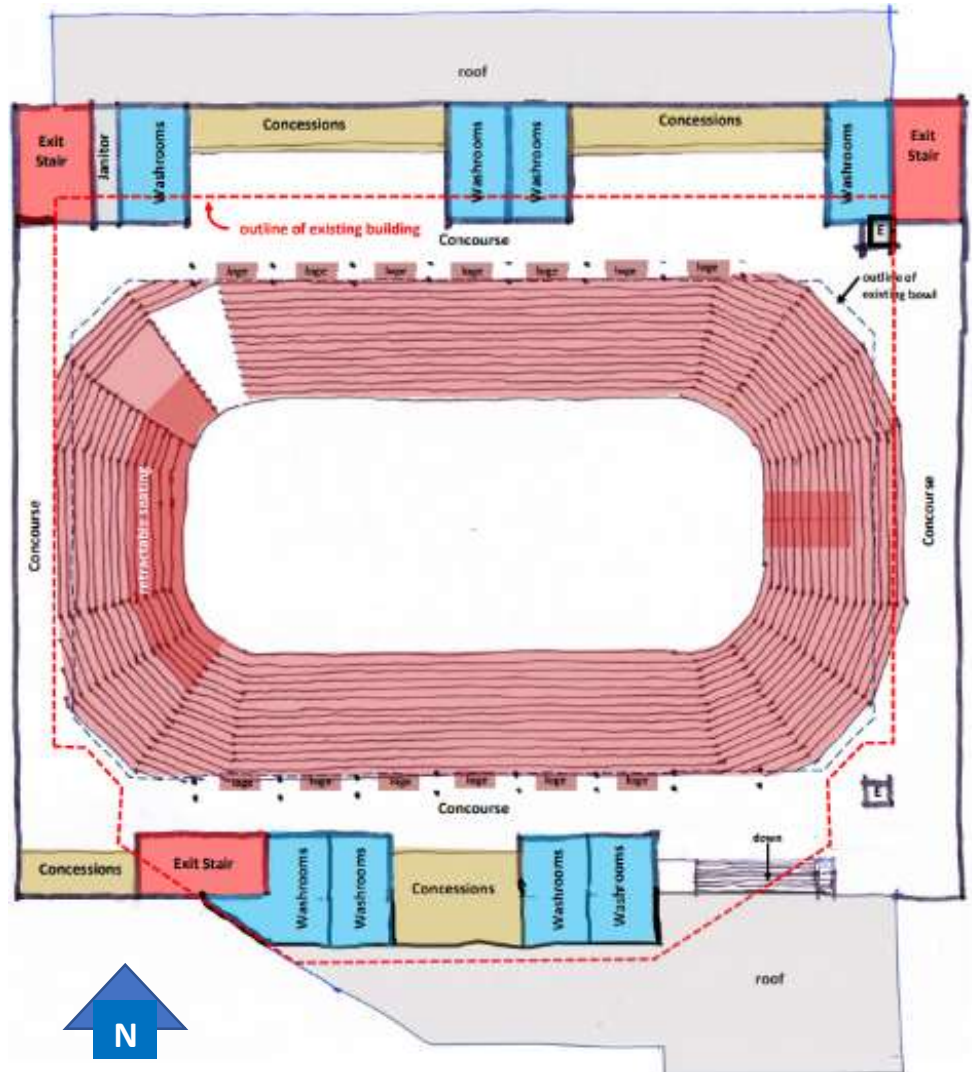
- 4 regular Community Dressing Rooms and 2 oversized Dressing Rooms,
- 2 Referee/Multi-Purpose Charge Rooms,
- Washrooms and a Concession for use for community programs as well as concerts and other events with seating at the ice level,
- Secure storage for both the community and the facility,
- A major Food Services component with elevator access to both the Concourse Level and Suites Level,
- The Sudbury Wolves Hockey Team “suite” in the northeast corner including Administration, Dressing Room, Coaches, and Therapy/Training area,
- Centrally located mechanical and electrical spaces with the Refrigeration Room remaining essentially where it currently exists,
- Major Marshalling area which provides vehicular access to the ice slab as well as storage for a portable stage, 1,500 folding seats, 100 circular tables, portable basketball floor and hoops, ice covering, and rinkboard and glazing storage,
- A west side expansion that includes a Control Area (with glazing to the loading area), Performer and Event Office space, and a Staff area,
- 6 rows of retractable seating at the west end of the bowl to allow for optimizing the stage location for end-stage concerts (minimizing “killed” seats behind the stage and maximizing seats on the floor).



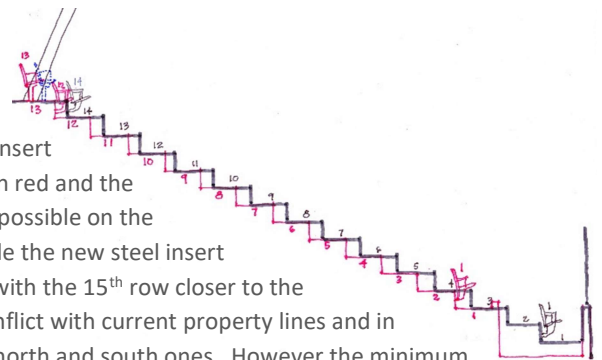
## Concourse Level

The Concourse Level can be described as the “public domain” in a spectator facility. The Concept Design provides the following for this level:

- Easy flow of patrons – including a main stair, escalator, and elevator, from the Main Lobby to the Concourse,
- A major expansion of the concourse width as this will be the only means for patrons to access the seating bowl,
- Major exiting stairs at the northwest, northeast and southwest corners – the main stair provides exiting in the southeast corner,
- Washrooms on the north and south sides as required by the Program of Spaces and compliant with the appropriate plumbing and building codes,
- Concessions on the north and south sides with points of sale in excess of the requirements identified in the Program of Spaces and PwC Business Case,
- 2 elevators, one from the Suites Lobby also providing access to the Concourse Level, as well as an elevator from the Food Services area ,
- 13 Loges Boxes, each with a capacity of 4 bar-stool height seats, strategically located between the existing columns to minimize compromised sightlines,
- A total of 5,000 general fixed seats including 150 club seats.



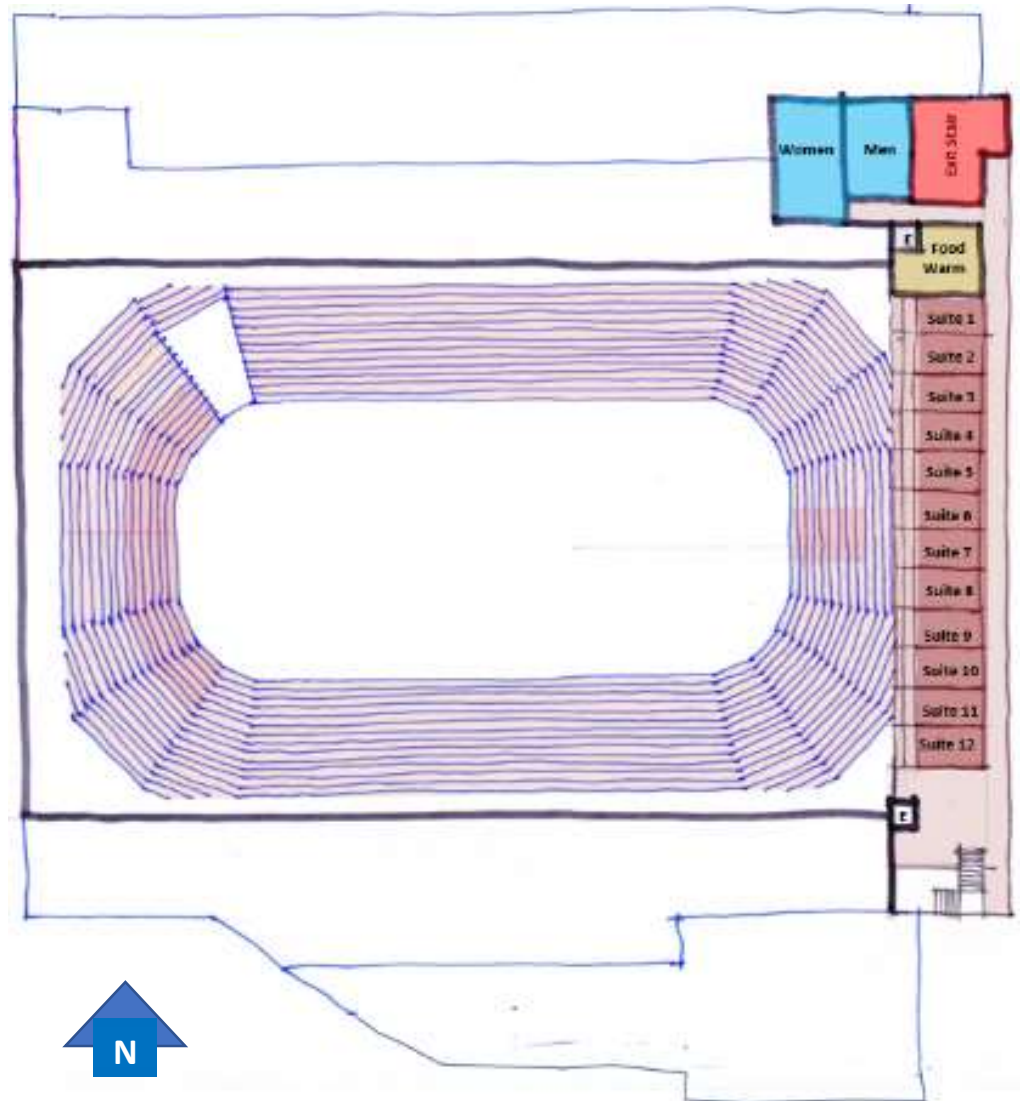
The replanning of the seating bowl provides a significant change to how the Building functions and the quality of the spectating experience. The original concrete bowl will be left in place and a new steel faceted (rounded corners) insert bowl will be installed within. The sketch to the right shows the current bowl in red and the new steel bowl nesting on top. Two additional rows of seats at the bottom is possible on the north and south sides. The row-to-row spacing in the existing bowl is 31" while the new steel insert will have a spacing of just over 32". The new bowl will have 15 rows of seats with the 15<sup>th</sup> row closer to the ice surface that the current 13<sup>th</sup> row. The expansions to the east and west conflict with current property lines and in the Concept Design the new concourse on these sides are narrower than the north and south ones. However the minimum concourse width is 4.5 m or 14'-9".



## Private Suites Level

The Private Suites component of the Concept Design has been placed at the east end of the Community Arena. Features of this level include:

- Access to the Suites Level is by either a stair or elevator,
- The suites are located to have views to all of the events in the building including end-stage concerts.
- Suites are designed so that the spaces are secure and away from the public domain of the Concourse Level,
- There are a total of 12 suites, each having two rows of seating (a total of 10 seats) in front of the box as well as a counter-height bar with 3 bar stools.
- Each suite has a counter and cabinets on one of the side walls along with an under-counter fridge,
- Each suite can be modified to accommodate wheelchair patrons,
- The Suites Level has a warming kitchen adjacent to the elevator from the Food Services area on the Event Level Floor,
- The Suites Level has one set of women's and men's washrooms.



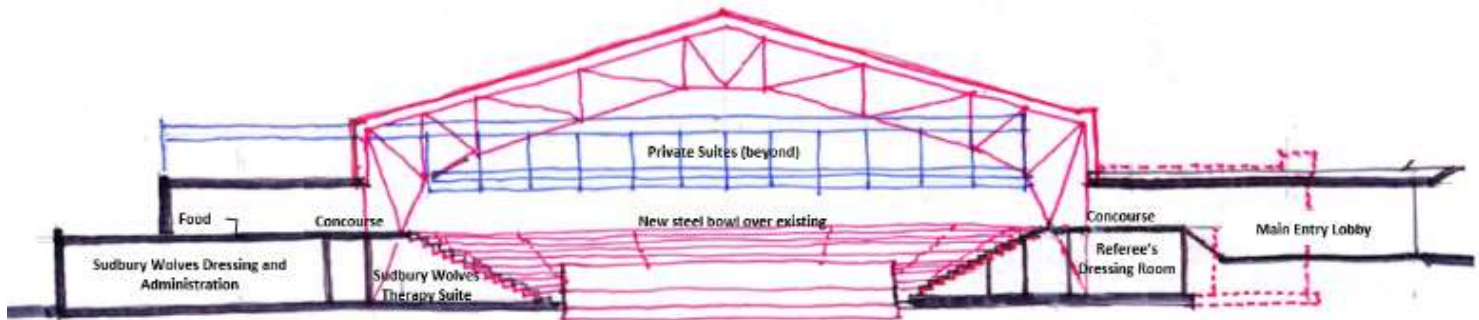
The Suites Level has a number of compromises:

- All suites are on one side of the seating bowl and while it is more desirable to have suites along the long dimension of the ice pad, the existing main structure of the arena makes this impossible,
- The extent of suites on the east side is limited by the configurate of the main truss structure. The 12 suites shown will have good views of end-stage, centre-stage, and sports configurations,
- The number of suites provided falls far short of the Program of Spaces and the PwC Business Case which identifies:
  - 8 large suites with bar stool seating for 4 as well as 2 rows of 6 seats for front-of-suite seating,
  - 8 regular suites with bar stool seating for 4 as well as 2 rows of 5 seats for front-of-suite seating,
  - 8 small suites with bar stool seating for 3 as well as 2 rows of 4 seats for front-of-suite seating,

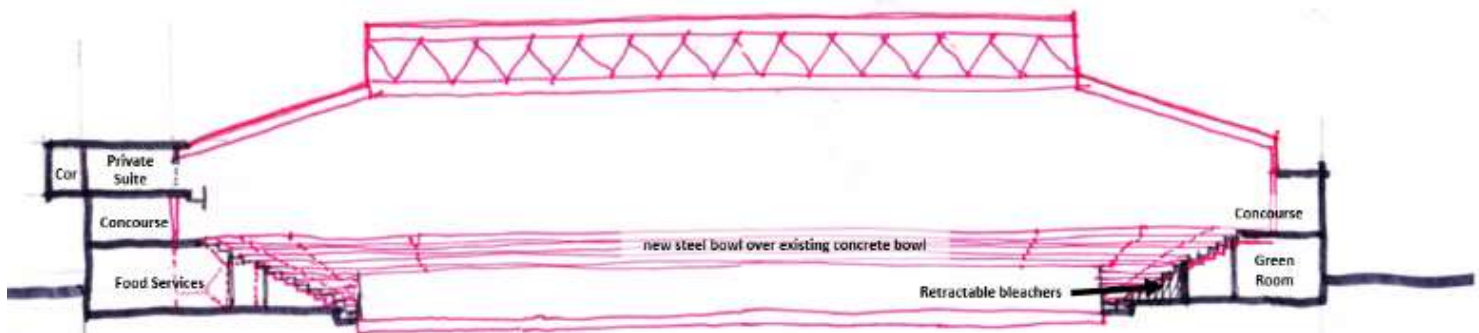
The Concept Design provides 12 regular suites and does not have a suites level party room as indicated in the program.

## Building Sections

A sketch of a longitudinal and lateral section of the building, shown below, was developed as part of the pricing exercise.



**REVISED LATERAL SECTION THROUGH ARENA LOOKING EAST**



**LONGITUDINAL SECTION THROUGH ARENA LOOKING SOUTH**

The **Lateral Section** through the Concept Design illustrates:

- The extent of expansion to the north (right side).
- The extent of expansion of the main lobby to the south (left) side and the removal of the previous public washroom space below the lobby.
- The new steel bowl and the seating extending to the backside of the rinkboards.
- The relationship of the private suites to the ice surface and overall structure.

The **Longitudinal Section** through the Concept Design illustrates:

- The wider concourse and the extent to which they project beyond the edge of the existing building. On the west (right) side this extension is 4m while on the east (left) side it is 7m – the Private Suites Level projects an additional 3m beyond the concourse.
- The retractable seating on the west (right) side allowing for the stage to “nestle” into the seating and provide more flat-floor seating for concerts.



## General Notes Regarding Demolition, Renovation and Expansion

The Concept Design is based on making the resulting facility as similar in performance as possible to a new facility. As noted previously this has required several major initiatives including:

- Expanding to the north for a properly functioning back-of-house area – this was also included in previous studies.
- Expanding significantly to the south to create a new lobby and front-of-house area at the southeast corner of the building.
- Expanding 4m to the west towards Grey Street.
- Expanding 7m to the east towards Minto Street although the Suites Level would cantilever an additional 3m beyond the Event and Concourse Level.
- The seating bowl would be reconfigured so that the corners would be faceted consistent with spectator arenas built in the past several decades. The new seating bowl would be a metal liner using the existing concrete bowl as part of the support system.

The extent of demolition involved in the renovation and expansion of the Community Arena is extensive:

On the Event Level and Front Entry area:

- All floor slabs are removed as there will be a major relocation of spaces and as a result, plumbing and electrical services relocation. Since most walls at this level are 8" masonry units the floor slabs will need to be thickened to suit the new layout of rooms.
- The northwest corner of the existing building will be excavated to allow for a marshalling area floor level similar to the ice slab level.
- Most existing exterior walls will be demolished, relocated and designed to current energy performance standards.
- All existing interior walls will be demolished and relocated.
- The seating bowl will have portions at the east and west ends demolished to facilitate the new steel liner bowl.
- All existing exit stairs will be demolished and relocated.

On the Concourse Level:

- The older northwest portion of the concourse support space will be demolished including walls and roof structure. The newer Lounge Space will be maintained and renovated as part of the expansion of this portion of the concourse.
- The main stairs leading to the Concourse Level will be removed.
- The east and west walls will be removed as part of an outward expansion of the concourse.
- The south portion of the building will be demolished and reconstructed as part of a southern expansion.

## New Construction

The Concept Design maintains the existing sloped roof of the original Community Arena and surrounds it with what is essentially a new building. The Concept Design maintains the existing seating bowl but only for the purpose of using it as a support for a new steel liner seating bowl.

The exterior finish of the building has been priced with the following assumptions:

- Entry Lobby will be a two-storey curtain wall system,
- Community Arena Administration, Sudbury Wolves Administration, and Commercial Space will be curtain wall system above a .9m brick base with insulation and 200mm masonry backup,
- All other walls will be a brick/insulation/block assembly to a height of 4.5m with an insulated metal siding above. All glazing in lower walls to be punched windows and located in Staff, Event Offices, Performer's Lounge, Control and Food Services.
- Suites Lobby will have curtain wall to the full height of the third storey. Corridor to the Suites will be insulated metal system.
- Roof of existing arena to be refinished with insulated standing seam metal system.
- Back-of-house loading will have 2 loading docks with sloped ramps as well as one entry for truck access directly to the event floor.

The interior finishes as based on the Program of Spaces included in the Request for Proposals for the new facility planned for the Kingsway Site.

## Summary of Areas

The total area of renovated and new construction is summarized as follows:

### Event Level

The Event Level is currently a split-level floor plan with a Main Lobby and Administration at natural grade, and the remaining area at the current dressing room level. Unlike the existing facility there is no occupied (public washroom) space under the lobby area.

Total Renovated Area	56,766 ft <sup>2</sup>
Total New Area	38,750 ft <sup>2</sup>
<b>Total Floor Area</b>	<b>95,516 ft<sup>2</sup></b>

### Entry and Concourse Level

Total Renovated excluding bowl insert	15,560 ft <sup>2</sup>
Total New Area	40,940 ft <sup>2</sup>
New steel liner seating bowl	27,258 ft <sup>2</sup>
<b>Total Floor Area excluding ice surface</b>	<b>83,758 ft<sup>2</sup></b>

### Suites Level

Total New Area	12,583 ft <sup>2</sup>
<b>Total Floor Area</b>	<b>12,583 ft<sup>2</sup></b>

<b>TOTAL BUILDING AREA OF UPGRADED FACILITY</b>	<b>191,857 ft<sup>2</sup></b>
<b>Total New Floor Area</b>	<b>92,273 ft<sup>2</sup></b>
<b>Total Renovated Floor Area</b>	<b>72,326 ft<sup>2</sup></b>
<b>New Seating Bowl Insert</b>	<b>27,258 ft<sup>2</sup></b>

## Project Sequencing

The expansion of the Sudbury Community Arena puts at risk the schedules for both the Sudbury Wolves Hockey Team and the Sudbury Five Basketball Team. Other annual events held at the facility will also be at risk for losing one or more seasons. Ideally the expansion of the Community Arena can be phased to minimize construction impact on the facility's multi-year event calendar. However, this approach extends the construction period significantly and could impact the marketability of the facility over a 3-4 year period.

The proposed Concept Design expands the Community Arena in all four directions and creates challenges in terms of maintaining a seasonal (September-April) event calendar. Since the facility will be significantly replanned through a combination of expansion and renovation, there will be sequencing delays. For example, the Sudbury Wolves Hockey Club Spaces are in the southwest corner of the existing facility and in a new-build they will move to the northeast corner of the expansion. The team must move before renovation and expansion can start in the southern portion of the building. In this particular example there is a minimum delay of at least 18 months between the start of renovation of the northeast corner and the start of the demolition of the southwest corner.

There are significant challenges in maintaining some level of operation during construction:

- Public safety and code compliance, particularly around exiting will be a major concern,
- The building process will require compact construction zones around the building that allow for event hosting,
- The Concept Design expands over both Grey Street and Minto Street with significant preparation work required before actual construction,
- Administrative functions in the building will likely need to be temporarily relocated during the construction process but these have not been included in the Program Cost Plan.

There will be two construction seasons for the Community Arena expansion:

- summer season from April to September requiring the home teams to start their season at "away" venues,
- winter season from October to March and with a focus on interior work especially during the winter.

## Extent of Work in each Phase

### Phase 1 – Entry/Event Level Components

- Marshalling and loading
- Mechanical area including refrigeration – plant operation to be maintained during all phases of construction
- Complete Sudbury Wolves area
- Food Services
- Concession,
- Commercial
- Initial framing of the new Main Lobby – will be opened as part of Phase 2
- Staff – possibly repurposed during Phase 2
- Event Offices – possibly repurposed during Phase 2
- Control
- New north exit stairs

### Phase 2 – Entry/Event Level Components

- Main Lobby – available before end of Phase 2
- Community Arena Administration
- Community Dressing Rooms
- Referees' Change Rooms
- Washrooms
- Storage/Community Storage
- New seating bowl and retractable seating

### Phase 1 – Concourse Level Components

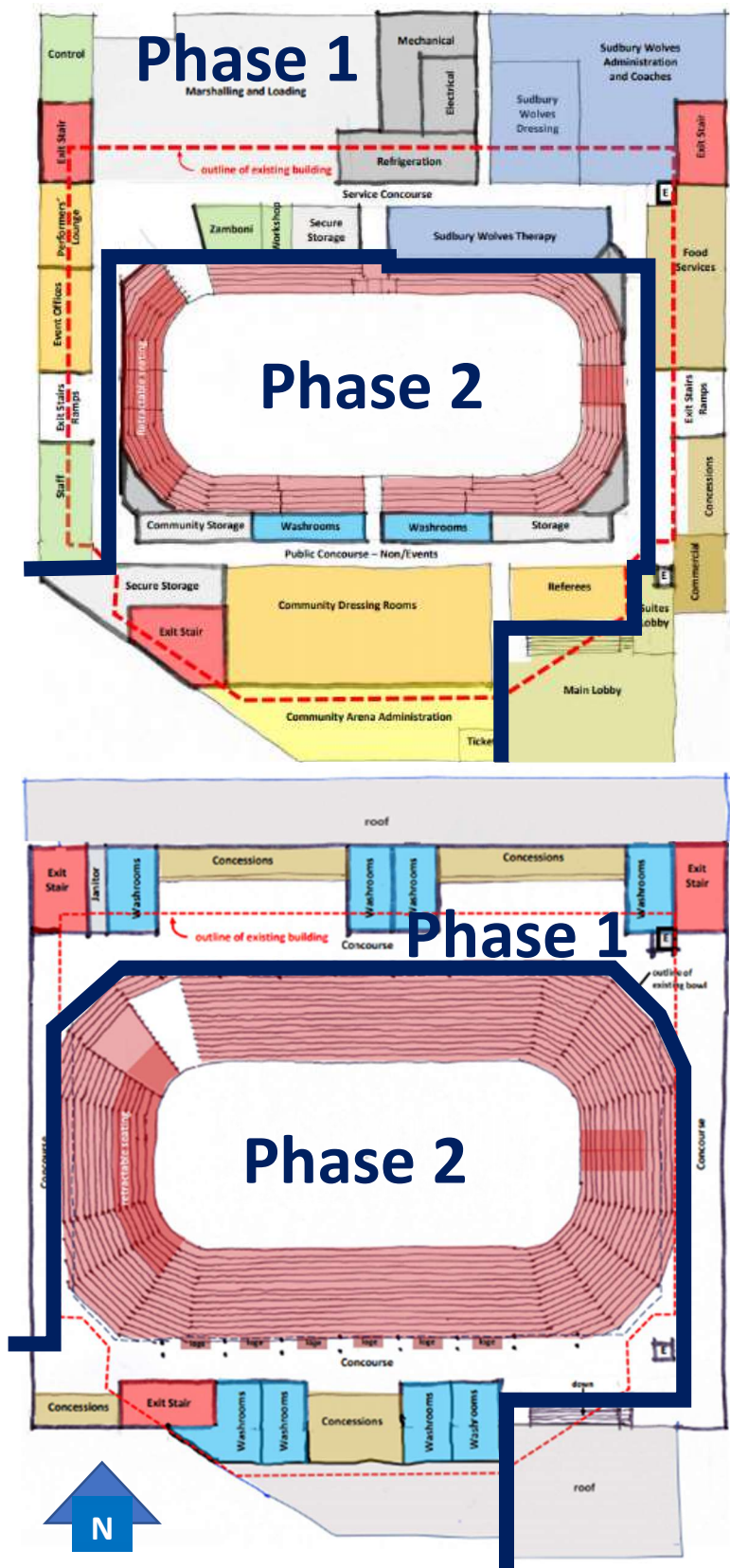
- North, east and west expanded concourse
- North concessions
- North washrooms
- North exit stairs
- Elevator to Suites Level

### Phase 2 – Concourse Level Components

- Expanded south concourse
- South concessions
- South washrooms
- Main stair to concourse
- New seating bowl, club seats, loge boxes

### Private Suites Level

The Private Suites Level will be started as part of Phase 1 but will not be completed or operational until the 2025/26 hockey and basketball season.



### Phasing Calendar

The base pricing for the renovation and expansion of the Community Arena assumes a single phase of construction. However this would require that the building be closed for roughly a 24-month period while the construction takes place. This in turn would require that both the Sudbury Wolves and the Sudbury Five play home games in a different venue. A phasing schedule or calendar was prepared to allow for the ongoing operation of at least the hockey and basketball season. The timing of construction during the first phase of the project will result in the facility not being available for concerts and other events that require a properly functioning major loading area.

### Schematic Schedule



As a comparison, the redevelopment of the Community Arena in a single phase is illustrated in the schedule below.



In the single-phase scenario the tendering of the project and the initial foundation work on the north side of the facility would happen towards the end of the (22/23) hockey/basketball season. The following (23/24) season would be lost and at least the first half of the next (24/25) season. There are opportunities for completing construction earlier in the 24/25 season such as starting foundation work at the north end of the site prior to the completion of the 22/23 season since this would not impact the facility’s ability to host events. However that does render the north portion of the site a construction zone earlier and in a less desirable construction season.

The Schematic Schedule will see continuous construction on site but will be phased over 3 full hockey seasons. The calendar has been developed based on the most appropriate time to start construction. A start time for the design was based on the preferred construction start date. The following is a summary of key dates:

<b>2021</b>	
October 1	<i>City issues a Request for Proposals for design teams</i>
November 30	<i>City signs contract with selected design team – design starts immediately and continues for 12 months</i>
<b>2022</b>	
December 1	<i>Design documents complete - City issues tender package(s) for General Contractor or Construction Manager</i>
<b>2023</b>	
January 31	<i>Tenders close for General Contractor or Construction Manager</i>
February 15	<i>Contractor mobilizes on site and starts initial Phase 1 pre work at north end of site during last month(s) of hockey/basketball season – Phase 1 will take a total of 18 months</i>
March	<i>Phase 1 foundation work starts on the north portion of the site including piling</i>
April – year's end	<i>Ongoing Phase 1 construction work including during hockey/basketball season</i>
<b>2024</b>	
September 1	<i>Completion of Phase 1</i>
September - December	<i>Contractor mobilizes on southern portion of site as Phase 2 begins</i>
<b>2025</b>	
January – December	<i>Ongoing Phase 2 construction work including during hockey/basketball season</i>
<b>2026</b>	
January – March	<i>Ongoing Phase 2 construction work during hockey/basketball season</i>
April	<i>Ongoing Phase 2 construction work – installation of new seating bowl</i>
May 1	<i>Opening event at the completed Sudbury Community Arena</i>

#### 4 Development of the Program Cost Plan (estimate)

The Program Cost Plan was prepared by WT Partnership based on the Concept Design developed by IMA and the Program of Spaces developed for the Design/Build Request for Proposals.

The development of the estimate was based on:

- The Concept Design included in this study,
- Similar new facilities in both Canada and the United States,
- Previous spectator projects involving significant renovation and expansion,
- Specific knowledge of the Northern Ontario construction market.

The building area was calculated as follows:

• Event Level	95,516 ft <sup>2</sup>
• Entrance Level	12,439 ft <sup>2</sup>
• Concourse Level	44,061 ft <sup>2</sup>
• New Seating Bowl	27,258 ft <sup>2</sup>
• Suites Level	12,583 ft <sup>2</sup>
• <b>TOTAL GROSS FLOOR AREA</b>	<b>191,857 ft<sup>2</sup></b>

The breakdown of renovated space and new construction was calculated as follows:

• Renovated space including the new ice slab	72,326 ft <sup>2</sup>
• New seating bowl inserted over existing	27,258 ft <sup>2</sup>
• New construction	92,273 ft <sup>2</sup>

The development of the estimate assumes the following general principles:

- The intent of expanding and renovating the Community Arena is to achieve the same level of performance and functionality of a new Sports and Entertainment Complex (SEC) recognizing that there may be some compromises in terms of achieving that goal,
- As a general approach all material and systems within the renovated Community Arena will be new and consistent with, and require the same level of maintenance as a new SEC,
- Recognizing the significant changes made to the Community Arena, especially in the lower Event Level, the estimate assumes the total removal of the lower level concrete floor to facilitate slab thickenings, easier installation of new plumbing, electrical,
- The exterior building envelope will be of all new construction consistent with current code requirements. The expansion in all four directions does not allow for maintaining any of the existing exterior architectural features except for the main roof structure.

