



**City of Hamilton**  
**GENERAL ISSUES COMMITTEE**

**Meeting #:** 19-020  
**Date:** October 16, 2019  
**Time:** 9:30 a.m.  
**Location:** Council Chambers, Hamilton City Hall  
71 Main Street West

Stephanie Paparella, Legislative Coordinator (905) 546-2424 ext. 3993

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1. **CEREMONIAL ACTIVITIES**
  - 1.1 Canadian Championship in Women's Power Lifting
2. **APPROVAL OF AGENDA**

(Added Items, if applicable, will be noted with \*)
3. **DECLARATIONS OF INTEREST**
4. **APPROVAL OF MINUTES OF PREVIOUS MEETING**
  - 4.1 October 2, 2019
5. **COMMUNICATIONS**
6. **DELEGATION REQUESTS**
7. **CONSENT ITEMS**
8. **PUBLIC HEARINGS / DELEGATIONS**
9. **STAFF PRESENTATIONS**

## 10. DISCUSSION ITEMS

- 10.1 Investing in Canada Infrastructure Program - Community, Culture and Recreation Stream Intake (FCS19080) (City Wide)
- MOVED TO ITEM 9.1 - PRESENTATION ADDED
- 10.2 Airport Sub-Committee Report 19-004 - September 20, 2019
- Discussion of the REVISED Private and Confidential Appendix “B” to Report PED19084(a) in Closed Session would be pursuant to Section 8.1, Sub-section (k) of the City's Procedural By-law 18-270; and, Section 239(2), Sub-section (k) of the *Ontario Municipal Act, 2001*, as amended, as the subject matters pertain to 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. PLEASE REFER TO ITEM 14.4.
- 10.3 Capital Projects Work-in-Progress Review Sub-Committee Report 19-005 - September 25, 2019
- 10.4 Capital Projects Work-in-Progress Review Sub-Committee Report 19-006 - September 26, 2019
- 10.5 Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide) (Outstanding Business List Item)
- 10.6 Hamilton Business Centre - Funding Agreement (PED19202) (City Wide)
- 10.7 Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3)
- 10.8 Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13)
- 10.9 Hate Related Activities on City of Hamilton Properties (LS19031 / PW19068(a) / CM19006(a)) (City Wide) (Outstanding Business List Item)
- 10.10 Red Hill Valley Parkway Inquiry Update (LS19036) (City Wide)
- Discussion of Private and Confidential Appendix “D” to Report LS19036 in Closed Session would be pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (e) and (f) 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 municipality or local board; and advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

**11. MOTIONS**

11.1 Feasibility of a Municipal Carbon Tax to Generate Revenue from Fossil Fuel Pipelines within the Boundaries of the City of Hamilton

11.2 Mountain News Delivery

**12. NOTICES OF MOTION****13. GENERAL INFORMATION / OTHER BUSINESS****14. PRIVATE AND CONFIDENTIAL**

14.1 \*\*October 2, 2019 - Closed Minutes - These Minutes will appear on the November 6, 2019 GIC Agenda.

14.2 Potential Regulatory Litigation Update (PW19008(c) / LS19004(c)) (City Wide)  
(Distributed under separate cover)

Pursuant to Section 8.1, Sub-sections (e), (f) and (k) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (e), (f) 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 municipality or local board; the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; 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.

14.3 Item 10.10 - Red Hill Valley Parkway Inquiry Update (LS19036) (City Wide)  
CONFIDENTIAL Appendix "D"

Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (e) and (f) 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 municipality or local board; and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

**15. ADJOURNMENT**



## **GENERAL ISSUES COMMITTEE MINUTES 19-019**

9:30 a.m.

Wednesday, October 2, 2019

Council Chambers

Hamilton City Hall

71 Main Street West

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**Present:** Mayor F. Eisenberger, Deputy Mayor T. Whitehead (Chair)  
Councillors M. Wilson, J. Farr, N. Nann, S. Merulla, C. Collins,  
T. Jackson, E. Pauls, J. P. Danko, B. Clark, M. Pearson, B. Johnson,  
L. Ferguson, A. VanderBeek

**Absent:** Councillor J. Partridge – Personal

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### **THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:**

**1. Investing in Canada Infrastructure Program – Public Transit Stream Grant Program (PW19083/FCS18048(a)) (City Wide) (Item 9.1)**

**(Eisenberger/Wilson)**

- (a) That the projects listed in Appendix “A” attached to Report PW19083/FCS18048(a), be approved as the City of Hamilton’s submission for consideration to the Ministry of Transportation Ontario for the requested funding amount of \$374,684,401 for projects with a total project cost of \$510,911,000 in accordance with the terms and conditions associated with the Investing in Canada Infrastructure Program (ICIP), Public Transit Stream;
- (b) That Investing in Canada Infrastructure Program, Public Transit Stream Project Financing Strategy, as detailed in Appendix “A” attached to Report PW19083/FCS18048(a) be approved;
- (c) That the Mayor and Clerk be authorized and directed to execute all necessary documentation, including Funding Agreements to receive funding under Investing in Canada Infrastructure Program, Public Transit Stream with content satisfactory to the General Manager of Public Works and in a form satisfactory to the City Solicitor;
- (d) That staff be authorized and directed to tender and implement projects contained in Appendix “A” attached to Report PW19083/FCS18048(a) upon execution of a Transfer Payment Agreement between the City of Hamilton and Her Majesty the Queen in right of Ontario as represented by the

Minister of Transportation for the Province of Ontario to Receive Funding Investing in Canada Infrastructure Program, Public Transit Stream;

- (e) That the Director of Transit be authorized and directed to submit future project amendments that may be required to Infrastructure Canada and the Province of Ontario provided that such amendments are acceptable to the General Manager of Public Works and that no amendment shall result in the City's maximum funding share being exceeded;
- (f) That the operating budget and staffing full time equivalent (FTE) impacts related to approved ICIP projects as shown in Appendix "B" attached to Report PW19083/FCS18048(a), be incorporated in the Tax Supported Operating Budget for the appropriate fiscal year;
- (g) That where required to give effect and authorize the signing of a Transfer Payment Agreement between the City of Hamilton and Her Majesty the Queen in right of Ontario as represented by the Minister of Transportation for the Province of Ontario, to receive funding under Investing in Canada Infrastructure Program, Public Transit Stream, Legal staff be directed to prepare a By-law in the form satisfactory to the City Solicitor for consideration by Council;
- (h) That where required to give effect and authorize the signing of amendments to the Transfer Payment Agreement between the City of Hamilton and Her Majesty the Queen in right of Ontario as represented by the Minister of Transportation for the Province of Ontario, to receive funding under Investing in Canada Infrastructure Program, Public Transit Stream, Legal staff be directed to prepare By-law(s) in the form satisfactory to the City Solicitor for consideration by Council;
- (i) That the General Manager, Finance and Corporate Services, be authorized and directed to enter into and execute any necessary agreements including any agreements with Infrastructure Ontario's Loan Program to secure the capital funding required for capital projects for Investing in Canada Infrastructure Program, Public Transit Stream, as attached in Appendix "A" to Report PW19083/FCS18048(a);
- (j) That the General Manager, Finance and Corporate Services, be authorized and directed to enter into and execute any necessary agreements to engage the services of all required persons, agencies and companies to negotiate and confirm the terms and issuance of all necessary debenture issue(s) including, but not limited to, external legal counsel, fiscal agents and financial professionals, to secure the capital funding required capital projects for Investing in Canada Infrastructure Program, Public Transit Stream, as attached in Appendix "A" to Report PW19083/FCS18048(a);
- (k) That the General Manager, Finance and Corporate Services, be authorized to negotiate and confirm the terms and placement of all debenture issue(s),

and/or private placement debenture issue(s), in either a public or private market and/or bank loan agreements and debenture issue(s) and/or variable interest rate bank loan agreements and debenture issue(s), in an amount not to exceed \$83,611,200 Canadian currency for capital projects for Investing in Canada Infrastructure Program, Public Transit Stream as attached in Appendix "A" to Report PW19083/FCS18048(a), which includes \$48,401,200 in Tax Supported municipal debt and \$35,210,000 in Tax Supported Development Charges municipal debt;

- (l) That the Mayor and City Clerk be authorized and directed to enter into and/or execute, on behalf of the City of Hamilton, all agreements and necessary ancillary documents required for Investing in Canada Infrastructure Program, Public Transit Stream, as attached in Appendix "A" to Report PW19083/FCS18048(a) including those required to secure and confirm the terms and issuance of any required debenture issue(s), with content acceptable to the General Manager, Finance and Corporate Services, and in a form satisfactory to the City Solicitor; and,
- (m) That staff be directed to prepare all necessary By-Law(s) to authorize and implement Investing in Canada Infrastructure Program, Public Transit Stream Projects, as attached in Appendix "A" to Report PW19083/FCS18048(a) including those By-laws necessary to negotiate, place and secure all required capital funding.

**Result: Motion CARRIED by a vote of 14 to 1, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NO - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**2. Sports, Entertainment and Convention Venues Review (PED18168(b)) (City Wide) (Outstanding Business List Item) (Item 10.1)**

**(Farr/Clark)**

- (a) That the strategy outlined within the “City of Hamilton Entertainment Venues Review”, attached as Appendices “A” and “B” to Report PED18168(b), be **received**;
- (b) That the recommendations outlined in confidential Appendix “C”, **as amended**, to Report PED18168(b) be approved;
- (c) That Appendices “A” and “B” to Report PED18168(b), help to inform any Host City facilities strategy that staff consider when assessing the feasibility and potential benefits of a Hamilton bid for the 2030 Commonwealth Games; and,
- (d) That the entirety of Appendices “B” “C” **as amended**, and “E” to Report PED18168(b) remain confidential and not be released as public documents.

**Result: Main Motion, As Amended, CARRIED by a vote of 9 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 NOT PRESENT - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 NOT PRESENT - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 NOT PRESENT - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**3. Barton Kenilworth Tax Increment Grant Program - 302 James Street North/4 Barton Street East, Hamilton (PED19193) (Ward 2) (Item 10.2)**

**(Farr/Collins)**

- (a) That a Barton Kenilworth Tax Increment Grant Program application submitted by 2571793 Ontario Inc. (Louis A. Grilli, President, Michael Clarke, Secretary), for the property at 302 James Street North/4 Barton Street East, Hamilton, estimated at \$4,951.52 over a maximum of a nine-

year period, and based upon the incremental tax increase attributable to the renovations of 302 James Street North/4 Barton Street East, Hamilton, be authorized and approved in accordance with the terms and conditions of the Barton Kenilworth Tax Increment Grant Program;

- (b) That the Mayor and City Clerk be authorized and directed to execute a Grant Agreement together with any ancillary documentation required, to effect to the Barton Kenilworth Tax Increment Grant Program application submitted by 2571793 Ontario Inc. (Louis A. Grilli, President, Michael Clarke, Secretary), for the property at 302 James Street North/4 Barton Street East, Hamilton, in a form satisfactory to the City Solicitor;
- (c) That the Mayor and City Clerk be authorized and directed to execute such assigning agreement, as required, to give effect to the Barton Kenilworth Tax Increment Grant Program application submitted by 2571793 Ontario Inc. (Louis A. Grilli, President, Michael Clarke, Secretary), for the property at 302 James Street North/4 Barton Street East, Hamilton, in a form satisfactory to the City Solicitor; and,
- (d) That the General Manager of the Planning and Economic Development Department be authorized and directed to approve and execute any Grant Amending Agreements, together with any ancillary amending documentation, if required, to give effect to the Barton Kenilworth Tax Increment Grant Program application submitted by 2571793 Ontario Inc. (Louis A. Grilli, President, Michael Clarke, Secretary), for the property at 302 James Street North/4 Barton Street East, Hamilton, provided that the terms and conditions of the Hamilton Tax Increment Grant Program, as approved by City Council, are maintained.

**Result: Motion CARRIED by a vote of 15 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

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**4. Financial Incentive Program Amendments Respecting Potential Tenant Displacement (PED19178/HSC19052) (City Wide) (Item 10.3)****(Nann/Wilson)**

- (a) That the amended program terms and administrative procedures for the Commercial Corridor Housing Loan and Grant Program, the Hamilton Tax Increment Grant Program, the Barton/Kenilworth Tax Increment Grant Program and the Barton/Kenilworth Commercial Corridor Building Improvement Grant Program, which form part of Appendix “A” to the Downtown and Community Renewal Community Improvement Plan, and attached as Appendix “A” to Report PED19178/HSC19052, be approved with an effective date for new applications submitted beginning January 1, 2020;
- (b) That the Economic Development Division be authorized and directed to revise applicable application forms and other program-related materials necessary to implement the amended program terms and administrative procedures, attached as Appendix “A” to Report PED19178/HSC19052;
- (c) That the General Manager of the Planning and Economic Development Department continue to be authorized to execute agreements under the amended program terms for the Commercial Corridor and Housing Loan and Grant Program to a maximum grant/loan of \$250 K with agreement content continuing to be satisfactory to the General Manager and in a form satisfactory to the City Solicitor;
- (d) That the General Manager of the Planning and Economic Development Department continue to be authorized to execute agreements under the amended Barton/Kenilworth Commercial Corridor and Housing Loan and Grant program with agreement content continuing to be satisfactory to the General Manager and in a form satisfactory to the City Solicitor;
- (e) That with respect to the Commercial Corridor Housing Loan and Grant Program, the Hamilton Tax Increment Grant Program, the Barton/Kenilworth Tax Increment Grant Program and the Barton/Kenilworth Commercial Corridor Building Improvement Grant Program (the Programs), City Council:
  - (i) Direct the Housing Services Division to initiate quarterly requests to the Landlord and Tenant Board to obtain information regarding requests for Above Guideline Increases (also referred to as “L5” requests) received within the City of Hamilton on an on-going basis;
  - (ii) Direct the Housing Services Division to collaborate with appropriate community partners to prepare and distribute a comprehensive tenant education package that, at a minimum, include information on the rights of tenants; and,

- (iii) Direct and authorize the Legal Services Division to develop appropriate conditions for inclusion in agreements and other materials related to the programs necessary to implement the amended terms and administrative procedures attached as Appendix "A" to Report PED19178/HSC19052, in a form satisfactory to the City Solicitor.

**Result: Motion CARRIED by a vote of 10 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 CONFLICT - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 NOT PRESENT - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 CONFLICT - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 NOT PRESENT - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**5. West Harbour Development Sub-Committee Report 19-002, September 9, 2019 (Item 10.4)**

**(Eisenberger/Farr)**

**(a) Status of West Harbour Implementation (PW17075(c)) (City Wide) (Item 9.1)**

That Report PW17075(c), respecting the Status of West Harbour Implementation, be received.

**(b) Piers 6 and 7 Commercial Village Activation Plan (PED19191) (Ward 2) (Item 10.1)**

**(i) That staff be directed to immediately market the individual development blocks for Piers 6 and 7 for sale to the private sector; and,**

**(ii) That the retail study attached as Appendix "A", be received.**

**Result: Main Motion, As Amended, CARRIED by a vote of 13 to 1, as follows:**

NO - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**6. Business Improvement Area Advisory Committee Report 19-009, September 10, 2019 (Item 10.5)**

**(Pauls/Jackson)**

**(a) Ottawa Street Business Improvement Area Expenditure Request (Item 11.1)**

- (i) That the expenditure request from the Ottawa Street Business Improvement Area, in the amount of \$13,174.21 for Hanging Baskets (Spring/Summer), and Holiday Decorative Swag, to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905), be approved; and,
- (ii) That the expenditure request from the Ottawa Street Business Improvement Area, in the amount of \$19,536.82 for Banners, Banner Maintenance, Media, Special Events, Street Maintenance, and Christmas Hanging Baskets, to be funded from the Shared Parking Revenue Program (Parking Revenue Account 815010-45559), be approved.

**(b) International Village Business Improvement Area Expenditure Request (Item 11.2)**

That the expenditure request from the International Village Business Improvement Area, in the amount of \$6,612.03 for Beautification, Banner

Maintenance, and Graffiti Removal, to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905), be approved.

**(c) Concession Street Business Improvement Area Expenditure Request (Item 11.3)**

(i) That the expenditure request from the Concession Street Business Improvement Area, in the amount of \$7,942.32 to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905) to be spent as follows, be approved:

- (1) \$4,600.00 on hanging baskets; and,
- (2) \$3,342.32 on winter inserts for sidewalk planters.

(ii) That the expenditure request from the Concession Street Business Improvement Area, in the amount of \$16,099.45 to be funded from the Shared Parking Revenue Program (Parking Revenue Account 815010-45559), to be spent as follows, be approved:

- (1) \$13,000 on murals; and,
- (2) \$3,099.45 on Fallfest entertainment (horse and wagon rides and fall decorations).

**(d) Downtown Hamilton Business Improvement Area Expenditure Request (Item 11.4)**

(i) That the expenditure request from the Downtown Hamilton Business Improvement Area, in the amount of **\$5,381.59** for Bicycle Racks, and the purchase and Maintenance of Christmas Decorations, to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905), be approved; and,

(ii) That the expenditure request from the Downtown Hamilton Business Improvement Area, in the amount of \$13,086.34 for Graffiti Removal Product, Advertising (Hamilton Spectator), Marketing Services (Gel Creative), to be funded from the Shared Parking Revenue Program (Parking Revenue Account 815010-45559), be approved.

**Result: Main Motion, As Amended, CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(e) Downtown Dundas Business Improvement Area Expenditure Request (Added Item 11.5)**

- (i) That the expenditure request from the Downtown Dundas Business Improvement Area, in the amount of \$14,594.78 for the cleaning and maintenance of public road allowance, the purchase and maintenance of Christmas Decorations, and the purchase and maintenance of Hanging Baskets, to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905), be approved; and,
- (ii) That the expenditure request from the Downtown Dundas Business Improvement Area, in the amount of \$28,183.68 for our marketing and promotions and the costs of our events throughout the year, to be funded from the Shared Parking Revenue Program (Parking Revenue Account 815010-45559), be approved.

**(f) Stoney Creek Business Improvement Area Expenditure Request (Added Item 11.6)**

That the expenditure request from the Stoney Creek Business Improvement Area, in the amount of \$6,722.74 for event expenses related to the Stoney Creek Folk Fest and Jazz in the Creek, to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905), be approved.

**Result: Motion CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**7. School Board Properties Sub-Committee Report 19-002, September 20, 2019 (Item 10.6)**

**(Pauls/Jackson)**

**Surplus School Property at 155 Macassa Avenue, Hamilton, known as Vincent Massey School (PED19139(a)) (Item 14.1)**

- (i) That the direction provided to staff in Closed Session respecting Surplus School Property at 155 Macassa Avenue, Hamilton, known as Vincent Massey School (PED19139(a)), be approved; and,
- (ii) That Report PED19139(a) respecting a Surplus School Property at 155 Macassa Avenue, Hamilton, known as Vincent Massey School, remain confidential and not be released as a public document until following the completion of a transaction pursuant to an agreement of purchase and sale, and that the financial details outlined in Appendix "B" attached to Report PED19139(a) remain confidential and not be released as a public document.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls

CONFLICT - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 NOT PRESENT - Ward 9 Councillor Brad Clark

**8. Advisory Committee for Persons with Disabilities Report 19-008, September 10, 2019 (Item 10.7)**

**(Jackson/Merulla)**

**(a) Installation of Urban Braille along Cannon Street East at the Intersections of Wellington Street North, Catherine Street North, and John Street North (Item 7.1)**

WHEREAS, the reconstruction of Cannon Street between James Street North and Sherman Avenue North commenced in May 2019 and involves road resurfacing, Cycle Track improvements, and improvements to pedestrian safety measures;

WHEREAS, Urban Braille is a system of tactile information serving the needs of the visually impaired and blind by using both colour and texture contrast to provide warning signals and clues related to orientation;

WHEREAS, Mike Becke, Senior Project Manager, Public Works, attended the Built Environment Working Group meeting of November 6, 2018 and provided an update respecting the City of Hamilton's Urban Braille system;

WHEREAS, the Built Environment Working Group Meeting Notes of November 6, 2018, were received by the Advisory Committee for Persons with Disabilities on January 15, 2019 (Item (e)(i) of Advisory Committee for Persons with Disabilities Report 19-001), but no Motion was made to request the inclusion of Urban Braille objectives in the plans for the Cannon Street reconstruction;

WHEREAS, a number of people with disabilities live in the Cannon Street area (especially with visual limitations); and,

WHEREAS, Urban Braille was not installed at three dangerous intersections along Cannon Street East;

THEREFORE, BE IT RESOLVED:

- (a) That Public Works staff be requested to examine and report back to the Advisory Committee for Persons with Disabilities on the feasibility of installing Urban Braille on Cannon Street East at the intersections of Wellington Street North, Catherine Street North, and John Street North; and,
- (b) That there be uniformity/continuity in the maintenance of major intersections, in accordance with *Accessibility for Ontarians with Disabilities Act, 2005*, standards (as at the intersection of Rymal Road West and West 5<sup>th</sup> Street, Hamilton).

**(b) Background Information and Past Activities of the Outreach Working Group (Item 7.3)**

WHEREAS, the Outreach Working Group of the Advisory Committee for Persons with Disabilities will benefit from the expertise of Paula Kilburn, Tom Manzuk, and Terri Wallis;

THEREFORE, BE IT RESOLVED:

That Paula Kilburn, Tom Manzuk, Terri Wallis, be invited to attend a future meeting of the Outreach Working Group of the Advisory Committee for Persons with Disabilities to provide background information on the Outreach Working Group's mandate and past activities.

**(c) Investigation of Light Rail Transit (LRT) Systems in Neighbouring Municipalities by Members of the Advisory Committee for Persons with Disabilities (Added Item 11.1)**

WHEREAS, the Transportation Working Group believes that it would be beneficial for the Advisory Committee for Persons with Disabilities to investigate the Light Rail Transit (LRT) Systems in neighbouring municipalities like Kitchener;

THEREFORE, BE IT RESOLVED:

- (a) That the following Members of the Advisory Committee for Persons with Disabilities be approved to travel to neighbouring municipalities to investigate and compare Light Rail Transit (LRT) systems, with the transportation costs to be funded from the Advisory Committee for Persons with Disabilities 2018 approved budget for conferences and related travel expenses, to an upset limit of \$1,000:
  - (i) Shahan Aaron
  - (ii) Jayne Cardno
  - (iii) Anthony Frisina



- (iv) John Hawker
- (v) Aznive Mallet
- (vi) Mark McNeil

**(d) Implementation and Use of Accessible Signage on City Transit  
(Added Item 11.2)**

WHEREAS, the Transportation Working Group of the Advisory Committee for Persons with Disabilities will benefit from the expertise of the Manager of Customer Experience and Innovation (Transit Division), or their designate;

THEREFORE, BE IT RESOLVED:

That the Manager of Customer Experience and Innovation (Transit Division), or their designate, be invited to attend a future meeting of the Transportation Working Group of the Advisory Committee for Persons with Disabilities to discuss the current implementation and use of signage that would encourage sensitivity towards all persons with disabilities, including those that use mobility devices, on City transit.

**(e) Accessible Taxi Cab Incentive Program Update (Added Item 11.3)**

WHEREAS, the Transportation Working Group of the Advisory Committee for Persons with Disabilities will benefit from the expertise of the Manager of Licensing and By-law Services, or their designate;

THEREFORE, BE IT RESOLVED:

That the Manager of Licensing and By-law Services, or their designate, be invited to attend a future meeting of the Transportation Working Group of the Advisory Committee for Persons with Disabilities to provide an update on the accessible taxi cab incentive program.

**(f) Advance/Pre-Pay System for DARTS Fares (Added Item 11.4)**

WHEREAS, the Transportation Working Group of the Advisory Committee for Persons with Disabilities will benefit from the expertise of the Executive Director of DARTS, or their designate, and the Manager, Customer Experience and Innovation (Transit Division), or their designate;

THEREFORE, BE IT RESOLVED:

That the Executive Director of DARTS, or their designate, and the Manager, Customer Experience and Innovation (Transit Division), or their

designate, be invited to attend a future meeting of the Transportation Working Group of the Advisory Committee for Persons with Disabilities to discuss an advance/pre-pay system for DARTS fares.

**(g) Current Accessibility Challenges of Public Transit in the City of Hamilton (Added Item 11.5)**

WHEREAS, the Transportation Working Group of the Advisory Committee for Persons with Disabilities will benefit from the expertise of Terri Wallis;

THEREFORE, BE IT RESOLVED:

That Terri Wallis be invited to attend a future meeting of the Transportation Working Group of the Advisory Committee for Persons with Disabilities to discuss the current accessibility challenges of public transit in the City of Hamilton.

**Result: Motion CARRIED by a vote of 13 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 NOT PRESENT - Ward 9 Councillor Brad Clark

**9. To Provide Free On-Street Parking on Concession Street for the 2019 Fallfest (Item 11.3)**

**(Pauls/Jackson)**

WHEREAS, Fallfest is a local, family friendly community event run by the Concession Street BIA businesses and vendors, open to all of Hamilton and the surrounding area, to increase community awareness and involvement and local support;

THEREFORE, BE IT RESOLVED:

That the daily on-street parking fee of \$983.25, for parking on Concession Street between Upper Wentworth Street to East 25<sup>th</sup> Street, for the Concession Street Fallfest, being held on October 5, 2019, be funded from the Ward 7 Discretionary Fund, 3301909700.

**Result: Motion CARRIED by a vote of 13 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 NOT PRESENT - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**10. Sports, Entertainment and Convention Venues Review (Appendices “B”, “C” and “E” to Report PED18168(b)) (City Wide) (Item 14.2)**

**(Merulla/Johnson)**

- (a) That the direction provided to staff in Closed Session, respecting Report PED18168(b), Sports, Entertainment and Convention Venues Review, be approved; and,
- (b) That Appendices “B”, “C” and “E” to Report PED18168(b), respecting the Sports, Entertainment and Convention Venues Review, remain confidential.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko

YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**11. Transfer of Assets from the Hamilton Street Railway Company to the City of Hamilton - 2200 Highway #6, Glanbrook, and 2650 Barton Street East, Hamilton (PED19172) (Ward 11 and Ward 5) (Item 14.3)**

**(Johnson/VanderBeek)**

- (a) That the direction provided to staff in Closed Session, respecting Report PED19172 - the Transfer of Assets of 2200 Highway #6, Glanbrook, and 2650 Barton Street East, Hamilton, be approved; and,
- (b) That the complete Report PED19172 respecting the Transfer of Assets of 2200 Highway #6, Glanbrook, and 2650 Barton Street East, Hamilton, remain confidential until completion of the real estate transaction.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**12. Sports, Entertainment and Convention Proposal Review (LS19039) (City Wide) (Item 14.5)**

**(Clark/Johnson)**

That Report LS19039, respecting the Sports, Entertainment and Convention Proposal Review, remain confidential in its entirety.

**Result: Motion CARRIED by a vote of 11 to 1, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 NO - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**FOR INFORMATION:**

**(a) APPROVAL OF AGENDA (Item 2)**

The Committee Clerk advised of the following changes to the agenda:

**1. COMMUNICATIONS (Item 5)**

- 5.1 Correspondence from P. J. Mercanti, on behalf of the Hamilton Urban Precinct Entertainment Group, respecting the Sports, Entertainment and Convention Venues matter

Recommendation: Be received and referred to the consideration of Item 10.1.

- 5.2 Correspondence from David E. Branch, Commissioner of the Ontario Hockey League, respecting the Potential Development of a New Arena

Recommendation: Be received and referred to the consideration of Items 8.2 and 10.1.

- 5.3 Correspondence from Darko Vranich, President & CEO, Vrancor Group Inc., respecting the Sports, Entertainment and Convention Venues matter

Recommendation: Be received and referred to the consideration of Item 10.1.

**(Farr/Nann)**

- (a) That ACORN be permitted to speak at the October 2, 2019 General Issues Committee, respecting Item 10.3 – Report PED19178/HSC19052, Financial Incentive Program Amendments regarding the Potential Tenant Displacement, and be added to today’s agendas as Item 8.4; and,
- (b) That the previously approved delegation request for Nicole Smith, Kumon Hamilton West End, respecting the Saturday Rallies and Standing for Love and Inclusion, be added to today’s agenda as Item 8.3.

**Result: Motion CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**3. DELEGATIONS (Item 8)**

8.1 Chris Labenski, respecting the Arena Issue

This delegation has been withdrawn.

