



## City of Hamilton

### CITY COUNCIL ADDENDUM

19-009

Wednesday, May 8, 2019, 5:00 P.M.  
Council Chambers, Hamilton City Hall  
71 Main Street West

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#### 5. COMMUNICATIONS

- \*5.8 Correspondence from Susan O'Rourke respecting 745 Crooks Hollow Road, Dundas, Ontario.

Recommendation: Be received and referred to the consideration of item 4 (1)(b) of Planning Committee Report 19-007.

- \*5.9 Correspondence from the Honourable Heather J. Smith, Chief Justice of the Superior Court of Justice appointing the Honourable Mr. Justice Herman Wilton-Siegel to investigate pursuant to the resolution passed by Council of the City of

Hamilton on March 20, 2019 respecting the inquiry into matters connected to the Red Hill Valley Parkway.

Recommendation: Be received.

- \*5.10 Correspondence from the Honourable Mr. Justice Herman Wilton-Siegel, Superior Court of Justice appointing Robert A. Centa of the law firm of Paliare Roland Rosenberg Rothstein LLP as his counsel to assist with the inquiry into

matters connected to the Red Hill Valley Parkway.

Recommendation: Be received.

- \*5.11 Correspondence from the Honourable Rod Phillips, Minister of the Environment, Conservation and Parks respecting the board composition at the Niagara Peninsula Conservation Authority.

Recommendation: Be received and referred to the consideration of Item 8 of General Issues Committee Report 19-009

## 10. PRIVATE AND CONFIDENTIAL

- \*10.2 35 Market Street South, Dundas (LS19009(b)//PW19020(b)) (distributed under separate cover)

Pursuant to Section 8.1, Sub-sections (e) and (k) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (e) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City; and, a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

- \*10.3 Labour Relations Matter (no copy)

Pursuant to Section 8.1, Sub-sections (b) and (d) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (b) and (d) of the *Ontario Municipal Act*, 2001, as amended, as the subject matters pertain personal matters about an identifiable individual, including City employees; and, labour relations or employee negotiations.

Susan O'Rourke  
745 Crooks Hollow Road  
Dundas, Ontario  
L9H 5E2

May 6, 2019

Hamilton Mayor and Members of Council  
71 Main Street West  
Hamilton, Ontario  
L8P 4Y5

Sent by Email attachment to: [clerk@hamilton.ca](mailto:clerk@hamilton.ca)

Re: 745 Crooks Hollow Road, Dundas, Ontario

I am writing to request that the motion scheduled to be heard by City Council on May 8, 2019, namely, to include 745 Crooks Hollow Road, Dundas on the Register of Properties of Cultural Heritage Value ("Register") be tabled to allow me an opportunity to respond.

I am the property owner of 745 Crooks Hollow Road, Dundas, Ontario; there is a mortgage on the property.

On or about April 10, 2019, a letter ("the letter") was sent by regular mail to the property owner at 745 Crooks Hollow Road, Dundas, Ontario. A copy of the letter is enclosed. By the time I received the letter, the April 18, 2019 meeting of the Hamilton Municipal Heritage Committee had already taken place and it was the eve of the meeting of the Planning Committee. Unfortunately, despite the efforts of myself and my son to obtain more information on this matter, we were not able to do so before the Planning meeting was already taking place on April 30, 2019.

I was able to learn from Ms. Miranda Brunton, Cultural Heritage Planner with the City of Hamilton on May 1, 2019, that the recommendation to include 745 Crooks Hollow Road on the Register would go to City Council on May 8, 2019 for approval.

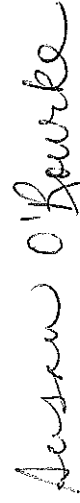
Prior to receiving the letter, I was not aware of the interest in the property. When I purchased the property, one of the listings was showing the property as vacant land. At no time has anyone contacted me from the community or the heritage committee to speak about this matter or ask for my input.

I can also advise that as recently as in March, 2019, I have been in correspondence with Mr. Donald Skinner from the City of Hamilton Planning Department to discuss the steps involved in obtaining any necessary permits for work done on the property and the help I could access through the City. At no time was there any mention of the process that apparently was taking place through the Heritage Committee leading to the recommendation that will be before Council on May 8, 2019.

While I do not know what if any impact the recommendation to register 745 Crooks Hollow Road will have on my ability to make decisions about my property or the terms of my mortgage, I believe it is only fair and reasonable that I have more time to make these inquiries given the potential for impact and the very limited time I have had to respond. I do work full time and am responsible for co-ordinating the care and services required by my elderly mother. Lastly, I note from the Built Heritage Inventory Form which is dated November 24, 2018, this matter has been going on for sometime without me having any notice.

I will be present at the Council meeting on May 8, 2019.

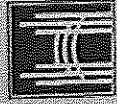
Thank you in advance for considering my request.



Susan O'Rourke



Encl.



