

**Present:** Mayor Mitchell (participating electronically)  
Councillor Drumm (participating electronically)  
Councillor Leahy (participating electronically)  
Councillor Lee (participating electronically)  
Councillor Mulcahy (participating electronically)  
Councillor Newman (participating electronically)  
Councillor Roy (participating electronically)  
Councillor Shahid (participating electronically)  
Councillor Yamada (participating electronically)

**Also Present:** M. Gaskell, Chief Administrative Officer  
S. Klein, Director of Strategic Initiatives  
W. Mar, Commissioner of Legal and Enforcement Services/Town Solicitor  
J. Romano, Commissioner of Community Services  
D. Speed, Head of Operations & Fire Chief  
F. Wong, Commissioner of Financial Services/Treasurer  
H. Ellis, Executive Advisor to the Mayor  
C. Harris, Town Clerk  
K. Narraway, Manager of Legislative Services/Deputy Clerk  
L. MacDougall, Council and Committee Coordinator (Recording Secretary)

**Regrets:** None noted

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Call to Order

Call of the Roll: The Clerk

Declarations of Pecuniary Interest

Mayor Mitchell declared a pecuniary interest under the Municipal Conflict of Interest Act regarding Item 4.1, Financial Services Department Report, FS 37-21, Town-Owned Land Strategy as the property identified as 14 Church Street is located directly across the

street from his residence. Mayor Mitchell did not take part in the discussion and voting on this matter.

## **General Government**

### **Councillor Roy assumed the Chair.**

#### **1. Presentations**

##### **1.1 There were no presentations.**

#### **2. Delegations**

- 2.1** Mary-Ann Nova, Heather Hawco-Gray, and Greg Kruk representing Nova's Ark  
Re: Legal and Enforcement Services Report, LS 16-21  
Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

#### **Refer to Item 4.7, LS 16-21**

Mary-Ann Nova, Heather Hawco-Gray, and Greg Kruk, representing Nova's Ark, provided details of the insurance policies in place for Nova's Ark located at 7505 Cedarbrook Trail. Mr. Kruk advised that there have been numerous loss control visits at the property, inspections for evaluation purposes, and liability exposures. He noted that any deficiencies that were noted were remedied immediately.

Ms. Hawco-Gray, stated that she was a child and youth practitioner and a registered social service worker. She advised that she has worked in the field of child and youth mental health for over 35 years and provided details of the various settings she has worked in over her career. She stated that she was a volunteer at Nova's Ark and was on the Board of Directors for over 13 years. Ms. Hawco-Gray advised that Nova's Ark has provided care to families within the Region of Durham and beyond. She further advised that Nova's Ark uses animal assisted therapy which is an alternative therapeutic modality that can be used to promote quality of life. She noted that animal therapy has had many positive health benefits that impact mental, emotional, psychological and physical health. Ms. Hawco-Gray provided details of the various benefits provided by simply petting and interacting with animals. She stated that, unlike humans, one the best traits about animals was that they were accepting, inclusive and non-judgmental. She stated that some of the animals used at Nova's Ark were not generally used for therapy but that

at Nova's Ark they belong. Ms. Hawco-Gray advised that the animals were essential for guests to see that anything is possible, noting that when a wolf was treated well in a nurturing environment that it thrives and enjoys the company of humans. She stated that these animals restore faith in humanity to accept others and live in harmony with each other. It allows them to see that perceptions were based on what one believes to be true and not the actual truth.

Ms. Nova stated that Nova's Ark was a unique facility and was not like any other facility in Canada or the United States. She advised that Nova's Ark values human interaction, and that it works with individuals who have been marginalized by utilizing the animals that have also been marginalized. Ms. Nova stated that Nova's Ark was cutting edge. She noted that there were many changes occurring in the world, and that assisted therapy has become very strong particularly in the United States of America. She noted that Nova's Ark continues to be multi-faceted and includes education for children, therapy, and internships with high schools, universities, and colleges that look for unique strategies that would make a difference. Ms. Nova extended an invitation to Members of Committee to visit Nova's Ark.

A question and answer period ensued between Members of Committee, Ms. Nova, Ms. Hawco-Gray, and Mr. Kruk regarding:

- the length of time that Nova's Ark has been in existence; and,
- the total amount of insurance in place for Nova's Ark.

**2.2** Jim Lines, President, Invictus International Management Services Limited

Re: Legal and Enforcement Services Report, LS 16-21

Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Jim Lines, President, Invictus International Management Services Limited, advised that he was requested to undertake a security perimeter review of Nova's Ark in April 2021 to provide an overview of what was necessary to protect the property from unwanted visitors, to assess the animal enclosures, and to provide any necessary recommendations. He advised that he was working with Ms. Nova to submit a comprehensive report. Mr. Lines advised that he inspected the perimeter of both the interior and exterior of the Nova's Ark fencing to ascertain how difficult it would be to access the property without using the laneway access to the property. He advised that the area was covered or surrounded by swamp, brush, and thorn bushes making it difficult for anyone to gain access to the property without using the

existing laneway. He stated that based on his experience in the military and working in conservation that the only way to access the property outside of the laneway access would be to intentionally attempt to breach the perimeter. Mr. Lines advised that numerous photographs were taken to demonstrate the difficulty in gaining access to and breaching the fence. He advised that he would answer any questions regarding the security of the property.

The Chair referenced correspondence dated September 24, 2021 and September 27, 2021 submitted to the Town by Mr. Lines.

