

To view related Council minutes, select the Adobe hand tool  and click on the link below.  
<http://www.regional.niagara.on.ca/clerks/minutes/2002/cl/cl5-2002.pdf>

**THE REGIONAL MUNICIPALITY OF NIAGARA**

**JOINT  
CORPORATE AND FINANCIAL SERVICES COMMITTEE  
AND  
PUBLIC WORKS AND UTILITIES COMMITTEE**

**REPORT CFS 9-2002/PW 9-2002**

---

Minutes of a meeting of the joint Corporate and Financial Services Committee and Public Works and Utilities Committee, held in Committee Room 4, Regional Municipal Building, Thorold, Ontario, on Wednesday, March 13, 2002, commencing at 11:25 a.m.

**ATTENDANCE**

Committee: Councillors Martin, Chair; Badawey; Bentley; Burroughs; Davidson; Forster; Harry; Hildreth; Muir; Partington; Saracino; Walker (acting for Councillor Beamer).

Staff: Messrs. Trojan, Chief Administrative Officer; Bacchus, Commissioner of Corporate Services; Murphy, Manager, Policy and Development; Neville, Commissioner of Public Works; Ms. Ralph, Manager of Waste Policy and Planning; Ms. Gilroy, Assistant Clerk.

Others: Councillor Collins; Mr. Jim Bradley, M.P.P., St. Catharines; Mr. Bruce Kinna and Mike Doner, Allco (Canada) Finance Inc.

**WASTE MANAGEMENT DIVISION**

1. Lease/Leaseback of Niagara's Wastewater System

Councillor Martin, Committee Chair, introduced Messrs. Bruce Kinna and Mike Doner, representing Allco (Canada) Finance Inc., who were in attendance to answer questions from Committee members.

Mr. Bacchus, Commissioner of Corporate Services, provided an overview of Report CSD 30-2002/PWA 51-2002, Lease/Leaseback of Niagara's

Wastewater System. Mr. Bacchus explained that Council directed staff to investigate and recommend alternative funding options towards the objective of mitigating the Region's debt for infrastructure needs. Council also authorized staff to obtain a legal opinion by external legal counsel regarding one possible option: a Lease/leaseback agreement of the Region's wastewater treatment facilities. This arrangement has the potential for the Region to leverage its investment in wastewater assets through a Lease/leaseback transaction in which Niagara would be able to secure an up-front cash benefit estimated at approximately \$20 to \$25 million. It would provide a U.S. investor with an interest in the equity value of the Region's Wastewater assets to allow the investor to take advantage of write-off provisions in the current U.S. tax laws.

Mr. Bacchus advised that although the legal review provided by McMillan Binch was considered favourable overall, several areas were identified that would warrant further clarification. He provided a brief overview of the four issues.

Considerable discussion ensued with Mr. Kinna and Mr. Bacchus responding. The following provides a summary of the questions asked.

*What about sales tax on the transaction?*

The Region would have to request the Province for an exemption from the application of sales tax, both from the prepayment that would come to the Region (\$25 million) and the payments on deposit that will make the lease payments. The Region would also have to apply to the Federal Government through the Minister of Finance for release from GST.

*Would the investor own the Region's infrastructure?*

No. The investor would not own the Region's infrastructure, however the Region would be limited to the present use of the infrastructure, and further that the operation and management of the facilities would remain completely with the Region.

*Would land transfer tax be applicable?*

There should be no land transfer tax applicable because there would be no transfer of ownership and the investment would not be in the land, but only in the value of the asset. The title to the land would never change. The U.S. investor is looking for "tax ownership".

*Have there been any other arrangements of this kind completed?*

The City of Toronto, TTC, are at the point of closing a deal for the lease/leaseback of subway cars. GO Transit has completed this type of arrangement for its commuter cars.

*Would ours be the first municipal agreement of this type in Canada?*

Yes.

*Would there be any impact under the NAFTA agreement?*

There would be no impact on NAFTA – nothing would be moving back and forth across the border.

*What about a termination clause? If the tax laws change in the U.S. would the agreement be terminated?*

If the tax laws change in the U.S., the investor takes the tax risk, not the Region. As well, if an agreement is concluded prior to a change in the tax laws, such changes are not retroactive.

The Committee expressed concern that approval to negotiate with Allco at this time as recommended in the report, would be premature, given the issues identified still to be resolved.

Following considerable discussion, it was:

Moved by Councillor Burroughs  
Seconded by Councillor Partington

That Report CSD 30-2002/PWA 51-2002, March 13, 2002, respecting Lease/Leaseback of Niagara's Wastewater System, be received.

That staff be directed to pursue resolution of the issues identified in this report, and report back to Council on the outcome, with the appropriate recommendations.

Carried.

Mr. Bacchus advised that staff would attach a list of "Questions and Answers" to the next report to aid in clarifying the proposed transaction.

2. Deferral of 2002 Disposal Charges  
For the City of St. Catharines

Moved by Councillor Badawey  
Seconded by Councillor Davidson

That Report CSD 31-2002/PWA 50-2002, March 13, 2002, respecting Deferral of 2002 Disposal Charges for the City of St. Catharines, be received.

That waste disposal charges for the City of St. Catharines remain as calculated by staff for the 2002 Waste Management Requisition and that there be no deferral of charges to 2003 or any other future years.

Carried.

**ADJOURNMENT**

Committee adjourned at 12:10 p.m.

Doug Martin  
Chair

Pam Gilroy  
Assistant Clerk

Vance Badawey  
Chair

Thomas R. Hollick  
Regional Clerk