



CITY OF YELLOWKNIFE  
OFFICE OF THE MAYOR

October 31, 2016

**MAILED**

Municipal and Community Affairs  
Government of the Northwest Territories  
Box 1320  
Yellowknife, NT X1A 2L9

Attn: The Honourable Caroline Cochrane, Minister

**RE: Municipal Request for Legislative Changes**

I am writing at this time to request that the Government of the Northwest Territories make legislative amendments that would enable the City of Yellowknife to conduct its business in an efficient manner. The requested changes would ensure that the City is able to adapt to present-day realities and challenges.

On September 19, 2016 the City's Municipal Services Committee read a memorandum (attached hereto) that detailed the legislative changes required and the reasons in support of such a request. On September 26, 2016, Council passed Motion #0235-16 (attached hereto) as follows:

**That Council direct Administration to request that the GNWT consider legislative amendments that would allow:**

- i) municipalities to use Local Improvement Charges for energy retrofits;**
- ii) the implementation of a levy on lodging;**
- iii) municipalities to phase-in tax increases resulting from a General Assessment;**
- iv) municipal governments to request payment in lieu of taxes if all reasonable attempts to collect the outstanding taxes have not been successful;**
- v) changing the name of the "Grants in Lieu of Properties Policy" to "Payment in Lieu of Properties Policy"; and**
- vi) the service of a summons of a parking ticket by mail.**

Since that time, we have met with senior staff of Municipal and Community Affairs (MACA) to discuss the drafting and implementation of these amendments. Recognizing that legislative changes at the territorial level can be time intensive, City staff and MACA agreed that a joint effort and sharing of resources would be the preferred approach to facilitate the necessary changes. The City is currently

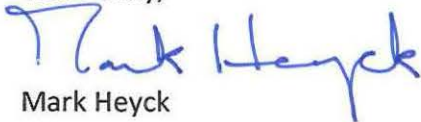
waiting for MACA to provide its upcoming work plan so that the required changes can be prioritized in accordance with such a plan.

As indicated in the Adopted Council Minutes of September 26, 2016, the requested amendments will give the City the same authority that other municipalities across Canada already have and will provide the City with the ability to move forward with new initiatives. It is the City's position that without these changes, the City's options for serving the best interests of its residents are severely restricted.

In conclusion, the City requests that you take immediate action to commence the process that will effect the requested legislative amendments.

I am available to discuss the details regarding implementation of these changes at 920-5693. I look forward to hearing from you.

Yours truly,



Mark Heyck  
Mayor

MH/dk

Attachments

cc. Council  
The Honourable Kevin O'Reilly, MLA Frame Lake  
The Honourable Glen Abernethy, MLA Great Slave  
The Honourable Kieron Testart, MLA Kam Lake  
The Honourable Julie Green, MLA Yellowknife Centre  
The Honourable Cory Vanthuyne, MLA Yellowknife North  
The Honourable Robert R. McLeod, MLA Yellowknife South

DM# 473945



CITY OF YELLOWKNIFE

**MEMORANDUM TO COMMITTEE**

**COMMITTEE:** Municipal Services

**DATE:** September 19, 2016

**DEPARTMENT:** Corporate Services

**ISSUE:** Whether to direct Administration to request that the Government of the Northwest Territories (GNWT) consider legislative amendments.

**RECOMMENDATION:**

That Council direct Administration to request that the GNWT consider legislative amendments that would allow:

- i) municipalities to use Local Improvement Charges for energy retrofits;
- ii) the implementation of a levy on lodging;
- iii) municipalities to phase-in tax increases resulting from a General Assessment;
- iv) municipal governments to request payment in lieu of taxes if all reasonable attempts to collect the outstanding taxes have not been successful;
- v) changing the name of the “Grants in Lieu of Properties Policy” to “Payment in Lieu of Properties Policy”; and
- vi) the service of a summons of a parking ticket by mail.