**2.3 Eve Magnus, Resident**

Re: Legal and Enforcement Services Report, LS 16-21

Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Eve Magnus, 29 McIvor Street, stated that she has been a resident of Whitby for 19 years. She advised that her son and her daughter have volunteered at Nova's Ark, noting that she also volunteered at Nova's Ark prior to working there. Ms. Magnus stated she previously worked at Resources for Exceptional Children and Youth - Durham Region, noting that Durham Region has programs for children of various abilities within child care centres, but that it was difficult for parents with children entering the school system to access resources that do not have long waiting lists. Ms. Magnus stated that the program at Nova's Ark was unique because it involves nature and the natural environment. She stated that many people have considered the accomplishments achieved by Nova's Ark unreachable and nothing short of miraculous. She advised that the animal interactions were an integral part of the program that demonstrates regulation, teaching self regulation as well as being able to bring guests, adults and children out of their shells unlike any other program that she has witnessed. She advised that the link between the misconceptions and stereotypes that follow both people with exceptionalities and various types of animals were similar. She noted that misconceptions are invalidated at Nova's Ark through understanding, compassion, education, and by demonstrating how a safe, caring environment could help shape who we are. Ms. Magnus noted that animals like the wolves, the bobcat and the lynx may be portrayed by some people as dangerous and/or a nuisance in the natural environment to uninformed people, and that many people with exceptionalities face such misconceptions every day of their lives. She stated that these myths are put to rest at Nova's Ark due to the gentle nature of the animals that creates an understanding and a bond

between the guest and animal. She stated that the fact that there has never been an incident over a period of 16 years, and the safety and well-being of each animal on the premises was a testament to the care and concern of Ms. Nova and her animal care team. Ms. Magnus stated that taking away something that has become so meaningful to a specific portion of the population who are most ignored would be detrimental not only to people and families directly involved but to the whole community. She further stated that Nova's Ark was a testament to Whitby's community care and spirit and has put Whitby on the map as having one of the best programs for people with varied abilities and exceptionalities. She noted that to see Nova's Ark first hand with the guests and the difference Nova's Ark was making was something that you would not see in any other program. Ms. Magnus invited Members of Committee to visit and witness the animals and guests at Nova's Ark.

**2.4 Kathy Wall, Resident**

Re: Legal and Enforcement Services Report, LS 16-21

Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Kathy Wall, 7260 Baldwin Street North, stated that she was in attendance to speak as a neighbour, a parent of a volunteer, a volunteer, and as a police officer, in support of Nova's Ark. She advised that she has been a neighbour of Nova's Ark for 14 years, and that her property abuts the property of Nova's Ark. Ms. Wall stated that she first became aware of Nova's Ark when her daughter was 5 years old and her family attended Nova's Ark Friendship Walk in Grass Park in Brooklin. She noted that her daughter showed no fear, and that she was interested in learning about all of the animals and how to become a volunteer at Nova's Ark. Ms. Wall advised that when her daughter turned 12 she became a volunteer at Nova's Ark. She stated that her daughter has been working at Nova's Ark for the past 5 years and has accumulated over 1500 volunteer hours. She noted that many of her daughter's responsibilities encompassed animal care. Ms. Wall advised that after attending the Nova's Ark Friendship Walks and touring the property over the years she always felt comfortable leaving her daughter at Nova's Ark to work, noting that she was at no time concerned about her daughter getting hurt due to her interaction with the animals or any of the work she performed. Ms. Wall stated that she became a volunteer two years ago and that she has had opportunities to work with some of the most interesting animals. She noted that she has not been at any time concerned about her own safety or the safety of people or guests around her. She advised that Ms. Nova has gone above and beyond to

provide safe enclosures for all of the animals, noting that only specific experienced animal care employees have keys to the enclosures to protect the animals and to ensure the safety of the guests, staff and volunteers. Ms. Wall advised that she spent the past 12 years developing her skill set so that she could better serve members of her community who live with mental health issues. She stated that she recognizes the value and impact of animal companionship and has witnessed how it affects the mental health and the daily lives of people. She advised that animal therapy was being used by the Durham Region Critical Incident Stress Support Team. She stated that she has a stressful job and was aware of the affect that Nova's Ark has had on her own mental health. Ms. Wall stated that Nova's Ark was filled with laughter and positivity that was infectious. She noted that Ms. Nova has surrounded herself with a core group of competent staff dedicated to making their guests feel welcome, included and respected. Ms. Wall stated that as important as the staff at Nova's Ark were, it would not be what it is without their unique collection of animals, noting that every animal was special in its own way. She noted that the guests and animals are valued, respected and protected. Ms. Wall stated that concerns have been raised about predatory animals specifically pertaining to the wolves. She advised that she felt a need to address the concerns in an attempt to dispel myths associated with the wolves. Ms. Wall stated that she has taken part in the socialization of the wolves and has first hand knowledge about their demeanor and temperament. She advised that the wolves came to Nova's Ark as pups prior to their eyes being open, that they were hand raised and bottle fed for the purpose of bonding and imprinting with people. Ms. Wall noted that the pups were raised in Ms. Nova's home with two dogs and house cats long before they moved to their outside enclosure. She stated that the wolves have never been aggressive with people or other animals and have lovely dispositions. She advised that they weigh 100 pounds and are fully grown. She stated that it was important to share her experience with the wolves because people fear what they do not understand. Ms. Wall advised that knowledge was power and ignorance should never be the foundation for making decisions about something that one does not know anything about. Ms. Wall stated that her job relies on assessing risks and making informed decisions based on fact. She advised that Ms. Nova and Nova's Ark has provided an incredible service for the past 16 years, that there have not been any instances where staff, guests, or volunteers have been attacked or harmed, and that the animals were treated with as much respect and dignity as the guests. Ms. Wall stated that Ms. Nova was not operating a zoo, but that she was an educator with over 25 years of experience in teaching and offering unique ways of learning in a unique environment, and that Ms. Nova has earned the

trust of the community with a proven track record for safety, making good decisions, and transparency.