The Program Cost Plan was developed initially as a single-phased project and then modified to suit the specific requirements of phasing as illustrated on pages 12 and 13. There are considerable complexities in phasing the expansion of the Community Arena so that it can continue to function as a venue throughout the construction process. These include:

- Developing a schedule that realistically allows for functions to move from an old space to a new one before the old space is demolished,
- Recognizing that in a 2-phase process some spaces will either need to temporarily displace another function, or allow for the cost of temporary facilities – a temporary visitor's dressing room in Phase 2 is an example,
- Temporary pedestrian bridges that allow for the existing of the facility through or above construction,
- The relocation of construction offices from the north end during Phase 1 to the south end in Phase 2,
- The impact of inflation and fixed pricing for a long construction period.

### Project Cost Plan Summary

The development of the Project Cost Plan assesses the construction elements under the following categories and determined the list below as a summary of those elements. The Summary prepared by WT Partnership provides a more detailed assessment of the quantities of materials and the associated unit costs rates.

<b>A</b>	<b>Substructure</b>		<b>\$5,594,127</b>
	• Foundation		
	• Basement		
<b>B</b>	<b>Shell</b>		<b>\$18,937,775</b>
	• Superstructure		
	• Exterior enclosure		
	• Roofing		
<b>C</b>	<b>Interiors</b>		<b>\$17,165,957</b>
	• Interior construction		
	• Stairways		
	• Interior finishes		
<b>D</b>	<b>Services</b>		<b>\$23,514,500</b>
	• Conveying systems		
	• Plumbing systems		
	• Heating, ventilation + air conditioning		
<b>E</b>	<b>Equipment + Furnishings</b>		<b>\$4,878,985</b>
	• Equipment		
	• Furnishings		
<b>F</b>	<b>Special construction and demolition</b>		<b>\$4,315,246</b>
	• Special construction		
	• Special demolition		
<b>NET BUILDING, DEMOLITION COSTS</b>			<b>\$74,406,570</b>
	<b>General Conditions</b>	<b>12%</b>	<b>\$8,928,788</b>
	<b>Bonding</b>	<b>2%</b>	<b>\$1,666,707</b>
	<b>Overhead and Profit</b>	<b>5%</b>	<b>\$4,250,103</b>
	<b>Estimating Contingency</b>	<b>15%</b>	<b>\$13,387,825</b>
	<b>Escalation</b>		
<b>TOTAL BUILDING</b>			<b>\$102,639,993</b>
	<b>Site Development</b>		<b>\$2,307,865</b>
<b>TOTAL PROJECT CONSTRUCTION COST – SINGLE PHASE</b>			<b>\$104,947,858</b>
	<b>Consulting Fees – 10%</b>		<b>\$10,494,786</b>
<b>TOTAL PROJECT COST – SINGLE PHASE</b>			<b>\$115,442,644</b>

### Overview for Two-Phase Building

The overall phasing of the project has been described on page 12 of this report with a schematic schedule on page 13. The overview of estimated costs for a two-phase project recognizes that:

- There is a requirement to decommission the majority of the Contractor's facilities on the northern portion of the site and relocate to the south,
- The Main Lobby, while started in Phase 1, has the majority of construction in Phase 2,
- The majority of the Site Work will be completed as part of Phase 1,
- While the estimate for a single-phase project does not have an escalation allowance, a 7.5% escalation allowance will be used for Phase 2.

The breakdown of Phase 1 and Phase 2 components for estimating is shown below.

Outline of Areas	Phase 1	Phase 2	Total Construction
Event and Entry Level excluding Main Lobby	77,385 ft <sup>2</sup>	23,850 ft <sup>2</sup>	101,234 ft <sup>2</sup>
Main Lobby – 10% in Phase 1 and 90% in Phase 2	670 ft <sup>2</sup>	6,048 ft <sup>2</sup>	6,720 ft <sup>2</sup>
Concourse Level	28,496 ft <sup>2</sup>	15,565 ft <sup>2</sup>	44,061 ft <sup>2</sup>
Suites Level	12,583 ft <sup>2</sup>		12,583 ft <sup>2</sup>
New Seating Bowl		27,258 ft <sup>2</sup>	27,258 ft <sup>2</sup>
<b>TOTAL FLOOR AREA</b>	<b>119,136 ft<sup>2</sup></b>	<b>72,721 ft<sup>2</sup></b>	<b>191,857 ft<sup>2</sup></b>

Summary of both Phases in current dollars	Phase 1	Phase 2	Total Construction
	<b>\$71,236,218</b>	<b>\$31,403,775</b>	<b>\$102,639,993</b>

#### Phase 2 Additional Costs

- Mobilization to south portion of site and lost efficiencies (1%) **\$314,038**
- Temporary structures for exiting while under construction **\$50,000**
- 7.5% escalation for 18-month stagger between phases **\$2,382,586**

			Total Construction
<b>TOTAL COST FOR PHASE 2 BUILDING</b>	<b>\$71,236,218</b>	<b>\$34,150,399</b>	<b>\$105,386,617</b>

The Construction Cost of the building is only part of the overall Project Cost. The additional costs are outlined below;

Single Phase Project		Two Phase Project	
• Construction	<b>\$102,639,993</b>	• Construction	<b>\$105,386,617</b>
• Site	<b>\$2,307,865</b>	• Site factored for escalation	<b>\$2,423,260</b>
<b>Sub Total</b>	<b>\$104,947,858</b>	<b>Sub Total</b>	<b>\$107,809,877</b>
• Consulting Fees – 10%	<b>\$10,494,786</b>	• Consulting Fees – 10%	<b>\$10,780,988</b>
<b>TOTAL PROJECT COST</b>	<b>\$115,442,644</b>	<b>TOTAL PROJECT COST</b>	<b>\$118,590,865</b>

The phasing of the renovation and expansion of the Sudbury Community Arena is a complex and lengthy undertaking. While it allows for the ongoing operation of the facility and the sports franchise that call the facility home, it compromises the spectating experience for three full seasons. It delays the opportunity for generating revenues from larger seating numbers, club seats, loge boxes, and private suites. It also has an impact on the facility's ability to host non-sports events during the year. This may be the greatest challenge to a two-phase process as it significantly affects the ability to develop a top-tier operating group that can effectively market the new facility.



# **SUDBURY COMMUNITY ARENA**

## **RENOVATION & EXPANSION PROGRAM COST PLAN R1**

**May 24, 2021**

**WT**



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## DOCUMENT CONTROL

<b>Report Title</b>	Sudbury Community Arena				
<b>Doc ID</b>	Renovation & Expansion – Program Cost Plan	<b>Project Ref</b>	2102003		
<b>File Path</b>	B_Projects - Documents\CC_CP\2102003 – Sudbury Pricing Exercise\500-Deliverables				
<b>Client</b>	Ian McKay Architect Inc.				
<b>Rev</b>	<b>Date</b>	<b>Details</b>	<b>Author</b>	<b>Verifier</b>	<b>Approver</b>
1	May 24, 2021	Program Cost Plan	SL	SK	SK

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# 1 BASIS OF REVIEW

## 1.1 BASELINE DOCUMENTATION

Our cost plan report is based on the following documents:

- 1414 Sudbury Arena EXTG – received April 26<sup>th</sup>, 2021
- 2021\_04\_26\_400 Plans with Notes – received April 26<sup>th</sup>, 2021
- 2021\_04\_26\_400 Sections with Notes – received April 26<sup>th</sup>, 2021
- 2021\_04\_30\_400 Revised Plans with Outdated Concourse – received April 30<sup>th</sup>, 2021
- 2021\_04\_30\_400 Revised Sections with Notes – received April 30<sup>th</sup>, 2021
- 2021\_04\_30\_400 Plan for Concert Seating – received April 30<sup>th</sup>, 2021
- 2021\_05\_04\_400 Plans – received May 4<sup>th</sup>, 2021

## 1.2 ASSUMPTIONS AND CLARIFICATIONS

Our cost plan report is based on the following assumptions and clarifications:

- Existing refrigeration plant will be removed and replaced
- Existing roofing to main roof will be removed and replaced, main roof structure will remain
- Low roofs will be demolished
- All slabs on grade, including rink slab, will be removed and replaced
- Majority of existing concrete seating bowl will remain and a new light weight steel seating system will be built on top of it
- 19,482 SF is included in the estimate for sitework development as a placeholder
- Existing chiller will be reused

## 1.3 OTHER COSTS NOT INCLUDED IN THIS ESTIMATE

The following additional costs have been identified as being required to complete this project, and are not included in this cost plan report:

- Project construction contingency; required to accommodate change orders, unforeseen conditions, etc.
- Project soft costs – design and project management fees, taxes and uses fees levied by local jurisdictions and the like
- Escalation

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## **2 OVERALL COST DETAIL**



# Estimate Summary

**Project:** Sudbury Community Arena Renovation  
**Building:** Sudbury Community Arena Renovation Program

**Details:** Program Estimate in CAN - R1

Code	Description	Quantity	Unit	Rate	Total
	<b><u>SUDBURY COMMUNITY ARENA RENOVATION &amp; EXPANSION</u></b>				
	<u>PROGRAM COST PLAN</u>				
	ARENA	191,857	SF	534.98	102,639,993
	<b>TOTAL BUILDING</b>	<b>191,857</b>	<b>SF</b>	<b>534.98</b>	<b><u>102,639,993</u></b>
	SITE	19,482	SF	118.46	2,307,865
	<b>TOTAL SITE</b>				<b><u>2,307,865</u></b>
	<b>TOTAL</b>				<b><u>104,947,858</u></b>

## **3 ARENA COST DETAIL**



# Estimate Summary

**Project:** Sudbury Community Arena Renovation

**Details:** Program Estimate in CAN - R1

**Building:** Sudbury Community Arena Renovation Program

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					
	<u>ARENA</u>				
	<u>AREAS:</u>				
	Event Level	95,516	SF		
	Entrance Level	12,439	SF		
	Concourse Level	44,061	SF		
	Suite Level	12,583	SF		
	Seating Bowl	27,258	SF		
	<b>TOTAL GROSS FLOOR AREA</b>	<b>191,857</b>	<b>SF</b>		
	<u>CONTROL QUANTITIES:</u>				
	Number of Stories (x1,000)	4	EA		
	Reporting Floor Area	191,857	SF		
	Gross Wall Area	55,001	SF		
	Finished Wall Area	44,008	SF		
	Windows or Glazing	10,993	SF		
	Roof Area - Flat - including Decks	59,618	SF		
	Roof Area - Sloping	53,843	SF		
	Roof Area - Total	113,461	SF		
	Elevators (x10,000)	6	EA		
A10	FOUNDATIONS	191,857	SF	25.08	4,812,679
A20	BASEMENT CONSTRUCTION	191,857	SF	4.07	781,448
	<b>SUBSTRUCTURE</b>	<b>191,857</b>	<b>SF</b>	<b>29.16</b>	<b>5,594,127</b>
B10	SUPERSTRUCTURE	191,857	SF	50.30	9,650,888
B20	EXTERIOR ENCLOSURE	191,857	SF	25.94	4,976,878
B30	ROOFING	191,857	SF	22.46	4,309,989
	<b>SHELL</b>	<b>191,857</b>	<b>SF</b>	<b>98.71</b>	<b>18,937,755</b>
C10	INTERIOR CONSTRUCTION	191,857	SF	64.74	12,420,478
C20	STAIRWAYS	191,857	SF	1.75	335,000
C30	INTERIOR FINISHES	191,857	SF	22.99	4,410,479
	<b>INTERIORS</b>	<b>191,857</b>	<b>SF</b>	<b>89.47</b>	<b>17,165,957</b>
D10	CONVEYING SYSTEMS	191,857	SF	2.35	450,000
D20	PLUMBING SYSTEMS	191,857	SF	19.57	3,755,600



# Estimate Summary

**Project:** Sudbury Community Arena Renovation

**Details:** Program Estimate in CAN - R1

**Building:** Sudbury Community Arena Renovation Program

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					
<i>(Continued)</i>					
D30	HEATING, VENTILATION & AIR CONDITIONING	191,857	SF	41.81	8,020,600
D40	FIRE PROTECTION	191,857	SF	4.80	920,300
D50	ELECTRICAL LIGHTING, POWER & COMMUNICATIONS	191,857	SF	54.04	10,368,000
	<b>SERVICES</b>	<b>191,857</b>	<b>SF</b>	<b>122.56</b>	<b><u>23,514,500</u></b>
E10	EQUIPMENT	191,857	SF	12.60	2,416,986
E20	FURNISHINGS	191,857	SF	12.83	2,461,999
	<b>EQUIPMENT &amp; FURNISHINGS</b>	<b>191,857</b>	<b>SF</b>	<b>25.43</b>	<b><u>4,878,985</u></b>
F10	SPECIAL CONSTRUCTION	191,857	SF	0.26	50,000
F20	SELECTIVE DEMOLITION	191,857	SF	22.23	4,265,246
	<b>SPECIAL CONSTRUCTION &amp; DEMOLITION</b>	<b>191,857</b>	<b>SF</b>	<b>22.49</b>	<b><u>4,315,246</u></b>
	<b>NET BUILDING, DEMOLITION COST</b>	<b>191,857</b>	<b>SF</b>	<b>387.82</b>	<b><u>74,406,569</u></b>
Z10	GENERAL CONDITIONS - 12%	1	LS	8,928,788.28	8,928,788
Z11	BONDING - 2%	1	LS	1,666,707.15	1,666,707
Z12	OVERHEAD AND PROFIT - 5%	1	LS	4,250,103.22	4,250,103
Z13	ESTIMATING CONTINGENCY - 15%	1	LS	13,387,825.15	13,387,825
Z14	ESCALATION - EXCLUDED				
	<b>RECOMMENDED BUDGET - BUILDING</b>	<b>191,857</b>	<b>SF</b>	<b>534.98</b>	<b><u>102,639,993</u></b>





# Estimate Detail

**Project:** Sudbury Community Arena Renovation

**Details:** Program Estimate in CAN - R1

**Building:** Sudbury Community Arena Renovation Program

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					
<b>A10</b>	<b><u>FOUNDATIONS</u></b>				
A1010	<u>Standard Foundations</u>	<b>105,428</b>	SF	14.08	<b><u>1,484,820</u></b>
	Allow for miscellaneous adjustments to existing foundations	68,374	SF	10.00	683,740
	Allow for standard foundation to new expansion area - event level	27,143	SF	20.00	542,860
	Allow for standard foundation to new expansion area - entrance level	9,911	SF	20.00	198,220
	Elevator pit	2	EA	30,000.00	60,000
A1020	<u>Special Foundations</u>	<b>19,656</b>	SF	50.00	<b><u>982,800</u></b>
	Allow for special foundations to north side of new expanded area	19,656	SF	50.00	982,800
A1030	<u>Slab On Grade</u>	<b>89,169</b>	SF	26.30	<b><u>2,345,059</u></b>
	Slab on grade to loading dock, assume 6" thick, including reinforcement, concrete, and formwork	9,842	SF	9.00	88,578
	Slab on grade, assume 4" thick, including reinforcement, concrete, and formwork	79,327	SF	8.00	634,616
	New rink slab, ice plant and piping included in HVAC	16,259	SF	70.00	1,138,130
	Vapor barrier to SOG	89,169	SF	4.00	356,676
	Premium on ramp slab	2,151	SF	30.00	64,530
	4" Granular base	1,059	CY	31.00	32,829
	Tie new and existing slab on grade	594	LF	50.00	29,700
	<b>FOUNDATIONS</b>				<b>4,812,679</b>
<b>A20</b>	<b><u>BASEMENT CONSTRUCTION</u></b>				
A2010	<u>Basement Excavation</u>	<b>105,428</b>	SF	1.42	<b><u>150,006</u></b>
	Excavation for new loading dock area	474	CY	23.00	10,902
	Excavation for new SOG	6,048	CY	23.00	139,104
A2020	<u>Basement Walls</u>	<b>4,223</b>	SF	149.52	<b><u>631,442</u></b>
	Retaining wall	4,223	SF	60.00	253,380
	Rigid insulation to retaining wall	4,223	SF	4.00	16,892
	Waterproofing to retaining wall	4,223	SF	15.00	63,345
	Shoring	3,135	SF	95.00	297,825
	<b>BASEMENT CONSTRUCTION</b>				<b>781,448</b>
<b>B10</b>	<b><u>SUPERSTRUCTURE</u></b>				
B1010	<u>Floor Construction</u>	<b>86,430</b>	SF	81.74	<b><u>7,065,135</u></b>
	Allow for miscellaneous repair to existing floor structure	20,972	SF	50.00	1,048,600
	New suspended floor slab, including columns, beams, structural steels, etc.	38,200	SF	80.00	3,056,000

# Estimate Detail

**Project:** Sudbury Community Arena Renovation

**Details:** Program Estimate in CAN - R1

**Building:** Sudbury Community Arena Renovation Program

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<b>B10</b>	<b><u>SUPERSTRUCTURE</u></b>				<i>(Continued)</i>
	Extra over for stepped slab at suite level	1,341	SF	50.00	67,050
	New light weight steel seating bowl	27,258	SF	75.00	2,044,350
	Tie new and existing suspended slab	726	LF	50.00	36,300
	Precast concrete vomitory walls	1	EA	70,000.00	70,000
	Allow for miscellaneous metals	191,857	SF	1.85	354,935
	New catwalk decking and structure	3,879	SF	75.00	290,925
	Railings to new catwalk system	1,293	LF	75.00	96,975
<b>B1020</b>	<b><u>Roof Construction</u></b>	<b>113,461</b>	<b>SF</b>	<b>22.79</b>	<b><u>2,585,753</u></b>
	Steel framed roof with metal deck	59,618	SF	35.00	2,086,630
	Allow for miscellaneous repair to existing main roof structure	53,843	SF	7.50	403,823
	Connect new and existing roof structure	953	LF	100.00	95,300
	<b><u>SUPERSTRUCTURE</u></b>				<b><u>9,650,888</u></b>
<b>B20</b>	<b><u>EXTERIOR ENCLOSURE</u></b>				
<b>B2010</b>	<b><u>Exterior Walls</u></b>	<b>44,008</b>	<b>SF</b>	<b>74.76</b>	<b><u>3,289,888</u></b>
	Brick base to administration and commercial spaces	562	SF	35.00	19,670
	Brick veneer	16,414	SF	25.00	410,350
	Insulated metal panels	15,616	SF	65.00	1,015,040
	Insulated air space to exterior wall, including vapor and air barrier	32,030	SF	20.00	640,600
	Concrete block to interior face of exterior wall, 8" thick, painted	32,030	SF	35.00	1,121,050
	Metal panel to soffit	2,734	SF	10.00	27,340
	Allow for repainting to existing exterior wall around high roof	11,416	SF	2.00	22,832
	Allow for miscellaneous sealant	44,008	SF	0.75	33,006
<b>B2020</b>	<b><u>Exterior Windows</u></b>	<b>10,993</b>	<b>SF</b>	<b>128.94</b>	<b><u>1,417,490</u></b>
	Curtain wall	3,764	SF	130.00	489,320
	Insulated curtain wall	2,023	SF	150.00	303,450
	Insulated storefront glazing	5,206	SF	120.00	624,720
<b>B2030</b>	<b><u>Exterior Doors</u></b>	<b>44,008</b>	<b>SF</b>	<b>6.12</b>	<b><u>269,500</u></b>
	Double flush glass door to lobby entrance, exit stair, commercial and administration spaces	17	PAIR	8,000.00	136,000
	Single flush hollow metal door to BOH spaces, allow	4	EA	3,000.00	12,000
	Door operator	17	EA	4,500.00	76,500



# Estimate Detail

**Project:** Sudbury Community Arena Renovation  
**Building:** Sudbury Community Arena Renovation Program

**Details:** Program Estimate in CAN - R1

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<b>B20</b>	<b>EXTERIOR ENCLOSURE</b>				<i>(Continued)</i>
	Allow for overhead coiling door at loading dock	1	LS	45,000.00	45,000
	<b>EXTERIOR ENCLOSURE</b>				<b>4,976,878</b>
<b>B30</b>	<b>ROOFING</b>				
<b>B3010</b>	<u>Roof Coverings</u>	<b>113,461</b>	SF	37.99	<b>4,309,989</b>
	Membrane roofing with insulation to low roof	59,618	SF	20.00	1,192,360
	Standing seam metal roof with insulation to main roof	53,843	SF	50.00	2,692,150
	Allow for roof drainage system, gutters, downspouts, etc.	113,461	SF	0.45	51,057
	Allow for miscellaneous roof flashing	113,461	SF	2.00	226,922
	Allow for fall arrest system	113,461	SF	1.30	147,499
	<b>ROOFING</b>				<b>4,309,989</b>
<b>C10</b>	<b>INTERIOR CONSTRUCTION</b>				
<b>C1010</b>	<u>Partitions</u>	<b>181,060</b>	SF	51.80	<b>9,379,000</b>
	CMU Partitions	160,162	SF	50.00	8,008,100
	Drywall Partitions	20,898	SF	25.00	522,450
	Rolling shutter screen to private suite	1,420	SF	200.00	284,000
	Open-grille type side-retracting security screen to Commercial, 8' high	1	LS	70,000.00	70,000
	Rolling shutter grille to concessions	2,401	SF	150.00	360,150
	Allow for glazed partition	191,857	SF	0.70	134,300
<b>C1020</b>	<u>Interior Doors</u>	<b>191,857</b>	SF	2.80	<b>537,200</b>
	Allow for interior doors	191,857	SF	2.80	537,200
<b>C1030</b>	<u>Fittings</u>	<b>191,857</b>	SF	13.05	<b>2,504,279</b>
	Metal railing to seating bowl	818	LF	179.00	146,422
	Allow for toilet accessories and partitions	9,097	SF	14.00	127,358
	Lockers	50	EA	500.00	25,000
	Player locker	30	EA	2,500.00	75,000
	Drinkrail to suites	334	LF	250.00	83,500
	Loge enclosure	13	EA	2,500.00	32,500
	Allow for rough carpentry	191,857	SF	1.75	335,750
	Allow for firestopping	191,857	SF	1.00	191,857
	Allow for caulking and sealant	191,857	SF	1.00	191,857
	Allow for code signage	191,857	SF	0.75	143,893
	Allow for wayfinding/directories	191,857	SF	2.00	383,714



# Estimate Detail

**Project:** Sudbury Community Arena Renovation  
**Building:** Sudbury Community Arena Renovation Program

**Details:** Program Estimate in CAN - R1

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<u>C10</u>	<u>INTERIOR CONSTRUCTION</u>				<i>(Continued)</i>
	Allow for graphics	191,857	SF	2.00	383,714
	Allow for miscellaneous fittings	191,857	SF	2.00	383,714
	<b>INTERIOR CONSTRUCTION</b>				<b>12,420,478</b>
<u>C20</u>	<u>STAIRWAYS</u>				
C2010	<u>Stair Construction</u>	<b>191,857</b>	SF	1.75	<b>335,000</b>
	Exit stair, per flight	6	EA	20,000.00	120,000
	Monumental stair at main lobby, per flight	1	EA	150,000.00	150,000
	Short stair at east and west exit	2	EA	15,000.00	30,000
	Suite step pourbacks	12	EA	2,500.00	30,000
	Elevator pit ladder	2	EA	2,500.00	5,000
C2020	<u>Stair Finishes</u>				
	Included in Stair Construction				<i>Note</i>
	<b>STAIRWAYS</b>				<b>335,000</b>
<u>C30</u>	<u>INTERIOR FINISHES</u>				
C3010	<u>Wall Finishes</u>	<b>394,712</b>	SF	2.93	<b>1,157,891</b>
	Ceramic wall tile	15,141	SF	20.00	302,820
	Paint to wall	379,571	SF	2.00	759,142
	Allow for miscellaneous wall finishes	191,857	SF	0.50	95,929
C3020	<u>Floor Finishes</u>	<b>148,340</b>	SF	12.15	<b>1,802,591</b>
	Ceramic floor tile to dressing room - wet area	1,432	SF	20.00	28,640
	Carpet	24,665	SF	12.00	295,980
	Porcelain floor tile to restrooms	9,096	SF	20.00	181,920
	Stone tile to lobbies	4,821	SF	50.00	241,050
	Polished concrete	39,484	SF	8.00	315,872
	Sealed concrete	50,774	SF	5.00	253,870
	Quarry tile to Food Service and Concession	8,017	SF	20.00	160,340
	Resilient flooring to Tickets and Storage	2,529	SF	8.00	20,232
	Skate flooring rubber tile to dressing room - dry area	7,522	SF	15.00	112,830
	Allow for miscellaneous floor finishes	191,857	SF	1.00	191,857
C3030	<u>Ceiling Finishes</u>	<b>164,599</b>	SF	8.81	<b>1,449,998</b>
	Gypboard ceiling, including paint	10,528	SF	22.00	231,616



# Estimate Detail

<b>Project:</b> Sudbury Community Arena Renovation	<b>Details:</b> Program Estimate in CAN - R1
<b>Building:</b> Sudbury Community Arena Renovation Program	

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<u>C30</u>	<u>INTERIOR FINISHES</u>				<i>(Continued)</i>
	Acoustical ceiling tile	30,874	SF	12.00	370,488
	Acoustical ceiling tile, washable, to Food Service and Concession	8,017	SF	15.00	120,255
	Paint to exposed ceiling	61,337	SF	2.00	122,674
	Allow for acoustic upgrade to main roof	53,843	SF	5.00	269,215
	Allow for soffit	191,857	SF	1.00	191,857
	Allow for miscellaneous ceiling finishes	191,857	SF	0.75	143,893
	<u>INTERIOR FINISHES</u>				<u>4,410,479</u>
<u>D10</u>	<u>CONVEYING SYSTEMS</u>				
D1010	<u>Elevators &amp; Lifts</u>	<b>191,857</b>	SF	2.35	<u>450,000</u>
	Passenger elevator, per stop	6	EA	75,000.00	450,000
	<u>CONVEYING SYSTEMS</u>				<u>450,000</u>
<u>D20</u>	<u>PLUMBING SYSTEMS</u>				
D2010	<u>Plumbing Fixtures</u>	<b>191,857</b>	SF	4.49	<u>860,700</u>
	Water closets, urinals, lavatories, sinks, showers and other plumbing fixtures	1	LS	860,700.00	860,700
D2020	<u>Domestic Water Distribution</u>	<b>191,857</b>	SF	2.60	<u>498,000</u>
	Cold water service, hot water service and water supply equipment	1	LS	498,000.00	498,000
D2030	<u>Sanitary Waste</u>	<b>191,857</b>	SF	4.56	<u>875,100</u>
	Waste piping, vent piping, floor drains and sanitary waste equipment	1	LS	875,100.00	875,100
D2040	<u>Rain Water Drainage</u>	<b>191,857</b>	SF	4.92	<u>943,700</u>
	Storm water piping, roof drains and rainwater drainage equipment	1	LS	943,700.00	943,700
D2090	<u>Other Plumbing Systems</u>	<b>191,857</b>	SF	3.01	<u>578,100</u>
	Food service plumbing	1	LS	216,100.00	216,100
	Gas piping and other piping systems	1	LS	252,600.00	252,600
	Testing and commissioning	1	LS	109,400.00	109,400
	<u>PLUMBING SYSTEMS</u>				<u>3,755,600</u>
<u>D30</u>	<u>HEATING, VENTILATION &amp; AIR CONDITIONING</u>				
D3020	<u>Heating Generation Systems</u>	<b>191,857</b>	SF	1.35	<u>259,200</u>
	Boilers, pumps and accessories	1	LS	259,200.00	259,200
D3030	<u>Cooling Generating Systems</u>	<b>191,857</b>	SF	3.15	<u>604,800</u>



## Estimate Detail

<b>Project:</b> Sudbury Community Arena Renovation	<b>Details:</b> Program Estimate in CAN - R1
<b>Building:</b> Sudbury Community Arena Renovation Program	

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<u>D30</u>	<u>HEATING, VENTILATION &amp; AIR CONDITIONING</u>				<i>(Continued)</i>
	Chillers, cooling towers, pumps and accessories	1	LS	604,800.00	604,800
D3040	<u>Distribution Systems</u>	<b>191,857</b>	SF	23.08	<u>4,428,400</u>
	Air movement equipment	1	LS	1,624,300.00	1,624,300
	Heating and cooling water piping	1	LS	1,284,600.00	1,284,600
	Air distribution systems	1	LS	1,519,500.00	1,519,500
D3050	<u>Terminal and Package Units</u>	<b>191,857</b>	SF	1.97	<u>378,900</u>
	Self-contained and packaged AC units	1	LS	378,900.00	378,900
D3060	<u>Controls and Instrumentation</u>	<b>191,857</b>	SF	3.29	<u>631,600</u>
	Building automation system	1	LS	631,600.00	631,600
D3070	<u>Systems Testing &amp; Balancing</u>	<b>191,857</b>	SF	0.63	<u>120,400</u>
	Testing and commissioning	1	LS	120,400.00	120,400
D3090	<u>Other HVAC Systems and Equipment</u>	<b>191,857</b>	SF	8.33	<u>1,597,300</u>
	General construction items and miscellaneous systems	1	LS	97,300.00	97,300
	Refrigeration plant	1	LS	1,500,000.00	1,500,000
	<u>HEATING, VENTILATION &amp; AIR CONDITIONING</u>				<u>8,020,600</u>
<u>D40</u>	<u>FIRE PROTECTION</u>				
D4010	<u>Sprinklers</u>	<b>191,857</b>	SF	4.80	<u>920,300</u>
	Sprinkler heads, piping, pumping equipment	1	LS	920,300.00	920,300
	<u>FIRE PROTECTION</u>				<u>920,300</u>
<u>D50</u>	<u>ELECTRICAL LIGHTING, POWER &amp; COMMUNICATIONS</u>				
D5010	<u>Electrical Service &amp; Distribution</u>	<b>191,857</b>	SF	23.20	<u>4,450,600</u>
	Normal power distribution	1	LS	2,206,800.00	2,206,800
	Emergency power distribution	1	LS	521,500.00	521,500
	Feeders	1	LS	1,394,800.00	1,394,800
	Lightning protection	1	LS	160,600.00	160,600
	Grounding	1	LS	166,900.00	166,900
D5020	<u>Lighting &amp; Branch Wiring</u>	<b>191,857</b>	SF	18.51	<u>3,551,100</u>
	Branch wiring devices	1	LS	655,000.00	655,000



# Estimate Detail

<b>Project:</b> Sudbury Community Arena Renovation	<b>Details:</b> Program Estimate in CAN - R1
<b>Building:</b> Sudbury Community Arena Renovation Program	

