

<b>TO:</b>	<b>CHAIR AND MEMBERS FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE MAY 7TH 2012</b>
<b>FROM:</b>	<b>ROSS L. FAIR EXECUTIVE DIRECTOR OF COMMUNITY SERVICES AND GRANT HOPCROFT DIRECTOR OF INTERGOVERNMENTAL AND COMMUNITY LIAISON</b>
<b>SUBJECT:</b>	<b>RENEWAL OF VARIOUS CITY OF LONDON AND MIDDLESEX COUNTY MUNICIPAL SERVICE MANAGEMENT AGREEMENTS AND CITY-COUNTY ROADS FUNDING</b>

<b>RECOMMENDATION</b>
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- a) That, on the recommendation of the Executive Director of Community Services and the Director of Inter-Governmental and Community Liaison, with the concurrence of the Chief Financial Officer and City Treasurer regarding the apportionment of costs for social housing, Ontario Works, Child Care and Land Ambulance between Middlesex County and the City of London, the following resolution **BE PASSED**:

**WHEREAS** the City of London has advised the County of Middlesex of its interest and intent in renewing the Social Housing, Ontario Works, Child Care and Land Ambulance Services Management Agreements including, but not limited to, the apportionment of costs for a period of time commencing January 1, 2012;

**AND WHEREAS** the administrations of the City and County have reviewed the implications of the current methodologies of apportioning costs including the effect of various approaches to the delivery of social housing, Ontario Works, Child Care and Land Ambulance (the services) and the budgetary impact to the City and County associated with each approach;

**AND WHEREAS** the Chief Administrative Officer of Middlesex County has invited members of the senior administration to attend a meeting of County Council on May 22<sup>nd</sup> for the purposes of gaining a better understanding of (County) Council's position and the potential liabilities of the various potential funding models;

**AND WHEREAS** the Civic Administration recommends that the City Council direct the Civic Administration to proceed with any further negotiation on the basis that any agreement will contain a formula for apportionment based upon the analysis contained in this report involving the utilization of weighted average assessment, and/or actual costs on the basis that any formula would provide that any additional cost to the City or the County would be phased in over the term of the agreement based upon the analysis contained in this report;

**AND WHEREAS** the Civic Administration has determined that it would be in the interest of efficient delivery of Ontario Works and Child Care, to discontinue contracting with Middlesex County for Middlesex County's services as delivery agent to deliver the Ontario Works and Child Care services in the service delivery area excluding the City of London, the County be so advised;

**AND FURTHER THAT** the Executive Director of Community Services and the Director of Inter-Governmental Affairs **BE DIRECTED** not to attend the May 22<sup>nd</sup> meeting of Middlesex County Council

**AND FURTHER THAT** the Civic Administration advise the County CAO it is prepared to negotiate with a goal to producing a new cost apportionment agreement and schedules for presentation to their respective Councils

**AND FURTHER THAT** the County be advised that should this negotiation not be successful that the dispute resolution process outlined in the Social Housing Services Agreement is the preferred method of resolving any outstanding issues

**AND FURTHER THAT** if the position of the County remains that the apportionment for any of the services in any agreement shall be based exclusively upon actual costs, the Executive Director of Community Services is hereby authorized to take the necessary steps to proceed with arbitration under the *Housing Services Act, 2011* and the *Ambulance Act*;

**AND FURTHER THAT** the Mayor be requested to write to the Premier of Ontario to request reimbursement of social housing and Ontario Works costs derived from tenants and participants with communities of origin beyond the boundaries of the London Consolidated Municipal Service Manager area, in an amount estimated to be \$5.23M annually with any Provincial funding received to be divided equitably using the approved cost apportionment method in place at the time of receipt of funding;

**AND FURTHER THAT** the Mayor be requested to write to the Minister of Municipal Affairs and Housing to request that the requirement for the City to compensate Middlesex County for road costs in an amount in excess of \$1M per year be reduced to a nominal amount phased in over a period of five years.

## EXECUTIVE SUMMARY

### THE ISSUES:

1. As a result of recent Arbitrations involving the City of Guelph and Wellington County and Norfolk and Haldimand Counties, Middlesex County is pushing for a change in the historic cost apportionment arrangements for social housing and land ambulance that would mirror these arbitration outcomes and would increase the City's share of social housing by about \$2.3M with an offsetting reduction for the County. The financial impact for land ambulance is not known.
2. The County has also indicated, informally, that if the City does not agree with this change that it will proceed to arbitration.
3. The Schedules to existing Service Agreements between Middlesex County and the City of London with respect to apportionment of costs for delivery of Child Care and Ontario Works have expired and need to be renewed.
4. London Civic Administration has reviewed the "service delivery agent" arrangements relative to the delivery of child care and Ontario Works and has concluded that the existing arrangements are inefficient and are costing the City over \$500,000 in lost revenue from the Province of Ontario.
5. The City continues to have a legislative requirement to compensate the County for roads in excess of \$1Million per year as a result of Annexation, with no end date in sight.

### OPTIONS TO RESOLVE THE COST APPORTIONMENT ISSUES FOR SOCIAL HOUSING, ONTARIO WORKS, CHILD CARE AND LAND AMBULANCE WITHOUT GOING TO ARBITRATION:

### **Option 1:**

The primary focus of the County position is the need to revisit cost apportionment for social housing. It favours an “actual costs” approach based on the location of social housing units. The current approach uses weighted assessment. The civic administration is not recommending an actual costs approach as it unfairly assigns the cost of “spillovers” to City ratepayers. Based on a study undertaken by the Director of Municipal Housing, 23.1% of the cost of social housing is attributable to individuals whose residency of origin is neither London nor Middlesex (including vacant units).

The current legislation does not allow Service Managers to prioritize access based on residency. From a public policy perspective this “spillover impact” should have been anticipated when the Province devolved social housing and that a funding offset mechanism should have been in place.

