

**Municipality of Chatham-Kent**  
**Infrastructure and Engineering Services**  
**Public Works**

**To:** Mayor and Members of Council  
**From:** Ryan Brown, P.Eng.,  
Director of Public Works  
**Date:** January 23, 2024  
**Subject:** Wheatley Emergency Update

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**Recommendation**

It is recommended that:

1. Council authorize and approve those actions taken by the Mayor and administration in response to the emergency in Wheatley, including purchases that were deemed necessary in response to the emergency from October 3, 2022, to date.
2. The Director, Legal Services and Chief Administrative Officer be authorized to execute agreements of purchase and sale to purchase the following properties in the Wheatley evacuation area:
  - a. 15 Erie Street North from Triwabi Enterprises Inc. for \$94,000.00
  - b. 19-23 Erie Street North from Maurice Raffoul for \$120,000.00
  - c. 27 Erie Street North from Wheatley (ONT. NO. 324) Branch, The Royal Canadian Legion for \$1,238,900.00
  - d. 29-33 Erie Street North from Veronica Ann Balkisson for \$1,268,400.00
  - e. 37 Erie Street North from 1486047 Ontario Ltd. for \$795,000.00
3. The cost to purchase the properties be funded by the 3-million-dollar provincial grant for the Wheatley Emergency, and remainder funded from the Strategic Reserve in accordance with the Reserves and Reserve Fund Policy.
4. Council direct administration to initiate a public consultation process regarding the draft Evacuations in Potential Gas Emission Areas By-law, attached as Appendix A.

## **Background**

The Wheatley Emergency has been ongoing since 2021 due to hydrogen sulfide gas (H<sub>2</sub>S) concerns. Several reports have been received by Council on the subject including:

- Wheatley Gas Explosion Emergency – Recovery Update (December 12, 2022)
- Wheatley Emergency Financial Update (October 3, 2022)
- Wheatley Long Term Evacuation Zone Tax Grant (June 6, 2022)
- Wheatley Emergency 2021 Financial Update (March 28, 2022)
- Wheatley Emergency Expenses to Sept 30, 2021 (November 8, 2021)
- Property Taxes – Wheatley Evacuation Zone (October 25, 2021)

This report provides updates to the emergency work to date since the last council report of December 12, 2022.

## **Property Acquisitions**

Based on expert engineering reports received from both T.L. Watson & Associates (T.L. Watson) and WSP Canada Inc. (Formerly Golder Associates Ltd.), administration received direction in closed session to pursue preliminary negotiations with owners regarding potential acquisition of properties identified by T.L. Watson as being inappropriate for re-development within Wheatley.

Following Council's direction, Administration made offers to each of the property owners within the current evacuation zone. Administration obtained appraisals for each property and the offers were based on those appraised amounts. The appraisals and the Municipality's terms for purchasing each property have been shared with each of the owners and/or their lawyers.

## **Draft By-law- Excavation in Potential Gas Emission Areas By-law**

In two previous expert reports received by the Municipality, being the Wheatley Emergency Gas Emission report by T.L. Watson and the Pathways for Analysis for the Wheatley Natural Gas Emission report by WSP Canada Inc. (WSP), consultants recommended future prohibitions on deep excavations and drilling in the former town of Wheatley. This is a unique issue to address based on the conclusions of the experts that gas from deep underground is finding a pathway into the shallow water aquifer, and then ultimately finding a path to the surface. Due to the uniqueness of this issue and expert recommendation, administration was not able to find any precedent legal instrument to draw upon from another jurisdiction to address this matter.

## **Comments**

Many events and milestones have occurred since December 2022 that have been communicated to the residents of Wheatley and Chatham-Kent.

A summary of major events is provided below to update council:

November 2022

- Elm Street and Foster Street are re-opened to the public.

December 2022

- H2S scrubber designed to remove H2S emissions from the monitoring well is installed.
- Erie Street North is re-opened to traffic, ending all road closures in Wheatley due to the emergency.

March 2023

- Public Meeting held to go over the results of the final WSP Pathway Analysis and the final T.L. Watson Gas Emission Report.

April 2023

- Another pump test of the monitoring well conducted to compare to first test results. University of Windsor and Matrix Solutions Inc. (Matrix Solutions) attend to collect samples for further analysis.

August 2023

- Province holds announcement meeting in Wheatley to announce funding for the Municipality, including \$8.1 million for emergency costs, a further \$3 million for future costs, and \$225,000 for the Wheatley Recovery Taskforce to support community redevelopment.

