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Town of Tecumseh

February 12, 2020

Ministry of the Solicitor General
18th Floor
Grosvenor Street
Toronto ON
M7A 1Y6

RE: Town of Lakeshore's Submission regarding OPP Detachment Boards

At their meeting held February 11, 2020, the Council of the Town of Lakeshore duly passed the following resolution number 46-02-2020:

- 1. Council endorse the contents of this report entitled "Town of Lakeshore Submission regarding OPP Detachment Boards" as the Town of Lakeshore's submission to the Province regarding the OPP Detachment Boards; and**
- 2. The Clerk forward this report to the Ministry of the Solicitor General.**

Carried Unanimously

Please find enclosed a copy of the above-noted report, representing the Town of Lakeshore's submission to the Province regarding the OPP Detachment Boards.

Should you require any additional information with respect to the above matter, please contact the undersigned.

Sincerely,

Kristen Newman
Director of Legislative and
Legal Services (Clerk)

Encl. Report to Council entitled "Town of Lakeshore Submission regarding OPP Detachment Boards"

Cc: Lakeshore Police Services Board
Town of Tecumseh
Tecumseh Police Services Board

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Town of Lakeshore

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The Corporation of the Town of Lakeshore

Report to Council

Legislative & Legal Services



To: Mayor & Members of Council
From: Kristen Newman, Director of Legislative & Legal Services
Date: February 5, 2020
Subject: Town of Lakeshore Submission regarding OPP Detachment Boards

Recommendation

1. Council endorse the contents of this report entitled "Town of Lakeshore Submission regarding OPP Detachment Boards" as the Town of Lakeshore's submission to the Province regarding the OPP Detachment Boards; and
2. The Clerk forward this report to the Ministry of the Solicitor General.

Background

The Corporation of the Town of Lakeshore contracts with the Ontario Provincial Police ("OPP") to provide police services for the Town pursuant to the *Police Services Act*, R.S.O. 1990, c. P15 ["PSA"]. The PSA requires the OPP detachment assigned to the Town to provide police services and any other duties that are specified in the agreement. Section 10 of the PSA requires that, in order to enter into an agreement for the provision of policing services, the municipality must have a board.

Section 10 of the PSA sets out the role of the police services board which is to:

... advise the Ontario Provincial Police detachment commander assigned to the municipality or municipalities, or his or her designate, with respect to police services in the municipality or municipalities and shall,

- (a) participate in the selection of the detachment commander of the detachment assigned to the municipality or municipalities;
- (b) generally determine objectives and priorities for police services, after consultation with the detachment commander or his or her designate;
- (c) establish, after consultation with the detachment commander or his or her designate, any local policies with respect to police services (but the board or joint board shall not establish provincial policies of the Ontario Provincial Police with respect to police services);
- (d) monitor the performance of the detachment commander;

- (e) receive regular reports from the detachment commander or his or her designate on disclosures and decisions made under section 49 (secondary activities);
- (f) review the detachment commander's administration of the complaints system under Part V and receive regular reports from the detachment commander or his or her designate on his or her administration of the complaints system.

The *Community Safety and Policing Act, 2019*, S.O. 2019, c. 1, Sched. 1 ["CSPA"], was passed in 2019. The Act has not yet come into force. The legislation overhauls Ontario's PSA. It removes the requirement for municipalities to enter into contracts and removes the requirement for a municipality to have a board in order to have an OPP policing contract. The CSPA states with respect to the Boards:

- 67 (1) There shall be an O.P.P. detachment board, or more than one O.P.P. detachment board in accordance with the regulations, for each detachment of the Ontario Provincial Police that provides policing in a municipality or in a First Nation reserve.
- (2) The composition of the O.P.P. detachment board shall be as provided in the regulations.
- (3) The term of office and remuneration and expenses of the members of the O.P.P. detachment board shall be as provided in the regulations.

This provision could have the effect of consolidating police service boards at a detachment level (the "1 Board: 1 Detachment Model"). In this case, a consolidation would create a single board that aligns with the service areas of the OPP's Essex Detachment which include the Towns of Essex, Kingsville, Tecumseh, and Lakeshore, the Municipality of Leamington and Pelee Island.

