

# **Niagara-on-the-Lake Residents Association**

## **Review Of Draft Parks & Recreation Master Plan**

*After review of this draft master plan, a general observation is that once we're compelled to align our NOTL Parks bylaws with Ontario Bill23, residents in Niagara-on-the-Lake are going to swallow a bitter pill. The Master Plan already explains that parkland provision goals that we have in our Official Plan have to follow Queens Park and there's nothing to celebrate with a new target of 3.0 hectares/1000 residents when you realize we're slightly below that point today and steadily shrinking. Asking today's council to commit to designating 17.3 hectares as catch up for new parkland over the next 10 years is fiction. Accepting more cash-in-lieu of land is being treated like 'new money' but it fails to quantify that it is 'less money' too. We're being sold that all this 'new money' will benefit us with a wish list of facility upgrades and pet projects that were drawn from a few residents, all of the staff and select special interests.*

### **Key Points From The Review**

The Niagara-on-the-Lake Residents Association (NOTLRA) has an expectation that the 185 page final draft of the Parks and Recreation Master Plan (PRMP) would genuinely be 'strategic', with broad recommendations flowing as a result of new provincial legislation, to enable our elected Council to set policies and direction to staff on how to plan and budget Parks and Recreation activity over the next decade.

**Residents of Niagara-on-the-Lake cherish their green space want to see how our parks and recreation facilities footprint would expand in concert with population growth expected to rise 28.7% over the next decade. A target of 3.0 hectares/1000 residents is nothing to cheer about considering the previous Ontario Ministry of Tourism, Culture and Recreation recommended 4 hectares of parkland per 1000 people. We are currently at 2.95 hectares per 1000 people and will fall to 2.3 per 1000 people by 2035 if no additional (non-cash) park land provisions are made. In essence we are beneath the target parkland allocation today and will fall further behind over the next 10 years if new parklands are not regularly identified and assigned.**

**Bill23 imposes new restrictions on the scale of park dedication and the value of the park dedications that can be imposed on developers. The PRMP recommends to hiring a consultant to actually lay out the methodology of how land assignment will grow our parklands and how 'cash-in-lieu' will support and upgrade the existing parks.**

**Bill23 is particularly onerous in that the municipality has to spend at least 60% of the Town's parkland funds or dedicate those funds to a specific land acquisition every year. If so, where is there at least a 'guesstimate' projection of revenues and dates?**

**Absent a published schedule, it seems very premature to show residents a Parks & Recreation 10 year Capital Cost Estimate totaling over \$3.6 million with a short-term (Years 1-3) estimate of almost \$1 million. Based on what? We have no idea until the Town staff spends \$40,000 to prepare a Development Charges Background Study.**

**It's commendable that the Parks and Recreation Master plan drills down, in detail, how parkland funds can support recreation and sports needs of seniors and youth who live and work in Niagara-on-the-Lake in a detailed and pragmatic fashion. Enhancements to indoor facilities and outdoor playgrounds make sense.**

**However half the short-term priorities in the document's capital expenditure schedule drifts prematurely into two major 'pet projects'.**

**If you can excuse the pun, the first 'pet project' is the off-leash dog park proposed for Newark Park costing \$307,000. Has there been any consideration or discussion about using the Old Rifle Range lands 1500 metres away?**

**Whereas the need for off-leash facility in NOTL for pets is indisputable, a second 'pet project' is disputable, the 'floating docks' at River Beach Park. The proposal to acquire and install temporary floating docks at that site was disputed in 2024 and rejected by Council in April that year.**

**It's common knowledge that private operators of rental watercraft rely heavily on unrestricted access to public parks and free parking to support their for-profit businesses. Online, these businesses describe their base of operations as the public parks themselves.**

**Is this proposal attached in some way to the private operators?**



It is a concern of many residents that these private operators will occupy much of the proposed floating docks and kayak launchers just as they do in Queens Royal Park today.

Within the Parks and Recreation Master Plan one phrase that is never used is occupiers' liability. This is a statutory obligation in Ontario and applies to all people who own land including municipalities. Section 3(1) of the *Occupiers Liability Act*

(<https://www.ontario.ca/laws/statute/90o02>) states

***An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.***

Municipalities are generally very sensitive to the fact that any activity which takes place on municipal property is covered

by the Occupier's Liability Act. Occupiers liability particularly comes into play when activities such as recreational activities be it tobogganing or bicycle riding or launching a kayak result in harm to an individual. In a recent case in Fort Erie (Labanowicz v. Town of Fort Erie), the trial court awarded a total of approximately \$995,000 in damages, additionally, the court ordered \$921,508 in legal costs all arising from a bicycling accident on a recreational trail. A similar analyses was used in determining 100% liability on a municipality for bicycle injuries for a bicycle course that had been created by a municipality (*Campbell v Bruce (County)*, 2016 ONCA 371.) The Court of Appeal confirmed the lower court finding that the Municipal Corporation of the County of Bruce (the “Municipality”) was liable for serious injuries sustained by a visitor in the Municipality’s public bicycle park. *Uggenti v. Hamilton (City)*, 2013 ONSC 6162, affirmed in 233 A.C.W.S. (3d) 283 (Ont. S.C.J., Lococo J., Hamilton File No. 04-12153) resulted in a damage award of in excess of 500,000\$ arising from a tobogganing accident.

