



City of Hamilton
GENERAL ISSUES COMMITTEE
ADDENDUM

Meeting #: 23-032
Date: December 6, 2023
Time: 9:30 a.m.
Location: Council Chambers
Hamilton City Hall
71 Main Street West

Angela McRae, Legislative Coordinator (905) 546-2424 ext. 5987

5. COMMUNICATIONS

- *5.1 Correspondence from Shelley Falconer, President and CEO, Art Gallery of Hamilton, respecting Item 10.10 - Art Gallery of Hamilton Energy Billing Approach and Recommendations (PED23258 / PW23065)

Recommendation: Be received and referred to the consideration of Item 10.10.

6. DELEGATION REQUESTS

- *6.3 Douglas Kwan, Advocacy Centre for Tenants Ontario, respecting access to justice issues and delays at the Landlord and Tenant Board and its impact on Hamiltonians (In-Person) (For a future meeting)
- *6.4 Brian Sibley, Hamilton East Kiwanis Non-Profit Homes Inc., respecting Item 10.9 - Ontario Priorities Housing Initiative and Poverty Reduction Funding for 1540 Upper Wentworth Street (HSC22038(a)) (Ward 7) (In-Person) (For today's meeting)
- *6.5 Matt Johnston, Urban Solutions Planning & LandDevelopment Consultants Inc., respecting the Hamilton Tax Increment Grant Program in relation to 75 James Street South, Hamilton (In-Person) (For a future meeting)
- *6.6 Glen Norton, Music Hall Alliance / New Vision Church, respecting an overview for plans for the Music Hall at New Vision Church (In-Person) (For a future meeting)

7. DELEGATIONS

Members of the public can contact the Clerk's Office to acquire the documents considered at this meeting, in an alternate format.

- 7.2 Douglas Mattina, Kemp Care Network (formerly Dr. Bob Kemp Hospice), respecting next steps towards acquisition of the land (sale or lease) at 41 South St. W. (In-Person) (Approved November 15, 2023)

*a. WITHDRAWN

9. CONSENT ITEMS

- 9.1 Reaching Home: Canada's Homeless Strategy Community Homelessness Report 2022-23 (HSC21044(a)) (City Wide)

*a. Revised Appendix "B" - Reaching Home: Canada's Homeless Strategy Community Homelessness Report 2022-23 (HSC21044(a)) (City Wide)

10. DISCUSSION ITEMS

- *10.11 Advisory Committee for Persons with Disabilities (ACPD) Report 23-011 - November 14, 2023
- *10.12 Family Shelter System (HSC23041(b)) (City Wide)
- *10.13 Interview Sub-Committee to the General Issues Committee Report 23-005 - December 1, 2023
- *10.14 2024 Property & Liability Insurance Renewal (LS23041) (City Wide)
- *10.15 Red Hill Valley Parkway Inquiry Final Report (PW23029(a)) (City Wide)

12. NOTICES OF MOTION

- *12.1 Stormwater Funding Review (City Wide)

14. PRIVATE AND CONFIDENTIAL

- *14.3 Appointments to the Climate Change Advisory Committee for the 2022 - 2026 Council Term

Pursuant to Section 9.3 sub-section (b) of the City's Procedural By-law 21-021, as amended, and Section 239(2) sub-section (b) of the *Ontario Municipal Act, 2001*, as amended, as the subject matters pertain to personal matters about identifiable individuals, including municipal or local board employees.



Art Gallery
of Hamilton

123 King Street West
Hamilton, Ontario, Canada, L8P 4S8
905.527.6610

www.artgalleryofhamilton.com

December 1, 2023

Chair and Members
General Issues Committee
City of Hamilton

Dear Chair and Members,

The Art Gallery of Hamilton supports the attached Energy Billing Approach and Recommendations Report which addresses the immediate financial pressures faced by the Gallery regarding outstanding 2022 and 2023 energy charges, including recommended measures to mitigate these pressures.

As per Council's September 20th motion that *City Staff be directed to work with the Art Gallery of Hamilton to review the AGH's partnership and funding model, based on the unique relationship to the City, in regards to the collection, the land, and the building and that City Staff be directed to join in the advocacy to other levels of government to support the Gallery's future vision*, we look forward to the ongoing discussions and development of a new partnership agreement between the City and the Gallery. An agreement which, among other issues, will also address energy billings for 2024 and beyond, with a subsequent report to Council in mid-2024.