**Hamilton**

Mailing Address  
71 Main Street West  
Hamilton, Ontario  
Canada L8P 4Y6  
www.hamilton.ca

Planning Division: Planning and Economic Development  
Physical Address: 71 Main Street West, 5<sup>th</sup> Floor  
Phone: 905.546.2424 x1202 Fax: 905.540.5611  
Email: [Morena@brunton@hamilton.ca](mailto:Morena@brunton@hamilton.ca)

April 10, 2019

FILE: 745 Crooks' Hollow Road, Dundas

Property Owner  
745 Crooks' Hollow Road  
Dundas, ON  
L9H 5E2

Dear Property Owner(s):

**Re: Request to include 745 Crooks Hollow Road, Dundas in the Municipal Register of Properties of Cultural Heritage Value or Interest (Ward 14)**

This letter is to inform you of a recommendation to include 745 Crooks Hollow Road, Dundas in the Municipal Register of Property of Cultural Heritage Value or Interest ("the Register").

The Inventory & Research Working Group discussed the cultural heritage value of your property on March 25, 2019. As an outcome of this meeting, the Working Group is recommending to the Hamilton Municipal Heritage Committee that the subject property be added to the Municipal Register. A Preliminary Assessment of the property was subsequently completed by a Working Group member (see "Built Heritage Inventory Form" attached), a summary of their research is provided below.

Built in 1850, this property is recommended as it is an example of the Ontario Cottage which was a popular design for residential buildings in the early to mid-19<sup>th</sup> century. It has historical/associative value because of its connection to the Morden family who settled by the Spencers' Creek and established a saw mill and later a grist mill helping to define the area as an area of commerce and economic activity. Lastly, the property is adjacent to another Morden property, 769 Crooks' Hollow Road which is designated, both of which demonstrate contextual value in defining and maintaining the character of the area.

The Hamilton Municipal Heritage Committee provides advice to Council on all matters related to the *Ontario Heritage Act*. As such, this recommendation will be brought forward to the Hamilton Municipal Heritage Committee on April 18, 2019. Through a motion, the item may then be recommended to Planning Committee on April 30, 2019 and then to Council on May 8, 2019.

**What is the Register?**

The Register is a heritage conservation management tool under the Ontario Heritage Act. Non-designated properties added to the Register are not protected with a designation by-law under the Ontario Heritage Act, and as such, Heritage Permits are not required to be obtained for alterations. The Register is an administrative record consisting of properties identified by Council as being of cultural heritage value or interest. Consultation with the Hamilton Municipal Heritage Committee and a Council resolution is required to include a property in the Register.

Inclusion in the Register under Section 27 (1.2) of the Ontario Heritage Act requires that Council be given a 60-day notice of the intention to demolish or remove any building or structure on the property, and the demolition and removal of any building or structure is prohibited during this time period. The 60-day period allows staff the opportunity to discuss alternatives for the property should a notice of intention to demolish be received by Council, or if a development application under the Planning Act is received, including:

- Discussions with the owner respecting retention, adaptive re-use and financial incentives,
- Photo-documentation of the property prior to demolition; and,
- Designation under the Ontario Heritage Act.

For more information, please consult the attached information sheet or visit the City's Heritage Planning website at: [www.hamilton.ca/heritageplanning](http://www.hamilton.ca/heritageplanning). Staff is available to discuss this process should you have any further questions or comments.

The Hamilton Municipal Heritage Committee meetings are open to the public and any requests to speak at a committee meeting should be submitted to the City Clerk's office before a scheduled meeting.

If you have any questions, please do not hesitate to contact me at 905-546-2424. Ext. 1202, or via email at [Miranda.Brunton@hamilton.ca](mailto:Miranda.Brunton@hamilton.ca).

Kind regards,



Miranda Brunton  
Cultural Heritage Planner  
Development Planning, Heritage and Design

Attach. (2)

THE HONOURABLE HEATHER FORSTER SMITH  
CHIEF JUSTICE OF THE SUPERIOR COURT OF JUSTICE



L'HONORABLE HEATHER FORSTER SMITH  
JUGE EN CHEF DE LA COUR SUPÉRIEURE DE JUSTICE

OSGOODE HALL  
130 QUEEN STREET WEST  
TORONTO, ONTARIO M5H 2N5

(416) 327-5111  
FAX (416) 327-6011

Our Reference #:JUD-076

May 3, 2019

Mr. Eli S. Lederman  
Lenczner Slaght  
130 Adelaide St. W.  
Toronto, ON M5H 3P5

Dear Mr. Lederman:

I am responding to your letter, dated April 5, 2019. In your letter, you advise that you serve as counsel to the Corporation of the City of Hamilton, and that the Council of the City of Hamilton passed a resolution on March 20, 2019 requesting a judge of the Superior Court investigate matters relating to the disclosure of a draft report, dated November 20, 2013 from Tradewind Scientific Ltd., with respect to the friction levels on the Red Hill Valley Parkway in the City of Hamilton.

Since receiving your letter, I understand that you and the City Solicitor, Ms. Nicole Auty, have spoken with my Executive Legal Officer, Mr. Mohan Sharma, on April 10, 2019 to outline the scope of the requested investigation. You indicated that the more specific Terms of Reference for the investigation were to be issued by the City of Hamilton, which were received by my office on April 25, 2019. These Terms of Reference were approved by the City of Hamilton on April 24, 2019.

