

The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 235-04



**BEING A BY-LAW TO AUTHORIZE THE ENTRY INTO AN
AGREEMENT WITH DR. MICHAEL CSANADI AND
DR. MAYNARD LUTERMAN TO ESTABLISH A
FAMILY GROUP PRACTICE IN THE TOWN OF FORT ERIE AND
TO REPEAL BY-LAW NO. 47-04**

WHEREAS Section 8 of the *Municipal Act, 2001* provides a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other *Act*, and

WHEREAS Section 9(1) of the said *Municipal Act* provides Sections 8 and 11 shall be interpreted broadly so as to confer broad authority on municipalities, to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues, and

WHEREAS Section 9(2) of the said *Municipal Act* provides in the event of ambiguity in Sections 8 and 11, those sections shall be interpreted broadly to include, rather than exclude, municipal powers that existed on December 31, 2002, and

WHEREAS Section 130 of the said *Municipal Act* provides a municipality may regulate matters not specifically provided for by this *Act* or any other *Act* for purposes related to the health, safety and well-being of the inhabitants of the municipality, and

WHEREAS Ontario Regulation 403/02 as amended provides that the annual debt and financial obligation limit for municipalities shall be determined under this Regulation, and

WHEREAS Ontario Regulation 403/02(4)(1) as amended provides before authorizing any specific work or class of work or any increase in expenditure for a previously authorized specific work or class of work that would require a long-term debt or financial obligation described in Section 2, the council of the municipality shall have its treasurer calculate an updated limit using the most recent debt and financial obligation limit determined by the Ministry, and

WHEREAS at the Closed Session meeting of February 23, 2004 Confidential Report No. CAO-12-2004 was considered and the following recommendation was reported publicly as follows:

THAT: Council direct staff to negotiate a Memorandum of Agreement with the Health Care Family Group Practice proponents to facilitate a financial partnership, and further

THAT: Public consultation takes place prior to Council's deliberations on the Memorandum of Agreement, and

WHEREAS at the Council meeting of March 8, 2004 Resolution No. 15 was passed as follows directing the consideration of a by-law at the Council meeting of March 29, 2004 to authorize the entry into an agreement with Dr. Michael Csanadi and Dr. Maynard Luterman for the purposes of providing financial assistance to establish a Family Group Practice at 238 Bertie Street subject to conditions:

THAT: The Municipal Council of the Town of Fort Erie hereby directs that a by-law be considered at the Council meeting of March 29, 2004 to authorize the entry into an agreement with Dr. Michael Csanadi and Dr. Maynard Luterman for the purposes of providing financial assistance to establish a family group practice at 238 Bertie Street in the following form:

- \$25,000 upon receipt of proof of incorporation, execution of contract for lease hold improvements and execution of contract for purchase and installation of an electronic medical recordingkeeping system, and
- \$25,000 upon receipt of proof of final invoice to the lease hold contractor and final payment for the purchase, installation and operation of the new electronic recordkeeping system,
- Each year thereafter on or about the 1st day of April, the Town shall pay \$25,000 for a period of three years, and further

THAT: The Clerk be directed to publish notice of Council's intentions herein to invite public comments, and further

THAT: Consultation occur with the appropriate stakeholders, and

WHEREAS notice of the Family Group Practice Proposal was published in The Times on March 20, 2004 inviting public consultation, and

WHEREAS By-law No. 47-04 was passed by the Municipal Council of the Town of Fort Erie on the 29th day of March, 2004 authorizing the entry into an agreement with Dr. Michael Csanadi and Dr. Maynard Luterman to establish a Family Group Practice in the Town of Fort Erie, and

WHEREAS Council has the power to regulate and direct its financial resources in the best interests of the inhabitants of the municipality, and

WHEREAS at the Closed Session meeting of December 6, 2004 Confidential Report No. CDS – 143-04 was considered and the recommendation was reported publicly to submit a by-law to Council to amend By-law No. 47-04 to effect certain amendments to the agreement between the Town of Fort Erie and the Family Group Practice as described therein, and

WHEREAS in the interests of the community and following efforts to attract physicians while improving access to health care in Fort Erie, it is deemed desirable to enter into an agreement with Fort Erie Family Group Practice Inc. (a corporation yet to be incorporated), c/o Dr. Michael Csanadi and Dr. Maynard Luterman to partner to establish a Family Group Practice at 238 Bertie Street, Fort Erie, and

WHEREAS the terms and conditions of the agreement set out in Schedule "A" annexed hereto to this by-law have been settled and agreed upon by the parties;

2. The Town shall provide to the Practice financial assistance in the amount of One Hundred and Twenty-Five Thousand Dollars (\$125,000) over a four (4) year period to establish and operate a Family Group Practice in the Town of Fort Erie at 238 Bertie Street and the financial assistance shall be paid as follows:
 - (a) Payment of the first installment of Twenty-Five Thousand Dollars (\$25,000) upon receipt by the Town of reasonable proof of the following, to its sole satisfaction:
 - (i) the incorporation of the Practice with the sole objects of providing full service family practice medicine to the citizens of Fort Erie, and
 - (ii) the existence of a signed contract with the contractor engaged by the Practice to carry out leasehold improvements, and
 - (iii) the existence of a signed contract with Rodan Communications to provide a new office telephone and communications system, and
 - (iv) the existence of a signed contract with Data File to provide an integrated chart/computer filing system.
 - (b) Upon the completion of the leasehold improvements and the installation and operation of both the telephone and communications system, and the integrated chart/computer filing system, payment of Twenty-Five Thousand Dollars (\$25,000) upon receipt by the Town of proof of final invoice paid to the contractor and final invoice paid for the purchase, installation and operation of the telephone and communications system and the integrated chart/computer filing system.
 - (c) Each year thereafter on or about the first day of April, the Town shall pay the Practice Twenty-five Thousand Dollars (\$25,000) for every year thereafter for a period of three (3) years, the total of all payments, including the payments set out in Clause 1(a) and 1(b) hereof, shall not exceed One Hundred and Twenty-Five Thousand Dollars (\$125,000).
3. In exchange for the financial assistance by the Town,
 - (a) the Practice agrees to establish and operate a Family Group Practice in the Town of Fort Erie at 238 Bertie Street providing full-time family physicians providing full-service family practice medicine to all persons in the community.
 - (b) the principals of the Practice, being Dr. Michael Csanadi and Dr. Maynard Luterman hereby agree that Dr. Michael Csanadi will practice full-time family medicine in the Practice and agree to provide at least one other full-time equivalent medical practitioner to practice family medicine in the Practice.
4. The Town shall not be obligated to make any further payments to the Practice during the term of this agreement,

