

Town of Whitby

Staff Report

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Report Title: Whitby Tourism Development Corporation Update

Report to: Committee of the Whole

Date of meeting: January 20, 2025

Report Number: CAO 06-25

Department(s) Responsible:

Office of the Chief Administrative Officer
Financial Services Department
Legal and Enforcement Services

Submitted by:

Sarah Klein, Deputy CAO and Director,
Strategic Initiatives
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Services and Treasurer
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**Acknowledged by M. Gaskell,
Chief Administrative Officer**

For additional information, contact:

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1. Recommendation:

1. That Report CAO 06-25 regarding updates on the Whitby Tourism Development Corporation be received for information;
2. That the Corporation of the Town of Whitby Asset Transfer Policy be approved, in the form set out in Attachment 1 to Staff Report CAO 06-25; and,
3. That Staff be authorized to transfer funds fifty per cent (50%) of the balance of the Municipal Accommodation Tax collected, after the deduction of the Town's reasonable costs to administer the program, to the Whitby Tourism Development Corporation in accordance with the Asset Transfer Policy and Staff Report CAO 06-25.

2. Highlights:

- The purpose of this Report is to provide Council with an update on the Municipal Accommodation Tax and the Whitby Tourism Development Corporation.

- On May 27, 2024, Council approved the Municipal Accommodation Tax (MAT) By-law 8082-24 and authorized the creation of a Municipal Services Corporation (MSC) named Whitby Tourism Development Corporation (WTDC) to be the tourism entity in Whitby.
- Staff proceeded with the legal work to establish the Corporation as required by the *Corporations Act* (Ontario), the *Municipal Act, 2001* (Ontario) and the Municipal Services Corporation Regulation under the *Municipal Act, 2001* (Ontario Regulation 599/06).
- The Whitby Tourism Development Corporation was officially incorporated on November 6, 2024.
- Council has the responsibility to appoint the Board of Directors and approve key enabling documents, as discussed in this report. Recruitment for two new board members started in early December 2024 through postings on the Town's social channels and website.
- The Asset Transfer Policy (Attachment 1) sets out the responsibilities for the transfer of assets (including money from the MAT) to the Whitby Tourism Development Corporation and other future MSC's, if any.
- From July 15 to December 31, 2024, revenues from the Municipal Accommodation Tax have amounted to approximately \$315,276.95 (subject to collection and pending December 2024 reporting from three hotels). After reasonable costs are deducted from total MAT revenues collected, 50% of the net MAT revenues will be retained by the Town to support tourism projects and the remaining 50% will be transferred to the Whitby Tourism Development Corporation for the purposes of Whitby-focused tourism marketing, promotion and program delivery.

3. Background:

The Province of Ontario developed the Municipal Accommodation Tax as a funding source to support tourism in communities and allow growth in the sector to contribute to economic, social, and cultural development across Ontario.

As a funding option, the MAT will allow for new strategic projects that support tourism, increase visitor spending, and strengthen the local economy without impacting the property tax-funded budget. The *Municipal Act* specifically defines how the MAT revenues are to be spent. Ontario Regulation 435/17 provides that once reasonable costs of collecting and administering the tax are paid for, 50% of the remaining MAT shall be paid to an "eligible tourism entity" and the balance may be retained by the municipality to fund projects that support tourism. An "eligible tourism entity" is defined as a non-profit entity whose mandate includes the promotion of tourism in Ontario or the municipality.

On May 27, 2024, Council approved the [Municipal Accommodation Tax \(MAT\) By-law 8082-24](#) at a rate of 4% and authorized the creation of the Whitby Tourism Development Corporation (WTDC) to act as the tourism entity in Whitby. The WTDC was incorporated on November 6, 2024.

Council approved the following positions to be the incorporators of the WTDC and who have since acted as the first interim Directors of WTDC to date:

- One (1) Member of Council, as appointed by the Mayor
- Director, Strategic Initiatives
- Commissioner, Financial Services and Treasurer
- Senior Manager, Economic Development
- Manager of Tourism, Culture and Events

The Interim Directors have provided oversight and critical decision-making concerning the operation of WTDC. As per the recommendation from May 27, 2024, staff are pleased to report back to Council with final recommendations related to establishing the new Board of Directors, their composition, Corporate By-laws, operating and asset transfer agreements.