- 2.5** Sarah Rapp, Resident  
Re: Legal and Enforcement Services Report, LS 16-21  
Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Sarah Rapp, 7485 Cedarbrook Trail, stated that she resides in Brooklin and that her property was located directly south of Nova's Ark. Ms. Rapp advised she has lived in Brooklin for many years and has watched Nova's Ark grow from a small local organization that offered therapeutic, educational summer camps a few weeks in the summer that consisted of handful of children, volunteers and animals. She advised that the organization has grown exponentially and that it currently houses 397 animals. She advised that the number of enclosures have increased and the property may have over 80 people attending a day between clientele and volunteers. Ms. Rapp advised that the reality of daily life for her family was that their neighbour has wolves. She advised that the animals at the facility includes lynxes, a bobcat, pythons, boa constrictors, a caracal, a serval, and multiple large predatory animals. She noted that these animals have the potential to cause severe harm or death to her family, children visiting the facility, the volunteers attending their facility, and the residents of Brooklin. Ms. Rapp stated that the wolves, bobcat and one of the lynx were housed just a few feet from their shared property line. She raised concerns about the safety of her children who want to explore her own property. She advised that most residents in Brooklin have no idea that such wild animals were kept by residents who appear to have no formal training, experience or authority to allow the keeping of these animals just a couple of kilometres away from their homes and schools. Ms. Rapp inquired whether the Town would notify the residents of Brooklin about the existing animals and that consideration was being given to allowing Nova's Ark to keep them. She further inquired about why Brooklin residents had not been notified, and whether they were notified about this meeting. Ms. Rapp asked why Nova's Ark has been allowed to obtain and keep these animals without warning the neighbours and residents of Brooklin. She noted that Cedarbrook Trail was a popular road for walkers, joggers, small children riding bikes with their parents, and dog walkers. Ms. Rapp stated that each time she leaves her home she passes people enjoying the rural setting of the road.

Recommendation:



Moved By Councillor Yamada

That the rules of procedure be suspended to allow the delegation to exceed the five minute speaking limit.

**Carried**

Ms. Rapp continued her delegation and inquired about whether residents should be warned about these potentially dangerous, prohibited animals and the potential risk of escaped animals. She inquired about who would be responsible for the potential risk of escaped animals, and what liability the Town of Whitby would have for allowing this to take place. Ms. Rapp stated that she recognizes the need for this type of therapeutic and educational programming that Nova's Ark offers to people and its value to the community, but that, in her opinion, none of these animals were necessary to offer therapeutic educational services. Ms. Rapp inquired about how Ms. Nova could focus on the education of all the children, manage multiple volunteers and staff, and properly care for 397 animals. She asked about the number of accessory buildings that have been built over the last 5 years without building permits, noting that there was a 2000 square foot tropical barn that was constructed at the end of 2019. She inquired about whether there was building permit for the tropical barn, and how many accessory buildings were permitted on one property. Ms. Rapp raised concerns about a pile of manure in the pasture that drains into her property, and inquired about dangers of disease being carried by coyotes or seeping into the ground water. She stated that the Town passed the Prohibited & Regulated Animals By-law to protect Whitby residents and to protect animals. She stated that no one governs this property and ensures that structures and fences were constructed properly.

The Chair referenced the correspondence dated September 27, 2021 submitted to the Town by Ms. Rapp.

A question and answer period ensued between Members of Committee and Ms. Rapp regarding:

- confirmation of and details about escaped animals from Nova's Ark that have been seen on Ms. Rapp's property and whether there was any follow-up by Nova's Ark about the escaped animals; and,
- details about the height and materials used for the construction of the fence located between Nova's Ark and Ms. Rapp's property.



- 2.6** Martin Field, 1134 Somerville Street, Oshawa  
Re: Legal and Enforcement Services Report, LS 16-21  
Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Martin Field, 1134 Somerville Street, Oshawa, stated that he was the Vice President of the City of Oshawa Animal Advisory Committee. Mr. Field stated that in spite of the good intentions of Nova's Ark, it has been established that this facility has acquired many more animals including two wolves, a North American Bobcat, a Siberian Lynx, a Caracal, a Canadian Lynx, an African Khal and a Serval. He advised that due to high level of acquisition of animals and as noted in the Staff report, 118 animals violate the Town's Prohibited and Regulated Animals By-law. He raised concerns about the level of assurance of future compliance that the Town could expect given past practices, and the level of scrutiny, due diligence, and frequency of inspections that residents could be assured would take place in the future. Mr. Field raised concerns about the effective containment of the animals, the prospects of escape, and the safety and well-being of neighbours, noting that a personal on-site visit over the weekend revealed six-inch gaps on the underside of the perimeter fencing and a 6-foot high perimeter fence which would not be sufficient to impede an animal from easily scaling the fence. Mr. Field raised further concerns about the location of Nova's Ark due to urban encroachment and the proximity to urban population should an animal escape. He expressed concerns about two accessory structures that were been constructed without permits and inquired about how the Town would address the matter. Mr. Field noted the current practice of Nova's Ark permits the entry of vulnerable children into the cages of animals including any one of the aforementioned dangerous animals. He stated that in his opinion whether the children were accompanied by a trained member of staff or a volunteer was immaterial. He stated that the Town was exposed to risks and liability subject to the application of strict liability that relates to negligence. He stated that, in his opinion, that due to the variety of species and the layout of the facility, Nova's Ark could be considered as a Zoo. He advised that past case law established the distinction between strict liability and that of negligence, noting the established practice of Nova's Ark and its mission statement where it refers to allowing the entry of children, many with disabilities, into all animal cages and where the animal was without any form of restraint. He stated that if a visitor was within a cage or enclosure and if they were injured or killed, the higher application of law of strict liability would be likely to apply in addition to negligence. Mr. Field commented that the presence of a member of staff

or volunteer, regardless of training, would be legally immaterial as a defense and could add to the case as the child had placed their entire safety and trust in that member of staff or volunteer. He noted that all that would need to occur would be for the wild animal be found outside the control of the owner or keeper and that it would not need to escape in order for strict liability to apply. Therefore, in addition to Nova's Ark, the Town would have exposed itself to encounter legal action. He urged the Town to take immediate and permanent action. Mr. Field advised that he was in support of Option # 3 in the Staff report.

The Chair acknowledged receipt of the correspondence submitted to the Town by Mr. Field.