**4. NOTICES OF MOTION (ITEM 12)**

12.1 Policy on Standard Terms and Conditions to be Incorporated in City Lease Agreements Consistent with the City's Equity and Inclusion Policy

12.2 To Provide Free On-Street Parking on Concession Street for the 2019 Fallfest

**5. PRIVATE & CONFIDENTIAL (Item 14)**

14.4 Sub-lease Negotiations for the John C. Munro International Airport (PED19137) (Referred from the Airport Sub-Committee)

More time is required to properly prepare Report PED19137, respecting the Sub-lease Negotiations for the John C. Munro International Airport; therefore, the matter will be deferred to a future GIC meeting.

14.5 Sports, Entertainment and Convention Proposal Review (LS19039) (City Wide) (To be distributed)

Pursuant to Section 8.1, Sub-section (f) of the City's Procedural By-law 18-270, and Section 239(2), Sub-section (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

**(Clark/Farr)**

That the agenda for the October 2, 2019 Special General Issues Committee meeting, be approved, as amended.

**Result: Motion CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson

YES - Ward 2 Councillor Jason Farr

YES - Ward 3 Councillor Nrinder Nann

YES - Ward 4 Councillor Sam Merulla

NOT PRESENT - Ward 5 Councillor Chad Collins

YES - Ward 6 Councillor Tom Jackson

YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(b) DECLARATIONS OF INTEREST (Item 2)**

- (i) Councillor M. Pearson declared an interest to Item 10.3 – Report PED19178/HSC19052, respecting Financial Incentive Program Amendments regarding the Potential Tenant Displacement, as she is a rental property landlord.
- (ii) Councillor S. Merulla declared an interest to Item 10.3 – Report PED19178/HSC19052, respecting Financial Incentive Program Amendments regarding the Potential Tenant Displacement, as he and his wife are rental property landlords.
- (iii) Councillor M. Wilson declared an interest to Items 5.1 - Correspondence from P. J. Mercanti, on behalf of the Hamilton Urban Precinct Entertainment Group, respecting the Sports, Entertainment and Convention Venues matter; 5.2 - Correspondence from David E. Branch, Commissioner of the Ontario Hockey League, respecting the Potential Development of a New Arena; 5.3 - Correspondence from Darko Vranich, President & CEO, Vrancor Group Inc., respecting the Sports, Entertainment and Convention Venues matter; 8.2 - Michael Andlauer, respecting the Invitation to Present the Bulldog/Cadillac Fairview Proposal to Committee; 10.1 – Report PED18168(b), Sports, Entertainment and Convention Venues Review; 11.1 – a Motion respecting the Release of the Bulldogs Proposal for Public Consumption; 14.2 – Report PED18168(b) (Appendices “B”, “C” and “D”), Sports, Entertainment and Convention Venues Review; and, 14.5 – Report LS19039, Sports, Entertainment and Convention Proposal Review, as her spouse’s involvement or potential involvement, directly or through firms with which he is associated in negotiations that might arise as a result of the reports implementation.

Subsequent to her declaration of interest (above), Councillor Wilson advised Committee that she had received advice from the Integrity Commissioner advising her that she does not have a conflict of interest respecting the matters listed in her Declaration (above). Therefore, she



will be fully participating in the discussion and consideration of those same matters and withdrew her declaration of interest.

- (iv) Councillor A. VanderBeek declared an interest to Item 10.3 – Report PED19178/HSC19052, respecting Financial Incentive Program Amendments regarding the Potential Tenant Displacement, as she is a rental property landlord.
- (v) Councillor J. P. Danko declared an interest to Item 10.6 – School Board Properties Report 19-002, September 20, 2019, as his wife is Vice Chair of the Hamilton-Wentworth District School Board.

**(c) APPROVAL OF MINUTES OF PREVIOUS MINUTES (Item 4)**

**(Farr/Johnson)**

That the Minutes of the September 9 and 18, 2019 meetings of the General Issues Committee be approved, as presented.

- (i) September 9, 2019 (Special) (Item 4.1)
- (ii) September 18, 2019 (Item 4.2)

**Result: Motion CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(d) COMMUNICATION ITEMS (Item 5)**

**(Farr/Ferguson)**

That Communication Items 5.1 to 5.3, be approved, as follows:

- (i) Correspondence from P. J. Mercanti, on behalf of the Hamilton Urban Precinct Entertainment Group, respecting the Sports, Entertainment and Convention Venues matter (Item 5.1)

Recommendation: Be received and referred to the consideration of Item 10.1.

- (ii) Correspondence from David E. Branch, Commissioner of the Ontario Hockey League, respecting the Potential Development of a New Arena (Item 5.2)

Recommendation: Be received and referred to the consideration of Items 8.2 and 10.1.

- (iii) Correspondence from Darko Vranich, President & CEO, Vrancor Group Inc., respecting the Sports, Entertainment and Convention Venues matter (Item 5.3)

Recommendation: Be received and referred to the consideration of Item 10.1.

**CARRIED**

**(e) DELEGATION REQUESTS (Item 6)**

- (i) **Dr. David Farrar, Acting President and Vice Chancellor, McMaster University, to provide an annual update of the positive impact that McMaster University is having in the community and beyond, as well as to highlight the key partnerships the University has with the City of Hamilton (For the December 4, 2019 GIC) (Item 6.1)**

**(Pearson/Clark)**

That the delegation request submitted by Dr. David Farrar, Acting President and Vice Chancellor, McMaster University, to provide an annual update of the positive impact that McMaster University is having in the community and beyond, as well as to highlight the key partnerships the University has with the City of Hamilton, be approved for the December 4, 2019 General Issues Committee.

**Result: Motion CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson

YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(f) PUBLIC HEARINGS / DELEGATIONS (Item 8)**

**(i) Chris Labenski, respecting the Arena Issue (Item 8.1)**

This delegate has withdrawn his request.

**(ii) Michael Andlauer, President & CEO Andlauer Management Group Inc., respecting the Invitation to present the Bulldog/Cadillac Fairview Proposal to Committee (Item 8.2)**

**(Jackson/Pauls)**

That the speaking time limits for delegations, as outlined in the Procedural By-law 18-270, as amended, be waived to allow Michael Andlauer, President & CEO of Andlauer Management Group Inc., an unlimited timeline to present to Committee respecting the Bulldog/Cadillac Fairview Proposal.

**CARRIED**

Michael Andlauer, President & CEO Andlauer Management Group Inc., addressed Committee respecting the Invitation to present the Bulldog/Cadillac Fairview Proposal to Committee.

**(Farr/Merulla)**

That the presentation provided by Michael Andlauer, President & CEO Andlauer Management Group Inc., respecting the Invitation to present the Bulldog/Cadillac Fairview Proposal to Committee, be received.

**CARRIED**

A copy of the presentation is available on the City's website at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

For disposition of this matter, please refer to Item 2.

(iii) **Nicole Smith, Kumon Hamilton West End, respecting the Saturday Rallies and Standing for Love and Inclusion (Item 8.3)**

Nicole Smith, Kumon Hamilton West End, addressed Committee respecting the Saturday Rallies and Standing for Love and Inclusion.

**(Farr/VanderBeek)**

That the presentation provided by Nicole Smith, Kumon Hamilton West End, respecting the Saturday Rallies and Standing for Love and Inclusion, be received.

**CARRIED**

A copy of the presentation is available on the City's website at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

(iv) **Mike Wood, Hamilton ACORN, respecting Item 10.3 – Report PED19178/HSC19052, Financial Incentive Program Amendments respecting Potential Tenant Displacement (Item 8.4)**

Mike Wood, Hamilton ACORN, addressed Committee respecting Item 10.3 – Report PED19178/HSC19052, Financial Incentive Program Amendments respecting Potential Tenant Displacement.

**(Nann/Wilson)**

That the presentation provided by Hamilton ACORN, respecting Item 10.3 – Report PED19178/HSC19052, Financial Incentive Program Amendments respecting Potential Tenant Displacement, be received.

**CARRIED**

A copy of the presentation is available on the City's website at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

For disposition of this matter, please refer to Item 4.

(g) **STAFF PRESENTATIONS (Item 9)**

(i) **Investing in Canada Infrastructure Program – Public Transit Stream Grant Program (PW19083/FCS18048(a)) (City Wide) (Item 9.1)**

Mike Zegarac, General Manager, Finance & Corporate Services, introduced the presentation and provided an overview of Report PW19083/FCS18048(a), regarding Investing in Canada Infrastructure Program – Public Transit Stream Grant Program.

Brian McMullen, Director, Financial Planning & Policy; and, Debbie Dalle Vedove, Director of Transit, addressed Committee and provided a presentation respecting Report PW19083/FCS18048(a), regarding

Investing in Canada Infrastructure Program – Public Transit Stream Grant Program.

**(Eisenberger/Clark)**

That the presentation, respecting Report PW19083/FCS18048(a), regarding Investing in Canada Infrastructure Program – Public Transit Stream Grant Program, be received.

**CARRIED**

A copy of the presentation is available on the City's website at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

For disposition of this matter, please refer to Item 1.

**(h) DISCUSSION ITEMS (Item 10)**

**(i) Sports, Entertainment and Convention Venues Review (PED18168(b)) (City Wide) (Item 10.1)**

**(Eisenberger/Merulla)**

(a) That sub-section (a) to Report PED18168(b), respecting the Sports, Entertainment and Convention Venues Review, be amended by deleting the word “approve” and replacing it with the word “**receive**”, to read as follows:

(a) That the strategy outlined within the City of Hamilton Entertainment Venues Review, attached as Appendix “A” to Report 19-014 and confidential Appendix “B” to Report PED18168(b), be ~~approved~~ **received**;

(b) That sub-sections (b) and (d) to Item 2 of the General Issues Committee Report PED18168(b), respecting the Sports, Entertainment and Convention Venues Review, be amended by adding the words “**as amended**”, after the words “Appendix “C”, to read as follows:

(b) That the recommendations outlined in confidential Appendix “C” **as amended**, to Report PED18168(b) be approved;

(d) That the entirety of Appendices “B”, “C” **as amended**, and “E” to Report PED18168(b) remain confidential and not be released as public documents.

**Result: Amendment, CARRIED, by a vote of 11 to 1, as follows:**

YES - Ward 1 Councillor Maureen Wilson

YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 NO - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

For disposition of this matter, please refer to Item 2.

**(ii) West Harbour Development Sub-Committee Report 19-002,  
September 9, 2019 (Item 10.4)**

**(Eisenberger/Farr)**

That sub-sections (b)(i), (b)(ii) and (b)(iii) to the West Harbour Development Sub-Committee Report 19-022, respecting Report PED19191 - Piers 6 and 7 Commercial Village Activation Plan, be deleted in their entirety and replaced with the following new sub-section (b)(i) in lieu thereof, and the balance of the recommendations be renumbered accordingly:

**(b) Piers 6 and 7 Commercial Village Activation Plan (PED19191)  
(Ward 2) (Item 10.1)**

- ~~(i) That staff be directed to prepare and execute a procurement process to select an external entity for the purposes of building, operating, and programming temporary commercial and public uses within the Pier 6 and 7, and including but not limited to Pier 8, lands and potentially adjacent city-owned lands as an interim use;~~
- ~~(ii) That the procurement process to select an external entity for the purposes of building, operating, and programming temporary commercial and public uses within the Pier 6, 7, and 8 lands and potentially adjacent city-owned lands, includes a short-term land lease of not more than two years, at nominal value for the development blocks within these lands;~~

~~(iii) That staff be authorized and directed to prepare the formal procurement process to select an external entity for the purposes of building, operating, and programming temporary commercial and public uses within the Pier 6, 7, and 8 lands and potentially adjacent city-owned lands, in a manner and on terms and conditions deemed appropriate by the General Manager of the Planning and Economic Development Department, and in a form acceptable to the City Solicitor; and,~~

**(i) That staff be directed to immediately market the individual development blocks for Piers 6 and 7 for sale to the private sector; and,**

**(ii)** That the retail study attached as Appendix "A", be received.

**Result: Motion CARRIED by a vote of 13 to 1, as follows:**

NO - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

For disposition of this matter, please refer to Item 5.

**(iii) Business Improvement Area Advisory Committee Report 19-009, September 10, 2019 (Item 10.5)**

**(Pauls/Jackson)**

(a) That sub-section (d)(i) to Item 4 of the Business Improvement Area Advisory Committee Report 19-009 respecting the Downtown Hamilton Business Improvement Area Expenditure Request, be amended by deleting the dollar amount of \$14,594.78 and replacing it with the dollar amount of \$5,381.59, to read as follows:

**(d) Downtown Hamilton Business Improvement Area Expenditure Request (Item 11.4)**

- (1) That the expenditure request from the Downtown Hamilton Business Improvement Area, in the amount of ~~\$14,594.78~~ **\$5,381.59** for Bicycle Racks, and the purchase and Maintenance of Christmas Decorations, to be funded from the Community Improvement Plan (CIP) Contribution Program (BIA Payments Account 815010-56905), be approved; and,

**Result: Amendment, CARRIED by a vote of 13 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 NOT PRESENT - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

For disposition of this matter, please refer to Item 6.

**(i) MOTIONS (Item 11)****(i) Release of the Bulldog Proposal for Public Consumption (Item 11.1)**

Councillor Danko withdrew his Motion respecting the release of the Bulldog Proposal for Public Consumption.

**(ii) Policy on Standard Terms and Conditions to be Incorporated in City Lease Agreements Consistent with the City's Equity and Inclusion Policy (Item 11.3)****(Nann/Wilson)**

That Legal Services staff be directed to develop a policy on standard terms and conditions to be incorporated in City lease agreements that is



consistent with the City's Equity and Inclusion Policy and consistent with the City's approach to the equity, diversity and inclusion framework currently being developed, and report back to the General Issues Committee.

**(Eisenberger/Clark)**

That the Motion respecting a Policy on Standard Terms and Conditions to be Incorporated in City Lease Agreements Consistent with the City's Equity and Inclusion Policy, be amended by deleting the words "develop a policy on" and replacing them with the words "**assess the benefits and implications of including a policy**", to read as follows:

That Legal Services staff be directed to **assess the benefits and implications of including a policy** on standard terms and conditions to be incorporated in City lease agreements that is consistent with the City's Equity and Inclusion Policy and consistent with the City's approach to the equity, diversity and inclusion framework currently being developed, and report back to the General Issues Committee.

**Result: Amendment CARRIED by a vote of 14 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(Nann/Wilson)**

That Legal Services staff be directed to **assess the benefits and implications of including a policy** on standard terms and conditions to be incorporated in City lease agreements that is consistent with the City's Equity and Inclusion Policy and consistent with the City's approach to the equity, diversity and inclusion framework currently being developed, and report back to the General Issues Committee.

**Result: Main Motion, As Amended, CARRIED by a vote of 13 to 1, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NO - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(iii) Feasibility of Locating a New Arena on the Hamilton Mountain (Limeridge Mall) (Item 11.4)**

**(Pauls/Jackson)**

That staff be directed to review the feasibility of locating a new arena sites on the Hamilton mountain (Limeridge Mall), internally and without the use of a consultant and at no additional cost to the City, and report back to the General Issues Committee.

**Result: Motion CARRIED by a vote of 8 to 4, as follows:**

NO - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 NO - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 NOT PRESENT - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 NO - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NOT PRESENT - Ward 12 Councillor Lloyd Ferguson  
 NO - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(j) NOTICES OF MOTIONS (Item 12)**

Councillor N. Nann introduced a Notice of Motion respecting Policy on Standard Terms and Conditions to be Incorporated in City Lease Agreements Consistent with the City's Equity and Inclusion Policy.

**(i) Policy on Standard Terms and Conditions to be Incorporated in City Lease Agreements Consistent with the City's Equity and Inclusion Policy (Item 12.1)**

**(Nann/Wilson)**

That the Rules of Order be waived to allow for the introduction of a Motion respecting Policy on Standard Terms and Conditions to be Incorporated in City Lease Agreements Consistent with the City's Equity and Inclusion Policy.

**Result: MOTION CARRIED by a two-thirds vote of 14 to 1, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 NO - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

Councillor E. Pauls introduced a Notice of Motion respecting the Provision of Free On-Street Parking on Concession Street for the 2019 Fallfest.

**(ii) To Provide Free On-Street Parking on Concession Street for the 2019 Fallfest (Item 12.2)**

**(Pauls/Jackson)**

That the Rules of Order be waived to allow for the introduction of a Motion respecting the Provision of Free On-Street Parking on Concession Street for the 2019 Fallfest.

**Result: MOTION CARRIED by a two-thirds vote of 13 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 NOT PRESENT - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

For disposition of this matter, please refer to Item 9.

**(k) GENERAL INFORMATION / OTHER BUSINESS (Item 13)**

**(i) Road Collapse in Dundas (Item 13.1)**

Councillor VanderBeek advised Committee that a section of the Highway 8 Dundas-Greenville Hill collapsed on October 2, due to the rain event; and, that the road is closed in both directions between Bond Street and Hillcrest Avenue while the City determines the necessary repairs.

As well the Dundas Valley Golf and Country Club had to close today and a detour for residents who live in the area will need to be put in place. The Councillor also asked that the General Manager of Public Works provide direction to the Director of Transportation, Operations and Maintenance to work with her (the Ward Councillor) on the detour area.

Councillor VanderBeek also requested that Public Works staff provide a verbal status update respecting the road collapse at the October 9, 2019 meeting of Council.

**(ii) Dust Event on Monday, September 30, 2019 resulting from the Demolition of the Former Specialty Bar Plant Facility Located on Sherman Ave. North, Hamilton (Item 13.2)**

Councillor Nann spoke to Committee respecting the dust event on Monday afternoon resulting from the demolition of the former Specialty Bar Plant facility located on Sherman Ave. North.

The Ministry of Environment, Conservation and Parks (MECP) has done testing after the event this week and those results will take 2 to 4 weeks.

Local residents who are concerned about exposure to the dust may experience short-term exposure symptoms, including irritation of the eyes, nose and throat. If symptoms persist, please consult a physician.

**(iii) Off-Spray from Road Painting on Scenic Drive (Item 13.3)**

Councillor Whitehead advised Committee that he has received many calls from residents on Scenic Drive with respect to damage to cars and driveway caused by off-spray of road painting that was being done.

Claims are being sent to Risk Management for review. The Councillor will investigate what occurred with the contractor and is looking forward to a formal response.

**(I) PRIVATE & CONFIDENTIAL (Item 14)**

**(i) Closed Session Minutes – September 18, 2019 (Item 14.1)**

**(Ferguson/Pearson)**

- (a) The Closed Session Minutes of the September 18, 2019 General Issues Committee meeting, be approved; and,
- (b) The Closed Session Minutes of the September 18, 2019 General Issues Committee meeting remain confidential.

**Result: Motion CARRIED by a vote of 12 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 NOT PRESENT - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko

YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 NOT PRESENT - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(Farr/Collins)**

That the General Issues Committee recess in order to hold the Hamilton Renewable Power Inc. Shareholder meeting.

**Result: Motion CARRIED by a vote of 13 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 NOT PRESENT - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(Eisenberger/Ferguson)**

That Committee move into Closed Session respecting Appendices “B”, “C” and “E” to Report PED18168(b) (Item 14.2), Items 14.3 and 14.5, pursuant to Section 8.1, Sub-sections (c), (f) and (k) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (c), (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to a proposed or pending acquisition or disposition of land for City purposes; and, the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; 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.

**Result: Motion CARRIED by a vote of 13 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 3 Councillor Nrinder Nann  
 YES - Ward 4 Councillor Sam Merulla  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 6 Councillor Tom Jackson  
 YES - Ward 7 Councillor Esther Pauls  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Deputy-Mayor Terry Whitehead  
 YES - Mayor Fred Eisenberger  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 NOT PRESENT - Ward 13 Councillor Arlene VanderBeek  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 NOT PRESENT - Ward 10 Councillor Maria Pearson  
 YES - Ward 9 Councillor Brad Clark

**(ii) Sports, Entertainment and Convention Venues Review (Appendices “B”, “C” and “E” to Report PED18168(b)) (City Wide) (Item 14.2)**

Staff was provided with direction in Closed Session.

For further disposition of this matter, please refer to Item 2.

**(iii) Transfer of Assets from the Hamilton Street Railway Company to the City of Hamilton - 2200 Highway #6, Glanbrook, and 2650 Barton Street East, Hamilton (PED19172) (Ward 11 and Ward 5) (Item 14.3)**

Staff was provided with direction in Closed Session.

For further disposition of this matter, please refer to Item 11.

**(iv) Sub-lease Negotiations for the John C. Munro International Airport (PED19137) (Item 14.4)**

As noted in the changes to the agenda, additional time is required to properly prepare this report. Therefore, it will be brought forward to a future General Issues Committee meeting.

**(I) ADJOURNMENT (Item 13)**

**(Johnson/Clark)**

That there being no further business, the General Issues Committee be adjourned at 9:27 p.m.

**CARRIED**

Respectfully submitted,

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T. Whitehead, Deputy Mayor  
Chair, General Issues Committee

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Stephanie Paparella  
Legislative Coordinator,  
Office of the City Clerk





## **AIRPORT SUB-COMMITTEE REPORT 19-004**

**1:00 p.m.  
September 20, 2019  
Rooms 192 & 193  
Hamilton City Hall  
71 Main Street West**

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**Present:** Councillor L. Ferguson (Co-Chair)  
Mayor F. Eisenberger  
Councillors C. Collins, J.P. Danko, J. Partridge, E. Pauls, and M. Pearson

**Regrets:** Councillors B. Johnson (Co-Chair) - Personal  
Councillor T. Whitehead – Personal

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### **THE AIRPORT SUB-COMMITTEE PRESENTS REPORT 19-004 AND RESPECTFULLY RECOMMENDS:**

**1. Sub-Lease Negotiations for the John C. Munro Hamilton International Airport (Item 11.1)**

That the matter respecting the Sub-Lease Negotiations for the John C. Munro Hamilton International Airport (PED19137) be referred to the October 2, 2019 General Issues Committee Meeting for consideration.

**2. TradePort / City Lease Negotiation Information Report (PED19084(a)) (City Wide) (Item 14.2)**

That the contents of Report PED19084(a), respecting TradePort / City Lease Negotiation Information Report, remain confidential.

**3. Provincial Officer's Order Regarding PFAS Discharges from the John C. Munro Hamilton International Airport (PED19199) (City Wide) (Item 14.3)**

That the contents of Report PED19199, respecting Provincial Officer's Order Regarding PFAS Discharges from the John C. Munro Hamilton International Airport, remain confidential.

**FOR INFORMATION:**

**(a) CHANGES TO THE AGENDA (Item 2)**

The Committee Clerk advised of the following change to the agenda:

**1. PRIVATE & CONFIDENTIAL (Item 14)**

14.2 TradePort / City Lease Negotiation Information Report (PED19084(a)) (City Wide) Confidential Appendix 'B' has been added.

The agenda for the September 20, 2019 Airport Sub-Committee meeting was approved, as amended.

**(b) DECLARATIONS OF INTEREST (Item 3)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**

**(i) June 21, 2019 Minutes (Item 4.1)**

The Minutes of the June 21, 2019 meeting of the Airport Sub-Committee were approved, as presented.

**(d) PRESENTATIONS (Item 9)**

**(i) John C. Munro Hamilton International Airport Quarterly Update - The Runway (Item 9.1)**

Cathie Puckering, President and CEO, John C. Munro Hamilton International Airport, addressed the Committee respecting the John C. Munro Hamilton International Airport Quarterly Update - The Runway, with the aid of a presentation. A copy of the presentation has been included in the official record.

The presentation from Cathie Puckering respecting the John C. Munro Hamilton International Airport Quarterly Update - The Runway, was received.

A copy of the presentation is available at [www.hamilton.ca](http://www.hamilton.ca).

**(e) MOTIONS (Item 11)**

**(i) Sub-Lease Negotiations for the John C. Munro Hamilton International Airport (Item 11.1)**

Consideration of the Motion respecting Sub-Lease Negotiations for the John C. Munro Hamilton International Airport was deferred until after the Closed Session portion of the meeting.

For disposition of this matter, refer to Item 1.

**(f) PRIVATE AND CONFIDENTIAL (Item 14)**

**(i) June 21, 2019 Closed Minutes (Item 14.1)**

- (a) The Closed Session Minutes of the June 21, 2019 Airport Sub-Committee meeting, were approved as presented; and,
- (b) The Closed Session Minutes of the June 21, 2019 Airport Sub-Committee meeting, remain confidential.

Committee moved into Closed Session respecting Items 11.1, 14.2 & 14.3 pursuant to Section 8.1, Sub-sections (a), (c), (e) and (k), and Section 8.2, Sub-section (a) of the City's Procedural By-law 18-270; and, Section 239(2), Sub-sections (a), (c), (e) and (k) and Section 239(3), Sub-section (a) of the *Ontario Municipal Act*, 2001, as amended, as the subject matters pertain to the security of the property of the municipality or local board; a proposed or pending acquisition or disposition of land by the municipality or local board; litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board; 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; and a request under the *Municipal Freedom of Information and Protection of Privacy Act*, if the council, board, commission or other body is the head of an institution for the purposes of that Act.

**(ii) TradePort / City Lease Negotiation Information Report (PED19084(a)) (City Wide) (Item 14.2)**

Staff were provided direction in Closed Session.

For disposition of this matter, refer to Item 2.

**(g) ADJOURNMENT (Item 15)**

There being no further business, the Airport Sub-Committee, adjourned at 3:14 p.m.

Respectfully submitted,

Councillor L. Ferguson, Co-Chair  
Airport Sub-Committee

Angela McRae  
Legislative Coordinator  
Office of the City Clerk



Hamilton

**CAPITAL PROJECTS WORK-IN-PROGRESS REVIEW  
SUB-COMMITTEE  
REPORT 19-005**

1:00 p.m.

September 25, 2019

Council Chambers

Hamilton City Hall

**Present:** Councillors M. Pearson (Chair), J.P. Danko and N. Nann

**Absent:** Councillor M. Wilson – City Business

**THE CAPITAL PROJECTS WORK-IN-PROGRESS REVIEW SUB-COMMITTEE  
PRESENTS REPORT 19-005 AND RESPECTFULLY RECOMMENDS:**

1. **Capital Projects Closing Report as of June 30, 2019 (FCS19078) (City Wide) (Item 10.1)**
  - (a) That the General Manager of Finance and Corporate Services be authorized to transfer a combined \$270,079.63 to the Unallocated Capital Levy Reserve (108020) and other Program Specific Reserves / Funding Sources to the capital projects as outlined in Appendix “A” to Capital Projects Work-in-Progress Sub-Committee Report 19-005;
  - (b) That the General Manager of Finance and Corporate Services be directed to close the completed and / or cancelled capital projects listed in Appendix “B” to Capital Projects Work-in-Progress Sub-Committee Report 19-005 in accordance with the Capital Closing Policy;
  - (c) That Appendix “C” to Report FCS19078, Capital Projects Budget Appropriations for the period covering January 1, 2019 through June 30, 2019, be received for information;
  - (d) That unspent funds in the Council Priority Minor Maintenance Capital Projects established prior to the 2018 Ward boundary changes be transferred between the Council Priority Minor Maintenance Capital Projects based on the 2018 unweighted residential and non-residential property assessment once the projects are completed for closure; and,
  - (e) That Appendix “C” to Capital Projects Work-in-Progress Sub-Committee Report 19-005, Capital Projects Budget Appropriations above \$250,000 January 1, 2019 through June 30, 2019 totalling \$537,603.91, be approved.

**2. Public Works - Capital Projects Status Report as of June 30, 2019 (FCS19077) (City Wide) (Item 10.2)**

- (a) That the Capital Projects Status Report, Public Works Tax Supported Projects, as of June 30, 2019, attached as Appendix "A" to Report FCS19077, be received; and,
- (b) That the Capital Projects Status Report, Public Works Rate Supported Projects, as of June 30, 2019, attached as Appendix "B" to Report FCS19077, be received.

**FOR INFORMATION:**

**(a) CHANGES TO THE AGENDA (Item 2)**

There were no changes to the agenda.

The agenda for the September 25, 2019 Capital Projects Work-In-Progress Review Sub-Committee meeting was approved, as presented.

**(b) DECLARATIONS OF INTEREST (Item 3)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**

**(i) May 23, 2019 (Item 4.1)**

The Minutes of the May 23, 2019 meeting of the Capital Projects Work-In-Progress Review Sub-Committee meeting were approved, as presented.

**(d) ADJOURNMENT (Item 15)**

There being no further business, the Capital Projects Work-In-Progress Review Sub-Committee, adjourned at 1:14 p.m.

