
HALDIMAND COUNTY

Report HRD-05-2021 National Day for Truth and Reconciliation Statutory Holiday



For Consideration by Council in Committee on August 24, 2021

OBJECTIVE:

To approve the observance of the new National Day for Truth and Reconciliation Statutory Holiday for eligible Haldimand County employees.

RECOMMENDATIONS:

1. THAT Report HRD-05-2021 National Day for Truth and Reconciliation Statutory Holiday be received;
2. AND THAT the National Day for Truth and Reconciliation (September 30) be approved as a Recognized Public Holiday with time off for Non-Union employees and pay for the SEIU and ONA employee groups within The Corporation of Haldimand County to provide for consistency within the organization and to allow all staff groups the ability to reflect on the importance of this national holiday.

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Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

On June 3, 2021, Bill C-5, *An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code (National Day for Truth and Reconciliation)* received Royal Assent. The amendment to the Canada Labour Code officially designates September 30 of each year as a federal statutory holiday, and more specifically recognizes the day as the National Day for Truth and Reconciliation. The intent of the new holiday is to provide an opportunity for each federal public servant to recognize and commemorate the legacy of residential schools. This may present itself as a day of quiet reflection or participation in a community event.

This marks a new public holiday under the *Canada Labour Code* (Code). The new statutory holiday applies to all federally regulated public and private sectors. While the Ontario government has not made similar amendments to the Employment Standards Act, in Haldimand County, The Canadian Union of Public Employees (CUPE) Local 4700 and United Food and Commercial Workers' Union (UFCW) collective agreements contain provisions that recognize a list of specific days as paid holidays which includes any day declared or proclaimed by the federal or provincial governments as a statutory holiday. Under such provisions, select Haldimand County employees representing 52% of the County workforce (excluding students and volunteer firefighters) are automatically entitled to the new statutory holiday, while others from different bargaining units and Non-Union staff are not.

Given the increasing importance of indigenous issues and the need for reconciliation, the significance of this day is something that is important to recognize across the nation. In addition, different treatment

of employee groups who are working alongside each other is not a desirable approach to a positive work environment. Practically speaking, it is expected that the union groups who do not have specific language addressing this holiday, will bring it forward as part of their bargaining agenda in the future. Staff believe it is important for Haldimand County to continue to be a local leader with respect to treating all staff fairly, for organizational success and in recognizing and doing our part in the truth and reconciliation process between Canada and our indigenous partners.

Accordingly, and for the above noted reasons, staff are recommending the National Day for Truth and Reconciliation be recognized by all Haldimand County employee groups as an official public holiday.

BACKGROUND:

Traditionally September 30 of each year has been commemorated as Orange Shirt Day to honour and bring recognition to First Nations, Inuit and Métis survivors, their families and communities. On June 3, 2021 the Government of Canada amended the *Canada Labour Code* to include September 30 as an official federal public holiday called National Day for Truth and Reconciliation, with the intent of ensuring public commemoration of First Nations, Inuit and Métis history and that the legacy of residential schools is recognized and remains a vital component of the reconciliation process. The amendment came into force on August 3, 2021, meaning that the new holiday will first occur this Fall, on Thursday, September 30, 2021, and each year thereafter it will fall on September 30. This new holiday is in line with one of the 94 calls to action of The Truth and Reconciliation Commission.

This new holiday only applies to federally regulated employers which are subject to the Code. (i.e. federal public servants, banks, Canada Post, Air Canada, etc.) As such, this new holiday does not apply to provincially regulated employers unless the provincial legislature makes similar amendments to provincial employment standards legislation (i.e. Employment Standards Act). It is not known as to whether or not the provincial government is considering making this amendment in the future; however at this time it has not done so. British Columbia has made the amendment provincially and the holiday will be observed by the province as a whole, in sectors such as schools and post-secondary, all public sector, all crown corporations and some healthcare workplaces.

It is relevant to note that currently the Canada Labour Code includes other public holidays not included in the Employment Standards Act such as Easter Monday, August Civic Holiday and Remembrance Day – all of which are observed at Haldimand County by every County work group.

After a review of the County's four union collective agreements and the policy governing non-union employees, it was determined that two of the four union agreements for the County contain provisions which require the County to recognize the new federal public holiday, with pay. By virtue, staff covered by the CUPE 4700 (County office and outside employees) and UFCW (majority of Grandview Lodge staff) collective agreements will observe the new holiday each year. These groups represent approximately 52% of the total County workforce, not including students or volunteer firefighters.