4. Discussion:

Since the approval of the Municipal Accommodation Tax, staff have completed the following:

- Implemented the new Municipal Accommodation Tax By-law #8082-24 effective July 15, 2024, for the collection of a Municipal Accommodation Tax;
- Signed an agreement with Ontario Restaurant Hotel & Motel Association (ORHMA) who began the training of local hotel and motel staff in collection and remittance practices. Since working with the Ontario Restaurant Hotel & Motel Association, total MAT revenues collected/reported is anticipated to surpass \$315,276.95. The total MAT revenue is subject to the Town's deduction for reasonable costs to collect and administer the MAT program, subject to collection of December reporting from Whitby hotels, and pending reporting from three (3) Whitby hotels at the time of writing this report;
- Obtained Durham Region's consent to create the Municipal Services Corporation;
- Conducted the necessary corporate name search for Whitby Tourism Development Corporation;

- Prepared files and articles of incorporation and submitted an application to the province to incorporate a not-for-profit corporation under the *Not-for-Profit Corporations Act, 2010* (Ontario);
- Established the MSC under the name “Whitby Tourism Development Corporation”, effective November 6, 2024;
- Worked with an external law firm, Kubota Law Practice Inc. to prepare the organizational by-law(s) and other documents for the WTDC;
- Approved By-law No. 1 of WTDC at the first interim board of directors meeting on November 26, 2024. The By-law identifies the following:
 - Role of the Town as sole voting member
 - Roles and responsibilities of Directors and Officers of the Corporation
 - Procedural matters related to member meetings
 - Accounting, audit and record-keeping
- Established an independent bank account for WTDC;
- Launched the recruitment for Directors for WTDC starting in early December through social media posts and on the Town’s website. Council is responsible for approving the Board of Directors comprised of 5 members (which will include a member of Council, as appointed by the Mayor, two Town of Whitby staff representatives and two industry stakeholders);
- Drafted a Financial Accountability Agreement between the Town and WTDC pursuant to Section 6 of O.Reg. 435/17, to be approved at the first meeting of the new Board of Directors;
- Prepared the [Municipal Accommodation Tax Reserve Fund Policy](#), for the portion of the Municipal Accommodation Tax revenue that is retained by the Town, as approved by Council in September 2024; and
- Prepared an Asset Transfer Policy (**Attachment 1**) for transfers from the Town to MSC’s (including cash/net MAT revenues to the WTDC) which is brought forward for approval as part of this Report.

With approval of the recommendations in this report, including the Asset Transfer Policy, Council will have established a solid foundation for the governance, leadership, management and operations of the WTDC.

Asset Transfer Policy

Under the provisions of the Municipal Accommodation Tax (MAT) regulation (*section 400.1 of the Municipal Act, 2001, and Ontario Regulation 435/17*), after the deduction of

reasonable collection and costs to administer the MAT program, the Town is required to transfer 50 per cent of balance or net MAT revenues collected/received to an eligible tourism entity for the purposes of Ontario Regulation 435/17 (Transient Accommodation Tax). For the Town's MAT program, WTDC is the eligible tourism entity.

The Asset Transfer Policy as set out in Attachment 1 provides detailed guidance to the WTDC and Town staff, on the transfer, use and accounting of corporate assets. The purpose of the Policy is to set out the responsibilities and process for the transfer of the assets (including money) from the Town to the WTDC (and any future MSC's) in accordance with applicable legislation and as authorized by Council.

Transfer of Municipal Accommodation Tax to Whitby Tourism Development Corporation

On May 27, 2024, Council granted authority to the Mayor and Clerk to enter into agreements with WTDC on behalf of the Town, including all necessary documents and the agreements that may provide for other matters, all in a form satisfactory to the Commissioner of Legal & Enforcement Services/Town Solicitor. One of the documents is a Financial Accountability Agreement.

Upon approval of the Financial Accountability Agreement by the Board of Directors of WTDC, Staff will prepare a disbursement of MAT revenues based on the revenues collected to date, less applicable and reasonable administrative costs.

From July 15 – December 31, 2024, the Ontario Restaurant Hotel & Motel Association has reported \$315,276.95 in MAT revenues. Subject to collection, pending the December 2024 reporting from three hotels, and pending the deduction of reasonable administrative costs, it is projected that approximately \$150,000 will be transferred to the Whitby Tourism Development Corporation related to 2024 MAT collections.