September 2023

- Matrix Solutions report received on their analysis of monitoring well gas characteristics.

October 2023

- Private security guards removed from downtown Wheatley.
- T.L. Watson, University of Windsor, and contractors on site to install new more permanent scrubber equipment on monitoring well and perform surface gas migration survey.

December 2023

- Several private buildings demolished on west side of Erie Street North.
- Temporary gas separator and flare stack removed from site.

January 2024

- Modifications to gas scrubber system and well control system as recommended by T.L. Watson implemented.
- More secure fence installation under way.

Currently HSE Integrated (HSE) remains on scene 24/7 maintaining ambient air monitoring and inline monitoring of the monitoring well and scrubber equipment. A review of the monitoring program and onsite resources required is currently underway. The municipal building department is collaborating with the owners of individual properties outside of the evacuation zone, which still have orders on them.



Figure 1: Now Removed Scrubber System



Figure 2: New Scrubber System

Following up on T.L. Watson recommendations, administration has been creating a conceptual plan to investigate the presence of another well in the vicinity of the monitoring well. The Matrix Solutions report agrees that another well is feeding the monitoring well from a nearby distance. The Matrix Solutions report can be found on the Let's Talk Chatham-Kent webpage as detailed under the communications section. Once more details are finalized, these plans will be communicated to the public, but no action on finding other wells is scheduled to be done until later in 2024.

Administration continues to work with property owners within the evacuation zone, to explore the potential for acquisition of those properties. If these properties are acquired by the Municipality, it will provide the most flexibility for ongoing investigations and safety systems, as well as allow for community input to the future vision for the site.

The Municipality continues to engage with the provincial government regularly on the emergency as well as broader legacy oil and gas initiatives in the province.

#### Provincial Grant Program

Recently the municipality was announced as a recipient of \$280,000 in provincial funding through the Legacy Oil and Gas Wells and Subsurface Gas Migration Risks Municipal Transfer Payment Program. The application criteria covered a broad range of projects related to the risks associated with legacy oil and gas wells. Chatham Kent was able to apply for up to \$280,000 in projects, 100% grant funded. Administration submitted a project plan that included the following:

- Chatham Kent purchase up to 1000 Lower Explosive Limit (LEL) gas monitors to distribute to residents free of charge for home (indoor air) monitoring in the community of Wheatley. The gas monitors will be made available to the community to provide a greater level of reassurance as the Wheatley remedial work continues. The distribution of the gas monitors will be supported by a municipal communication initiative to help Wheatley residents better understand the gas monitors and risks associated with natural gas.
- The municipality is converting an existing space into a permanent Emergency Operations Centre (EOC). Funds will be used to appropriately equip the new EOC including HVAC upgrades, office equipment, and electronics.

Administration anticipates that the monitor program will be 100% funded by this grant and that the EOC will be over 50% funded by the grant. All work associated with the grant must be complete by March 31, 2024.

Several of our Municipal neighbours also applied and received funding which was only open to a select few municipalities in southwestern Ontario with significant legacy oil and gas infrastructure. Administration has been collaborating and sharing information with them to leverage lessons learned from the Wheatley Emergency.

### Property Acquisitions

As listed in the recommendations for this report, there are five property owners who have signed an agreement of purchase and sale for the Municipality to purchase their property, and administration is seeking Council approval to proceed with these sales. The successfully negotiated agreements of purchase and sale with the five Group B property owners contain the following terms:

- Each purchase price is based on the appraised value of the lands, plus reasonable legal costs up to \$2,500.
- Each seller is permitted to access the property prior to closing to remove any possessions in coordination with any safety protocols established by the Municipality required to attend the evacuated area.
- The Municipality is permitted to access each property prior to closing to complete a designated substances report, if required.
- The closing of each property will be on a short timeline once Council approval is received, for the Municipality to obtain each property as quickly as possible.

Should any further agreements be successfully negotiated, the Municipality will return to Council in open session for approval to proceed with the purchase. Where any property owner rejects the offer and administration cannot successfully negotiate a purchase price for any property, Council will need to consider whether to initiate an expropriation process. While this process is avoided whenever possible, there is a need to continue investigation for other potential gas sources in the area, which requires these property acquisitions.