Notably though, the legislation contemplates that an OPP Detachment may respond to more than 1 board pursuant to the regulations. The Province recently announced consultations regarding OPP Detachment Boards. These consultations are presumably intended to inform the Province's efforts with respect to the development of the CSPA regulations which have not yet been released in draft form for consultation.

In 2019, the 5 Essex Detachment police services boards held a joint meeting. The meeting included the boards of the Towns of Essex, Kingsville, Tecumseh, Lakeshore and Municipality of Leamington ("The Local Police Services Boards")¹. One of the agenda items included discussion about the forthcoming OPP Detachment Boards. The Boards struck a working group to look at the issue.

Further to this resolution, the Mayors of each municipality and the Chairs (or Vice Chair where the Mayor is the Chair) of the Local Police Services Boards were invited to attend a workshop facilitated by Dr. Janet Forsyth. The workshop focused on the following 3 themes related to OPP Detachment Boards:

1. Composition of OPP Detachment Boards
2. Transitioning to OPP Detachment Boards

¹ The Township of Pelee Island does not have a contract for policing and does not have a police services board but it is policed by the Essex Detachment.

3. OPP Detachment Board Governance

The recommendations from the Working Group are described in detail in the attached Working Group Report. The Working Group consensus proposes:

- a 1 board model,
- representation on the board by population (i.e. 2 members per municipality) and 2 provincial appointees who would be reflective of the diversity requirements of the legislation, and
- board member remuneration standard for each board member.

At the January 27, 2020 Lakeshore Police Services Board meeting, the Board passed the following resolution:

That the Board supports a two board system approximately divided between the north and south Municipalities of the County for the region with billing apportioned by municipality.

At the January 28, 2020 Town Council meeting, Council passed the following resolution:

Support the January 27, 2020 motion of the Lakeshore Police Services Board regarding a proposed two board system approximately divided between the north and south municipalities of the County for the region with billing apportioned by municipality.

This resolution has provided to Tecumseh's Town Clerk.

Comments

Maximizing Municipal Influence

In order to advance the Town's support of the Board composition model supported by the Lakeshore Police Services Board, Administration recommends that Council endorse the following approach to be reflected in the forthcoming CPSA regulations regarding OPP Detachment Board composition:

- (1) Subject to the conditions described in subsection (2), where an OPP Detachment provides police services to one or more local municipalities, the council of a local municipality may pass a by-law approving the formation of a board with one or more of the other local municipalities served by that OPP Detachment.
- (2) Two or more local municipalities served by one OPP Detachment may form a board:
 - a. where the total sum of the populations of the participating local municipalities is more than 40,000; and
 - b. the municipalities are partially contiguous.

This approach would accommodate a northern municipality board for the Essex Detachment and would permit greater municipal influence in comparison to the 1 Board: 1 Detachment Model.

Unlike the PSA, the CPSA does not require provincial appointees on the Board like the PSA. However, the CPSA does contain a diversity and a competency requirement. Section 33 of the CPSA states:

33 (1) In appointing or reappointing a member of a police service board, the appointing person or body shall consider,

(a) the need to ensure that the police service board is representative of the area it serves, having regard for the diversity of the population in the area;

(b) the need for the police service board to have members with the prescribed competencies, if any; and

(c) any applicable diversity plan.

In an effort to maximize municipal representation and accommodate these changes to board eligibility, Administration recommends that the requirement of provincial appointees to the board be eliminated.

The CPSA is silent with respect to the number of board members required to comprise a board. Administration recommends that the number of members be determined by the participating municipalities by by-law with the qualification that the Board may be comprised of no less than 3 members and no more than 15 members. Additionally, one member from each participating municipality must be selected from the community and not from the municipal council. This will permit for an appointment to the Board which will satisfy the diversity requirements of the CPSA.

With respect to remuneration, Administration recommends the approach adopted by the Working Group in its Report with some additional comments:

- Standard remuneration for each Board member to be funded by the Board's municipality (remuneration to be determined by the participating municipalities); and
- Community members appointed to the Board may be permitted to serve 2 terms on the Board. Terms would be the same as the municipal council appointing the member.