**BACKGROUND:**

The City of Yellowknife is governed by legislation enacted under the territorial and federal governments. The City adopts by-laws under the authority of the *Cities, Towns and Villages Act (CTV Act)*, S.N.W.T 2003, c.22 and *Property Assessment and Taxation Act (PATA)*, R.S.N.W.T. 1988, c. P-10, as amended.

The City would like changes to legislation that would give the municipality the authority to adopt by-laws which would allow the flexibility to make changes as outlined below.

## CTV Act

### Local Improvement Charges

The *CTV Act* defines “local improvement” as work that will have a benefit to the real property in a particular geographic area within the municipality. Municipalities have a long history of using Local Improvement Charges (LICs) to help cover the costs of infrastructure improvements such as roads, sidewalks, and water and sewer infrastructure. LICs are added to the property tax bill as a separate line item until the improvement has been paid for.

In April 2013, Council passed and forwarded a motion (#0079-13) to the Northwest Territories Association of Communities (NWTAC) in response to its call for resolutions: “Use of Local Improvement Charges to Assist Residents and Businesses in Implementing Energy Efficiency Retrofits and / or Renewable Energy Technologies.” The resolution was approved at the NWTAC 2013 Annual General Meeting and put forward to the GNWT to review the *CTV Act* to make changes to allow for LICs for energy projects. In the GNWT’s 2013 Energy Action Plan, there was a commitment made to consider changes to the *CTV Act* to allow this to happen.

### Visitor Levy

In 2014, the City’s Tourism Strategy recommended that the City should seek clarification from the GNWT regarding the amendments that would need to be made to the *CTV Act* (and/or other legislative requirements) in order to give the City the authority to implement a hotel tax within city boundaries.

One of the key recommendations of the City’s Tourism Strategy and the Destination Marketing Plan was to initiate research and develop options of moving forward with a visitor levy. The Plan suggests that a visitor levy must be put in place to create a sustainable source of funding for destination marketing efforts. The levy will allow local hotel and tourism operators to collect a small fee, of approximately 3% on all hotel room stays in Yellowknife. A similar levy exists in most major Canadian cities including Edmonton (3%), Calgary (3%), St. John’s (3%), Jasper (2%), Medicine Hat (2%), Vancouver (3.5%), and Winnipeg (5%). A tax on lodgings in other jurisdictions is justified on the grounds that it compensates local governments for the expanded services provided for tourists and visitors.

## PATA

### Phase in Taxes

In 2014, Council approved a motion (#0379-14) directing Administration to request the GNWT to consider giving municipalities the authority to phase-in tax increases/decreases resulting from General Assessments.

The processes followed during the property assessment period and, in particular, during a General Assessment, are set in place in order to ensure consistency in the application of taxes for all ratepayers in the city. The principle of fairness is the guiding principle of the assessment and taxation system.

Property taxes are payable 60 days after the notice of assessment is mailed. If taxes increase due to the assessment, property owners may receive a higher tax bill than expected (sticker shock). The City would like the ability to phase in tax increases which may cause sticker shock.

#### Payments in Lieu of Taxes

The GNWT is exempt from property taxes on property it owns. The GNWT makes grants in lieu of taxes as per the "Grants-In-Lieu of Property Taxes Policy 21.09." These grants are in recognition of the services it receives from municipal governments and to contribute to municipalities' cost of servicing territorial property.

If the GNWT leases property to a third party, that third party is responsible for property taxes on the property. Under *PATA*, the City can sell property to recover taxes that are not paid. However, if the third party leasing land from the GNWT defaults on their taxes, the City cannot sell territorial land. The City would like to be able to request payment from the GNWT for property taxes defaulted by a third party.

In March, 2013 Council passed and forwarded a motion (#0071-13) to the NWTAC in response to its call for resolutions: "Review and Amendment of the *PATA* and the Grants-In-Lieu of Property Taxes Policy 21.09."

By changing the name of the "Grants-In-Lieu of Properties Policy" to "Payments-In-Lieu of Properties Policy" the GNWT will be emphasizing its responsibility as a property owner to share in the cost of local government.