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<u>D50</u>	<u>ELECTRICAL LIGHTING, POWER &amp; COMMUNICATIONS</u>				<i>(Continued)</i>
	Food services power supply	1	LS	321,200.00	321,200
	Light fixtures and lighting controls	1	LS	2,239,300.00	2,239,300
	Sports lighting	1	LS	335,600.00	335,600
D5030	<u>Communications &amp; Security</u>	<b>191,857</b>	SF	10.42	<u>1,999,500</u>
	Fire alarm system	1	LS	564,800.00	564,800
	Communications system	1	LS	232,800.00	232,800
	Audio/video system (Rough-in only)	1	LS	272,500.00	272,500
	Security and detection systems (Rough-in only)	1	LS	276,100.00	276,100
	Cable tray and raceway	1	LS	398,800.00	398,800
	Emergency responder radio system	1	LS	153,400.00	153,400
	Broadcast cabling pathway	1	LS	101,100.00	101,100
D5090	<u>Other Electrical Systems</u>	<b>191,857</b>	SF	1.91	<u>366,800</u>
	General construction items and miscellaneous systems	1	LS	210,200.00	210,200
	Testing and commissioning	1	LS	156,600.00	156,600
	<u>ELECTRICAL LIGHTING, POWER &amp; COMMUNICATIONS</u>				<u>10,368,000</u>
<u>E10</u>	<u>EQUIPMENT</u>				
E1020	<u>Institutional Equipment</u>	<b>191,857</b>	SF	6.74	<u>1,292,500</u>
	Allow for game clocks/locker room clocks	4	EA	5,000.00	20,000
	Allow for projection screen	1	LS	50,000.00	50,000
	Ribbon board, assume 3' high	545	SF	500.00	272,500
	Ice rink dasher boards	1	LS	350,000.00	350,000
	Allow for center hung scoreboard	1	LS	600,000.00	600,000
E1030	<u>Vehicular Equipment</u>	<b>191,857</b>	SF	0.18	<u>35,000</u>
	Allow for loading dock equipment	1	LS	35,000.00	35,000
E1090	<u>Other Equipment</u>	<b>191,857</b>	SF	5.68	<u>1,089,486</u>
	Allow for food service equipment	8,017	SF	100.00	801,700
	Allow for miscellaneous equipment	191,857	SF	1.50	287,786
	<u>EQUIPMENT</u>				<u>2,416,986</u>
<u>E20</u>	<u>FURNISHINGS</u>				
E2010	<u>Fixed Furnishings</u>	<b>191,857</b>	SF	12.83	<u>2,461,999</u>



# Estimate Detail

**Project:** Sudbury Community Arena Renovation  
**Building:** Sudbury Community Arena Renovation Program

**Details:** Program Estimate in CAN - R1

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<u>E20</u>	<u>FURNISHINGS</u>				<i>(Continued)</i>
	General seating	4,850	EA	185.00	897,250
	Club seating	150	EA	185.00	27,750
	Loge seating	52	EA	185.00	9,620
	Retractable seating	320	EA	1,750.00	560,000
	Suite seating	96	EA	650.00	62,400
	Blinds to exterior glazing, allow for 50% of glazing area	5,497	SF	25.00	137,425
	Allow for millwork to suites	4,798	SF	80.00	383,840
	Allow for miscellaneous millwork	191,857	SF	2.00	383,714
	<u>FURNISHINGS</u>				<u>2,461,999</u>
<u>F10</u>	<u>SPECIAL CONSTRUCTION</u>				
F1010	<u>Special Structures</u>	<b>191,857</b>	SF	0.26	<u>50,000</u>
	Allow for temporary structures	1	LS	50,000.00	50,000
	<u>SPECIAL CONSTRUCTION</u>				<u>50,000</u>
<u>F20</u>	<u>SELECTIVE DEMOLITION</u>				
F2010	<u>Building Elements Demolition</u>	<b>125,675</b>	SF	18.94	<u>2,380,121</u>
	Allow for removing existing interior partitions and doors based on GFA	125,675	SF	3.00	377,025
	Sawcut existing slab on grade	1,046	LF	5.00	5,230
	Remove existing slab on grade, including rink slab	68,374	SF	5.00	341,870
	Sawcut existing suspended floor slab	192	LF	3.00	576
	Remove existing suspended floor slab	10,295	SF	15.00	154,425
	Remove existing stairs - per flight	13	EA	3,000.00	39,000
	Remove existing exterior wall	32,653	SF	2.00	65,306
	Remove existing exterior door and frame, per leaf	47	EA	800.00	37,600
	Sawcut existing seating bowl	130	LF	3.00	390
	Remove existing seating bowl	1,939	SF	10.70	20,747
	Remove existing refrigeration room plant	1	LS	36,000.00	36,000
	Remove existing roof structure and roof covering	12,035	SF	15.00	180,525
	Remove existing roofing to main roof, structure to remain	53,843	SF	10.00	538,430
	Remove existing elevators	1	EA	25,000.00	25,000
	Allow for removing existing interior finishes	20,972	SF	3.00	62,916
	Allow for removing existing seating bowl seats, railings, etc.	22,996	SF	6.50	149,474
	Allow for miscellaneous demolitions	125,675	SF	1.00	125,675
	Allow for miscellaneous patch and repair	125,675	SF	1.00	125,675
	Allow for temporary protection	125,675	SF	0.75	94,256





## Estimate Detail

<b>Project:</b> Sudbury Community Arena Renovation	<b>Details:</b> Program Estimate in CAN - R1
<b>Building:</b> Sudbury Community Arena Renovation Program	

Code	Description	Quantity	Unit	Rate	Total
<b>ARENA</b>					<i>(Continued)</i>
<u>F20</u>	<u>SELECTIVE DEMOLITION</u>				<i>(Continued)</i>
F2020	<u>Hazardous Components Abatement</u>	<b>125,675</b>	SF	15.00	<u>1,885,125</u>
	Allow for hazmat abatement	125,675	SF	15.00	1,885,125
	<u>SELECTIVE DEMOLITION</u>				<u>4,265,246</u>
<b>ARENA</b>					<b>102,639,993</b>

## **4 SITEWORKS COST DETAIL**



# Estimate Summary

**Project:** Sudbury Community Arena Renovation

**Details:** Program Estimate in CAN - R1

**Building:** Sudbury Community Arena Renovation Program

Code	Description	Quantity	Unit	Rate	Total
<b>SITE</b>					
	<u>SITWORK</u>				
	<u>AREAS:</u>				
	Site Development	19,482	SF		
	NET SITE AREA	<u>19,482</u>	SF		
	Building Footprint Area	105,428	SF		
	<b>TOTAL SITE AREA - PHASE 2</b>	<b>124,910</b>	<b>SF</b>		
G10	SITE PREPARATION	124,910	SF	5.50	687,005
G20	SITE IMPROVEMENTS	19,482	SF	15.00	292,230
G30	SITE MECHANICAL UTILITIES	19,482	SF	18.09	352,500
G40	SITE ELECTRICAL UTILITIES	19,482	SF	17.52	341,300
	<b>SUBTOTAL - BUILDING SITEWORK - PHASE 2</b>	<b>19,482</b>	<b>SF</b>	<b>85.88</b>	<b><u>1,673,035</u></b>
Z10	GENERAL CONDITIONS - 12%	1	LS	200,764.20	200,764
Z11	BONDING - 2%	1	LS	37,475.98	37,476
Z12	OVERHEAD AND PROFIT - 5%	1	LS	95,563.76	95,564
Z13	ESTIMATING CONTINGENCY - 15%	1	LS	301,025.84	301,026
Z14	ESCALATION - EXCLUDED				
	<b>RECOMMENDED BUDGET - BUILDING</b>	<b>19,482</b>	<b>SF</b>	<b>118.46</b>	<b><u>2,307,865</u></b>



# Estimate Detail

<b>Project:</b> Sudbury Community Arena Renovation	<b>Details:</b> Program Estimate in CAN - R1
<b>Building:</b> Sudbury Community Arena Renovation Program	

Code	Description	Quantity	Unit	Rate	Total
<b>SITE</b>					
<b>G10</b>	<b><u>SITE PREPARATION</u></b>				
G1010	<u>Site Clearing</u>	<b>124,910</b>	SF	3.00	<u>374,730</u>
	Allow for site clearing and grading	124,910	SF	2.00	249,820
	Allow for erosion control	124,910	SF	1.00	124,910
G1020	<u>Site Demolition &amp; Relocations</u>	<b>124,910</b>	SF	2.50	<u>312,275</u>
	Allow for miscellaneous site demolition	124,910	SF	2.50	312,275
G1030	<u>Site Earthwork</u>				<i>Note</i>
	See A2010 for mass excavation on new building foundation, no other site earthwork expected				
	<u>SITE PREPARATION</u>				<u>687,005</u>
<b>G20</b>	<b><u>SITE IMPROVEMENTS</u></b>				
G2040	<u>Site Development</u>	<b>19,482</b>	SF	15.00	<u>292,230</u>
	Allow for site development, 15' around building footprint	19,482	SF	15.00	292,230
	<u>SITE IMPROVEMENTS</u>				<u>292,230</u>
<b>G30</b>	<b><u>SITE MECHANICAL UTILITIES</u></b>				
G3010	<u>Water Supply</u>	<b>19,482</b>	SF	5.77	<u>112,500</u>
	Fire/water line, isolation valves, hydrants, trenching, connection to existing utility main	1	LS	112,500.00	112,500
G3020	<u>Sanitary Sewer</u>	<b>19,482</b>	SF	4.62	<u>90,000</u>
	Sanitary line, manholes, trenching, connection to existing utility main	1	LS	90,000.00	90,000
G3030	<u>Storm Sewer</u>	<b>19,482</b>	SF	7.70	<u>150,000</u>
	Storm drain line, catch basins, manholes, trenching, connection to existing utility main	1	LS	150,000.00	150,000
	<u>SITE MECHANICAL UTILITIES</u>				<u>352,500</u>
<b>G40</b>	<b><u>SITE ELECTRICAL UTILITIES</u></b>				
G4010	<u>Electrical Distribution</u>	<b>19,482</b>	SF	6.74	<u>131,300</u>
	Underground ductbanks, trenching	1	LS	75,000.00	75,000
	EV charger infrastructure	1	LS	56,300.00	56,300
	Incoming power feeders	1	LS	By Utility	0
G4020	<u>Site Lighting</u>	<b>19,482</b>	SF	5.77	<u>112,500</u>
	Pole mounted fixtures, other site lighting, lighting controls, wiring, trenching	1	LS	112,500.00	112,500



## Estimate Detail

**Project:** Sudbury Community Arena Renovation

**Details:** Program Estimate in CAN - R1

**Building:** Sudbury Community Arena Renovation Program

Code	Description	Quantity	Unit	Rate	Total
<b>SITE</b>					<i>(Continued)</i>
<u>G40</u>	<u>SITE ELECTRICAL UTILITIES</u>				<i>(Continued)</i>
G4030	<u>Site Communications &amp; Security</u>	<b>19,482</b>	SF	5.00	<u>97,500</u>
	Underground ductbanks, trenching	1	LS	60,000.00	60,000
	Incoming telecom cables	1	LS	By Utility	0
	Site security and alarm system	1	LS	37,500.00	37,500
	<u>SITE ELECTRICAL UTILITIES</u>				<u>341,300</u>
<b>SITE</b>					<b>2,307,865</b>

Attached is Exhibit "11"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

## Jasmine Chung

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**From:** Jasmine Chung  
**Sent:** October 5, 2021 8:59 AM  
**To:** Jasmine Chung  
**Subject:** Event Centre Report - Additional Context

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**From:** Ian Wood <[Ian.Wood@greatersudbury.ca](mailto:Ian.Wood@greatersudbury.ca)>  
**Sent:** 13 June 2021 23:15  
**To:** Al Sizer <[Al.Sizer@greatersudbury.ca](mailto:Al.Sizer@greatersudbury.ca)>; Bill Leduc <[Bill.Leduc@greatersudbury.ca](mailto:Bill.Leduc@greatersudbury.ca)>; Brian Bigger <[Brian.Bigger@greatersudbury.ca](mailto:Brian.Bigger@greatersudbury.ca)>; CGS\_Council <[cgs\\_council@greatersudbury.ca](mailto:cgs_council@greatersudbury.ca)>; Deb McIntosh <[Deb.McIntosh@greatersudbury.ca](mailto:Deb.McIntosh@greatersudbury.ca)>; Fern Cormier <[Fern.Cormier@greatersudbury.ca](mailto:Fern.Cormier@greatersudbury.ca)>; Geoff McCausland <[Geoff.McCausland@greatersudbury.ca](mailto:Geoff.McCausland@greatersudbury.ca)>; Gerry Montpellier <[Gerry.Montpellier@greatersudbury.ca](mailto:Gerry.Montpellier@greatersudbury.ca)>; Joscelyne Landry-Altman <[Joscelyne.Landry-Altman@greatersudbury.ca](mailto:Joscelyne.Landry-Altman@greatersudbury.ca)>; Leah Tessier <[Leah.Tessier@greatersudbury.ca](mailto:Leah.Tessier@greatersudbury.ca)>; Manon Depatie <[Manon.Depatie@greatersudbury.ca](mailto:Manon.Depatie@greatersudbury.ca)>; Mark Signoretti <[Mark.Signoretti@greatersudbury.ca](mailto:Mark.Signoretti@greatersudbury.ca)>; Mayor <[Mayor@greatersudbury.ca](mailto:Mayor@greatersudbury.ca)>; Melissa Zanette <[Melissa.Zanette@greatersudbury.ca](mailto:Melissa.Zanette@greatersudbury.ca)>; Michael Vagnini <[Michael.Vagnini@greatersudbury.ca](mailto:Michael.Vagnini@greatersudbury.ca)>; Mike Jakubo <[Mike.Jakubo@greatersudbury.ca](mailto:Mike.Jakubo@greatersudbury.ca)>; Rene Lapierre <[Rene.Lapierre@greatersudbury.ca](mailto:Rene.Lapierre@greatersudbury.ca)>; Robert Kirwan <[Robert.Kirwan@greatersudbury.ca](mailto:Robert.Kirwan@greatersudbury.ca)>  
**Cc:** Brett Williamson <[Brett.Williamson@greatersudbury.ca](mailto:Brett.Williamson@greatersudbury.ca)>; CGS\_CAO\_Exec\_Leadership\_team <[cgs\\_cao\\_exec\\_leadership\\_team@greatersudbury.ca](mailto:cgs_cao_exec_leadership_team@greatersudbury.ca)>; David Shelsted <[David.Shelsted@greatersudbury.ca](mailto:David.Shelsted@greatersudbury.ca)>; Edward Archer <[Ed.Archer@greatersudbury.ca](mailto:Ed.Archer@greatersudbury.ca)>; Ed Stankiewicz <[Ed.Stankiewicz@greatersudbury.ca](mailto:Ed.Stankiewicz@greatersudbury.ca)>; Ian Wood <[Ian.Wood@greatersudbury.ca](mailto:Ian.Wood@greatersudbury.ca)>; Joseph Nicholls <[Joseph.Nicholls@greatersudbury.ca](mailto:Joseph.Nicholls@greatersudbury.ca)>; Kathryn O'Leary <[Kathryn.OLeary@greatersudbury.ca](mailto:Kathryn.OLeary@greatersudbury.ca)>; Kevin Fowke <[Kevin.Fowke@greatersudbury.ca](mailto:Kevin.Fowke@greatersudbury.ca)>; Marie Litalien <[Marie.Litalien@greatersudbury.ca](mailto:Marie.Litalien@greatersudbury.ca)>; Steve Jacques <[Steve.Jacques@greatersudbury.ca](mailto:Steve.Jacques@greatersudbury.ca)>; Tanya Gravel <[Tanya.Gravel@greatersudbury.ca](mailto:Tanya.Gravel@greatersudbury.ca)>; Tony Cecutti <[Tony.Cecutti@greatersudbury.ca](mailto:Tony.Cecutti@greatersudbury.ca)>  
**Subject:** Event Centre Report - Additional Context

### Mayor Bigger and Members of Council,

This email message is intended to provide additional context to the Event Centre Update report. It also responds to some questions raised by members of Council and, where appropriate, in the local media.

Mr. Bidulka will present the highlights of his report at Wednesday's meeting. Mr. Boychuk will also be present if there are questions on his architectural work.

There are several sections in this message which correspond to the issues/questions raised:

- A. Council Direction and Basis for the Report
- B. Economic Impact
- C. "The Roaring 20s"
- D. Federal Funding Opportunities
- E. KED Hotel Meeting Facilities
- F. Parking
- G. Community Energy and Emissions Plan (CEEP)
- H. Alternate Casino Site
- I. Binding Commitment of Partners

## J. Cost of this Report

### **A. Council Direction and Basis for the Report**

In undertaking the work associated with this report, staff developed its approach with regard for the previous direction provided by Council, dating back to 2015.

In March 2017, Council approved the concept of a new event centre and agreed to the basic technical requirements. These were developed in more detail and formalized into a draft design-build RFP. Following this, Council and staff moved through a site selection process which resulted in the selection of the Kingsway Entertainment District site as the preferred location.

As outlined in the report on February 9, staff expected to work with PwC to update the information provided in previous reports in order to answer two main questions:

1. Since 2017, have any of the elements about the project changed such that its potential for producing the desired outcomes is markedly different?
2. Since 2017, and especially considering the effects of the Covid-19 virus, have there been any changes in the operating environment that would affect the project's success?

In developing the scope of work for PwC and in the preparation of the report for your meeting June 16, staff considered the decisions taken in 2017, including the technical specifications for the project. These played a significant role in any analysis. Those decisions provide a baseline for assessing the impact, if any, of developments or changes since 2017 to either the project or the operating environment.

Council directed staff to proceed with the procurement and construction of an event centre at the Kingsway site. Despite the sidetracks created by LPAT and court appeals, staff understands that this direction remains unchanged. Therefore, based on Council's direction, any comparisons, including a possible renovation of the existing arena, are benchmarked against the Council-approved configuration.

There was no direction from Council to undertake a detailed evaluation of the suggested approach by 3<sup>rd</sup> Line Studio. Neither PwC's nor staff's accompanying report should be viewed as a response to 3<sup>rd</sup> Line's presentation. Instead, this latest evaluation reflects an approach to renovating the existing arena that would result in a building and visitor experience that is as close as possible to the proposed new building approved in 2017 and to identify shortcomings, if any. This is reflected in the report and costing analysis. Council retains the choice, as it has always had, to define a different set of technical requirements or direct staff to explore alternatives.

As part of his research, Mr. Boychuk did review the publicly available information from 3<sup>rd</sup> Line Studio and may be able to answer related questions if they are posed by councillors. He also indicates that the costing for the renovations is a median, or midpoint, within a range of possible costs. It is, in his judgement, a reasonable basis for assessing this option. He used this approach because of his comfort with the expertise of



the quantity surveyor and to simplify discussions and comparisons. He is fully prepared to expand on this aspect of his work if a member of Council requests that at the meeting.

## **B. Economic Impact**

The consultant report provides information and numbers on known projects and recent development activity in the downtown and in the Kingsway corridor. In discussions with PwC, it was clear that further analysis would be highly subjective and formulaic. Such analysis, which relies on subjective assessments and assumptions that are themselves open to interpretation, is no longer performed by PwC.

Although the report does not provide additional numbers, it is clear that wherever the event Centre is located, and depending on the amenities associated with it, additional spin off activity will occur. The potential for shared programming between the event centre, the hotel and the casino, for example, has not been quantified or added to the report.

The relocation of the existing arena will have an impact on the surrounding area. In terms of the consequence for the downtown, however, it is important to remember that a potential redevelopment of the existing arena site presents an enormous and unique economic opportunity for the City. Depending on the form of the redevelopment – mixed used residential for example – it could represent a significant enhancement to the downtown economy that far exceeds the impact produced by the existing arena.

The report presents and updates information on the development impacts which new event centres have had on their downtown. It notes that based on these precedent examples, the potential would exist for ancillary / complementary development to occur in downtown Sudbury. The report notes, however, that it would be speculative to identify the exact form or nature of such developments in Greater Sudbury, but does include known projects proposed for the downtown. The report also notes, from consultations with Economic Development officials in Medicine Hat, AB, that moving their arena to a suburban location had no negative fall-out within its downtown.

While the impact of a restored Sudbury Community Arena is not specifically addressed, it was noted that it would generate fewer events compared to a new events centre. The City's 2019 study of development interest in the downtown related to Junction West noted that there was little foot traffic after businesses closed and on weekends – this is despite the SCA being operational at this time. A modernized SCA could therefore be inferred to have little to no beneficial impact.

The consultant indicates that no multiplier factor has been used in terms of investment or job numbers. The report presents an objective, straightforward view on the benefits associated with each of the downtown and Kingsway sites. While the casino may not be “net new”, the other projects would likely be (with the hotel, for example, wanting to capitalize on the planned developments for this site). PwC relied upon written and verbal information and insights provided by numerous parties to make informed judgements and supported this, as appropriate, with documentary evidence in the report.

## **C. The Roaring 20s**

There may be some confusion regarding the messages about the anticipated economic activity following the end of the pandemic. The PwC report notes that because a renovated SCA would be under construction, it would not enjoy the benefits of the “roaring 20s” and the additional activity anticipated to follow from the economy's reopening. Yet, if a new arena was built, whether on the Kingsway or downtown, the City would be

able to enjoy the benefits of the “roaring 20s”, since the SCA would continue to operate while the new building was under construction.

#### **D. Federal Funding Opportunities**

Staff were requested to investigate the potential for funding associated with green infrastructure renewal. Although not included in the report, staff have explored the potential for assistance from federal green infrastructure programs, including the Canada Infrastructure Bank – Green Infrastructure Stream and the Federation of Canadian Municipalities Green Municipal Fund.

The Canada Infrastructure Bank is a multi billion dollar initiative that uses federal funds to lever private investment in public infrastructure. To be eligible, projects must project positive revenue generation and satisfy commercial due diligence including significant private sector participation. The Green Municipal Fund Community Buildings Retrofit Program is a much smaller value program and is limited to buildings that are primarily used to provide athletic, recreational, cultural and community programs or services to the local community.

In general, federal funding is not available to buildings that are used for professional sports teams. As the event Centre moves forward, however, staff will continue to explore the potential for financial assistance from the provincial and federal governments.

#### **E. KED Hotel Meeting Facilities**

As reported in the PwC Report, “The owner of the Kingsway Site is additionally proposing the construction of a 16,000 square foot meeting and banquet facility as part of their proposed hotel development.”

Although staff have not received any additional details, we are aware that a hotel consultant was retained in recent months by Mr. Zulich to update a feasibility study on the hotel and associated meeting facilities. Council will recall that, at the request of the CGS, Mr. Zulich agreed to make reasonable efforts to secure additional amenities at the Kingsway site, including the casino. This obligation was written into the land purchase agreement reflected in the staff report to the June is contractually obligated to deliver a “Conference Centre” and other amenities within 5 years of the execution of the City’s purchase agreement or pay liquidated damages to the City of Greater Sudbury each year from that point forward.

In terms of the potential impact to the Junction West Project, once the full details of Mr. Zulich’s proposal are available, staff will review those and provide an update to Council for direction.

#### **F. Parking**

The report notes that no new parking has been added since 2017. In fact a modest number of additional spaces were created when by paving a small lot and because pay-by-plate allows cars to park more closely together. The consultant indicates that during discussion with a downtown developer, it was noted that the downtown needing new parking; This has been an active conversation and that solutions continue being explored. In addition, the city issued a Request for Expressions of Interest for new parking proposals in 2019 and determined that a new parking facility should be pursued in conjunction with downtown redevelopment projects.

## **G. Community Energy and Emissions Plan (CEEP)**

Staff received further questions on how the analysis of the three sites aligns with the CEEP. These questions can be broken into two themes:

1. How do the construction portion of the Event Centre sites compare to each other including the ultimate use of the existing Sudbury Community Arena for the new build options?

A detailed analysis of the different construction requirements and techniques was not completed for each site. The vast majority of Green House Gas (GHG) emissions occur during the operational phase of the facility. The selection of building material and duration of construction also contribute to emissions. It is noted that in the Sudbury Community Arena Modernization option, the roof structure and existing concrete bowl are reused.

Council has not made a decision on the repurposing or reuse of the Sudbury Community Arena site, and therefore an analysis on the GHG emissions cannot be undertaken.

2. CEEP has Low-Carbon Transportation Actions, specifically Goal 7: to increase transit mode share to 25% by 2050, and Goal 8: to achieve 35% active mobility transportation mode share by 2050. How do the three sites compare to these goals?

In 2017, as part of the site evaluation for the Event Centre, the City retained WSP Canada Inc. to undertake a Traffic Operational Assessment Greater Sudbury Arena to determine the traffic impacts and resolutions required for all four sites evaluated. That work remains valid and has not changed. It identified increases in transit ridership and active transportation use should be anticipated for either a downtown arena, or at the Kingsway site.

The following is an excerpt from that report:

*“An 8% mode split reduction has been assumed for the Downtown Sudbury location (Minto-Shaugnessy) due to the number of transit routes servicing the site. This also accounts for attendees living near or in the downtown who may either walk or bike to the Arena.*

*Similarly, a 5% mode split reduction has been applied to all the other alternatives as they are serviced by fewer transit routes and are less residentially dense than the downtown. More vehicular traffic is expected to arrive at these suburban locations.”*

The following table was also included in the report:

Mode Split Reduction and Resulting Vehicular Trips

Downtown Mode Split	Downtown Trips	Suburban Mode Split	Suburban Trips
8%	2,348	5%	2,424

As noted, these mode splits include both the transit mode split and the active transportation mode split. There is a difference of 76 trips between the sites. A detailed analysis of the origin of the trips was not undertaken, so a determination of total distance traveled cannot be calculated.

At all of the sites, the City is advancing projects that will increase both the transit and active transportation mode split. For all sites, the Transit Action Plan continues to be undertaken, with a major route change having already occurred.

For the downtown location, a section of the Paris-Notre Dame Bikeway was completed in 2020, with the remainder of the project in a shovel ready status. In addition, there are also plans for the Elgin Greenway that will connect to both sites.

For the Kingsway location, there is a dedicated bus loop and parking, as well as a priority bus/pedestrian traffic signal included in the site design and cost estimates. For active transportation, there are links to the Ramsey Lake Bike Route and a trail system through the storm water pond area included in the design and cost estimates.

#### **H. Alternate Casino Site**

Questions have been raised about whether Gateway might pursue an alternate site for a new casino. The company has demonstrated a preference for the KED site through its support of the defense of the legal challenges as well as its commitment to the cost-sharing agreement for site works. In originally opting to partner on the KED development, Gateway officials indicated that the co-location of the event centre and hotel with their new casino would create opportunities for shared programming and result in benefits for all three parties.

While there are other potential locations in Greater Sudbury that have the correct basic zoning for a casino, Council may remember that any new casino site in Ontario requires the agreement of the operator, in this case Gateway, the province (OLG) and the municipality. The municipal consent is demonstrated either through the rezoning process, as it was with the KED location, or through an appropriate motion, based on the advice of the OLG.

#### **I. Binding Commitment of Partners**

All parties are bound by the cost-sharing agreement which came into effect in January 2019. All members of Council received the complete document from Ms. Gravelle on January 17, 2019.

This agreement details the site development work required to initiate the overall KED project and allocates cost percentages for various portions of the work to each of the parties. The agreement includes details on obligations, payments and processes for allocating costs and work.

This agreement is legally binding and remains in effect. It indicates that the parties will agree on a schedule of when to begin the site alteration work and, from that point forward, obligates each to pay their full share of the costs.

Any of the parties are able to terminate the agreement, with appropriate notice, prior to the start of construction. Once construction begins, however, only the CGS retains the right to terminate. Clause 15(3) states *“From and after the date of the commencement of construction of the Early Works, neither Gateway nor the Developer shall be entitled to terminate this agreement or their respective interest hereunder.”*

#### **J. Cost of this Report**

Council approved a budget of up to \$125,000.00 for the work required to prepare this report. Of that amount, approximately \$106,500.00 has been committed, leaving a balance of \$18,500.00.

Attached is Exhibit "12"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", is written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.



100 - 4400 Dominion Street | Burnaby, BC V5G 4G3 | [www.gatewaycasinos.com](http://www.gatewaycasinos.com)

February 9, 2021

City of Greater Sudbury  
City Council  
200 Brady Street.  
Sudbury, Ontario P3A SP3

Open Letter to Members of Council, City of Greater Sudbury,

I would like to take this opportunity in advance of today's Council meeting to advise members of Council and Mayor Brian Bigger that Gateway Casinos & Entertainment Limited (Gateway) remains supportive of the overall Kingsway Entertainment District (KED) project and we are excited for the potential to be a part of the overall development.

Gateway believes the KED location is the right place for us to undertake a new casino development in the city. As you know, we have shown our support for our partners throughout the planning of the KED project, including during the recent challenges at the Superior Court and the Land Planning Appeals Tribunal (LPAT) – in both cases at significant expense to Gateway. Although it was difficult to devote such significant resources to the LPAT process, while thousands of our employees are on leave due to COVID-19 government-imposed closures, we believed that supporting this project was an important investment to make into the future of Gateway and its employees as we position ourselves to return to full operations.

Our development timelines for our portion of the overall KED project will be reviewed and adjusted once the City has finalized its own plans for other components of the project and we can be confident that there will be no further challenges to the project moving forward on the part of city council. However, this also assumes the impact of the COVID-19 pandemic on our business can be mitigated, our properties can re-open and eventually return to operations without capacity restrictions. An aggressive vaccine rollout and an economic environment that supports the rebound of gaming volumes to pre-COVID-19 activity are key elements to returning our business to pre-pandemic levels.

We note that in the event that the overall KED project scope is revised, as an outcome of the PWC analysis (for example by removing the arena or hotel components), Gateway will need to re-examine the feasibility of a gaming property at this location.

Gateway continues to be a proud member of your community and we look forward to working in partnership as we move forward.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jag Nijjar", is written over a light blue horizontal line.

Jag Nijjar  
Executive Vice President of Development and Construction  
Gateway Casinos & Entertainment Limited

Attached is Exhibit "13"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.



## Minutes

### For the Special City Council Meeting

June 16, 2021  
Tom Davies Square

Present (Mayor and Councillors)	Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altman, Mayor Bigger
City Officials	Ed Archer, Chief Administrative Officer, Kevin Fowke, General Manager of Corporate Services, Tony Cecutti, General Manager of Growth and Infrastructure, Ed Stankiewicz, Executive Director of Finance, Assets and Fleet, Steve Jacques, General Manager of Community Development, Joseph Nicholls, General Manager of Community Safety, Marie Litalien, Director of Communications & Community Engagements, Ian Wood, Executive Director of Strategic Initiatives and Citizen Services, Joanne Kelly, Director of Human Resources and Organizational Development, Kelly Gravelle, Deputy City Solicitor, Ron Foster, Auditor General, Eric Labelle, City Solicitor and Clerk, Melissa Zanette, Chief of Staff, Brett Williamson, Director of Economic Development, David Shelsted, Director of Planning Services, Lisa Locken, Clerk's Services Assistant, Corinne Poulin, Clerk's Services Assistant

#### His Worship Mayor Brian Bigger, In the Chair

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**1. Call to Order**

The meeting commenced at 6:01 p.m.