The cost to London and Middlesex for this spillover impact is \$5.23M per year. Both administrations believe this issue is unfair to County and City ratepayers. This problem is also evident in the City of Toronto. Initially, the Provincial Government attempted to address the impact on Toronto by putting in place a tax pooling regime across the GTA Regional Governments. Soon after, the Government ended the tax pooling and now directly compensates Toronto for its spillover costs. It should do so for London-Middlesex as well.

In order to avoid arbitration, the civic administration believes transition to apportionment based using a mix of actual costs utilizing community of origin of residents where residency can be readily determined, combined with use of weighted average for costs not assignable using weighted assessment represents a fair offer of compromise on the part of the City. If agreed to by the County this option would produce a financial pressure to the City of \$1.06M per year.

### **Option 2:**

In the alternative, Council could instruct the administration to negotiate new cost apportionment arrangements across all four of the CMSM services, using the City of Kingston-Frontenac County model. In its study, the administration has concluded that the characteristics of those two municipalities most closely resemble London-Middlesex making the model appropriate. This model involves utilizing a mix of actual costs for OW, Child Care and Social Housing program costs and weighted assessment for administrative costs. Land Ambulance is fully apportioned by weighted assessment.

Use of this model would transition the London-Middlesex funding arrangements into a more coherent and principled system of apportionment. From a financial perspective, this model would produce a modest saving for the City of about \$140,000.

### **Recommendation:**

To resolve these issues, the Civic Administration is recommending

- a) Council authorize it to complete negotiations with the County Administration based on either of Option 1 or 2.
- b) The Civic Administration is recommending that the Mayor write to the Premier of Ontario to request direct compensation to London-Middlesex of \$5.23M to compensate for spillover costs associated with social housing.

Should these negotiations fail, authorization to proceed to arbitration is also being sought.

### **ONTARIO WORKS AND CHILD CARE SUB-AGREEMENTS:**

The London-Middlesex Consolidated Municipal Service area is the only jurisdiction in Ontario where each municipality operates separate programs and funds separate administrations. In all other areas of the Province the CMSM administers and delivers these services.

The administration has studied this issue and has found that the cost of administration for Ontario works services delivered by the County is not cost efficient. Based on 2011 actual costs, the County's per case administrative cost is about \$2,700 while the City's was about \$1,300 per case. Further this duplicate administrative structure is costing the City \$500,000 in lost revenue from the Province.

**Recommendation:**

The administration is recommending that the OW and Child Care sub-agreements with the County not be renewed, noting that this measure will produce savings for the City of \$500K.

**CITY PAYMENTS TO THE COUNTY FOR ROADS:**

The Civic Administration has concluded that there remains no need for the City to compensate the County as a result of the 1992 annexation. The original arbitrator concluded that the payments should end after ten years, however, in 2001, the Provincial Government of the day say fit to continue this payment indefinitely via Section 474.18 (1) of the Municipal Act. The Government did, however, include Section 474.18 (2) which enables the Minister of Municipal Affairs and Housing “to make regulations providing for a different amount to be payable...than the amount that would otherwise be payable.”

For 2011, the City transferred about \$1.3M to the County.

**Recommendation:**

This different amount could be as low as a nominal sum. Accordingly, the Administration is recommending that the Mayor write to the Minister of Municipal Affairs and Housing to request that regulations be passed to reduce the amount payable to a nominal level, phased in over 5 years.

**CONSEQUENCES OF ARBITRATION:**

The County and the City have had a long and harmonious relationship, There is no doubt arbitration will strain this relationship. Both municipal Councils also expose their ratepayers to potential financial risks, which would be determined by an outside third party.

Should Committee wish to further consider matters related to arbitration on these matters, it should move into closed session to hear advice from the City Solicitor.

**FINANCIAL IMPLICATIONS**

Maintaining the status quo across all of the services would result in no financial pressures for the City. This arrangement is not acceptable to County Council and will result in arbitration, with potential financial risk to the City.

If Council chooses to accept the County position, the financial pressure to the City is \$2M per year with offsetting savings to the County.

A settlement based on Option 1 will produce a cost pressure to the City of \$1M per year.

Settlement based on Option 2 will produce savings to the City of \$140,000 per year.

Should the County or the City proceed to arbitration, both municipalities face unknown financial risks.

**BACKGROUND**

**OVERVIEW OF THE CMSM AGREEMENTS:**

As part of the Provincial the Local Services Realignment exercise, the Province by legislation established a number of “geographic areas” for the purposes of identifying “delivery agents” for social housing, Ontario Works, child care and land ambulance. The geographic area of the City of London and Middlesex County was prescribed as one geographic area, with the City prescribed as the delivery agent for social housing, Ontario Works and child care within that geographic area. The

County of Middlesex was designated as the delivery agent for Land Ambulance for this geographic area.

In response the City and County entered into a series of agreements to guide service delivery and apportionment of costs. It should also be noted that cost sharing considerations involve a number of other services including: Courts Administration, the Middlesex-London Health Unit, Mutual Aid agreements, Fire Dispatch Services, Household Special Waste, Immigration Portal, and Defibrillators.

Given the range, substance and number of these co-mingled services the importance of a positive, open and productive County/City relationship cannot be under-stated.

The Schedules to existing Service Agreements between the City of London and Middlesex County with respect to Child Care and Ontario Works have expired and need to be renewed. The Ontario Works and Child Care Agreement do not have a continuation clause. Notwithstanding the expiry of the Schedules to the contracts, the parties have performed as if the contracts continued. The Social Housing and Land Ambulance Agreements do have a continuation clause.

The agreements include a methodology for apportioning costs between County and City ratepayers. The Child Care and Ontario Works agreement assigned costs “...based on the actual caseload and program expenditures with standard Provincially-approved administrative cost-sharing agreements.” The Social Housing and Land Ambulance Agreements “...allocated (costs) to London and Middlesex in proportion to their respective weighted average assessments.”