Respectfully submitted,

Councillor Pearson, Chair  
Capital Projects Work-in-Progress  
Sub-Committee

Angela McRae  
Legislative Coordinator  
Office of the City Clerk

CITY OF HAMILTON CAPITAL PROJECT CLOSINGS AS OF JUNE 30, 2019 Projects impacting the Unallocated Capital Levy Reserve & Other Reserves						
Year Approved	ProjectID	Description	Surplus/ (Deficit) (\$)	Reserve	Description	
<u>Projects returning funds</u>						
2012	4031218222	Bridge 329 - Burlington St E at Wilcox St	64,434.55	108020	Unalloc Capital Levy	
2013	7641357301	Kronos Scheduling Software	57,760.94	108020	Unalloc Capital Levy	
2014	4031418438	Bridge 397 - Glancaster Road	36,343.26	108020	Unalloc Capital Levy	
2017	4661720725	New Signal- Upper Sherman/Acadia	80,717.29	108020	Unalloc Capital Levy	
2017	6301751702	Carpet Removal Macassa	30,390.15	108020	Unalloc Capital Levy	
2017	7641755702	Paramedic Multi-Year Plan	2,845.59	108020	Unalloc Capital Levy	
<b>Net impact to the Unallocated Capital Levy Reserve</b>			<b>272,491.78</b>			
<u>Projects requiring funds</u>						
2016	5181655420	Wilson St Stormwater Drainage	(2,412.15)	5169309324	Unalloc Current Funds-Sanitary	
<b>Net impact to Other Reserves</b>			<b>(2,412.15)</b>			
<b>Total Net impact to the Unallocated Capital Levy Reserve &amp; Other Reserves</b>			<b>270,079.63</b>			

**CITY OF HAMILTON  
CAPITAL PROJECTS' CLOSING SCHEDULE  
AS OF JUNE 30, 2019**

Appendix "B" to Item 1 of CPWIP Sub-Committee Report 19-005

Page 1 of 5

YEAR APPROVED	PROJECT ID	DESCRIPTION	APPROVED BUDGET (\$)	REVENUES (\$)	EXPENDITURES (\$)	PROJECT SURPLUS/ (DEFICIT) (\$)	% SPENT
			a	b	c	d = b - c	e=c/a
<b>UNALLOCATED CAPITAL LEVY RESERVE</b>							
2012	4031218222	Bridge 329 - Burlington St E at Wilcox St	350,000.00	215,000.00	150,565.45	64,434.55	43.0%
2013	7641357301	Kronos Scheduling Software	360,000.00	360,000.00	302,239.06	57,760.94	84.0%
2014	4031418438	Bridge 397 - Glancaster Road	490,000.00	265,275.20	228,931.94	36,343.26	46.7%
2017	4661720725	New Signal- Upper Sherman/Acadia	200,000.00	173,080.90	92,363.61	80,717.29	46.2%
2017	6301751702	Carpet Removal Macassa	236,650.00	236,654.00	206,263.85	30,390.15	87.3%
2017	7641755702	Paramedic Multi-Year Plan	150,000.00	150,000.00	147,154.41	2,845.59	98.1%
<b>TOTAL FUNDS FROM UNALLOCATED CAPITAL LEVY (6)</b>			<b>1,786,650.00</b>	<b>1,400,010.10</b>	<b>1,127,518.32</b>	<b>272,491.78</b>	<b>63.1%</b>
<b>OTHER PROGRAM SPECIFIC RESERVES</b>							
2016	5181655420	Wilson St Stormwater Drainage	1,740,000.00	1,740,000.00	1,742,412.15	(2,412.15)	100.1%
<b>TOTAL FUNDS FROM PROGRAM SPECIFIC RESERVES (1)</b>			<b>1,740,000.00</b>	<b>1,740,000.00</b>	<b>1,742,412.15</b>	<b>(2,412.15)</b>	<b>100.1%</b>
<b>DELAYED/CANCELLED PROJECTS</b>							
2008	4140846102	Jackson Heights Phase 3B	32,500.00	0.00	0.00	0.00	0.0%
2015	4241509124	Westdale HS- Natural Turf	150,000.00	0.00	0.00	0.00	0.0%
2017	5181760730	McQuesten Park Entrance - Flooding	250,000.00	1,167.75	1,167.75	0.00	0.5%
2018	4031811801	NBHD RD Priorities W1	100,000.00	0.00	0.00	0.00	0.0%
2018	4031811810	NBHD RD Priorities W10	0.00	0.00	0.00	0.00	0.0%
2018	4031811815	NBHD RD Priorities W15	0.00	0.00	0.00	0.00	0.0%
2018	4241809101	AR - Road Repair & Rehab (W1 A/R)	0.00	0.00	0.00	0.00	0.0%
2018	4401849510	Spray Pad Infrastructure Rehab	0.00	0.00	0.00	0.00	0.0%
2018	5181872291	Catharine St N Sewer Replace	99,000.00	0.00	0.00	0.00	0.0%
2019	4041951960	Road Operations Weigh Scales	100,000.00	0.00	0.00	0.00	0.0%
2018	4901841802	Summers Lane Reconstruction	0.00	0.00	0.00	0.00	0.0%
<b>TOTAL DELAYED/CANCELLED PROJECTS (11)</b>			<b>731,500.00</b>	<b>1,167.75</b>	<b>1,167.75</b>	<b>0.00</b>	<b>0.2%</b>
<b>COMPLETED PROJECTS</b>							
<b>Corporate Services, City Manager's Office and Councillor Infrastructure Programs (Tax Budget)</b>							
<b>Councillor Infrastructure Program</b>							
2014	3301409400	Ward 4 Capital Reinvestment	100,000.00	42,154.19	42,154.19	0.00	42%
2014	3301509400	Ward 4 Capital Reinvestment	100,000.00	87,857.58	87,857.58	0.00	88%
2015	3301509200	Ward 2 Capital Reinvestment	100,000.00	94,292.48	94,292.48	0.00	94%
2016	3301609100	Ward 1 Capital Reinvestment	100,000.00	99,935.62	99,935.62	0.00	100%
2016	3301609500	Ward 5 Capital Reinvestment	100,000.00	99,032.92	99,032.92	0.00	99%
2017	4241709113	Cootes Paradise Crosswalk	40,000.00	40,000.00	40,000.00	0.00	100%
<b>Information Services</b>							
2011	3501157101	Information Systems - Apps	265,000.00	232,852.90	232,852.90	0.00	88%
<b>Healthy and Safe Communities (Tax Budget)</b>							
<b>Long Term Care</b>							
2012	6301251201	WL-Nurse Call & Wall Protect	296,414.00	296,417.00	296,417.00	0.00	100%



**CITY OF HAMILTON  
CAPITAL PROJECTS' CLOSING SCHEDULE  
AS OF JUNE 30, 2019**

Appendix "B" to Item 1 of CPWIP Sub-Committee Report 19-005  
Page 2 of 5

YEAR APPROVED	PROJECT ID	DESCRIPTION	APPROVED BUDGET (\$)	REVENUES (\$)	EXPENDITURES (\$)	PROJECT SURPLUS/ (DEFICIT) (\$)	% SPENT
			a	b	c	d = b - c	e=c/a
<b>Hamilton Fire Department</b>							
2018	7401851100	Fire Balaclava Replacement	220,000.00	219,235.28	219,235.28	0.00	100%
2018	7401851600	Annual Equipment Replacement	617,000.00	603,636.00	603,636.00	0.00	98%
2017	7401751702	Annual Vehicle Replacement	5,202,400.00	5,283,355.37	5,283,355.37	0.00	102%
<b>Hamilton Paramedic Services</b>							
2018	7641851100	Annual Paramedic Vehicle Replacement	1,241,000.00	1,250,314.00	1,250,314.00	0.00	100.8%
<b>Planning &amp; Economic Development (Tax Budget)</b>							
<b>Tourism &amp; Culture</b>							
2003	7100341101	Auchmar– Outbuildings - Land-Wall	1,060,282.27	1,059,587.27	1,059,587.27	0.00	99.9%
2010	7101057100	Point of Sale Systems - Museums	52,750.00	52,745.10	52,745.10	0.00	100.0%
2017	7201658601	Dundurn Small Room Restoration	90,600.00	90,594.90	90,594.90	0.00	100.0%
2017	7201741702	Dundurn Coach Roof Canada 150	364,250.00	364,246.62	364,246.62	0.00	100.0%
<b>Growth Management</b>							
2009	4140946108	Jackson Heights Ph2 Roundabout	18,000.00	17,102.32	17,102.32	0.00	95.0%
2016	4141646104	1187 Upper James	145,000.00	140,361.16	140,361.16	0.00	96.8%
<b>Licensing &amp; By-Law Services Division</b>							
2014	4901457100	Monetary Penalty - New Process	55,000.00	54,685.83	54,685.83	0.00	99.4%
<b>Transportation Division</b>							
2011	5311182002	ATS Mobile Data Terminals	1,125,000.00	710,558.09	710,558.09	0.00	63.2%
<b>Parking &amp; Transportation Services</b>							
2012	4901245100	Repairs -York Boulevard Parkade	2,301,000.00	2,340,625.07	2,340,625.07	0.00	101.7%
2014	4901445100	Parking Lots - Service Repairs	230,000.00	223,568.28	223,568.28	0.00	97.2%
<b>Planning Division</b>							
2003	8300355100	LRP OP Reform	5,873,400.00	5,873,396.38	5,873,396.38	0.00	100.0%
<b>Public Works (Tax Budget)</b>							
<b>Parks &amp; Cemeteries (Tax Budget)</b>							
2016	4401611601	Cemetery Roads Rehabilitation Program	82,100.00	82,128.12	82,128.12	0.00	100.0%
2017	4401711601	Cemetery Roads Rehab Program	65,000.00	65,000.00	65,000.00	0.00	100.0%
2017	4401751601	Equipment Acquisitions - DC	363,155.06	363,155.06	363,155.06	0.00	100.0%
2017	4401752600	Playground Lifecycle Replace	167,700.00	167,658.43	167,658.43	0.00	100.0%
2017	4401756001	Leash Free Dog Park Program	107,400.00	107,458.35	107,458.35	0.00	100.1%
2018	4241809215	Bennetto School Playground	150,000.00	150,000.00	150,000.00	0.00	100.0%
2018	4241809404	McQuesten Farm Playground	175,000.00	163,370.88	163,370.88	0.00	93.4%
2018	4241809405	Leaside Park Playground	50,000.00	48,986.45	48,986.45	0.00	98.0%
2018	4241809406	Parkdale School Playground	175,000.00	171,249.58	171,249.58	0.00	97.9%
2018	4401852600	Playground Lifecycle Replacement	231,750.00	237,497.29	237,497.29	0.00	102.5%
<b>Open Space &amp; Development (Tax Budget)</b>							
2018	4241809403	AM Cunningham Playground	437,200.00	413,899.56	413,899.56	0.00	94.7%

**CITY OF HAMILTON  
CAPITAL PROJECTS' CLOSING SCHEDULE  
AS OF JUNE 30, 2019**

Appendix "B" to Item 1 of CPWIP Sub-Committee Report 19-005  
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YEAR APPROVED	PROJECT ID	DESCRIPTION	APPROVED BUDGET (\$)	REVENUES (\$)	EXPENDITURES (\$)	PROJECT SURPLUS/ (DEFICIT) (\$)	% SPENT
			a	b	c	d = b - c	e=c/a
<b>Forestry &amp; Horticulture</b>							
2017	4451751007	Rural Street Parks and Cemeteries Tree Inventory	158,614.00	158,614.24	158,614.24	0.00	100.0%
<b>Recreation (Tax Budget)</b>							
2016	7101654613	Westoby (Olympic) Arena Roof	572,000.00	469,700.00	469,700.00	0.00	82.1%
2018	7101858802	Maplewood Park Washroom Lifecycle Repairs	1,000.00	606.84	606.84	0.00	60.7%
<b>Waste (Tax Budget)</b>							
2015	5121591000	Glanbrook Landfill Capital Improvement Program	222,000.00	222,000.00	222,000.00	0.00	100.0%
2016	5121691000	Glanbrook Landfill Capital Improvement Program	275,000.00	275,000.00	275,000.00	0.00	100.0%
2016	5121693000	Maintenance & Capital Improvements-Resource Recovery Centre	87,200.00	87,200.00	87,200.00	0.00	100.0%
2017	5121790200	Diversion Container Replacement	661,500.00	662,037.18	662,037.18	0.00	100.1%
2017	5121790700	Public Space & Special Event Containers	189,000.00	189,049.07	189,049.07	0.00	100.0%
2017	5121791000	Glanbrook Landfill Capital Improvement Program	305,000.00	305,000.00	305,000.00	0.00	100.0%
2017	5121792000	Closed Landfill Maintenance & Capital Improvement	91,300.00	91,333.67	91,333.67	0.00	100.0%
2017	5121793000	Maintenance & Capital Improvements to the Resource Recovery Centre	220,000.00	220,000.00	220,000.00	0.00	100.0%
<b>Roads (Tax Budget)</b>							
2009	4030957950	Right of Way AM Business - RAMBO	918,500.00	892,858.95	892,858.95	0.00	97.2%
2009	4030980977	Road EA for N-W Quad Hwy 5 & 6	40,000.00	9,870.51	9,870.51	0.00	24.7%
2014	4041416102	Traffic Calming - Various	350,000.00	349,692.42	349,692.42	0.00	99.9%
2015	4031518533	Hwy 8 Culvert (Dundas Hill) - 230 m n/o Springhill Rd	765,000.00	660,206.82	660,206.82	0.00	86.3%
2015	4031519101	Road Reconstruction Program - 2015	9,310,000.00	8,812,608.28	8,812,608.28	0.00	94.7%
2015	4041511351	Roads - Alleyway Rehabilitation - 2015	2,000.00	2,000.00	2,000.00	0.00	100.0%
2015	4241509123	AR - Traffic Ops - Functional Design (W1 A/R)	50,000.00	43,499.94	43,499.94	0.00	87.0%
2016	4031611015	Road Resurfacing Program - 2016	4,316,000.00	4,345,233.66	4,345,233.66	0.00	100.7%
2016	4031611016	Asset Preservation - Local Roads - 2016	7,878,000.00	7,644,973.28	7,644,973.28	0.00	97.0%
2016	4031619101	Road Reconstruction Program - 2016	5,411,000.00	5,607,356.77	5,607,356.77	0.00	103.6%
2016	4031641762	Yard Facility Maintenance & Improvement Program - 2016	251,000.00	251,000.00	251,000.00	0.00	100.0%
2016	4031651410	Roads Small Equip Purchase - 2016	119,001.93	119,000.00	119,000.00	0.00	100.0%
2016	4031651620	Road O&M Fleet Replacement	1,000,000.00	999,371.87	999,371.87	0.00	99.9%
2016	4241609217	AR - Pedestrian Crossover Charlton (W2 A/R)	5,000.00	5,000.00	5,000.00	0.00	100.0%
2016	4241609220	AR - Pedestrian Crossover Herkimer (W2 A/R)	5,000.00	5,000.00	5,000.00	0.00	100.0%
2017	4031711225	Geotechnical Investigation Program - 2017	200,000.00	200,000.00	200,000.00	0.00	100.0%
2017	4031721350	Fleet Additions - Roads O&M - 2017	230,000.00	230,000.00	230,000.00	0.00	100.0%
2017	4031741762	Yard Facility Maintenance & Improvement Program - 2017	102,000.00	102,000.00	102,000.00	0.00	100.0%
2017	4031751410	Roads Small Equip Purchase - 2017	50,000.00	50,000.00	50,000.00	0.00	100.0%
2017	4041710004	Escarpment Slope Stabilization Program - 2017	694,000.00	694,000.00	694,000.00	0.00	100.0%
2017	4241709502	AR - Covington - Barton to Cascade (New Sidewalk) (W5 A/R)	120,000.00	102,561.54	102,561.54	0.00	85.5%
2017	4241709601	AR - Upper Ottawa - Reno to Mountain Brow (W6 A/R)	1,850,000.00	1,319,319.90	1,319,319.90	0.00	71.3%
2017	4241709602	AR - Fennell - Upper Gage to Upper Ottawa (W6 A/R)	800,000.00	506,592.46	506,592.46	0.00	63.3%
2017	4241709803	AR - Upper Horning (north of LINC) / Appleford / Millstream (W8 A/R)	400,000.00	315,396.11	315,396.11	0.00	78.8%
2017	4241709804	AR - Upper Horning (south of LINC) / Addison Ave (W8 A/R)	1,080,000.00	950,991.39	950,991.39	0.00	88.1%
2017	4661720525	IPS - Intersection Pedestrian Signal - 2017	180,000.00	180,000.00	180,000.00	0.00	100.0%
2017	4661720725	New Traffic Signal - Upper Sherman @ Acadia Street/Dulgaren	200,000.00	92,363.61	92,363.61	0.00	46.2%
2017	4661720727	New Traffic Signal - Dundas @ Avonside	250,000.00	47,793.07	47,793.07	0.00	19.1%
2018	4031811224	Sidewalk Rehabilitation Program - 2018	703,300.00	703,300.00	703,300.00	0.00	100.0%

**CITY OF HAMILTON  
CAPITAL PROJECTS' CLOSING SCHEDULE  
AS OF JUNE 30, 2019**

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YEAR APPROVED	PROJECT ID	DESCRIPTION	APPROVED BUDGET (\$)	REVENUES (\$)	EXPENDITURES (\$)	PROJECT SURPLUS/ (DEFICIT) (\$)	% SPENT
			a	b	c	d = b - c	e=c/a
<b>Roads (Tax Budget) Continued</b>							
2018	4031811802	NBHD RD Priorities W2	655,000.00	655,000.00	655,000.00	0.00	100.0%
2018	4031811806	NBHD RD Priorities W6	670,000.00	670,000.00	670,000.00	0.00	100.0%
2018	4031811807	NBHD RD Priorities W7	900,000.00	900,000.00	900,000.00	0.00	100.0%
2018	4031811808	NBHD RD Priorities W8	603,000.00	603,000.00	603,000.00	0.00	100.0%
2018	4031811809	NBHD RD Priorities W9	293,000.00	293,000.00	293,000.00	0.00	100.0%
2018	4031811811	NBHD RD Priorities W11	675,000.00	675,000.00	675,000.00	0.00	100.0%
2018	4031811812	NBHD RD Priorities W12	499,000.00	499,000.00	499,000.00	0.00	100.0%
2018	4031811814	NBHD RD Priorities W14	819,000.00	819,000.00	819,000.00	0.00	100.0%
2018	4031855622	Active Transport Benchmarking - 2018	12,000.00	11,817.41	11,817.41	0.00	98.5%
2018	4041810004	Escarpment Slope Stabilization Program - 2018	1,000,000.00	1,000,000.00	1,000,000.00	0.00	100.0%
2018	4241809206	AR - Corktown Intersection Safety (W2 A/R)	22,000.00	13,106.12	13,106.12	0.00	59.6%
2018	4241809407	AR - Sidewalks (W4 A/R)	100,000.00	42,684.75	42,684.75	0.00	42.7%
2018	4241809505	AR - Sidewalks & Mountable Curbs (W5 A/R)	411,000.00	387,475.47	387,475.47	0.00	94.3%
2018	4241809703	AR - Viceroy - Callie Northerly (W7 A/R)	200,000.00	129,868.40	129,868.40	0.00	64.9%
2018	4241809705	AR - Upper Sherman Resurfacing (W7 A/R)	1,370,000.00	12,616.23	12,616.23	0.00	0.9%
2018	4661820531	APS - Accessible Pedestrian Signals - 2018	260,000.00	260,000.00	260,000.00	0.00	100.0%
<b>Public Works (Rate Budget)</b>							
<b>Water (Rate Budget)</b>							
2014	5141455922	Water Loss Audit - 2014	169,000.00	168,039.46	168,039.46	0.00	99.4%
2015	5141555501	Ferguson Pump Station to Scenic Reservoir Trunk Main Inspection	1,090,000.00	1,024,706.72	1,024,706.72	0.00	94.0%
2015	5141569075	Environmental Lab Improvements - 2015	50,000.00	49,528.22	49,528.22	0.00	99.1%
2016	5141662073	Field Data Systems Program - 2016	129,380.00	92,557.86	92,557.86	0.00	71.5%
2016	5141669075	Environmental Lab Improvements - 2016	150,000.00	149,884.80	149,884.80	0.00	99.9%
2016	5141671301	WM Replace Program - Coordinated with Roads - 2016	4,088,000.00	4,075,388.63	4,075,388.63	0.00	99.7%
2017	5141757750	Carlisle AMR/AMI Pilot Project	250,000.00	148,965.50	148,965.50	0.00	59.6%
2017	5141760072	Structural WM Lining Program - 2017	7,291,000.00	7,291,000.00	7,291,000.00	0.00	100.0%
2017	5141761502	Water Meter - Installation /Replace/Repair - General Maintenance - 2017	2,100,000.00	2,100,000.00	2,100,000.00	0.00	100.0%
2018	5141860711	PW Capital Water Consumption Program - 2018	200,000.00	200,000.00	200,000.00	0.00	100.0%
2018	5141861502	Water Meter - Installation /Replace/Repair - General Mtn - 2018	2,800,000.00	2,815,181.00	2,815,181.00	0.00	100.5%
2018	5141871301	WM Replace Program - Coordinated with Roads - 2018	4,659,000.00	4,614,205.80	4,614,205.80	0.00	99.0%
2009	5140967950	ISF-672-Ferguson PS Upgrade	22,730,000.00	22,727,978.38	22,727,978.38	0.00	101.2%
2012	5141267271	PS HD018 Hwy 53 & HD011 Osler	740,000.00	664,183.40	664,183.40	0.00	89.8%
2015	5141567525	HDR08 Reservoir Decommission	520,000.00	359,769.68	359,769.68	0.00	69.2%
<b>WasteWater (Rate Budget)</b>							
2016	5161660575	Mainline Sewer Condition Assessment Program - 2016	600,000.00	600,000.00	600,000.00	0.00	100.0%
2017	5161749555	QA-QC Service Contract - 2017	110,000.00	110,000.00	110,000.00	0.00	100.0%
2017	5161761444	Sewer Lateral Replace/Rehab Program - 2017	4,060,000.00	4,172,500.00	4,172,500.00	0.00	102.8%
2018	5161811101	Road Restoration Program - 2018	1,800,000.00	1,800,000.00	1,800,000.00	0.00	100.0%
2018	5161860576	Sewer Lateral Condition Assessment - 2018	680,000.00	680,000.00	680,000.00	0.00	100.0%
2018	5161860577	Mainline Sewer Condition Assessment for Compliance & Regs - 2018	110,000.00	110,000.00	110,000.00	0.00	100.0%
2018	5161860711	PW Capital Water Consumption Program - 2018	90,000.00	90,000.00	90,000.00	0.00	100.0%
2018	5161861825	Stipeley Neighbourhood (South) - Connaught / Balsam / Dunsmore	11,900.00	11,822.75	11,822.75	0.00	99.4%
2018	5161871842	Locke St Sewer Rehabilitation	2,228,000.00	2,227,419.83	2,227,419.83	0.00	100.0%
2018	5161872840	Mohawk - Upper Ottawa to Upper Kenilworth	976,000.00	975,274.97	975,274.97	0.00	99.9%

**CITY OF HAMILTON  
CAPITAL PROJECTS' CLOSING SCHEDULE  
AS OF JUNE 30, 2019**

Appendix "B" to Item 1 of CPWIP Sub-Committee Report 19-005  
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YEAR	PROJECT ID	DESCRIPTION	APPROVED BUDGET (\$)	REVENUES (\$)	EXPENDITURES (\$)	PROJECT SURPLUS/ (DEFICIT) (\$)	% SPENT
APPROVED			a	b	c	d = b - c	e=c/a
<b>StormWater (Rate Budget)</b>							
2015	5181572295	SERG - LEEDS Implementation	290,000.00	146,937.29	146,937.29	0.00	50.7%
2015	5181872290	Mackenzie - East 27th to Upper Sherman (Burkholme Neighbourhood)	103,000.00	65,659.03	65,659.03	0.00	63.7%
2016	5181674640	Battlefield Creek Remediation	169,000.00	168,584.78	168,584.78	0.00	99.8%
2017	5181717152	Cross Road Culvert Program - 2017	1,370,000.00	1,370,000.00	1,370,000.00	0.00	100.0%
2017	5181760622	SWM Facility Maintenance Program - 2017	1,600,000.00	1,600,000.00	1,600,000.00	0.00	100.0%
2018	5181817549	Concrete Box Culvert Rehabilitation/Repair (< 3.0m span) - 2018	110,000.00	109,059.42	109,059.42	0.00	99.1%
2018	5181870000	Coordinated Road and Subsurface Works - 2018	130,000.00	122,658.66	122,658.66	0.00	94.4%
2018	5181872293	Bayside Ave Storm Sewer Replacement	174,000.00	173,769.96	173,769.96	0.00	99.9%
<b>TOTAL COMPLETED PROJECTS (122)</b>			<b>131,831,097.26</b>	<b>127,156,134.18</b>	<b>127,156,134.18</b>	<b>0.00</b>	<b>96.5%</b>
<b>GRAND TOTAL COMPLETED/CANCELLED PROJECTS (140)</b>			<b>136,089,247.26</b>	<b>130,297,312.03</b>	<b>130,027,232.40</b>	<b>270,079.63</b>	<b>95.5%</b>

CITY OF HAMILTON CAPITAL PROJECTS TO BE FUNDED ABOVE \$250,000 FOR THE PERIOD COVERING JANUARY, 2019 to JUNE 30, 2019					
<u>Recommendations</u>					
Appropriated From	Description	Appropriated To	Description	Amount (\$)	LongDescr
<b>Public Works (Tax)</b>					
<u>Roads</u>					
40316111614	CP Minor Maintenance Ward 14	4031911612	CP Minor Maintenance Ward 12	210,740.73	To close project 40316111614
40316111614	CP Minor Maintenance Ward 14	4031911613	CP Minor Maintenance Ward 13	326,863.18	To close project 40316111614
<b>Project Totals</b>				<b>\$ 537,603.91</b>	



Hamilton

**CAPITAL PROJECTS WORK-IN-PROGRESS REVIEW  
SUB-COMMITTEE  
REPORT 19-006**

**11:00 a.m.**

**September 26, 2019**

**Council Chambers**

**Hamilton City Hall**

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**Present:** Councillors M. Pearson (Chair), J.P. Danko and N. Nann

**Absent:** Councillor M Wilson – City Business

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**THE CAPITAL PROJECTS WORK-IN-PROGRESS REVIEW SUB-COMMITTEE  
PRESENTS REPORT 19-006 AND RESPECTFULLY RECOMMENDS:**

**1. Capital Projects Status Report (Excluding Public Works) as of June 30, 2019 (FCS19079) (City Wide) (Item 10.1)**

That the Capital Projects Status Report (excluding Public Works), as of June 30, 2019, attached as Appendix “A” to Report FCS19079, be received.

**FOR INFORMATION:**

**(a) CHANGES TO THE AGENDA (Item 2)**

There were no changes to the agenda.

The agenda for the September 26, 2019 Capital Projects Work-In-Progress Review Sub-Committee meeting was approved, as presented.

**(b) DECLARATIONS OF INTEREST (Item 3)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**

**(i) September 25, 2019 (Item 4.1)**

The Minutes of the September 25, 2019 meeting of the Capital Projects Work-In-Progress Review Sub-Committee meeting were approved, as presented.

**(d) ADJOURNMENT (Item 15)**

There being no further business, the Capital Projects Work-In-Progress Review Sub-Committee, adjourned at 11:17 a.m.

Respectfully submitted,

Councillor Pearson, Chair  
Capital Projects Work-in-Progress  
Sub-Committee

Angela McRae  
Legislative Coordinator  
Office of the City Clerk



**CITY OF HAMILTON**  
**FINANCE AND CORPORATE SERVICES DEPARTMENT**  
**Financial Services and Taxation Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	October 16, 2019
<b>SUBJECT/REPORT NO:</b>	Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Maria Di Santo (905) 546-2424 Ext. 5254 Rob Divinski (905) 546-2424 Ext. 6196
<b>SUBMITTED BY:</b>	Rick Male Director, Financial Services and Taxation and Corporate Controller Corporate Services Department
<b>SIGNATURE:</b>	

### RECOMMENDATIONS

- (a) That effective January 1, 2020, the frequency of Reminder Notices mailed to taxpayers with property tax arrears be increased from the existing four reminder notices per year to seven reminder notices per year;
- (b) That the item respecting Strategies to Reduce Property Tax Arrears be considered complete and removed from the General Issues Committee's Outstanding Business List.

### EXECUTIVE SUMMARY

On April 17, 2019 the General Issues Committee approved the following motion:

**(Eisenberger/VanderBeek)**

That staff be directed to communicate with other municipalities to determine strategies that those municipalities may be using to reduce their tax arrears and report back to the General Issues Committee with potential options.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.