#### Other

##### Summons for Ticketing

The *Summary Conviction Procedures Act* does not currently establish a standardized parking ticket format that allows for official service to be effected by the placement of a parking ticket on a vehicle. Also, the *Act* does not establish a parking ticket as a stand-alone legal document for court purposes. An additional sworn document is required.

On an annual basis the City of Yellowknife issues approximately 12,000 parking tickets. Of these, eighty percent (80%) are voluntarily paid. The other twenty percent (20%) would require a court process, and as such require a considerable amount of resources before they are resolved.

In April 2007, Council passed and forwarded a motion (#0096-07) to the NWTAC in response to its call for resolutions: "Amendment of the *Summary Offences Procedures Act*." In October 2008, a letter was sent to the GNWT requesting these changes by the City of Yellowknife. Discussions have been initiated but until legislative changes are made the process cannot move forward.

**COUNCIL POLICY / RESOLUTION OR GOAL:**

Council Goal #1	Building a Sustainable Future
Objective 1a	Realize Opportunities for Economic Growth and Diversity.
Action 1.2	Develop a Tourism Strategy.
Council Objective 1(c)	Emphasize Fairness, Value and Transparency in Financial Decisions, Program Delivery and Land Administration.
Council Motion #0079-13	“That the following resolution be presented for adoption by Council and forwarded to the NWTAC in response to its call for resolution: Use of Local Improvement Charges to Assist Residents and Businesses in Implementing Energy Efficiency Retrofits and /or Renewable Energy Technologies.”
Council Motion #0379-14	“That Council direct Administration to request that MACA consider legislative amendments that would give municipalities the authority to phase-in tax increase/decreases resulting specifically from General Assessments.”
Council Motion #0331-14	“That Council direct Administration to increase the frequency of General Assessments to every 5 years, pending annual budget deliberations and approval.”
Council Motion #0096-07	“That the following resolution be presented for adoption by Council and forwarded to the NWTAC in response to its call for resolution: “Amendment of the <i>Summary Offences Procedures Act</i> .”
Council Motion #0071-13	“That the following resolution be adopted and forwarded to the NWTAC in response to its call for resolution: “Review and Amendment of the PATA and “Grants in Lieu of Property Taxes Policy 21.09.”

**APPLICABLE LEGISLATION, BY-LAWS, STUDIES, PLANS:**

1. *Property Assessment and Taxation Act*, R.S.N.W.T. 1988, c. P-10, as amended;
2. *Property Assessment Regulations*;
3. *Cities, Towns and Villages Act*, S.N.W.T 2003, c.22;
4. *Constitution Act*;
5. *Northwest Territories Act*;
6. *Summary Conviction Procedures Act*, R.S.N.W.T. 1988, c. S-15;
7. *Payments in Lieu of Taxes Act*;
8. By-law No. 4207 – Tax Administration By-law, as amended; and
9. Grants in Lieu Property Taxes Policy.

## CONSIDERATIONS:

### Legislative

#### *CTV Act*

##### 1. Local Improvement Charges

Sections 117-121 of the *CTV Act* deal with Local Improvement Charges. Section 117 states that “A municipal corporation may only undertake a local improvement if it is authorized by a bylaw.” Section 121 further states how a local improvement is levied.

Local Improvements are dealt with in Section 94 of the *PATA*. Currently, there is no authority under either *Act* for the City to enact a by-law that would specifically allow Local Improvement Charges for energy retrofits.

Other jurisdictions across Canada have enacted legislation that has allowed local improvement charges to be used for energy projects. Ontario, Nova Scotia and the Yukon have all made legislative changes that allow municipalities to assist homeowners in financing home improvements that help reduce energy bills.

##### 2. Visitor Levy

Under section 68 of the *CTV Act*, “a municipal corporation may encourage economic development for a municipal purpose in any manner it considers appropriate.”