## **COST APPORTIONMENT FOR SOCIAL SERVICES – PRINCIPLES AND PRACTICES:**

During the Local Services Realignment (LSR) exercise of the Harris Government, municipalities took the position that the local tax base was not the most effective source of funds for wealth redistribution programs. It was argued that the more senior levels of government should be more responsible for these programs, having access to a broader mix of taxes, some of which are more closely related to ability to pay.

A second issue identified by municipalities was cost apportionment problems associated with individuals living outside of the service area accessing services. Social programs are not able to prioritize services based residency of origin and so local ratepayers must absorb costs of recipients not from the local jurisdiction, creating a “spillover effect”. This issue will be more thoroughly discussed later in this report as it relates to Issue #4.

To its credit, the McGuinty Government has made solid progress with regards to the upload of social costs having taken full responsibility for the funding of the Ontario Disability Program, the Ontario Drug Program and are on track to upload the full cost of transfers to Ontario Works participants by 2018.

The City of London is the regional urban hub for Southwestern Ontario with regards to economic activity and the provision of provincial corrections, health and social services. To the extent, that these regional services impact the local tax base, London ratepayers bear 100% of the cost. Policing, emergency shelters and homelessness initiatives are some examples. The City is also the location of much of the social housing stock, yet it serves a large transient population. It is also statistically shown that the greatest density of social service recipients is in urban centres. People “in need” tend to relocate to the urban core where there is greater access to services, transportation and housing. The whole geographic area benefits from the provision of this “social safety net” but absent fair and appropriate cost sharing agreements within the service manager area, urban centres would be responsible for paying for these costs due only to their physical location.

In the Windsor-Essex Arbitration, the County suggested there was a continuum of cost sharing ranging from “purchased services” on one end and “redistribution of wealth” on the other. Use of caseload and actual costs are examples of the former and use of population and weighted assessment represent methods within the redistribution of wealth sphere.

Weighted assessment is the most complicated to understand and so the next section of this report provides an overview.

### **What is “Weighted Assessment?”**

As applied to the City-County Agreements for Social Housing and Land Ambulance, weighted average assessment of London and Middlesex is defined in the agreement to mean the “total of the results derived when the assessments for the residential/farm, multi-residential, commercial, and industrial property classes are multiplied by their separate tax ratios”. It is used as a proxy for determining each municipality’s fiscal capacity to pay its share of the cost of social assistance and social housing. The weighting calculation means that shares are based on the ability to generate tax revenue from the assessment rather than simply the assessment values. (Administrative Briefing Note, City of Toronto re GTA pooling, Feb. 2004)

The rationale for the use of weighted assessment is that it results in a fair distribution of the costs associated with the provision of social housing in a geographic area on the basis of their ability to generate property tax revenue and provides an incentive for the municipalities to provide social housing in a geographic area on the basis that the distribution of costs will be shared. Clearly, the use of weighted assessment reflects a policy choice by the Province of Ontario that the costs of social housing should be distributed between all municipalities regardless of their population or the place of origin of those using social housing. This approach is closest to the use of income taxes (i.e. ability to pay) to fund social housing which was the case before devolution. (Kingston Staff Report).

Weighted assessment is generally accepted in Ontario as a good indicator of a municipality’s ability to pay and generate property tax revenue because it reflects the market value of all properties at a point in time and the manner in which all those properties are currently taxed by the municipality. The Province recognizes this principle when it utilizes weighted assessment to fund the education system province wide. For example the Province sets a uniform tax rate that is applied to the assessed value of all residential properties in the Province to fund boards of education.

The rationale for the formation of Regional Governments in the south and District Social Service Administration Boards included better coordination of land use planning and efficient service delivery but also equitable distribution of the tax burden across all taxpayers within the jurisdiction, so as not to over-burden taxpayers in the urban areas. In all regional municipalities, weighted average is the measure used for cost apportionment across urban and rural areas.

These rationales also were considered during the municipal amalgamation exercise of the late 1990’s.

In conclusion, the use of weighted assessment is a valid measure of a municipality’s ability to pay.

As noted, the Windsor-Essex Arbitration, all parties agree income redistribution programs should be paid for from income tax revenues. Absent ability for municipalities to collect this tax, weighted assessment represents the closest methodology available to it to apportion these costs.

### **Ability to Pay**

Recently, arbitrators have questioned weighted assessment as an appropriate means for determining “ability to pay.” As a further check on ability to pay, the administration reviewed 2006 census data and found that the medium family income in London was \$59,026. The medium family income in the County was \$66,437 or 12.5% higher than the City.

Analyzing the County of Middlesex FIR information to determine fiscal capacity and comparing with London, confirms the assertion made by the CAO of the County of Middlesex that the County does not need the money and that they have the fiscal capacity to absorb more of the social cost should that be required. Two ratios stand out namely:

#### 1) Net Financial Liabilities Ratio

- a) Net Financial Liabilities Ratio is total liabilities minus assets as a percentage of own source revenues. This ratio indicates the extent to which financial liabilities could be met by its operating revenue. Where this ratio is falling it indicates that the municipality’s

capacity to meet its financial obligations from operating revenue is strengthening. A ratio greater than zero indicates that total liabilities exceed total assets. There is no optimal number or range for this indicator. What is important is that a municipality understands and is comfortable with the ratio it has and it has been determined based on future needs and long term financial sustainability. Net financial liabilities is a broader and more appropriate measure of indebtedness than debenture debt as it includes all of a municipality's financial assets and obligations compared with own source revenues. An increase in this ratio could mean that a municipality is incurring higher net operating costs.

- b) A ratio greater than zero indicates liabilities are greater than assets – **London has a positive ratio indicating that Middlesex is in a far better position.** This indicates that Middlesex is in a better position to meet its financial obligations from operating revenues than the City can.

