

# FORMAL REPORT

<b>To:</b>	Mayor Strathdee and Members of Council
<b>Prepared by:</b>	Jenna McCartney, Corporate Administrative Coordinator
<b>Date of Meeting:</b>	25 July 2017
<b>Subject:</b>	<b>COR 31-2017 Accessible Websites and Web Content</b>

## PURPOSE

The purpose of this report is to provide Council with the Accessibility for Ontarians with Disabilities Act (AODA) requirements for providing publically available video of Council proceedings, and to present several options to Council to consider as it relates to making Council proceedings publically available.

## RECOMMENDATION

THAT COR 31-2017 Accessible Websites and Web Content report be received; and,

THAT the Town perform a test pilot on livestreaming services for Council meetings for a three month trial period at no charge with a report back from staff for Council to determine its next steps.

## BACKGROUND

At the February 13, 2017 Accessibility Advisory Committee regular meeting, the Committee discussed the recent situation that occurred in the City of London where City Council made a decision to remove all archived video footage from their municipal website and their YouTube channel. This decision was based on an interpretation of the *Accessibility for Ontarians with Disabilities Act* (AODA) that the City was not in compliance with the AODA because they did not offer captioning of their video content.

Town staff informed the Town of St. Marys Accessibility Advisory Committee (AAC) that it was staff's interpretation of the AODA that posting video content of council proceedings on the municipality's website or the municipality's YouTube channel without captioning would be in violation of the AODA Ontario Regulation 191/11. As such the municipality would not be posting new video footage to either site until staff had determined if alternative solutions for posting the information existed.

The minutes of the AAC meeting were included in the March 21, 2017 regular Council meeting agenda package. Through discussion, Council raised concerns around the obligation of Council to be an open and transparent government and requested that staff report on the requirements of the accessibility legislation. This report provides the legislative requirements for Council's information, and several options for proceeding.

## REPORT

### Past Process Related to Video Recording of Council Proceedings

- Mid 2012 Town staff had procured meeting management software to aid in the development of Council meeting agendas

- Summer of 2014 Town staff were recording Council and Committee of the Whole proceedings for archival purposes
- Early 2015 Town staff was uploading Council and Committee of the Whole meeting proceedings on the Town of St. Marys YouTube channel. At the same time a few Council meetings were livestreamed.

## **Current Process Related to Video Recording of Council Proceedings**

Early in 2015 the Town lost control of the Town's YouTube channel and worked directly with Google to restore control. This did not happen until mid-2016 after the Town's new website was launched. During this period, staff continued to record and archive proceedings of Council and the Strategic Priorities Committee. However, staff have not uploaded any new video to the Town's website due to an interpretation of the requirements of the AODA as requiring caption of these videos before they can be posted.

To staff's knowledge there has not been an external request to view archived Council proceedings.

## **Legislation**

The *Accessibility for Ontarians with Disabilities Act* (AODA) came into force in 2005. Ontario Regulation 191/11, Integrated Accessibility Standards, came into force in 2011. The legislation under O. Reg. 191/11 includes four Parts;

- PART I General
- PART II Information and Communications Standards (includes regulation of websites)
- PART III Employment Standards
- PART IV Transportation Standards
  - PART IV sub-parts; Design of Public Spaces Standards, and Customer Service Standards

Section 14, sub-section 2, 4 and 5 of the AODA speaks specifically to accessibility and internet websites. It requires:

*14.2 Designated public sector organizations and large organizations shall make their internet websites and web content conform with the World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0, initially at Level A and increasing to Level AA, and shall do so in accordance with the schedule set out in this section.*

*14.4 Designated public sector organizations and large organizations for their internet websites shall meet the requirements of this section in accordance with the following schedule:*

- 1. By January 1, 2014, new internet websites and web content on those sites must conform with WCAG 2.0 Level A.*
- 2. By January 1, 2021, all internet websites and web content must conform with WCAG 2.0 Level AA, other than,*
  - i. success criteria 1.2.4 Captions (Live), and*
  - ii. success criteria 1.2.5 Audio Descriptions (Pre-recorded).*

*14.5 Except where meeting the requirement is not practicable, this section applies,*

- a. to websites and web content, including web-based applications, that an organization controls directly or through a contractual relationship that allows for modification of the product, and*
- b. to web content published on a website after January 1, 2012.*

At present, the Town must meet WCAG 2.0 (Level A). For time-based media this requires:

- **Guideline 1.2.1 Audio-only and Video-only (prerecorded)**

Prerecorded audio-only must include an alternative that presents equivalent information

Prerecorded video-only must include an alternative for time-based media or an audio track.