**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
(Outstanding Business List Item) - Page 2 of 9**

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The above motion was as a result of the Report FCS19031 “Annual Tax Arrears as of December 31, 2018” which identified significant property tax arrears.

In reviewing the collection strategies used by other municipalities, the volume of property tax arrears, as well as existing resources and the ultimate potential impact on the taxpayer, staff are recommending increasing the frequency in which reminder notices are mailed out. Currently, the City of Hamilton mails out four reminder notices per year (March, May, July and October). Staff are recommending increasing this to seven reminder notices per year (to also include reminder notices in August, November and December). As the approved administration fee for reminder notice (2019 user fee is \$3.00) is added to the tax roll, there is no negative levy impact by increasing the number of reminder notices, as the user fee will cover the increase in postage, printing and staff time. Generating these notices can be accommodated within existing Taxation resources. Additional reminder notices may result in higher call/email volumes; however, it is not expected to be significant. More frequent reminder notices may spread out inquiries more evenly throughout the year. More frequent reminder notices intend to reduce the number of properties in arrears, and as such, staff would hope to issue fewer reminder notices per month (currently approximately 20,000 reminder notices per mailing).

**Alternatives for Consideration – See Page 9**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: none

Staffing: none

Legal: none

**HISTORICAL BACKGROUND**

Report FCS19031 “Annual Tax Arrears as of December 31, 2018” was presented to the General Issues Committee on April 17, 2019. The report identified large property tax arrears. It should be noted that although the property tax arrears are significant (approximately \$73.7 million as of December 31, 2018), the City of Hamilton is protected in that it has priority lien status on the property and eventually will collect the property taxes, and other charges added to the tax roll, including penalty and interest, should it come down to the eventual tax sale of a property.

As identified in Report FCS19031, there are several steps currently taken by the City of Hamilton to ensure the taxes receivable are protected and ultimately collected. These

**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
(Outstanding Business List Item) - Page 3 of 9**

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steps are in adherence to the approved City of Hamilton Tax Collection Policy (FCS15068) and include:

- Arrears are indicated on both tax billings (Interim and Final tax bills).
- Penalty and interest rate set at the maximum allowable amount under the *Municipal Act* (1.25% per month / 15% per year).
- Four reminder notices issued per year to any arrears greater than \$50.00.
- Letters to new owners of properties (when there is no upcoming tax billing or reminder notice) advising of any arrears and upcoming instalments that are due.
- An annual letter mailed in January to all properties in three+ years in arrears, advising of potential lien being registered should the arrears not be dealt with.
- For taxpayers who ignore the arrears letters, liens are registered on title and notices are sent to anyone on title, including mortgage holders. Tax staff monitor all properties in three+ years in arrears, registering liens in order of largest arrears.
- Tax sale (on average, the City of Hamilton holds two tax sales per year).

For the most part, the above steps are consistent with other Ontario municipalities.

**Breakdown of Property Tax Arrears**

Table 1 is a breakdown by ward of the number of properties that had outstanding property taxes back to 2016 or prior as of January 1<sup>st</sup>, 2019 (three+ years in arrears). The table also provides a percentage of the total number of properties within each ward that were in arrears three+ years as of the beginning of 2019.

**Table 1 Property Breakdown of Arrears per Ward**

Ward #	# of Properties as of Jan 1, 2019	# of properties in arrears 2016 and prior	% in arrears
1	10,271	85	0.83%
2	8,585	105	1.22%
3	13,528	269	1.99%
4	14,685	190	1.29%
5	11,924	95	0.80%
6	12,537	113	0.90%

**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
(Outstanding Business List Item) - Page 4 of 9**

Ward #	# of Properties as of Jan 1, 2019	# of properties in arrears 2016 and prior	% in arrears
7	13,975	122	0.87%
8	11,252	92	0.82%
9	10,722	94	0.88%
10	14,821	146	0.99%
11	10,449	104	1.00%
12	16,089	157	0.98%
13	12,467	106	0.85%
14	9,913	66	0.67%
15	10,697	127	1.19%
<b>TOTAL</b>	<b>181,915</b>	<b>1,871</b>	<b>1.03%</b>

From the statistics provided in Table 1 above, it is apparent that all wards have properties in significant arrears. All 15 wards fall near the overall average of 1.03%, with Ward 3 having the highest percentage of arrears at 1.99%, while Ward 14 the lowest at 0.67%. Of the 1,871 properties identified in Table 1 above, approximately 230 properties have a lien already registered on title, with the remainder being at risk of a lien being registered in 2019, should the arrears not be adequately addressed. Approximately 88% of these properties are residential or residential with a commercial component.

As far as demographics are concerned, staff do not have a “profile” of a taxpayer in arrears. Based on discussions with taxpayers, the reasons for being in arrears vary, however some common reasons include:

- Estate issues whereby the family is in the process of dealing with the estate or it is currently occupied by a surviving family member that is simply not addressing the property taxes or not expediting the settling of the estate in a timely manner.
- Rental properties (i.e. single-family homes/condos not owner-occupied) where the property owner is assuming the tenant is paying the property taxes.
- Charges added to the tax roll (i.e. water arrears, property standards charges, provincial offences fines, development charges, etc.).
- Taxpayers in financial hardship (i.e. due to job loss, divorce, illness or the death of one of the owners or family, etc.). These cases are referred to the Compassionate Appeal process, however, require that the taxpayers apply annually by the application deadline and provide the required financial records / attending physician’s statement.

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**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
(Outstanding Business List Item) - Page 5 of 9**

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- Taxpayers making incorrect/misinformation assumptions (i.e. assuming they are paying their property taxes through their mortgage, assuming they are in good standing on their monthly pre-authorized payment plan, assuming another family member/partner is paying the property taxes, etc.).
- Opting to pay just the minimum required to discharge the lien or to avoid the City of Hamilton registering a lien. As such, these taxpayers are always in arrears and continue to incur a significant penalty and interest charges monthly.
- Remnant parcels, non-buildable lots.
- Pending assessment appeal (i.e. choosing not to fully pay the taxes levied, by assuming a successful outcome to their appeal that will eventually clear the arrears once processed).
- Opting to enter into a two-year extension agreement once they are registered.

The above reasons are not unique to the City of Hamilton.

It should be noted that the number of properties in three+ years arrears as of January 1, 2019 (1,871 properties) was reduced by more than half within six months. Through Taxation's collection efforts, the number of properties in three+ years in arrears as of June 1, 2019 decreased to 864. Although this is a significant reduction, unfortunately, as experienced in previous years, this number will climb back up to 1,800 (or higher) come January 1, 2020. This is reflected in the following table which takes a snapshot of the number of properties in arrears as of June 30, 2019.

**Table 2 Analysis of Properties in Arrears**

Years in Arrears	# of Properties as of Jan 1, 2019	# of properties in arrears as of June 30, 2019	% in arrears
3+ yrs arrears (owe 2016 and prior)	181,915	864	0.47%
2+ yrs arrears (owe back to 2017)	181,915	1,859	1.00%

As shown in Table 2 above, although as of June 30<sup>th</sup>, 2019 the number of properties that are in three+ years in arrears (owe taxes back to 2016 or prior) has been reduced by more than half to 864 properties, the number of properties in two+ years in arrears (owe taxes back to 2017) is 1,859. If these 1,859 properties do not clear their 2017 taxes by

**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
(Outstanding Business List Item) - Page 6 of 9**

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the end of 2019, they will be in three years arrears, and therefore at risk of registration, by January 1, 2020.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Collection efforts must ensure that the City of Hamilton's property taxes are protected and ultimately collected. Legislation, including the *Municipal Act, 2001*, *Assessment Act* and *Education Act*, as well as municipal by-laws, stipulate the means utilized in the billing and collection of property taxes.

The methods permitted to enforce collection of property taxes include:

- a) Penalty and Interest By-Law;
- b) Rent Attornment;
- c) Bailiffs; and
- d) Tax Sale

**RELEVANT CONSULTATION**

As directed by the General Issues Committee, staff have communicated with other Ontario municipalities to determine strategies in reducing property tax arrears. Appendix "A" to Report FCS19081 identifies some key items identified as a result of this survey.

In reviewing the survey results, some items to note include:

- The City of Hamilton is consistent with most municipalities surveyed concerning the mailing of four reminder notices per year, however, some send reminder notices more frequent (i.e. the City of London mails out nine reminder notices per year).
  - Prior to 2015, the City of Hamilton only mailed out two reminder notices per year. Although the additional reminder notices did not significantly reduce the overall number of properties in arrears, they did have some positive effects in collections, by advising taxpayers earlier where a potential problem may exist (i.e. misapplied payment, lost tax bill, one missed instalment, etc.).
- Consistent with the City of Hamilton, most municipalities surveyed register liens for properties in three+ years in arrears. Only a few municipalities are registering at two+ years in arrears, while some are simply investigating the option to go to two years. When comparing to the municipalities surveyed, the City of Hamilton far exceeds the number of registrations per year. Moving to two years' arrears for registration could potentially increase the City of Hamilton's registrations by over 2.5 times. Due to Hamilton's current high volume of tax registrations per year (on average 300 – 500 registrations per year), additional resources would be required if registration was completed at two years in arrears. Registering liens one year sooner is expected to have a significant impact on reducing the arrears. It also forces taxpayers to deal with

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**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
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their arrears sooner, hopefully when the arrears are at a more manageable amount. Unfortunately, it may also result in more properties proceeding to tax sale.

- Most of the municipalities surveyed require payment in full to remove the lien. Hamilton, London and Kitchener were the only municipalities identified in the survey to allow partial payments, with this partial payment being full payment of the third year in arrears only. Not requiring full payment may ultimately lead to the re-registration of the property the following year, should the property owner not continue to make payments for the remainder of the arrears. Unfortunately for some taxpayers in financial difficulty, paying the minimum required to clear the third year in arrears only, is all that they can afford to avoid going to tax sale. Typically, if there is a mortgage on title, the full arrears (and not just the third year) will be settled by the mortgagee. Although the City of Hamilton accepts payment to clear the third year in arrears only, 60% of the liens discharged in 2019 were as a result of a payment for more than the minimum required (up to the full arrears being paid). Not requiring full payment gives taxpayers in financial difficulty the ability to avoid their property going to tax sale, however, with the understanding that they run the risk of being re-registered the following year if no solution is reached on dealing with the remaining arrears. Since these properties continue to incur penalties and interest on the arrears, the remaining arrears can quickly become unmanageable if not dealt with in a promptly.
- Most of the municipalities surveyed allow for extension agreements. These extension agreements are only applicable after a lien has been registered. The City of Hamilton allows for a two-year extension agreement. This is a formal agreement that affords the property owner an additional two years to pay the arrears, subject to the property owner adhering to the agreed-upon monthly payments. Penalty and interest charges continue to incur while on the extension agreement. As long as the agreement is in good standing, the City of Hamilton will not proceed to tax sale within this two-year extension.
- The City of Hamilton does not employ the services of a bailiff to assist in the collection of tax arrears, as the tax sale process will ultimately settle the arrears. Some of the municipalities surveyed do use bailiffs, something the City of Hamilton would consider if all other collection measures are unsuccessful. This is identified in the approved City of Hamilton Tax Collection Policy (FCS15068) which states; *“Bailiffs would be used where there is the potential that the recovery of tax arrears by the other methods would not cover the outstanding taxes or where we are prohibited by one of the other methods due to overriding legislation. An example would be a tenant of a Crown property not paying taxes and the Crown unwilling to assist in collection. Crown owned property cannot be sold for tax sale, thereby taking away our ability to collect the outstanding amount via tax sale.”* To date, the City of Hamilton has not required the use of a Bailiff.

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**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
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- Regardless of the City of Hamilton's higher volume of liens registered, the number of properties that eventually go to tax sale is not significantly higher than other municipalities. When looking at the number of properties advertised for tax sale in 2018, although some municipalities did not have any properties advertised for tax sale, Sudbury and Windsor had twice as many as Hamilton.
- Some municipalities, particularly smaller ones, may employ more aggressive collection efforts earlier on (i.e. stronger warning letters in the second year, calling the taxpayer, etc.). With the City of Hamilton's current volumes, such efforts cannot currently be accommodated with the existing resources. As such, apart from including arrears on the two tax billings and the mailing of reminder notices, the City of Hamilton does not commence more aggressive collection efforts until the arrears reach three years.

Customer Service staff have been consulted concerning implications of the potential increase in call/email volumes resulting from more frequent reminder notices. No issues are anticipated, and in fact, it is expected that the more frequent reminder notices may spread out call and email inquiries more evenly throughout the year.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Although there is no guarantee that increasing the number of reminder notices mailed out per year will significantly reduce the number of arrears, it is the option that can be accommodated within existing resources and the option that will have the least impact on taxpayers in financial difficulty. The intent of the more frequent reminder notices is to keep the taxpayer informed of their most up to date arrears balance, with the hopes that they will take quicker action to settle the arrears (i.e. refinance, use of other financial tools, sale of property, contact the City of Hamilton to make payment arrangements, etc) before the arrears become unmanageable and/or before the City of Hamilton proceeds with the registration of the lien.

These reminder notices break down the arrears by year, identify the current penalty and interest rate (1.25% per month / 15% per year), as well as provide notice that taxes in arrears are at risk of a lien being registered on title.

It is not until the property reaches three years in arrears that the City of Hamilton commences additional collection efforts. Once arrears reach three years, the City of Hamilton sends a notice (mailed out in January) of potential registration of a tax arrears lien and possible tax sale if no action is taken. Unfortunately, some taxpayers do not take any action until they receive this three years arrears letter. By this point, they would have received multiple notices of their growing arrears and should be aware of the financial and legal implications of remaining in arrears. Once the taxpayer receives the three years

**SUBJECT: Strategies to Reduce Property Tax Arrears (FCS19081) (City Wide)  
(Outstanding Business List Item) - Page 9 of 9**

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in arrears warning in January, staff proceed with the registration process by March, starting with the largest arrears.

**ALTERNATIVES FOR CONSIDERATION**

The two main alternatives that would have the most significant impact in reducing the level of arrears include:

- registering liens at two years arrears (rather than three years arrears)
- requiring full payment of the arrears (rather than just the third year) to discharge the lien and avoid tax sale

Staff are not recommending implementing these alternatives at this time, however, they will continue to monitor the arrears and investigate these alternatives in more detail, should circumstances warrant further review.

Moving to registration at two years is not realistic with the current resources in Taxation. Registration at two years and/or requiring full payment will also inevitably result in more properties being registered and ultimately sold at a tax sale, particularly affecting the most vulnerable taxpayers in financial hardship. As these two alternatives would have the most significant impact in reducing arrears, the current Penalty and Interest revenue (averaging approximately \$11.8M per year) would also be impacted.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report FCS19081 - Strategies to Reduce Property Tax Arrears

MD/RD/rw



**Appendix “A” to Report FCS19081**  
**Page 1 of 2**

**Strategies to Reduce Property Tax Arrears**

<b>Municipality</b>	<b># of years in Arrears to Register lien</b>	<b>Approximate # of liens registered per year</b>	<b>Payment required to discharge lien</b>	<b>Properties Listed for Tax Sale (2018)<sup>1</sup></b>	<b>Extension Agreements</b>	<b>Use of Bailiff</b>	<b>Reminder Notices</b>
Hamilton	3 years	300-500	Partial to clear 3 <sup>rd</sup> year	16 <sup>2</sup>	yes	no	4 / year
London	3 years	125-200	Partial to clear 3 <sup>rd</sup> year	11	no	no	9 / year
Toronto	3 years	100	Payment in full	None	no	yes	5 / year
Brampton	3 years <sup>3</sup>	50	Payment in full	2	yes	yes	2 / year
Burlington	3 years <sup>3</sup>	> 10	Payment in full	None	yes	no	4 / year
Sudbury	3 years <sup>3</sup>	230 (in 2018)	Payment in full	30	yes	no	4 / year
Kitchener	3 years	0 (2018)	Partial to clear 3 <sup>rd</sup> year	1	no	no	4 / year
Windsor	3 years	Min 65-95	Payment in full	34	yes	no	2 <sup>nd</sup> and Final notice only if significant arrears
Barrie	3 years	100+	Payment in full	None	yes	no	4 / year
Thunder Bay	2 years	36 (118 in 2018 when moved to 2 years)	Payment in full	7	yes	no	4 / year

**Appendix "A" to Report FCS19081**  
**Page 2 of 2**

**Strategies to Reduce Property Tax Arrears**

<b>Municipality</b>	<b># of years in Arrears to Register lien</b>	<b>Approximate # of liens registered per year</b>	<b>Payment required to discharge lien</b>	<b>Properties Listed for Tax Sale (2018)<sup>1</sup></b>	<b>Extension Agreements</b>	<b>Use of Bailiff</b>	<b>Reminder Notices</b>
Ajax	3 years	20-25	Payment in full	None	no	yes	3 / year
Milton	3 years		Payment in full	None	yes		7 / year
Brock	3 years	10	Payment in full	2	yes	no	7 / year
Lambton	2 years	7	Payment in full	3	yes	no	4 / year

<sup>1</sup> as advertised in the Ontario Gazette (required under the Municipal Act)

<sup>2</sup> of the 16 properties advertised for tax sale in the City of Hamilton, only 4 proceeded to the actual sale, as the remainder were subsequently rectified by the taxpayer.

<sup>3</sup> investigating moving to 2 years



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	October 16, 2019
<b>SUBJECT/REPORT NO:</b>	Hamilton Business Centre – Funding Agreement (PED19202) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Kristin Huigenbos (905) 546-2424 Ext. 4110
<b>SUBMITTED BY:</b>	Glen Norton Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That the Mayor and Clerk be authorized to execute all necessary documentation, including Transfer Payment Agreements, amendments, renewals and ancillary documents that are required to receive funding from the Ministry of Economic Development, Job Creation and Trade in connection with the programs and initiatives delivered within the Small Business Enterprise Centre with content satisfactory to the General Manager of Planning and Economic Development and in a form satisfactory to the City Solicitor;
- (b) That staff be authorized and directed to implement and execute the programs and services delivered within the Small Business Enterprise Centre;
- (c) That where required to give effect and authorize the signing of a Transfer Payment Agreement, amendments, or renewals between the City of Hamilton and Her Majesty the Queen in Right of Ontario as represented by the Minister of Economic Development, Job Creation and Trade to receive funding in connection with the programs and initiatives delivered within the Small Business Enterprise Centre, Legal staff be directed to prepare By-law(s) in the form satisfactory to the City Solicitor for consideration by Council;

### EXECUTIVE SUMMARY

Established in 2001, the Ontario Small Business Enterprise Centre (OSBEC) network now comprised of 57 offices across the Province of Ontario was created to provide

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**SUBJECT: Hamilton Business Centre – Funding Agreement (PED19202) (City Wide) - Page 2 of 4**

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information, resources, education and consultation to support and inform individuals on the merits of entrepreneurship as a viable career option.

On April 1, 2019 the Province of Ontario through the Ministry of Economic Development, Job Creation and Trade delivered a new Transfer Payment Agreement (TPA) to support all program initiatives delivered by the Hamilton Business Centre, a partner in the OSBEC.

The following is a summary of the programs and funding allocations to support continued service delivery through until March 31, 2022;

<b>Provincial Program</b>	<b>Funds to be received</b>
Core Programming	\$383,333.00
Starter Company Plus Program	\$546,000.00
Summer Company Program	\$231,000.00

Program funding within the new TPA will allow for the continued service delivery of existing programs, while providing valuable information and resources to foster and support local economic development initiatives.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: With the noted recommendations supported, the Hamilton Business Centre and the City of Hamilton will receive the following funds to facilitate programs and create economic impact within our community:

1. Core programming - \$383,333 over three years to support consultations, training sessions, events and community outreach fostering awareness and growth in the entrepreneurial sector;
2. Starter Company Plus - \$546,000 to coordinate, deliver and grant funds to new local businesses in Hamilton; and,
3. Summer Company - \$231,000 to deliver the Provincial Summer Company Program to more than 48 enterprising students.

Staffing: N/A

Legal: City of Hamilton will be required to enter into a TPA to receive the Small Business Enterprise Centre (SBEC) Core Initiative, Starter Company Plus Initiative and Summer Company Initiative funding. By signing the TPA, the City will be bound to operate the funded programs in accordance with the terms and conditions contained in the TPA.

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**SUBJECT: Hamilton Business Centre – Funding Agreement (PED19202) (City Wide) - Page 3 of 4**

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**HISTORICAL BACKGROUND**

The Hamilton Business Centre has been a service delivery agent for programs and services with the OSBEC network since 2001. Through continued delivery of the SBEC network programs and service, the City of Hamilton will further leverage vital programming fostering the vibrant business growth seen today.

Core programming with the Ministry has been in place since April 2001 and to date consists of consultation services, training and workshop modules along with general inquiry support as it relates to the start-up and growth of a business in Hamilton. In 2018 there were more than 78,000 general inquiries, over 500 consultations and 82 seminars delivered that assisted in the development of 74 new businesses and 130 new jobs in Hamilton.

Starter Company Plus has been delivered by the Hamilton Business Centre since April 1, 2015. This program combines training, mentorship and a successful grant of \$5,000 to successful businesses. To date the Hamilton Business Centre has issued 89 grants, disbursing \$420,000 that assisted in the creation of 148 new businesses, 49 business expansions and 196 new jobs.

Summer Company has been delivered by the Hamilton Business Centre for 19 years and continues to be the flag ship for youth entrepreneurship across Ontario. Providing a winning combination of training, mentoring and a micro-grant of up to \$3,000 enterprising young entrepreneurs learn hands-on the merits of entrepreneurship.

The Hamilton Business Centre continues to explore opportunities and means to sustain and enhance current programming. The above-noted opportunities allow for continued efforts to leverage community partnerships and create sustainable business growth for Hamilton.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

City of Hamilton is required to enter into a TPA to receive the SBEC Core Initiative, Starter Company Plus Initiative and Summer Company Initiative funding. By signing the TPA, the City will be bound to operate the funded programs in accordance with the terms and conditions contained in the TPA.

**RELEVANT CONSULTATION**

N/A

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**SUBJECT: Hamilton Business Centre – Funding Agreement (PED19202) (City Wide) - Page 4 of 4**

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**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The Ontario TPA for the SBEC Program provides funding and resources to support and foster the growth of the local business community.

**ALTERNATIVES FOR CONSIDERATION**

The current programs could not be pursued resulting in lost access to capital, training, mentoring and grants to support the business community.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**APPENDICES AND SCHEDULES ATTACHED**

N/A

KH:dt



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	October 16, 2019
<b>SUBJECT/REPORT NO:</b>	Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	Carlo Gorni (905) 546-2424 Ext. 2755
<b>SUBMITTED BY:</b>	Glen Norton Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That a Barton Kenilworth Tax Increment Grant Program application submitted by Malleum Real Estate Partners III (Tyler Pearson/Greg Clewer), for the property at 301-303 Barton Street East, Hamilton, estimated at \$35,042.70 over a maximum of a nine-year period, and based upon the incremental tax increase attributable to the renovations of 301-303 Barton Street East, Hamilton, be authorized and approved in accordance with the terms and conditions of the Barton Kenilworth Tax Increment Grant Program;
- (b) That the Mayor and City Clerk be authorized and directed to execute a Grant Agreement together with any ancillary documentation required, to effect recommendation (a) of Report PED19192, in a form satisfactory to the City Solicitor;
- (c) That the Mayor and City Clerk be authorized and directed to execute such assigning agreement as required, to effect recommendation (a) of Report PED19192, in a form satisfactory to the City Solicitor;
- (d) That the General Manager of the Planning and Economic Development Department be authorized to approve and execute any Grant Amending Agreements, together with any ancillary amending documentation, if required,

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**SUBJECT: Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3) - Page 2 of 7**

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provided that the terms and conditions of the Hamilton Tax Increment Grant Program, as approved by City Council, are maintained.

**EXECUTIVE SUMMARY**

The Barton Kenilworth Tax Increment Grant Program (BKTIGP) application for the renovation of 301-303 Barton Street East, Hamilton, was submitted by Malleum Real Estate Partners III (Tyler Pearson/Greg Clewer). The existing building is 3-storeys with two commercial units on the ground floor and four residential units on the upper-storeys. All units were vacant when the application was submitted. All units will be renovated. Improvements to the exterior of the building will also be carried out.

Development costs are estimated at \$440 K and it is projected that the proposed redevelopment will increase the assessed value of the property from its current value of \$290,500 to approximately \$570 K. This will increase total annual property taxes generated by the property. The municipal share of this property tax increase (municipal tax increment) will be approximately \$5,006.10 of which 100% would be granted to the owner during years one to five, 80% or approximately \$4,004.88 in year six, 60% or approximately \$3,003.66 in year seven, 40% or approximately \$2,002.44 in year eight and 20% or approximately \$1,001.22 in year nine. The estimated total value of the grant is approximately \$35,042.70. Note that every year the tax increment is based on actual taxes for that year.

Upon completion of the redevelopment and reassessment of the property by the Municipal Property Assessment Corporation (MPAC), staff will report back in an Information Update to Council on the actual redevelopment costs, the reassessment amount determined by MPAC and the grant amount.

**Alternatives for Consideration – See Page 6**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The City will collect full property taxes on the property and, in turn, provide a grant for nine years, declining each year after the first five years by 20%, based on the increase in the municipal portion of the taxes, post-development completion of 301-303 Barton Street East, Hamilton. Following year five of the grant payment, the City will start to realize the positive results of the Program from a financial perspective. Based on the projected figures, the estimated tax increment over nine years totals \$45,054.90, of which the applicant would receive a grant totalling approximately \$35,042.70 and the City retaining taxes totalling approximately \$10,012.20.



**SUBJECT: Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3) - Page 3 of 7**

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**Staffing:** Applicants and subsequent grant payments under the BKTIGP are processed by the Urban Renewal Section and Taxation Division. There are no additional staffing requirements.

**Legal:** Section 28 of the *Planning Act* permits a municipality, in accordance with a Community Improvement Plan, to make loans and grants which would otherwise be prohibited under Section 106(2) of the *Municipal Act*, to registered / assessed owners and tenants of lands and buildings. A Community Improvement Plan can only be adopted and come into effect within a designated Community Improvement Project Area. Changes to a Community Improvement Plan or Community Improvement Project Area require formal amendments as dictated by the *Planning Act*.

The applicant will be required to execute a Grant Agreement prior to the grant being advanced. The Grant Agreement will be developed in consultation with Legal Services.

As construction projects move forward, it is sometimes necessary to amend previously approved Grant Agreements and any ancillary documentation. Therefore, staff recommends that the General Manager of Planning and Economic Development Department be authorized to amend Grant Agreements and any ancillary documentation, provided that the terms and conditions of the BKTIGP are maintained.

## **HISTORICAL BACKGROUND**

City Council, at its meeting held May 11, 2016, approved an amendment to the Downtown and Community Renewal Community Improvement Plan which introduced the BKTIGP. The Program is offered exclusively to property owners of residential/commercial lands and buildings located within the boundaries of the Barton Village Business Improvement Area (BIA), the Barton and Kenilworth commercial corridors and the properties that front on Barton Street between James Street North and Victoria Avenue North as identified in the Downtown and Community Renewal Community Improvement Project Area By-law. The terms of the Program offer a nine-year grant not to exceed the increase in municipal realty taxes as a result of the development.

The grant is to be in an amount which does not exceed 100% of the municipal realty tax increase during the first five years, 80% in year six, 60% in year seven, 40% in year eight, and 20% in year nine.

The project at 301-303 Barton Street East, Hamilton, is an eligible project under the terms of the BKTIGP. The applicant will qualify for the BKTIGP grant upon completion of the

**SUBJECT: Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3) - Page 4 of 7**

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renovations. Development costs are estimated at \$440 K. The total estimated grant over the nine-year period is approximately \$35,042.70.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**Urban Hamilton Official Plan

The subject property is located within the “Neighbourhoods” area on Schedule “E” – Urban Structure and designated “Mixed Use – Medium Density” on Schedule “E-1” – Urban Land Use Designation.

The planned use of the property conforms to the above land use designation. The specific commercial uses for the ground floor have not yet been identified and will be subject to the respective sections of the in force and effect Urban Hamilton Official Plan with respect to permitted uses and associated policies.

Zoning By-laws No. 05-200

The subject property is zoned “Mixed Use Medium Density – Pedestrian Focus (C5a) Zone”.

The planned use of the property is permitted. The specific commercial uses for the ground floor have not yet been identified and will be subject to the respective sections of the in force and effect Zoning By-Law with respect to permitted uses and associated regulations.