Should Council or staff require any additional information, the Gallery will be pleased to accommodate any further questions or concerns. Thank you to Council and staff for your ongoing collaboration and support.

Sincerely,

Shelley Falconer
President and CEO
Art Gallery of Hamilton

Submitted on Wed, 11/29/2023 - 17:25

Submitted by: Anonymous

Submitted values are:

Committee Requested

Committee
General Issues Committee

Will you be delegating in-person or virtually?

In-person

Will you be delegating via a pre-recorded video?

No

Requestor Information

Requestor Information
Douglas Kwan
Advocacy Centre for Tenants Ontario
Suite 1500
55 University Avenue
Toronto, Ontario. M5J 2H7
douglas.kwan@acto.clcj.ca
416-597-5855, ext. 5163

Preferred Pronoun

he/him

Reason(s) for delegation request

Highlighting the access to justice issues and delays at the Landlord and Tenant Board and its impact on Hamiltonians. It has been three years since the Board chose to remove all in person services and dedicate itself permanently to a remote service model. This has led to disastrous effect with the Ombudsman of Ontario reporting on it.

<https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/reports-on-investigations/2023/administrative-justice-delayed,-fairness-denied>

We will be joined by community organizers asking Council to write a letter to the Province and the Board for changes that will improve its processes.

Will you be requesting funds from the City?

No

Will you be submitting a formal presentation?

Yes

Municipality of Chatham-Kent
Health and Human Services
Employment and Social Services

To: Mayor and Members of Council
From: Polly Smith, Director, Employment and Social Services
Date: October 24, 2023
Subject: Changes to the Landlord Tenant Board Tribunal System

Recommendation

It is recommended that:

1. A letter be sent to local MPPs, the executive chair of Tribunals Ontario, the Attorney General, the Minister of Municipal Affairs and Housing, the Premier of Ontario, and copied to all municipalities in Ontario requesting that the Government of Ontario immediately move forward on the 61 recommendations of the “Administrative Justice Delayed, Fairness Denied” Ombudsman’s Report to help preserve tenancies, affordable units, and the safety and security of both landlords and tenants in Chatham-Kent.

Background

On July 10, 2023, the Director of Housing Services Operations provided an update to Council on the state of homelessness in Chatham-Kent. This update painted a rather sobering picture of the challenges of ending homelessness, including the likelihood that homelessness will continue to increase in the near future. Federal, provincial, and local data shows that it is vital to increase affordable housing stock to reduce homelessness in Canada; Chatham-Kent is actively working to meet this need.

The only thing that most people experiencing homelessness have in common is the lack of access to affordable rental housing. The amount of people newly entering homelessness is increasing due to this and other upstream issues. In all situations, there is a need for additional affordable housing. Chatham-Kent cannot be a “Housing First” community without more available affordable housing.

However, there are other actions municipalities can take beyond building housing that will help preserve housing affordability in the community. There are still many privately owned units in Chatham-Kent that have affordable rents due to long-term tenancy and remaining legislated rent controls. These tenancies should be preserved whenever possible.

As noted at the Association of Municipalities of Ontario (AMO) Symposium on Homelessness, municipalities can support the preservation of lower cost housing and add affordable housing stock in their communities by taking steps like:

- Advocating to upper levels of government (i.e.: MPs, MPPs, AMO and OMSSA) for legislation that protects tenants, incentivizing or maintaining affordable housing, and increasing incomes of low income citizens.
- Creating public awareness campaigns to build community support, address NIMBYism, and involving the private sector and non-traditional partners like CK Cares and community forums.
- Offering supports to affordable housing providers after “end of mortgage agreements” to avoid losing more units.

Outside of social housing, tenants evicted from an affordable unit are replaced with a tenant who can pay a higher rent. This means that lower cost unit is lost to market rent forever. There are times when evictions are warranted or even desperately needed for the safety and well-being of others. However, especially in today’s market, there are also times when tenants lose their homes wrongfully and then are unable to find new affordable accommodations. Renovictions and “new owner move-in’s” are increasing; many are not legitimate and are contributing to the homelessness crisis. The Landlord and Tenant Board tribunal is where these kinds of issues, among others, are meant to be resolved to ensure housing is upheld as a human right, and that the rights of both landlords and tenants are upheld under the Residential Tenancies Act.