**2. Moment of Silent Reflection**

**3. Roll Call**

A roll call was conducted.

**4. Declarations of Pecuniary Interest and the General Nature Thereof**

None declared.

Due to technical difficulties, the meeting was paused and resumed at 6:16 p.m.

## 5. Presentations

### 5.1 Event Centre Information Update Report

Ron Bidulka, Managing Director, PricewaterhouseCooper's, Conrad Boychuk, Leader, ian mckay architect inc., and David Shelsted, Project Director, Greater Sudbury Event Centre Project, provided an electronic presentation regarding an update on the Event Centre Project for information only.

Recess

At 8:47 p.m., Council recessed.

Reconvene

At 8:56 p.m., Council reconvened.

Proceed Past 9:10

THAT this meeting proceeds past 9:10 p.m.

A Recorded Vote was held:

The following resolution was presented:

Proceed Past 9:10 p.m.

A Recorded Vote was held:

YEAS: (10): Councillor Montpelier, Councillor McCausland, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altman, and Mayor Bigger

NAYS: (3): Councillor Signoretti, Councillor Vagnini, and Councillor Kirwan

**CARRIED**

Councillor Kirwan presented the following resolution:

**PL2021-190**

Moved By Councillor Kirwan

Seconded By Councillor Leduc

THAT the discussion on the Event Centre Information matter be considered completed.

YEAS: (7): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Leduc, Councillor Landry-Altman, and Mayor Bigger

NAYS: (6): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor McIntosh, and Councillor Cormier

**CARRIED**

Proceed Past 10:12 p.m.

THAT this meeting proceed pasts 10:12 p.m.

**DEFEATED**

**10. Adjournment**

Automatic adjournment at 10:12 p.m.

The following items were not addressed at this meeting:

- 6. Members' Motions**
- 7. Addendum**
- 8. Civic Petitions**
- 9. Question Period**

Attached is Exhibit "14"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

**Resolution Number** CC2021-190

**Title:** Event Centre Information Update Report

**Date:** Wednesday, June 16, 2021

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**Moved By** Councillor Kirwan

**Seconded By** Councillor Leduc

THAT the discussion on the Event Centre Information matter be considered completed.

**CARRIED**

Attached is Exhibit "15"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

# Municipal Council Meeting Transcript

Mayor Bigger, et al.  
on June 29 2021



77 King Street West, Suite 2020  
Toronto, Ontario M5K 1A1

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<p>1 TRANSCRIPT - GREATER SUDBURY COUNCIL MEETING Page 1</p> <p>2</p> <p>3 RE: EXCERPT OF GREATER SUDBURY MUNICIPAL</p> <p>4 COUNCIL MEETING</p> <p>5 ISSUE: GREATER SUDBURY EVENT CENTRE</p> <p>6 SPEAKERS: MAYOR BIGGER;</p> <p>7 COUNCILLORS MARK SIGNORETTI,</p> <p>8 MICHAEL VAGNINI, GERRY MONTEPELLIER,</p> <p>9 GEOFF MCCAUSLAND, ROBERT KIRWAN,</p> <p>10 RENE LAPIERRE, MIKE JAKUBO, AL SIZER,</p> <p>11 DEB MCINTOSH, FERN CORMIER,</p> <p>12 BILL LEDUC, and</p> <p>13 JOSCELYNE LANDRY-ALTMANN;</p> <p>14 MR. IAN WOOD; MR. ARCHER</p> <p>15 DATE: JUNE 29, 2021</p> <p>16 DURATION: 3:31:00 TO 4:43:20 (73 MINUTES)</p> <p>17</p> <p>18</p> <p>19</p> <p>20 PREPARED BY:</p> <p>21 Linda Blue</p> <p>22 NEESONS (A VERITEXT COMPANY)</p> <p>23 77 KING STREET WEST, SUITE 2020</p> <p>24 TORONTO, ONTARIO M5K 1A2</p> <p>25 TEL. 416.413.7755</p>	<p>1 facility to serve as a contemporary Page 3</p> <p>2 sports venue for professional league</p> <p>3 play; an Event Centre that hosts paid</p> <p>4 performances such as concerts, trade</p> <p>5 shows, and other similar community</p> <p>6 events; and a community space</p> <p>7 available for year-round rental;</p> <p>8 . Delivers a financing plan that</p> <p>9 requires no more than 70 per cent of</p> <p>10 the anticipated construction costs</p> <p>11 required for a new even centre and a</p> <p>12 five-year operating cost forecast</p> <p>13 that supports comparisons with a new</p> <p>14 Event Centre's operation; and,</p> <p>15 . Clearly describes the changes needed</p> <p>16 to either the facility's required</p> <p>17 elements and/or the financing plan to</p> <p>18 produce a solution that effectively</p> <p>19 meets functionality and cost</p> <p>20 expectations."</p> <p>21 MAYOR BIGGER: Thank you, Mr. Clerk.</p> <p>22 Councillor McCausland.</p> <p>23 COUNCILLOR MCCAUSLAND: Thank you, Mr.</p> <p>24 Mayor. So through you to my colleagues on Council.</p> <p>25 This motion is really in response to what I thought</p>
<p>1 ---Upon commencing at timestamp 3:31:00: Page 2</p> <p>2 MAJOR BIGGER: Go ahead, Councillor</p> <p>3 McCausland.</p> <p>4 COUNCILLOR MCCAUSLAND: Thank you very</p> <p>5 much, Mayor Bigger. I have two members' motions that</p> <p>6 I would like to present tonight, as was discussed at</p> <p>7 last week's special City Council Meeting. The Council</p> <p>8 should have received those from the clerk midway --</p> <p>9 about a week ago, a little bit less. And I would ask</p> <p>10 if the clerk might be able to put the first motion up</p> <p>11 on the screen so that we can consider it. And I'll</p> <p>12 need I guess to -- I'll move the motion, and I believe</p> <p>13 that Councillor Signoretti will second it to get it on</p> <p>14 the floor.</p> <p>15 COUNCILLOR SIGNORETTI: Yes, I'll</p> <p>16 second it. Thank you.</p> <p>17 MR. CLERK: Thank you. Moved and</p> <p>18 seconded (as read):</p> <p>19 "That staff undertake an analysis</p> <p>20 of potential approaches for modernizing</p> <p>21 the Sudbury Community Arena in a report</p> <p>22 to be produced no later that October</p> <p>23 2021 that fulfils the following</p> <p>24 objectives:</p> <p>25 . Retains the required elements for the</p>	<p>1 some of us on Council -- some members of Council and Page 4</p> <p>2 some members of the public were expecting to be</p> <p>3 considered as part of the report that came forward</p> <p>4 last week from Price Waterhouse Cooper.</p> <p>5 The idea that the project now brought</p> <p>6 forward was that we might be able to get 80 per cent</p> <p>7 of the product for 50 per cent of the cost. And</p> <p>8 Council didn't want to go look at that project now --</p> <p>9 idea specifically. And I understand there was some</p> <p>10 concern that it might be inappropriate to look at one</p> <p>11 architect firm's plan as opposed to anybody else who</p> <p>12 -- in town who might have a firm that might be</p> <p>13 interested in proposing something.</p> <p>14 This motion would allow us to consider</p> <p>15 whether it's possible, whether we can get that 80</p> <p>16 percent product for 50 per cent of the cost. And in</p> <p>17 this case, it says cannot go over 70 per cent of the</p> <p>18 cost, anticipate construction cost, required for a new</p> <p>19 Event Centre.</p> <p>20 And all of this really stems from one</p> <p>21 of the main issues that I've -- I really felt I've</p> <p>22 witnessed since becoming a member of City Council</p> <p>23 here, which is that sometimes I feel like we're unable</p> <p>24 -- there isn't the proper mechanism to provide a cost</p> <p>25 benefit analysis of the different options that might</p>



<p style="text-align: right;">Page 5</p> <p>1 exist before City Council. 2015, this renovation was                  2 looked at, and 60 -- sorry, 6,000 seats was                  3 considered, with an upward range of \$50 million. Now,                  4 I'm not sure how, the report we got before said that                  5 escalated, that's over a \$100 million today.                  6 But what really needs to be considered                  7 is in the 2017 Price Waterhouse Cooper report it                  8 identifies all the different aspects of a successful                  9 arena and what we need in terms of making sure that                  10 the Wolves have a viable business plan, that we are                  11 getting concerts to come to our community, that we are                  12 providing a space for trade shows that can operate                  13 effectively and sustainably.                  14 And so this motion asks for us to look                  15 at whether we can modernize the current Sudbury Arena                  16 for a lower cost, which would ultimately free up                  17 capital for other items. I believe that that is                  18 something that has not been fully explored because the                  19 renovation that was looked at previously didn't have                  20 the information of that 2017 report to guide it. And                  21 Project Now tried to do that, but we haven't had a                  22 chance to actually investigate that.                  23 So this would allow us to say, okay,                  24 where is the sweet spot. Instead of spending \$114                  25 million on the Kingsway to get the Rolls-Royce, is</p>	<p style="text-align: right;">Page 7</p> <p>1 Thank you.                  2 COUNCILLOR LEDUC: Thank you, Mr.                  3 Mayor; through you. Mr. McCausland, we have seen                  4 several reports now, okay. Even renovating the                  5 Sudbury Community Arena would be three years. It                  6 would have an impact on the community. The Wolves, at                  7 times, would be able to play. We would not be able to                  8 have events there for the next three years.                  9 We do not want to miss this. We want                  10 to be able to have the concerts while we are building                  11 a new arena. This is just a blatant delay once again                  12 trying to stall a vote that was back in 2017 to move                  13 forward with the KED. Unfortunately [inaudible] your                  14 motion as we have enough reports. Read them.                  15 Understand them. We don't need this. Thank you.                  16 MAYOR BIGGER: So I think, Councillor                  17 Leduc, I believe your comments are completed. Just                  18 one thing that we have not done is waive notice on                  19 this resolution. And so, you know, I believe that you                  20 covered the keys elements here. We have been able to                  21 read it. But, Mr. Clerk, can you take us through a                  22 process that would lead us to request to waive notice                  23 on this motion brought forward by Councillor                  24 McCausland?                  25 MR CLERK: Thank you, Mr. Mayor. Are</p>
<p style="text-align: right;">Page 6</p> <p>1 there a Cadillac version that we can get for \$70                  2 million that is going to get all the benefits that                  3 City Council is seeking in terms of community                  4 vibrancy, in terms of the effective programming and                  5 sustainable operations, for a significantly reduced                  6 upfront cost? And if that exists, I believe that to                  7 be the safest bet for our community.                  8 And so I really am urging my colleagues                  9 to consider, is there an opportunity for us to look at                  10 this. I know some things -- some people might feel                  11 full steam ahead. I will remind my colleagues that                  12 some members felt that the initial report that we just                  13 got back should not have come back until September.                  14 And we thankfully had that come back early so that                  15 there is a bit of a buffer, a bit of time, for us to                  16 consider these other things and ensure we have all the                  17 information that is necessary to make this largest                  18 investment in our city's history.                  19 And so that's the motion. I'm happy to                  20 answer any questions, if anybody has specific                  21 questions on it, and I ask for your support today.                  22 Thank you.                  23 MAYOR BIGGER: Councillor Leduc.                  24 COUNCILLOR SIGNORETTI: Mr. Mayor, it's                  25 Councillor Signoretti. I'd like to speak as well.</p>	<p style="text-align: right;">Page 8</p> <p>1 you asking me to call the vote at this time? It would                  2 require two-thirds vote to waive notice, Mr. Mayor.                  3 MAYOR BIGGER: Yes. And do we need to                  4 read the resolution first before we waive notice or...                  5 MR. CLERK: So, thank you, Mr. Mayor.                  6 I have read the resolution, so at this time it would                  7 be appropriate to consider waiver of notice.                  8 MAYOR BIGGER: Okay. Thank you very                  9 much. And so, Councillor McCausland, I am just going                  10 to call the question regarding the waiver of notice on                  11 this item. And so perhaps, Mr. Clerk, I will ask you                  12 to conduct a roll-call vote. I do not believe it will                  13 be unanimous.                  14 MR. CLERK: Thank you, Mr. Mayor.                  15 Councillor, with respect to waiver of notice,                  16 Councillor Signoretti, please.                  17 COUNCILLOR SIGNORETTI: Yes.                  18 MR. CLERK: Councillor Vagnini.                  19 COUNCILLOR VAGNINI: Yes.                  20 MR. CLERK: Councillor Montpellier.                  21 COUNCILLOR MONTPPELLIER: Yes.                  22 MR. CLERK: Councillor McCausland.                  23 COUNCILLOR MCCAUSLAND: Yes.                  24 MR. CLERK: Councillor Kirwan.                  25 COUNCILLOR KIRWAN: Yes.</p>

<p style="text-align: right;">Page 9</p> <p>1 MR. CLERK: Councillor Lapierre.          2 COUNCILLOR LAPIERRE: Yes.          3 MR. CLERK: Councillor Jakubo.          4 COUNCILLOR JAKUBO: Yes.          5 MR. CLERK: Councillor Sizer.          6 COUNCILLOR SIZER: Yes.          7 MR. CLERK: Councillor McIntosh.          8 COUNCILLOR MCINTOSH: Yes.          9 MR. CLERK: Councillor Cormier.          10 COUNCILLOR CORMIER: Yes.          11 MR. CLERK: Councillor Leduc.          12 COUNCILLOR LEDUC: No.          13 MR. CLERK: Councillor Landry-Altman.          14 COUNCILLOR LANDRY-ALTMANN: Yes.          15 MR. CLERK: And Mayor Bigger.          16 MAYOR BIGGER: Yes.          17 MR. CLERK: That motion is carried.          18 Waiver -- notice has been waived, Mr. Mayor.          19 MAYOR BIGGER: Thank you very much, Mr.          20 Clerk. Are there further questions or comments from          21 Council?          22 COUNCILLOR SIGNORETTI: Councillor          23 Signoretti.          24 MAYOR BIGGER: Okay. Go ahead,          25 Councillor Signoretti.</p>	<p style="text-align: right;">Page 11</p> <p>1 that we address those concerns.          2 So when something is available to us,          3 and this is not stopping a project, this is just          4 making sure that we do the proper analysis, seeing if          5 there is something out there that would save us, the          6 community, monies, which we are looking around the          7 table to do that at budget time, we always look to try          8 to bring the tax rate lower every time we are around          9 this Council table or around the finance table.          10 So I don't think this is an          11 unreasonable request. I think this is something that          12 should be entertained. And if it does have the          13 potential to save us millions of dollars, where we can          14 maximize that \$200 million, instead of looking at a          15 couple of projects, be able to do multiple projects,          16 where we can do three or four projects with the same          17 amount of money, wouldn't that be important to all of          18 us around the Council table to see every part of our          19 community getting a benefit from that \$200 million?          20 So, again, I urge my colleagues to          21 consider this. This is just adding to more due          22 diligence as governors sitting around this table.          23 Thank you.          24 COUNCILLOR MONTEPELLIER: Montpellier,          25 Mr. Mayor.</p>
<p style="text-align: right;">Page 10</p> <p>1 COUNCILLOR SIGNORETTI: Thank you, Mr.          2 Mayor. Just along the same lines as Councillor          3 McCausland's brought forward, I think it would be, and          4 I am urging my colleagues to -- I think it is          5 incumbent as good governors of the municipality, the          6 Greater City of Sudbury, when new information comes          7 forward where we can potentially save the taxpayers          8 millions of dollars and we do not even take the          9 opportunity to explore it, to me I think it is doing a          10 disservice to the taxpayer, especially when in our          11 community right now when we are going through COVID,          12 plus the pandemic, COVID included with the pandemic.          13 Plus, there are 2,500 workers at Valley currently laid          14 off, not receiving a paycheque, and we have just seen          15 the troubles that Laurentian University is going          16 through, where over 100 employees have been let go of          17 their jobs, some season employees. And those are not          18 low-income jobs. Those are high-income paying jobs.          19 So with new information, and I concur          20 with Councillor McCausland on the comment, when we          21 asked the report from PWC, we wanted to make sure we          22 covered certain basis like economic impact, any          23 potential for government funding, how it would affect          24 our community energy plan that we as Council passed          25 unanimously because we felt that it was very important</p>	<p style="text-align: right;">Page 12</p> <p>1 MAYOR BIGGER: Go ahead, Councillor          2 Montpellier.          3 COUNCILLOR MONTEPELLIER: Through you,          4 Mr. Mayor. I don't want to sound like a broken record          5 here, but would this motion be part of and          6 consideration and look at these green energy grants          7 that I keep referring to, as several arenas now in          8 Ontario have benefitted from it. And it is money          9 coming in from the Federal Government, which, again,          10 when we talk about saving millions, what can I say?          11 Grant money from the Feds to -- for a project is          12 something. So is this something that would be          13 considered in this motion? I guess the question is to          14 Councillor McCausland, I guess.          15 MAYOR BIGGER: Councillor McCausland,          16 does your motion refer to the CEEP or environmental          17 impacts?          18 COUNCILLOR MCCAUSLAND: Yes, thank you          19 for the question, Mayor Bigger. And through you to          20 Councillor Montpellier. The other motion that is --          21 that I have tonight for consideration of Council          22 considers those, both of those issues, as well as a          23 few other that were brought up in February and for          24 asking for more information on those items, such as          25 the higher levels of government funding. So not this</p>

<p style="text-align: right;">Page 13</p> <p>1 one, but the other one looks at that.</p> <p>2 COUNCILLOR MONTPELLIER: Thank you very</p> <p>3 much for the clarification.</p> <p>4 MAYOR BIGGER: Thank you. Are there</p> <p>5 further questions or comments from Council?</p> <p>6 COUNCILLOR CORMIER: Mayor Bigger.</p> <p>7 MAYOR BIGGER: Go ahead, Councillor</p> <p>8 Cormier.</p> <p>9 COUNCILLOR CORMIER: Thank you, Your</p> <p>10 Worship. I will be brief. I concur with my</p> <p>11 colleagues in what has been put forward. I am</p> <p>12 supportive of this motion. And primarily, and it goes</p> <p>13 back to the comments that I made at our special</p> <p>14 meeting and earlier than that in February when the</p> <p>15 initial direction was given, I suppose it is fair in</p> <p>16 hindsight to look at that meeting and look at the</p> <p>17 language of the meeting and, in a fair manner, suspect</p> <p>18 that different people could have walked away with</p> <p>19 different expectations. That's fine.</p> <p>20 I have expressed that I was under the</p> <p>21 impression that the review of the renovation of the</p> <p>22 downtown arena would not be so much taking what was</p> <p>23 already planned and taking it from that footprint and</p> <p>24 putting it under a different footprint, but rather</p> <p>25 this, what is being specifically asked for here. And,</p>	<p style="text-align: right;">Page 15</p> <p>1 whichever way our city goes, it will go in that</p> <p>2 direction with a full set of information, a full set</p> <p>3 of facts. And even though not everybody is going to</p> <p>4 agree, no matter what, it is incumbent upon us to</p> <p>5 overturn every stone and to be able to defend the</p> <p>6 direction the city goes in. So I am supportive of</p> <p>7 this motion. Thank you, Mr. Mayor.</p> <p>8 MAYOR BIGGER: Are there any other</p> <p>9 members of Council that wish to speak?</p> <p>10 COUNCILLOR KIRWAN: I do, Mr. Mayor.</p> <p>11 MAYOR BIGGER: Go ahead, Council</p> <p>12 Kirwan.</p> <p>13 COUNCILLOR KIRWAN: Thank you, Mr.</p> <p>14 Mayor. It is kind of ironic that today is the fourth</p> <p>15 anniversary of the day after City Council back in 2017</p> <p>16 made two of the biggest commitments to the future of</p> <p>17 this city. The first one was to locate the arena on</p> <p>18 the Event Centre -- the arena and Event Centre on the</p> <p>19 Kingsway. And the second one was to approve what is</p> <p>20 now known as Junction East and Junction West.</p> <p>21 This was an investment in the future of</p> <p>22 the city. During the past 4 years, that decision has</p> <p>23 been challenged 12 times in LPAD. It has been</p> <p>24 challenged in the Superior Court of Justice. We have</p> <p>25 had an election where 11 people running for re-</p>
<p style="text-align: right;">Page 14</p> <p>1 okay, mea culpa, perhaps that should have been baked</p> <p>2 in the cake in February, but I am not alone, Mr.</p> <p>3 Mayor, in assuming that the type of analysis that is</p> <p>4 being asked for now was going to form part, at least</p> <p>5 part, of the review that was requested.</p> <p>6 So, you know, I am not laying blame for</p> <p>7 that, you know. What is done is done; what happened</p> <p>8 happened. But I don't consider myself an unreasonable</p> <p>9 person, and I do believe it was reasonable to walk</p> <p>10 away from that meeting thinking that we were going to</p> <p>11 get this. Perfectly reasonable as well for somebody</p> <p>12 to walk away perhaps thinking something completely</p> <p>13 differently.</p> <p>14 I view this as just putting the</p> <p>15 specificity in the request. As Councillor McCausland</p> <p>16 has pointed out, we do have time to button these</p> <p>17 things down. And an oft used phrase in carpentry is,</p> <p>18 "Measure twice and cut once." And if that doesn't</p> <p>19 apply in a situation where we are about to make the</p> <p>20 single largest investment in a generation, if not the</p> <p>21 history of the City of Greater Sudbury, dollar-wise,</p> <p>22 then I don't know where else it would apply, Mr.</p> <p>23 Mayor.</p> <p>24 And I see no harm in dotting the I's</p> <p>25 and crossing the T's so that at the end of the day,</p>	<p style="text-align: right;">Page 16</p> <p>1 election got put back into this Council. The vote of</p> <p>2 confidence and the decisions of Council were</p> <p>3 confirmed. The Price Waterhouse Cooper, the report</p> <p>4 that we just looked at, addressed items one and three</p> <p>5 of this resolution. The analysis of modernizing the</p> <p>6 Sudbury Community Arena pointed out a number of</p> <p>7 factors that increased the risk if we were to go that</p> <p>8 route.</p> <p>9 We keep coming back to the cost and the</p> <p>10 money. We can save, you know, maybe 10, 20, \$30</p> <p>11 million by modernizing the downtown arena. And of</p> <p>12 course we can. We can spend whatever amount we want</p> <p>13 to modernize. It's just not going to give us what</p> <p>14 Council back in 2017 wanted to see for the city.</p> <p>15 Cost was only one factor. And when we</p> <p>16 even updated the report from 2017, we looked at a</p> <p>17 report from Ron Bidulka, who I don't how many times I</p> <p>18 have been accused of ignoring Ron Bidulka's report in</p> <p>19 2017, that said the preferred location would be</p> <p>20 downtown. Personally, I kept saying, yes, but, Mr.</p> <p>21 Bidulka said if the other amenities came to light,</p> <p>22 then the Kingsway would be the one with the best long-</p> <p>23 term benefit.</p> <p>24 So fast forward four years, and we have</p> <p>25 a report that, after analyzing everything, including</p>

<p style="text-align: right;">Page 17</p> <p>1 modernizing the downtown arena, the Kingsway location 2 has the highest long-term benefit for the city, the 3 lowest cost, and the least risk. This is an 4 investment we're making that's not just about an 5 arena. It's about a critical mass that's going to 6 include two other partners and is going to grow. 7           And what it is doing is it is creating 8 new taxes. It is creating jobs. To delay any further 9 is basically taking income away from 600 net jobs. 10 And these are people that even if these jobs average 11 \$40,000 a year that is \$2 million a month of economic 12 activity that is being lost. The \$266 million of 13 construction that is going to start hopefully within 14 six months is the kind of economic stimulus the city 15 needs now in light of the fact and because of the fact 16 that we have got a strike, we have got problems at 17 Laurentian University. The city needs this now. 18           So when we say we've got time, we don't 19 have time. There is an opportunity cost. We cannot 20 miss this window. And we have done everything. I 21 want to make it clear that - I can only speak for 22 myself as one councillor - I have considered 23 everything for four years, including the modernization 24 of the Sudbury arena, including not even having the 25 project.</p>	<p style="text-align: right;">Page 19</p> <p>1           MAYOR BIGGER:: Councillor Jakubo. 2           COUNCILLOR MCCAUSLAND: Councillor 3 McCausland. Oh, at the end, I'd like to respond, 4 please. Thank you. 5           COUNCILLOR JAKUBO: Thank you very 6 much, Mr. Mayor, and thank you for the opportunity to 7 address the motion. Mr. Mayor, through you. I can 8 fully appreciate how not everybody agrees on this. 9 Fact is that those disagreements are longstanding, and 10 they are not going to change. 11           Something that is not going to change 12 from my perspective, Mr. Mayor, is that I would never 13 vote in favour of modernizing the existing arena. I 14 am going to respect the motion that was passed at our 15 special meeting, and I will not go back into the 16 report that we just received. I will go back to the 17 discussion that we had on Project Now where 18 questioning did bring to light that, you know, whether 19 you talked Project Now, or whether you talked new 20 build downtown or you talked KED, that the dollar 21 amounts we are talking, when all things were said and 22 down, were virtually the same, give or take maybe a 23 million dollars here and there. 24           And so there is no massive amount of 25 savings, not initially with a renovation of the</p>
<p style="text-align: right;">Page 18</p> <p>1           It has not been an easy four years, and 2 I have not ignored everything. It is just that we 3 have now arrived at a time where it is time for us to 4 say to Council, or to say to staff what we told them 5 on February 9th, continue forward with the current 6 direction. Never once have we told them stop that 7 direction, we are going to look at another option. We 8 have never once told them to do that. 9           So I am anticipating in July we are 10 going to see a report that has some timelines for us, 11 that is asking us to give them direction to go out 12 with an RFP to get a design build so that we can set 13 the path toward opening in 2024. If we delay another 14 five or six months, we are going to miss that window 15 in 2024. 16           And I cannot see anything that would 17 change my position on saying that I agree with the 18 Price Waterhouse Cooper that the Kingsway location 19 provides the highest long-term economic benefit for 20 the lowest cost, with the least risk. And the least 21 risk and the highest economic benefit are the two most 22 factors, as far as I am concerned. 23           So it is lovely that you brought the 24 motion forward, but I certainly hope that it gets 25 defeated so we can move ourselves. Thank you.</p>	<p style="text-align: right;">Page 20</p> <p>1 existing arena, and certainly not in the years to come 2 as that renovation starts to reveal issues that were 3 not addressed in the renovation and the issues that 4 creep up with what would be then a 70-, 80-, 90-, 100- 5 year-old building. And, Mr. Mayor, that is why in 6 2015 I voted in favour of a new arena, and I stand by 7 that vote in 2015. Thank you, Mr. Mayor. 8           MAYOR BIGGER:: Okay, Councillor 9 Jakubo. Any other questions or comments from Council? 10           COUNCILLOR SIGNORETTI: Signoretti on 11 the second round, please. 12           MAYOR BIGGER: Okay. I am not hearing 13 anyone wishing to speak on the -- further on the first 14 time around all of Council. Councillor McCausland, 15 you did wish to respond to Councillor Kirwan, so I 16 will let you respond to Councillor Kirwan. And 17 perhaps after that, you know, we will go from there. 18           COUNCILLOR MCCAUSLAND: Thank you very, 19 Mayor Bigger. And also responding to Councillor Leduc 20 earlier. I just want to respond my colleagues that 21 last week the consultant Ron Bidulka fully admitted 22 that the conclusion that his report arrived at was 23 based upon a 1,000 jobs and \$35 million of investment 24 being incorrectly attributed to the Kingsway 25 Entertainment District. Hopefully, he said, that will</p>

<p style="text-align: right;">Page 21</p> <p>1 help to encourage the other things to grow up into a 2 district. But as someone who has worked in the film 3 industry for many years, I can assure you that they 4 are quite insular in terms of their activities. 5 I just want to assure everyone that 6 this is not a stall tactic. If this was a stall 7 tactic, I would not have asked to waive notice. I 8 would have presented it, and we could talk about it 9 two weeks or a month from now. This is absolutely -- 10 I tried to deal with this last week. I want this to 11 be done responsibly and respectfully. 12 And when we are concerned about the 13 potential for their to be the "Roaring Twenties" 14 estimates 18 months of revenue, I can -- I remind 15 everyone that this is a 50-year asset. This is a 16 community arena, and we need to ensure that this is 17 going to be a safe bet, the most prudent investment 18 that we can make. And when we saw those examples, 19 there were none of a suburban arena similar to the 20 Kingsway Entertainment District that had yielded the 21 expected results, the expected success. 22 The question that this asks has not 23 been answered. We do not have any report that says, 24 okay, this is what perfect looks like, that's the blue 25 sky. What happens if we try to meet in the middle and</p>	<p style="text-align: right;">Page 23</p> <p>1 doing the right thing if this comes back, we say, no, 2 not interested in that option. I mean, I really wish 3 that this had been answered last week. And the heavy 4 handed, oh, well, if you try to meet everything just 5 perfect to the numbers in the 2017, it is really 6 expensive because you have to knock down every wall in 7 the building and move them out, like, I didn't -- dah. 8 I mean, that is pretty obvious. 9 So this was the question that was hoped 10 to be answered, I believe. This is the question that 11 I always wanted to see answered and that I feel the 12 need to be answered to be able to move forward with 13 this project responsibly. And I just ask the very -- 14 I ask humbly for your support of this to give this 15 some consideration before we make this -- before we 16 finally move forward with the Kingsway Entertainment 17 District, if that is what the case is. Thank you. 18 MAYOR BIGGER: Thank you, Councillor 19 McCausland. And I would just liked to respond to some 20 of the comments that were made. We are not blowing 21 the budget. There was no motion on the floor. There 22 was no mover or seconder. Although we did get a peek 23 at the motion, there was no attempt to bring the 24 motion forward in the last meeting; although, it was 25 put up on the screen. I asked for a mover and</p>
<p style="text-align: right;">Page 22</p> <p>1 find the best sweet spot, that balance of diminishing 2 returns that is going to get the greatest benefit for 3 our citizens without blowing the budget on it? 4 And if I'm not mistaken, we have a \$24 5 million shortfall with a \$90 million that we have 6 borrowed for the KED. We still have to find enough to 7 get up to 114 now, by the sound of things, as well as 8 no funding for Junction West, no funding for firehall 9 renovations, no funding for our depot master plan. 10 We heard a lot of that last week. We are going to be 11 in for hundreds of millions of dollars in the years 12 ahead. That is not even -- and that is before we get 13 to our roads. 14 And so I really think that if we want 15 to ensure that we are doing the right thing, we need 16 to answer this question first. And this might provide 17 an opportunity for us to live more within our means 18 and ensure that we are doing things with that great 19 balance of cost and benefit. And the real question I 20 have, and I asked this before about Project Now, is, 21 what is anyone afraid of? I mean, we can ask this 22 question. 23 We still have to go get a venue 24 operator. We will have the response back, and we can 25 move forward with confidence, knowing that we are</p>	<p style="text-align: right;">Page 24</p> <p>1 seconder. So, you know, that didn't happen in the way 2 that has just been described. 3 We are investing, and we have invested 4 significantly in the roads. And so, you know, doing 5 this before we get to our roads, I am challenged with 6 that statement. Because, as part of Council, I 7 believe you should be proud of the investments that we 8 have been making in our roads. And, you know, I will 9 stop there, but, you know, from the perspective of, 10 you know -- another comment was made, you know, we are 11 about to make a decision. The decision was made in 12 2017 by the majority of Council. 13 And so I am just going to move. And I 14 know, Councillor Signoretti, you asked to speak and 15 start a second round here. Councillor Signoretti, you 16 now, we have heard passionate arguments on both sides 17 here. I have asked everyone, and everyone has had the 18 opportunity to speak in the first round here. 19 Everybody has had the opportunity to speak once and 20 many times in the previous meeting, and so I am going 21 to call the question on this motion. 22 And so I am going to ask, Mr. Clerk, 23 that you conduct the roll-call vote. 24 MR. CLERK: Thank you, Mr. Mayor. 25 First vote from Councillor Vagnini, please?</p>