Per Financial Information Return	2009	2010
London	5%	4%
County of Middlesex	-38%	-32%

2) Debt to Reserve Ratio

- a) A measure of a company's financial leverage – indicates what portion of equity (at least the more liquid portion of equity) and debt the company is using to finance its assets. This includes all reserves and all outstanding debt as reflected on schedules 60 and 74 of the Financial Information Return.
- b) The higher the ratio the more debt is employed. **London has a higher ratio indicating that Middlesex is in a far better position.** As indicated in the table below, ratio for the County of Middlesex is lower than London at 0.5. This indicates the County has more reserve funds available – it could extinguish all its debt and still have ½ of the reserve fund balance remaining. The City of London however, at a ratio of 1.0 has sufficient reserve funds to extinguish its debt, but would leave no reserve funds remaining. (Calculation does not include obligatory RFs).

Per Financial Information Return	2009	2010
London	1.0	1.0
County of Middlesex	0.5	0.5

Recently, arbitrators have questioned weighted assessment as an appropriate means for determining “ability to pay.” As a further check on ability to pay, the administration reviewed 2006 census data and found that the median family income in London was \$59,026. The median family income in the County was \$66,437 or 12.5% higher than the City.

**USE OF WEIGHTED ASSESSMENT VERSUS UNWEIGHTED ASSESSMENT HAS BENEFITED THE COUNTY:**

Use of weighted assessment versus un-weighted assessment has benefited the county. Farmland which is a significant property class in the County but not in the City has a tax ratio equal to 25% of the residential ratio and is thus weighted to a much lower value than other property classes. In addition tax ratios for commercial and industrial property are much lower in the County than in the City. In the City the commercial and industrial ratios are 1.98 and 2.63 respectively for 2012. In the County the corresponding ratios for 2012 are 1.1449 and 1.7451 or 42% and 34% lower. If un-weighted assessment were used as a basis of allocation rather than weighted assessment then the County share of costs would increase from about 15.3% in 2012 to 21.0% in 2012.

## **OTHER COST APPORTIONMENT METHODOLOGIES:**

Population is the actual “head count” of every individual residing within a defined geographic area. Typically, the Municipal Property Assessment Corporation (MPAC) data is used to apportion costs based on population.

Place of origin is based upon the actual number of individuals receiving the specific service which in this case is social housing. This method can also be used to apportion costs of social housing based on the number of the place of origin of those seeking housing “units” within a geographic area by tracking the place of origin of occupants of social housing. Costs are then distributed on the basis of place of origin although there is no provision for those arriving from outside the municipalities who are responsible. This method of cost allocation creates a disincentive for municipalities to accept persons in need of social housing from the outside of the municipality.

Apportionment based upon actual cost simply allocates the costs of social housing based upon the municipality that incurs the costs. This approach provides a significant disincentive to the provision of social housing in Ontario on the basis that if a municipality does not provide social housing; it will not have to pay for it. The premise for the use of actual cost is that a municipality should only have to pay for the actual costs it incurs in the provision of social housing (Kingston Staff Report).

## **THE POSITION OF MIDDLESEX COUNTY ON COST SHARING FOR SOCIAL HOUSING**

London is a Provincial leader in the delivery of social housing services. As noted in the most recent Ontario Municipal Benchmarking Initiative (OMBI) Report, the City of London ranked as follows:

- first in the twelve OMBI municipalities with the **lowest cost per unit** for social housing;
- 6 out of 12 (the median) the number of social housing units per household, including those in the County,
- 4 out of 12, higher than the median for the percent of the social housing waiting list placed annually.

While the County has in the past agreed to the use of weighted average assessment for social housing, it would seem the Guelph-Wellington Arbitration has caused it to change its view. The County now believes that it is paying more than its fair share of costs for social housing and that the use of weighted assessment is the cause. They would prefer a transition to an approach whereby costs incurred by the housing units within each municipality are paid for by the host municipality, the actual cost approach. They estimate the cost impact to the City to be in the range of \$2M per year, however, the County has indicated that it would be agreeable to a multi-year phase-in.

It is understood that the former City Manager and the County CAO discussed arrangements for Social Housing a number of months ago but no formal direction from City Council has been sought nor delivered. The County CAO believes he has received assurances that the City would support a change. The City disagrees.

The County, apparently, has grown frustrated with the “delay in making this change” and has indicated, informally, to City Staff that it will proceed to arbitration if a negotiated agreement is not reached by May 31, 2012. It is believed the “delay” has altered the County position to include retroactivity to the date of expiry of the current agreement and requirement for full restitution in the year of settlement.

The County CAO raised this matter with the Executive Director of Community Services and the Director of Inter-Governmental and Community Liaison at a meeting in late December, 2011. City staff indicated at that time that it would study the issue.

## **SUMMARY OF RESULTS OF THE CIVIC ADMINISTRATION STUDY:**

While the Study had a specific focus on social housing, the administration has taken the time to review the other CMSM Agreements as well as other cost sharing arrangements.



## **SOCIAL HOUSING:**

The current method of apportioning costs for social housing is weighted assessment (termed weighted average assessment in the agreements). For the County this amounts to about 15.25% of the total cost of social housing. The estimated actual for 2011 for Social Housing is \$24.772M, with the City paying \$20.995M and the County paying \$3.277M.

Had unweighted assessment been used the County share the County share of costs would have been \$5.83M or \$2.5M more per year.

The administration has studied the evidence in the Wellington-Guelph arbitration and notes from the documentation that of the forty-seven (47) CMSM's in Ontario only 5 do not use weighted average assessment, either in whole or in part. Nineteen (19) of the southern Ontario CMSM's with boundaries coterminous with the municipality do not require cost sharing agreements. All use average assessment to achieve equity across tax classes, including urban and rural portions of the municipality. All ten (10) of the northern Ontario DSSAB's use weighted assessment as determined by the Province.