This is of grave concern when the plan proposes a Zip Line for \$1.25 million destination park . There are no municipally operated zip lines in Ontario. For good reason.....liability concerns.

Similarly to the extent that you propose to create a kayak launching site you must be prepared for inevitable claims under the occupiers' liability act to the extent that any harm comes to anyone who uses the site. Any individuals who are actually operating businesses of a commercial venture using the launching site may of course have their own liability concerns but typically individuals who are harmed will take a

shotgun approach and include municipalities in the lawsuit simply because municipalities inevitably have deeper pockets than individuals or limited liability companies.

If the Town Council is serious about saving money on legal fees these are “pet projects ‘which have limited utility to the residents (where over half the population is above 65 according to Statistics Canada) and yet exposes the Town to considerable liability.

## **Details**

Concerns listed in order through the document are:

- **Section 1.5 Parks & Recreation Context Page 13 - *Figure 1.3: Parks and Facilities in Old Town Only* - The identification of parks numbered '23' River Beach' and '24' Balls Beach incorrectly reversed.**
- **Section 1.6.1 Town Council & Staff - *Vision* - Most notable in the vision paragraph is the absence of the word parkland 'reservation' or 'allocation' suggesting that expansion of a parkland footprint by 17.3 hectares over 10 years is not on the radar screen for our Council & Staff. The focus on "cost-sensitive plan is needed, which reassesses current assets, prioritizes sustainability, and aligns with future growth and tourism opportunities" speaks loudly of the direction given to the PRMP team.**
- **Section 1.6.3 Residents\_Public Online Survey\_ *Resident Respondents* - The online survey on "Join the Conversation" was conducted from July 15 to September 7, 2024 and received only 462 resident**

responses representing 2.4% of the population of Niagara-on-the-Lake. It is general knowledge in NOTL that resident engagement surveys during peak Summer months like July and August should be avoided when many residents are out of town. The quality of the survey was poor and based on the statistically-low data capture, quoting double digit survey results in the report is somewhat meaningless.

- **Section 2.1.2 Parkland Dedication** - The document cites the Town's current Official Plan and recommends amending section 10.8 to align with Ontario Bill 23 and include a prescribed Parkland Dedication By-law and a Cash-In-Lieu of Parkland Policy. Additionally, the PRMP recommends an updated Development Charges Background Study and Development Charges By-law. These recommendations seem to focus on the collection of funds (which by-the-way is significantly reduced by legislation) for park enhancements but somewhere in all the language, the concept of parkland conveyance (17.3 hectares over the next decade) gets lost in the fog.
- **Section 2.1.3 Park Classification** - The document describes in detail a recommendation for classification of our 28 existing parks into five typologies. This is where you would think input from residents is essential but staff took it upon themselves to not only create the guidelines for each typology but also assign the individual parks to these typologies. What stands out more than anything in these recommendations is the designation of 5 of our parks as 'Waterfront Parks' and the peculiar guidelines assigned to them.

**The Parks and Recreation master plan fails to recognize the one important feature that all NOTL residents understand: a majority of our waterfront parks face unto a river not a lake and that river is a fast flowing watercourse, one of the largest in North America. The guidelines recommended for the five waterfront parks in Niagara-on-the-Lake are better suited for a site like Sandbanks in Picton Ontario rather than a few hundred meter rock-faced shoreline here.**

**It is incomprehensible to see recommendations from staff for beach volleyball courts, dogs off-leash, pavilions, small craft launching, small craft rentals and storage areas in two park shorelines that are each barely 50 meters long.**



**First of all, in a community in which 60% of residents are over 50 years old, who asked for beach volley ball?**



**The parks bordering the waterfront are small, passive parks not fallow green space needing development.**

**The two parks facing onto the Niagara River are engineered storm water control features. This is an area that the town spent hundreds of thousands of dollars in consultants and engineering to make it into a storm water control zone and it is not fallow real-estate waiting for development.**

**Off-leash designation for waterfront parks is unacceptable. Although dogs swim off-leash in the water for their own safety there are many other users of the parklands facing the water who do not want free roaming pets disturbing their space.**