Others Consulted

OPP Detachment Board Working Group

Financial Impacts

Representatives of the Ministry of the Attorney General advised at the OPP Governance Summit on January 31, 2020 that the regulations will not impact the OPP billing model. As such, Administration anticipates that, for now, the OPP will continue to bill individual municipalities in accordance with current practices.

As noted above, remuneration for board members remains to be determined.

Attachment(s): OPP Detachment Board Working Group Final Report

OPP Detachment Board Backgrounder

OPP Detachment Board Themes for Discussion

Report Approval Details

Document Title:	Town of Lakeshore Submission regarding OPP Detachment Boards.docx
Attachments:	OPP Detachment Board Working Group Final Report OPP Detachment Board Backgrounder OPP Detachment Board Themes for Discussion
Final Approval Date:	Feb 6, 2020

This report and all of its attachments were approved and signed as outlined below:

Truper McBride



OPP Detachment Board Report

Prepared by: Janice Forsyth, PhD
President
Foresight Management Consulting
jforsyth@foresightconsulting.ca

January 23, 2020

OPP Detachment Board Report

Background

The *Comprehensive Ontario Police Services Act, 2019* received Royal Assent on March 26, 2019 creating the *Community Safety and Policing Act, 2019* (CSPA). Once in force, the CSPA will replace the *Police Services Act, 1990*. The Solicitor General is working toward bringing the CSPA into effect in 2021. In advance of that, regulations must be developed, and the Province has committed to broad community consultation on these regulations.

The new CSPA carries over similar principles as are currently in effect in the *Police Services Act* (PSA). Principles new to the CSPA include an additional requirement for police service boards to be representative of the communities they serve. There is also a new principle that ensures all parts of Ontario including First Nation (FN) Territories receive equitable levels of policing.

The Solicitor General has new duties under the CSPA, including the duty to develop, promote and provide education and training toward professional policing and a duty to assist members of police service boards, OPP detachment boards and FN OPP boards in performing their duties.

The CSPA is predicated on the provision of 'adequate and effective police services'; this is carried over from the current PSA. Adequate and effective police services must include crime prevention, law enforcement, assistance to victims of crime, public order maintenance and emergency response. The CSPA provides flexibility to add other policing functions by regulation. The new CSPA also requires that policing functions be delivered in accordance with:

- the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code; and
- a conflict of interest standard to be set in regulation.

The CSPA clarifies that the enforcement of municipal by-laws (except as may be set out in regulation) and court security are not part of the requirement for adequate and effective police service delivery.

The CSPA makes police service boards and the Commissioner of the OPP responsible for the delivery of adequate and effective policing in their area of policing responsibility. Municipalities continue to have options regarding how policing services are delivered, including establishing their own police service, sharing a municipal police service or through the OPP.

Introduction

For municipalities with OPP service, Section 10 agreements between municipalities and the OPP will not exist under the CSPA. Municipalities with Section 10 police service boards are to transition to an OPP detachment board. Municipalities can still enter into agreements for additional services/enhancements (for services not required as part of adequate and effective policing) under the CSPA. A regulation is to be developed to guide the transition from PSA agreements to the CSPA, including alignment of OPP billing to a detachment board model.

The CSPA creates a requirement for one OPP detachment board per OPP detachment. A regulation will be developed that sets out requirements for community representation and input, including:

- board composition, in terms of size and representation;
- board member terms of office; and
- board member remuneration.

The regulation will also address detachment board flexibility to address geography, where more than one board may be needed, such as northern communities.

OPP detachment boards are to represent the full diversity of population groups within a detachment, e.g. Indigenous peoples, Franco-Ontarians, etc. Municipalities in a detachment are responsible for sharing the costs of operating a detachment board.

Given this reality, a meeting was convened on December 18, 2019 with the Mayors, the Police Service Boards Chairs and the respective municipal Chief Administrative Officers from Tecumseh, Lakeshore, Essex, Kingsville & Leamington to prepare recommendations for the Community Safety & Policing Act regulations.