**RELEVANT CONSULTATION**

- Financial Services and Taxation Division, Corporate Services Department; and,
- Legal Services Division, Corporate Services Department.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

Urban Renewal staff, in co-operation with staff from the Taxation and Legal Services Divisions, developed an estimated schedule of grant payments under the terms of the Program. The final schedule of grant payments will be contingent upon a new assessment by MPAC following completion of the project. The applicant will be required to sign a Grant Agreement. The Grant Agreement contains provisions for varying the grant payment in each and every year based on MPAC’s assessed value. By signing, the applicant will accept the terms and conditions outlined therein prior to any grant payments being made. The Agreement outlines the terms and conditions of the grant payments over the five-year period.

**SUBJECT: Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3) - Page 5 of 7**

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The estimated grant shall be calculated according to the following formulas:

Grant Level:		100%	
Total Eligible Costs (Maximum):	\$	440,000	
Pre-project CVA: RT (Residential)	\$	<u>290,500</u>	Year: 2018
Total Pre-Project CV		\$290,500	
Municipal Levy:	\$	3,172.15	
Education Levy:	\$	<u>493.85</u>	
Pre-project Property Taxes	\$	3,666.00	
*Post-project CVA: XT (Commercial)	\$	205,000	
RT (Residential)	\$	<u>365,000</u>	
Estimated Post-project CV	\$	570,000	Year: TBD
Post-Project Property Taxes			
**Estimated Municipal Levy:	\$	8,178.25	
**Estimated Education Levy:	\$	<u>2,699.15</u>	
**Estimated Post-Project Property Taxes:	\$	10,877.40	

\*The actual roll number(s), assessed value(s), tax classification(s) and value partitioning (where applicable) are to be determined by the Municipal Property Assessment Corporation (MPAC).

\*\*2019 tax rates have been used for calculation of the estimated post-development property taxes.

Pre-project Municipal Taxes = Municipal Levy = 3,172.15  
Municipal Tax Increment = \$8,178.25 - \$3,172.15 = \$5,006.10  
Payment in Year One = \$5,006.10 x 1.0 = \$5,006.10

**SUBJECT: Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3) - Page 6 of 7**

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**ESTIMATED GRANT PAYMENT SCHEDULE for residential/commercial building  
(Subject to re-calculation each year and up to the total eligible costs)**

Year	Grant Factor	Tax Increment*	Grant
1	100%	\$5,006.10	\$5,006.10
2	100%	\$5,006.10	\$5,006.10
3	100%	\$5,006.10	\$5,006.10
4	100%	\$5,006.10	\$5,006.10
5	100%	\$5,006.10	\$5,006.10
6	80%	\$5,006.10	\$4,004.88
7	60%	\$5,006.10	\$3,003.66
8	40%	\$5,006.10	\$2,002.44
9	20%	\$5,006.10	\$1,001.22
<b>Total</b>		<b>\$45,054.90</b>	<b>\$35,042.70</b>

\*Note that the tax increment is based every year on actual taxes for that year. The figures above are estimates. In other words, for each year a grant payment is paid, the actual taxes for the year of the grant payment will be used in the calculation of the grant payment.

## **ALTERNATIVES FOR CONSIDERATION**

### **Decline the Grant and Approve a Reduced Amount**

Declining a grant and/or approving a reduced amount would undermine the principles of the BKTIGP and regeneration efforts in general. This alternative is not recommended.

**Financial:** Grants totalling \$35,042.70 over a nine-year period would not be issued.

**Staffing:** N/A

**Legal:** N/A

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**SUBJECT: Barton Kenilworth Tax Increment Grant Program - 301-303 Barton Street East (PED19192) (Ward 3) - Page 7 of 7**

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**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Our People and Performance**

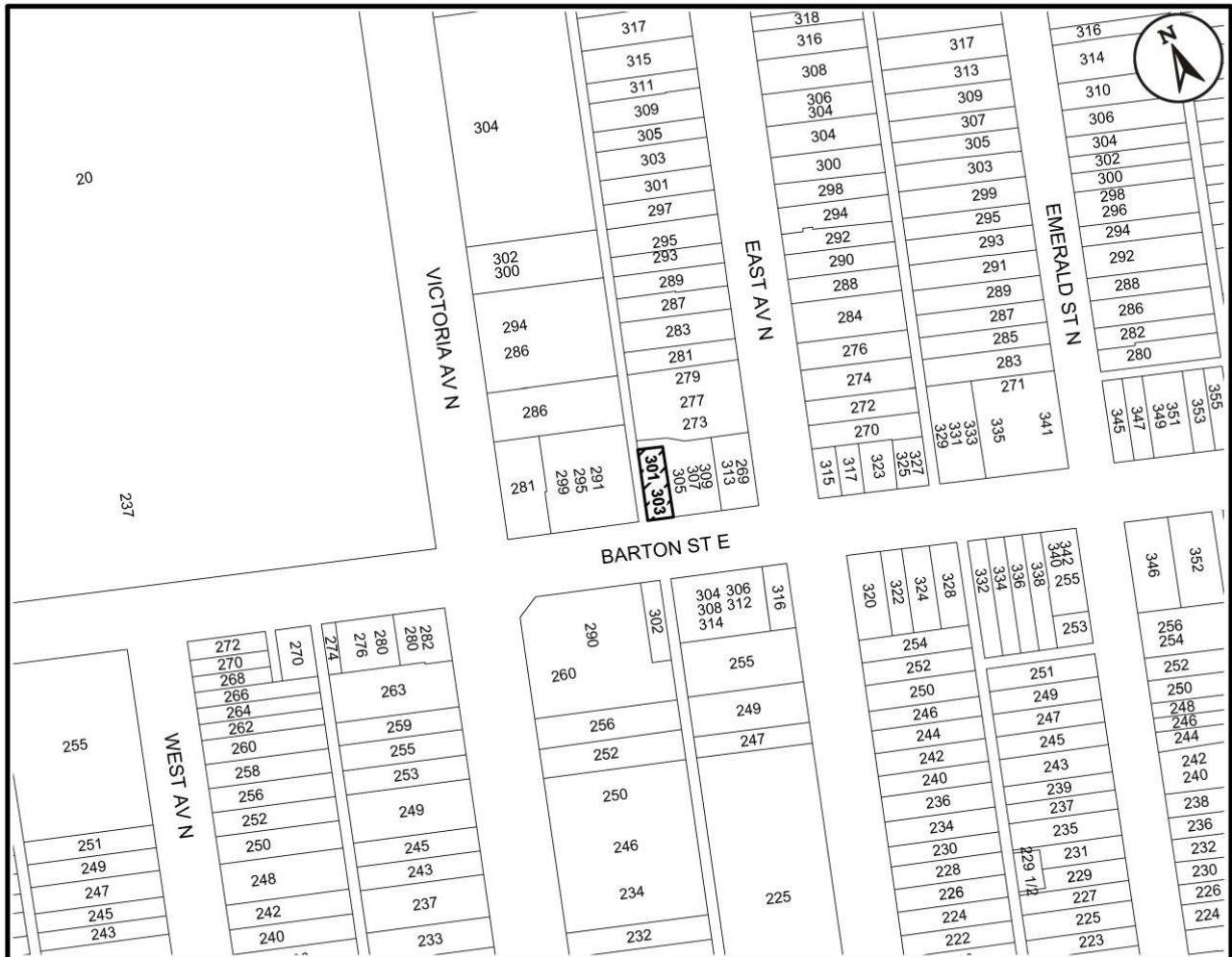
Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Location Map

CG:sd

Appendix "A" to Report PED19192  
Page 1 of 1



● Site Location



Key Map - Ward 3

N.T.S.



## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
301-303 Barton St E

Date:  
Jan. 30, 2018

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
CG/AL

### Subject Property



301 - 303 Barton Street East



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Tourism and Culture Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	October 16, 2019
<b>SUBJECT/REPORT NO:</b>	Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13)
<b>WARD(S) AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Pam Mulholland (905) 546-2424 Ext. 4514
<b>SUBMITTED BY:</b>	Carrie Brooks-Joiner Director, Tourism and Culture Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That the Mayor and Clerk be authorized and directed to execute a license and service agreement between the Dundas Valley Rotary Club Sunrise and the City of Hamilton, attached as Appendix “A” to Report PED19181, for the delivery of the annual Victoria Day Celebration and Fireworks for a one-year term beginning in 2020, with the option to renew for four subsequent years, in a form satisfactory to the City Solicitor, with the Dundas Valley Rotary Club Sunrise to be provided \$35,000 annually from the City of Hamilton for each year a license and service agreement is in place, to be funded from the Planning and Economic Development Department operating budget;
- (b) That the Victoria Day Celebration event license and service agreement fee increase of \$5,500 be added to the base budget in the Planning and Economic Development Department operating budget (Dept ID 709106) for 2020 and beyond.

### EXECUTIVE SUMMARY

The City of Hamilton (“City”) and the Dundas Valley Rotary Club Sunrise (“Rotary Club”) have co-produced the Victoria Day Celebration and Fireworks (“event”) in Dundas since 2011 under the terms of a license and service agreement (“agreement”). The existing agreement expires in 2019.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13) - Page 2 of 6**

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This free event, attended annually by approximately 16,000 people, takes place in the Dundas Driving Park on the May long weekend and includes children's activities, live music, food vendors and a professional fireworks display. The City does not deliver any other Victoria Day programming.

The City provided the Rotary Club with an annual fee of \$25,000 (2011 to 2014) and \$29,500 (2015 to 2019) to plan and deliver all programming, operational, health and safety event components. In 2019, the Rotary Club reported that over the term of the agreement costs have increased and that in 2019 the total event expenses of \$32,199 exceeded the provided fee.

The Dundas Valley Rotary Club Sunrise voted and assigned representatives at its June 2019 meeting to negotiate a new multi-year agreement with the City for the delivery of the event. Tourism and Culture Division staff met with members of the Rotary Club to complete a post-event review and discuss mutually beneficial terms and conditions of a potential renewed license and service agreement. The Rotary Club expressed interest in a renewed agreement for the delivery of the event in 2020 through 2024 pending Council approval. The Rotary Club is seeking an increase in the annual fee payable by \$5,500 to \$35,000 per year for the duration of the 2020-2024 agreement.

Staff recommend that the City enter into a new license and service agreement, a draft of which is attached as Appendix "A" to Report PED19181, with the Rotary Club to execute the event in 2020, with an option to renew for four additional years.

**Alternatives for Consideration – See Page 5**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The requested fee exceeds the existing \$29,500 annual operating budget allocation for the event. There is a \$5,500 financial impact associated with the requested fee that will be absorbed through the Planning and Economic Development Department operating budget.

**Staffing:** N/A

**Legal:** Execution of an updated license and service agreement is required.

**HISTORICAL BACKGROUND**

The Victoria Day Celebration and Fireworks is a well-established, community-oriented event produced by the Rotary Club that takes place in the Dundas Driving Park on the May long weekend. This free event is attended each year by approximately 16,000 people



**SUBJECT: Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13) - Page 3 of 6**

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(weather dependant) and includes children's activities, live music on the performance stage, food truck vendors and a 20-minute professional fireworks display.

The event was produced by the former Town of Dundas staff and, after amalgamation, by City staff (2001 - 2010). The event partnership with the Rotary Club resulted from the City adopting a community delivery model for several municipal events.

Council approved the following reports and agreements with respect to the event:

- Report CS10040 transferred responsibility for the planning and implementation of the Victoria Day Celebration from the City to the Rotary Club for 2011;
- Report CS10040(a) authorized a three-year agreement with the Rotary Club to plan and deliver the event from 2012 to 2014 with an annual budget of \$25,000; and,
- Report PED14152 authorized a five-year agreement with the Rotary Club to plan and deliver the event from 2015 to 2019 with an annual budget of \$29,500.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

**External**

The Dundas Valley Rotary Club Sunrise

**Internal**

Solicitor, Legal and Risk Management Services, Corporate Services

Supervisor of Parks West, Parks and Cemeteries Section, Public Works Department

Chair, Special Events Advisory Team (S.E.A.T.), Recreation Division, Healthy and Safe Communities Department

Manager of Sports Policy and Allocation, Recreation Division, Healthy and Safe Communities Department

Acting Manager of Tourism and Events, Tourism and Culture Division, Planning and Economic Development Department

**SUBJECT: Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13) - Page 4 of 6**

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Manager, Finance and Administration (PED), Financial Planning, Administration and Policy, Corporate Services

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The Victoria Day Celebration and Fireworks event is the only City-sanctioned public fireworks display in Hamilton during the Victoria Day long weekend and is well attended.

The benefits of partnering with the Rotary Club are:

- cost savings for the City;
- community-led programming;
- access to an existing and experienced volunteer base; and,
- a collective local pride in the event.

The Rotary Club has successfully delivered this event on behalf of the City since 2011 and has met all requirements. The Rotary Club is a well-known service organization with an established program of activities. The Rotary Club demonstrated the capacity to respond to year-over-year increases in attendance by enriching programming, recruiting and training additional volunteers and enhancing operations (additional police, on-site first aiders, effective parking plans, by-law enforcement). The Club has developed an in-depth operational understanding with regards to event planning and execution.

In 2019, 70 Rotary Club volunteers contributed 458 hours to the event. In addition to volunteers completing day-of event tasks, the following volunteer roles led planning and development: Head of Security (liaison with Parks staff and Emergency Services), Volunteer Coordinator (recruitment, scheduling and retention of volunteers), Logistics Coordinator (fulfilling S.E.A.T. requirements, materials and service orders), Communications Coordinator and Treasurer. Considering the value of each volunteer role to the market value of the task, the monetary value of the Rotary Club's event volunteerism is estimated at \$9,746 (Ref: 2018 Custom Report "The Value of Volunteering in Canada", The Conference Board of Canada).

The cost of fireworks, City Parks staff and on-site Emergency Services account for 79% of expenses. The rationale for the annual fee increase of \$5,500 per year is based on:

- a 255% increase in annual attendance over nine years resulting in additional costs e.g. increased number of port-o-lets, enhanced security and traffic management services;

**SUBJECT: Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13) - Page 5 of 6**

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- the average rate of inflation annualized over 5 years (2020-2024) which will result in increased costs to the event of 1.92% per year;
- additional safety measures to control vehicle access (e.g. water filled jersey barriers) and services of a management company to integrate this safety infrastructure on roads at the park entrances; and,
- Addition of temporary fencing to maintain the fireworks fallout zone following the demolition of Parkside High School in 2017.

A detailed outline of actual and projected expenditures associated with the event is attached as Appendix “B” to Report PED19181.

### **ALTERNATIVES FOR CONSIDERATION**

#### **Cancel the Event**

Cancel the event for an annual cost savings of \$29,500 (based on 2019 fee). Not enter into a new agreement with a service provider.

**Financial:** By deciding not to fund the event through a third-party service contract, the event operating budget of \$29,500 could be assigned to other Tourism and Culture Division initiatives in support of the Cultural Plan.

**Staffing:** N/A

**Legal:** N/A

**Policy:** N/A

**Pros:** Cancelling the event would have the following positive result:

- Make City resources available to invest in other City priorities.

**Cons:** With annual attendance of 16,000, cancelling the Event would have the following adverse results:

- Loss of the only Victoria Day fireworks event in Hamilton enjoyed by residents and visitors that marks the city as a place that creates events to bring people together in celebration of community spirit and cultural heritage;
- Lack of free activities for families on a federal statutory holiday long weekend;

**SUBJECT: Victoria Day Celebration and Fireworks in Dundas (PED19181) (Ward 13) - Page 6 of 6**

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- Loss of opportunity to express community attachment and promote active lifestyle;
- Reduction in business opportunities and employment for performers, food vendors, equipment and service providers.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN****Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED19181 – Victoria Day Celebration Event License and Service Agreement

Appendix “B” to Report PED19181 – Victoria Day Celebration Event Budget 2020 to 2024

PM:ro

**(DRAFT) LICENCE AND SERVICE AGREEMENT**

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_ 2019.

Between

**CITY OF HAMILTON**

(hereinafter called the "Licensor" or "City")

Of The First Part,

- and -

**Grant Armstrong, President**

**in his personal capacity and as an agent of the Rotary Club of Dundas Valley Sunrise**

(hereinafter collectively called the "Licensee")

Of The Second Part,

**WHEREAS** the City is the owner of the lands known municipally as 71 Cross Street, Dundas, also known as Dundas Driving Park (the "Premises");

**AND WHEREAS** the Licensee has organized and carried out a Victoria Day Celebration and Fireworks on the Premises on behalf of the City during the May 2010 to May 2019 long weekends inclusive;

**AND WHEREAS** the City wishes to enlist the Licensee's services to organize and carry out a Victoria Day Celebration and Fireworks on the Premises on behalf of the City during the May 2020 long weekend and to reserve the option to enlist the Licensee's services for the same during the May 2021, 2022, 2023 and 2024 long weekends;

**NOW THEREFORE** in consideration of the payments, covenants, terms, warranties, conditions and provisos contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. Grant of Licence**

(1) The Licensor hereby grants to the Licensee a licence (the "Licence") to use the Premises solely and actively for the purpose of carrying on the Victoria Day Celebration and Fireworks (the "Event").

(2) The Premises will be open to the public on the following days and times:

**Sunday, May 17, 2020 at 6:00pm through to Sunday, May 17, 2020 at 11:00pm**

The Licensee will be permitted on the Premises starting on **Sunday, May 17, 2020 at 7:00am to set up** and will complete the **tear down by Sunday, May 17, 2020 at 11:59pm**.

(3) In the event inclement weather prohibits the Event from taking place on Sunday, May 17, 2020, the following shall apply in lieu of subsection 1(2):

The Premises will be open to the public on the following days and times:

**Monday, May 18, 2020 at 6:00pm through to Monday, May 18, 2020 at 11:00pm**

The Licensee will be permitted on the Premises starting on **Monday, May 18, 2020 at 7:00am to set up** and will complete the **tear down by Monday, May 18, 2020 at 11:59pm**.

(4) The Licensee accepts the Premises in their present condition and acknowledges and agrees that the Licensor has not given any representation, warranty or condition, express or implied, in fact or by law, as to the state, quality or condition in, on, or of the Premises, whether with respect to environmental matters or otherwise, or that the Premises are suitable for any particular use or purpose (including, but not limited to any use permitted by this Agreement) or as to any other matter or thing, whether or not related to any of the foregoing. Furthermore, the Licensee assumes all risks relating to the physical condition of the Premises, including the surface and subsurface conditions thereof. Neither the Licensee nor any permitted occupant shall have any recourse to the Licensor as a result of the nature or condition of the Premises, whether or not the Licensor has or had actual or imputed knowledge of such nature and condition as at the commencement date of this Agreement or at any other time during the Term or any renewal or extension thereof. The Licensee acknowledges and agrees that the Licensee shall be an occupier pursuant to the *Occupiers' Liability Act* (Ontario), as amended.

(5) No legal title or leasehold interest in the Premises shall be deemed or construed to have been created or vested in the Licensee by anything contained in this Agreement. The Licensee will not register this Agreement or notice thereof against title to the Premises or any part thereof.

(6) The Term of this Agreement shall commence on the day this Agreement has been fully executed by the parties and shall continue in effect until 11:59pm on the last day upon which the Licensee is obligated to carry out the Event, including any events carried out pursuant to the option found in section 20 in favour of the Licensor, in accordance with this Agreement.

## **2. Fee Payable by Licensee**

The Licensee shall pay to the Licensor a park permit fee for use of the Premises for the Event (the "Licence Fee"), without deduction, abatement or set-off, of **ONE DOLLAR (\$1.00)** inclusive of all applicable taxes, the receipt of which is hereby acknowledged.

## **3. Fee Payable by Licensor**

- (1) The Licensor shall pay to the Licensee up to **THIRTY-FIVE THOUSAND DOLLARS (\$35,000.00)**, exclusive of all applicable taxes, for organizing and carrying out the Event on the Premises and for no other purpose. Said amount shall be payable as follows:
  - (a) Twenty-Six Thousand and Two Hundred and Fifty Dollars (\$26,250.00), exclusive of all applicable taxes, shall be payable at least thirty (30) days before the Event, provided the City has approved the Licensee's City of Hamilton Festival and Event Approval Application and is satisfied, in its sole discretion, that the Event deliverables have been or are being met; and

- (b) An additional payment of up to Eight Thousand and Seven Hundred and Fifty Dollars (\$8,750.00), exclusive of all applicable taxes, shall be payable within forty-five (45) days after receipt of the following items, satisfactory in form and substance to the City:
- (i) a post-Event report, containing a review of the successes, safety-related issues and areas for improvement, as they relate to the Event; and
  - (ii) the Licensee's post-Event financial statement showing that an additional payment of up to and no greater than Eight Thousand and Seven Hundred and Fifty Dollars (\$8,750.00) is required to balance the Licensee's books, as they relate to the Event.

Both of the foregoing items must be submitted to the City within 90 days of the event end date.

(2) If inclement weather causes the Event to be rescheduled or cancelled, then in addition to the amount payable pursuant to subsection 3(1), the City shall also be responsible for any reasonable additional costs incurred by the Licensee resulting from the date change, but only where the costs are actually incurred, for police services, Parks staff, emergency medical services/first aid, portable toilets, sound equipment, and/or watering services for the structures on the Premises. The City shall not be responsible for the costs incurred by the fireworks provider or any other services or expenditures not enumerated above. Where there is any dispute about what is a "reasonable additional cost", "necessary service" or "non-essential service", the decision of the City, acting reasonably, shall be final.

(3) While the Licensee must permit entry onto the Premises by the public free of charge, the Licensor grants the Licensee permission to solicit financial donations from the public at the Premises' entrances during the Event in support of Event operations, logistics and programming expenses and/or the activities of the Rotary Club of Dundas Valley Sunrise and its Dundas Valley Foundation.

#### **4. Non-exclusivity**

(1) The License granted herein shall be non-exclusive to the Licensee, which shall permit the Licensor and the public to attend the Event and to access the Premises during the Event free of charge and without obstruction, excepting any restricted areas required to conduct the Event.

(2) Notwithstanding anything herein contained, the Licensor shall have unrestricted access to the Premises at all times. In the event that emergency work is necessitated as a result of the act, omission or neglect of the Licensee, such work may be undertaken immediately, without notice, by the Licensor and all reasonable costs, expenses and expenditures of the Licensor of such emergency work shall be borne by the Licensee to the extent the emergency situation was caused by the Licensee, and payable forthwith upon written demand by the Licensor, and the Licensor shall have no liability to, or obligation to compensate, the Licensee for any loss or damage whatsoever resulting from such action by the Licensor. Without limiting the generality of the foregoing, the Licensor may suspend for such period of time as it deems necessary in its sole discretion or terminate the Event and the Licence hereunder in an emergency, or whenever in

its sole opinion such suspension or termination may be necessary to ensure the safety of life, or of a structure, or of a neighbouring property, or whenever in its sole opinion the use of the Premises or any part or parts thereof are being carried out in an unsafe manner, and the Licensor shall not be responsible for any loss, expense, costs, charges, damages, indemnities and/or liability which may be sustained, paid or incurred by the Licensee or any other person or persons, by reason of such suspension or termination by the Licensor.

#### **5. Warranties of Authority of Licensee**

The Licensee expressly represents, acknowledges, agrees and warrants, in addition and not to derogate from the representations and warranties found elsewhere in this Agreement as follows:

- (a) The Rotary Club of Dundas Valley Sunrise has authorized the Licensee to enter into this Agreement and is not prohibited or restricted from entering into any of the obligations assumed, liabilities imposed, or restrictions accepted by the Licensee under this Agreement by any agreement, constating documents, constitution, legislation, statute, act, regulation, order or otherwise,
- (b) To the best of the Licensee's information and belief and after making diligent inquiries, the Licensee is not aware of any material facts or circumstances having a bearing upon its ability to perform or comply with its obligations under this Agreement

#### **6. Responsibilities of the Licensee**

- (1) Without limiting or restricting in any way any other responsibilities and obligations of the Licensee in this Agreement, the Licensee shall, at its sole cost:
  - (a) submit a Festival and Event Approval Application to the City of Hamilton Special Event Advisory Team (S.E.A.T) to seek approval to hold the Event; and satisfy all conditions as outlined in the Festival and Event Approval Application Guidelines and in written correspondence from S.E.A.T to the Licensee that are applicable to the Event;
  - (b) use the fee payable by the Licensor pursuant to section 3 of this Agreement towards the Event, and bear all excess costs and expenses in connection with the Event except as outlined in subsection 3(2);
  - (c) permit entry onto the Premises by the public, free of charge;
  - (d) arrange for the supply of, and payment for, fireworks, services, materials, a sound system for emergency and cancellation announcements, and any other items required for the Event;
  - (e) work with the Hamilton Fire Department to plan for fire protection on the Premises in the event of an emergency;
  - (f) arrange for the supply of, and payment for, paramedic and/or first aid services on the Premises during the Event;
  - (g) arrange for the supply of, and payment for, security protection upon the Premises through either the Hamilton Police Service and/or private sector company security personnel licensed by the Province of Ontario;
  - (h) arrange for the supply of, and payment for, closure of the Premises to non-permitted vehicles and traffic management services on streets adjacent to the Premises;
  - (i) arrange for the securing of, and payment for, fireworks permits, road closure permit and road closure services for Helen Street, and other permits required for delivery of the Event;



- (j) not knowingly allow the introduction or use of beer or other alcoholic beverages or liquors upon the Premises without the written consent of the City and on such conditions as the City may impose including, but not limited to, strict compliance with the City of Hamilton Municipal Alcohol Policy.
- (k) not knowingly allow the introduction or use of illegal narcotics upon the Premises;
- (l) accept responsibility for any performance of copyright music. The Licensor will in no way be responsible for any infringement of copyright which may occur on the Premises during the occupancy of the Licensee;
- (m) provide clean-up services for the Premises;
- (n) provide sufficient portable toilets, having regard to the estimated number of attendees;
- (o) erect a fence barrier to maintain a safety perimeter around the fireworks, in accordance with federal laws and regulations, Hamilton Fire Department requirements, and any other applicable law or regulation;
- (p) promote the Event and, in so doing, include either visual acknowledgement of the City's support of the Event through use of the City's logo or verbal acknowledgment through use of the phrase: "produced with the support of the City of Hamilton";
- (q) display signage upon the Premises that includes visual acknowledgement of the City's support of the Event through use of the City's logo or through use of the text phrase: "produced with the support of the City of Hamilton";
- (r) work with Hamilton Emergency Services to develop an Event Emergency Management Plan that includes how the Licensee will communicate effectively with the public about any emergencies that arise during the Event (including but not limited to, lost children);
- (s) water down the Dundas Tennis Club's tennis courts to prevent damage from fireworks debris;
- (t) contract food vendors to supply food and non-alcoholic beverages upon the Premises during the Event. All food vendors must have a valid City of Hamilton issued license to participate at the Event. Furthermore, the Licensor acknowledges that any food concessionaire operating out of the Premises under contract with the City of Hamilton does not have the right to be the sole food vendor during the Event;
- (u) at all times keep the Premises and any buildings, structures, erections or improvements thereon reasonably clean and free from debris, discarded or unnecessary materials, equipment or supplies, waste paper, empty containers and all other unsightly or potentially dangerous rubbish;
- (v) not permit any damage, disfiguration or injury to the Premises or any of the equipment, chattels, fixtures, buildings, structures, landscaping, erections or improvements of the Licensor thereof, and promptly to report any such damage, disfiguration or injury to the Licensor pursuant to section 10;
- (w) ensure that all materials, equipment and supplies delivered to the Premises are neatly and safely stored or contained upon delivery and shall be so maintained until used up;
- (x) take all required measures, including those required by authorities having jurisdiction or instructed by the Licensor, to protect the public and those employed on the Premises from bodily harm and to protect adjacent public and private property and Licensor's property from damage, including but not limited to the cancellation or termination of the Event;
- (y) not use or produce on the Premises or allow to be brought on to the Premises any noxious, offensive, toxic or hazardous substance or any vehicles, equipment or parts which contain any such substances, or any substance which if it were to remain on or escape from the Premises would contaminate the Premises or any other property to which it came in contact. This provision shall not apply to prevent the Licensee from bringing vehicles and equipment, which contain gasoline and engine oil, upon the Premises provided that such vehicles are adequately protected against the escape of

- such substances, nor shall it prevent the Licensee from displaying the fireworks for the Event in accordance with this Agreement;
- (z) reimburse the City for costs relating to the provision of Parks staff services and associated fees, as determined in advance by the appropriate authority within the City's Parks department or as otherwise determined by the City.
- (2) If inclement weather threatens the carrying out of the Event, then the following provisions shall apply:
- (a) the Licensee or the Licensor may determine the necessity of cancelling the Event in the event of health, safety, or security by 8:00pm on the scheduled day of the Event;
  - (b) the Licensee shall immediately notify the City staff person responsible for the management of deliverables in this Licence and Service Agreement, the City's Fire Prevention office, Hamilton Street Railway Control Centre, and Hamilton Police Service office of the cancellation and any changes to fireworks display time and/or date;
  - (c) the Licensee shall notify the public of the cancellation through the sound system on the Premises;
  - (d) if the Event does not take place on either of the days set out in subsections 1(2) and 1(3), the Licensee shall reimburse the Licensor the amounts paid pursuant to section 3(2) hereof, but only to the extent that any such amounts are not owed to Event vendors and/or suppliers of goods and services rendered.