The union groups that do not include specific language in their collective agreements are SEIU (Paramedics) and ONA (Grandview Lodge Registered Nurses), and Non-Union employees. The chart below summarizes at a high level, the unions and the functions they represent:

Work Group	Functions
CUPE 4700	- Outside workers (Roads, Facilities, Parks, Water, Waste Management, Fleet, Bylaw, Fire Prevention, etc.) - Inside Clerical and Technical (i.e CSR's, Building Inspectors, Planners, POA, Office Clerical and Finance Clerks, etc.)
UFCW	- Grandview Lodge PSW's, RPN's, Dietary, Laundry, Housekeeping, Maintenance)
ONA	- Grandview Lodge Registered Nurses
SEIU	- Haldimand Paramedics
Non-Union	- Haldimand office administration, technical and executive staff, all library staff, Grandview Lodge administration, scheduling and recreation staff

Although collective agreements are bargained by each working group within the County and cover aspects that vary among groups due to the unique characteristics and functions of each, there are also many similarities among the agreements that by nature, allow for a consistent approach to organizational management in terms of the County's overall workforce. The Recognized Holidays section of every County work group policy contains the same list of 12 public, recognized holidays. The only difference is that two of the agreements include a specific statement requiring any new federal, provincial or municipal holiday to be recognized as well, while the other two do not.

ANALYSIS:

It is important that Council be aware of the effects on the organization, including the operational, budget and staff morale impacts, as they relate to this legislative amendment. More specifically there are three primary matters that need consideration:

First, does the County wish to limit recognition of the new federal public holiday to those staff within the CUPE and UFCW bargaining units and maintain the status quo for all other bargaining units, or is it desirable to allow the holiday to be recognized equally by all County employee groups. Associated to this, a decision will need to be made as to whether or not the Non-Union employee group, who historically would mirror any of the publicly recognized holidays that CUPE observes, will formally recognize the holiday.

Secondly, which public facilities should close or remain open on September 30.

The third matter is confirming Haldimand County's commitment to truth and reconciliation.

a) Recognition of the Public Holiday for Staff Groups:

Under current conditions the new holiday automatically applies to some County work groups but not others. With varying language in two of four Collective Agreements, there will be an impact to staff by virtue of peers working side by side and receiving differential treatment by means of wage and/or observance of the statutory holiday. For example, Grandview Lodge being a 24/7 healthcare facility requires certain staff to work on a statutory holiday versus observing the day as a day off. The disparity in language contained in the collective agreements results in a Registered Nurse (ONA)

and a Personal Support Worker (PSW) (UFCW) working side by side, being treated differently in terms of pay on this day based solely on the language for their respective bargaining unit.

Similarly, CUPE front line staff such as CSR's, office clerical and technical staff would be observing the holiday while non-union staff who work closely with the CUPE staff in the office, would not be observing the holiday. This not only creates an unintentional double standard, but it also lends itself to a greater morale issue that impacts the organization negatively. Operationally, it creates challenges in daily work efficiencies since staff from both work groups often rely on working together to share information and achieve common goals. Additionally there are further operational impacts, for example, if the office remained open but CUPE staff were observing the holiday leaving only non-union staff in the office - there would not be staff present who are trained to operate the service counters, take payments or operate the technology involved in the phone queue's to answer, transfer and respond to calls from the public, process payments, etc. Traditionally, the County has maintained parity to CUPE for the non-union employee group in terms of wage increases, comparable benefit improvements and recognized public holidays.

Given the issues identified above it is proposed that the new National Day of Truth and Reconciliation being extended as a recognized holiday for the non-union employee group as well as the two unionized groups that do not automatically get it. This consistency treats all staff equally and is the fairest approach and is beneficial to the organization in terms of maintaining a positive working climate.

It should be noted, however, that as part of a quick review of how other municipalities are responding to the new holiday, some are only providing the new benefit to those groups that automatically get it due to provisions in their collective agreement in part as a cost containment measure. Staff reached out to neighbouring municipalities, including Brantford, Norfolk, Hamilton and Niagara. As of the date of preparation of this report, the noted municipalities are following the language set out in their respective collective agreements meaning they have chosen not to extend the public holiday to all work groups, but rather only those set out in specific collective agreements.