The following individuals participated in the meeting:

Town of Essex:

Larry Snively – Mayor and PSB Chair
Kim Verbeek – PSB Vice Chair
Chris Nepszy – CAO

Town of Kingsville:

Nelson Santos, Mayor and PSB Chair
Will Chisholm, PSB Vice Chair
Peggy Van Mierlo-West, CAO

Town of Lakeshore:

Tom Bain, Mayor
Francis Kennette, PSB Chair
Kristen Newman, Director of Legislative and Legal Services

Municipality of Leamington:

Joan McSweeney, PSB Vice Chair
Ruth Orton, Director of Legal and Legislative Services

Town of Tecumseh:

Gary McNamara, Mayor
Christopher Hales, PSB Chair
Margaret Misek-Evans, CAO
Ellen Preuschat, PSB Recording Secretary

The purpose of this report is to summarize the feedback from the December 18, 2019 meeting and make recommendations to the Community Safety & Policing Act regulations.

Recommendations to the *Community Safety & Policing Act* Regulations

The discussion was organized around three themes with recommendations and context presented for each theme as follows:

1. Composition of OPP Detachment Boards

- a) Flexible approach including diversity requirements of population groups within a detachment.

It was discussed that for larger detachments (containing a higher number of municipalities) the model could become unwieldy therefore the recommendation is for a flexible approach. Participating municipalities could self-govern, within a certain framework, i.e. change the terms of reference on what the board looks like, with Ministerial approval.

There was agreement that every municipality needs a voice and should be represented on the detachment board. This approach could also assist in meeting the CSPA diversity requirements.

- b) Representatives by municipal population: up to 10,000 has one member appointed to the detachment board, and two members appointed with a population of 10,000 + 2 provincial representatives.

There was consensus that equal representation by municipality is not the ideal situation. It was proposed that a form of representation by population be instituted. The group agreed on the recommendation that a municipality with a population up to 10,000 has one member appointed to the detachment board, and two members appointed with a population of 10,000 +.

Based on the context above, the recommended composition of the new detachment board (Tecumseh, Lakeshore, Essex, Kingsville & Leamington)

would be 2 representatives from each municipality present plus 1 from Pelee Island and 2 provincial appointments (as per legislation).

- c) Representatives chosen by individual councils: may be Mayor, Council member and/or citizen.

The group discussed the fact that the Board provides oversight, however the Council approves the contract/budget and that these are different functions. From that perspective, it is important to have Mayor/Council representation on the board. The final conclusion, following further discussion, was that it should be up to each individual Council to decide who will represent them.

- d) Term is same as Council – with community members up to 8 years.

Regarding terms of office, it was emphasized that there is a significant training/orientation period for new members and continuity is critical. Members indicated that a longer term would be ideal with 6 to 8 years maximum service. Terms for elected officials would be defined by their Council terms however community appointees could serve for multiple terms, to a maximum of two terms or 8 years.

- e) Remuneration standardized for the group.

To ensure the equitable distribution of remuneration across the detachment the group proposes that each board member would be remunerated equally. In other words, remuneration would be the same for each member, regardless of which municipality appoints the individual.

2. Transitioning to OPP Detachment Boards

- a) One bill per detachment board that is based on hours of service vs. calls to enhance transparency and accountability for officer hours.

Discussion included concerns with the current billing model primarily related to value for money. Municipalities have no way of assessing proactive policing service received in a model that relies on reactive service calls as the basis for billing and reporting. The group recommended an open and transparent model like the previous hours of service approach. Also, as an integrated service – officers and staff may be moved from municipality to municipality. The group agreed that they don't need to break down for calls for service and that hours of service would better reflect an integrated service delivery model including a provision for a guaranteed minimum staffing level for each shift. Allowance would be made for OPP coverage of major incidents.

b) Municipalities responsible for own enhancements.

As is current practice, the group supported Municipalities having the ability to enhance services within their community and be responsible for funding and implementing the enhancement.

c) Define adequate and effective policing with input into the definition from each community or provide opportunity for municipalities to define locally.

The group discussed revising the whole approach toward “adequate and effective policing,” incorporating feedback from municipalities regarding the definition. It is recommended that the regulations should more clearly spell out what is meant by adequate and effective policing. As the billing model is a regulation, this may be the ideal time to re-define adequate and effective policing.