In the eighteen (18) CMSM's where there is more than one municipality with the boundary, eight (8) use weighted assessment all or in part for OW and child care costs; thirteen (13) use weighted assessment all or in part for cost sharing for social housing, while ten (10) use weighted assessment exclusively.

Next, the administration examined other options for apportioning social housing costs and the financial impact for each. The options are listed in order of increasing financial impact for the City:

- |   |                            |
|---|----------------------------|
| 1. Continued use of average weighted assessment:          | <b>no budget impact</b>    |
| 2. Actual Costs -Community of origin (WA for spillovers): | <b>increase of \$1.06M</b> |
| 3. Wait List Community of Origin (WA for spillovers):     | <b>increase of \$1.94M</b> |
| 4. Costs based on location (County Proposal):             | <b>increase of \$2.37M</b> |

The resolution section of this report recommends that the civic administration be directed to negotiate a renewed agreement for social housing and states that if the County continues to insist on Option 4 that the City proceed to arbitration.

## **WHO SHOULD PAY FOR TENANTS OF SOCIAL HOUSING NOT FROM THE AREA?**

The Civic Administration study confirmed that the cost of social housing contains cost pressure associated with demand from individuals with communities of origin outside of London and Middlesex and from those exiting emergency shelters and community of origin is difficult to determine (the spillover effect). Administration studied the community of origin for a sample of the current social resident population and found that 26% of the cost of social housing is driven by the spillover effect. For 2011, this amounts to \$5.23M.

Both County and City administration agree that the costs associated with housing individual and families from outside the area (spillovers) is unfair to County and City ratepayers. Housing legislation does not allow the City as the CMSM for Social Housing to deny access to housing and so it does not have an ability to refuse based on municipality of origin. Neither, does the City have the ability to bill the home municipality.

The Province was confronted with this issue in the Greater Toronto Area in 2004 when the City of Toronto made the point that its ratepayers were bearing an unfair tax burden because of the concentration of social services in the City and the absence of services in the suburban regions. The initial approach was to put in place a pooling of costs for social assistance and social housing across the GTA. This approach was discontinued and now the Province pays additional costs directly to the City.

The resolution section of this report recommends this issue be pursued with the Province.

## **SUMMARY OF RECENT ARBITRATIONS:**

Appendix A provides a summary of recent arbitrations.

In cases where there are strong similarities to London-Middlesex: Windsor-Essex and Kingston-Frontenac, a blend of actual costs and weighted assessment has been used across all services, with the exception of land ambulance for which the apportionment is based on weighted average assessment.

In the last two arbitrations, Guelph-Wellington and Norfolk-Haldimand Counties actual costs have been the predominant apportionment methodology. These two settings are least like Middlesex-London. The commentary from Justice Zuber in the Norfolk-Haldimand case is instructive:

*Justice Zuber noted that the use of “weighted assessment was not appropriate beyond a single economic unit, a single catchment area or spillover area.”*

*In this arbitration, he found that “...there is no large city or hub in either county which attracts the residents across county lines. In the end, he concluded that Haldimand and Norfolk “...are separate, independent communities sharing only a common border.”*

## **CITY OF LONDON AND MIDDLESEX COUNTY – ONE ECONOMY AND ONE COMMUNITY**

London is the large city or hub of this region which attracts residents across (municipal) lines. According to 2006 census of the 15,090 County residents who commute to work, 13,535 (90%) travel to London. 20% of County residents commute to the City for work. 3,660 Londoners travel to the County to work.

The two municipalities have a long history of working closely together. This relationship ranges from coordination of economic development strategies to no less than 38 inter-municipal service agreements.

For a number of years, the City, County and the lower tier County municipalities have benefitted from sharing infrastructure associated services as a means of delivering effective and efficient services. The City-County roads network is one example, involving roads that are jointly owned and others where servicing is shared.

Water infrastructure is another example, where the City manages the regional joint water board. Several county municipalities receive their drinking water from this system at a rate that is equal to the lowest commercial rate in the City. In 2000, the City entered into agreement with the Township of Middlesex Centre that enabled the sewage flows to enter into the City's system, thereby, eliminating a serious problem the Township had with failing septic systems in the Hamlet of Arva.

For a fee, County residents are able to use the City's Household Hazardous Waste Centres (County pays) and Spectrum Recreation programs (individual pays)

## **SERVICE MANAGEMENT AGREEMENTS FOR ONTARIO WORKS AND CHILD CARE:**

The current cost sharing arrangements are based on caseload. The civic administration has studied the manner in which other CMSM assign these costs, utilizing documentation from the Guelph-Wellington Arbitration. It found the following:

- Eighteen (18) of the forty-seven (47) CMSM's have cost sharing agreements
- Of these eighteen (18), eight (8), use caseload
- One (1) uses actual costs.
- Four (4) use a combination of caseload and weighted assessment
- Three (3) use a combination of actual costs and weighted assessment
- One (1) uses population
- One (1) uses weighted assessment

It is understood the current arrangements for Child Care and Ontario Works are satisfactory to the County. In reviewing practices in other CMSM's and the Windsor-Essex Arbitration, the civic administration has come to the view that the current approach of using purchased service arrangements such as caseload and actual costs places an unfair burden on City residents. It is also noted that City taxpayers bear the full municipal financial burden for OW recipients with a community of origin outside of London and Middlesex and the full burden for the municipal share of emergency shelter costs.

## **A COMMON APPROACH FOR APPORTIONING COSTS**

It is evident from the review undertaken by the administration that common cost apportionment principles need to be applied across social housing, Ontario Works and Child Care. Since use of weighted average assessment is viewed as the fair method of apportioning costs across an integrated geographic area with a large urban hub, its use in full or in part is appropriate. The cost of Land Ambulance services should continue to be based on weighted average as principled approaches to applying actual costs do not apply.