In 2000, the GNWT Legislative Assembly gave Second Reading to Bill 13, *Hotel Room Tax Act*, and referred it to the Standing Committee on Governance and Economic Development. The Bill was to establish a tax on the price of accommodation at hotels, motels, lodges and other such establishments. The Bill did not pass Second Reading on the recommendation from the Standing Committee on Governance and Economic Development.

At the 2010 NWTAC Annual General Meeting held in Hay River, a resolution was adopted that called for the GNWT to initiate a Hotel Tax. The GNWT reviewed three options for implementing a hotel tax:

- i. Implement a municipal hotel room levy;
- ii. Implement a territorial hotel tax; and
- iii. Implement a Destination Marketing Fee;

No amendments to legislation were made.

In 2016, the GNWT reviewed revenue options including implementing a hotel tax. It was determined that a 5% hotel tax of the room price would draw approximately \$3.3-\$3.5 million net revenues. The review did not result in any amendments to the legislation at that time.

Other provinces across the country have amended their legislation to grant a municipality the rights and powers of a natural person, which extends the capacity of the municipality to legislate. In Canada, Ontario is the only *province* that does not empower municipalities to levy taxes on lodging. However, some hotels in Ontario have voluntarily agreed to collect a three percent destination marketing fee (payment of this fee is voluntary).

## *PATA*

### 3. Property Tax Phase-in

The *PATA* and *Property Assessment Regulations* outline the requirements for the assessment and taxation of all properties within the boundaries of the NWT including Yellowknife. Under the current legislation, a municipality does not have the authority to phase-in tax increases / decreases over a multi-year period.

Other regions in Canada do have this authority, for example, in Saskatchewan their *Cities Act* allows for phased-in taxes. In 2013, the City of Regina passed a by-law limiting the property tax increase resulting from a 2013 revaluation (same as general assessment). The City of Regina does an assessment every four years.

A similar process is also available to municipalities in Ontario. In 2013, the City of Toronto authorized a four year phase-in period for assessment increases related to the 2012 general assessment. Property tax assessments are sent out every four years in Ontario by the Municipal Property Assessment Corporation.

### 4. Payments-In-Lieu of Taxes

Under section 73(2) of the *PATA*, the GNWT and assessed property held by the GNWT is exempt from taxation. The GNWT's "Grants-In-Lieu of Property Taxes Policy 21.09" states that the GNWT makes grants in lieu of taxes in recognition of services it receives from municipal governments and to pay its share of the costs to municipalities where territorial property is located.

In cases where the GNWT leases land to a third party, that third party is responsible for property taxes. In normal situations when a resident owns property and defaults on their property taxes the City can sell their property to recover the unpaid taxes. This is not the case when a third party leases land from the GNWT as the City cannot sell territorial property to recover unpaid taxes against defaulting tenants. The City would be forced to take other measures, including court appearances to recover the taxes.

Under Section 125 of the *Constitution Act, 1867* the Federal Government is exempt from taxation but makes payments in lieu of taxes to local governments. The Federal Government realized that collection of taxes for leased land was an issue for municipalities. Starting in 2000, they included a provision in the *Property in Lieu of Taxes Act* for municipalities to request a payment in lieu of taxes on federal property occupied by a defaulting tenant, after demonstrating that all reasonable collection efforts have been made.



The Federal Government recognized that “grants” for payments in lieu of property taxes did not reflect the value of services provided by municipalities and amended the name of *Property in Lieu of Taxes Act* to *Payments In Lieu of Taxes Act* to reflect this.

A change in the GNWT legislation would give the City the flexibility to collect tax payments from the GNWT for property that was leased to a third party by the GNWT where the tenant defaulted on their property taxes.

Other

#### 5. Summons for Ticketing

Under the *Summary Conviction Procedures Act* a person receiving a ticket for a parking violation must be hand delivered the summons.