3. OPP Board Governance

a) A representative of the detachment board must report to Council regularly and provide feedback from Council through a formal feedback mechanism including comparing statistics and metrics for accountability.

With the expectation that each municipality would have adequate representation, the role would include ensuring statistics and metrics are collected and communicated back to each Council. The group felt strongly that this must be a formal feedback mechanism, reporting must be mandated from the detachment board to each municipality in the detachment with a prescribed format for municipal questions/concerns/requests to be considered by the board. Similarly, there must be a mechanism whereby each Council can provide input to local action plans and strategies affecting policing in their community.

b) Development and updating of the local action plan to increase local engagement and input into decision making.

The group recommends a bottom up approach input process regarding the development and updating of the local action plan. This approach would demonstrate how the board is unique with distinctive partners. Mandatory consultation with Municipal Council regarding the development of the Local Action Plan is recommended to ensure boards establish objectives, priorities and policies for the entire detachment, not just for policing a single community within the detachment area.

The current feeling among the group is that existing PSBs do not have adequate decision making powers and with fewer boards, it is believed that we will have less say on the policing service provided, without a mechanism in the regulation to provide otherwise. Regular meetings, regular consultation and presentation of

statistics (metrics to be included in the action plan, DC responsible for reporting out of the metrics) would improve engagement and accountability.

- c) Develop regulations for the funding formula that reflects the added time and responsibility of developing local policies and action plans, as well as, reporting to member municipalities.

The group discussed that the regulations should set out a funding formula, i.e. based on per property, per person, per household for funding detachment board operations including timelines for submission to partners for budgeting. It was noted that detachment boards' compensation would need to reflect the added time and responsibility of developing local policies, action plans, governance training and reporting to member municipalities.

Conclusion

The *Community Safety and Policing Act* has established a requirement for one OPP detachment board per OPP detachment with requirements for community representation and input. The Municipalities of Tecumseh, Lakeshore, Essex, Kingsville & Leamington convened a meeting to discuss the regulation and prepare a report to provide input into the regulation. The above recommendations are intended to ensure that detachment boards will represent the needs of all municipalities served by the detachment while adhering to the CSPA.

OPP Detachment Boards

Backgrounder: Community Safety & Policing Act, 2019 (CSPA)

Introduction:

The *Comprehensive Ontario Police Services Act, 2019* received Royal Assent on March 26, 2019 creating the CSPA. Once in force, the CSPA will replace the *Police Services Act, 1990*. The Solicitor General is working toward bringing the CSPA into effect in 2021. In advance of that, regulations must be developed, and the Province has committed to broad community consultation on these regulations.

The new CSPA carries over similar principles as are currently in effect in the *Police Services Act* (PSA). Principles new to the CSPA include an additional requirement for police service boards to be representative of the communities they serve. There is also a new principle that ensures all parts of Ontario including First Nation (FN) Territories receive equitable levels of policing.

The Solicitor General has new duties under the CSPA, including the duty to develop, promote and provide education and training toward professional policing and a duty to assist members of police service boards, OPP detachment boards and FN OPP boards in performing their duties.

The CSPA is predicated on the provision of 'adequate and effective police services'; this is carried over from the current PSA. Adequate and effective police services must include crime prevention, law enforcement, assistance to victims of crime, public order maintenance and emergency response. The CSPA provides flexibility to add other policing functions by regulation. The new CSPA also requires that policing functions be delivered in accordance with:

- the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code; and
- a conflict of interest standard to be set in regulation.

The CSPA clarifies that the enforcement of municipal by-laws (except as may be set out in regulation) and court security are not part of the requirement for adequate and effective police service delivery.

The CSPA makes police service boards and the Commissioner of the OPP responsible for the delivery of adequate and effective policing in their area of policing responsibility. Municipalities continue to have options regarding how policing services are delivered, including establishing their own police service, sharing a municipal police service or through the OPP.

Transition to Detachment Boards:

For municipalities with OPP service, Section 10 agreements between municipalities and the OPP will not exist under the CSPA. Municipalities with Section 10 police service boards are to transition to an OPP detachment board. Municipalities can still enter into agreements for additional services/enhancements (for services not required as part of adequate and effective policing) under the CSPA. A regulation is to be developed to guide the transition from PSA agreements to the CSPA, including alignment of OPP billing to a detachment board model.