<p style="text-align: right;">Page 25</p> <p>1 COUNCILLOR VAGNINI: Sorry, can you                  2 just repeat the yes or no? But secondly, a point of                  3 order. Do we not get to hear Councillor Signoretti                  4 speak?                  5 MAYOR BIGGER: Councillor Vagnini, are                  6 you making -- are you calling for a point of order,                  7 and you would wish to have a vote on whether or not                  8 Council wants to get into a second round?                  9 COUNCILLOR VAGNINI: Yes.                  10 MAYOR BIGGER: Okay. And with that                  11 request then, Councillor Vagnini, I will ask our clerk                  12 to conduct a roll-call vote allowing Councillor                  13 Signoretti to continue on speaking in a second round.                  14 COUNCILLOR KIRWAN: Just a                  15 clarification, Mr. Mayor, possibly to the clerk. This                  16 is a vote on calling the question, isn't it? It                  17 sounds to me like Councillor Vagnini has challenged a                  18 ruling on calling the question. So this is not just                  19 allowing Councillor Signoretti, this is do you have                  20 support from Council to call the question; is that                  21 correct?                  22 MAYOR BIGGER: Mr. Clerk, can you                  23 please clarify? I was in the process of calling the                  24 question, and Councillor Vagnini did express his                  25 opinion on this, so...</p>	<p style="text-align: right;">Page 27</p> <p>1 McCausland has spoken twice as the mover, and we spent                  2 four hours pretty much talking about this in the last                  3 meeting? Mr. Clerk.                  4 COUNCILLOR SIGNORETTI: Mr. Mayor, it's                  5 Councillor Signoretti. I'm the seconder on that                  6 motion, and I got to speak once. And I have seen at                  7 other meetings, Mr. Mayor, where we have done second                  8 round, third round, and councillors were able to voice                  9 their concerns, but not being cut off. So they have                  10 had -- they are speaking for 10 minutes on an issue,                  11 and they kept going on and on and repeating sometimes                  12 the same information.                  13 So, Mr. Mayor, you cut me off last                  14 meeting. You called me out for grandstanding, which I                  15 did not appreciate at the last meeting, so --                  16 MAYOR BIGGER: Councillor --                  17 COUNCILLOR KIRWAN: Point of order. We                  18 are calling -- we are voting on the calling of a                  19 question now, are we not?                  20 MAYOR BIGGER: Yes, we are, Councillor                  21 Signoretti, and that will answer if Council wishes to                  22 call the question. Council will vote to call the                  23 question.                  24 MR. CLERK: So, thank you, Mr. Mayor.                  25 With respect to the vote, yes, would be that the</p>
<p style="text-align: right;">Page 26</p> <p>1 MR. CLERK: So, thank you, Mr. Mayor.                  2 So the point of order that has been raised by both                  3 Council members raise an issue that -- so calling the                  4 question is -- requires a vote as to whether the                  5 question should be called. So under our procedure                  6 bylaw, a request to call the question is a procedural                  7 motion that requires the majority vote of Council. So                  8 if a member makes a request that we call the question,                  9 then that would typically be put to a vote, a majority                  10 vote of Council, such that then if that is carried,                  11 then that is the decision on calling the vote. And                  12 the next decision would be on that motion, that main                  13 motion, Mr. Mayor.                  14 So I don't know if that brings some                  15 clarity. The other issue that the councillor was                  16 raising was this issue of hearing a councillor a                  17 second time, but I think, if I'm being clear, I think                  18 the issue, or voting on the motion of calling the                  19 question is one that would, I think, resolve both of                  20 those issues simultaneously.                  21 MAYOR BIGGER: Okay. So, thank you.                  22 And so, Mr. Clerk, I will ask you to conduct the roll-                  23 call vote. Does Council wish to call the question at                  24 this point, seeing as everyone has had the opportunity                  25 to speak at least once to this motion, Councillor</p>	<p style="text-align: right;">Page 28</p> <p>1 question be called, no, is that the question not be                  2 called. So first vote is from Councillor Vagnini,                  3 please.                  4 COUNCILLOR VAGNINI: Yes.                  5 MR. CLERK: Councillor Montpelier.                  6 COUNCILLOR MONTPELLIER: Yes.                  7 MR. CLERK: Councillor McCausland.                  8 COUNCILLOR MCCAUSLAND: Yes.                  9 MR. CLERK: Councillor Kirwan.                  10 COUNCILLOR KIRWAN: Yes.                  11 MR. CLERK: Councillor Lapierre.                  12 COUNCILLOR LAPIERRE: Yes.                  13 MR. CLERK: Councillor Jakubo.                  14 COUNCILLOR JAKUBO: Yes.                  15 MR. CLERK: Councillor Sizer.                  16 COUNCILLOR SIZER: Yes.                  17 MR. CLERK: Councillor McIntosh.                  18 COUNCILLOR MCINTOSH: Yes.                  19 MR. CLERK: Councillor Cormier.                  20 COUNCILLOR CORMIER: Yes.                  21 MR. CLERK: Councillor Leduc.                  22 COUNCILLOR LEDUC: Yes.                  23 MR. CLERK: Councillor Landry-Altman.                  24 COUNCILLOR LANDRY-ALTMANN: Yes.                  25 MR. CLERK: Councillor Signoretti.</p>

<p style="text-align: right;">Page 29</p> <p>1 COUNCILLOR SIGNORETTI: Yes.</p> <p>2 MR. CLERK: And Mayor Bigger.</p> <p>3 MAYOR BIGGER: Yes.</p> <p>4 MR. CLERK: So that is carried, Mr.</p> <p>5 Mayor. So now the next point to be dealt with would</p> <p>6 be to call the question and deal with the motion that</p> <p>7 is on the screen before you.</p> <p>8 MAYOR BIGGER: Okay. Thank you very</p> <p>9 much. So what has just previously occurred, Council</p> <p>10 voted unanimously in favour of calling the question.</p> <p>11 And so the next question is with respect to the</p> <p>12 resolution that we see on the screen. And, Mr. Clerk,</p> <p>13 I will ask you to conduct a role-call vote on the</p> <p>14 resolution that we see on the screen.</p> <p>15 MR. CLERK: Thank you, Mr. Mayor.</p> <p>16 First vote from Councillor Montpelier, please.</p> <p>17 COUNCILLOR MONTPELLIER: Yes.</p> <p>18 MR. CLERK: Councillor McCausland.</p> <p>19 COUNCILLOR MCCAUSLAND: Yes.</p> <p>20 MR. CLERK: Councillor Kirwan.</p> <p>21 COUNCILLOR KIRWAN: No.</p> <p>22 MR. CLERK: Councillor Lapierre.</p> <p>23 COUNCILLOR LAPIERRE: No.</p> <p>24 MR. CLERK: Councillor Jakubo.</p> <p>25 COUNCILLOR JAKUBO: No.</p>	<p style="text-align: right;">Page 31</p> <p>1 would you be happy to second it?</p> <p>2 COUNCILLOR MONTPELLIER: Through you,</p> <p>3 Mr. Mayor. Could you repeat that, Councillor?</p> <p>4 COUNCILLOR MCCAUSLAND: I wanted to</p> <p>5 know if you would second the motion, as it responds to</p> <p>6 the questions you spoke about earlier.</p> <p>7 COUNCILLOR MONTPELLIER: I do.</p> <p>8 MAYOR BIGGER: Thank you very much. We</p> <p>9 do have a mover and a seconder. Councillor</p> <p>10 McCausland, as it has been tabled here tonight,</p> <p>11 perhaps we will have the clerk read the resolution</p> <p>12 that is being tabled and then I will call the question</p> <p>13 to waive notice, just following our procedures.</p> <p>14 MR. CLERK: Thank you, Mr. Mayor. (As</p> <p>15 read):</p> <p>16 "That staff produce a report that</p> <p>17 provides additional detailed</p> <p>18 information to enhance Council's</p> <p>19 understanding of issues related to the</p> <p>20 construction of a new Event Centre</p> <p>21 which includes, for each Event Centre</p> <p>22 development approach, the following:</p> <p>23 . an economic impact analysis completed</p> <p>24 by a suitable third party that</p> <p>25 includes projections of the potential</p>
<p style="text-align: right;">Page 30</p> <p>1 MR. CLERK: Councillor Sizer.</p> <p>2 COUNCILLOR SIZER: No.</p> <p>3 MR. CLERK: Councillor McIntosh.</p> <p>4 COUNCILLOR MCINTOSH: Yes.</p> <p>5 MR. CLERK: Councillor Cormier.</p> <p>6 COUNCILLOR CORMIER: Yes.</p> <p>7 MR. CLERK: Councillor Leduc.</p> <p>8 COUNCILLOR LEDUC: No.</p> <p>9 MR. CLERK: Councillor Landry-Altmann.</p> <p>10 COUNCILLOR LANDRY-ALTMANN: No.</p> <p>11 MR. CLERK: Councillor Signoretti.</p> <p>12 COUNCILLOR SIGNORETTI: Yes.</p> <p>13 MR. CLERK: Councillor Vagnini:</p> <p>14 COUNCILLOR VAGNINI: Yes.</p> <p>15 MR. CLERK: And Mayor Bigger.</p> <p>16 MAYOR BIGGER: No.</p> <p>17 MR. CLERK: So by a vote of seven to</p> <p>18 six, that motion is defeated, Mr. Mayor.</p> <p>19 MAYOR BIGGER: Thank you very much, Mr.</p> <p>20 Clerk. And I believe, Councillor McCausland, you did</p> <p>21 mention that you have a second motion to bring</p> <p>22 forward?</p> <p>23 COUNCILLOR MCCAUSLAND: Yes, and I will</p> <p>24 move that motion to get it on the floor. And I will</p> <p>25 ask, Councillor Montpelier, since it speaks to yours,</p>	<p style="text-align: right;">Page 32</p> <p>1 direct and indirect financial</p> <p>2 implications for the whole community</p> <p>3 related to employment, productivity,</p> <p>4 competitiveness, and operating costs,</p> <p>5 . an analysis of the alignment with all</p> <p>6 CEEP goals,</p> <p>7 . further analysis of senior government</p> <p>8 funding opportunities,</p> <p>9 . further analysis of transit</p> <p>10 implications with an emphasis on</p> <p>11 projected costs and ability to</p> <p>12 provide equitable access,</p> <p>13 . an assessment based on a review of</p> <p>14 public consultation already completed</p> <p>15 for the project of the ability each</p> <p>16 approach has for meeting public</p> <p>17 expectations regarding desired</p> <p>18 amenities surrounding the Event</p> <p>19 Centre, and</p> <p>20 . that funding for the economic impact</p> <p>21 analysis be provided in an amount not</p> <p>22 to exceed the available funds in the</p> <p>23 existing project budget."</p> <p>24 MAYOR BIGGER: So, Council McCausland,</p> <p>25 if I may, I will just ask to waive. And so is there</p>

<p style="text-align: right;">Page 33</p> <p>1 anyone opposed or would object to waiving notice on                  2 this item?</p> <p>3 COUNCILLOR SIZER: I object.                  4 Councillor Sizer.</p> <p>5 MAYOR BIGGER: Okay. Thank you,                  6 Councillor Sizer. And so, Mr. Clerk, I will ask you                  7 to please conduct a roll-call vote.</p> <p>8 MR. CLERK: Thank you, Mr. Mayor. So                  9 first vote from Councillor McCausland on waiving                  10 waiver of notice, please.</p> <p>11 COUNCILLOR MCCAUSLAND: Yes.                  12 MR. CLERK: Councillor Kirwan.</p> <p>13 COUNCILLOR KIRWAN: I'm sorry. I                  14 didn't hear Councillor McCausland's answer.</p> <p>15 MR. CLERK: Sorry, that was a yes.                  16 COUNCILLOR KIRWAN: Yes, from                  17 Councillor Kirwan.</p> <p>18 MR. CLERK: Thank you. Councillor                  19 Lapierre.</p> <p>20 COUNCILLOR LAPIERRE: Yes.                  21 MR. CLERK: Councillor Jakubo.</p> <p>22 COUNCILLOR JAKUBO: Yes.                  23 MR. CLERK: Councillor Sizer.</p> <p>24 COUNCILLOR SIZER: No.                  25 MR. CLERK: Councillor McIntosh.</p>	<p style="text-align: right;">Page 35</p> <p>1 amendment to ensure that they would be part of the                  2 report that came back to Council. I was obviously                  3 quite disappointed when I saw that many of these had                  4 no -- were not addressed in any way in the actual                  5 staff report or in the report from Price Waterhouse                  6 Cooper.</p> <p>7 In terms of getting more information, I                  8 would like to remind the Committee, and yourself, Mr.                  9 Mayor, that you said in that meeting in February,                  10 quote (as read):</p> <p>11 "Staff have heard the questions,                  12 the comments, the inquiries. They                  13 understand the interest in having a                  14 full and complete understanding of the                  15 information that is out there and                  16 trying to bring current relevant                  17 information forward. I would say that                  18 the opportunity is to let the report                  19 come back with that information. In                  20 that Council meeting, further                  21 information could be requested."                  22 This is me making that request, and                  23 that is why I originally had tabled this motion last                  24 week before being told it would be better at this                  25 meeting.</p>
<p style="text-align: right;">Page 34</p> <p>1 COUNCILLOR MCINTOSH: Yes.                  2 MR. CLERK: Councillor Cormier.</p> <p>3 COUNCILLOR CORMIER: Yes.                  4 MR. CLERK: Councillor Leduc.</p> <p>5 COUNCILLOR LEDUC: No.                  6 MR. CLERK: Councillor Landry-Altman.</p> <p>7 COUNCILLOR LANDRY-ALTMANN: Yes.                  8 MR. CLERK: Councillor Signoretti.</p> <p>9 COUNCILLOR SIGNORETTI: Yes.                  10 MR. CLERK: Councillor Vagnini.</p> <p>11 COUNCILLOR VAGNINI: Yes.                  12 MR. CLERK: Councillor Montpellier.</p> <p>13 COUNCILLOR MONTPELLIER: Yes.                  14 MR. CLERK: And Mayor Bigger.</p> <p>15 MAYOR BIGGER: Yes.                  16 MR. CLERK: Notice has been waived, Mr.                  17 Mayor.</p> <p>18 MAYOR BIGGER: Thank you. Councillor                  19 McCausland, if you will introduce this.</p> <p>20 COUNCILLOR MCCAUSLAND: Thank you very                  21 much, Mayor Bigger. So this motion speaks very                  22 specifically to a number of the different questions                  23 that were raised by councillors in the February                  24 meeting. In fact, I asked specifically about a number                  25 of these and whether it would require at that time an</p>	<p style="text-align: right;">Page 36</p> <p>1 What this looks at is a couple                  2 different aspects. And the first is economic impact                  3 because the report that we got said Price Waterhouse                  4 Cooper does not really do that anymore, and so we do                  5 not really know is this going to be creating jobs, or                  6 is it going to be moving jobs. And that is a concern                  7 that I have heard a lot about, and I just want to make                  8 sure that if we are, you know -- does either of the                  9 options actually have a positive or negative or net                  10 zero impact on employment. I think that is something                  11 that we need to know.</p> <p>12 The analysis of the alignment with all                  13 CEEP goals. We have made a climate crisis emergency                  14 declaration, you know. For us to put our money where                  15 our mouth is, to walk the talk, I really feel that                  16 this -- being the largest investment in our city's                  17 history, it is important for us to ensure that we have                  18 evaluated it under our CEEP plan to see how it aligns                  19 with our goals. We will -- I mean, obviously, I want                  20 to see how the different options do, but I think this                  21 is a valuable exercise regardless.</p> <p>22 The further analysis of senior                  23 government funding opportunities was something that                  24 Councillor Montpellier brought up in February.</p>



<p style="text-align: right;">Page 37</p> <p>1 And the further analysis of transit 2 implications is something that is really important to 3 me. And I have asked a number of times what about the 4 people who do not have cars. And, to me, it really is 5 a question of equitable access to our community arena. 6 And as I represent a number of constituents who do not 7 have access to vehicles, I feel it is our duty to 8 ensure that we are realistic about what the costs will 9 be and what the options will be for people who do not 10 have a car to get to our community arena in a 11 reasonable way at a reasonable price. 12 And so it is really just -- I have 13 heard a number of people say, yeah, we are going to 14 bus service; yes, it is going to be there; it is going 15 to be this. We have not actually figured out what 16 that looks like. I think we need to do that, and so 17 that is what that asks for. 18 And the final piece of information that 19 I think is really important is that we have already 20 done public consultation on both the Event Centre and 21 Festival Square. Is there an opportunity for us to 22 use the existing consultation that we have done to be 23 sure that the different options that we are looking 24 at, which respond to the amenities that are desired by 25 our citizens, and make sure that our investment is</p>	<p style="text-align: right;">Page 39</p> <p>1 MAYOR BIGGER: Okay. Go ahead, 2 Councillor Leduc. 3 COUNCILLOR LEDUC: Thank you. And 4 through you, Mr. Mayor, to Mr. McCausland. Number 5 one, what you are asking here does not have any time 6 frame on it, so, I mean, did you -- were you expecting 7 to have this by October again, is my first question. 8 Thank you. 9 COUNCILLOR MCCAUSLAND: Thank you for 10 the question. I would be -- I would just ask through 11 to Mr. Archer whether October sounds like a suitable 12 date. Thank you. 13 MR. ARCHER: Mayor Bigger and members 14 of Council, it is difficult to answer that question in 15 the context of the variety of other projects that we 16 would likely have to consider rescheduling to 17 facilitate this works included and the time that we 18 would use to support hiring the suitable third party 19 that this motion contemplates. If it was Council's 20 will to have this by October, then of course we would 21 fulfill Council's expectation. 22 I would also suggest that, subject to 23 the disposition of the information, a longer timeline 24 would exacerbate progress on the direction that 25 Council previously set regarding the Kingsway file.</p>
<p style="text-align: right;">Page 38</p> <p>1 aligned with that, and otherwise that we have a plan 2 to realize those amenities for your citizens. 3 And so these are all -- like, the 4 reason why I separated these out, besides the fact 5 that, I mean, I think they have different subject 6 matters, is that I feel like this is -- these are all 7 a valuable exercise regardless of the direction that 8 we go and regardless of us following through with the 9 2017 direction of Council. So these are just about 10 getting more information, about making sure we are 11 thinking about this holistically, from the ground up. 12 And so I would ask that we please 13 consider getting us more information that was really 14 promised to Council at that meeting. The opportunity 15 for more information was promised by you, Mayor 16 Bigger, and I ask my colleagues to please support this 17 motion so that we can answer some of these questions 18 and ensure that we are moving forward in a responsible 19 and innovative way. Thank you. 20 MAYOR BIGGER: Thank you. Are there 21 comments or questions from Council? 22 COUNCILLOR LEDUC: Councillor Leduc. 23 COUNCILLOR SIGNORETTI: Councillor 24 Signoretti.</p>	<p style="text-align: right;">Page 40</p> <p>1 And so I would prefer personally that if we were going 2 to do this, we would do it in as timely a way as 3 possible. And if that was October or the fourth 4 quarter, then we would move the appropriate work and 5 make resources available to get it done. But 6 understand, Mayor Bigger, and members of Council, this 7 is not a straightforward as it may sound and will 8 involve other work being rescheduled to facilitate the 9 time that this will take. 10 COUNCILLOR LEDUC: Thank you, Mr. 11 Archer, for that. And then my next question to 12 Councillor McCausland: To be completed by a suitable 13 third party for the projections and potential direct/ 14 indirect financial implications, have you researched a 15 preferred suitable company to your liking? That would 16 be my next question. Thank you. 17 COUNCILLOR MCCAUSLAND: Thank you for 18 the question. Through you, Mayor Bigger. I would 19 never feel comfortable making a recommendation like 20 that. I certainly would not name a company and say 21 that that is a good idea that you go hire them or 22 anything like that. I would leave it to our staff to 23 determine what eligible, suitable third party would 24 be.</p>


<p style="text-align: right;">Page 41</p> <p>1 And my understanding is that there was 2 a report that was prepared by a firm called Urban 3 Metrics that did do a similar study, so I know that -- 4 all I know is that this is a thing that firms do that 5 we could get done, and so that is what I would like to 6 see happen to ensure that we fully understand how we 7 should anticipate this all comes to reality.</p> <p>8 COUNCILLOR LEDUC: Okay. Because, I 9 mean, obviously you are not comfortable with PWG, so I 10 just wanted to see which particular company you might 11 prefer in this. My last question here for you is, 12 what kind of budget would you be expecting, is it the 13 balance of the \$18,000 in order to get what you're 14 asking for, for what we just spent on getting an 15 analysis that already spoke to many of these things, 16 in my opinion? So what do you really expect to get 17 for \$18,000?</p> <p>18 COUNCILLOR MCCAUSLAND: I guess that is 19 for me. Thank you. Through you, Mr. Mayor. This was 20 a resolution that was crafted with the help of staff, 21 trying to understand how we could do this. I do not 22 want to see another major financial implication; 23 although, I will say that I was severely disappointed 24 with the cost of the report that we got last, as well 25 as my understanding that, you know, we got probably an</p>	<p style="text-align: right;">Page 43</p> <p>1 thinks a reasonable cost for this work would be. I 2 would interpret the direction from this motion, if it 3 was passed, that the funding from this project would 4 be used to contribute to the cost of the work. And if 5 there was an additional cost, we would take that from 6 existing available approved funds, and it would not be 7 another reserved draw.</p> <p>8 With respect to the scope of the work 9 and the impact on other planned work, there is of 10 course information available about senior government 11 funding opportunities that staff have already 12 produced. We have identified, to the extent that we 13 can, in previous reports implications with respect to 14 CEEP goals and the alignment of this work with those 15 goals, and, as well, there has been public 16 consultation, and so there could be some economies 17 made from reviewing that work and reiterating its key 18 points. If there were outstanding details that those 19 previous reports did not address, then I anticipate we 20 would hear about those from members of Council and 21 further direction could be provided.</p> <p>22 So the economic impact analysis, in my 23 view, is the big piece of work here, as well as the 24 alignment with all CEEP goals, that is also an 25 extensive piece of work, and subject to</p>
<p style="text-align: right;">Page 42</p> <p>1 expensive architectural report for something that we 2 did not actually necessarily -- I do not know if -- 3 anyone that wanted to have that exact question 4 answered, as well as I do not believe that they were a 5 certified architect in Ontario.</p> <p>6 My question through you, Mayor Bigger, 7 to Mr. Archer is, is that the sticking point, the 8 economic impact analysis; is \$18,000 suitable; is 9 there a junior firm that can maybe do that kind of 10 thing effectively at that price point; and/or is that 11 -- do you not think that is feasible at the budget? 12 Thank you.</p> <p>13 MR. ARCHER: Mayor Bigger and members 14 of Council, thank you for the question. I would offer 15 two perspectives, Mayor Bigger. First, the funding 16 for the work not to exceed the available funds, in my 17 view, given the conversation I am hearing, does not 18 necessarily mean the maximum expenditure on the work 19 would equal that funding. If there were other 20 operating lines that were required from the existing 21 budget to support the work, then we would be 22 facilitate that to produce the outcome that Council's 23 looking for.</p> <p>24 Mr. Wood's experience in this area 25 could offer some detailed perspective of what he</p>	<p style="text-align: right;">Page 44</p> <p>1 interpretation. So there will be some judgment 2 required here that will also require some checking in 3 with Council and confirmation that the direction is 4 consistent with Council's needs.</p> <p>5 So, Mayor Bigger, with your 6 concurrence, I would ask Mr. Wood to provide an 7 opinion about what he anticipates the cost of the 8 economic impact analysis would be and whether that 9 would have an incremental effect on existing approved 10 funds.</p> <p>11 MAYOR BIGGER: Go ahead.</p> <p>12 MR. WOOD: Thank you, and through you, 13 Mayor Bigger. It has been some time. We have not 14 done any background on this to determine the relative 15 cost. It has been some time since we issued an RFP 16 for similar-type work. I suspect that 18,500 would be 17 on the low side, if we could accomplish the goals 18 outlined in the scope of the motion for those dollars. 19 Certainly, as Mr. Archer has indicated, we could seek 20 other sources of funds to make this work. We could 21 also undertake, you know, a procurement process and 22 report back to Council if the number was needed to be 23 approved at a higher level.</p> <p>24 COUNCILLOR LEDUC: Thank you, Mr. 25 Woods, but could you be a little bit more specific as</p>

<p style="text-align: right;">Page 45</p> <p>1 to the actual cost of a report of this nature? I 2 mean, obviously at \$18,000 we are not going to be able 3 to, or a third party is not going to be able to 4 provide us with a suitable analysis of everything that 5 they are asking for here. Thank you.</p> <p>6 MR. WOOD: Through you, Mayor Bigger. 7 I would not want to speculate that far. I would 8 certainly be happy to -- we would need to scope it 9 out, put it in a proper procurement form to go out to 10 the public. I can say that, and I am going back 11 several years, something along these lines I would 12 have expected would cost in the range of \$25,000, but 13 that number would be about 5 years old, so I am not 14 sure where the market has gone from that point. 15 Certainly, it would not be lower than that, I don't 16 think.</p> <p>17 COUNCILLOR LEDUC: Thank you, Mr. 18 Woods. So we are looking at 25,000, plus. I mean, 19 you know, again, this is just another stall tactic in 20 trying to stop the movement of the KED moving forward. 21 I think, you know, with everything that has gone on, 22 the arguments, it is like beating a dead horse to 23 death. Enough is enough. We have to move forward and 24 start, and get the shovels in the ground right away.</p>	<p style="text-align: right;">Page 47</p> <p>1 all the analysis that we have requested. And in this 2 case, there are three key factors that were missing 3 from that report which, to me, is a signal that we 4 need that information to have 100 per cent of the 5 information.</p> <p>6 So if the price tag is not 18,000 and 7 it is 25,000, I think that is a marginal fee to pay to 8 get 100 per cent of the report so we as councillors 9 sitting around the table can feel confident with 10 whatever decision we make moving forward. And if it 11 is three or four months to make that decision, to me 12 it is three or four months that I think is priceless.</p> <p>13 I think it is something that we need to 14 do as a Council around this table to make sure. And 15 we always ask for information on other issues if -- 16 and ask for direction on other topics, for more 17 information for clarity, for other information, and 18 Council has always been open to that. So I am hoping 19 my colleagues would look at this as an opportunity to 20 close the loop on areas that were gaps in the 21 presentation provided by PWC. Thank you.</p> <p>22 COUNCILLOR MCINTOSH: Mr. Mayor, I 23 would like to speak as well, please. Councillor 24 McIntosh.</p>
<p style="text-align: right;">Page 46</p> <p>1 We cannot afford to delay any longer, so I will not be 2 supporting this. Thank you.</p> <p>3 MAYOR BIGGER: Councillor Signoretti. 4 COUNCILLOR SIGNORETTI: Thank you, Mr. 5 Mayor. Along the similar lines as Councillor 6 McCausland, but add some context, is that, Mr. Mayor, 7 you yourself indicated that if we wanted more 8 information that Council has the privilege to -- 9 opportunity to ask for more information. And when we 10 are dealing with 100 million and north of 100 million 11 for a project of this magnitude, regardless of the 12 project, and when it is -- the request has come 13 forward by different councillors around the table.</p> <p>14 Councillor McCausland indicated 15 himself, Councillor Montpellier, but I also know that 16 Councillor Lapierre was looking at, and I am not just 17 throwing it out there - I'm sorry, Councillor 18 Lapierre, I am not putting you on the spot - but the 19 economic impact analysis. And when those 20 informations, or that information was not part of the 21 report, and you have clearly indicated that if it is 22 not in the report, we can ask for that information.</p> <p>23 I do not consider this as a stall 24 tactic. Again, this is our job as good governors 25 around this table to make sure we have a complete and</p>	<p style="text-align: right;">Page 48</p> <p>1 MAYOR BIGGER: Go ahead, Councillor 2 McIntosh.</p> <p>3 COUNCILLOR MCINTOSH: Thank you. I 4 will try not to repeat what Councillor McCausland has 5 already said. I watched the live stream as well from 6 last February, and we did ask, or Council asked for a 7 number of things which we did not receive, it is very 8 clear we did not receive in the PWC report. And we 9 were, as we expressed back on June 16th, disappointed 10 in the report because it did not reflect what we asked 11 for, clearly asked for. And one of the ones that I -- 12 and I spoke to this two weeks ago and so I am not 13 going to repeat myself again, but we did ask for a 14 robust economic impact analysis of this project, and 15 we did not get a robust economic impact analysis at 16 all.</p> <p>17 Mr. Bidulka could not answer a number 18 of our questions with regard to the economic changes 19 that are going on right now as we speak during the 20 pandemic, also the impacts after the pandemic. So, 21 you know, I think it is only fair that we get our 22 questions answered. We asked for them. We were told 23 that we would get these answers, and that if we did 24 not get them in the report that we could ask for them</p>