- 2.7** Nicholas Wilvert, 196 Oshawa Boulevard North, Oshawa  
Re: Legal and Enforcement Services Report, LS 16-21  
Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Nicholas Wilvert, 196 Oshawa Boulevard North, Oshawa, stated that he wanted to provide his personal experience at Nova's Ark as a volunteer and as a seasonal paid employee from 2007 to 2012. He stated that he witnessed the positive impact that Nova's Ark camp programs have had on those in the community. Mr. Wilvert stated that he believes that certain aspects of the animal therapy program at Nova's Ark provides great pleasure and unique experiences for children that attend its camps. He stated that over his 5-year tenure at Nova's Ark he witnessed dozens of dangerous encounters between people and many of the exotic or dangerous animals that were at the facility. He stated that given the current inventory of prohibited species, it would appear that the number of animals involved in incidents would far exceed the number of incidents that occurred during his tenure when there were 200 animals on site versus the current 397 animals. Mr. Wilvert stated that few of the larger dangerous exotic animals were obtained legally during his tenure, noting that most often the animals were purchased at exotic animal auctions that were run in small towns out of the public eye. He advised that he brought all of the incidents that took place during his tenure to the attention of Whitby Animal Services in 2012. He stated that he was met with hostility with an explanation that Nova's Ark does good work with children. He detailed instances of the most notable and alarming negative human/animal interactions that he witnessed at Nova's Ark. He noted that based on the current inventory, Nova's Ark still has kinkajous which are an exotic member of the raccoon family that have injured people, but continue to interact directly with children at

Nova's Ark. Mr. Wilvert stated that the instances that he outlined were just a few of many jarring stories that stem from Nova's Ark involving dangerous animals. He stated that Nova's Ark provides much needed respite and programs for children and that he would not want to see anything hinder their ability to do so. He stated that in his experience at Nova's Ark the use of exotic and predatory animals in direct contact with children that may have an altered ability to communicate or the inability to escape a dangerous situation due to being wheelchair bound was a constant source of stress for staff. He advised that this resulted in many unpredictable situations involving animals that inherently cannot be tamed or trained particularly by volunteers at Nova's Ark who for the most part have no formal training in the behaviour and handling of these species. Mr. Wilvert stated that despite his lengthy time at Nova's Ark working and volunteering in animal therapy programs that he still fails to understand what benefits interactions with a lynx or a bobcat provide a child that cannot be obtained from interaction with a domesticated goat, cat, dog or horse. He commented that any person would be hard pressed to find a peer reviewed study that would find any therapeutic benefit that could be provided by exotic and predatory animals. Mr. Wilvert noted that from his own experience he believed that Nova's Ark was a much needed staple in the community as long as they were working with domesticated animals, but that as long as they continue to provide direct contact between dangerous animals and children they would be posing an unnecessary danger to the community. He advised that the quality or height of fencing does not matter should you be inside an enclosure with a wolf or a camel.

A brief question and answer period ensued between Members of Committee and Mr. Wilvert regarding whether Mr. Wilvert raised concerns prior to leaving Nova's Ark and the results of raising such concerns.

- 2.8** Michele Hamers representing World Animal Protection  
Re: Legal and Enforcement Services Report, LS 16-21  
Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Michele Hamers, representing World Animal Protection, raised concerns about the request by Nova's Ark for an exemption to the Prohibited and Regulated Animals By-law. Ms. Hamers acknowledged that Nova's Ark was a wonderful initiative, noting that animals can be good companions for people and reduce stress. She advised that her concerns were related to the use and welfare of wild animals for in-person interactions,

noting that the majority of animals in possession at Nova's Ark were wild animals. She stated that these animals, whether born in captivity or in the wild, and whether hand-reared or not, have characteristics and behavioural and social needs which are difficult, if not impossible, to meet in captive settings. She noted that these animals have not co-evolved with people and interactions with them would not be in their best interest. Ms. Hamers stated that interactions with these animals could promote a false narrative that the animals were safe to be around and that they make suitable companions. Ms. Hamers stated that she understood that Nova's Ark currently has approximately 400 animals housed on a 10-acre property which was a very high number of wild animals to be taken care of, which was unusual even for a professionally run zoo. She noted that the Greater Vancouver Zoo which is CAZA accredited was located on 120 acres of land with a live collection of about 600 animals. She stated that the limited acreage at Nova's Ark raises concerns about whether animal welfare would be safeguarded at all. Ms. Hamers expressed concerns about the interactions between wild animals and participants. She stated that the reason why these animals were prohibited in more than 200 municipalities in Ontario was because they have wild characteristics that could inflict harm on people. Ms. Hamers noted that professionally run zoos with highly trained staff never allow interactions between the public and animals such as wolves and snakes or other potentially dangerous animals and especially not within the animal's enclosure. She stated that the enclosure was the animal's territory and where the animal feeds. Ms. Hamers noted that trained zoo staff would not go into enclosures either and practice a hands-off husbandry approach which means no direct contact takes place. Ms. Hamers advised that public health agencies across Canada, including Durham Public Health, strongly advises against interactions between reptiles, birds, young ruminants and humans that are considered to be at risk. She advised that at risk individuals include children under the age of five, individuals older than 65 years of age, pregnant individuals, and individuals with developmental disabilities. She noted that the aforementioned animals were known carriers of zoonotic diseases like salmonella which can be transmitted to individuals who come in contact with the animals or with any surfaces the animals have contacted. Ms. Hamers advised that any blanket exemption could result in an unfettered birth of animals. She stated that there were not any regulations in Ontario that prohibit keeping any exotic wild animals and that currently only orcas could be prohibited, therefore, there could be a growth in animals including lions and tigers and other dangerous animals. Ms. Hamers advised that there were not any standards or regulations for obtaining animal therapy which means that there was not any protection for people that interact with these animals. She advised that World Animal

Protection recommends that the Town of Whitby denies the request for exemption by Nova's Ark.

A question and answer period ensued between Members of Committee and Ms. Hamers regarding:

- whether there were size recommendations or standards that exist amongst zoos for space or enclosures for animals;
- whether the property could properly accommodate the number of animals at Nova's Ark;
- whether Ms. Hamers has visited Nova's Ark;
- whether there was an accreditation that World Animal Protection provides to organizations like Nova's Ark;
- clarification on the key concerns of World Animal Protection with respect to the property and animals at Nova's Ark and whether there was a way to address the concerns raised by World Animal Protection through the implementation of requirements in order to allow Nova's Ark to continue.