Appendix B contains a financial analysis of various approaches to apportioning costs across the various CMSM services. The administration has determined that the Frontenac County-City of Kingston arrangements most closely aligns with the Middlesex-London CMSM. These arrangements would produce modest savings for the City of \$140,000.

## **SERVICE DELIVERY ARRANGEMENTS FOR OW AND CHILD CARE**

Separate and apart from the City's and the County's obligations to share the costs of the program, the schedule to the agreement between the County and the City (now apparently expired) also provided for the County to provide "child care" and Ontario Works delivery agent services within the geographic area of the County:

*London will contract with Middlesex as a service delivery agent to deliver the Ontario Works and childcare services in the service area, excluding the geographic area comprising the City of London, on behalf of London as the Municipal Service Manager.*

Under the *Day Nurseries Act*, a delivery agent (the City) is authorized to enter into an agreement regarding any of the City's powers and duties under the *DNA*. The agreement enables the County to deliver Ontario Works services for the geographic area of the County residents and to administer the Child Care Fee Subsidy Program for the geographic area of the County.

What is created, in reality, is a duplicate administrative structure for both programs. The Civic Administration has evaluated this structure and has concluded that it is costly and inefficient. Based on 2011 actual costs, the County's per case administrative cost is about \$2,700 while the City's was about \$1,300 per case.

If the City were not to renew this arrangement and take on the County caseload for Ontario Works and Child Care it would save about \$500,000 per year via increased Provincial Cost of Administration revenues net of marginal increased staff and occupancy costs. For County residents this would mean travelling to the Market Tower for service as opposed to the County Building, which is two blocks away.

The administration will not be recommending a renewal of these arrangements and will be entering into discussions with County administration to facilitate this service delivery change in a manner that does not disrupt services to the geographic area of the County.

## **LAND AMBULANCE:**

Middlesex County is designated as the delivery agent for land ambulance for the designated area comprised of the County of Middlesex and the City of London. The current Service Management Agreement expired on December 31, 2012, but is deemed to continue on month to month terminable on 30 days' written notice. Among other things, the Agreement stipulates that "*the annual cost of the land ambulance program shall be allocated to London and Middlesex in proportion to their respective weighted average assessments.*"

The Agreement makes provision for a Management Oversight Committee which is composed of

City and County senior staff, as well as from the Base Hospital. The mandate of the Committee is to provide “governance for the delivery and administration of land ambulance services under this agreement

## **POSITION OF MIDDLESEX COUNTY**

The civic administration, up until very recently, understood that the County was content with the current arrangements for land ambulance. That changed with an email from the County CAO, wherein he advised that he was “crunching the numbers” on land ambulance and had concluded that call volumes in London are on the rise and that cost sharing would have to be reviewed along with social housing. The administration has been informed further, that County Council has directed that it proceed to arbitration on both social housing and land ambulance if a new agreement cannot be reached.

## **REVIEW BY THE CIVIC ADMINISTRATION**

As there has been no communication on this matter other than emails and given that the County is the keeper of the data, the administration has little to analyze. The current Service Management Agreement expired on December 31, 2012, but has a month to month extension clause. In the Wellington-Guelph Arbitration a decision was made to apportion costs based on “location of call codes (1-4).”

The 2012 budget for Land Ambulance is \$24.852Million. The Province of Ontario pays 50% of the cost, while the municipal share is co-funded by the County and City. Using average weighted assessment the City share is \$10.531Millions (42.4% of municipal share (and the County share is \$1.896Millions (7.6%).

The Agreement continues a clause dealing with dispute resolution which provides as follows:

- a) At first instance, the dispute is to be referred in writing to the Management Oversight Committee
- b) If no resolution, the matter is to be referred to the City/County Liaison Committee.
- c) If not resolved, cost sharing issues are to be submitted to the Provincial Municipal Service Management Arbitration System.

The administration's view is use of weighted assessment is appropriate.

## **ROADS:**

Prior to 1993, larger municipalities were required to contribute to Suburban Roads Commissions and the roads identified within the Commissions were co-managed for mutual benefit. The premise was that large urban municipalities generated traffic on adjoining suburban municipal road systems - traffic that was problematic for the conditional grant system provided by the Province of Ontario in the past.

The 1993 annexation brought an end to the Suburban Roads Commission. Bill 75 stipulated a compensation package that had three components:

- *The amount of \$3.6 million over five years for the reduction in the County's assessment base from annexation;*
- *A total of \$6 million from 1994 to 1996 for new County development activities.*
- *Payments in lieu of the contribution the City had been making to the London Suburban Roads Commission. At that time, the funds were for the purpose of development activities in the County, including sewers, water lines, and roads including suburban roads*

In his report to the Minister of Municipal Affairs, “Co-opportunity-Success Through Co-operative Independence” (March 30, 1992), The Greater London Area Arbitrator, John Brant, addressed the Suburban Roads in the following manner:

**SUBURBAN ROADS FUNDING**

At the present time, the city provides a contribution of one-half mill to the suburban roads commission for the construction and maintenance of roads within the County in the immediate area of the City. The City's contribution is about \$1,000,000 per year. With the much enlarged city area, the lack of flexibility in the County on the application of these funds and the substantial development of suburban roads from past contributions, the County may wish to apply these funds in a different manner.

COMPENSATION/TRANSFER FROM CITY TO COUNTY

	OPERATING / ADJUSTMENT FUND	INFRASTRUCTURE CAPITAL FUND	ESTIMATED CONTRIBUTION IN LIEU OF SUBURBAN ROADS CONTRIBUTION	TOTAL
1993	1,200,000	0	1000000+	2200000+
1994	900,000	2,000,000	1000000+	2200000+
1995	700,000	2,000,000	1000000+	2200000+
1996	500,000	2,000,000	1000000+	2200000+
1997	300,000	0	1000000+	2200000+
1998	0	0	1000000+	2200000+
1999	0	0	1000000+	2200000+
2000	0	0	1000000+	2200000+
2001	0	0	1000000+	2200000+
2002	0	0	1000000+	2200000+
				19600000+

My recommendation is that the City contribution to suburban roads be changed to a contribution to the capital purposes of the County and become a part of the County's capital fund. This portion of the capital fund can be used for suburban roads only with the County's matching contributions or can be applied in the same manner as any other Capital funds.