<p style="text-align: right;">Page 49</p> <p>1 again, and we are asking for them again. So thank you                  2 very much. I will supporting this motion.                  3 MR. CLERK: Mr. Mayor, you may be                  4 muted.                  5 MAYOR BIGGER: I'm sorry. Okay. Is                  6 there anyone else who would like to speak to this?                  7 COUNCILLOR KIRWAN: Mr. Mayor, I would                  8 like to.                  9 MAYOR BIGGER: Councillor Kirwan, go                  10 ahead.                  11 COUNCILLOR KIRWAN: Thank you, Mr.                  12 Mayor. First of all, there is no need for any further                  13 study. We have had all the study. The question of                  14 economic impact has come up for four years. It has                  15 come up at LPAD. It has come up in the Superior Court                  16 of Justice.                  17 Mr. Bidulka did provide as accurate an                  18 economic analysis of the projections of the potential                  19 direct and indirect financial implications as possible                  20 in his report. He indicated that there were unknowns                  21 about the downtown. There was -- the situation that                  22 has changed in four years is what was unknown about                  23 the potential economic impact of the Kingsway that has                  24 changed. It is not potential anymore. It is as close                  25 to 100 per cent as you can get.</p>	<p style="text-align: right;">Page 51</p> <p>1 Staff said on the 16th that the report                  2 aligns with CEEP. We know that if there is a                  3 professional team operating out of an arena you are                  4 not going to get government grants because you have                  5 got a professional team. We do not need any more                  6 analysis. We have had it all. It is not necessary.                  7 It is a time delay that is not going to produce                  8 anything new, and we are not going to get any                  9 projections.                  10 And, please, please, stop using Urban                  11 Metrics as an example of somebody who can do an                  12 economic analysis. In fact, Urban Metrics was hired                  13 by Mr. Gordon Petch to support his case against the                  14 City, so of course their economic impact analysis                  15 would support his case.                  16 So we had one of the best, one of the                  17 best recognized, consultants in North America do an                  18 analysis for us. It is the one that everybody that                  19 supported the downtown arena, the downtown site, kept                  20 holding up over Council for four years, saying, look,                  21 you ignored their report, they are the best                  22 consultants around. Now, he has come back and said,                  23 based on all of the changes that I have analyzed,                  24 including economic potential, the Kingsway is the best                  25 long-term benefit for the City. It is the lowest cost</p>
<p style="text-align: right;">Page 50</p> <p>1 He also, I believe, and I cannot                  2 remember his words, but he -- when he indicated that                  3 they do not do economic impact analysis anymore, there                  4 was a reason. It is because you cannot do an accurate                  5 economic impact analysis. You do not know what the                  6 potential is going to be. We do not know if there is                  7 going to be more economic impact from having a                  8 library, art gallery, and a performance centre                  9 downtown.                  10 We do not know how much of the new                  11 dollars that are going to be earned by the people                  12 working at the KED are going to be spent in the                  13 downtown. Nobody knows. And it is really hard for,                  14 let's say, downtown businesses to be able to tell us                  15 what the impact of not having the arena is going to be                  16 when hardly any of them are open when there is an                  17 event at the arena. Most of the events are in the                  18 evening, and they are not open.                  19 So other than asking a few restaurants,                  20 and I was at a restaurant on the Kingsway, or not --                  21 on Notre Dame one time talking to a restaurant owner                  22 that owned about six different restaurants, and he                  23 said whenever there is an event on the Sudbury Arena                  24 all restaurants benefit throughout the city. So we                  25 have done the economic analysis.</p>	<p style="text-align: right;">Page 52</p> <p>1 of all of the comparable alternatives, and it has the                  2 least risk moving forward. We have to accept that.                  3 We cannot continue to repeat this over                  4 and over and over again. So all of these things have                  5 been answered, and so we cannot support this. This                  6 has to be defeated so again we can move forward and                  7 continue with the pact toward opening in 2024. Thank                  8 you.                  9 MAYOR BIGGER: Thank you, councillor.                  10 Are there any other councillors who would like to --                  11 COUNCILLOR MONTPELLIER: Montpellier,                  12 Mr. Mayor. Montpellier.                  13 MAYOR BIGGER: Go ahead, Councillor                  14 Montpellier.                  15 COUNCILLOR MONTPELLIER: Through you,                  16 Mr. Mayor. I will be real quick about this. I think                  17 I brought this up about, like, 96 times now. I'm                  18 sorry for the sarcasm, but the Sudbury Wolves do not                  19 own the Sudbury Arena, nor does Chris Aerial (ph)                  20 Monster Truck own the Sudbury Arena, nor does Gerry                  21 Montpellier Motor Sports own Sudbury Arena. The                  22 Sudbury Arena is owned by the taxpayers of our city.                  23 And these grants are available -- are                  24 not -- it is just easier for me to say it. They are                  25 not available to sports outfits that own part of the</p>

<p style="text-align: right;">Page 53</p> <p>1 venue. Let us be very clear about that because that                  2 kind of got snuck in a little bit that because there                  3 is a professional team and there are promoters that                  4 use the arena. They are tenants. That needs to be                  5 very clear. Thank you.</p> <p>6           MAYOR BIGGER: Thank you. Is there                  7 anyone else who like to speak, please?</p> <p>8           COUNCILLOR LEDUC: Mr. Mayor, could we                  9 just call the question now, please?</p> <p>10           COUNCILLOR SIGNORETTI: Mr. Mayor, it                  11 is Counsel Signoretti on second round, and hopefully I                  12 do not get off --</p> <p>13           MAYOR BIGGER: Thank you very much                  14 there, Councillor Leduc. You have asked to call the                  15 question, and so --</p> <p>16           COUNCILLOR SIGNORETTI: Point of order,                  17 Mr. Mayor.</p> <p>18           MAYOR BIGGER: -- Mr. Clerk, I will ask                  19 you to call the question and please conduct the roll-                  20 call vote.</p> <p>21           COUNCILLOR SIGNORETTI: Point of order,                  22 Mr. Mayor.</p> <p>23           MAYOR BIGGER: Yes, Councillor                  24 Signoretti, once again we have had somebody asking to                  25 call the question. What is your point of order?</p>	<p style="text-align: right;">Page 55</p> <p>1           MAYOR BIGGER: -- previously, we will                  2 first vote on whether or not Council wishes to call                  3 the question. And, thereafter, if Council wishes to                  4 call the question, then we will proceed with calling                  5 the question.</p> <p>6           MR. CLERK: Thank you, Mr. Mayor.                  7 First vote on calling the question for Councillor                  8 Kirwan, please.</p> <p>9           COUNCILLOR KIRWAN: Yes.</p> <p>10           MR. CLERK: Councillor Lapierre.</p> <p>11           COUNCILLOR LAPIERRE: Yes.</p> <p>12           MR. CLERK: Councillor Jakubo.</p> <p>13           COUNCILLOR JAKUBO: Yes.</p> <p>14           MR. CLERK: Councillor Sizer.</p> <p>15           COUNCILLOR SIZER: Yes.</p> <p>16           MR. CLERK: Councillor McIntosh.</p> <p>17           COUNCILLOR MCINTOSH: Yes.</p> <p>18           MR. CLERK: Councillor Cormier.</p> <p>19           COUNCILLOR CORMIER: Yes.</p> <p>20           MR. CLERK: Councillor Leduc.</p> <p>21           COUNCILLOR LEDUC: Yes.</p> <p>22           MR. CLERK: Councillor Landry-Altman.</p> <p>23           COUNCILLOR LANDRY-ALTMANN: Yes.</p> <p>24           MR. CLERK: Councillor Signoretti.</p> <p>25           COUNCILLOR SIGNORETTI: No.</p>
<p style="text-align: right;">Page 54</p> <p>1           COUNCILLOR SIGNORETTI: Mr. Mayor, it                  2 is I just find it convenient that when we go around                  3 with first round and a councillor wants to ask a                  4 subsequent question or make a comment, it is automatic                  5 to call the question, so that is why I called the                  6 point of order. It happened the last time on the last                  7 motion, and it is happened again on this motion, and                  8 it is happened on other -- so I am asking to --</p> <p>9           MAYOR BIGGER: So, councillor,                  10 councillor, every councillor, every member of Council,                  11 is able to ask to call the question.</p> <p>12           COUNCILLOR SIGNORETTI: I am aware of                  13 that, but, Mr. Mayor, I am --</p> <p>14           MAYOR BIGGER: And so Councillor Leduc                  15 has called the question, and it is appropriate.</p> <p>16           COUNCILLOR SIGNORETTI: And I called                  17 point of order on that because I still would like to                  18 --</p> <p>19           MAYOR BIGGER: There is no point of                  20 order to be made here. And so this will be resolved                  21 through a vote then, Mr. Clerk, on the question that                  22 was called to call the question. So as we did --</p> <p>23           COUNCILLOR SIGNORETTI: Mr. Mayor, I                  24 would like the clerk to comment, please.</p>	<p style="text-align: right;">Page 56</p> <p>1           MR. CLERK: Councillor Vagnini.</p> <p>2           COUNCILLOR VAGNINI: No.</p> <p>3           MR. CLERK: Councillor Montpelier.</p> <p>4           COUNCILLOR MONTPPELLIER: No.</p> <p>5           MR. CLERK: Councillor McCausland.</p> <p>6           COUNCILLOR MCCAUSLAND: I am just                  7 disappointed I did not get a quick closing statement.                  8 No.</p> <p>9           MR. CLERK: And Mayor Bigger.</p> <p>10           MAYOR BIGGER: Yes.</p> <p>11           MR. CLERK: The vote to call the                  12 question is carried.</p> <p>13           MAYOR BIGGER: Okay. Thank you. Mr.                  14 Clerk, then please proceed to conduct the roll-call                  15 vote on the resolution that is on the screen in front                  16 of us.</p> <p>17           MR. CLERK: Thank you, Mr. Mayor. So                  18 on the motion that is on the screen before you, first                  19 vote from Lapierre, please.</p> <p>20           COUNCILLOR LAPIERRE: No.</p> <p>21           MR. CLERK: Councillor Jakubo.</p> <p>22           COUNCILLOR JAKUBO: No.</p> <p>23           MR. CLERK: Councillor Sizer.</p> <p>24           COUNCILLOR SIZER: No.</p> <p>25           MR. CLERK: Councillor McIntosh.</p>

1	COUNCILLOR MCINTOSH: Yes.	Page 57
2	MR. CLERK: Councillor Cormier.	
3	COUNCILLOR CORMIER: Yes.	
4	MR. CLERK: Councillor Leduc.	
5	COUNCILLOR LEDUC: No.	
6	MR. CLERK: Councillor Landry-Altman.	
7	COUNCILLOR LANDRY-ALTMANN: No.	
8	MR. CLERK: Councillor Signoretti.	
9	COUNCILLOR SIGNORETTI: Yes.	
10	MR. CLERK: Councillor Vagnini.	
11	COUNCILLOR VAGNINI: Yes.	
12	MR. CLERK: Councillor Montpelier.	
13	COUNCILLOR MONTPPELLIER: Yes.	
14	MR. CLERK: Councillor McCausland.	
15	COUNCILLOR MCCAUSLAND: Yes.	
16	MR. CLERK: Councillor Kirwan.	
17	COUNCILLOR KIRWAN: No.	
18	MR. CLERK: And Mayor Bigger.	
19	MAYOR BIGGER: No.	
20	MR. CLERK: By a vote of seven to six,	
21	that motion is defeated, Mr. Mayor.	
22	MAYOR BIGGER: Thank you, Mr. Clerk.	
23		
24	---Whereupon the excerpt concludes at timestamp	
25	4:43:20.	

1	TRANSCRIBER'S CERTIFICATE	Page 58
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Attached is Exhibit "16"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.



## Minutes For the City Council Meeting

June 29, 2021  
Tom Davies Square

Present (Mayor and Councillors)	Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altman, Mayor Bigger
City Officials	Ed Archer, Chief Administrative Officer, Kevin Fowke, General Manager of Corporate Services, Tony Cecutti, General Manager of Growth and Infrastructure, Steve Jacques, General Manager of Community Development, Joseph Nicholls, General Manager of Community Safety, Marie Litalien, Director of Communications & Community Engagements, Ian Wood, Executive Director of Strategic Initiatives and Citizen Services, Kelly Gravelle, Deputy City Solicitor, Ron Foster, Auditor General, Brett Williamson, Director of Economic Development, Peter Taylor, Director of Information Technology, Steve Facey, Manager of Financial Planning and Budgeting, Eric Labelle, City Solicitor and Clerk, Lisa Locken, Clerk's Services Assistant, Anessa Basso, Clerk's Services Assistant

### His Worship Mayor Brian Bigger, In the Chair

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**1. Call to Order**

The meeting commenced at 4:30 p.m.

**2. Roll Call**

A roll call was conducted prior to the commencement of moving into closed session.

**3. Closed Session**

The following resolution was presented:

**CC2021-192**

Moved By Mayor Bigger

Seconded By Councillor Sizer

Resolution to move to Closed Session to deal with one (1) Acquisition or Disposition of Land / Position, Plan or Instructions to be Applied to Negotiations items regarding Greater Sudbury Housing Corporation properties and one (1) Security of Municipal Property item regarding the City's information technology systems and data in accordance with the Municipal Act, 2001, s. 239(2)(a), (c) and (k).

**CARRIED**

At 4:33 p.m., Council moved into Closed Session.

**4. Recess**

At 5:28 p.m., Council recessed.

**5. Open Session**

At 6:00 p.m., Council commenced the Open Session.

**6. Moment of Silent Reflection**

Those present at the meeting observed a moment of silent reflection.

**7. Roll Call**

A roll call was conducted.

**8. Declarations of Pecuniary Interest and the General Nature Thereof**

None declared.

**9. Matters Arising from the Closed Session**

Deputy Mayor Sizer, Chair of the Closed Session, reported that Council met in Closed Session to deal with one (1) Acquisition or Disposition of Land / Position, Plan or Instructions to be Applied to Negotiations items regarding Greater Sudbury Housing Corporation properties and one (1) Security of Municipal Property item regarding the City's information technology systems and data in accordance with the Municipal Act, 2001, s. 239(2)(a), (c) and (k). No directions or resolutions emanated from this meeting.

**10. Matters Arising from Audit Committee**

**10.1 June 22, 2021**

No resolutions emanated from this meeting as it was cancelled due to technical issues.

**11. Matters Arising from Community Services Committee**

**11.1 June 21, 2021**

Councillor McCausland, as Chair of the Community Services Committee, reported on the matters arising from the Community Services Committee meeting of June 21, 2021.

The following resolution was presented:

**CC2021-193**

Moved By Mayor Bigger

Seconded By Councillor McCausland

THAT the City of Greater Sudbury approves Community Services Committee resolution CS2021-08 from the meeting of June 21, 2021.

**CARRIED**

The resolutions for the June 21, 2021 Community Services Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

**12. Matters Arising from Emergency Services Committee**

**12.1 June 23, 2021**

Councillor Lapierre, as Chair of the Emergency Services Committee, reported on the matters arising from the Emergency Services Committee meeting of June 23, 2021. No resolutions emanated from this meeting.

**13. Matters Arising from Finance and Administration Committee**

**13.1 June 22, 2021**

Councillor Jakubo, as Chair of the Finance and Administration Committee, reported on the matters arising from the Finance and Administration Committee meeting of June 22, 2021.

The following resolution was presented:

**CC2021-194**

Moved By Councillor Jakubo

Seconded By Councillor McIntosh

THAT the City of Greater Sudbury approves the Finance and Administration Committee resolutions FA2021-52 to FA2021-61 from the meeting of June 21, 2021.

**CARRIED**

The resolutions for the June 22, 2021 Finance and Administration Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

**14. Matters Arising from Hearing Committee**

**14.1 June 23, 2021**

Councillor Signoretti, as Chair of the Hearing Committee, reported on the matters arising from the Hearing Committee meeting of June 23, 2021.

The following resolution was presented:

**CC2021-195**

Moved By Mayor Bigger  
Seconded By Councillor Leduc

THAT the City of Greater Sudbury approves Hearing Committee resolution HC2021-05 from the meeting of June 23, 2021.

**CARRIED**

The resolutions for the June 23, 2021 Hearing Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

**15. Matters Arising from Operations Committee****15.1 June 21, 2021**

Councillor McIntosh, as Chair of the Operations Committee, reported on the matters arising from the Operations Committee meeting of June 21, 2021.

The following resolution was presented:

**CC2021-196**

Moved By Councillor McIntosh  
Seconded By Councillor Kirwan

THAT the City of Greater Sudbury approves Operations Committee resolutions OP2021-09 to OP2021-10 from the meeting of June 21, 2021.

**CARRIED**

The resolutions for the June 21, 2021 Operations Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

**16. Matters Arising from Planning Committee****16.1 June 14, 2021**

Councillor Kirwan, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of June 14, 2021.

The following resolution was presented:

**CC2021-197**

Moved By Councillor Kirwan  
Seconded By Councillor McCausland

THAT the City of Greater Sudbury approves Planning Committee resolutions PL2021-97 to PL2021-101 and PL2021-103 to PL2021-105 from the meeting of June 14, 2021.

**CARRIED**

The resolutions for the June 14, 2021 Planning Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

## 17. Consent Agenda

The following resolution was presented:

### **CC2021-198**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury approves Consent Agenda items 17.1.1 to 17.1.7 and 17.2.1.

### **CARRIED**

The following are the Consent Agenda items:

## 17.1 Adoption of Minutes

### 17.1.1 City Council Minutes of April 13, 2021

#### **CC2021-199**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the City Council meeting minutes of April 13, 2021.

#### **CARRIED**

### 17.1.2 Planning Committee Minutes of April 26, 2021

#### **CC2021-200**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the Planning Committee meeting minutes of April 26, 2021.

#### **CARRIED**

### 17.1.3 City Council Meeting Minutes of April 27, 2021

#### **CC2021-201**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the City Council meeting minutes of April 27, 2021.

**CARRIED**

**17.1.4 Special City Council Meeting Minutes of May 5, 2021**

**CC2021-202**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the Special City Council meeting minutes of May 5, 2021.

**CARRIED**

**17.1.5 Planning Committee Minutes of May 10, 2021**

**CC2021-203**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the Planning Committee meeting minutes of May 10, 2021.

**CARRIED**

**17.1.6 Special City Council Minutes of May 11, 2021**

**CC2021-204**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the Special City Council meeting minutes of May 11, 2021.

**CARRIED**

**17.1.7 City Council Meeting Minutes of May 11, 2021**

**CC2021-205**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury adopts the City Council meeting minutes of May 11, 2021.

**CARRIED**

**17.2 Routine Management Reports**

**17.2.1 Coniston Industrial Park Limited**

**CC2021-206**

Moved By Mayor Bigger

Seconded By Councillor Kirwan

THAT the City of Greater Sudbury approves the request for modification to the cost sharing request by the Coniston Industrial Park Limited regarding the installation of approximately 860 linear metres of 250mm watermain within the laneway between Edward Avenue and William Avenue road allowances for a proposed industrial facility as outlined in the report entitled “Coniston Industrial Park Limited”, from the General Manager of Growth and Infrastructure, presented at the City Council meeting on June 29, 2021, previously presented at the Planning Committee meeting on June 25, 2018, and subsequently modified by Planning Committee at the meeting on June 22, 2020;

AND THAT the City of Greater Sudbury approves additional funding from Industrial Reserve Fund of \$448,627 for the City's 50% share of additional costs, with remaining \$448,627 to be received from the landowner.

**CARRIED**

*Councillor Montpellier departed at 6:23 p.m.*

**18. Presentations****18.1 Annual IT Strategic Plan Update to Council**

Peter Taylor, Director of Information Technology, provided an electronic presentation regarding the Annual IT Strategic Plan Update for information only.

*Councillor Montpellier returned at 6:35 p.m.*

*Councillor Signoretti arrived at 6:44 p.m.*

**19. Managers' Reports****19.1 COVID-19 Response Update - June 29, 2021**

For Information Only.

**19.2 Community Engagement Process for Lively Area Recreation Opportunities**

The following resolution was presented:

**CC2021-207**

Moved By Councillor Jakubo

Seconded By Councillor McIntosh

THAT the City of Greater Sudbury directs staff to undertake a public engagement process with the objective of informing a plan for recreational amenities following the closure of Meatbird Lake Park with, at minimum, the following features:

- a) A robust public engagement process that includes online and continuous dialogue with interested stakeholders
- b) Criteria for evaluating potential recreational amenities that reflects, at a minimum, existing municipal Financial, Planning, Recreational and Environmental policies
- c) An Advisory Committee with membership as described in this report and Terms of Reference that are subject to review and approval by City Council
- d) A promotion and marketing plan to ensure broad awareness and current information about this work as outlined in the report titled Community Engagement for Recreational Amenities in Lively from the Chief Administrative Officer presented at the City Council meeting on June 29, 2021.

**CARRIED**

Rules of Procedure

Councillor Vagnini presented the following resolution:

**CC2021-208**

Moved By Councillor Vagnini

Seconded By Councillor Leduc

THAT staff be directed to engage in discussions with the owners of the sixth avenue golf course property regarding a potential acquisition of the property as a recreational amenity for consideration by City Council at a future meeting.

**CARRIED**

## 20. By-laws

The following resolution was presented:

**CC2021-209**

Moved By Mayor Bigger

Seconded By Councillor Vagnini

THAT the City of Greater Sudbury read and pass By-law 2021-110 to By-law 2021-130Z.



**CARRIED**

The following are the by-laws:

**2021-110**

A By-law of the City of Greater Sudbury to Confirm the Proceedings of Council at its Meeting of June 29th, 2021

**2021-111**

By-law of the City of Greater Sudbury to Regulate the Erection of Signs and Advertising Devices

City Council Resolution #CC2019-319

This by-law repeals and replaces the existing Sign By-law 2007-250 to implement the new guidelines as approved by Council on October 29th, 2019 and as supplemented on April 27th, 2021.

**2021-112**

A By-law of the City of Greater Sudbury to Amend By-law 2009-101 being a By-law of the City of Greater Sudbury to Require the Clearing of Yards and Certain Vacant Lots

City Council Resolution #CC2020-108

This by-law amends the Clearing of Yards and Certain Vacant Lots By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-113**

A By-law of the City of Greater Sudbury to Amend By-law 2004-350 being a By-law of the City of Greater Sudbury to License and Regulate Various Businesses  
City Council Resolution #CC2020-108

This by-law amends the Business Licensing By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-114**

A By-law of the City of Greater Sudbury to Amend By-law 2004-352 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating and Governing of Adult Entertainment Parlours

City Council Resolution #CC2020-108

This by-law amends the Adult Entertainment Establishment By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-115**

A By-law of the City of Greater Sudbury to Amend By-law 2004-354 being a By-law of the City of Greater Sudbury Respecting the Licensing, Regulating, and Inspecting of Retailers of Second Hand Goods, Including Pawnbrokers and Salvage Yards

City Council Resolution #CC2020-108

This by-law amends the Second Hand Goods By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-116**

A By-law of the City of Greater Sudbury to Amend By-law 2010-188 being a By-law of the City of Greater Sudbury to Prohibit, Regulate and Control Discharges into Bodies of Waters Within City Boundaries or into the City Sanitary Sewers, Storm Sewers, Sanitary Sewage Works and all Tributary Sewer Systems  
City Council Resolution #CC2020-108

This by-law amends the Sewer Use By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-117**

A By-law of the City of Greater Sudbury to Amend By-law 2010-214 being a By-law of the City of Greater Sudbury Respecting the Supply of Water, the Management and Maintenance of the Waterworks Systems of the City  
City Council Resolution #CC2020-108

This by-law amends the Water Supply By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-118**

A By-law of the City of Greater Sudbury to Amend By-law 2009-170 being a By-law of the City of Greater Sudbury to Regulate the Removal of Topsoil, the Placing or Dumping of Fill, and the Alteration of Grades of Land  
City Council Resolution #CC2020-108

This by-law amends the Site Alteration By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-119**

A By-law of the City of Greater Sudbury to Amend By-law 2011-218 being a By-law of the City of Greater Sudbury to Regulate Road Occupancy Including Road Cuts, Temporary Closures and Sidewalk Cafes  
City Council Resolution #CC2020-108

This by-law amends the Road Occupancy / Road Closure By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-120**

A By-law of the City of Greater Sudbury to Amend By-law 2011-219 being a By-law of the City of Greater Sudbury to Regulate the Fouling, Obstruction, Use and Care of Roads  
City Council Resolution #CC2020-108

This by-law amends the Road Fouling By-law to update the update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-121**

A By-law of the City of Greater Sudbury to Amend By-law 2011-220 being a By-law of the City of Greater Sudbury to Regulate the Use of Private Entrances  
City Council Resolution #CC2020-108

This by-law amends the Private Entrance By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

#### **2021-122**

A By-law of the City of Greater Sudbury to Amend By-law 2011-243 being a By-law of the City of Greater Sudbury to Authorize, Regulate and Protect the Planting, Maintenance, Protection and Removal of Trees on Municipal Rights of Way  
City Council Resolution #CC2020-108

This by-law amends the Right of Way Trees By-law to update the update the references to an enforcement fee from a time-spent fee to an attendance fee.

#### **2021-123**

A By-law of the City of Greater Sudbury to Amend By-law 2015-232 being a By-law of the City of Greater Sudbury for the Licensing, Regulating and Governing of Private Property Parking Control Officers in the City of Greater Sudbury  
City Council Resolution #CC2020-108

This by-law amends the Private Property Parking Control Officer Licensing By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

#### **2021-124**

A By-law of the City of Greater Sudbury to Amend By-law 2015-265 being a By-law of the City of Greater Sudbury for the Licensing, Regulating and Governing of Camp Grounds in the City of Greater Sudbury  
City Council Resolution #CC2020-108

This by-law amends the Camp Ground Licensing By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

#### **2021-125**

A By-law of the City of Greater Sudbury to Amend By-law 2017-14 being a By-law of the City of Greater Sudbury for the Registration of Secondary Dwelling Units in the City of Greater Sudbury  
City Council Resolution #CC2020-108

This by-law amends the Secondary Dwelling Unit Registration By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

#### **2021-126**

A By-law of the City of Greater Sudbury to Amend By-law 2017-22 being a By-law of the City of Greater Sudbury to Regulate the Keeping of Animals, Responsible Pet Ownership and the Registration of Dogs and Cats  
City Council Resolution #CC2020-108

This by-law amends the Animal Care and Control By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-127**

A By-law of the City of Greater Sudbury to Amend By-law 2018-29 being a By-law of the City of Greater Sudbury Regulating Noise  
City Council Resolution #CC2020-108

This by-law amends the Noise By-law to update the references to an enforcement fee from a time-spent fee to an attendance fee.

**2021-128**

A By-law of the City of Greater Sudbury to Amend By-law 2018-121 being A By-law of the City of Greater Sudbury Respecting the Appointment of Officials of the City This by-law updates certain appointments to reflect staff changes.

**2021-129Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2021-101

This by-law rezones the subject lands to "RU", Rural in order to correct mapping errors that impact a total of seven (7) privately owned parcels - Matagamasi Lake, Township of Rathbun.

**2021-130Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z being the Comprehensive Zoning By-law for the City of Greater Sudbury  
Planning Committee Resolution #PL2021-98

This by-law does not rezone the subject property. Pursuant to Section 39.1(4) of the Planning Act, Council has enacted a temporary use by-law to permit the temporary use of the existing building by a motion picture staging and equipment rental company for a period of three (3) years - Nickel District Conservation Authority, 828 Beatrice Crescent, Sudbury.

**21. Members' Motions**

Councillor McCausland presented a Members' Motion regarding modernizing the Sudbury Community Arena and asked that notice be waived.

Rules of Procedure

A recorded vote was held:

YEAS: (12): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (1): Councillor Leduc

**CARRIED (12 to 1)**

The following resolution was presented:

**CC2021-210**

Moved By Councillor McCausland

Seconded By Councillor Signoretti

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

- Retains the required elements for the facility to serve as a contemporary sports venue for professional league play, an event centre that hosts paid performances such as concerts, trade shows and other similar community events and a community space available for year-round rental.
- Delivers a financing plan that requires no more than 70% of the anticipated construction cost required for a new event centre and a five-year operating cost forecast that supports comparisons with a new event centre's operation.
- Clearly describes the changes needed to either the facility's required elements and/or the financing plan to produce a solution that effectively meets functionality and cost expectations.

Rules of Procedure

A recorded vote was held regarding calling of the question.

YEAS: (13): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

**CARRIED (13 to 0)**

**CC2021-210**

Moved By Councillor McCausland

Seconded By Councillor Signoretti

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

- Retains the required elements for the facility to serve as a contemporary sports venue for professional league play, an event centre that hosts paid performances such as concerts, trade shows and other similar community events and a community space available for year-round rental.
- Delivers a financing plan that requires no more than 70% of the anticipated construction cost required for a new event centre and a five-year operating cost forecast that supports comparisons with a new event centre's operation.
- Clearly describes the changes needed to either the facility's required elements and/or the financing plan to produce a solution that effectively meets functionality and cost expectations.

Rules of Procedure

A Recorded Vote was held:

YEAS: (6): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor McIntosh, and Councillor Cormier

NAYS: (7): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

**DEFEATED (6 to 7)**

Councillor McCausland presented a Members' Motion regarding a staff report providing further information related to the new Event Centre and asked that notice be waived.

A Recorded Vote was held:

YEAS: (11): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor McIntosh, Councillor Cormier, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (2): Councillor Sizer, and Councillor Leduc

**CARRIED (11 to 2)**

The following resolution was presented:

**CC2021-211**

Moved By Councillor McCausland

Seconded By Councillor Montpellier

THAT staff produce a report that provides additional, detailed information to enhance Council's understanding of issues related to the construction of a new Event Centre which includes, for each Event Centre development approach, the following:

- An economic impact analysis completed by a suitable third party that includes projections of the potential direct and indirect financial implications for the whole community related to employment, productivity, competitiveness and operating costs;
- An analysis of the alignment with all CEEP goals;
- Further analysis of senior government funding opportunities;
- Further analysis of transit implications, with an emphasis on projected costs and ability to provide equitable access;
- An assessment, based on a review of public consultation already completed for the project, of the ability each approach has for meeting public expectations regarding desired amenities surrounding the Event Centre.

AND THAT funding for the economic impact analysis be provided in an amount not to exceed the available funds in the existing project budget.

Rules of Procedure

A recorded vote was held regarding calling of the question.