- **Guideline 1.2.2 Captions (Prerecorded)**

Captions are provided for all prerecorded audio content, except when the media is a media alternative for text and is clearly labeled as such.

- **Guideline 1.2.3 Audio Description or Media Alternative (Prerecorded)**

An alternative is provided, except when the media is a media alternative for text and is clearly labeled as such.

By 2021, the Town will have to meet WCAG 2.0 (Level AA). This requires:

- **Guideline 1.2.4 Captions (Live)**

Captions are provided for all live audio video content

- **Guideline 1.2.5 Audio Description (Prerecorded)**

Audio description is provided for all prerecorded video content

## **Response from the Accessibility Directorate of Ontario (ADO)**

Town staff have consulted the ADO regarding staff's interpretation of the legislation. The response was:

"... a municipality needs to provide captions for any video posted on its new or significantly refreshed website which is not live, and this would include pre-recorded council proceedings."

## **Legislation : What This Means to St. Marys**

The Town of St. Marys is deemed a public sector organization within the province of Ontario. As a result of the website redesign in 2016 the municipality was required to ensure that the website and all web content published on the website after January 1, 2012 conform to WCAG 2.0 Level A standards.

"Website content" is defined as all textual, visual, or aural content that is encountered as part of the user experience on websites. It may include – among other things – text, images, sounds, videos, and animations.

This means that all agendas, minutes, forms, posters, plans and reports that are posted to the Town's website must be created in accessible format. This also means that all videos stored on a website owned or operated by the municipality must be captioned. These websites include the [TownofStMarys.com](http://TownofStMarys.com) and [YouTube.com/User/TownofStMarys](https://www.youtube.com/user/TownofStMarys)

"Captions" are defined as synchronized visual or text alternative for both speech and non-speech audio information needed to understand the media content.

If the municipality solely livestreamed Council proceedings through YouTube or similar platform, it would not need to provide captioning in order to be compliant with O. Reg. 191/11 at this time. However, it must be noted that this does not preclude the possibility of an Ontario Human Rights Code claim.

## **Alternatives to Consider for Captioning**

### **YouTube**

The YouTube platform offers a captioning feature at no charge. In principle, the offer is promising. In practice, it yields many errors contributed by the clarity of specific words, the audibility of the spoken words, as well as the speaker's distinctive mode of pronunciation. A number of tests were conducted on other municipalities' archived videos that had utilized YouTube's free captioning

service; using two minute clips of video up to nine (9) errors were evident. The result of these errors could significantly impact the intent of the message to the listener.

## **Captioning Services**

There are providers that offer captioning services. The cost of service ranges from \$4.00 to \$9.00 CAD per minute of captioned content. When contacted by staff, the Canadian Hearing Society provided an estimate of \$7.00 to \$9.00 CAD per minute, exclusive of taxes. An estimate of Council and Strategic Priorities Committee content collected in one year the cost of captioning could range \$20,000.00 to \$45,000.00.

## **Options for Council to Consider**

### **Option #1**

Maintain status quo: Council may choose to continue with recording Council and Committee proceedings for internal purposes and not post videos to the website. Copies could be provided to any member of the public that requests to view a meeting (including accommodated versions upon request). This option does not support a heightened level of transparency of Council although it does ensure compliance with the accessibility legislation related to captioning.

### **Option #2**

Return to past practices: Council may choose to direct staff to publish recorded Council and Committee proceedings without captions. Based on the information provided by the ADO this option is in direct violation of the AODA. The Province of Ontario through the Accessibility Directorate of Ontario requires all public sector organizations in Ontario to submit a compliance report by December 31, 2017. The report includes twenty (20) questions focused on determining if the organization is meeting the accessibility requirements. The Town is presented with the question "Other than the requirements cited in the above questions, is your organization complying with all other requirements in effect under the Integrated Accessibility Standards Regulation?" Based on the opinion of the ADO, if the organization publishes video files on the website or on the municipality's YouTube channel without captioning, and because the municipality has updated its website since 2012, it must respond in the negative. It is unknown the consequences of answering in the negative.

If Council chooses to proceed with this option, procedures could be put in place that direct people to contact the Clerk's Department if they require the video file in an alternative format, and the Town would provide the necessary accommodation. By instituting this option, the municipality would still be in violation of the legislation, however, it would be making an attempt to assist those that self-identify with requiring an accommodation.