- 2.9** Rob Laidlaw representing Zoocheck Inc.  
Re: Legal and Enforcement Services Report, LS 16-21  
Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

**Refer to Item 4.7, LS 16-21**

Rob Laidlaw, representing Zoocheck Inc., stated that he was the Director of Zoocheck Inc. and a chartered biologist. Mr. Laidlaw advised that since 1979 he has been professionally engaged in work regarding the keeping of wildlife in captivity, wildlife conservation, and animal welfare including assessments of hundreds of different types of facilities. He stated that he was supportive of programs and activities that provide benefits to vulnerable people, but that he was not supportive when vulnerable people were put in situations of unnecessary risk, often without them knowing, or when animal welfare was jeopardized. Mr. Laidlaw advised that he reviewed the Staff report and the accompanying animal inventory list. He stated that the animal inventory list contained a number of wild exotic animals including the wolves, the bobcat, the lynx, the caracal, giant constricting snakes, the serval, kinkajous and primates that were considered dangerous or pose meaningful substantive risks to people by professional zoos, sanctuaries, and a multitude of laws and regulations in Canada. He stated that these animals were prohibited from private possession primarily for safety reasons in most Canadian provinces and over 200 municipalities in Ontario. Mr. Laidlaw advised that the danger that some animals pose was often overlooked, but they were well illustrated by past incidents. He provided examples of

incidents which have taken involving wolves, a camel and lemurs. He stated that even when highly trained staff and all possible safeguards were in place direct interaction with potentially dangerous animals was never safe and there was no guarantee that it could be safe because the activity itself was inherently risky. He further stated that often the damage that could be done by animals was unexpected and could occur in a blink of an eye before even a trained professional could act. Mr. Laidlaw advised that exposing potentially dangerous wild animals to members of the public was unnecessary, noting that most professional accredited animal assisted therapy takes place with highly trained dogs, horses and other domesticated animals, which was advocated for by professional organizations. He stated that Nova's Ark could achieve its goals without exposing anyone to unnecessary risks, noting that there were a multitude of domesticated animal species that would be more suitable for interactions. He further stated there were literally thousands of non-prohibited species available that were far less risky and in some cases easier to take care of should Nova's Ark want to continue with exotic wild animals. Mr. Laidlaw stated that he was concerned about vulnerable children and adults that may not know that they were being exposed to risk. He urged Members of Committee to act on Option # 3 in Staff Report LS 16-21 that would deny the request for an exemption, noting that Nova's Ark could continue with a more manageable and safe compliment of animals and ensure that human health and safety was enhanced and animal welfare better served. Mr. Laidlaw commented that the reason that Nova's Ark may be characterized as unique was not about what was stated previously, but because very few if anybody else in Canada takes those risks.

A brief question and answer period ensued between Members of Committee and Mr. Laidlaw regarding the details about the incident that occurred at the Haliburton Wolf Centre.

It was the consensus of the Committee to hear Item 4.7, LS 16-21, at this time.

### 3. Correspondence

- 3.1** Correspondence # 2021-811 received from Elaine Baxter-Trahair, Chief Administrative Officer, Region of Durham, dated August 11, 2021 regarding a Request for Resolution related to 311 calls using the Town of Whitby Telephone Exchange

Recommendation:

Moved By Councillor Leahy



That the Council of the Town of Whitby agree that there shall be no objection to the routing of 311 dialed calls originating from the overlap that exists between the Town of Whitby and the geographical area of the Regional Municipality of Durham, on an understanding that where callers (customers, residents, and businesses) of the Region of Durham dial 311 erroneously from within these exchanges, they will be given an option of being transferred to the contact centre of the municipality, town or county in which they reside.

**Carried**

- 3.2** Memorandum from A. Gratton, Manager of Enforcement Services, Legal and Enforcement Services Department, dated September 3, 2021 regarding Request from Circle Taxi and Bell Taxi to Increase Taxicab Fares

Recommendation:

Moved By Councillor Drumm

That the Memorandum from A. Gratton, Manager of Enforcement Services, Legal and Enforcement Services Department, dated September 3, 2021 regarding Request from Circle Taxi and Bell Taxi to Increase Taxicab Fares be received for information.

**Carried**

**4. Staff Reports**

- 4.1** Financial Services Department Report, FS 37-21  
Re: Town-Owned Land Strategy

Having previously declared a conflict of interest, Mayor Mitchell did not take part in the discussion or voting related to Item 4.g. pertaining to 14 Church Street, 16 Church Street and 45 Cassels Road East.

A question and answer period ensued between Members of Committee and Staff regarding:

- the possibility of zoning opportunities for the properties located at 500 Garden Street and Broadleaf Avenue and McKinney Drive in order to obtain full value of the lands;
- how frequently the Town reviews Town-owned land; and,



- whether there would be an opportunity to review the properties to be retained for future Town purposes should Committee and subsequently Council approve the recommendation.

Recommendation:

Moved By Councillor Mulcahy

1. That the following properties be declared surplus for the purpose of sale:
  - a. Part of Leslie Street, Plan 431, as Closed by By-law D248077, being Parts 6 and 7, Plan 40R-10177, PIN 26521-0253 (LT), Frederick and Leslie Streets, as shown on Attachment #1;
  - b. The road allowance between Henry Street and King Street, as shown on Attachment #2; and
  - c. Part Lot 25, Con. 2, now 40R-1655, Part 6, PIN 26532 0244 (LT), known municipally as 500 Garden Street, as shown on Attachment #3
  - d. Part of Lot 25, 26, Conc. 4, Portion of PIN 26569 0285 (LT), Broadleaf and McKinney, as shown on Attachment #15;
2. That staff be authorized to conduct further studies to identify the developable portions and to sever the following properties for the purposes of a future property surplus declaration report:
  - a. Part of Lot 24, Conc. 1, PIN 26488-0153 (LT), Garden and Burns, as shown on Attachment #4;
  - b. Part of Lots 16, 26 and 32, now 40R-878, Parts 5 and 6, 40R-668, Part 3, and 40R-4690, Part 6, PIN: 265003-0117 (LT), as shown on Attachment #5;
  - c. Part of Lot 21, Con. 4, 40R-22941, Part 3, PIN: 16265 1248 (LT), known municipally as 695 Conlin Road, as shown on Attachment #6;
  - d. Part of Lot 20, Con BF, and RP 40505, Parts 1 to 4, RP 40-1385, Parts 4, 6 to 7, Pt Parts 3 and 5, RP 40R-12737, Part 1, PIN 16435 0072, Thickson Road South and Wentworth Street, as shown on Attachment #7;
3. That a capital project, in the amount of \$100,000 funded from the Town Property Reserve Fund, be established for the studies required to determine the developable area and sever properties 4, 5, 6, and 7 as listed on Table 1 of Report FS 37-21;
4. That the following properties be retained for future Town purposes:

- a. Part of Lots 16 and 32, Plan H-50031, being Parts 6 and 7, Plan 40R-5160, Hickory and Colborne Streets, as shown on Attachment #8;
  - b. Part Lots 29 and 30, First Double Range, Ann's Plan, Plan H-50046, PIN 26490 0061 (LT), known municipally as 508 Colborne Street West, as shown on Attachment #9;
  - c. Part Lot 21 and 22, Plan H-50032, Part of PIN 36502-0012 (LT), known municipally as 312 Colborne Street West and 117 King Street, as shown on Attachment #10;
  - d. Part Lot 25, 26, BF, 40R-19743, Part 2, PIN 26486-0196 (LT), north side of Water Street, as shown on Attachment #11;
  - e. Part of Lot 27, Con. 1, 40R-5363, Part 1, PIN 164920 0080 (LT), corner of Henry Street and Victoria Street West, as shown on Attachment #12;
  - f. Part Lot 29, Con. 2, PIN 26546 0109 (LT), known municipally as 700 Dundas Street West, as shown on Attachment #13;
  - g. Part of Block A, Part of Lot 148, Plan H-50052, known municipally as 14 Church Street, 16 Church Street and 45 Cassels Road East, as shown on Attachment #14;
  - h. Part Lot 19, Con. 9, now 40R-2728, Part 1, PIN 16405-0063 (LT), known municipally as 190 Myrtle Road East, as shown on Attachment #16;
  - i. Part of Lot 25, Conc. BF, being Part 1, Plan 40R-14708, known municipally as 580 Water Street, as shown on Attachment #17
5. That a capital project in the amount of \$425,000, funded from the Town Property Reserve, be established for the demolition of the building at 128 Brock Street South;
  6. That public notice and the disposition of each of the properties identified as surplus in report FS 37-21 be provided and completed in accordance with the Town's Acquisition, Sale or Other Disposition of Land Policy F 190;
  7. That MD-4775 related to 128 Brock Street South be removed from the New and Unfinished Business list;
  8. That By-laws be brought forward authorizing the disposition of the properties identified in Report FS 37-21, as appropriate.

**Carried later in the meeting (See following motions)**

Recommendation:

Moved By Councillor Mulcahy

That the main motion be divided to consider Item 4.g. as a separate motion.

**Carried**

**Note: The disposition of Items 1.c. and 1.d. of Item 4.1 was determined through the referral motion below.**

Recommendation:

Moved By Mayor Mitchell

That the properties at Part of Lot 25, 26, Conc. 4, Portion of PIN 26569 0285 (LT), Broadleaf and McKinney, as shown on Attachment #15 and Part Lot 25, Con. 2, now 40R-1655, Part 6, PIN 26532 0244 (LT), known municipally as 500 Garden Street, as shown on Attachment #3 be referred to staff to investigate zoning opportunities that would maximize the land value.

**Carried**

Recommendation:

Moved By Councillor Leahy

4. That the following properties be retained for future Town purposes:
  - g. Part of Block A, Part of Lot 148, Plan H-50052, known municipally as 14 Church Street, 16 Church Street and 45 Cassels Road East, as shown on Attachment #14.

**Carried**

The main motion, as amended, was then carried as follows:

Recommendation:

Moved By Councillor Mulcahy

1. That the following properties be declared surplus for the purpose of sale:
  - a. Part of Leslie Street, Plan 431, as Closed by By-law D248077, being Parts 6 and 7, Plan 40R-10177, PIN

- 26521-0253 (LT), Frederick and Leslie Streets, as shown on Attachment #1;
- b. The road allowance between Henry Street and King Street, as shown on Attachment #2; and
2. That staff be authorized to conduct further studies to identify the developable portions and to sever the following properties for the purposes of a future property surplus declaration report:
- a. Part of Lot 24, Conc. 1, PIN 26488-0153 (LT), Garden and Burns, as shown on Attachment #4;
  - b. Part of Lots 16, 26 and 32, now 40R-878, Parts 5 and 6, 40R-668, Part 3, and 40R-4690, Part 6, PIN: 265003-0117 (LT), as shown on Attachment #5;
  - c. Part of Lot 21, Con. 4, 40R-22941, Part 3, PIN: 16265 1248 (LT), known municipally as 695 Conlin Road, as shown on Attachment #6;
  - d. Part of Lot 20, Con BF, and RP 40R-505, Parts 1 to 4, RP 40R-1385, Parts 4, 6 to 7, Pt Parts 3 and 5, RP 40R-12737, Part 1, PIN 16435 0072, Thickson Road South and Wentworth Street, as shown on Attachment #7;
3. That a capital project, in the amount of \$100,000 funded from the Town Property Reserve Fund, be established for the studies required to determine the developable area and sever properties 4, 5, 6, and 7 as listed on Table 1 of Report FS 37-21;
4. That the following properties be retained for future Town purposes:
- a. Part of Lots 16 and 32, Plan H-50031, being Parts 6 and 7, Plan 40R-5160, Hickory and Colborne Streets, as shown on Attachment #8;
  - b. Part Lots 29 and 30, First Double Range, Ann's Plan, Plan H-50046, PIN 26490 0061 (LT), known municipally as 508 Colborne Street West, as shown on Attachment #9;
  - c. Part Lot 21 and 22, Plan H-50032, Part of PIN 36502-0012 (LT), known municipally as 312 Colborne Street West and 117 King Street, as shown on Attachment #10;
  - d. Part Lot 25, 26, BF, 40R-19743, Part 2, PIN 26486-0196 (LT), north side of Water Street, as shown on Attachment #11;
  - e. Part of Lot 27, Con. 1, 40R-5363, Part 1, PIN 164920 0080 (LT), corner of Henry Street and Victoria Street West, as shown on Attachment #12;
  - f. Part Lot 29, Con. 2, PIN 26546 0109 (LT), known municipally as 700 Dundas Street West, as shown on Attachment #13;