YEAS: (9): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

NAYS: (4): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, and Councillor McCausland

**CARRIED (9 to 4)**

**CC2021-211**

Moved By Councillor McCausland

Seconded By Councillor Montpellier

THAT staff produce a report that provides additional, detailed information to enhance Council's understanding of issues related to the construction of a new Event Centre which includes, for each Event Centre development approach, the following:

- An economic impact analysis completed by a suitable third party that includes projections of the potential direct and indirect financial implications for the whole community related to employment, productivity, competitiveness and operating costs;

- An analysis of the alignment with all CEEP goals;
- Further analysis of senior government funding opportunities;
- Further analysis of transit implications, with an emphasis on projected costs and ability to provide equitable access;
- An assessment, based on a review of public consultation already completed for the project, of the ability each approach has for meeting public expectations regarding desired amenities surrounding the Event Centre.

AND THAT funding for the economic impact analysis be provided in an amount not to exceed the available funds in the existing project budget.

#### Rules of Procedure

A Recorded Vote was held:

YEAS: (6): Councillor Signoretti, Councillor Vagnini, Councillor Montpellier, Councillor McCausland, Councillor McIntosh, and Councillor Cormier

NAYS: (7): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Leduc, Councillor Landry-Altman, and Mayor Bigger

**DEFEATED (6 to 7)**

*Councillor Vagnini departed at 8:54 p.m.*

#### Rules of Procedure

Proceed Past 9:00 p.m.

A Recorded Vote was held:

YEAS: (8): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Cormier, Councillor Leduc, Councillor Landry-Altman, and Mayor Bigger

NAYS: (4): Councillor Signoretti, Councillor Montpellier, Councillor McCausland, and Councillor McIntosh

Absent (1): Councillor Vagnini

**CARRIED (8 to 4)**

*Councillor Signoretti and Councillor Montpellier departed at 9:04 p.m.*

## 22. Addendum



## Rules of Procedure

The following resolution was presented:

THAT the City of Greater Sudbury deals with the items on the Addendum to the Agenda at this time.

## Rules of Procedure

A Recorded Vote was held:

YEAS: (10): Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altmann, and Mayor Bigger

Absent (3): Councillor Signoretti, Councillor Vagnini, and Councillor Montpellier

**CARRIED (10 to 0)**

## **Declarations of Pecuniary Interest and the General Nature Thereof**

None declared.

## **Managers' Reports**

The following resolution was presented:

### **CC2021-212**

Moved By Mayor Bigger

Seconded By Councillor Leduc

THAT the City of Greater Sudbury approves the operating budget for a supervised consumption urgent needs site, as outlined in the report entitled "Supervised Consumption Urgent Needs Site Operational Budget", from the General Manager of Community Development, presented at the City Council meeting on June 29, 2021;

AND THAT funding for the site be treated as an un-budgeted expense in 2021 for the remainder of the year and a maximum amount of \$1.1 million be added to the 2022 draft budget to be funded on the tax levy;

AND THAT staff provide an update to Council in advance of the 2022 budget with regards to the Provincial application process for funding.

## Rules of Procedure

Councillor McIntosh presented the following amendment:

### **Amendment:**

#### **CC2021-212-A1**

Moved By Councillor McIntosh

Seconded By Councillor Lapierre

THAT the resolution be amend to remove "to be funded on the tax levy" from the second paragraph and that "and funding alternatives for a three year period" be added to the end of the third paragraph.

**CARRIED**

The resolution as amended was presented:

**CC2021-212**

Moved By Mayor Bigger

Seconded By Councillor Leduc

As amended:

THAT the City of Greater Sudbury approves the operating budget for a supervised consumption urgent needs sit, as outlined in the report entitled "Supervised Consumption Urgent Needs Site Operational Budget", from the General Manager of Community Development, presented at the City Council meeting on June 29, 2021;

AND THAT funding for the site be treated as an un-budgeted expense in 2021 for the remainder of the year and a maximum amount of \$1.1 million be added to the 2022 draft budget;

AND THAT staff provide an update to Council in advance of the 2022 budget with regards to the Provincial application process for funding and funding alternatives for a three year period.

**CARRIED**

**23. Civic Petitions**

No Petitions were submitted.

**24. Question Period**

No Questions were asked.

**25. Adjournment**

Mayor Bigger moved to adjourn this meeting. Time: 10:13 p.m.

**CARRIED**

Attached is Exhibit "17"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

**Resolution Number** CC2021-210

**Title:** Members' Motions

**Date:** Tuesday, June 29, 2021

---

**Moved By** Councillor McCausland

**Seconded By** Councillor Signoretti

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

THAT staff undertake an analysis of potential approaches for modernizing the Sudbury Community Arena in a report to be produced no later than October 2021 that fulfils the following objectives:

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- Delivers a financing plan that requires no more than 70% of the anticipated construction cost required for a new event centre and a five-year operating cost forecast that supports comparisons with a new event centre's operation.
- Clearly describes the changes needed to either the facility's required elements and/or the financing plan to produce a solution that effectively meets functionality and cost expectations.

**DEFEATED**

Resolution Number CC2021-211

Title: Members' Motions

Date: Tuesday, June 29, 2021

---

Moved By Councillor McCausland

Seconded By Councillor Montpellier

THAT staff produce a report that provides additional, detailed information to enhance Council's understanding of issues related to the construction of a new Event Centre which includes, for each Event Centre development approach, the following:

- An economic impact analysis completed by a suitable third party that includes projections of the potential direct and indirect financial implications for the whole community related to employment, productivity, competitiveness and operating costs;
- An analysis of the alignment with all CEEP goals;
- Further analysis of senior government funding opportunities;
- Further analysis of transit implications, with an emphasis on projected costs and ability to provide equitable access;
- An assessment, based on a review of public consultation already completed for the project, of the ability each approach has for meeting public expectations regarding desired amenities surrounding the Event Centre.

AND THAT funding for the economic impact analysis be provided in an amount not to exceed the available funds in the existing project budget.

**DEFEATED**

Attached is Exhibit "18"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021



Commissioner for taking Affidavits, etc

Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed Deputy-Clerk for the City of Greater Sudbury.



## Greater Sudbury Event Centre Next Steps

Presented To:	City Council
Meeting Date:	July 14, 2021
Type:	Managers' Reports
Prepared by:	Ian Wood Strategic Initiatives, Communications and Citizen Services
Recommended by:	Chief Administrative Officer

## Report Summary

This report provides an update on the status of the Greater Sudbury Event Centre Project at the Kingsway Entertainment District. The next steps to resume the project are outlined and a recommendation for procurement of professional services to advance the project in a timely manner is provided for Council's consideration.

## Resolution

THAT staff proceed to advance the work required to develop the Event Centre without further delay in accordance with the existing, approved Cost Sharing Agreement, a project schedule that produces a facility which is ready for use in 2024, and regular progress reporting to City Council;

AND THAT the Executive Director of Communications, Strategic Initiatives and Citizen Service be delegated authority to negotiate, execute and subsequently amend or extend any agreements to produce the work required for delivering the Event Centre Project in 2024, subject to Council's approval of the following three decision points:

- a) Confirmation of the site preparation contract, including the commencement date established with the site development partners
- b) Confirmation of the Venue Operator
- c) Confirmation of final budget based on the result of the Design/Build Request for Proposals

## Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report addresses the following strategic objectives outlined in the CGS Strategic Plan 2019-2027:

- Economic Capacity and Investment Readiness
- Asset Management and Service Excellence

From the perspective of the CEEP, the project respects the objective to minimize the production of greenhouse gases in the operation of new assets.

## Financial Implications

Expenditures associated with the recommendations in this report will be funded from the Event Centre Project capital account.

## Current Status and Recommended Short Term Actions

With the legal and planning objections now resolved and Council's request for updated information addressed, Large Projects staff are reviewing Event Centre Project plans to schedule activities, coordinate with partners and regain some of the momentum that was lost over the past few years.

For example, staff have restarted regular technical meetings with project partners and are collaborating to develop a coordinated work schedule.

When the project was paused during the legal and planning objections, the following work was ongoing:

- The Integrated Site Plan for the entire development, including the casino and hotel, was nearing completion.
- The intersection improvements on the Kingsway were being designed.
- The storm water management pond was being designed.
- The site preparation contract had been awarded, but not started.
- The Design Build RFP was being finalized.

As work resumes, several initial actions are required to prepare for the start of site development later this year. For example, finalization of the Integrated Site Plan is required with all partners working to optimize the final location and elevation of the buildings to minimize the amount of rock excavation and to ensure the effective interaction of the facilities. This will form part of the Site Preparation contract for blasting in the area.

In addition, the design for intersections is approximately 70% complete. J.L. Richards & Associates (JLR) Limited (JLR) was previously awarded this contract and will be directed to restart and complete this work.

To begin the site alteration work, additional engineering work is also required to finalize the design of the storm water management system. As described previously in public project updates, the original storm water management design will be updated to provide an innovative infiltration approach that emphasizes water conservation and site aesthetics while dealing with the high ground water table on the lower section of the site. This design work will allow for a final review by CGS staff and issuance of the site alteration permit. To expedite this work, staff will pursue a change order to the current agreement with JLR as part of the City's Standing Offer for Professional Engineering Services and Architectural Services (ISD19-19).

Staff are reviewing and updating the site preparation contract which was awarded to Bot Construction Group. As this work has been paused during the legal and planning objections, it is anticipated that there will be additional fees required to restart the work as well as potential increased rates from the date of the original purchase order. Staff will negotiate reasonable updated costs for the continuation of these services.

As discussed previously in project updates, staff will issue a Request for Expressions of Interest (EOI) as soon as possible to begin the process of selecting an operator for the event centre facility. This will enable an operator to be in place that can provide input as the Design/Build process unfolds. Ron Bidulka, of PricewaterhouseCoopers, developed a draft EOI as part of the contracted work in 2017 and staff will secure the services of Mr. Bidulka, to finalize this process.



## Medium Term Actions

Staff's planning efforts include the following medium-term actions:

- Finalization of the Design/Build RFP,
- Updating the agreement with the Fairness Monitor for the Design/Build RFP process,
- Determination of the requirements for contract administration and site inspection services for the road, intersection, and storm water management pond construction,
- Finalization of the compliance monitoring process for the Design/Build process

## Council Decision Points

Staff will provide a detailed update to Council, including additional information on timing of future activities and partner participation, at its meeting of September 14, 2021. While this report recommends delegated authority for staff to deliver the project in a timely manner this authority, if approved, would be subject to Council approval of major decisions that shape the project's critical details. For clarity, over the next few months, staff will request Council direction for the following undertakings:

- Authorization to the start the site preparation contract on the date agreed upon with partners
- Confirmation of the Venue Operator
- Confirmation of final budget based on Design/Build RFP Proposals

Regular reporting to Council, which has been ongoing since 2017, will continue. Notwithstanding the recommended delegated authority, Council retains discretion to provide additional direction to staff at any time.

## Estimated Project Schedule

While the following dates are preliminary and subject to change, staff developed the following estimates to describe the project's timing. These dates will be validated by the work undertaken over the next few months:

- Site Preparation (November 2021 to June 2022)
- Road and Intersection Construction, plus Storm Water Management Pond (June 2022 to October 2023)
- Venue Operator EOI/RFP (October 2021 to January 2022)
- Design Build RFP (October 2021 to August 2022)
- Event Centre Construction (September 2022+)

## Conclusion

The Event Centre Project is well-positioned to regain significant momentum throughout the 3<sup>rd</sup> Quarter of 2021. As previously directed, staff are repositioning internal resources to support the project once again, with the target to "move at the speed of business." The steps outlined in this report will help to achieve this goal while regular updates and key decision-making authority ensures that Council remains in full control of the project.

Attached is Exhibit "19"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

**Resolution Number** CC2021-227

**Title:** Greater Sudbury Event Centre Next Steps

**Date:** Wednesday, July 14, 2021

---

**Moved By** Mayor Bigger

**Seconded By** Councillor Leduc

THAT staff proceed to advance the work required to develop the Event Centre without further delay in accordance with the existing, approved Cost Sharing Agreement, a project schedule that produces a facility which is ready for use in 2024, and regular progress reporting to City Council;

AND THAT the Executive Director of Communications, Strategic Initiatives and Citizen Service be delegated authority to negotiate, execute and subsequently amend or extend any agreements to produce the work required for delivering the Event Centre Project in 2024, subject to Council's approval of the following three decision points:

- a) Confirmation of the site preparation contract, including the commencement date established with the site development partners
- b) Confirmation of the Venue Operator
- c) Confirmation of final budget based on the result of the Design/Build Request for Proposals

**CARRIED**

Attached is Exhibit "20"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

**Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.**

# Municipal Council Meeting Transcript

Mayor Bigger, et al.  
on July 14 2021



77 King Street West, Suite 2020  
Toronto, Ontario M5K 1A1

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<p style="text-align: right;">Page 1</p> <p>1 TRANSCRIPT - GREATER SUDBURY COUNCIL MEETING</p> <p>2</p> <p>3 RE: EXCERPT OF GREATER SUDBURY MUNICIPAL</p> <p>4 COUNCIL MEETING</p> <p>5 ISSUE: GREATER SUDBURY EVENT CENTRE</p> <p>6 SPEAKERS: MAYOR BIGGER;</p> <p>7 COUNCILLORS MARK SIGNORETTI,</p> <p>8 MICHAEL VAGNINI,</p> <p style="padding-left: 150px;">9 GEOFF MCCAUSLAND,</p> <p>10 ROBERT KIRWAN, RENE LAPIERRE,</p> <p>11 MIKE JAKUBO, AL SIZER, DEB MCINTOSH,</p> <p>12 BILL LEDUC, and</p> <p>13 JOSCELYNE LANDRY-ALTMANN;</p> <p>14 MR. IAN WOOD; MR. DAVID SHELSTED;</p> <p>15 MS. GRAVELLE.</p> <p>16 DATE: JULY 14, 2021</p> <p>17 DURATION: 6:35:55 TO 7:02:15 (27 MINUTES)</p> <p>18</p> <p>19</p> <p>20 PREPARED BY:</p> <p>21 Linda Blue</p> <p>22 NEESONS (A VERITEXT COMPANY)</p> <p>23 77 KING STREET WEST, SUITE 2020</p> <p>24 TORONTO, ONTARIO, M5K 1A2</p> <p>25 TEL. 416.413.7755</p>	<p style="text-align: right;">Page 3</p> <p>1 . reviewing the site preparation contract with</p> <p>2 Bot Construction, and</p> <p>3 . issuing a request for expressions of interest</p> <p>4 to begin the process of selecting an operator</p> <p>5 for the Event Centre and having that operator</p> <p>6 named in a time frame that would allow them to</p> <p>7 assist us in the finalization of the RFP and</p> <p>8 the proceeding with the construction.</p> <p>9 We [inaudible] there are other items</p> <p>10 that we have identified that are more medium term in</p> <p>11 terms of finalizing the design-build RFP itself:</p> <p>12 . updating our agreement with the fairness</p> <p>13 monitor, and</p> <p>14 . determining how we will do contract</p> <p>15 administration, site inspection services, and</p> <p>16 those types of things.</p> <p>17 As indicated, the resolution reserves</p> <p>18 for Council the authorization to start the site</p> <p>19 preparation contract on the date agreed upon with the</p> <p>20 partners, the confirmation of the venue operator, and</p> <p>21 confirmation of the final budget based on design-build</p> <p>22 RFP proposal responses.</p> <p>23 We have included a high-level estimated</p> <p>24 project schedule for Council's information, also</p> <p>25 indicated that our intention is to initiate this work</p>
<p style="text-align: right;">Page 2</p> <p>1 ---Upon commencing at timestamp 3:31:00:</p> <p>2 MAYOR BIGGER: So 16.4 is Great Sudbury</p> <p>3 Event Centre next steps. And, again, I will go back</p> <p>4 to Mr. Wood for that report.</p> <p>5 MR. WOOD: Thank you, Mayor Bigger.</p> <p>6 The report before Council today provides an update on</p> <p>7 the status of the project and the staff's next steps</p> <p>8 to resume the project, and also includes a</p> <p>9 recommendation for procurement of professional</p> <p>10 services so that we can advance the project in a</p> <p>11 timely manner while still remaining -- still retaining</p> <p>12 Council's decision-making authority at major points in</p> <p>13 the process.</p> <p>14 The report indicates that we have begun</p> <p>15 -- resumed our technical meetings with our partners,</p> <p>16 and they are going well. We have outlined a sort of</p> <p>17 high-level process schedule, and we have agreed with</p> <p>18 our partners to work towards that deadline. There are</p> <p>19 a number of items that we need to resume, pick up, and</p> <p>20 undertake, over the next couple of months, and those</p> <p>21 are outlined for you:</p> <p>22 . finalization of the integrated site plan,</p> <p>23 . design of intersections,</p> <p>24 . engineering work on the storm water management</p> <p>25 system,</p>	<p style="text-align: right;">Page 4</p> <p>1 and come back to Council on September the 14<sup>th</sup> with a</p> <p>2 much more detailed schedule, having had the</p> <p>3 opportunity at that point to secure some of these</p> <p>4 services and begin the work and have a much better</p> <p>5 picture of what it looks like moving forward.</p> <p>6 The other piece that I would say is we</p> <p>7 are also looking at repositioning internal resources</p> <p>8 and making sure that internally we are able to provide</p> <p>9 the support to this project as it ramps up. It was,</p> <p>10 you know -- our focus was on legal, and for those</p> <p>11 purposes, you know, essentially, Mr. Shelsted and</p> <p>12 myself were able to do that on a part-time basis. As</p> <p>13 this project accelerates, it will require more</p> <p>14 attention from staff, and we are working to make that</p> <p>15 happen.</p> <p>16 So I will stop my recap there, but I</p> <p>17 will -- Mr. Shelsted is on the line with me and has</p> <p>18 the technical expertise on this project. And so I</p> <p>19 will, with your indulgence, Mr. Mayor, ask Mr.</p> <p>20 Shelsted if he has any initial comments before we</p> <p>21 entertain questions from Council.</p> <p>22 MR. SHELSTED: Thank you, Mr. Wood,</p> <p>23 that was an accurate summary.</p> <p>24 MAYOR BIGGER: Do we have questions</p> <p>25 from Council?</p>


<p>Page 5</p> <p>1 COUNCILLOR MCCAUSLAND: Councillor 2 McCausland.</p> <p>3 MAYOR BIGGER: Any other councillors? 4 Go ahead, Councillor McCausland.</p> <p>5 COUNCILLOR MCCAUSLAND: Thank you, Mr. 6 Mayor. And I have one question, and I do have a brief 7 statement, less than five minutes, that I was hoping 8 to read. I haven't actually ever been party to a 9 decision point, as has been pointed out previously, 10 about the Kingsway Entertainment District, and I just 11 would greatly appreciate the opportunity just to say 12 that after.</p> <p>13 The question is to do with, through 14 you, Mr. Mayor, the pre-qualification that took place 15 in the past for construction of the Event Centre. 16 That was on May 25th, 2017. And I just wanted to ask 17 whether we were doing -- if that still stands, or 18 whether we should be updating that or doing another 19 round of pre-qualification considering it has been 20 four years. Thank you.</p> <p>21 MR. WOOD: So I will defer to Mr. 22 Shelsted and perhaps Ms. Gravelle (ph) on that 23 question.</p> <p>24 MAYOR BIGGER: Mr. Shelsted.</p>	<p>Page 7</p> <p>1 according to leading sport economists, 2 stadiums and arena rarely bring about 3 the promise of prosperity and instead 4 leave cities and states mired in debt 5 that they can't pay back."</p> <p>6 In many ways, I'm here on Council today 7 because of this debate. I had never been involved or 8 particularly interested in municipal politics, had 9 never even known who my councillor was. I took for 10 granted the incredible work that is the City of 11 Greater Sudbury, took for granted the clean drinking 12 water, ploughed streets, mowed lawns, and was guilty 13 of many of the assumptions that I now deal with on a 14 daily basis.</p> <p>15 The first time I ever got involved was 16 on that fateful day in 2017 when I went to Council 17 chambers to show my support for the downtown 18 recommendation and to protest a path that I saw as 19 moving our city backwards. Leading up to that day, I 20 have to say that I personally was embarrassed when I 21 saw that my local city leaders decided to adjust the 22 scoring matrix to put convenience above all else, to 23 make parking first and city building last.</p> <p>24 I read the report and was frustrated 25 that the KED scored first in cost, downtown second,</p>
<p>Page 6</p> <p>1 MR. SHELSTED: Through you, Mayor 2 Bigger. From what we understand, the current 3 procurement still stands, but I would ask Ms. Gravelle 4 if she has any comments beyond that.</p> <p>5 MAYOR BIGGER: Ms. Gravelle.</p> <p>6 MS. GRAVELLE: Apologies. We are good 7 now? Okay. Apologies. Through you, Mr. Mayor. I do 8 not have any additional information with respect to 9 that. I would, if possible, I would prefer to go back 10 and double check and get a little bit more 11 information. I can can certainly provide that in the 12 future.</p> <p>13 MAYOR BIGGER: Thank you. Councillor 14 McCausland.</p> <p>15 COUNCILLOR MCCAUSLAND: Is it okay if I 16 go ahead, Mr. Mayor? Thank you very much, and thank 17 you to my colleagues for the indulgence.</p> <p>18 A 2012 article from the Atlantic 19 called "If you build it, they might not come: The 20 risky economics of supports stadiums" reads (as read): 21 "Time after time, politicians 22 approve public funds, selling the 23 stadiums as public works projects that 24 will boost the local economy and 25 provide a windfall of growth. However,</p>	<p>Page 8</p> <p>1 when the numbers were early estimates, and there was 2 only a one per cent difference between the costs at 3 the KED and the downtown sites. Despite those issues, 4 the \$360,000 report still recommended the downtown 5 site. That day, against the recommendation, I saw my 6 city leaders vote in opposition to our downtown master 7 plan, in opposition to the draft official plan, and 8 without heed for the report's warnings of delays or 9 appeals.</p> <p>10 This issue has caused a severe rift in 11 our community. And there was a lot of contradictory 12 information flying around. That wasn't all at 13 surprising as on the day of the vote the True North 14 Strong Centre website proclaimed such false promises 15 as it would only cost \$60 million, was zoned and ready 16 for development, and would not cause taxes to increase 17 at all.</p> <p>18 Later, a friend encouraged me to speak 19 at the planning committee meeting for the rezoning's. 20 There I saw a wealth of community leaders, one after 21 another, standing up and speaking against this idea, 22 sharing evidence, examples, anecdotes, and their 23 diverse perspectives. The vast majority of people at 24 those meetings came to speak against the KED, with</p>

<p style="text-align: right;">Page 9</p> <p>1 only a couple people standing up to say that they 2 thought it was great and would bring jobs. 3 I see the same thing still today. For 4 weeks, it seems that almost day another letter from 5 another voice appears in the paper asking us to 6 reconsider. A few of our community leaders also 7 donated hundreds of hours of their own time putting 8 together an alternate plan that could potentially save 9 the City tens of millions of dollars. They offered 10 that made-in-Sudbury plan to us for free, and we chose 11 not even to investigate that opportunity. 12 As I say, I really haven't had an 13 opportunity to debate the merits of the KED around the 14 Council table since being elected. At first, it was 15 before the LPAT. I thought it would turn this thing 16 around. Then, it was before Superior Court, which I 17 thought might strike the plan down. We were asked to 18 pause the debate for a sober second look, which I 19 thought would reinforce the original recommendation. 20 I thought that after years of the hype 21 wearing off, the reality coming into focus, and our 22 asset renewal needs taking shape, we would reconsider. 23 One key issue remains, which I do not believe has been 24 properly considered. And I believe the Kingsway</p>	<p style="text-align: right;">Page 11</p> <p>1 get to for those that have the hardest time getting 2 around. We have decided to move our city further away 3 from walkability and sustainability. We have betrayed 4 plans and are working against so many of the values we 5 claim to espouse, all this in pursuit of our very own 6 rock cut of dreams. 7 We still have the chance to change our 8 path. Maybe we can save tens of millions of dollars 9 while keeping our city's gathering place near the 10 central hub of our newly improved GO bus system, at 11 the centre of our newly built Paris-Notre Dame 12 bikeway, and within walking distance of tens of 13 thousands of residents. We can yet follow through 14 with our master plans, invest in our existing 15 infrastructure, go with the greener option, and ensure 16 that we are sustaining and increasing the much needed 17 foot traffic in our downtown core. 18 We can still do the right thing, and I 19 urge my colleagues to please reconsider this path. 20 Thank you. 21 MAYOR BIGGER: Any further comments or 22 questions from Council? 23 COUNCILLOR SIGNORETTI: Mr. Mayor, it 24 is Councillor Signoretti.</p>
<p style="text-align: right;">Page 10</p> <p>1 Entertainment District plan, it bothers me most of all 2 because I believe it is discriminatory. 3 We have, like so many other cities 4 before us, decided to put cars before people, to put 5 parking and convenience above everything else. This 6 is a mistake on many levels, but most of all morally 7 because not everyone owns a car. Imagine if Council 8 had changed the matrix to make our city's number one 9 priority at the Event Centre parking for BMWs. It 10 sounds ridiculous, but the current situation might not 11 feel all that different if you can't afford a car. 12 This is supposed to be our city's 13 community gathering space, and we have effectively 14 told our residents who don't own cars that they are 15 not invited. It is easy for us as privileged people 16 around this table to become detached from this issue. 17 Our concerns are often what, one car or two, should I 18 consider electric, buy new or lightly used. We don't 19 have to worry about biking down a busy highway at 20 night to see a Wolves game or loading up the kids for 21 an hour plus trip each way on multiple buses to see 22 their favourite: Paw Patrol. 23 We don't get it, but we are aware of 24 it, and the choice is ours. We have chosen to put 25 community gathering place someplace that is harder to</p>	<p style="text-align: right;">Page 12</p> <p>1 MAYOR BIGGER: Go ahead, Councillor 2 Signoretti. 3 COUNCILLOR SIGNORETTI: Thank you, Mr. 4 Mayor. I am not probably going to speak as detailed 5 or as eloquent as my colleague, Councillor McCausland, 6 but he made a lot of valid points, a lot of points 7 that I think as councillors we need to really look at. 8 We're moving on a path of just putting our heads in 9 the sand and just ploughing through and trying to get 10 this Event Center up and running at all cost and just 11 move it forward so we can say that we accomplished 12 something. Well, to me, to accomplish something is 13 not the right thing. So, again, I appreciate the 14 comments made by Councillor McCausland, and I echo 15 those comments. Thank you. 16 MAYOR BIGGER: Councillor Signoretti, 17 I'm going to ask if other councillors want to comment 18 but, you know, inferring -- just to say that we have 19 accomplished -- 20 COUNCILLOR SIGNORETTI: Mr. Mayor, 21 point of order. 22 MAYOR BIGGER: Yes. 23 COUNCILLOR SIGNORETTI: If you are 24 going to refer to my comments, then I would ask you to</p>



<p style="text-align: right;">Page 13</p> <p>1 get one of the deputy mayors to take over the meeting                  2 and then you can comment on my comments.                  3                   MAYOR BIGGER: Well, I do believe that                  4 we have accomplished a lot and so --                  5                   COUNCILLOR SIGNORETTI: Again, Mr.                  6 Mayor, point of order.                  7                   MAYOR BIGGER: Fair enough. I'll --                  8                   COUNCILLOR LEDUC: It's Councillor                  9 Leduc, if you would like me to speak --                  10                  MAYOR BIGGER: I will go to Councillor                  11 Leduc.                  12                  COUNCILLOR SIGNORETTI: Okay. Thank                  13 you.                  14                  COUNCILLOR LEDUC: And thank you.                  15 Through you, Mr. Mayor. Going back to what the mayor                  16 was trying to say, is that there are a lot of things                  17 that this Council in the past two and a half years has                  18 accomplished in a positive way, okay. And the Council                  19 before us have accomplished a lot of things. And                  20 today, we are seeing those accomplishments come                  21 forward without anything being held back now.                  22                  I think every councillor here should be                  23 proud of themselves because we will be making the                  24 proper investments. We do this with the knowledge of                  25 our staff and with consultants. We do not want to</p>	<p style="text-align: right;">Page 15</p> <p>1 when we come back in September or October, and the                  2 plan is set in motion now.                  3                   And I really do commend them for the                  4 timelines. I'm hoping that it can be -- it can come                  5 to fruition in 2024. And I do feel that we are                  6 finally, now that we have gotten through all of the                  7 challenges, we are ready to move with the speed of                  8 business. And I wish Mr. Wood and his team the best                  9 of luck as they move forward.                  10                  This is going to be an iconic site, and                  11 so is the downtown. And I think this is the vision                  12 that I had in 2017, and it is happening. And, again,                  13 I just want to commend them on the plan. It is a                  14 wonderful plan, and we can all be proud of this city                  15 when this gets done. Thank you.                  16                  MAYOR BIGGER: Any further questions or                  17 comments about --                  18                  COUNCILLOR VAGNINI: Mr. Mayor, one                  19 quick question.                  20                  COUNCILLOR SIGNORETTI: Mr. Mayor, I                  21 have a comment, or a question after Councillor Vagnini                  22 or second round, please.                  23                  MAYOR BIGGER: Okay. Councillor                  24 Vagnini.</p>
<p style="text-align: right;">Page 14</p> <p>1 take risks. We want to build this city. We want to                  2 make sure that our city grows. And the way to grow                  3 this city is to keep our young people here and to                  4 invest so that other people will want to move here.                  5 And we will grow and become a great city, as we are                  6 now. Thank you.                  7                  COUNCILLOR KIRWAN: Mr. Mayor, if I may                  8 speak.                  9                  MAYOR BIGGER: Go ahead, Councillor                  10 Kirwan.                  11                  COUNCILLOR KIRWAN: Thank you, Mr.                  12 Mayor. I would like to focus on the report and the                  13 plan that our staff has put together. I think it is                  14 remarkable. I think what it does is it leaves the key                  15 decision points with Council so that Council has to                  16 make those final decisions, but it recognizes that we                  17 are working with the private sector in a real public-                  18 private collaborative partnership.                  19                  And we have partners, and so now staff                  20 is asking us to allow them to go forward to work with                  21 the private sector, to put this plan together so that                  22 we can have an opening during the summer of 2024.                  23 This can work. It can work well. All of the                  24 agreements will be in place, you know, very shortly,</p>	<p style="text-align: right;">Page 16</p> <p>1                  COUNCILLOR VAGNINI: Yes. Thank you,                  2 Mr. Mayor. My question will be very short. In                  3 listening to Councillor Kirwan, and earlier today too                  4 my colleagues that voiced their concerns, all I am                  5 asking, with the partners, do we have a letter of                  6 intent or surety bonds from the partners and not                  7 letters of interest? And I will not say anymore                  8 today. It is a yes or no answer. Did somebody eat                  9 the chocolate egg or not?                  10                  MAYOR BIGGER: Mr. Wood.                  11                  MR. WOOD: Through you, Mayor Bigger.                  12 We have a signed agreement with -- between all of the                  13 parties, and we are proceeding on that basis with the                  14 commitment of all of the parties.                  15                  COUNCILLOR VAGNINI: So, thank you, Mr.                  16 Wood. So those are letters of intent, not letters of                  17 interest?                  18                  MR. WOOD: Those are signed agreements,                  19 contractual agreements, that trigger actions and cost                  20 sharing, and they have been circulated and provided to                  21 Council.                  22                  COUNCILLOR VAGNINI: The letters of                  23 intent. Is that not just a yes or no? I'm sorry.                  24 Maybe I am missing something.</p>