#### **7. Responsibilities of the Licensor**

The Licensor shall, at its cost:

- (a) provide lighting and access to existing washroom facilities during the Term;
- (b) provide garbage cans;
- (c) notify the public of the cancellation of the Event and any changes to fireworks display time and/or date through the Licensor's social media accounts and issuance of a public service announcement to local media.

#### **8. Observance of Laws, Statutes and Regulations**

(1) The Licensee shall comply at its own expense with, and conform to, all applicable statutes, laws, by-laws, policies, regulations, ordinances, notices, rulings and orders of the federal, provincial or municipal government from time to time in effect during the Term of this Agreement and any renewal or extension thereof. Without limiting the foregoing, the Licensee, at its own expense, shall obtain all necessary municipal, provincial, federal or other governmental approvals, permits and licences to conduct its business, operations and/or activities in or upon the Premises prior to entering the subject Premises.

(2) Without limiting the generality of subsection 8(1), the Licensee shall comply with all applicable City policies and procedures, including but not limited to the Licensor's Festival and Event Approval Guide and the Policy for Commercial Advertising and Sponsorship. The Licensee acknowledges having received a copy of the Festival and Event Approval Guide and Policy for Commercial Advertising and Sponsorship.

(3) Where there is any conflict between the terms of this Agreement and the Festival and Event Approval Guide, the provisions of this Agreement shall prevail and be given effect to.

(4) The Licensee shall further comply at its own expense with the rules and regulations established by the Licensor for the Premises from time to time, including without limitation those relating to permitted hours of use.

(5) The Licensee acknowledges that the City is bound by the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 and that any information provided to the City in connection with this Agreement is subject to disclosure in accordance with the requirements.

## **9. Alterations and Additions**

The Licensee shall not make any alterations or additions whatsoever to the Premises without the prior written approval of the Licensor. Without limiting the generality of the foregoing, the Licensee shall not construct, renovate, install or erect any buildings, structures, fixtures, grounds, improvements or other facilities without first obtaining the written approval of the Licensor for such works. The Licensee shall at its own cost and expense prepare the Premises appropriately for the approved use, and the Licensor shall not be responsible in any way for any improvement or preparation of the Premises. The Licensee shall implement, at its sole cost and expense, all precautions, measures and safeguards as are necessary and as instructed by the Licensor to protect the public from injury during any approved alterations or additions of the Premises.

## **10. Notice of Accident, Injury or Harm**

The Licensee shall give immediate written notice with complete details thereof, to the Licensor of any accident, injury or harm to any person on or using the Premises and conducting the Event or of any damage, loss or defect in or to any part of the Premises or any damage or loss of any property of any person using the Premises or any damage or loss of any property of the Licensor in the Premises which comes to the attention of the Licensee, its officers, employees, members, servants or contractors, notwithstanding that the Licensor may not have any obligation with respect to same.

## **12. Insurance and Indemnification**

(1) For the purposes of this Section, "Licensor" means the City of Hamilton, as well as any and all of its elected officials, representatives, officers, employees, servants, consultants, agents and contractors (other than the Licensee) and "Licensee" means the Licensee as well as any officer, employee, servant, member, contractor, subcontractor, consultant, agent, permitted assign and invitee of the Licensee or of any person permitted or allowed by the Licensee to enter upon or use the Premises.

(2) The Licensee agrees to obtain and maintain in force throughout the duration of this Agreement, including any permitted possession after the Term, at its sole cost and expense including the payment of all deductibles, the following policies of insurance for the specified limits, or such other policies of insurance or higher limits as the Licensor acting reasonably and prudently may from time to time require:

- (a) Commercial General Liability insurance covering against any and all claims for bodily injury, including death, personal injury, and property damage or loss,

including acts or omissions of the Licensee, its employees, contractors, sub-contractors, agents and invitees and in a form and with an insurance company acceptable to the Licensor. Such policies of insurance shall have a limit of coverage of not less than Five Million Dollars (\$5,000,000.00) per occurrence or such higher limits as the Licensor, acting reasonably and prudently, may from time to time require. Such policies of insurance shall include, but not be limited to the following: blanket contractual liability; land and premises liability; occupier's liability, completed operations liability; products liability; owners and contractors liability; non-owned automobile liability; cross-liability and severability of interest provisions;

- (b) Standard Form Automobile Liability Insurance that complies with all requirements of the current legislation of the Province of Ontario including third party liability insurance and at least Two Million Dollars (\$2,000,000.00) inclusive limits, and accident benefits insurance, covering all licensed vehicles owned or operated by or on behalf of the Licensee; and
  - (c) such other forms of insurance as may be reasonably and prudently required by the Licensor from time to time.
- (3) The Licensee shall cause its subcontractor providing the display of fireworks for the Event to obtain and maintain in force throughout the duration of the Agreement and to provide proof of the following insurance;
- (a) Commercial General Liability insurance covering against any and all claims for bodily injury, including death, personal injury, and property damage or loss, including acts or omissions of the fireworks provider, its employees, contractors, sub-contractors, and agents and in a form and with an insurance company acceptable to the Licensor. Such policies of insurance shall have a limit of coverage of not less than Five Million Dollars (\$5,000,000.00) per occurrence or such higher limits as the Licensor, acting reasonably and prudently, may from time to time require. Such policies of insurance shall include, but not be limited to the following: blanket contractual liability; land and premises liability; occupier's liability, completed operations liability; products liability; owners and contractors liability; non-owned automobile liability; cross-liability and severability of interest provisions.
- (4) The Licensee shall maintain Property Insurance, as may be applicable, with respect to loss or damage (including fire, theft, burglary, etc.) of its own property and property in its care, custody and control, including but not limited to its equipment, tools, stock, used in connection with this Agreement.
- (5) All such Commercial General Liability insurance policies and certificates shall name as additional insured the Licensor. Such policies shall also require at least thirty (30) days' written prior notice of any change to or amendment, cancellation, expiration or termination of the coverage under such policies to be given to the Licensor herein and be in a form satisfactory to the Licensor. All insurers shall be licensed to do business in Ontario, and such insurers and the insurance coverages shall be acceptable to the Licensor acting reasonably and prudently. The Licensee shall deliver to the Licensor certificates of insurance originally signed by authorized insurance representatives, or, if required by the Licensor, certified copies of such policies prior to the execution of this Agreement and for all renewals/extensions thereafter during the Term of

this Agreement no later than sixty (60) days prior to their renewal date and at any other time upon request by the Licensor. In the event that the Licensee fails to do so, then this Agreement may be immediately terminated at the Licensor's option without further notice. All insurance coverages to be provided by the Licensee herein shall be primary and not call into contribution any other insurance coverages available to the Licensor. Insurance requirements and coverage herein shall not limit, reduce, or waive any of the Licensee's obligations to indemnify the Licensor pursuant to this Agreement herein or the liabilities assumed by the Licensee under this Agreement. The Licensee shall not do or omit to do anything that may breach, limit, restrict, or prejudice the terms or conditions of the insurance coverages referred to herein.

(6) The Licensee shall defend and indemnify the Licensor and save it harmless from any and all losses, costs, damages, or claims, actions, demands, liabilities and expenses (including, without limitation, solicitor fees) in connection with loss of life, personal injury and/or damage to or loss of property: (a) arising out of the Event or any occurrence in or about the Premises; (b) occasioned or caused wholly or in part by any act or omission of the Licensee or anyone for whom it is responsible at law; or (c) arising from any breach by the Licensee of any provisions of this Agreement. The foregoing indemnity shall survive the termination of this Agreement notwithstanding any provision of this Agreement to the contrary.

(7) The Licensee shall use the Premises at its sole risk, and the Licensor shall not be liable for any loss, injury or damage caused to persons using the Premises or to any property, except to the extent that same is attributable or caused by the negligence of the Licensor, the responsibility for insuring against any such loss, injury or damage being that of the Licensee. In addition and without limitation, the Licensee agrees that the Licensor, except to the extent that same is attributable or caused by the negligence of the Licensor, shall not be liable for and hereby releases the Licensor from:

- (a) any injury or damage to persons or property resulting from fire, explosion, steam, water, rain, snow or gas which may leak into or issue or flow from any part of the Premises or from the water, steam or drainage pipes or plumbing works of the Premises or from any other place or quarter;
- (b) any and all claims, actions, causes of action, damages, demands for damages and other liabilities for or related to:
  - (i) any bodily injury, personal injury, illness or discomfort to or death of the Licensee or any of its employees, contractors, invitees, customers, others for whom it is in law responsible or any other, in or about the Premises; and
  - (ii) any loss or damage to all property in or about the Premises owned by the Licensee or others;
- (c) any indirect or consequential damages including, but not limited to, loss of profit.

### **13. Breach/Failure to Perform**

(1) Any of the following occurrences or acts shall constitute an event of default by the Licensee:

- (a) the Licensee fails to make any payment of any sums herein required to be paid, regardless of whether demand for payment is made or not;

- (b) the Licensee fails to perform any covenant, condition or obligation required to be performed or observed under this Agreement;
  - (c) the Licensee (i) becomes bankrupt; (ii) has its property seized or attached in satisfaction of a judgment; (iii) has a receiver appointed; (iv) commits any act or neglects to do anything with the result that a construction lien or other encumbrance is registered against the Lands or any part thereof; (v) without the Licensor's written consent, makes or enters into an agreement for a sale of its assets to which the *Bulk Sales Act* applies; (vi) takes action with a view to winding up, dissolution or liquidation of the Licensee;
  - (d) any insurance policy is canceled or not renewed by reason of the use or occupation of the Premises or by reason of non-payment of premiums; and
  - (e) the Premises become vacant or abandoned or are used by any other person or persons for any purpose other than as provided for in this Agreement without the Licensor's written consent.
- (2) When a default on the part of the Licensee has occurred:
- (b) all amounts payable in respect of the Licence Fee, together with all other amounts owing by the Licensee to the Licensor, including those payments not yet due if any, shall immediately become due and payable; and
  - (b) the Licensor shall have the right to terminate this Agreement, or in lieu of termination, the Licensor shall have the right to re-enter the Premises and to retake possession of the Premises and deal with them as it may choose.
- (3) When a default has occurred and the Licensor chooses not to terminate this Agreement, the Licensor shall have the right, but not the obligation, to take any and all necessary steps to rectify any or all acts of default of the Licensee and to charge the costs of such rectification (including but not limited to, solicitor fees on a substantial indemnity basis) to the Licensee and to recover the costs from the Licensee, which amount shall be immediately due and payable.
- (4) No acceptance of the Licence Fee subsequent to any breach or default, other than non-payment of Licence Fee, shall be taken to operate as a waiver or condoning of any term, condition or covenant of this Agreement nor in any way to defeat or affect the rights of the Licensor hereunder. The Licensor's rights under this Agreement shall not in any manner be prejudiced even if the Licensor has overlooked or condoned any non-compliance, breach or default with the terms, covenants and conditions of this Agreement by the Licensee nor shall the Licensor's rights in any way be limited or restricted by any other right or privilege that the Licensor may have under this Agreement or provided by law. Upon default by the Licensee under any term, covenant or condition of this Agreement, and at any time after the default, the Licensor shall have all rights and remedies provided by law and by this Agreement. No delay or omission by the Licensor in exercising any right or remedy shall operate as a waiver of them or of any other right or remedy and no single or partial exercise of a right or remedy shall preclude any other or further exercise of them or the exercise of any other right or remedy. Furthermore, the Licensor may remedy any default by the Licensee in any reasonable manner without waiving the default remedied and without waiving any other prior or subsequent default by the Licensee. The failure of the Licensor to insist upon strict performance of any of the covenants,

terms or conditions of this Agreement, in any one or more instances, shall not be construed as a waiver of its right to insist on compliance with same or any other covenant, term or condition at any time. All rights and remedies of the Licensor granted or recognized in this Agreement or by law are cumulative and may be exercised at any time from time to time independently or in combination. No covenant, term or condition of this Agreement shall be deemed to have been waived by the Licensor unless the waiver is in writing and signed by the Licensor.

#### **15. Removal of Licensee's Property**

Upon the expiration of the Term or earlier termination of this Agreement, the Licensee shall immediately cease activities and operations at the Premises and make whatever arrangements are necessary to leave the Premises in a clean, tidy and safe condition free from any hazards. In addition, the Licensee shall remove, at its own expense, all equipment, chattels, fixtures, buildings, structures, erections, improvements, approved additions and approved alterations pursuant to section 9 placed or made by the Licensee on the Premises or supplies and materials deposited on the Premises by the Licensee, and replace any top soil or trees removed and shall restore the Premises to the satisfaction of the Licensor, and upon failure to do so within ten (10) days of expiration or earlier termination as aforesaid, the Licensor may remove all or any of the said equipment, chattels, fixtures, buildings, structures, erections or improvements of the Licensee or supplies and materials so deposited by it and restore the Premises to their former condition and shall be entitled to recover all costs and expenses arising from and related to same from the Licensee and in no event shall the Licensor be required to pay compensation to the Licensee in respect of any such equipment, chattels, fixtures, buildings, structures, erections or improvements or supplies or materials or return same to the Licensee. Notwithstanding anything contained herein to the contrary, the Licensee shall not be entitled to remove any equipment, chattels, furnishings, fixtures, buildings, structures, erections or improvements or supplies or materials donated or supplied to the Premises by the Licensor.

#### **18. No Assignment, Transfer or Encumbrance**

The Licensee shall not assign or transfer this Agreement or any part thereof, or encumber its rights hereunder, nor shall it sublet or part with or share possession of the whole or any part of the Premises. Any attempt to assign, transfer or encumber any of the rights, duties or obligations in this Agreement or sublet the Premises is void.

Notwithstanding the foregoing, the Licensee shall subcontract to a third party to provide the display of fireworks. The Licensee shall ensure that such third party is acceptable to the City, that the third party is qualified to display the fireworks and perform all related works, and that all safety precautions, permits, laws and regulations are fully complied with at all times. No subcontracting by the Licensee shall relieve the Licensee of any responsibility for the full performance of all obligations of the Licensee under this Agreement, and despite the subcontracting to any third party, the Licensee shall be fully responsible for every subcontractor's activities, works and acts.

#### **19. Miscellaneous**

(1) All notices, or any other thing to be given or delivered pursuant to this Agreement, unless otherwise specified, shall be given in writing and delivered personally, transmitted by facsimile or by prepaid registered mail, and addressed

to the Licensor at: City of Hamilton

City Hall, 71 Main Street West  
Hamilton, Ontario  
L8P 4Y5  
Attention: City Clerk

with a copy to: City of Hamilton  
Tourism and Culture Division  
28 James Street North, 2<sup>nd</sup> Floor  
Hamilton, Ontario  
Attention: Director, Tourism and Culture Division

and to the Licensee: Rotary Club of Dundas Valley Sunrise  
c/o L. Ross Bannatyne  
43 Valleyside Lane  
Dundas, Ontario  
L9H 0A7  
Attention: Grant Armstrong, President

or such other address as the Licensor or Licensee may, from time to time, advise each other by notice in writing. All notices delivered personally shall be deemed received upon delivery. All notices delivered by e-mail or facsimile shall be deemed received upon mechanical confirmation of transmittal. All notices mailed hereunder shall be deemed to have been given and received by the addressee seventy-two (72) hours following mailing. In the event of actual or threatened postal interruption, all notices shall be delivered personally, by e-mail or by facsimile.

(2) This Agreement and all terms, covenants, conditions, provisions and licence fees herein reserved shall be binding upon and shall enure to the benefit of the Licensor and Licensee and their respective heirs, executors, administrators, successors and permitted assigns.

(3) The Licensor shall have the right to satisfy any amount from time to time owing by it to the Licensee by way of a set-off against any amount from time to time owing by the Licensee to the Licensor, including but not limited to any amount owing to the Licensor pursuant to the Licensee's indemnification of the Licensor in this Agreement.

(4) To the extent that the Licensor is unable to fulfil, is delayed or is restricted in fulfilling any of its obligations contained in this Agreement by reason of any act of God, act of terror, any labour strike or disruption, or by reason of any statute, law or order-in-council, or any regulation, by-law or order passed thereunder or made pursuant thereto, including a by-law of the municipal Council of the City, or the order or direction of any government department, official or other authority, including the Licensor acting in its capacity as a municipal authority, or of any administrator, controller or board; not being able to obtain any permission or authority required by or under any statute, law or order-in-council, or any regulation, by-law or order; or any other cause beyond its control, whether of the foregoing character or not, the Licensor shall, in its sole discretion, be entitled to terminate this Agreement, extend the time to fulfil its obligation or amend the obligation thereby restricted to conform with such restriction and the Licensee or any other person affected is not entitled to any compensation whatsoever whether for any inconvenience, nuisance, discomfort, damages, loss or otherwise thereby occasioned.

(5) This Agreement contains the entire agreement between the parties hereto with respect to the subject matters hereof. It is agreed that there is no representation, warranty, collateral



agreement or condition affecting this Agreement except as expressed in it. No amendment, modification or supplement to this Agreement shall be valid or binding unless set out in writing and executed by the parties hereto.

(6) A reference to any act, by-law, rule or regulation or to a provision thereof shall be deemed to include a reference to any act, by-law, rule or regulation or provision enacted in substitution therefor or amendment thereof.

(7) The headings to each section are inserted for convenience of reference only and do not form part of the Agreement.

(8) This Agreement shall be governed by, and construed under, the laws of the Province of Ontario.

(9) All obligations of the Licensee will expressly, or by their nature, survive termination or expiry of this Agreement until, and unless, they are fulfilled or by their nature expire.

(10) Time is of the essence for this Agreement and for every part hereof.

(11) This Agreement shall not be construed to constitute an agency, partnership or joint venture between the parties hereto.

(12) Any schedules attached to or referred to in this Agreement shall form an integral part of this Agreement.

(13) Without restricting or limiting the rights and privileges of the Licensor to any broader interpretation, any "breach" or "default" of or in respect of a term, covenant, warranty, condition or provision of this Agreement caused by an officer, employee, servant, member, contractor, subcontractor, consultant, agent, permitted assign, invitee, licensee of the Licensee or of any person permitted or allowed by the Licensee to enter upon or use the Premises shall constitute a breach or default by the Licensee.

(14) If any provision or provisions of this Agreement or parts thereof or the application thereof to any person or circumstances shall be found by any court to any extent to be invalid or unenforceable or to be void or illegal, such provision or provisions or parts thereof shall be deemed severable and all other provision or provisions or parts of this Agreement shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found void and/or illegal. The remainder of this Agreement and its application to any person or circumstances shall not be affected thereby; and the parties hereto will negotiate in good faith to amend this Agreement to implement the intentions set forth herein. Each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(15) If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) sign this Agreement as the Licensee, the liability of each such individual, corporation, partnership or other business association to pay the Licence Fee and to make and perform all other payments and obligations hereunder shall be deemed to be joint and several. In like manner, if the Licensee is a partnership or other business association, the members of which are, by virtue of statute or general law, subject to personal liability, the liability of each such member shall be joint and several. The Licensee warrants and represents that it is duly formed and in good standing, and has full corporate or partnership authority, as the case may be, to enter into this Agreement, and has taken all corporate or partnership action, as the case may be,

necessary to make this Agreement a valid and binding obligation, enforceable in accordance with its terms.

(16) The Licensee acknowledges and agrees that it has been advised by the City to consult a lawyer before executing this Agreement. The Licensee further acknowledges and agrees that it, its officers and directors have either obtained independent legal advice from their own lawyer with respect to the terms of this Agreement prior to execution or declined seeking such independent legal advice. Nevertheless, the Licensee and its authorized signing officers set out below acknowledge that they have read this Agreement, understand the terms and conditions and the Licensee's rights and obligations under this Agreement and agree to be bound by same. Lastly, the Licensee and its authorized signing officers set out below acknowledge and agree that this Agreement is being executed voluntarily.

## **20. Option to Renew**

- (1) The City shall have the option to renew this Agreement for the May 2021 long weekend by no later than January 1, 2021 upon written notice to the Licensee, upon the same terms and conditions as are herein contained, save and except that:
  - (a) the Event shall be held on **Sunday, May 23, 2021**, and if inclement weather prohibits the Event from taking place on said date, the Event shall be held on **Monday, May 24, 2021**, and the dates in the Agreement shall be adjusted accordingly.
- (2) Whether or not the City has exercised its option to renew in subsection 20(1), the City shall have the option to renew this Agreement for the May 2022 long weekend by no later than January 1, 2022 upon written notice to the Licensee, upon the same terms and conditions as are herein contained, save and except that:
  - (a) the Event shall be held on **Sunday, May 22, 2022**, and if inclement weather prohibits the Event from taking place on said date, the Event shall be held on **Monday, May 23, 2022**, and the dates in the Agreement shall be adjusted accordingly.
- (3) Whether or not the City has exercised its option to renew in subsection 20(1) or 20(2), the City shall have the option to renew this Agreement for the May 2023 long weekend by no later than January 1, 2023 upon written notice to the Licensee, upon the same terms and conditions as are herein contained, save and except that:
  - (a) the Event shall be held on **Sunday, May 21, 2023**, and if inclement weather prohibits the Event from taking place on said date, the Event shall be held on **Monday, May 22, 2023**, and the dates in the Agreement shall be adjusted accordingly.
- (4) Whether or not the City has exercised its option to renew in subsection 20(1), 20(2) or 20(3), the City shall have the option to renew this Agreement for the May 2024 long weekend by no later than January 1, 2024 upon written notice to the Licensee, upon the same terms and conditions as are herein contained, save and except that:
  - (a) the Event shall be held on **Sunday, May 19, 2024**, and if inclement weather prohibits the Event from taking place on said date, the Event shall be held on **Monday, May 20, 2024**, and the dates in the Agreement shall be adjusted accordingly.

[signature page to follow]

DRAFT

**IN WITNESS WHEREOF** the parties hereto have duly executed this Agreement by its officers duly authorized in that behalf and caused to be affixed its corporate seal.

**CITY OF HAMILTON**

\_\_\_\_\_  
Mayor – F. Eisenberger

\_\_\_\_\_  
City Clerk – A. Holland

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name: Grant Armstrong

Title: President  
in his personal capacity and as an agent  
of the Rotary Club of Dundas Valley Sunrise

\_\_\_\_\_  
Witness  
[sign name]

\_\_\_\_\_  
Witness  
[print name]

\_\_\_\_\_  
Date

Expenses	2019 Actuals	2020 Budget CPI 2%	2021 Budget CPI 1.7%	2022 Budget CPI 1.9%	2023 Budget CPI 2%	2024 Budget CPI 2%
Fireworks	\$ 19,000	\$ 19,380	\$ 19,709	\$ 20,084	\$ 20,486	\$ 20,895
Water Truck (watering to prevent fireworks fallout damage to site)	\$ 500	\$ 510	\$ 519	\$ 529	\$ 539	\$ 550
Portable Toilets Rental	\$ 1,910	\$ 1,948	\$ 1,981	\$ 2,019	\$ 2,059	\$ 2,101
Radio Rentals	\$ 320	\$ 326	\$ 332	\$ 338	\$ 345	\$ 352
Emergency Medical Services (St. John Ambulance)	\$ 500	\$ 510	\$ 519	\$ 529	\$ 539	\$ 550
Hamilton Police Service - security and traffic management	\$ 2,048	\$ 2,089	\$ 2,124	\$ 2,165	\$ 2,208	\$ 2,252
ATM machines	\$ 396	\$ 404	\$ 411	\$ 419	\$ 427	\$ 436
Parks Staffing (year-over-year budget increase 1.6%)	\$ 3,675	\$ 3,734	\$ 3,794	\$ 3,854	\$ 3,916	\$ 3,979
Event Marketing	\$ 1,130	\$ 1,153	\$ 1,172	\$ 1,194	\$ 1,218	\$ 1,243
Entertainment - music (band performance fees, stage lighting, sound system, technician services )	\$ 1,750	\$ 1,785	\$ 1,815	\$ 1,850	\$ 1,887	\$ 1,925
Entertainment - children (face painters)	\$ 500	\$ 510	\$ 519	\$ 529	\$ 539	\$ 550
Misc (site signage, volunteer supplies)	\$ 390	\$ 398	\$ 405	\$ 412	\$ 420	\$ 429
Vehicle Mitigation Equipment and Services	\$ -	\$ 1,000	\$ 1,017	\$ 1,036	\$ 1,057	\$ 1,078
<b>Total Expenses</b>	<b>\$ 32,119</b>	<b>\$ 33,747</b>	<b>\$ 34,317</b>	<b>\$ 34,957</b>	<b>\$ 35,641</b>	<b>\$ 36,338</b>
<b>Revenue</b>	<b>2019 Actuals</b>					
City of Hamilton	\$ 29,500					
Rotary Club Donation to offset 2019 deficit	\$ 2,619					
<b>Total Revenue</b>	<b>\$ 32,119</b>					
<b>Recommended Funding/Yr. Expenditures averaged over 5 yrs.</b>	<b>\$35,000</b>					
Rate of inflation. Sources: 2019 Ontario Budget, Ontario Ministry of Finance and Statistics Canada						



**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**Legal and Risk Management Services Division**

**PUBLIC WORKS DEPARTMENT**  
**Energy, Fleet and Facilities Management Division**

**CITY MANAGER'S OFFICE**  
**Strategic Partnerships & Communications Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	October 16, 2019
<b>SUBJECT/REPORT NO:</b>	Hate Related Activities on City of Hamilton Properties (LS19031/PW19068(a)/CM19006(a)) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Daron Earthy (905) 546-2424 Ext. 4223 Martin Dambeau (905) 546-2424 Ext. 2855 Delfina Duarte (905) 546-2424 Ext. 6627 Jodi Koch (905) 546-2424 Ext. 3003 John Ariyo (905) 546-2424 Ext. 1564
<b>SUBMITTED BY:</b>	Nicole Auty, City Solicitor Legal and Risk Management Services Corporate Services Department  Rom D'Angelo, Director Energy, Fleet & Facilities Public Works Department  John Hertel, Director Strategic Partnerships & Communications City Manager's Office

**RECOMMENDATION(S)**

- (a) That the Trespass By-law attached as Appendix "D" to LS19031/PW19068(a)/CM19006(a), which has been prepared in a form satisfactory to the City Solicitor, be approved;

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OUR Vision: To be the best place to raise a child and age successfully.

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- (b) That the updates provided within Report LS19031/PW19068(a)/CM19006(a) be received.

**EXECUTIVE SUMMARY**

This report provides an update to items arising from Report LS19031/PW19068 – Hate Related Activities on City of Hamilton Properties and Report CM19006 – Policies and Procedures for Hate Mitigation.

**Alternatives for Consideration – Not Applicable****FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: No change to financial implications.

Staffing: No change to staffing implications.

Legal: No change to legal implications.

**HISTORICAL BACKGROUND**

On December 11, 2013, Council passed a motion reinforcing the use of the City Hall Forecourt as a space for public demonstrations and protests, and that there should be no cost to do so. Council directed that the Special Events Advisory Team (SEAT) coordinate with protest organizers, where advanced notice of a protest is given.

On March 28, 2018, Council passed a motion directing staff to investigate and report on ways to mitigate the use of City park and public spaces by "hate groups" in consultation with various groups.

This report provides an update on the numerous Council directions resulting from Report LS19031/PW19068 Hate Related Activities on City of Hamilton Properties on July 12, 2019 (Item 14 of GIC Report 19-013 dated July 8, 2019, as amended by Council).

This report also responds to the request for information and direction to retain an external consultant to lead the public consultation process, arising from Information Report "Policies and Procedures for Hate Mitigation (CM19006)" presented at the General Issues Community on August 12, 2019.

Appendix "A" to Report LS19031(a)/PW19068(a)/CM19006(a) outlines the key projects, initiatives and policies that have contributed to and/or guided the City's past and current work on hate mitigation.

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**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Appendix “B” to Report LS19031(a)/PW19068(a)/CM19006(a) highlights some hate-mitigation policies, procedures and by-laws from other municipalities. Every municipality must also adhere to the Canadian Charter of Rights and Freedom that guarantees freedom of speech and expression. The City of Hamilton’s current, draft and future hate-mitigation policies will regularly be reviewed for continued alignment with the City’s values, best practices and the Charter.