- h. Part Lot 19, Con. 9, now 40R-2728, Part 1, PIN 16405-0063 (LT), known municipally as 190 Myrtle Road East, as shown on Attachment #16;
  - i. Part of Lot 25, Conc. BF, being Part 1, Plan 40R-14708, known municipally as 580 Water Street, as shown on Attachment #17;
5. That a capital project in the amount of \$425,000, funded from the Town Property Reserve, be established for the demolition of the building at 128 Brock Street South;
6. That public notice and the disposition of each of the properties identified as surplus in report FS 37-21 be provided and completed in accordance with the Town's Acquisition, Sale or Other Disposition of Land Policy F 190;
7. That MD-4775 related to 128 Brock Street South be removed from the New and Unfinished Business list;
8. That By-laws be brought forward authorizing the disposition of the properties identified in Report FS 37-21, as appropriate.

**Carried**

**4.2** Financial Services Department Report, FS 50-21  
Re: 2021 Summer Recess Procurement Awards

A question and answer period ensued between Members of Committee and Staff regarding:

- the rationale for the cost of the Kiwanis Heydenshore splash pad redevelopment in comparison to the entire cost of the Micklefield Park redevelopment which would have its own splash pad; and,
- whether the redevelopment of any other of the Town's splash pads would cost \$750,000.00.

Recommendation:

Moved By Councillor Newman

That Report No. FS 50-21 on Summer Recess Procurement Awards be received as information.

**Carried**

It was the consensus of the Committee to hear Item to 4.4, FS 53-21, at this time.

**4.3** Financial Services Department and Public Works (Operations)  
Department Joint Report, FS 52-21  
Re: T-58-2021 Supply and Delivery of Pick-Up Trucks with Accessories

A brief question and answer period between Members of Committee and Staff regarding whether there were options for electric or hybrid pick-up trucks.

Recommendation:

Moved By Councillor Drumm

1. That Tender T-58-2021 be awarded to Finch Auto Group in the amount of \$529,310.00 (plus applicable taxes), funded from the capital projects listed in Table 2 of Report FS 52-21, for the following:
  - Supply and Delivery of Four (4) Extended Cab, 4x4, Half Ton Pick-up trucks with Accessories;
  - Supply and Delivery of Five(5) Extended Cab, 4x4, Three Quarter Ton Pick-up trucks with Attachments; and
  - Supply and Delivery of One (1) Extended Cab, 4x4, One Ton Pick-up trucks with Lift tailgate
2. That the revised cost estimates totaling \$543,125.85, for the capital project noted in Table 2 of Report FS 52-21 be approved;
3. That the budget shortfall in the amount of \$34,375.85 be funded \$17,891.37 from the Asset Management Reserve Fund and \$16,484.48 from the Development Charge - Operations Reserve Fund; and
4. That the Mayor and Clerk be authorized to execute the contract documents.

**Carried**

**4.4** Financial Services Department and Community Services Department  
Joint Report, FS 53-21  
Re: T-74-2021 – Micklefield Park Development

A question and answer period ensued between Members of Committee and Staff regarding:

- details of the solutions for parking at Micklefield Park for soccer field users;
- whether the soccer field at Micklefield Park could be re-purposed as a multi-purpose field;
- details about the play structures; and,
- the feedback received through public engagement.

Recommendation:

Moved By Councillor Shahid

1. That Tender T-74-2021 be awarded to Quality Property Services in the amount of \$869,152.24 (plus applicable taxes), funded from the capital project 70200223, for the development of Micklefield Park;
2. That the revised cost estimate totaling \$1,164,133.02, as outlined in Table 1 of report FS 53-21, for the capital project 70200223 be approved;
3. That the budget shortfall in the amount of \$209,133.02 be funded:
  - a. \$146,841.02 from the Development Charge Parks & Recreation Reserve Fund,
  - b. \$16,315.67 from the Parks Cash In Lieu Reserve Fund; and
  - c. \$45,976.33 from External Recoveries;
4. That the Mayor and Clerk be authorized to execute the contract documents.

**Carried**

It was the consensus of the Committee to hear Item 4.3, FS 52-21, at this time.

**4.5** Community Services Department Report, CMS 15-21  
Re: Parks and Recreation Master Plan – Terms of Reference

A question and answer period ensued between Members of Committee and Staff regarding:

- whether there was merit in having a longer term than a 10-year vision for the Parks and Recreation Master Plan to address issues related to Whitby's growth;
- clarification on the timeline for the start of 10-year life of the Parks and Recreation Master Plan and whether a review would be undertaken every 10 years;
- the timeline for completion of the Parks and Recreation Master Plan;
- the results of the survey for West Whitby Park and Des Newman Park and the engagement of residents;
- whether the consultation process as part of the third phase of the project would include one-on-one consultation with Members of Council;



- whether consultation would take place with the Active Transportation and Safe Roads Advisory Committee with respect to trails systems;
- confirmation on the significant feedback regarding Whitby Sports Complex; and,
- whether a review would take place of new sports evolving from the Olympic Games and the X Games such as skate boarding as part of the plan.