<p style="text-align: right;">Page 17</p> <p>1 MR. WOOD: Through you, Mayor Bigger.</p> <p>2 I believe the councillor is asking, what is the</p> <p>3 contractual relationship between the City and the</p> <p>4 other partners in the project, and I'm responding that</p> <p>5 we have a signed cost-sharing agreement which has been</p> <p>6 shared with Council. The terms are relatively clear,</p> <p>7 but should Council wish to discuss those with the</p> <p>8 legal department, I think that may be an in-camera</p> <p>9 discussion. But regardless, the commitments are</p> <p>10 signed and part of the agreements that we have.</p> <p>11 COUNCILLOR VAGNINI: Okay. So the</p> <p>12 letters are there.</p> <p>13 MAYOR BIGGER: Councillor, they are</p> <p>14 signed contracts. They are not e-mails --</p> <p>15 COUNCILLOR VAGNINI: I know. Mr.</p> <p>16 Mayor, I know. I understand about signed contracts</p> <p>17 and that. I am just asking if that is all there. So,</p> <p>18 okay, that was it. Thank you.</p> <p>19 MAYOR BIGGER: Okay. Thank you. Is</p> <p>20 there any other questions or comments from Council?</p> <p>21 COUNCILLOR LEDUC: Mr. Mayor, can we</p> <p>22 just call for the vote now, please? Thank you.</p> <p>23 COUNCILLOR SIGNORETTI: Mr. Mayor, it</p> <p>24 is Councillor Signoretti. I asked to ask a couple</p> <p>25 more questions, please.</p>	<p style="text-align: right;">Page 19</p> <p>1 how it is fair. It is part of our procedures bylaw.</p> <p>2 Go ahead, Councillor Signoretti, and ask your</p> <p>3 questions of Mr. Wood.</p> <p>4 COUNCILLOR KIRWAN: Point of order, Mr.</p> <p>5 Mayor. As soon as we complete the first round and</p> <p>6 everybody has had a chance to speak in the first</p> <p>7 round, the question can be called. So if there is</p> <p>8 nobody else that wants to speak in the first round,</p> <p>9 Councillor Leduc has asked for the question to be</p> <p>10 called.</p> <p>11 COUNCILLOR SIGNORETTI: Mr. Mayor --</p> <p>12 MAYOR BIGGER: Yes. Thank you, Mr.</p> <p>13 Councillor Kirwan.</p> <p>14 COUNCILLOR SIGNORETTI: -- new</p> <p>15 information has come forward that I would like to ask</p> <p>16 a question. We have done it multiple times, and no</p> <p>17 one has not disagreed with councillors asking</p> <p>18 questions on a second round.</p> <p>19 MAYOR BIGGER: Councillor Signoretti,</p> <p>20 Councillor Leduc did ask to call the question. And</p> <p>21 also, Councillor Kirwan has raised the point of order</p> <p>22 relative to that point in our procedures bylaw, and so</p> <p>23 I will ask the clerk to conduct the roll-call vote.</p> <p>24 MADAM CLERK: Sorry, through you, Mr.</p> <p>25 Mayor. The resolution has not been read.</p>
<p style="text-align: right;">Page 18</p> <p>1 MAYOR BIGGER: Councillor Signoretti,</p> <p>2 at this point in time, I will ask if there is anyone</p> <p>3 opposed to Councillor Signoretti asking a number of</p> <p>4 other questions.</p> <p>5 COUNCILLOR LEDUC: Yes, I am.</p> <p>6 COUNCILLOR SIGNORETTI: Mr. Mayor, how</p> <p>7 is -- see, that goes to the example that I just said</p> <p>8 earlier in the meeting, that it is okay with some</p> <p>9 members of Council to speak multiple times and ask</p> <p>10 questions, but when I want to ask a couple of more</p> <p>11 questions for clarification, you cut me off, or you</p> <p>12 either ask the Council to decide that. You are the</p> <p>13 leader of the organization, or supposed to be the head</p> <p>14 of Council, but you do not even allow a Council member</p> <p>15 to ask a subsequent question because you want to</p> <p>16 muzzle me.</p> <p>17 MAYOR BIGGER: Councillor Signoretti,</p> <p>18 you do ask multiple and multiple questions and --</p> <p>19 COUNCILLOR SIGNORETTI: Mr. Mayor, on</p> <p>20 this item, I have asked respectfully to ask another</p> <p>21 question of Mr. Wood, and you are asking Council to</p> <p>22 say is it okay if Councillor Signoretti asks another</p> <p>23 question. How is that fair?</p> <p>24 MAYOR BIGGER: If you are familiar with</p> <p>25 our procedures bylaw, Councillor, you would understand</p>	<p style="text-align: right;">Page 20</p> <p>1 MAYOR BIGGER: Can you please read the</p> <p>2 resolution? I will move that. Councillor Leduc?</p> <p>3 COUNCILLOR LEDUC: Councillor Leduc</p> <p>4 will second.</p> <p>5 MAYOR BIGGER: Councillor Leduc will</p> <p>6 second.</p> <p>7 MADAM CLERK: Duly moved and seconded</p> <p>8 (as read):</p> <p>9 "That staff proceed to advance the</p> <p>10 work required to develop the Event</p> <p>11 Center without further delay in</p> <p>12 accordance with the existing approved</p> <p>13 cost-sharing agreement a project</p> <p>14 schedule that produces a facility which</p> <p>15 is ready to use in 2024 and regular</p> <p>16 processing reporting to City Council,</p> <p>17 and that the Executive Director of</p> <p>18 Communications Strategic Initiatives</p> <p>19 and Citizen Service be delegated</p> <p>20 authority to negotiate, execute, and</p> <p>21 subsequently amend or extend any</p> <p>22 agreements to produce the work required</p> <p>23 for delivering the Event Center project</p> <p>24 in 2024, subject to Council's approval</p> <p>25 of the following three decision points:</p>

<p style="text-align: right;">Page 21</p> <p>1 (a) confirmation of the site 2 preparation contract, including 3 the commencement date established 4 with the site development 5 partners, 6 (b) confirmation of the venue 7 operator, and 8 (c) confirmation of final budget 9 based on the result of the design- 10 build request for proposals." 11 MAYOR BIGGER: Thank you. And now can 12 you please conduct the roll-call vote. 13 MADAM CLERK: Councillor Kirwan. 14 COUNCILLOR KIRWAN: Yes. 15 MADAM CLERK: Councillor Lapierre. 16 COUNCILLOR LAPIERRE: Yes. 17 MADAM CLERK: Councillor Jakubo. 18 COUNCILLOR JAKUBO: Yes. 19 MADAM CLERK: Councillor Sizer. 20 COUNCILLOR SIZER: Yes. 21 MADAM CLERK: Councillor McIntosh. 22 COUNCILLOR MCINTOSH: Yes. 23 MADAM CLERK: Councillor Leduc. 24 COUNCILLOR LEDUC: Yes. 25 MADAM CLERK: Councillor Landry-</p>	<p style="text-align: right;">Page 23</p> <p style="text-align: center;">TRANSCRIBER'S CERTIFICATE</p> <p>1 2 3 I, Linda Blue, Transcriber, certify: 4 That the foregoing proceedings were recorded 5 on audio digital recording; 6 That the contents of the recordings were 7 thereafter transcribed by me; 8 That the foregoing is a true and correct 9 transcript to the best of my skill and ability of the 10 audio digital recording so taken.  11 12 Dated this 1st of October, 2021. 13  14 _____ 15 NEESONS (A VERITEXT COMPANY) 16 PER: LINDA BLUE 17 (CERTIFIED TRANSCRIBER) 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 22</p> <p>1 Altmann. Councillor Landry-Altman. 2 COUNCILLOR LANDRY-ALTMANN: Yes. Did 3 you hear me? 4 MADAM CLERK: Yes. 5 COUNCILLOR LANDRY-ALTMANN: Thank you. 6 MADAM CLERK: Councillor Signoretti. 7 COUNCILLOR SIGNORETTI: One hundred per 8 cent no, and I protest this vote. 9 MADAM CLERK: Councillor Vagnini. 10 COUNCILLOR VAGNINI: No. 11 MADAM CLERK: Councillor Montpellier. 12 Oh, sorry, Councillor Montpellier is not in the room. 13 Councillor McCausland. 14 COUNCILLOR MCCAUSLAND: No. 15 MADAM CLERK: The resolution is 16 carried. 17 MAYOR BIGGER: I also vote yes. 18 MADAM CLERK: Oh, sorry. Sorry, Mr. 19 Mayor, Mayor Bigger. Resolution is carried. 20 21 ---Whereupon the audio concludes at timestamp 7:02:15. 22 23 24 25</p>	

**WORD INDEX**

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Attached is Exhibit "21"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

**Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.**

## Minutes For the City Council Meeting

August 17, 2021  
Tom Davies Square

Present (Mayor and Councillors)	Councillor Signoretti, Councillor Vagnini, Councillor McCausland, Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor McIntosh, Councillor Cormier, Councillor Leduc, Councillor Landry-Altman, Mayor Bigger
Absent	Councillor Montpellier
City Officials	Ed Archer, Chief Administrative Officer, Kevin Fowke, General Manager of Corporate Services, Tony Cecutti, General Manager of Growth and Infrastructure, Joseph Nicholls, General Manager of Community Safety, Marie Litalien, Director of Communications & Community Engagements, Ian Wood, Executive Director of Strategic Initiatives and Citizen Services, Joanne Kelly, Director of Human Resources and Organizational Development, Kelly Gravelle, Deputy City Solicitor, Ron Foster, Auditor General, Brett Williamson, Director of Economic Development, Tyler Campbell, Director, Children and Social Services, Cindi Briscoe, Manager of Housing Services, Barbara Dubois, Director of Housing Operations, Nick Najdenov, Capital Project Coordinator, Joe Rocca, Traffic and Asset Management Supervisor, Hugh Kruzel, Chief of Staff, Eric Labelle, City Solicitor and Clerk, Franca Bortolussi, Administrative Assistant to the City Solicitor and Clerk, Christine Hodgins, Legislative Compliance Coordinator, Lisa Locken, Clerk's Services Assistant, Vickie Hartley, Clerk's Services Assistant, Michel Lalonde, Clerk's Services Assistant

### His Worship Mayor Brian Bigger, In the Chair

---

#### 1. Call to Order

The meeting commenced at 1:17 p.m.

#### 2. Roll Call

A roll call was conducted prior to the commencement of moving into closed session.

**3. Closed Session**

The following resolution was presented:

**CC2021-213**

Moved By Mayor Bigger

Seconded By Councillor Landry-Altman

THAT the City of Greater Sudbury moves into Closed Session to deal with two (2) Labour Relations / Employee Negotiations items regarding Sudbury Professional Fire Fighters Association and regarding the Linear Infrastructure Services Division in accordance with the Municipal Act, 2001, s. 239(2)(d).

**CARRIED**

At 1:19 p.m., Council moved into Closed Session.

**4. Recess**

At 3:18 p.m., Council recessed.

**5. Open Session**

At 3:45 p.m., Council commenced the Open Session.

**6. Moment of Silent Reflection**

Those present at the meeting observed a moment of silent reflection.

*Councillor Signoretti arrived at 3:50 p.m.*

**7. Roll Call**

A roll call was conducted.

**8. Declarations of Pecuniary Interest and the General Nature Thereof**

None declared.

Rules of Procedure

Mayor Bigger moved to alter the order of the agenda to deal with the Addendum first.

**CARRIED BY TWO-THIRDS MAJORITY**

**19. Addendum**

The following resolution was presented:

**CC2021-214**

Moved By Mayor Bigger

THAT the City of Greater Sudbury deals with the items on the Addendum to the Agenda at this time.

**CARRIED****Declarations of Pecuniary Interest and the General Nature Thereof****Canada Mortgage and Housing Corporation – Rapid Housing Initiative**

The following resolution was presented:

**CC2021-215**

Moved By Councillor Kirwan

Seconded By Councillor McIntosh

THAT the City of Greater Sudbury approve the Lorraine Site, as described in Appendix C, in an application to Canada Mortgage and Housing Corporation under the Cities Stream of the Rapid Housing Initiative, as outlined in the report entitled, “Canada Mortgage and Housing Corporation – Rapid Housing Initiative” from the General Manager of Community Services, presented at the City Council Meeting on August 17, 2021.

**CARRIED****9. Matters Arising from the Closed Session**

Deputy Mayor Landry-Altmann, Chair of the Closed Session, reported that Council met in Closed Session to deal with two (2) Labour Relations / Employee Negotiations items regarding Sudbury Professional Fire Fighters Association and regarding the Linear Infrastructure Services Division in accordance with the Municipal Act, 2001, s. 239(2)(d). Direction was given to staff in regards to the two (2) matters.

**10. Matters Arising from Community Services Committee****10.1 August 16, 2021**

The August 16, 2021 Community Services Committee meeting was cancelled.

**11. Matters Arising from Finance and Administration Committee****11.1 August 17, 2021**

Councillor Jakubo, as Chair of the Finance and Administration Committee, reported on the matters arising from the Finance and Administration Committee meeting of August 17, 2021.

The following resolution was presented:

**CC2021-216**

Moved By Councillor Jakubo

Seconded By Councillor McIntosh

THAT the City of Greater Sudbury approves the Finance and Administration Committee resolution FA2021-63 from the meeting of August 17, 2021.

**CARRIED**

The resolutions for the August 17, 2021 Finance and Administration Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

**12. Matters Arising from Operations Committee**

**12.1 August 16, 2021**

Councillor McIntosh, as Chair of the Operations Committee, reported on the matters arising from the Operations Committee meeting of August 16, 2021.

The following resolution was presented:

**CC2021-217**

Moved By Councillor McIntosh  
Seconded By Councillor Signoretti

THAT the City of Greater Sudbury approves Operations Committee resolutions OP2021-14 and OP2021-15 from the meeting of August 16, 2021.

**CARRIED**

The resolutions for the August 16, 2021 Operations Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

**13. Matters Arising from Planning Committee**

**13.1 August 16, 2021**

Councillor Kirwan, as Chair of the Planning Committee, reported on the matters arising from the Planning Committee meeting of August 16, 2021.

The following resolution was presented:

**CC2021-218**

Moved By Councillor Kirwan  
Seconded By Councillor McCausland

THAT the City of Greater Sudbury approves Planning Committee resolutions PL2021-116 to PL2021-118 and PL2021-120 to PL2021-128 from the meeting of August 16, 2021.

**CARRIED**

The resolutions for the August 16, 2021 Planning Committee meeting can be found at: <https://www.greatersudbury.ca/agendas>

## 14. Consent Agenda

The following resolution was presented:

### **CC2021-219**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury approves Consent Agenda items 14.1.1 to 14.1.12 and 14.2.1.

### **CARRIED**

The following are the Consent Agenda items:

## 14.1 Adoption of Minutes

### 14.1.1 Planning Committee Meeting Minutes of June 14, 2021

#### **CC2021-220**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts the Planning Committee meeting minutes of June 14, 2021.

#### **CARRIED**

### 14.1.2 Operations Committee Minutes of June 21, 2021

#### **CC2021-221**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Operations Committee meeting minutes of June 21, 2021.

#### **CARRIED**

### 14.1.3 Community Services Committee Minutes of June 21, 2021

#### **CC2021-222**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Community Services Committee meeting minutes of June 21, 2021.

#### **CARRIED**

**14.1.4 Finance and Administration Committee Minutes of June 22, 2021****CC2021-223**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Finance and Administration Committee meeting minutes of June 22, 2021.

**CARRIED**

**14.1.5 Emergency Services Committee Minutes of June 23, 2021****CC2021-224**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Emergency Services Committee meeting minutes of June 23, 2021.

**CARRIED**

**14.1.6 Hearing Committee Minutes of June 23, 2021****CC2021-225**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Hearing Committee meeting minutes of June 23, 2021.

**CARRIED**

**14.1.7 Planning Committee Meeting Minutes of June 28, 2021****CC2021-226**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts the Planning Committee meeting minutes of June 28, 2021.

**CARRIED**

**14.1.8 Special City Council Minutes of June 29, 2021****CC2021-227**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Special City Council meeting minutes of June 29, 2021.

**CARRIED**

#### **14.1.9 Community Services Committee Minutes of July 12, 2021**

##### **CC2021-228**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Community Services Committee meeting minutes of July 12, 2021.

**CARRIED**

#### **14.1.10 Operations Committee Minutes of July 12, 2021**

##### **CC2021-229**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts the Operation Committee minutes from the meeting of July 12, 2021.

**CARRIED**

#### **14.1.11 Planning Committee Minutes of July 12, 2021**

##### **CC2021-230**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts Planning Committee meeting minutes of July 12, 2021.

**CARRIED**

#### **14.1.12 Finance and Administration Committee Minutes of July 13, 2021**

##### **CC2021-231**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury adopts the Finance and Administration Committee meeting minutes from the meeting of July 13, 2021.



**CARRIED****14.2 Routine Management Reports****14.2.1 Appointment to Greater Sudbury Public Library Board****CC2021-232**

Moved By Councillor Cormier

Seconded By Councillor Signoretti

THAT the City of Greater Sudbury appoints Tannys Laughren to the Greater Sudbury Public Library Board for the balance of the term ending November 14, 2022, as outlined in the report entitled "Appointment to Greater Sudbury Public Library Board", from the Chief Administrative Officer, presented at the City Council meeting on August 17, 2021.

**CARRIED****15. Managers' Reports****15.1 COVID-19 Response Update - August 17, 2021**

For Information Only.

*Councillor Leduc departed at 4:32 p.m.*

**15.2 1960 Paris Street Roof Replacement - Tender Award**

The following resolution was presented:

**CC2021-233**

Moved By Councillor Cormier

Seconded By Councillor Sizer

THAT the City of Greater Sudbury approves additional funding of \$824,000 from the Capital General Holding Account Reserve in order to award the contract SHO21-100 and complete the 1960 Paris Street roof project, as outlined in the report entitled "1960 Paris Street Roof Replacement – Tender Award", from the General Manager of Community Development, presented at the City Council meeting on August 17, 2021.

**CARRIED****16. Referred and Deferred Matters****16.1 Flour Mill Silos Projection Lighting Display**

The following resolution was presented:

**CC2021-234**

Moved By Councillor Landry-Altmann  
 Seconded By Councillor Cormier

THAT the City of Greater Sudbury directs staff to prepare a business case for the 2022 Budget, as outlined in the report entitled “Flour Mill Silos Projection Lighting Display”, from the General Manager of Corporate Services, presented at the City Council meeting on August 17, 2021.

**CARRIED**

*Councillor McIntosh departed at 5:00 p.m.*

*Councillor Vagnini departed at 5:10 p.m.*

**16.2 Red Light Camera Program Update**

The following resolution was presented:

**CC2021-235**

Moved By Councillor Lapierre  
 Seconded By Mayor Bigger

THAT the City of Greater Sudbury enters into a contract with Traffipax LLC. for a four-year initial contract term with two option years for a total of six years, as outlined in the report entitled “Red Light Camera Program Update”, from the General Manager of Growth and Infrastructure presented at the City Council Meeting on August 17, 2021.

**CARRIED**

The following resolution was presented:

**CC2021-236**

Moved By Councillor Lapierre  
 Seconded By Mayor Bigger

THAT the City of Greater Sudbury arranges to install red light camera systems at six of the eight intersections identified as outlined in the report entitled “Red Light Camera Program Update”, from the General Manager of Growth and Infrastructure presented at the City Council Meeting on August 17, 2021.

**CARRIED**

The following resolution was presented:

**CC2021-237**

Moved By Councillor Lapierre  
 Seconded By Mayor Bigger

THAT the City of Greater Sudbury approves the recommended procedure for investigating red light camera infractions for Emergency Services vehicles as outlined in the report “Red Light Camera Program Update”, from the General Manager of Growth and Infrastructure presented at the City Council Meeting on August 17, 2021.

**CARRIED**

## 17. By-laws

Rules of Procedure

Councillor Signoretti requested that by-law 2021-153 be pulled and dealt with separately.

The following resolution was presented:

### **CC2021-238**

Moved By Councillor Jakubo

Seconded By Councillor Sizer

THAT the City of Greater Sudbury read and pass By-law 2021-143 to By-law 2021-152.

**CARRIED**

*By-law 2021-153 was dealt with separately.*

The following resolution was presented:

### **CC2021-239**

Moved By Councillor Jakubo

Seconded By Councillor Sizer

THAT the City of Greater Sudbury read and pass By-law 2021-153.

Rules of Procedure

A Recorded Vote was held:

YEAS: (6): Councillor Kirwan, Councillor Lapierre, Councillor Jakubo, Councillor Sizer, Councillor Landry-Altman, and Mayor Bigger

NAYS: (3): Councillor Signoretti, Councillor McCausland, and Councillor Cormier

Absent (4): Councillor Vagnini, Councillor Montpellier, Councillor McIntosh, and Councillor Leduc

**CARRIED (6 to 3)**

### **17.1 By-laws 2021-143 to 2021-153**

**2021-143**

A By-law of the City of Greater Sudbury to Confirm the Proceedings of Council at its Special Meeting of June 29<sup>th</sup>, 2021 and its Regular Meeting of August 17<sup>th</sup>, 2021

**2021-144**

A By-law of the City of Greater Sudbury to Authorize a Loan to the Sudbury Airport Community Development Corporation  
City Council Resolution #CC2021-132  
This by-law authorizes an increase in the borrowing limits for the SACCD.

**2021-145**

A By-law of the City of Greater Sudbury to Amend By-law 2018-121 being A By-law of the City of Greater Sudbury Respecting the Appointment of Officials of the City  
This by-law updates certain appointments to reflect staff changes.

**2021-146**

A By-law of the City of Greater Sudbury to Delegate Certain Authority Regarding a Supervised Safe Consumption Site  
City Council Resolutions #CC2021-156, CC2021-181 and CC2021-212  
This by-law delegates certain authority to support the establishment of a temporary supervised consumption site in Energy Court lot.

**2021-147**

A By-law of the City of Greater Sudbury to Authorize a Service Agreement With Olameter Inc. for the Provision of Water Meter Reading Services  
City Council Resolution #CC2021-228  
This by-law delegates authority to the General Manager of Growth and Infrastructure to enter into a Purchase of Services Agreement with Olameter Inc. for the provision of water meter reading services.

**2021-148**

A By-law of the City of Greater Sudbury to Appoint K. Smart Associates Limited as Drainage Engineer to Prepare an Engineer's Report for the Purposes of ss. 8(1) of the Drainage Act for the St. Laurent Street Drainage Petition Area  
City Council Resolution #CC2021-182  
This by-law approves the preparation of an Engineer's Report, appoints and delegates authority to engage K. Smart Associates Limited as Drainage Engineer.

**2021-149**

A By-law of the City of Greater Sudbury to Close Part of the Unopened Lane East of Martindale Road in Sudbury Described as Part of PIN 73589-0032(LT), being Part 1 on 53R-21510  
 Planning Committee Resolution #PL2017-67  
 This by-law closes up part of an unopened laneway to make the lands available for sale.

**2021-150**

A By-law of the City of Greater Sudbury to Authorize the Sale of Part of the Closed Lane East of Martindale Road, Sudbury, Described as Part of PIN 73589-0032(LT), being Part 1 on Plan 53R-21510, to Natalie Prashaw and Stephen Ramon  
 Planning Committee Resolution #PL2021-52  
 This by-law authorizes the sale of part of a closed road allowances to an abutting land owner and delegates authority to sign all documents necessary to effect the sale.

**2021-151**

A By-law of the City of Greater Sudbury to Amend By-law 2001-314A Being a By-law of the City of Greater Sudbury to Adopt a Private Road Assumption Policy  
 City Council Resolution #CC2021-186  
 This by-law amends the Private Roads Assumption By-law to provide that the by-law expires on December 31, 2023.

**2021-152Z**

A By-law of the City of Greater Sudbury to Amend By-law 2010-100Z Being the Comprehensive Zoning By-law for the City of Greater Sudbury  
 Planning Committee Resolution #PL2021-110  
 This by-law amends the Zoning By-law to implement Phase 1 of the Official Plan Review.

**2021-153**

A By-law of the City of Greater Sudbury to Delegate Certain Authority Regarding Development of Entertainment District and Event Centre/Arena  
 City Council Resolution #CC2021-227  
 This by-law delegates certain authority to support the completion of the proposed arena/event centre in a timely manner.

**18. Members' Motions**

Councillor Landry-Altmann presented a Members' Motion regarding a business case for the reinstatement of the part-time By-Law Enforcement Officer hours, and asked that notice be waived.

**WAIVED BY TWO-THIRDS MAJORITY**

The following resolution was presented:

**CC2021-240**

Moved By Councillor Landry-Altmann  
 Seconded By Councillor Cormier

WHEREAS part-time hours were decreased for Corporate Security & By-Law Services as part of the 2021 Budget;

AND WHEREAS demands continue to exceed capacity for Corporate Security & By-Law Services which limits their ability to respond to new, ongoing and evolving situations and enforcement priorities;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury direct the publication of a business case for 2022 budget deliberations describing the reinstatement of the 5800 part-time By-Law Enforcement Officer hours to the Corporate Security and By-law section which were decreased as part of the 2021 budget valued at \$281,000 (in 2021 dollars).

**CARRIED**

**20. Civic Petitions**

No Petitions were submitted.

**21. Question Period**

No Questions were asked.

Please visit: <https://www.greatersudbury.ca/agendas> to view questions asked.

**22. Adjournment**

Mayor Bigger moved to adjourn the meeting. Time: 5:37 p.m.

**CARRIED**

Attached is Exhibit "22"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read "C. Hodgins", written over a horizontal line.

Commissioner for taking Affidavits, etc

**Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.**

**By-law 2021-153****A By-law of the City of Greater Sudbury to Delegate Certain Authority Regarding Development of Entertainment District and Event Centre/Arena**

**Whereas** Council for the City of Greater Sudbury has determined to support the concept of the development of an entertainment district in conjunction with the proposed City arena/event centre and has entered into a Cost Sharing Agreement with respect to same;

**And Whereas** the development of the proposed City arena/event centre as part of the entertainment district may require further negotiation, execution, amendment and/or extension of agreements;

**Now therefore Council of the City of Greater Sudbury hereby enacts as follows:**

1. The Executive Director of Strategic Initiatives, Communications and Citizen Services is authorized to make and implement the decisions necessary to support the completion of the proposed arena/event centre as part of an entertainment district, consistent with the site design strategy as adopted by, and financial terms established by, Council for the City of Greater Sudbury. Without limiting the generality of the foregoing, Executive Director of Strategic Initiatives, Communications and Citizen Services is authorized to negotiate and to sign on behalf of the City such agreements and other documents, and to take such actions to implement, administer, amend or extend any such agreement as in the opinion of the Executive Director of Strategic Initiatives, Communications and Citizen Services may be appropriate to implement the direction of Council, provided however that Council's approval is required for each of the following three decision points:


- (a) finalization of the site preparation contract, including the commencement date established with the site development partners;
- (b) engagement of the Venue Operator; and
- (c) final budget based on the results of the Design/Build Request for Proposals.

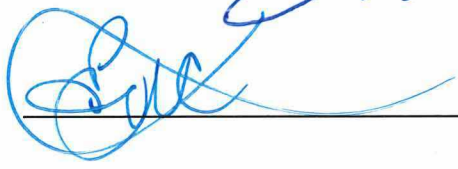
2. The Executive Director of Strategic Initiatives, Communications and Citizen Services may delegate the performance of any one or more of her functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The Executive Director of Strategic Initiatives, Communications and Citizen Services may continue to exercise any function delegated during the delegation.



3. This By-law comes into full force and effect upon passage.

**Read and Passed in Open Council** this 17<sup>th</sup> day of August, 2021

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

Attached is Exhibit "23"

Referred to in the

AFFIDAVIT OF ERIC LABELLE

Sworn before me

this 13 day of October 2021

A handwritten signature in black ink, appearing to read 'C. Hodgins', written over a horizontal line.

Commissioner for taking Affidavits, etc

Christine Carole Hodgins, a Commissioner for taking Affidavits in and for the Courts of Ontario, while within the Territorial District of Sudbury and while appointed as a Deputy-Clerk for the City of Greater Sudbury.

**ERIC K. GILLESPIE, LL.B.**  
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Email: [egillespie@gillespielaw.ca](mailto:egillespie@gillespielaw.ca)

September 21, 2021

**SENT VIA EMAIL**

Danielle Muise  
Aird & Berlis LLP  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9  
[dmuise@airdberlis.com](mailto:dmuise@airdberlis.com)

**Re: Minnow Lake Restoration Group Inc. v. City of Greater Sudbury – Response to Request for Particulars**

Further to your request for particulars, we can advise that in addition to the issues as pleaded in our client's notice of application for judicial review, as seen in the transcripts contained in the application record, additional information was to be provided to Council prior to the vote that occurred on July 14, 2021. However, this information was absent.

This information included an analysis of previously available materials, as well as consideration of the City's Climate Emergency and Emissions Plan ("CEEP"), an economic impact analysis, the identity of the proposed owner of the on-site hotel and the financial situation of Gateway the proposed casino operator. By not providing this information the City failed to comply with the rules of procedural fairness. Had the foregoing information been available it also would likely have affected the result.

In addition, the transcripts show the City limited discussion and questions during the Council proceedings. Moreover, the lack of information led to misleading statements that again, had the correct information been known would likely have affected the result. The transcripts also make it clear that the City proceeded hastily without proper consideration of the matters in issue, which was also unreasonable, and led to reaching an unreasonable conclusion.

In summary, there appears to have been a lack of candor, frankness and impartiality, including arbitrary and unfair conduct, and proceeding without the proper degree of fairness, openness and impartiality, i.e. proceeding in bad faith.

Hoping this information assists and looking forward to receiving an indication of when your client will be able to advise if it is filing any evidence and its position on our client's offer regarding security for costs.

Yours truly,

**ERIC K. GILLESPIE**  
**PROFESSIONAL CORPORATION**

A handwritten signature in cursive script, appearing to read "Eric Gillespie".

Eric Gillespie  
EKG/sq

Minnow Lake Restoration Group Inc.

and

The City of Greater Sudbury

Divisional Court File No. 670/21

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)**  
PROCEEDING COMMENCED AT TORONTO

**RESPONDING APPLICATION RECORD**

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