**RELEVANT CONSULTATION**

This report was drafted in consultation with and with contributions from staff in the following City divisions: Strategic Partnerships & Communications, Recreation, Corporate Security, Facility Management and Human Resources, and Legal Services.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)****Update on Items Arising from Item 14 of GIC Report 19-013 (Report LS19031/PW19068 – Hate Related Activities on City of Hamilton Properties)****Other Municipal Responses to Hate-motivated Incidents**

Staff have reached out to other municipalities to inquire about approaches to confronting hate-related incidents and rallies on municipal properties. Consistent among municipalities that have developed policies or procedures to respond to such issues is that; municipalities are bound to respect the right to freedom of expression as protected by the Charter; and the investigation of hate-motivated activities or other human rights issues are referred to police and other agencies such as the Human Rights Commission. Similarly, many municipalities indicated that the responsibility for maintaining peaceful assembly, public safety and enforcement falls to the police.

The City of Toronto has developed the most robust set of policies and procedures to respond to these issues, which formed the basis for the City of Hamilton draft Hate Related Incident Policy and Prevention Procedure.

Additionally, the City of London recently amended its Nuisance By-law to address the issue of hateful “street preachers” by prohibiting interference with another person’s use and enjoyment of a public place by using “abusive or insulting language as a personal invective”. Although charges have been laid under the new provision, they have not yet been tested in court. Legal Services staff will monitor developments on these charges and consider whether similar language should be incorporated into the City of Hamilton’s policies or by-laws as another tool to address potentially hate-motivated incidents.



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Included in Appendix “B” is a chart summarizing and linking to the relevant policies or by-laws of comparison municipalities.

**City Manager’s Office Update: Community Consultation on Hate Mitigation Policies and Procedures**

On Wednesday, September 25<sup>th</sup>, staff issued an Expression of Interest to retain a public engagement consultant. The successful “consultant” could be a single consulting agency or a consulting collaboration that involves more than one agency. The key details of the community consultation process include:

a) Key project requirements and deliverables:

1. Advice on City’s hate-mitigation policies and procedures:

The consultant will review and provide advice on existing and draft City’s policies and procedures aimed at mitigating hate incidents on City properties and broadly across Hamilton. The consultant will also conduct a review of similar policies and processes from other jurisdictions and use feedback and public input to provide advice. The consultant will further review public input received from related initiatives that can inform key directions, such as the Hamilton Anti-Racism Resource Centre (HARRC).

2. Public engagement and community consultation:

The consultant will apply proven engagement tactics and inclusive processes to engage and obtain feedback from residents, diverse stakeholders, community advocates, equity-seeking groups, key community partners, Council members and City staff. The consultant will also obtain public input on current and existing City of Hamilton’s hate-mitigation policies, and procedures. The consultant will further garner broader public input on the causes of hate and how to best address them in Hamilton.

3. Recommendations Report:

The final deliverable of the consultant is to produce a recommendations report on key findings from public engagement, research and best practices. The report will be targeted specifically for the use of the City of Hamilton to improve existing and support new hate-mitigation policies, and procedures. The recommendations report will also contain other broader advice that can inform the City’s overall approaches and strategies aimed at making Hamilton a more welcoming and inclusive community.

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b) Key public engagement success criteria:

Staff will provide necessary support to the successful consultant to ensure the public engagement criteria are well understood and carried out successfully. Some of the key success criteria of the engagement include:

1. Creating opportunities for active and respectful participation of racialized, equity-seeking and community individuals that are mostly the target of hate incidents. They include the LGBTQ2S+, Black community, Indigenous residents, Jewish community, Muslim community and other ethno-cultural and religious groups.
2. Providing meaningful opportunity for participation of urban, sub-urban and rural residents across different geography of the city, through opportunities such as direct locational engagement, focus groups and online platform.
3. Ensuring the successful consultant or consulting partnership has a robust knowledge of the Hamilton community, understands key social determinants of health and other useful community trends relevant to the work assignment, typically obtained through current or recent work experience in Hamilton.

c) Timelines:

The specific breakdown of the procurement process, public engagement and final project deliverables includes:

- Procurement opens: Wednesday, September 25<sup>th</sup>, 2019
- Procurement closes: Wednesday, October 16<sup>th</sup>, 2019
- Bids Review / Retain Consultant / Interview: October 16<sup>th</sup> – 25<sup>th</sup>, 2019
- Successful Proponent Start Date: Monday, November 11<sup>th</sup>, 2019
- Consultant produces a public engagement plan for Council approval: December 2019 – January 2020
- Hate-mitigation Policies and Procedures review: November 2019 – January 2020
- Community Engagement and Consultation: November 2019 – April 2020
- Preliminary public engagement findings: May 2020
- Consultant obtains final stakeholders/public input on findings: May-July 2020
- Final recommendations report: September 2020

Update Regarding Restorative Practice Training

- The Mayor, Members of Council, and the Senior Leadership Team attended a Special General Issues Committee meeting on Friday September 27, 2019 related to a Council approved motion “That the City Manager be directed to

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organize a one-day Restorative Practices Council and Senior Leadership Team Workshop with two facilitators from the John Howard Society, Garth Bell and Ruth Greenspan.”

**Human Resources Update re Item 14 (a) of GIC Report 19-013**

- Human Resources has received feedback on the Hate Related Incident Prevention Policy and Procedure, from Hamilton Police Services Hate Crime Unit. This feedback will be provided to the consultant to be incorporated with the rest of the feedback collected during the consultation process.

**Legal Services Update and Recommendation re Item 14 (b) of GIC Report 19-013:**

- In *Bracken v. Fort Erie (Town)*,<sup>1</sup> the Court of Appeal noted that municipalities have long used the *Trespass to Property Act* to exercise the right as property owner to exclude others from municipally-owned property and confirmed that such right must be exercised by municipalities in accordance with the *Charter*. The Court comments that a municipal government is at a greater risk of arbitrary and unconstitutional action where it does not have a trespass policy or by-law.
- The City of Hamilton has a “Zero Tolerance for Violence in Recreational Properties and Facilities Policy” applicable to parks and recreation facilities which permits supervisory staff to ban members of the public from parks and recreation facilities for violent or otherwise inappropriate behaviours.
- Ontario Works also has a policy and procedure applicable to its staff and facilities to restrict contact with staff and access to facilities for clients who are abusive towards Ontario Works staff.
- A working group of representatives of Human Resources, Corporate Security, Access & Privacy Officer, Ontario Works, Recreation and Legal Services has been working to address frontline staff concerns about inappropriate behaviour from members of the public which negatively impact a positive respectful workplace. This work involves expanding the “Zero Tolerance” concepts to apply City-wide by an update to the City’s Harassment and Discrimination Prevention Policy. The scope of the revised Harassment and Discrimination Prevention Policy is intended to be expanded to apply to members of the public, as well as City staff and contractor (to whom the policy is currently applicable).
- Legal Services has prepared a Trespass By-law intended to unify and clarify the underlying authority, policy and procedure to ban members of the public from entering City premises (i.e. issue a Trespass Notice) where they have engaged inappropriate behaviour on City premises. A summary of the key features of the Trespass By-law is attached as Appendix “C”. The by-law was prepared after review of policies, procedures and by-laws of numerous Ontario municipalities.

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<sup>1</sup> 2017 ONCA 668

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**Corporate Security and Energy, Fleet & Facilities Update:**

Information Update re Item 14 (e)(i-vi) of GIC Report 19-013

- 14(e)(i) – The Corporate Security Office has updated the design of the signage for the City Hall property, to include additional contact information for residents to report incidents of hate. The production of these signs is in progress.
- 14(e)(ii) – The Corporate Security Office has a draft procedure for Corporate Security Investigations. This document will be included in the City's public consultation process.
- 14(e)(iii) – The Corporate Security Office has procured safety mitigating tools, specifically portable safety barriers that are available for use to support the City and Hamilton Police in the preservation of public safety on City properties.
- 14(e)(iv) – The Corporate Security Office is currently in the procurement phase of enhancing the City Hall video surveillance technology.
- 14(e)(v) – The Corporate Security Office through Facilities Management has engaged a Landscape Architect who will specialize in heritage preservation and physical security applications in providing physical environment enhancement design options for the City Hall forecourt space. As an interim step, additional planters have been added at the City Hall Forecourt to prevent vehicular access.
- 14(e)(vi) – The Corporate Security Office through Human Resources, has received applications from candidates related to the closed posting of the Corporate Security Investigator. Interviews with potential candidates is the next phase for this item.

Information Update re Items 14 (j) and 14 (k) of GIC Report 19-013 (Amended)

- As requested by Council, the City has requested advice from the Information and Privacy Commissioner of Ontario related to the City's proposed "Corporate CCTV Systems Policy" and its related procedures prior to public consultation. Any advice that is received by the Privacy Commissioner will be documented and incorporated in the proposal for consideration during the public consultation process.
- The Corporate Security Office's draft Policy regarding Corporate Security Investigations and its related procedures and protocols where video camera surveillance applications are considered / applied, will also be included in the City's public consultation process.

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Information Update re Motion 10(a) from GIC Report 19-014 Amended by Council on August 16, 2019 and further Amended by Council on September 11, 2019:

- The Corporate Security Specialist has communicated with staff and Hamilton Police Services regarding access for residents on Saturdays, to provide advice on how and to whom residents should report incidents of hate on City property.
- In these discussions, the importance of delivering a consistent approach for residents to report incidents of hate on City properties was addressed. Equally important is for residents to understand the role that law enforcement has in the criminal investigation of reported of hate in the community, both on and off City properties.
- The Corporate Security Office will be providing updated signage for the exterior of the City Hall forecourt that will identify both the emergency and non-emergency ways to contact Police for residents to report incidents of hate. Additionally, the signage will also include contact information for residents to report matters of concern to the Corporate Security Office.
- Information that is received by the Corporate Security Office will be responded to accordingly and or redirected where appropriate and obligated by policy (Human Rights Specialist, through the Hate Motivated Incident Prevention Policy / Procedure) and by law.
- The Corporate Security Office will continue to assess and review all public gatherings and rallies that take place in the City Hall forecourt. This process includes the analysis of information leading up to an event, the assessment of potential impacts to public safety in the forecourt and collection of evidence where applicable to support internal and law enforcement investigations.
- Through the Corporate Security Investigator, events that are assessed to have the potential of large numbers in attendance, messaging that may impact the public safety and reasonable enjoyment of the public space by all residents especially members of the marginalized community, will be shared with law enforcement and will include attendance by a member of the Corporate Security Office during the event.
- The Corporate Security Office will continue the collection of factual evidence through witnessed activities, documentation and the use of available technology (i.e. CCTV cameras) to provide both internal (i.e. Human Rights Specialist, Legal Services) and external authorities with the tools to enable the application of law in the preservation of a safe and supporting community for its residents.

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**ALTERNATIVES FOR CONSIDERATION**

N/A

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report LS19031/PW19068(a)/CM19006(a): Historical Background

Appendix “B” to Report LS19031/PW19068(a)/CM19006(a): Hate Mitigation Policies Procedures, and By-laws of Comparison Municipalities

Appendix “C” to Report LS19031/PW19068(a)/CM19006(a): Summary of Trespass By-law

Appendix “D” to Report LS19031/PW19068(a)/CM19006(a): Trespass By-law

## Appendix “A” to Report LS19031/PW19068(a)/CM19006(a)

### HISTORICAL BACKGROUND

Many key projects and initiatives have contributed to where the City of Hamilton is today in its current state, as well as helped to shape our desired future state and ensure that Hamilton remains an inclusive city.

These key projects and initiatives include:

- Age-Friendly Hamilton Plan | 2014 – current
- City of Hamilton’s Strategic Plan | 2016 – 2025
- Diversity and Inclusion Strategic Plan | 2017
- Employment Systems Review | 2014
- Equity, Diversity and Inclusion Framework Development | 2019
- Mayor’s Advisory Committee on Syrian Newcomers | 2016 – 2017
- Our Future Hamilton 25-year Community Vision | 2016 – current
- Our People and Performance Plan | 2016 – 2025
- Regional Roundtable Organizational Assessment | 2017 – 2018
- Review of Access and Equity’s Function | 2016
- Strengthening Hamilton’s Community Initiatives | 2002-2006  
(the initiative outcome established the Hamilton Centre for Civic Inclusion)
- Urban Indigenous Strategy | Approved July 2019
- Vision 2020 | 1992 – 2017

The City has developed strong relationships with key stakeholders in the community. These include:

- Hamilton Anti-Racism Resource Centre | 2018 - current
- Hamilton City Lab | 2017 – current
- Hamilton Immigration Partnership Council | 2009 – current

The City of Hamilton has various policies that have relevance to the hate motivated incident and human rights associated work. These include:

- Equity and Inclusion Policy
- Protocol for Gender Identity and Gender Expression
- Recruitment Accommodation Procedure
- Recruitment and Selection Policy
- Use of Indigenous Medicines Policy

**Appendix “B” to Report LS19031/PW19068(a)/CM19006(a)**

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Hate Mitigation Policies, Procedures and By-laws of Comparison Municipalities

Staff conducted a review of municipal hate mitigation policies, procedures and related by-laws across the country. The methodology utilized included direct conversation with their staff to discuss the issue and extensive web search.

**SUMMARY OF KEY FINDINGS:**

1. Hate-motivated incidents occur across Canada. However, it's not very common to find consistent hate/counter hate rallies on municipal properties.
2. The most consistent finding across municipalities is that the Charter of Rights and Freedom guarantees Canadians the freedom to openly express their thoughts, beliefs and opinions. The only time significant enforcement occurs is when the law is broken, with the enforcement usually carried out by the Police. Majority of municipalities reviewed indicated their approach is to first respect the Charter and direct the responsibility of maintaining peaceful assembly, public safety and enforcement to the Police.
3. Although the Charter of Rights and Freedom plays a significant role in how municipalities respond to unapproved rallies that could involve hate speech, a few municipalities also have other ways of showing support for the community. Most notably, some municipalities have organized or partnered with local groups to organize rallies, workshops and public education initiatives on tolerance and inclusion.
4. A few municipalities have policies, procedures and by-laws created to inherently discourage hate incidents on municipal properties. These policies and procedures mostly require event organizers planning to use public spaces to pre-register, obtain prior approval and sign various agreement forms indicating they would abide with relevant City's tolerance and inclusion policies.
5. The City of Toronto arguably has the most robust municipal response plans on Planned and Unplanned Hate Rallies Response in the country. The key highlights Toronto's response plan include:
  - The City of Toronto does not issue permits for rallies or protests.
  - There is established communication channels between the Toronto Police Service, the City's Corporate Security personnel and staff in the City's Municipal Licensing and Standards' By-law Enforcement division.
  - When either Toronto Police Service or City staff become aware in advance of a rally, they communicate with one another so that existing protocols can be activated.
  - Toronto Police routinely attend rallies to monitor and keep the peace
  - When a hate activity complaint is received by the Toronto Police, the complaint is reviewed and assigned to the responsible Superintendent for follow up.
  - Depending on the nature of the allegation, the Superintendent may engage the Hate Crime Coordinator and/or officers from the Community



## Appendix “B” to Report LS19031/PW19068(a)/CM19006(a)

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Response Unit, Crime Unit and/or Major Crime Unit within the Toronto Police Service. An internal Toronto Police Service investigation is then undertaken.

- The outcome of the investigation is communicated to the Superintendent of the relevant Toronto Police division who determines whether or not the matter should be referred to the Attorney General's office for review;
  - The nature of the allegation will determine the length of the investigation, which can be lengthy.
  - Toronto Police also have translation services available for any video or audio that is provided to them in a language other than English.
6. Further to the above, in the case of non-permitted protests that could feature hate speech, the City of Toronto states that “*The City is legally obligated to respect those rights (Canadian Charter of Rights and Freedom). As such, City policies and practices must be designed to avoid infringing on those rights. The jurisprudence relating to those rights identify public spaces such as parks and public squares, as places in which those rights are frequently exercised*”.
7. In conclusion, combating hate rallies on City properties while also adhering to the Charter of Rights and Freedom continues to pose challenges to all municipalities reviewed wherever applicable.

	Municipality	Relevant Weblinks
1	City of Toronto	<p><b>Hate Sponsored Rallies:</b>  <a href="https://www.toronto.ca/legdocs/mmis/2019/ex/bgrd/backgroundfile-132059.pdf">https://www.toronto.ca/legdocs/mmis/2019/ex/bgrd/backgroundfile-132059.pdf</a>   <a href="http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX5.3">http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX5.3</a></p> <p><b>Hate Activity Policy:</b>  <a href="https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/corporate-policies/people-equity-policies/hate-activity/">https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/corporate-policies/people-equity-policies/hate-activity/</a></p> <p><b>Hate Activity Procedures:</b>  <a href="https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/corporate-policies/people-equity-policies/hate-activity/hate-activity-procedures/">https://www.toronto.ca/city-government/accountability-operations-customer-service/city-administration/corporate-policies/people-equity-policies/hate-activity/hate-activity-procedures/</a></p>
2	City of Calgary	<p><b>Hate and Bias Crimes</b>  <a href="https://www.calgary.ca/cps/Pages/Community-programs-and-resources/Diversity-resources/Hate-and-bias-crimes.aspx">https://www.calgary.ca/cps/Pages/Community-programs-and-resources/Diversity-resources/Hate-and-bias-crimes.aspx</a></p> <p><b>Alberta Human Rights Commission</b></p>

## Appendix "B" to Report LS19031/PW19068(a)/CM19006(a)

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		<a href="http://www.albertahumanrights.ab.ca">www.albertahumanrights.ab.ca</a> Alberta Hate Crime Committee <a href="http://www.stophateab.ca">www.stophateab.ca</a>  <b>Coalitions Creating Equity</b> <a href="http://coalitionscreatingequity.ca/">http://coalitionscreatingequity.ca/</a>
3	City of Mississauga	<b>Use of City Facilities Policy:</b> <a href="http://www7.mississauga.ca/documents/policies/05-01-12.pdf">http://www7.mississauga.ca/documents/policies/05-01-12.pdf</a>  <b>Outdoor Events in the Civic District Policy:</b> <a href="http://www.mississauga.ca/file/COM/policy_05-03-03.pdf">http://www.mississauga.ca/file/COM/policy_05-03-03.pdf</a>
4	City of Ottawa	<b>Hate Motivated Incidents:</b> <a href="https://www.ottawapolice.ca/en/safety-and-crime-prevention/hate-motivated-incidents.aspx">https://www.ottawapolice.ca/en/safety-and-crime-prevention/hate-motivated-incidents.aspx</a>
5	City of Sudbury	<b>Trespass to Property Act Policy / Guidelines:</b> <a href="https://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&amp;action=navigator&amp;lang=en&amp;id=1034&amp;itemid=11987">https://agendasonline.greatersudbury.ca/index.cfm?pg=agenda&amp;action=navigator&amp;lang=en&amp;id=1034&amp;itemid=11987</a>
6	City of Windsor	<b>Trespass By-law:</b> <a href="https://www.citywindsor.ca/cityhall/Policies/Policies/Trespass%20Policy.pdf">https://www.citywindsor.ca/cityhall/Policies/Policies/Trespass%20Policy.pdf</a>
7	City of Oshawa	<b>Trespass By-law:</b> <a href="https://www.oshawa.ca/uploads/16/TrespassBy-law98-2013.pdf?ts=637042332863997453">https://www.oshawa.ca/uploads/16/TrespassBy-law98-2013.pdf?ts=637042332863997453</a>
8	City of London	<b>Public Nuisance By-law:</b> <a href="https://www.london.ca/city-hall/by-laws/Documents/public-nuisancePH18.pdf">https://www.london.ca/city-hall/by-laws/Documents/public-nuisancePH18.pdf</a>

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Summary of Trespass By-law

<b>Heading</b>	<b>Summary</b>
<b>Trespass Notice</b>	Means an oral or written notice prohibiting entry to one or more City premises by a person or group of persons
<b>Exceptions</b>	<p>Does not apply to:</p> <ul style="list-style-type: none"> <li>• Transit property, as defined under By-law No. 16-111</li> </ul> <p>[Note: Director has authority under Transit By-law to prohibit people from using transit. Specialized approach to bans may be appropriate given unique circumstances of transit use.]</p>
<b>Basis for Trespass Notice</b>	"reason to believe that a person has engaged in prohibited conduct"
<b>Prohibited Conduct</b>	<p>“prohibited conduct” includes:</p> <ol style="list-style-type: none"> <li>a. contravention of a law of Canada or Ontario or a municipal by-law;</li> <li>b. damage to or vandalism of a City premises;</li> <li>c. interference with the operation of a City premises;</li> <li>d. interference with others’ use of a City premises;</li> <li>e. contravention of a City of Hamilton policy governing the conduct of persons entering City premises;</li> </ol>
<b>Oral or Written</b>	<ul style="list-style-type: none"> <li>• Trespass Notice may be oral or written</li> <li>• Oral notices for longer than 7 days will be confirmed in writing as soon as is practicable</li> </ul>
<b>Factors in Giving Trespass Notice</b>	<p>In determining whether to issue/extend, locations, duration, consider the following factors:</p> <ol style="list-style-type: none"> <li>a. the feasibility and effectiveness of any warnings to the person or graduated restrictions placed on the person;</li> <li>b. any operational or staff requirements or limitations;</li> <li>c. the severity of the harm or potential harm caused by the person’s prohibited conduct to staff, members of the public or property;</li> <li>d. the person’s level of ability and circumstances;</li> <li>e. the history of the person’s conduct and interactions on City premises;</li> <li>f. the likelihood of recurrence of the prohibited conduct by the person; and</li> <li>g. the impact of restrictions or prohibitions on the person</li> </ol> <p>[Note: Each circumstance where a ban is considered or given out is very fact specific. It is difficult to provide a guideline on the length of bans other than to say that longer and more restrictive bans are</p>

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<b>Heading</b>	<b>Summary</b>
	appropriate for more serious conduct. Accordingly, the list of factors is meant to guide the relevant fact-specific assessment.]
<b>Short Suspension</b>	<p>"authorized persons" can give immediate trespass notice for short period (up to 7 days)</p> <p>"authorized person" means any of the following persons:</p> <ul style="list-style-type: none"> <li>a. a security guard employed by or under contract with the City;</li> <li>b. such persons employed by the City who, as a matter of their regular duties or due to circumstances, are responsible for and have control over the condition of any City premises or the activities there carried on, or control over persons allowed to enter the City premises;</li> <li>c. a municipal law enforcement officer;</li> <li>d. a police officer; and</li> <li>e. a senior staff person.</li> </ul>
<b>Up to 2 - year ban</b>	<p>"senior staff person" can give/extend trespass notice for up to 2 years</p> <p>"senior staff person" means any of the following persons employed by the City of Hamilton:</p> <ul style="list-style-type: none"> <li>a. a Manager, or person holding the equivalent rank of Manager;</li> <li>b. a Director, or person holding the equivalent rank of Director; and</li> <li>c. a senior executive person.</li> </ul>
<b>Up to 5 -year ban</b>	<p>"senior executive person" can give/extend trespass notice for up to 5 years</p> <p>"senior executive person" means any of the following persons employed by the City of Hamilton:</p> <ul style="list-style-type: none"> <li>a. the City Manager; and</li> <li>b. a General Manager;</li> </ul>
<b>Review every 2 years</b>	<p>senior staff person can extend a ban for a further 2 years if, during the duration of the ban, the person has:</p> <ul style="list-style-type: none"> <li>a. violated the Trespass Notice; or</li> <li>b. engaged in further or continued prohibited conduct.</li> </ul>
<b>"Indefinite Ban"</b>	<p>For any ban issued by a senior staff person, it must be reviewed every 2 years (as above), but a senior staff person can describe a ban as indefinite when giving the notice if:</p> <p>"in the opinion of the senior staff person that is advisable in the circumstances, including that further communication of an extension of the Trespass Notice is likely to be challenging, confusing or inflammatory"</p>

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<b>Heading</b>	<b>Summary</b>
<b>Revocation</b>	Any Trespass Notice can be revoked, with such conditions as are appropriate, by the person who gave it or by someone to whom they report (directly or indirectly)
<b>Appeal</b>	<p><b>Notice of Appeal</b></p> <ul style="list-style-type: none"> <li>• Person may appeal trespass notice longer than one month</li> <li>• Notice of appeal in writing to Clerk</li> <li>• Notice of appeal must be submitted within 3 weeks of receiving trespass notice</li> </ul> <p><b>Appeal Hearing</b></p> <ul style="list-style-type: none"> <li>• conducted by Appeal Officer in a manner that is appropriate to the circumstances of the person and the prohibited conduct, as determined by the Appeal Officer</li> <li>• Appeal Officer provides notice of appeal to person and senior staff person who issued notice</li> <li>• Powers on Appeal: Revoke, shorten, remove locations or affirm trespass notice</li> <li>• Decision of Appeal Officer is final (subject to Judicial Review, but no further appeal)</li> </ul> <p><b>Appeal Officer</b></p> <ul style="list-style-type: none"> <li>• Any one of: City Solicitor, Deputy City Solicitor, City Manager</li> <li>• Cannot have been involved in discussion of initial trespass notice</li> </ul>
<b>Meetings Exception</b>	<p>Trespass Notices do not prevent persons from attending Council and Standing Committee meetings provided that:</p> <ol style="list-style-type: none"> <li>a. the person notifies the City Clerk of their intention to attend the meeting no later than 24 hours prior to the scheduled start of the meeting;</li> <li>b. the person enters the meeting room no earlier than 15 minutes prior to the scheduled start of the meeting;</li> <li>c. the person remains in the meeting room no longer than 15 minutes after the meeting is adjourned; and</li> <li>d. the person complies with any directions given by the Chair of the meeting respecting conduct at the meeting.</li> </ol>
<b>Invitation to Attend</b>	<ul style="list-style-type: none"> <li>• Senior staff person can give permission to attend location where someone is banned for specific purposes at specific date/time/location</li> <li>• Person can request permission to attend from person who issued trespass notice if they request in writing with reasons why they need to attend</li> </ul>

## Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)

Page 1 of 8

Authority: Item ,  
Report (LSXXXXX)  
CM:  
Ward: City Wide

Bill No.

## CITY OF HAMILTON

## BY-LAW NO.

## To Administer Notices and Other Matters under the Trespass to Property Act

**WHEREAS** the City of Hamilton has the right as an owner and occupier of premises to restrict or prohibit entry to such premises, and the *Trespass to Property Act*, R.S.O. 1990, c. T.21 governs the enforcement of that right;

**WHEREAS** the Council of the City of Hamilton recognizes its responsibility to exercise its rights in accordance with the *Canadian Charter of Rights and Freedoms*.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

**Short Title**

1 The short title of this By-law is the Trespass By-law.

**Definitions**

2 In this By-law,

"appeal fee" means the fee to commence an appeal pursuant to section 10 as set out in the User Fees and Charges By-law in effect from time to time;

"authorized person" means any of the following persons:

- (a) a security guard employed by or under contract with the City;
- (b) such persons employed by the City who, as a matter of their regular duties or due to circumstances, are responsible for and have control over the condition of any City premises or the activities there carried on, or control over persons allowed to enter the City premises;
- (c) a municipal law enforcement officer;
- (d) a police officer; and
- (e) a senior staff person.

**Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)****Page 2 of 8**

"City premises" means lands, structures, improvements, or any of the them that are owned or occupied by the City of Hamilton;

"meeting room" means that part of a City premises in which the Council of the City of Hamilton or one of its Standing Committees is holding a meeting pursuant to the Procedural By-law No. 10-053 or a successor by-law;

"prohibited conduct" includes:

- (a) contravention of a law of Canada or Ontario or a municipal by-law;
- (b) damage to or vandalism of a City premises;
- (c) interference with the operation of a City premises;
- (d) interference with others' use of a City premises;
- (e) contravention of a City of Hamilton policy governing the conduct of persons entering City premises;

"senior executive person" means any of the following persons employed by the City of Hamilton:

- (a) the City Manager; and
- (b) a General Manager;

"senior staff person" means any of the following persons employed by the City of Hamilton:

- (c) a Manager, or person holding the equivalent rank of Manager;
- (d) a Director, or person holding the equivalent rank of Director; and
- (e) a senior executive person.

**Trespass Notice**

3 (1) For the purposes of this By-law, a Trespass Notice means a notice prohibiting entry to one or more City premises by a person or group of persons.

**Oral or Written**

(2) A Trespass Notice may be given orally or in writing.

**Confirm Oral in Writing**

(3) A Trespass Notice given orally and prohibiting entry to one or more City premises for longer than seven days shall be confirmed in writing as soon as is practicable, but the failure to do so does not make the oral notice ineffective.

**Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)**  
**Page 3 of 8**

**Factors in Giving Trespass Notice**

4 In determining whether to give or extend a Trespass Notice to a person pursuant to this By-law, the locations where entry is prohibited, and the duration of the prohibition, consideration shall be given to the following factors:

- (a) the feasibility and effectiveness of any warnings to the person or graduated restrictions placed on the person;
- (b) any operational or staff requirements or limitations;
- (c) the severity of the harm or potential harm caused by the person's prohibited conduct to staff, members of the public or property;
- (d) the person's level of ability and circumstances;
- (e) the history of the person's conduct and interactions on City premises;
- (f) the likelihood of recurrence of the prohibited conduct by the person; and
- (g) the impact of restrictions or prohibitions on the person.

**Suspension from City Premises**

5 An authorized person who has reason to believe that a person has engaged in prohibited conduct may give to the person a Trespass Notice that prohibits entry to one or more City premises for not more than seven days.

**Ban from City Premises**

6 (1) A senior staff person who has reason to believe that a person has engaged in prohibited conduct may give to the person a Trespass Notice that prohibits entry to one or more City premises for not more than two years.

**Extension of Suspension**

(2) A senior staff person may extend the term of a Trespass Notice given pursuant to section 5 to a term of not more than two years by giving to the person notice of the extension.

**Indefinite Ban**

(3) Despite the limitation with respect to the duration of a Trespass Notice in subsections (1) and (2), subject to section 8, a Trespass Notice given pursuant to those subsections may omit a termination date or state that it is in effect indefinitely if in the opinion of the senior staff person doing so is advisable in the circumstances, including that further communication of an extension of the Trespass Notice is likely to be challenging, confusing or inflammatory to the person receiving the Trespass Notice.

**Longer Ban from City Premises**

7 (1) A senior executive person who has reason to believe that a person has engaged in prohibited conduct may give to the person a Trespass Notice that prohibits entry to one or more City premises for not more than five years.



**Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)**

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**Extension of Ban**

(2) A senior executive person may extend the term of a Trespass Notice given or extended pursuant to sections 5 or 6 to a term of not more than five years by giving to the person notice of the extension.

**Review and Extension**

8 (1) Prior to the termination of a Trespass Notice given or extended pursuant to section 6 or this section, a senior staff person may extend the term of the Trespass Notice for not more than two more years by giving the person notice of the extension if the senior staff person has reason to believe that the person has during term of the Trespass Notice under review:

- (a) violated the Trespass Notice; or
- (b) engaged in further or continued prohibited conduct.

**No Notice of Extension if Indefinite Ban**

(2) If a Trespass Notice is given without a termination date or indefinitely in accordance with subsection 6(3), a senior staff person shall determine whether to extend the Trespass Notice in accordance with subsection (1), but giving notice of the extension of the Trespass Notice to the person is not required.

**Notice of Termination**

(3) If a Trespass Notice is given without a termination date or indefinitely in accordance with subsection 6(3) and a senior staff person determines not to extend a Trespass notice pursuant to subsection (1), the senior staff person shall promptly advise the person that the Trespass Notice has been terminated.

**Revocation**

9 A person who has given a Trespass Notice, or someone to whom they report directly or indirectly, may revoke the Trespass Notice and may impose such conditions respecting the revocation as the person considers appropriate.

**Appeal**

10 (1) A person who has received a Trespass Notice or extension of a Trespass notice with a term of more than one month may appeal the Trespass Notice by giving written notice of the appeal to the Clerk and paying any appeal fee within three weeks of receiving the Trespass Notice.

**Manner of Hearing**

(2) An appeal pursuant to subsection (1) shall be heard by an Appeal Officer in a manner appropriate to the circumstances of the person and the prohibited conduct underlying the Trespass Notice as determined by the Appeal Officer.

**Notice of Hearing**

(3) The Appeal Officer shall provide notice of date, time and manner of the hearing of the appeal no fewer than seven days prior to the hearing to the person who received the

**Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)****Page 5 of 8**

Trespass Notice and to the senior staff person who gave the Trespass Notice under appeal.

**Powers on Appeal**

(4) On an appeal pursuant to subsection (1), subject to subsection 0, an Appeal Officer may:

- (a) revoke the Trespass Notice;
- (b) shorten the term of the Trespass Notice;
- (c) remove prohibited locations from the Trespass Notice; or
- (d) affirm the Trespass Notice.

**Failure to Participate or Attend**

(5) If a person who appeals a Trespass Notice fails to participate in or attend the hearing of the appeal as notified pursuant to subsection (3), the Trespass Notice is deemed to be affirmed.

**Decision Final**

(6) A decision of an Appeal Officer is final and not subject to review by any Court.

**Appeal Officer**

(7) For the purposes of this section, subject to subsection (8), an Appeal Officer shall mean any one of the following persons:

- (a) City Solicitor;
- (b) Deputy City Solicitor;
- (c) City Manager.

**Involvement in Determining Terms**

(8) Despite subsection (7), no person who was involved in the determination of the terms of the Trespass Notice under appeal shall be the Appeal Officer who hears the appeal.

**Meetings Exception**

11 A Trespass Notice is not effective during the period and only to the extent that the Trespass Notice prevents a person from entering or remaining in a meeting room provided the person complies with the following conditions:

- (a) the person notifies the City Clerk of their intention to attend the meeting no later than 24 hours prior to the scheduled start of the meeting;
- (b) the person enters the meeting room no earlier than 15 minutes prior to the scheduled start of the meeting;

**Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)****Page 6 of 8**

- (c) the person remains in the meeting room no longer than 15 minutes after the meeting is adjourned; and
- (d) the person complies with any directions given by the Chair of the meeting respecting conduct at the meeting.

**Invitation to Attend**

12 (1) A senior staff person may give to a person who has received a Trespass Notice an Invitation to Attend a City premises which shall specify the following:

- (a) the purpose for attending at the City premises;
- (b) the date and time of the approved attendance at the City premises;
- (c) the address of the City premises where the person is approved to attend; and
- (d) instructions for who to contact when the person arrives for the approved attendance at the City premises; and
- (e) that the Trespass Notice remains in effect except for the approved attendance in accordance with the Invitation to Attend.

**Effect of Invitation to Attend**

(2) A Trespass Notice is not effective during the period and only to the extent that the Trespass Notice prevents a person from entering or remaining at the City premises specified in the Invitation to Attend.

**Request for Invitation to Attend**

(3) If a person who has received a Trespass Notice needs to enter City premises to conduct business with the City and is prevented from doing so by the Trespass Notice, the person may request an Invitation to Attend from the senior staff person who gave the person the Trespass Notice, which request shall include the following information:

- (a) the purpose for attending at the City premises;
- (b) the reasons why attending at the City premises is necessary; and
- (c) the address of the City premises where the person wishes to attend.

**Methods of Giving Notice**

13 (1) A notice given by the City pursuant to this By-law in writing may be given in any of the following ways:

- (a) personally;
- (b) by fax to the recipient's last known fax number;
- (c) by e-mail to the recipient's last known e-mail address; or

**Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)**

**Page 7 of 8**

- (d) by registered or regular mail or courier or hand delivery addressed to the recipient's last known address.

**Deemed Effective**

(2) Notice given in accordance with subsection (1) shall be deemed to be effective:

- (a) on the date it is personally given or delivered by courier or hand delivered;
- (b) on the date on which the fax is sent;
- (c) on the date the e-mail is sent; or
- (d) on the fifth day after the date of mailing by registered or regular mail.

**Conflict**

14 Nothing in the By-law limits the authority of any person to give a Trespass Notice granted by any other City of Hamilton By-law, whether or not the other By-law uses the words "Trespass Notice".

**General**

15 Nothing in this By-law limits the City's ability to enforce its rights under the *Trespass to Property Act* any legal means.

**Severability**

16 Should a court of competent jurisdiction declare any part of the whole of any provision of this by-law to be invalid or of no force and effect, the provision or part shall be deemed to have been severed from this by-law, and it is the intention of Council that the remainder of the by-law survive and be applied and enforced in accordance with its terms to the extent possible under law.

Appendix "D" to Report LS19031/PW19068(a)/CM19006(a)

**Enactment**

17 This By-law comes into force on the day it is passed.

**PASSED** this \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk



**CITY OF HAMILTON**  
**CORPORATE SERVICES DEPARTMENT**  
**Legal and Risk Management Services Division**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	October 16, 2019
<b>SUBJECT/REPORT NO:</b>	Red Hill Valley Parkway Inquiry Update (LS19036) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Nicole Auty (905) 546-2424 Ext. 4636
<b>SUBMITTED BY:</b>	Nicole Auty City Solicitor Legal and Risk Management Services
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That Council approve the Funding Approval Guidelines for individuals seeking Standing at the Judicial Inquiry recommended by the Commissioner and attached as Appendix "C";
- (b) That Council approve the direction provided in Confidential Appendix "D" and that direction remain confidential until approved by Council on October 23, 2019;
- (c) That Confidential Appendix "D" remain confidential.

### EXECUTIVE SUMMARY

On April 24<sup>th</sup>, 2019 Council directed staff to provide regular updates on the costs to date of the Judicial Inquiry, to be paid from the Tax Stabilization Reserve.

This report provides both an update on the status of the Inquiry from the City's legal representatives at Lenczner Slaght Royce Smith Griffin LLP ("Lenczner Slaght") and the costs to date of the Inquiry.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Red Hill Valley Parkway Inquiry Update (LS19036) (City Wide) - Page 2 of 3**

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In addition, Council is asked to approve the guidelines for funding applications by individuals granted standing to participate in the Judicial Inquiry and delegate approval of the funding applications to the City Manager.

**Alternatives for Consideration – Page 3**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The costs of the Inquiry to date are outlined in the following chart, representing external legal fees for the Commissioner, the City and associated other expenses.

**Date: To September 30, 2019**

<b>City</b>	\$ 223,632.55
<b>Commissioner</b>	\$ 403,349.52
<b>Other expenses</b>	\$ 12,515.95
<b>Total</b>	\$ 639,498.02

Staffing: A temporary contract staff position has been added to the Legal Services Department to support staff as the Inquiry preparations are on-going. This position is funded from the Tax Stabilization reserve.

Legal: The legal implications are outlined in the attached appendices “A” and “D” from external legal counsel.

**HISTORICAL BACKGROUND**

In early 2019, the City of Hamilton received information regarding a 2013 friction report related to the Red Hill Valley Parkway.

On April 24, 2019, the City passed a resolution pursuant to s. 274 of the *Municipal Act, 2001* requesting the Chief Justice of Ontario to appoint a Superior Court judge to investigate matters related to the disclosure of the friction report.

The Honourable Mr. Justice Herman J. Wilton-Siegel was appointed to preside over the inquiry in May 2019.

The Commissioner has retained Robert Centa of Paliare Roland Rosenberg Rothstein LLP to act as counsel to the Commission.

**SUBJECT: Red Hill Valley Parkway Inquiry Update (LS19036) (City Wide) - Page 3 of 3**

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The City has retained Eli Lederman and Delna Contractor of Lenczner Slaght to act as counsel to the City in the Inquiry.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Not applicable.

**RELEVANT CONSULTATION**

Not applicable.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The analysis for the recommendations is set out in the appendices from external legal counsel.

**ALTERNATIVES FOR CONSIDERATION**

Council could approve funding guidelines and review all applications on an ad hoc basis; however this has not been the practice in other Judicial Inquiries.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN****Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report LS19036 – Report to Council from Lenczner Slaght regarding the status of the Judicial Inquiry

Appendix “B” to Report LS19036 – Q&A provided to City employees

Appendix “C” to Report LS19036 – Funding Guidelines for Individuals seeking Standing at the Judicial Inquiry

Appendix “D” to Report LS19036 – Confidential Report to Council from Lenczner Slaght



## Appendix A

October 7, 2019

Eli S. Lederman  
Direct line: 416-865-3555  
Direct fax: 416-865-2872  
Email: [elederman@litigate.com](mailto:elederman@litigate.com)

City of Hamilton City Council  
71 Main Street W.  
Hamilton, ON  
L8P 4Y5

To the Mayor and Members of the General Issues Committee

**RE: Update re: Judicial Inquiry**  
**Our File No.: 51555**

We write to provide you with an update on the key developments in the Judicial Inquiry regarding the Red Hill Valley Parkway (“**RHVP**”).

### **A. Overview of the Judicial Inquiry Process**

There are six overlapping stages to a judicial inquiry:

- 1) **Logistics and Staff:** the Commissioner hires staff necessary to conduct the inquiry, including lawyers, a communications officer and a chief administration officer, and obtains office space from which to conduct the inquiry.
- 2) **Collecting Documents:** Counsel to the City obtains and reviews data (documents, emails, reports, etc.) that are in the City’s possession and may be relevant to the work of the inquiry. The relevant data is processed and provided to Commission Counsel in an agreed upon electronic format.
- 3) **Interviewing Witnesses:** individuals that may have knowledge or information relevant to the work of the inquiry will be interviewed first by Counsel to the City and then by the Commissioner and his Counsel.
- 4) **Standing:** the Commissioner will establish a process through which members of the public can apply to participate in the inquiry (known as having “standing”) and invite members of the public to apply.

- 5) **The Hearing:** the Commissioner will hold a public hearing where key witnesses will be examined.
- 6) **The Report:** the Commissioner will draft a report at the conclusion of the public hearing, which will include a description of the evidence and the Commissioner's findings and conclusions.

As detailed further below, we are well underway in the first and second stage (logistics and document collection) and entering the third stage (interviewing witnesses and standing). We note that the first three stages above are taking place in tandem with the litigation, in which the City is represented by Gowling WLG.

### **B. Appointment of Commissioner & Commission Counsel**

The Honourable Justice Herman Wilton-Siegel was appointed as the Commissioner of the Inquiry. Justice Wilton-Siegel was appointed as a Justice of the Superior Court of Ontario in 2002. The Commissioner became a supernumerary judge effective June, 2017. Justice Wilton-Siegel was educated at the University of Toronto, Oxford University, Dalhousie Law School and Harvard Law School.

The Commissioner has retained Robert Centa of Paliare Roland Rosenberg Rothstein LLP to act as counsel to the Commission (referred to as "Commission Counsel").

We had a meeting with the Commissioner and Mr. Centa immediately following his appointment in which we discussed the stages of the Inquiry, logistics and timelines. The Commissioner stated that he understood that the City was bearing the costs of the Inquiry and was sensitive to this issue. The Commissioner also expressed that it was too early to provide cost or timeline projections.

We hold weekly meetings with Mr. Centa and his team at our offices to ensure that we have an open line of communication with the Commissioner and are responsive to his requests.

### **C. Venue Search**

The City has identified a number of potential locations for the public hearing that meets the needs of the Commission.

Specifically, we have conducted site visits with the Commissioner and Commission Counsel to view the space available at 119 King Street East, the Hamilton Convention Centre, the David Braley Health Sciences Centre, McMaster University, 100 Main St W, Hamilton and Stoney Creek Municipal Center. We also viewed rooms at the Hamilton City Hall Municipal Centre.

We will make a recommendation as to where the public hearing should be held once we have a better understanding of the timing and availability of the venues identified above and any additional venues the Commissioner may consider.

### **D. Commissioner Staffing**

The Commissioner has hired Wendy McCann as the Commission's Communications Director. We understand that at this point, the Commissioner is not searching for a Chief Administrative Officer as a full time position.

### **E. Communication with City Employees**

We have assisted the City in preparing a Q & A style informational bulletin for City employees to give them a better understanding as to what a judicial inquiry is and what they can expect going forward. A copy of the Q & A is attached at **Appendix B**.

### **F. Document Collection**

We are working with City staff to complete the document collection process. In general, the document collection process for electronic data (emails, calendar invites, word and pdf documents etc.) involves the following steps:

- identifying the individuals who are in possession or control of relevant data (referred to as "custodians");

- conducting custodian interviews to understand where the custodians store or save data;
- extracting the custodians' data from sources they identify during interviews. In the case of emails, in particular, we will take copies of the custodians' mailboxes;
- locating non-custodial sources of data, including departmental drives or specialized document databases, and exporting relevant data from these sources;
- placing all electronic data into evidence management software;
- conducting searches within the electronic data using tools offered by the evidence management software to identify and review the emails and documents relevant to the Inquiry;
- withholding or redacting any information that is protected by legal privilege;
- producing the relevant and non-privileged data and documents to the Commission Counsel for uploading to their database; and
- providing Commission Counsel with a list of any documents that were redacted for privilege.

The document collection process for hard copy documents involves scanning the documentation, coding key information about the document, such as the name and date of the document, into the evidence management software and reviewing for relevancy and privilege.

### **G. Applications for Standing and Funding**

The Commissioner will establish a process through which members of the public can apply to participate in the Inquiry (known as having “standing”) and invite members of the public to apply. The Commissioner is in the process of finalizing the rules for members of the public to apply for standing and expects this process to be completed by the end of December, 2019.

Where individuals with standing require financial assistance to obtain legal representation, they may apply to the Commissioner to recommend that the City grant funding for legal fees.

The Commissioner can not order the City to provide funding. However, in order to ensure that all parties are treated in a fair and unbiased manner, it is standard practice for municipalities to grant funding for legal fees to individuals with standing in judicial inquiries.

We recommend that City Council delegate its decision-making authority to grant funding to individuals with standing in the Inquiry to the City Manager in accordance with the guidelines attached at **Appendix C**.

#### **H. Next Steps**

We will continue to focus on the document collection process and will work towards finalizing a timeline and venue for the public hearing.

We would be pleased to provide further details on any of the information provided above.

Yours very truly,



Eli S. Lederman

EL/



## Questions & Answers

### Red Hill Valley Parkway Judicial Inquiry

June 2019

*This document is meant to provide answers to common questions about the upcoming judicial inquiry into the Red Hill Valley Parkway (RHVP) asphalt matter.*

#### **What is a Judicial Inquiry?**

Under section 274 of the Ontario *Municipal Act, 2001*, a City can pass a resolution requesting that a judge of the Superior Court be appointed to conduct an investigation on a number of different matters, including with respect to the proper governance of the municipality. This kind of investigation is referred to as a judicial investigation or judicial inquiry. Once a judge is appointed to the judicial inquiry, he or she is referred to as the “commissioner”.

After he or she is appointed, a commissioner establishes the process and procedure to investigate the issues identified by the municipality. A commissioner’s powers are provided for in section 33 of the Ontario *Public Inquiries Act*.

#### **What is the Red Hill Valley Parkway Judicial Inquiry about?**

On March 20, 2019, the Hamilton City Council passed a motion to initiate a judicial inquiry pursuant to section 274 of the Ontario *Municipal Act, 2001* to investigate matters relating to the Red Hill Valley Parkway. Specifically, the Inquiry is to investigate the questions listed in the Terms of Reference.

#### **What happens in a Judicial Inquiry?**

There are generally six stages to a judicial inquiry:

- 1) Logistics and Staff;
- 2) Collecting Documents;
- 3) Interviewing Witnesses;
- 4) Standing;
- 5) the Hearing and,
- 6) the Report.

##### Logistics and Staff

In the first stage of the Inquiry, the commissioner hires staff necessary to conduct the inquiry, including lawyers, a communications officer and a chief administration officer, and obtains office space from which to conduct the inquiry.



## Questions & Answers

### Red Hill Valley Parkway Judicial Inquiry

June 2019

#### Collection of Documents

In the second stage of an inquiry, the commissioner will work with counsel to the municipality to obtain copies of all documents that are in its possession and may be relevant to the work of the inquiry. The commissioner may also request relevant documents from third parties, such as former employees of the municipality.

#### Witness Interviews

In the third stage of the Inquiry, the commissioner and his or her lawyer will interview witnesses that may have knowledge or information relevant to the work of the inquiry. These may include current employees of the municipality, third parties engaged by the municipality or current and former members of City Council.

#### Standing

In the fourth stage of an inquiry, the commissioner will seek applications from members of the public who may wish to participate in the inquiry. By giving an individual (or a group of individuals) the right to participate in the inquiry, the commissioner is said to have granted “standing” to that party. Parties can have different levels of standing. For example, some parties may be given the right to access and review documents collected by the commissioner, while others may be given the right to examine witnesses and make submissions at the hearing. The commissioner will publicize the process for applying for standing in relevant media outlets once the process has been established.

#### Public Hearing

In the fifth stage of the inquiry, the commissioner will hold a public hearing where key witnesses will be examined.

#### The Report

In the sixth stage of an inquiry, the commissioner will draft the inquiry report, which will include a description of the evidence and his or her findings and conclusions.

### **Who is the Commissioner appointed to oversee the RHVP Judicial Inquiry?**

The Honourable Justice Wilton-Siegel has been appointed as the Commissioner of the Red Hill Valley Parkway Judicial Inquiry. Justice Wilton-Siegel was appointed as a Justice of the Superior Court of Ontario in 2002. His Honour became a supernumerary judge effective June, 2017. Justice Wilton-Siegel was educated at the University of Toronto, Oxford University, Dalhousie Law School and Harvard Law School.



## Questions & Answers

### Red Hill Valley Parkway Judicial Inquiry

June 2019

The Commissioner has retained Robert Centa, Managing Partner of the law firm of Paliare Roland Rosenberg Rothstein LLP to represent him in the Commission. The Commissioner's lawyers are often referred to as "Commission Counsel".

Commission Counsel will work with the City's lawyers to collect documents and interview City employees. Commission Counsel will not communicate directly with City employees. All communication will flow through counsel to the City.

#### **Who are the City's lawyers in the Judicial Inquiry and what is their role?**

The City has retained Eli Lederman and Delna Contractor, lawyers at Lenczner Slaght LLP ("Lenczner Slaght") to represent it in the Judicial Inquiry.

The City has instructed Lenczner Slaght to fully cooperate with the Commissioner and his Counsel to ensure that they have all the information they require from the City and its employees to conduct the work of the Inquiry. Specifically, Lenczner Slaght will do the following:

- liaise with the Commissioner and his Counsel;
- speak with City employees that may have relevant information to understand their involvement in the matter;
- work with City employees to collect all relevant data (documents, emails, files, notes etc.);
- processing and reviewing the data and transferring it to Commission Counsel into the appropriate electronic format;
- accompany City employees to interview meetings with Commission Counsel; and
- represent the City during the Hearing.

#### **What can I expect going forward?**

You may be asked to speak with Lenczner Slaght and Nicole Auty, the City Solicitor to determine if you have any information that may be relevant to the Inquiry and to understand your role in the matter.

You may also receive a copy of a legal hold notice (described below) and be asked to give copies of any relevant documents you may have to Lenczner Slaght so it may be processed, reviewed and provided to Commission Counsel in the appropriate electronic format.

#### **What is a hold notice?**





## Questions & Answers

### Red Hill Valley Parkway Judicial Inquiry

June 2019

Current and former employees may receive a legal hold notice. The purpose of the hold notice is to ask the recipients of the notice to preserve any data (documents, emails, text messages etc...) that may be relevant to the Judicial Inquiry or any other legal proceeding that the City is involved in. The hold notice does not require you to take any steps to send or transmit the relevant data to anyone. It simply requires you to ensure that any data that may be important to the inquiry or the legal proceedings is not destroyed, deleted, altered or disposed of.

#### **What kind of options do I have to help with stress or for emotional support during the inquiry?**

The Employee and Family Assistance Program (EFAP) is available to all permanent full-time and part-time employees and their dependents. This free service is confidential and connects you to a variety of professionals who are available to help you 24 hours a day, 7 days a week.

Your assistance program provides short-term counselling when you need it along with health and wellness services. Learn more by visiting the Health, Safety & Wellness section on Howi , under “How can I?” Online or phone services are available 24/7. [www.homeweb.ca](http://www.homeweb.ca) or 1-800-663-1142.

#### **Participating in the judicial inquiry is going to take me away from my regular work – how will management sort out my workload and ensure business continuity?**

At this time, we anticipate some groups may require additional resources during the inquiry in order to back-fill positions for those who will be required to participate. We’re still working on a plan for this but are currently in the process of adding some additional resources in both Public Works and Legal Services. Our management teams will help staff to prioritize workloads and flag areas that require additional resources on a case-by-case basis so that all staff are able to commit the required time to participating in the inquiry as necessary.

#### **Do I have to cooperate with the Commissioner?**

The Commissioner can issue a summons compelling you to: (1) attend an interview meeting with the Commissioner under oath; (2) give the Commissioner documents in your possession; and (3) give evidence at the public hearing under oath.

A summons is a legal document that orders a person to participate in a legal proceeding in some capacity. If you fail to comply with the summons, the Commissioner can apply to the Court for an Order against you. The Court can order you to comply with the summons, pay a fine, or, in very extreme cases, order a term of imprisonment that is just in the circumstances.



## Questions & Answers

### Red Hill Valley Parkway Judicial Inquiry

June 2019

#### **Do I have to cooperate with the Commissioner if I no longer work for the City?**

Yes. The Commissioner can issue a summons to anyone that may have information or documents relevant to the issues.

#### **Who do I speak to if I have questions about the Inquiry?**

You can address any questions with respect to the judicial inquiry to the following:

- Nicole Auty, City Solicitor by email at [Nicole.Auty@hamilton.ca](mailto:Nicole.Auty@hamilton.ca) or by phone at 905.546.2424 ext. 4636; or
- Eli Lederman of Lenczner Slaght LLP, lawyers for the City by email at [elederman@litigate.com](mailto:elederman@litigate.com) or by phone at 416-865-3555.

## Appendix C

- It is not in the public interest to have open-ended funding.
- It is not in the public interest for public funds to provide individuals their lawyer of choice at that lawyer's regular hourly rate.
- The City should establish reasonable hourly rates for senior and junior counsel for the purposes of the Inquiry.
- Whatever hourly rate or scale of compensation the City selects, it should include reasonable time for preparation by counsel as well as for attendance at the hearings
- The City should either limit the number of counsel or specify the use that would be made of junior counsel.
- Counsel should be entitled to compensation for their reasonable and necessary disbursements.
- Where appropriate, disbursement rates should be set.
- Limits should be set on preparation time.
- Time spent at the hearings should be limited to a reasonable number of hours.
- Attendance of counsel at the hearings should be limited to attending when the client's interests are engaged.
- No fees incurred before the date of Council's decision to hold the Inquiry should be paid.
- No fees related to any other matters (e.g., civil litigation) should be paid.
- Counsel's accounts will be subject to assessment.
- The City Manager's decision is final.
- Any additional guidelines the City Manager deems necessary.

# CITY OF HAMILTON MOTION

General Issues Committee: October 16, 2019

**MOVED BY COUNCILLOR J. P. DANKO.....**

**SECONDED BY MAYOR / COUNCILLOR.....**

**Feasibility of a Municipal Carbon Tax to Generate Revenue from Fossil Fuel Pipelines within the Boundaries of the City of Hamilton**

WHEREAS, the City of Hamilton has declared a Climate Emergency with a mandate to achieve net zero carbon emissions before 2050;

WHEREAS, increased uncertainty, severity and frequency of extreme weather events as a result of climate change have been observed in the Hamilton area and are projected to increase in the future;

WHEREAS, climate change mitigation and adaption measures are placing a negative burden on the City’s current infrastructure budgets;

WHEREAS, investment in technology and systems that help Hamilton transition to a net zero carbon economy are necessary;

WHEREAS, the City of Hamilton has a number of fossil fuel pipelines that transport oil and natural gas within the municipal boundary; and,

WHEREAS, these fossil fuel pipelines require a number of municipal approvals and property agreements to continue operation;

**THEREFORE, BE IT RESOLVED:**

That Finance and Legal staff investigate the feasibility of a municipal carbon tax to generate revenue from fossil fuel pipelines within the boundaries of the City of Hamilton and report back to the General Issues Committee.

# CITY OF HAMILTON MOTION

General Issues Committee: October 16, 2019

**MOVED BY COUNCILLOR E. PAULS.....**

**SECONDED BY MAYOR / COUNCILLOR.....**

**Mountain News Delivery**

WHEREAS, there have been citizen complaints about newspapers and / or flyers being left at the foot of the driveway;

WHEREAS some of these newspapers and flyers have been delivered on behalf of Mountain News, a division of Metroland Media Group Ltd. (“Metroland”);

WHEREAS circumstances cannot be entirely avoided where driveway delivery by Metroland may be a necessity;

WHEREAS Metroland is willing to work towards a proactive solution to these types of resident complaints;

THEREFORE, BE IT RESOLVED:

- (a) That City staff, in conjunction with Metroland, create a link on the City's website directed to the Mountain News circulation department for residents who do not want these newspapers and/or flyer bundles to be delivered to their address; and,
- (b) That the link to Mountain News circulation department be easy to locate on the City of Hamilton's website.