There are no immediate financial implications to the municipality if this option is chosen although there is the possibility of a Human Rights complaint. Another risk is that a fine could be imposed by the Province of Ontario through the Accessibility Directorate of Ontario for non-compliance of the legislation. The penalty for a corporation is \$100,000.00.

### **Option #3**

Secure captioning services: Council may choose to direct staff to procure captioning services from a third party for any video files that will be archived on the municipality's website or uploaded to the Town's YouTube page by the municipality.

The cost for this service ranges \$20,000.00 to \$45,000.00 per annum.

### **Option #4**

YouTube captioning: Select captioning services at no charge through the YouTube channel although the accuracy of this option is severely impeded. There are no financial implications if this option is chosen.

### **Option #5a**

Livestreaming through a public platform such as YouTube or Facebook Live: Upon initial inspection it appears that the majority of the required hardware is available to implement this option. The likelihood of livestreaming and recording Council proceedings is minimal without a significant investment to the Town's current recording infrastructure. This would mean the municipality would not have archived video of Council proceedings. Policies would need to be put in place related to the process for recording open and closed session proceedings. There is a possibility that additional staff would have to attend Council meetings to implement logistics while ensuring a flawless presentation to the end user. The associated costs for this could range between \$4,000-\$7,000 annually.

Additional hardware to the existing desktop computer would be required at an approximate cost of \$500.

### **Option #5b**

Livestreaming through eSCRIBE: Livestreaming through the Town's current agenda software program is ideal as it links the video with the placement of the agenda and the minutes. The end user will be able to access specific agenda items or minute items with the exact placement of the video without having to manually scan the full video. Municipalities such as Lambton County, City of Kitchener, City of London and the City of St. Catharines utilize integrated Council Agenda, Minutes and Video Software. This option will be tested in fall 2017 for three months at no cost to the municipality. The cost to annually implement this option is \$8,000 plus applicable taxes which includes encoding hardware (excluding cameras and microphones).

eSCRIBE has confirmed that the software will directly livestream Council proceedings while recording the content to be archived for internal purposes.

This option does not tackle the lack of captioning for the archived recordings and therefore, the recordings would not be archived to the Town's website without approval from Council due to the imposed violation of legislation.

## **SUMMARY**

Council and staff have been striving to achieve increased openness and transparency of Council proceedings by providing archived video footage on the municipality's website and YouTube channel. It would appear that the legislation related to accessibility limits these advances unless the Town is prepared to assume a large annual cost. This is an unfortunate situation because the intent of the accessibility legislation is to broaden access to all persons, however the requirement for captioning is becoming a financial barrier that is limiting access to local government. Many municipalities are struggling to come up with a feasible solution that meets the requirements of the AODA and the pending legislation surrounding transparency of local governments.

Until such time as the accessibility legislation is more concise and there is less interpretation between the letter of the law and the intent of the law, Council is forced to make an interpretation of the law as it relates to captioning requirements.

## **FINANCIAL IMPLICATIONS**

There are no immediate financial implications for Option 1 or 2. However, there is a possibility that a Human Rights complaint could be filed and the ruling could result in the municipality having to caption all or some of the Council proceedings. The other risk is a fine could be imposed by the Province of Ontario through the Accessibility Directorate of Ontario for non-compliance of the legislation. The penalty for a corporation is \$100,000.00.

The financial implication of Option 3 could range \$20,000.00 to \$45,000.00, depending on the length of each proceeding and the number of proceedings that Council decides to record and caption. Other municipalities that have undertaken captioning of their video files offer comments that the captioning services can be completed with 24 – 48 hours following a meeting resulting in the opportunity to upload the video file to the municipality's website 1-3 days following the meeting.

There is no financial implication of Option 4, however the captioning service offered through YouTube has been found to be less than adequate and staff cannot recommend that Council proceed with this option.

Option 5a would involve a financial implication of at least \$500 plus staff time to implement.

Option 5b would cost \$8,000 annually. There is a possibility that as more modules are added to the eSCRIBE agreement, a discount could be provided.

Staff is not in a position to recommend to Council to proceed with any option that is not in full compliance with legislation. As a result, it is staff's recommendation that the Town try the livestreaming services for the three month trial period at no charge and then determine its next steps.

## **OTHERS CONSULTED**

Accessibility Directorate of Ontario  
Information Privacy Commissioner  
Mike Kuttschrutter, Network Administrator

## **ATTACHMENTS**

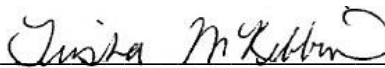
None

## **REVIEWED BY**

### **Recommended by the Department**



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### **Recommended by the CAO**



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