Draft By-law - Excavation in Potential Gas Emission Areas By-law

With input from several divisions of the Municipality, administration has drafted a new Excavation in Potential Gas Emission Areas By-law. The overall terms of the by-law provide that:

- No regulation of excavations that are 6 metres deep or less. This allows for most normal excavations, including construction of basements. It should be noted, however, that it is recommended that any newly constructed basements in the Wheatley area should strongly consider implementation of some gas monitoring equipment.
- Regulation of any excavations that are deeper than 6 metres (called “Deep Excavations” under the by-law). The full by-law should be referred to understand exactly what is proposed, but from a high level the regulation of these, Deep Excavations involves:
  - Applying for a permit to the Chief Building Official for the Deep Excavation.
  - Submission of an application and excavation plan which will address:
    - Details of the planned excavation, schedule, and site.
    - Financial security to ensure work under the permit is performed.
    - Insurance.
    - Proof of necessary approvals from other agencies.
    - Gas monitoring plans.
    - A safety plan to be implemented if a gas release occurs; and
    - 24/7 contact information.
  - The ability of the CBO to apply conditions to the permit to protect the environment, people, and property.
  - A process for revocation or closing of the permit, including steps required to address any excavation that has already occurred.
  - Obligations on the excavator if a gas release occurs; and
  - Enforcement powers.





Due to the unique nature of this by-law, and the importance of getting feedback on how the implementation of this by-law would impact the community, businesses and other stakeholders, administration recommends that a public consultation process be initiated.

If Council passes this recommendation, impacted departments and Corporate Communication will develop and release a consultation process. Following that process, a further report will be brought to Council with a summary of feedback received, any recommended changes to the Draft By-law, and recommendations on next steps.



### **Council Term Priorities**

This report supports the following Council Term Priorities:

			
<b>Deliver Excellent Service</b>	<b>Promote Safety &amp; Well-Being</b>	<b>Grow Our Community</b>	<b>Ensure Environmental Sustainability</b>
	3(b)		

### **Consultation**

Finance, Budget, Information Technology and Transformation has been consulted in preparation of this report and have verified the financials.

### **Communication**

The Municipality has been engaging the community since the beginning of the project through social media, a dedicated Let's Talk Chatham-Kent webpage, media releases, an email subscription list, as well as online and in-person public meetings.

More detailed information including consultants' reports can be found at:

<https://www.letstalkchatham-kent.ca/wheatley-updates>

Should the recommendation regarding acquisition of properties herein be approved, Legal Services will communicate with each seller's lawyer to move forward with purchasing each property as soon as possible.

Communication regarding the draft Excavation in Potential Gas Emission Areas By-law will include posting and seeking feedback on Let's Talk Chatham-Kent webpage, meeting with the Wheatley Task Force, and press releases to attempt to obtain feedback from any relevant stakeholder.

### **Diversity, Equity, Inclusion and Justice (DEIJ)**

This report does not have implications related to diversity, equity, inclusion, or justice.



## **Financial Implications**

The following table provides a high-level overview of costs incurred with the emergency to date and totals of funding received or committed from the province.

**Table 1: Wheatley Emergency Expense & Grant Report**

<b>Description</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>Total</b>
Expense	\$5,058,531.72	\$12,453,522.55	\$4,519,776.25	\$22,031,830.52
Provincial Grant	(\$2,000,000.00)	(\$3,929,999.99)	*(\$10,498,760.32)	(\$16,428,760.31)
<b>Total</b>	<b>\$3,058,531.72</b>	<b>\$8,523,522.56</b>	<b>(\$5,978,984.05)</b>	<b>\$5,603,070.23</b>

\*Another 3 million was committed to fund future costs incurred by the Municipality

The cost to purchase the 5 properties as recommended herein is \$3,516,300. Each agreement also allows for the property owner to be reimbursed up to \$2,500 for reasonable legal fees accrued in the transaction. A total of up to \$3,528,800 can be expected to be paid for these 5 sales. The costs of the purchases shall be paid from the recent funding committed from the province, and any additional costs will be paid from the Strategic Reserve in accordance with the Reserves and Reserve Fund Policy.

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Reviewed by: Edward Soldo, P.Eng., General Manager, Infrastructure and Engineering Services

Consulted and confirmed the content of the consultation section of the report by:

Matt Torrance, Director, Financial Services

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Chris Case, Fire Chief, Chatham-Kent Fire & Rescue

Attachment: Appendix A – Draft Excavation in Potential Gas Emission Areas By-law