The CSPA creates a requirement for one OPP detachment board per OPP detachment. A regulation will be developed that sets out requirements for community representation and input, including:

- board composition, in terms of size and representation;
- board member terms of office; and
- board member remuneration.

The regulation will also address detachment board flexibility to address geography, where more than one board may be needed, such as northern communities.

OPP detachment boards are to represent the full diversity of population groups within a detachment, e.g. Indigenous peoples, Franco-Ontarians, etc. Municipalities in a detachment are responsible for sharing the costs of operating a detachment board.

Role of Detachment Boards:

The CSPA sets out the following key responsibilities of the new OPP detachment boards:

- develop a local action plan and policies;
- determine objectives and priorities for the detachment;
- prepare estimates for the board's operation and submit to every municipality served by the detachment;
- provide an annual report to every municipality served by the detachment;
- advise the Detachment Commander (DC) with respect to policing provided by the detachment;
- consult on the selection of a DC; and
- monitor the performance of the DC.

It is also anticipated that some of the above will be addressed in regulation, such as estimates related to board operating costs.

Regulations are also expected to establish a code of conduct for detachment board members and mandatory training requirements. Board members are expected to complete training on:

- human rights and systemic racism;

- recognition of and respect for diverse, multiracial and multicultural communities and the rights and culture of FN, Inuit and Métis peoples.

Development of Local Policies by Detachment Boards:

OPP detachment boards are empowered to make local policies for policing services after consultation with the DC. The CSPA requires that local policies:

- must not be inconsistent with the strategic plan of the Solicitor General for the OPP;
- must not relate to specific investigations, the conduct of specific operations or other prescribed matters;
- must not require a member of the OPP to provide any policing that is not required as part of adequate and effective policing.

Additionally, the DC is required to prepare and adopt a local action plan for the provision of policing by the detachment. In preparing or revising the local action plan, the DC is required to consult the OPP detachment board.

As an additional measure to ensure the needs and priorities of various populations in Ontario are served by the OPP, the CSPA will establish the OPP Governance Advisory Council. This Council will advise the Solicitor General on how to exercise her OPP-related authorities under the Act, and may have some relationship or linkage to OPP detachment boards. A regulation will be developed for the composition and role of the OPP Governance Advisory Council.

OPP Detachment Boards

Key Themes for Discussion

Key Themes Related to OPP Detachment Boards:

1. Composition of OPP Detachment Boards
2. Transitioning to OPP Detachment Boards
3. OPP Detachment Board Governance

Key Questions by Theme:

Theme 1: Composition of OPP Detachment Boards

- a. Should a standardized approach to the composition of OPP detachment boards be developed? Or should OPP board composition be customized by detachment? Or should there be some basic common elements across all detachment boards as well as some ability to customize (i.e. a hybrid)?
- b. What recommendations can we suggest to the Province for detachment boards:
 - o number of boards per detachment
 - o size – number of members (no need to limit to 5 members)
 - o representation
 - by municipality
 - by populations, i.e. gender, age, race, ethnicity, etc.
 - o board member term of office, and
 - o board member remuneration

Theme 2: Transitioning to OPP Detachment Boards

- a. What recommendations can we suggest to the Province for transitioning from the current contract-based model to the new detachment model?
- b. Specifically, what expectations are there to align the current OPP billing model to an OPP detachment board model?
- c. How can the new model enhance transparency in OPP billing?
- d. What additional information do we need from the Province to inform municipalities on the type and level of service available under “adequate and effective police services” vs the need for additional services/enhancement?

Theme 3: OPP Detachment Board Governance

- a. How can detachment boards best represent the needs of all municipalities served by the detachment? How should the board report out to municipalities served by the detachment?
- b. What say should the detachment board have on the DC's local action plan for policing services? How can the Board ensure the DC remains accountable?
- c. What should be in the regulation for preparing a cost estimate of the board's operation?

Bonus Question:

- a. How should the OPP Governance Advisory Council be constituted? And what relationship should exist between this Council and the detachment boards?