As an organization Haldimand County has always strived to promote fairness and foster a positive morale among staff, despite work groups being governed by different policies. Despite the fact that the ONA and SEIU collective agreements do not precisely address adding this new holiday, it makes sense to extend it to these groups to allow for organizational consistency and a continued fair-minded approach to the County's human resources, which ultimately translates into a positive work environment and maintains the County's reputation as a reputable employer.

b) Closure of Haldimand County Facilities:

As noted throughout the report, CUPE 4700 and UFCW members are entitled to observe the National Day for Truth and Reconciliation statutory holiday. Correspondingly, these members are primarily front-line staff and some are required to operate Haldimand County facilities, many of which are normally open to the public. Staff that are required to work on holidays get premium pay as set out in their collective agreement. After a review of what the County currently does, operationally, on the three currently federal and recognized public holidays (Easter, Civic, Remembrance Day holidays), it is noted as follows:

Landfill/Transfer Station: Closed and curbside pickup delayed by one day

Arenas: Open as necessary, based on scheduled activity

Library: Closed on all currently recognized holidays except Remembrance Day

Museums: Typically closed on all currently recognized holidays, with a few exceptions

Administration Offices: Closed on all currently recognized holidays

Staff propose to continue with the above approach for all facilities except the Transfer Station, if Council approves the recognition of this holiday for all Haldimand County staff.

Specific to the Transfer Station, it would remain open since the contractor responsible for curbside pickup would most likely not be observing the holiday, and to avoid confusion to the public.

Specific to the Library, all branches would close and the holiday would be recognized by staff.

It is more cost effective to close the Haldimand County Administration Office for one day than it is to have it remain open. If it were to remain open, services would have to be provided by CUPE staff and this would be an additional financial impact, since there would be a requirement to pay for the holiday as well as a holiday premium in accordance with the collective agreement (i.e. 1.5 times regular pay plus holiday pay).

c) Haldimand County's Commitment to Truth and Reconciliation:

Haldimand County has recently undertaken several initiatives that allow it to advance its commitment to reconciliation efforts with First Nations partners. Council has recently approved the terms of reference for a Diversity, Equity and Inclusion Advisory Committee and staff are currently in the process of preparing to recruit for this committee which is expected to bring forward more recommendations to Council on how the municipality can participate in and demonstrate reconciliation efforts. The County acknowledges the recent residential school discoveries, honours the memory of the innocent children lost, and recognizes the importance of reflecting on this tragic piece of Canadian history. Two Haldimand County staff groups will be observing the newly enacted federal statutory holiday because of the legal requirement to do so under their respective collective agreements. However, staff are proposing that the observance of this holiday be extended to all work groups within the municipality, not just because it is a requirement of a collective agreement or will provide consistency among the organization, but also because it is an important piece of history to be recognized and a time to encourage all municipal staff to learn, reflect and participate in this commemorative day. Given Haldimand County's proximity to and the inter-relationships with the Six Nations and New Credit indigenous communities, Haldimand County has an opportunity to lead by example and demonstrate a commitment to reconciliation by ensuring staff are given the time and opportunity to learn, reflect and enact. In this regard, information will be sent to all County staff directing them to sources which will help to inform them of the purpose of this holiday.

As such and for the above noted reasons, it is recommended that the Corporation of Haldimand County observes September 30 as a paid statutory holiday - National Day for Truth and Reconciliation, for all of its employee groups.

FINANCIAL/LEGAL IMPLICATIONS:

As per the CUPE and UFCW collective agreements, their members will observe the new statutory holiday. The additional financial implications related to the staff recommendation of extending the holiday to all staff groups, relates to ONA and SEIU since these work groups will be required to work on the holiday, and will be provided with a day off in lieu of the public holiday, if the recommendation is approved. The Non-Union group observing the holiday will not result in any increased costs as the paid holiday would result in a day off and therefore the impact is in productivity rather than dollars. In addition, there will not be an impact related to part time staff who observe the holiday, however they will experience a loss of hours if they would normally have been scheduled to work in facilities that are now closed on September 30.

The additional cost to extend the recognition of the holiday to SEIU (Paramedics) and ONA (Registered Nurses at Grandview Lodge), which is made up of roughly 75 staff, equates to approximately \$28,000.

This includes the holiday premium pay that is required to be paid for a stat holiday for those staff who are working, as well as the stat holiday pay to those staff who are not working, the associated statutory benefit costs, and all other provisions of the respective collective agreements. It is expected that in 2021, there will be sufficient gapping dollars to cover this unbudgeted expense. For future years, the cost will be budgeted appropriately based on Council's decision.

STAKEHOLDER IMPACTS:

Introduction of a new statutory holiday impacts all areas of the Corporation and the community. All services will operate as they would on most other statutory holidays throughout the year, as indicated above, with many facilities closed to the public except arenas (if ice is scheduled) and the Canborough Transfer Station which will remain open to the public. Any closures affecting the public will be widely advertised through normal channels of communication (i.e. social media, website)

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: Yes

Policy: No

ATTACHMENTS:

None.