MAT proceeds will be used by the WTDC for tourism marketing, tourism product development, establishing a HOST in Whitby grant account and supporting tourism growth.

Disbursements to the WTDC for 2024 must be completed prior to the end of February 2025 and upon approval of this Report regular disbursements will commence and continue quarterly.

5. Financial Considerations:

Financial considerations have been outlined in other sections of this report.

Reasonable administrative costs (to collect and administer the MAT program) currently total \$22,313.25 as outlined below:

Description	Amount
Legal Fees	\$14,653.44
NUANS Search	\$104.81
Incorporation Fee	\$155.00
Ontario Restaurant Hotel & Motel Association (ORHMA) One Time Fee	\$3,000.00
ORHMA Collection Fees (actuals up-to Q3 at 1.8% rate + Q4 estimate)	\$4,400.00
Total (subject to finalization of 2024 year-end costs)	\$22,313.25

As of the writing of this report, the ORHMA has reported 2024 (July 15, 2024 to December 31, 2024) MAT revenues of \$315,276.95, subject to collection and pending December 2024 reporting from three hotels. Based on this preliminary total MAT revenue figure and the preliminary reasonable administrative costs (outlined in the table above), it is anticipated that net MAT revenues will be approximately \$300,000 for 2024. Fifty per cent (50%) of the net MAT revenue, or approximately \$150,000, will be retained by the Town for projects and initiatives that support tourism. The remaining fifty per cent (50%), approximately \$150,000, will be paid/transferred to the Whitby Tourism Development Corporation.

Future spending arising from WTDC will be set out in annual business plans and operating budgets approved by the WTDC Board of Directors.

6. Communication and Public Engagement:

Prior to creation of WTDC, Town staff developed a business case study and conducted stakeholder consultation in accordance with O. Reg. 599/06. The Creative Communities Team, in partnership with Economic Development staff began stakeholder meetings in late March/early April 2024 and met one-on-one with hotel and motel owners/operators in Whitby to discuss and collect feedback on the implementation of a MAT. Follow-up emails were then sent out to the accommodation providers.

Creative Communities also created a specific webpage regarding the MAT (whitby.ca/mat) in July 2024 with information and frequently asked questions for both accommodation providers and visitors. The ORHMA also hosted a training session in early June 2024 with accommodation providers on the MAT and how to remit.

In addition, staff created a webpage for the Whitby Tourism Development Corporation at whitby.ca/wtdc. This public site provides an overview of the WTDC, the board of directors and posts minutes of the Board of Director's meetings.

7. Input from Departments/Sources:

The MAT Report and By-Law have been developed in partnership with staff from Strategic Initiatives, Financial Services, External Legal Counsel, and Legal and Enforcement Services.

8. Strategic Priorities:

In Whitby's Community Strategic Plan (CSP) 2023 – 2026, tourism is identified in the vision statement with the word explore. Improving the waterfront was highlighted by residents as the most important action to support the Whitby Economy. Action 1.2.2 in Strategic Pillar 1: Whitby's Neighbourhoods, the plan focuses on the need to enhance Whitby's culinary and live music sectors through collaborative partnerships. Action 3.1.3 identifies actions to enhance Whitby's tourism sector, with a focus on the waterfront. The Tourism Strategy builds upon these existing priorities and work plan alignment to ensure the pillars of the CSP are advanced. This project aligns with Goal 1, Action 1.2.4 explore potential funding streams for tourism initiatives (Municipal Accommodation Tax) of Destination Whitby - Tourism Strategy 2022 – 2025.

Tourism efforts in Accessibility and Sustainability are outlined in specific actions of the Tourism Strategy including Goal 3 – Building capacity for community tourism. Specific examples include investing and establishing a well-signed, publicly accessible washroom in Downtown Whitby. The Whitby Food Guide was digitalized to allow for better accessibility. Action 2.1.4 under Objective 2, Goal 1 building Visitor Readiness identifies the need to invest in helping local businesses and stakeholders become "tourism ready" through online resources and training including the Safe Travels Stamp certification and the Green Step Sustainable Tourism certification program. The introduction of a Municipal Accommodation Tax will allow some of these actions to be funded as well as introduce new opportunities.

9. Attachments:

Attachment 1 – Asset Transfer Policy for Municipal Services Corporations