At the end of ten years, the City will have contributed more than \$10,000,000 to the capital fund and its responsibility will cease.

Notwithstanding the Arbitrator's decision, the then Minister of Municipal Affairs and Housing saw fit to continue the funding with the proclamation of the *Municipal Act, 200*:

**474.18** (1) *The City of London shall, on or before March 1 in each year, pay the County of Middlesex, as compensation for the reduction in income due to the dissolution of the London-Middlesex Suburban Roads Commission, an amount determined in accordance with the following:*

1. *For 1998, the amount is the amount payable under the predecessor of this subsection for 1997.*

2. *For a year after 1998, the amount is determined in accordance with the following formula:*

**Amount in current year = Amount in 1998 x Tax rate current year**

**Tax rate 1998**

where, "Amount" means the amount payable under this subsection,

"Tax rate" means the City of London's tax rate for the general/local municipality levy for the residential/farm property class prescribed under the Assessment Act.

The City has been transferring about \$1.2 million annually to the County of Middlesex using the Municipal Act formula. The County decides how to expend these funds in accordance with the Municipal Act.

*474.18 (2) of the Act provides that the Minister may make regulations providing for a different amount to be payable under subsection (1) that the amount that would otherwise be payable under the sub-section.*

It is the civic administration's that the rationale for this ongoing transfer of funds is no longer applicable. Accordingly, it is recommended that the City request that the Minister of Municipal Affairs and Housing pass a regulation directing that this payment be phased out over five years.

Acknowledgments:

The following have contributed to the preparation of this report: Jim Logan, Louise Stevens, Lynne Livingstone, Anna Lisa Barbon, Gregg Barrett.

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C. Bill Rayburn, CAO, Middlesex County

## APPENDIX A

### ARBITRATIONS INVOLVING COST APPORTIONING FOR SOCIAL HOUSING

The administration is aware of five arbitrations: Windsor-Essex; Pembroke-Renfrew; Kingston-Frontenac; Guelph-Wellington; and Haldimand-Norfolk. All of these cases involve an urban area and a surrounding rural area, as is the case here in the City of London and County of Middlesex.

The following outcomes relative to cost apportionments which are all still in force resulted from arbitrated decisions:

- ***In Windsor-Essex*** The arbitrator's award was that the costs of Social Housing shall be apportioned between the City of Windsor and the County of Essex based on a formula of 60% weighted assessment and 40% actual costs. Actual costs are the net municipal costs of each unit allocated on the basis of the municipal location of the unit. The Township of Pelee is excluded from this apportionment.
- ***In Pembroke-Renfrew***: The arbitrator's award was that weighted assessment be used after 2001 for Social Housing and Child Care Services and a formula based on 20% weighted assessment and 80% actual costs for Ontario Works.
- ***In Kingston-Frontenac***: The arbitrator's award was that Weighted Average Assessment is to be used.
- In ***Guelph-Wellington***, The arbitrator's award was that actual costs methodology be used, based on community of origin. The parties agreed to work towards a division of costs based on municipality of origin once the necessary data was available.
- In ***Haldimand-Norfolk***, The arbitrator's award was that actual costs methodology be used with residence of recipient the measure for Ontario Works and Child Care and location of unit/facility for social housing.

The case of the City of Toronto and the Greater Toronto Area is also instructive. At devolution, the City of Toronto asserted that its taxpayers would be bearing an unfair burden of social housing costs given that the vast majority of social housing units were in Toronto. In response, the Province of Ontario, using a weighted average assessment approach, established a "pooling" of taxes among Toronto and the Regions within the GTA. Several years later, the Province abolished the pooling and now pays the City of Toronto directly for housing costs associated with "non-Toronto" residents.

This last point is relevant to London. Later in this report, it will be noted that 26% of tenants in the London-Middlesex Housing system are from outside the area. From a cost perspective, that amounts to an additional tax burden to London and Middlesex taxpayers of \$6.4Millions per year.

Both City and County staff are of the view that the Province should be petitioned to fund these costs as it is doing for Toronto.

#### Synopsis of the Windsor-Essex Decision – 1999 – William A. Rice, Arbitrator

This was an early arbitration following Local Services Realignment (LSR) and involved cost allocation decisions for social housing, Ontario Works and Child Care. Issues considered include:

- Is Windsor-Essex one catchment area or not?
- What are the decision-making responsibilities for the respective local governments?
- What is the ability to pay considerations?

Not surprisingly the County took the position that the City and County are two distinct service areas and so took the view that a "purchased service" or actual costs approach was the most fair...costs paid where services purchased.

The City countered that the intent of the Province in setting up Consolidated Municipal Service Managers was to create “de-facto Regions” the effect being all ratepayers share an interest and burden for the local share of these provincial social services. They viewed weighted assessment as the norm for spreading these costs across a region on an equitable basis.

Arbitrator Rice noted the following:

- There is a spillover of services and clients between Windsor and the 3 neighbouring municipalities in the western part of the county
- Windsor and the 3 municipalities must be considered one social service catchment area
- Windsor and the western portion of the county was “one economic unit.”

He recommended a blended solution based on 60% of costs being shared on a weighted assessment basis and 40% on actual costs for the mandatory programs. The actual costs to be assigned based on the municipal residence of the client. Discretionary costs would be shared based on actual costs.

#### Synopsis of the Pembroke-County of Renfrew Arbitration: - 2001 – Howard Allan, Arbitrator

Arbitrator Allan made similar findings and directed cost sharing partly based on weighted assessment and partly on actual cost.