A change in the legislation would enable a standardized parking ticket format that allows for official service to be effected by the placement of a parking ticket on a vehicle or by mail. This would streamline the ticketing process and would improve the efficiency, cost effectiveness and overall administration of the conviction process with respect to parking tickets. As a result, the duty officer is able to spend more time on speed control, downtown patrols and overall public safety.

#### Department Consultation

Consultation for these requested legislation changes occurred between all departments of Administration and with the GNWT.

#### **ALTERNATIVES TO RECOMMENDATION:**

That Council direct Administration to request the GNWT consider only some of the legislative amendments as outlined in this memo.

#### **RATIONALE:**

The requested legislative amendments would give the City as a municipality the authority that other municipalities have in Canada to move forward with new initiatives. Without these amendments the City is confined to the limitations by each *Act* which may not necessarily be in the best interest of the City.

#### **ATTACHMENTS:**

None.

Prepared: August 28, 2016; JD

Revised: September 10, 2016; JD



CITY OF YELLOWKNIFE

**ADOPTED COUNCIL MINUTES**

**Monday, September 26, 2016 at 7:00 p.m.**

**Present:** Mayor M. Heyck,  
Councillor R. Alty, (via teleconference)  
Councillor A. Bell,  
Councillor L. Bussey,  
Councillor N. Konge,  
Councillor S. Morgan,  
Councillor J. Morse,  
Councillor S. Payne, and  
Councillor R. Silverio.

**City Staff:** D. Kefalas,  
J. Dalley,  
C. Greencorn,  
J. Humble,  
D. Marchiori,  
N. Naidoo,  
G. White, and  
S. Jovic.

1. Councillor Konge read the Opening Prayer/Meditation.

**AWARDS, CEREMONIES AND PRESENTATIONS**

2. There were no awards, ceremonies or presentations.

**ADOPTION OF MINUTES FROM PREVIOUS MEETING(S)**

- #0231-16
3. Councillor Konge moved,  
Councillor Bell seconded,

**That the Minutes of Council for the regular meeting of Monday,  
September 12, 2016 be adopted.**

**MOTION CARRIED UNANIMOUSLY**

**DISCLOSURE OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**

4. There were no disclosures of pecuniary interest.



**CORRESPONDENCE AND PETITIONS**

5. There was no correspondence nor were there any petitions.

**STATUTORY PUBLIC HEARINGS**

6. There were no Statutory Public Hearings.

**DELEGATIONS PERTAINING TO ITEMS ON THE AGENDA**

7. There were no delegations pertaining to items on the agenda.

**MEMBER STATEMENTS**

8. Councillor Bussey thanked City staff for their assistance with the Yellowknife Housing First Project.
9. Mayor Heyck proclaimed October 9 – October 15, 2016 as “Fire Prevention Week” in the City of Yellowknife.
10. Mayor Heyck proclaimed October, 2016 as “United Way Month” in the City of Yellowknife.

**INTRODUCTION AND CONSIDERATION OF COMMITTEE REPORTS**

**Municipal Services Committee Report for September 12, 2016**

11. Councillor Konge read a report of a meeting held on Monday, September 12, 2016 at 12:05 p.m. in the City Hall Council Chamber.
- #0232-16 12. Councillor Konge moved,  
Councillor Bussey seconded,

**That Council direct Administration to continue discussions with the Yellowknife Climbing Club for the installation and operation of a climbing wall in the Fieldhouse and further that the requested financial contribution of \$185,050 be considered in the 2017 Capital Plan.**

- #0233-16 13. Councillor Morse moved,  
Councillor Bell seconded,

**That the motion be amended to include:**



That Council direct Administration to continue discussions with the Yellowknife Climbing Club for the installation and operation of a climbing wall in the Fieldhouse; that Administration endeavour to enter into Memorandum of Understanding with the Yellowknife Climbing Club for use of space at the Fieldhouse for the purpose of building a climbing wall; and that the requested financial contribution of \$185,050 be considered in the 2017 Capital Plan.

Those opposed stated that giving some clubs a lump sum payment is not fair to other clubs. Those opposed further stated that Council should provide opportunities for clubs to thrive and not focus on financial contributions.

