



REPORT

Operational Services

TO: Mayor and Members of Council

FROM: Troy Gilmour, Director of Operational Services

DATE: February 13, 2025

REPORT: OPS-02-2025

SUBJECT: Picton Marina - 2025 Operational Plan

RECOMMENDATIONS:

1. **THAT** Council receive report OPS-02-2025;
2. **THAT** staff be directed to terminate the Picton Marina sublease/rental agreement effective immediately;
3. **THAT** Council rescind By-Law 174-2020; and
4. **THAT** staff be directed to issue an Expression of Interest (EIO) to obtain a new marina operator in time for the 2025 season.

EXECUTIVE SUMMARY:

On [September 22, 2020](#), the Mayor and Municipal Clerk executed an agreement ([By-law 174-2020](#)) between the Corporation of the County of Prince Edward and the Tenacity Marina Corporation (the Tenant) for the provision of a sub-lease/rental agreement for the operation of the Picton Marina (the Sublease). The agreement came into effect January 1, 2021 and was to be in effect for five years, with an expiry date of December 31, 2025.

This report provides an update on the ongoing challenges with the Tenant and an overview of their non-compliance to the requirements of the Sublease. Staff are recommending the lease be terminated and a new operator be sought in time for the 2025 season.

BACKGROUND

At the [September 3, 2020](#) meeting of Committee of the Whole, Council approved an agreement between the Corporation of the County of Prince Edward and the Tenacity Marina Corporation (the Tenant) for the provision of a sub-lease/rental agreement for the operation of the Picton Marina (the Sublease):

Motion CW-367-2020

Moved by Councillor St-Jean

Seconded by Councillor Prinzen

1. **THAT** Council receive report CSP-46/2020 for information; and
2. **THAT** Council approve the draft sub-lease allowing Tenacity Capital to operate the Picton Marina and including the right of first refusal to operate the Wellington Marina should it become available during the initial 5-year term of the sub-lease.

CARRIED

The Sublease (Attachment 1) was created to provide an opportunity for a third party to revitalize the Picton Marina and operate it in such a way as to be a public amenity to both residents and visitors. The agreement is in effect for five years with an expiry date of December 31, 2025. Staff are not recommending renewing the agreement based on a variety of factors outlined below, and instead are recommending the lease be terminated and a new operator be sought in time for the 2025 season.

Terms of the Agreement

The intent of the Sublease was to ensure the revitalization and improvement of the facilities provided at the marina both for the public and residents. As Section 14 (a) of the Sublease states:

14. Public Access and Green Space

(a) The Tenant shall adhere to the spirit of their original Expression of Interest in terms of public access which was to establish a revitalized marina operation, which will service both the travelling public and residents with access to improved marina facilities, services and boat launch

The public-facing services and the advertised amenities have been subject to many complaints and have not met the expectations of the Sublease. These include multiple complaints on the ability for the general public to communicate with the marina via their contact information provided (email) as responses were not returned. Staff have experienced the same lack of response when attempting to communicate with the marina.

Annual Reporting Requirements

The Tenant has failed to fulfil the reporting and annual remittance requirements/ deadlines of the Sublease to date. Section 2 of the Sublease outlines the remittance and reporting required by the Ministry of Natural Resources (MNR) and to be submitted to the Municipality by the Tenant annually. The four key pieces are:

- a) A report of Annual Gross Revenue
- b) Detailed receipts for revenues and expenses
- c) Statement of Net Revenue
- d) Remittance in the amount of 10% of net revenue

On August 19, 2024, the Municipality was notified by the MNR that remittance for the Picton Marina has not been received for 2021, 2022 or 2023. Remittances are due annually by March 31st per the Municipality's Head Lease with the MNR (Attachment 2).

Sublease/Rental Agreement Renewal

In order to renew the Sublease, the Tenant must have met all of the conditions of the agreement. Staff can confirm that conditions have not been met in contravention of Section (3)(2) of the Sublease which states:

[...] (3) (2) "the Tenant shall have the right to renew the Term on three (3) separate occasions, each for an additional five (5) years, upon written notice to the Landlord no later than ninety (90) days prior to the expiration of the Term or any Renewal, Sublease subject to the following:

(a) the Rent for the renewal term(s) shall be the same rate of rent as set forth in section 2(3)(a) herein for the first renewal term only (equal to two terms of 5 years). Subsequent renewals shall have been agreed upon not later than 30 days prior to commencement of the renewal term, failing which the Sublease shall be deemed to be terminated upon expiry of the current term of this Sublease;

(b) the Tenant must have satisfactorily operated the Marina and maintained the tangible Equipment in good working order, making all required repairs, maintenance and replacement, reasonable wear and tear excepted;

(c) Complaints made to the County regarding the operation of the marina Property will have been dealt with by The Tenant to the satisfaction of the Landlord, acting reasonably;

(d) The Sublease and the Head Lease shall be in good standing and the Tenant will not be breach thereof

Given the failure to comply with the conditions of the Sublease, immediate termination of the agreement is recommended with an Expression of Interest (EOI) to be posted immediately to secure a new, third-party operator as quickly as possible to provide services in time for the 2025 operating season. By moving quickly on an EOI, should a

suitable third-party operator not be found, there would be time to return to Council to consider alternative options.

STRATEGIC PLAN ALIGNMENT:

Pillar: Strive for good infrastructure and a diversified economy

Council Priority: Recreation, Heritage and Culture

Objective: Protect and enhance the County's cultural, heritage and natural assets for the future.

Budget Considerations

There are no budget considerations for the termination of the current contract and posting of a new Expression of Interest.

Risk Implications of Implementing Recommendation(s)

Risk Description	Risk Type	Proposed Mitigation
Negative public perception of the marina operations to date	Public / Stakeholder	Develop a communication strategy to notify the public of changes to marina operations and management. Implement the transition as quickly as possible to mitigate negative effects on the 2025 operating season. Complete a thorough review of the wording for conditions of any new sublease to ensure public availability of enhanced services and undertaken strict monitoring of compliance.

Other Options Considered

Should Council not support the recommendation to proceed with immediate termination of the contract and posting a new Expression of Interest, an alternative option would be for the Municipality to assume marina operations for the 2025 season

While this would give the Municipality direct control to improve service quality and customer satisfaction, staff do not recommend this option given other priorities for staff resources and capital budget. However, should this be a preferred option, a detailed analysis of the operational costs and feasibility of assuming operations for subsequent seasons would need to be undertaken prior to moving forward.

Another option would be for the Municipality to provide enhanced monitoring of the marina operations for the 2025 season until the end of the current Sublease (December 31, 2025). This would involve assigning the duties of summer students and some full-time Outdoor Spaces staff to monitor the daily services being provided by the Tenant.

With this option, staff would again need to prepare a detailed analysis of the operational costs and feasibility of assuming operations for subsequent seasons and what service impacts this may have to other areas given the Council-approved 2025 Budget.

NEXT STEPS:

Should Council support the recommendations of this report, staff will take the necessary steps to terminate the current contract immediately and expedite issuing an Expression of Interest to secure a new, third-party operator.

ATTACHMENTS:

1. By-law 174-2020 (Sublease)
2. Head Lease

AUTHORIZING SIGNATURES:

Prepared by:

Troy Gilmour January 22, 2025
Director, Operational Services



Approved for submission by:

Marcia Wallace January 30, 2025
Chief Administrative Officer