#### Synopsis of the Kingston-Frontenac County Arbitration – 2004 – William A. Rice, Arbitrator

Arbitrator Rice also made similar findings, noting in particular that the City and the southern part of the County is an economic unit. An award based partly on actual cost and partly on weighted assessment was made.

#### Synopsis of Guelph-Wellington Decision – 2010 – Douglas S. Colbourne, Arbitrator

In 1998, the agreement between Wellington County and the City of Guelph set out the apportionment to be as follows:

- Ontario Works - Based on the residence of the recipients
- Child Care - Based on the location of each Centre.
- Social Housing - The City 75%, the County 25%. (there is a footnote to the effect that both parties would work towards the division based on municipality of origin of tenant once the necessary data was available)
- Land Ambulance - Based on population

In 2008, the City of Guelph advised the County of Wellington that they intended to terminate the previous Social Services agreement on February 29, 2009. The City then commenced an arbitration of the apportionment of costs pursuant to the provisions of various social services statutes.

During the arbitration the statistics provided by the County with respect to residence of claimants, appeared to be complete and adequate for apportionment of costs.

The migration of County residents for social service purposes as suggested by the City does not exist, as spill over both ways appeared minimal and balanced.

These municipalities are as interconnected with surrounding municipalities as they are with each other economically, socially, culturally and for employment purposes. The connections and draw between them raised in the City's evidence was not supported by the evidence.

The benefits of apportionment based on weighted assessment were not apparent.

The population differences described in the evidence as cultural, supports utilization of the actual cost approach for social service purposes as proposed by the County. The facts developed by the County process provide accountability. The legacy location of the units issue will not be issue in the actual cost proposal of the County,



### Arbitration award

For the four year period commencing January 1, 2010 and ending December 31, 2013,

- The method for apportioning Ontario Works is based on the residence of the recipient.
- The method for apportioning Ontario Disability Support Program is based on residence of recipient.
- The method for apportioning for Child Care is based on the residence of recipient for fee subsidy and special needs resourcing, and based on location of the centre for wage subsidy.
- The method for apportioning Social Service Housing will be based on the prior residence of the tenant.
- The method for apportioning land ambulance average call cost will be based on the locations of call codes (1-4)

### Synopsis of the Norfolk-Haldimand Counties Award – 2010 – The Hon. T. G. Zuber, Q.C. Arbitrator

In 1999, as part of the LSR. The Region of Haldimand-Norfolk and the former lower tier municipalities were dissolved and two separate municipalities were created – Haldimand County and Norfolk County. Norfolk was designated as the CMSM for OW, Child Care and Social Housing. Both Counties have its own land ambulance service. Provincial regulations fixed the method of cost sharing between the Counties for an initial period (weighted assessment), after which, costs were to be divided by agreement or arbitration. This 2010 arbitration ultimately resulted, with the outcome retroactive to 2002.

Arbitrator Zuber reviewed the four previous awards and indicated that the rationale for his award and the previous awards was as follows:

*“It is to be observed that all four of these awards involved a city and its surrounding county. It is implicit in all of these awards that division on the basis of weighted assessment was not applicable beyond a single economic unit, a single catchment area or spillover area.*

*In the case at hand, it is clear that Haldimand and Norfolk are not a single economic unit, nor a single catchment area. There is also no spillover of clients and services between the two. There is no large city or hub in either county which attracts the residents across county lines. With respect to employment, 47% of the employed in Haldimand are employed within the county, 32% commute to Hamilton and 4% commute to Norfolk. In Norfolk, 62% of the employed find work in Norfolk and only 8% commute to Haldimand. From any point of view, Haldimand and Norfolk are separate, independent communities sharing only a common border.”*

On that basis he made the following award for Haldimand and Norfolk:

- Ontario Works:
  - Program Costs: actual cost based on residence of recipient
  - Administration: prorated based on % share of program costs above
- Child Care:
  - Fee subsidy: actual cost based on residence of recipient
  - Special Needs Resourcing: actual cost based on residence of recipient
  - Wage Subsidy: Actual cost based on location of facility
  - Administration: Prorated based on % share of combined program costs
- Social Housing:
  - Program Costs: actual cost based on location of unit/facility
  - Administration: prorated based on % share of program costs

## APPENDIX B

### CITY STUDY OF COST APPORTIONMENT FOR SOCIAL HOUSING, ONTARIO WORKS AND CHILD CARE COSTS USING WEIGHTED AVERAGE AS WELL AS BLENDED WEIGHTED AVERAGE AND ACTUAL COSTS SIMILAR TO THE ESSEX-WINDSOR AGREEMENT (2011 actual)

**Total CMSM costs for all services: \$74,749,127**

#### CURRENT ARRANGEMENTS:

Weighted Average for Land Ambulance and Social Housing; caseload for Ontario Works and Child Care.

City Share:	\$67,721,780 (90.6%)
County Share:	\$ 7,027,347 ( 9.4%)

#### WEIGHTED AVERAGE FOR ALL SERVICES:

City Share:	\$63,350,951 (84.75%)
County Share:	\$11,398,176 (15.25%)

This approach would result in a **reduction to the City budget of \$4.37M.**

#### WINDSOR MODEL ( 60% WA; 40% Actual cost)

City Share:	\$65,844,213 (88.09%)
County Share:	\$ 8,904,915 (11.91%)

This approach would result in a **reduction to the City budget of \$1.88M.**

#### ADJUSTED WINDSOR MODEL (APPLIES PRINCIPLES TO LONDON 85%WA; 15%cost)

City Share:	\$64,353,726 (86.09%)
County Share:	\$10,395,402 (13.91%)

This approach would result in a **reduction in the City budget of \$3.37M.**

#### KINGSTON MODEL:

City Share:	\$67,583,576 (90.41%)
County Share:	7,165,551 ( 9.59%)

This approach would result in a **reduction in the City budget of \$138,000**