Those in favour stated that the addition of a climbing wall to the Fieldhouse will enhance the number of users at this facility and provide additional programming and is a revenue generating opportunity.

**MOTION TO AMEND CARRIED**  
(Councillor Konge opposed)

**MAIN MOTION AS AMENDED CARRIED**  
(Councillor Konge opposed)

- #0234-16      14.      Councillor Konge moved,  
Councillor Bell seconded,

That Council direct Administration to proceed with Phase 2 of the Engle Business District development, including:

- a. Road and lot layout engineering design with development cost estimates; and
- b. Preparation of an Area Development Plan and amendments to the Zoning By-law, to allow for Engle Business District Phase 2 development.

**MOTION CARRIED UNANIMOUSLY**

Municipal Services Committee Report for September 19, 2016

15.      Councillor Konge read a report of a meeting held on Monday, September 19, 2016 at 12:05 p.m. in the City Hall Council Chamber.



#0235-16

16. Councillor Konge moved,  
Councillor Bussey seconded,

That Council direct Administration to request that the GNWT consider legislative amendments that would allow:

- i) municipalities to use Local Improvement Charges for energy retrofits;
- ii) the implementation of a levy on lodging;
- iii) municipalities to phase-in tax increases resulting from a General Assessment;
- iv) municipal governments to request payment in lieu of taxes if all reasonable attempts to collect the outstanding taxes have not been successful;
- v) changing the name of the "Grants in Lieu of Properties Policy" to "Payment in Lieu of Properties Policy"; and
- vi) the service of a summons of a parking ticket by mail.

Those opposed stated that Council should pick one legislative amendment and that they would support the implementation of a levy on lodging.

Those in favour noted that the requested legislative amendments would give the City as a municipality the authority that other municipalities have in Canada to move forward with new initiatives. Those in favour further noted that without these amendments the City is confined to the limitations by each Act which may not necessarily be in the best interest of the City.

**MOTION CARRIED**  
**(Councillor Konge opposed)**

#### **ENACTMENT OF BY-LAWS**

17. There were no by-laws.

#### **DEFERRED BUSINESS AND TABLED ITEMS**

18. There was no deferred business and there were no tabled items.

#### **OLD BUSINESS**

19. There was no old business.



**NOTICES OF MOTION**

20. There were no notices of motion.

**DELEGATIONS PERTAINING TO ITEMS NOT ON THE AGENDA**

21. There were no delegations pertaining to Items Not on the Agenda.

**NEW BUSINESS**

22. A memorandum regarding whether to appoint Melanie Renaud as a By-law Officer for the City of Yellowknife.

- #0236-16 23. Councillor Konge moved,  
Councillor Bussey seconded,

**That:**

1. Pursuant to s. 137 of the *Cities, Towns and Villages Act*, S.N.W.T. 2003, c.22, Melanie Renaud be appointed as a By-law Officer I for the City of Yellowknife and assume the rank of Constable; and
2. That the term of appointment shall expire upon termination of employment with the City of Yellowknife as a By-law Officer.

**MOTION CARRIED UNANIMOUSLY**

**ADMINISTRATIVE ENQUIRIES**

24. In response to a question from Councillor Morse, Administration advised that Transit Ridership is collected daily by the drivers, compiled by the City and calculated annually based on bus pass sales. Administration further advised that the transit consultant completed a study to determine optimal routes.



ADJOURNMENT

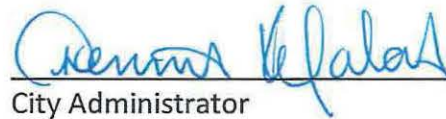
- #0237-16      25.      Councillor Konge moved,  
   Councillor Bussey seconded,

That the Meeting be adjourned at 7:59 p.m.

MOTION CARRIED UNANIMOUSLY

  
\_\_\_\_\_

Mayor

  
\_\_\_\_\_

City Administrator