- (a) The Practice closes, OR
- (b) At any time during the term of this agreement, any or all of the requirements of Section 3 (b) herein are not satisfied or cease to exist.
5. The Practice hereby acknowledges that nothing in this agreement shall prevent the Town from investigating, reviewing, facilitating or implementing any health care initiatives it may deem advisable and in the interests of the community.
6. The Practice hereby represents and warrants and hereby acknowledges and confirms that the Town is relying on such representations and warranties in connection with the provision of the financial assistance set out herein that the physicians practicing at the Family Group Practice are licenced medical practitioners in good standing with the College of Physicians and Surgeons of Ontario.
7. This agreement shall constitute the entire agreement between the parties hereto with respect to all the matters herein and this agreement shall not be amended except by a memorandum in the writing signed by all of the parties hereto and any amendment hereof shall be null and void and shall not be binding upon any party which has not given its consent as aforesaid.
8. No party hereto may assign this agreement or any part hereof without the prior written consent of the other party hereto. Subject to the foregoing, this agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals under the hands of their proper officers duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED
In the Presence of:

**THE CORPORATION OF THE
TOWN OF FORT ERIE**

MAYOR

CLERK

WITNESS

DR. MICHAEL CSANADI
o/b Fort Erie Family Group Practice Inc.
(a Corporation yet to be Incorporated)

WITNESS

DR. MAYNARD LUTERMAN
o/b Fort Erie Family Group Practice Inc.
(a Corporation yet to be Incorporated)

NOW THEREFORE the Municipal Council of The Corporation of the Town of Fort Erie hereby enacts as follows:

1. **THAT** the entry into an agreement with the Fort Erie Family Group Practice Inc. (a corporation yet to be incorporated), c/o Dr. Michael Csanadi and Dr. Maynard Luterman to partner by providing financial assistance in exchange for the establishment and operation of a Family Group Practice at 238 Bertie Street, Fort Erie, in the form of Schedule "A" annexed hereto to this by-law be and it is hereby authorized and approved.
2. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute the agreement annexed hereto as Schedule "A" to this by-law and to affix the corporate seal thereto.
3. **THAT** pursuant to Ontario Regulation 403/02 the Treasurer of the Corporation of the Town of Fort Erie has certified that any financial commitments incurred by this by-law are within the limits as determined by the Ministry of Municipal Affairs and Housing for the year 2004.
4. **THAT** pursuant to the provisions of Section 227 of the *Municipal Act, 2001* the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections to the by-law and schedule of a descriptive, administrative, numerical or grammatical nature as may be deemed necessary after the passage of this by-law.
5. **THAT** By-law No. 47-04 be and it is hereby repealed

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 13th DAY OF DECEMBER, 2004.



MAYOR



CLERK

I, the Clerk, Carolyn J. Kett, of The Corporation of the Town of Fort Erie hereby certify the foregoing to be a true certified copy of By-law No. 235-04 of the said Town. Given under my hand and the seal of the said Corporation this day of _____, 200 .

SCHEDULE "A" to BY-LAW NO. 235-04

This Agreement made in triplicate this day of , 2004.

BETWEEN:

THE CORPORATION OF THE TOWN OF FORT ERIE
(hereinafter referred to as the "Town")

OF THE FIRST PART;

- AND -

**FORT ERIE FAMILY GROUP PRACTICE INC. (A Corporation yet to be
Incorporated), c/o DR. MICHAEL CSANADI AND DR. MAYNARD
LUTERMAN**

(hereinafter referred to as the "Practice")

OF THE SECOND PART;

WHEREAS the Town of Fort Erie is located in an underserved area for the recruitment and retention of health professionals, and

WHEREAS the Town through its Community Health and Wellness Trust, has determined the need to undertake physician recruitment since there are approximately 4,000 residents in the Town of Fort Erie who do not have a family doctor, and

WHEREAS a proposal has been received by the Town from the Practice to establish a Family Group Practice at 238 Bertie Street in the Town of Fort Erie which is intended to attract additional physicians to practice family medicine in the Town of Fort Erie, and

WHEREAS the Town wishes to provide an incentive to the Practice to create a state of the art Family Group Practice at 238 Bertie Street in the Town of Fort Erie to attract Dr. Luterman as a full-time physician as well as attracting other physicians to the Practice, and

WHEREAS due to the shortage of physicians in the Town of Fort Erie it is deemed expedient to assist the Practice in establishing a Family Group Practice;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants and other terms and conditions hereinafter contained and sufficient consideration having been given one to the other, the parties hereby covenant and agree as follows:

1. The term of this Agreement shall be for a period of five (5) years commencing upon full execution of the Agreement and expiring five (5) years thereafter.