Pursuant to s. 274 of the *Municipal Act, 2001*, SO 2001, c. 25, if a municipality requests by resolution an investigation, a judge of the Superior Court of Justice shall be appointed to investigate a matter. Accordingly, I am hereby appointing the Honourable Mr. Justice Herman Wilton-Siegel to investigate pursuant to the resolution passed by Council of the City of Hamilton on March 20, 2019. The scope of the inquiry will be as set out in the Terms of Reference, issued on April 24, 2019, subject to any adjustment that Justice Wilton-Siegel may address with the City.

S. 274(6) of the *Municipal Act, 2001* states:

*The judge may engage counsel and other persons to assist in the investigation or inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the municipality.*

The administrative costs of conducting an investigation can be significant and ought to be appreciated by the City of Hamilton. I understand Mr. Sharma discussed these potential costs with you during

your telephone conversation on April 10, 2019. I enclose, as an example, a Corporate Report, dated October 13, 2009, from the City Solicitor for the City of Mississauga that sets out the types of costs and estimated costs for the Mississauga Judicial Inquiry heard by former Associate Chief Justice Douglas Cunningham. A judge appointed to an investigation can be requested to engage processes that make the cost of an investigation proportionate to the amounts and interests at issue. However, certain costs will be unavoidable and can be significant.

I ask that you please contact Mr. Sharma to arrange an initial meeting with Justice Wilton-Siegel.

Sincerely,



Heather J. Smith,  
Chief Justice.

Encl.

C: Regional Senior Justice Geoff Morawetz, Toronto region  
Mr. Justice Herman Wilton-Siegel  
Mr. Mohan Sharma, Executive Legal Officer  
Ms. Nicole Auty, City Solicitor, City of Hamilton



THE HONOURABLE  
MR. JUSTICE HERMAN J. WILTON-SIEGEL  
SUPERIOR COURT OF JUSTICE

COURT HOUSE  
361 UNIVERSITY AVENUE  
TORONTO, ONTARIO M5G 1T3  
Tel. (416) 327-5284  
Fax (416) 327-5417



L'HONORABLE  
JUGE HERMAN J. WILTON-SIEGEL  
COUR SUPÉRIEURE DE JUSTICE

PALAIS DE JUSTICE  
361, AVENUE UNIVERSITY  
TORONTO (ONTARIO) M5G 1T3  
Tél. (416) 327-5284  
Télééc. (416) 327-5417

May 7, 2019

Mr. Eli S. Lederman (elederman@litigate.com)  
Lenczner Slaght Royse Smith Griffin LLP  
130 Adelaide Street West  
Toronto, ON M5H 3P5

Dear Mr. Lederman,

As you know, on May 3, 2019, Chief Justice Heather J. Smith appointed me to conduct an inquiry into matters connected to the Red Hill Valley Parkway as identified in the resolution passed by the Council of the City of Hamilton on April 24, 2019.

I am writing to advise you that I have appointed Robert A. Centa of law firm Paliare Roland Rosenberg Rothstein LLP as my counsel to assist with the inquiry. With Mr. Centa's assistance, I will also be appointing other counsel and staff to assist with the investigation. It is my hope that, with the assistance of the City, we will establish facilities and commence our work in the near future. We will also be appointing a person responsible for establishing a website for the inquiry and handling communications with members of public and the media. In the meantime, Mr. Centa is available to respond to inquiries at (416) 646-4314 or Robert.Centa@PaliareRoland.com

Mr. Centa will be contacting you very shortly to discuss preliminary matters.

Sincerely,

The Honourable Mr. Justice Herman J. Wilton-Siegel

Copy: Nicole Auty, City Solicitor, City of Hamilton  
Robert A. Centa

Ministry of the Environment,  
Conservation and Parks

Ministère de l'Environnement,  
de la Protection de la nature et des  
Parcs



Office of the Minister

Bureau du ministre

777 Bay Street, 5th Floor  
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Tel.: 416-314-6790

777, rue Bay, 5<sup>e</sup> étage  
Toronto (Ontario) M7A 2J3  
Tél.: 416.314.679

MAY 06 2019

357-2019-506

His Worship Fred Eisenberger  
Mayor  
City of Hamilton  
Email: [mayor@hamilton.ca](mailto:mayor@hamilton.ca)

Dear Mayor Eisenberger:

Thank you for sharing with me your Council's resolution regarding the board composition at the Niagara Peninsula Conservation Authority.

Under the *Conservation Authorities Act*, participating municipalities are responsible for the appointment of members to a conservation authority. Recent amendments to the Act include provisions that give participating municipalities clear authority to appoint and replace the members of an authority. To clarify, the province does not have a role in the municipal appointment process.

Participating municipalities are entitled to appoint members either: based on the formula set out in subsection 2(2) of the Act; or based on an agreement between the participating municipalities. Where the formula set out in the Act is used, an upper-tier municipality that was established as a regional municipality before December 12, 2017 is entitled to appoint members based on the numbers that each of their lower-tier municipalities would be entitled to appoint.

Thank you again for writing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rod Phillips", written over a blue circular stamp.

Rod Phillips  
Minister