**The PRMP specifically recommends a short term budget expenditure of \$100,000 for floating docks and kayak launchers in River Beach Park. This is disturbing to the residents familiar with the proposal because the 'floating docks' project came before NOTL Council on April 30, 2024 as OPS 24-030 and was rejected in a council vote because it was poorly researched, expensive, unmanageable and very high risk with associated liabilities and amplified insurance costs. This proposal should be removed from the draft PRMP because it had already been turned down.**

- .Section 2.3.2 Tree Canopy & Shade - There is no dispute from residents that the tree canopy in Niagara-on-the-Lake parks is diminishing with recent culling of disease-ridden or aging non-indigenous species. Planting of replacement trees in areas of culling or after tree falls requires prudent selection of disease resistant and hopefully native tree species.**

**•Section 2.4.4 Accessibility - Melville Street Dock - The recommendation to install a floating dock to provide accessible kayak launching is again, an issue that was debated in Council on April 30, 2024 and rejected. The town of Niagara-on-the-Lake does not have the resources nor bylaw enforcement capacity to ensure safe use of a kayak launcher during daylight hours let alone after dark. The Melville Public Dock is located in a fast flowing section of the Niagara River and can be subject to large waves during storms and impacted by the wakes of large motor craft.**

**•Section 2.4.5 Shoreline Protection - The Dock Area Master Plan has been in place for 10 years and is generally unchanged regardless of the shoreline amendments that were made in 2019-2022. Again, it is noteworthy that a major component of the shoreline protection, the 'groyne' was completely demolished by the strong interaction of the river in contact with the lake and is a testament to the unpredictable risk of constructing or adding temporary recreational platforms in this section of the shoreline.**

**•Section 2.5.2 Playgrounds - Zip lines for children?**



**There are no municipally operated playground zip lines in Ontario. Why do we want to be the first?**

**The idea of enhancements made to children's playgrounds is commendable but who uses the equipment, how they treat it and when they use it is substantially beyond the control of Town staff.**



**It is not unusual to see teens and adults abusing playground equipment off hours, so selection of equipment has to address the lowest common denominator of users. Again liability has to be a huge concern for hazardous activities such as zip lining and kayaking , and is not addressed at all in the PRMP. These proposals require spending substantial sums to create environments which are almost guaranteed to attract lawsuits and are of limited utility to the residents**

**A ramped-up \$1.3 million 'destination' playground complete with 'zip line' in the Old Town Community Centre does very little for the residents/parents of St Davids and Glendale.**

From a geographic perspective, Niagara-on-the-Lake has a well supplied 'corridor' of approximately 5 km distance (10-minute drive) between Old Town and Virgil. Drive time between Virgil and St. Davids is 8 minutes (7 km), so comparable to that between Virgil and Old Town, and between Old Town and St. Davids it is approximately 30 minutes (15 km).

**A majority of our population growth will occur in St Davids and Glendale and as a parent/grandparent I know I would want to walk my kids to the playground not drive for half an hour.**

- Section 2.5.5 Off-Leash Dog Parks - The need for a dog park is certain and the recommendation to spend \$307,000 in Newark Park may be the answer. However, Parks Canada does have oversight of the former Rifle Range that is still a Department of National Defence legacy site. However, that site was 'sterilized' for unexploded ordnance (UXO) to a primary safety standard level 1 which is safe for human and animal activity as long as there is no construction of foundations for buildings or structures. Wouldn't this be a good tradeoff for the Commons?**
- Section 2.5.9 Disc Golf - The plan is to move and expand the Disc Golf to Rye Park. Where will the equipment for**

**free rental be stored and lended-out in that location remote from the Community Centre?**

**The Rotary Club donated \$20,000 to install the disk golf that exists at the Community centre today. How will future donations by service organizations be welcomed if they can be discarded/relocated only a few years later?**

**.Section 6.2.2 Suggested Schedule & Cost Estimates -  
Table 6.1: Master Plan Recommendations with  
Suggested Implementation Schedule**

**Service Area # PO1 Parkland Provision - needs to identify where and when parkland will be provided**

**Service Area # PO2 Amend section 10.8 Official Plan needs to reflect Bill23**

**Service Area #PO3 Parkland Dedication Bylaw needs a timeline**

**Service Area #PO4 Cash In-Lieu Policy needs to be carefully reviewed**

**Service Area #PO5 Development Charges Policy Review \$40,000 consultant?**

**Service Area #PO6 The Parkland classification for waterfront parks is unacceptable as written as described earlier in this document**

**Service Area #PO34 Floating docks proposal must be removed**

**Service Area #PO35 Kayak launcher proposal must be removed - #PO32 mat at Queens Royal Park is adequate**

**Service Area #PO36 Dock Area Master Plan is approved and just needs to be implemented**

**Service Area #PO41 The Zip line theme of the playground expansion \$1,250,000 needs to be reconsidered**

**Service Area #PO45 Dog Park at Newark Park \$307,000 needs to be reconsidered and talk to the Parks Canada about the DND Rifle Range**