Recommendation:

Moved By Councillor Newman

1. That Council approve the Parks and Recreation Master Plan Terms of Reference, Attachment 1, as the foundation for updating 2006 Culture, Parks, Recreation and Open Space Plan (CPROS);
2. That Council authorize Staff to issue a Request for Proposal (RFP) based on the Terms of Reference, to select a qualified consultant for the development of the Parks and Recreation Master Plan;
3. That the project budget of \$257,500 allocated within the 2021 Capital Budget be used to fund the project; and,
4. That Staff report back to Council at key milestones in accordance with the work plan proposed in the Terms of Reference.

**Carried**

**4.6** Legal and Enforcement Services Report, LS 12-21  
Re: Parking Lease and License Agreements with Metrolinx and Transfer of Land to Metrolinx

A question and answer period ensued between Members of Committee and Staff regarding;

- the possibility of including signage around the Iroquois Park Sports Centre for Metrolinx parking and patrons of the Iroquois Park Sports Centre;
- whether there have been issues with the patrons of Iroquois Park Sports Centre using Metrolinx parking spaces; and,
- whether Metrolinx plans to expand their parking on Metrolinx property.

Recommendation:

Moved By Councillor Drumm

1. That Council authorize the Commissioner of Financial Services/Treasurer and the Commissioner of Legal and Enforcement Services/Town Solicitor to execute a Lease Extension Agreement with Metrolinx for Town-owned land located at the north-east corner of Henry Street and Victoria Street for the purposes of additional parking for the Whitby GO Station for a period of two (2) years, on terms that are substantially as set out in Attachment 2 of Report LS 12-21;
2. That Council authorize the Commissioner of Financial Services/Treasurer and the Commissioner of Legal and Enforcement Services/Town Solicitor to execute a License Extension Agreement with Metrolinx to utilize 300 parking spaces for a period of three (3) years at Iroquois Park Sports Centre ("IPSC"), on terms that are substantially as set out in Attachment 3 of Report LS 12-21;
3. That Council authorize the Commissioner of Financial Services/Treasurer and the Commissioner of Legal and Enforcement Services/Town Solicitor to execute a License Agreement with Metrolinx to utilize 25 parking spaces for a period of three (3) years at Luther Vipond Memorial Arena ("Vipond"), on terms that are substantially as set out in Attachment 4 of Report LS 12-21;
4. That First Street, Plan H50047, Whitby (as closed by By-law 1759-84), Part 3, Plan 40R-8178, Whitby (PIN 26492-0111 (LT)), and William Street, Plan H50047, Whitby (aka Byron Street) (as closed by By-law 1758-84), Part 4, Plan 40R-10043, Whitby (PIN 26492-0113 (LT)) (the "Lands") be declared surplus for the purpose of conveyance to Metrolinx and that the notice requirements of the Town's Sale of Land Policy be waived; and,
5. That a By-law be brought forward authorizing the sale of the Lands to Metrolinx.

### **Carried**

- 4.7** Legal and Enforcement Services Report, LS 16-21  
Re: Prohibited & Regulated Animals By-law Exemption Request for Nova's Ark – 7505 Cedarbrook Trail

A detailed question and answer period ensued between Members of Committee and Staff regarding:

- details about the Town's liability should Option # 2 within the Staff report be approved;

- whether the concerns about the fence related to height and gaps under the fence would be considered/included in future recommendations;
- deferring the report to ensure that every safety aspect be considered;
- details about the enclosures and whether there were mandated standards/requirements and whether the Town or external agencies would be able to enforce such standards;
- whether there were examples of non-accredited zoos in the area that have as many exotic animals as Nova's Ark or whether Nova's Ark was a unique situation;
- whether the Town would require training for staff and volunteers regarding animal care and behaviour should Option # 2 be approved and whether the Town would be liable should the Town not be able to ensure proper training;
- whether concerns about the construction of buildings without permits and manure drainage onto the neighbouring property could be addressed by the Town;
- requirements for safety assurances to visitors and volunteers such as warning signage of potential dangers and whether the Town would be responsible for such warning signage;
- the Town's liability given the detailed information known by the Town about the animals on the premises, the handlers and children entering animal enclosures, and the incidents that have occurred at Nova's Ark; and,
- Staff consultation with experts in the field including Michele Hamers and Rob Laidlaw.

Recommendation:

Moved By Councillor Newman

1. That consideration of Staff Report LS 16-21 be referred to Staff to allow additional time to consult with Nova's Ark about the conditions listed in Option #2 of Report LS 16-21 based on public submissions received at the Committee of the Whole meeting on September 27, 2021, and that Staff be directed to report back to Committee of the Whole; and,
2. That staff send correspondence to the Ministry of Northern Development, Mines, Natural Resources and Forestry ("MND") and to the Attorney General requesting that the Town be notified for any future requests made in Whitby for animals which contravene the Town's Prohibited and Regulated Animals By-law and to request a review and amendment of Ontario's Fish and

Wildlife Conservation Act, 1997 to ensure advance notification to the municipality when permits under s. 40 for the keeping of specified wildlife in captivity are to be issued by MND within the municipality to ensure compliance with municipal by-laws, particularly where the facility is not an accredited zoo, and that a copy of this correspondence be circulated to the Association of Animal Shelter Administrators' of Ontario.

**Carried**

It was the consensus of the Committee to hear Item 3.1, Correspondence # 2021-811 received from Elaine Baxter-Trahair, Chief Administrative Officer, Region of Durham, dated August 11, 2021 regarding a Request for Resolution related to 311 calls using the Town of Whitby Telephone Exchange, at this time.

5. New and Unfinished Business - General Government

5.1 Status Update on the Lynde House

Councillor Leahy inquired about an update on the status of the Lynde House.

M. Gaskell, Chief Administrative Officer, advised that an update on the status of the Lynde House by Staff through a memorandum would be provided by the end of 2021.

5.2 New and Unfinished Business List - General Government

Councillor Roy requested that Staff review and update the New and Unfinished Business List for items that were in process or redundant and could be removed.

**Adjournment**

Motion to Adjourn

Recommendation:

Moved By Councillor Drumm

That the meeting adjourn.

**Carried**

The meeting adjourned at 9:48 p.m.