During the pandemic the provincial government changed the way that the Landlord and Tenant Board operates, moving to a primarily virtual/online system. Shortly after implementation, this system was made permanent and the former system was dismantled. Legal Clinics and tenant advocacy groups have been following this change and have expressed serious concerns about the equity and efficiency of the new system, as does the Ontario Ombudsman.

The Ontario Ombudsman released a report called “Administrative Justice Delayed, Fairness Denied”, outlining 61 recommendations calling for an overhaul of the system and legislative change after receiving more than 4000 complaints, 90% of those from landlords. [Administrative Justice Delayed, Fairness Denied - Ontario Ombudsman.](#)

Comments

Many low-income residents and seniors in Chatham-Kent are part of the ‘digital divide’. This means they may have less access to digital technology like computers, internet, virtual meeting software, and smartphones. Even with technology these individuals may lack the capacity to properly put forward their position before the Landlord and Tenant Board of Ontario (LTB).

This virtual model is more often adversely affecting tenants. It has been found that landlords are more likely to participate in these hearings by video than tenants, putting tenants in a disadvantage at their hearing. Tenants now have to file electronically

without any local support from the LTB and wait for seven months to two years to have their applications heard. Tenants cannot easily obtain the relevant documents for their hearing because documents are stored electronically and are not easily made available on the day of the hearing. Tenants receive less support from the Chatham-Kent Legal Clinic whose staff are serving numerous residents in multiple hearing blocks that now occur at the same time.

The new tribunal system is primarily online and has gone from three in-person hearing blocks per month that were dedicated to serving Chatham-Kent residents, to 30 to 40 virtual hearing blocks per day hearing applications from across the province. Regional offices are one to two hours away and are not open to the public. Wait times have significantly increased and the new system has created multiple barriers to access for Chatham-Kent residents.

Wait times were noted as a significant problem for landlords in the article “Landlords aren’t being paid. Tenants are feeling squeezed. And the system that’s supposed to help is broken”, of September 2023 by CBC News Toronto, where they outlined the story of a “small” landlord who owns one rental condo and was owed \$34,000 in rent arrears by his tenant. The owner purchased this unit several years ago to prepare for retirement and this delay has put him in crisis. CBC called the current state of affairs in the tribunal a crisis as well. [Landlords aren't being paid. Tenants are feeling squeezed. And the system that's supposed to help is broken | CBC News](#)

The Municipality had awareness of the backlog through the pandemic as Chatham-Kent is a landlord and a service manager for the partners in social housing, the private non-profits housing providers. Backlogs in the LTB tribunal system seem to have contributed to landlords being less likely to ‘take a chance’ on someone who has had any kind of rental difficulties in the past. It has taken up to two years to evict some tenants who were deemed dangerous. Community partners have experienced similar issues. At the same time in housing placement programming, potentially good tenants are being denied units because the risk to the landlord is too high with the longer tribunal wait times.

Chatham-Kent was further informed about the issues and potential solutions in June of this year at the OMSSA Leader’s meeting where 47 service managers heard from the Advocacy Centre for Tenants Ontario’s (ACTO) Director of Advocacy and Legal Services about these challenges.

ACTO is a specialty legal clinic with a provincial mandate to advance and protect the interests of low-income tenants. ACTO also provides legal information and assistance to self-represented tenants appearing at the LTB through the Tenant Duty Counsel Program (TDCP).

Employment and Social Services staff noted these challenges within the homelessness prevention program and have been spending additional hours trying to support clients to be able to participate in their hearings. Landlords have called the administrator of Employment and Social Services complaining about having to wait for nine or more

months before going to the LTB over unpaid rent, losing thousands of dollars. There was hope that these challenges would be resolved post-pandemic but it has become clear that the new virtual model is not temporary and it appears inefficiencies remain.

Highlights from the Ombudsman's Report

The Ombudsman's report was released on May 4, 2023. The investigation began in January 2020, when delays at the LTB were seven weeks for landlords to have their applications heard and eight weeks for tenants. When the report was released, those delays increased to six to nine months for landlord applications and up to two years for tenant applications. The report consisted of 97 pages with 61 recommendations that were accepted by the Ministry of the Attorney General, the LTB, and Tribunals Ontario who are responsible for the LTB and the cluster of provincial tribunals. In response, the government then announced 6.5 million dollars to add 40 adjudicators and five board staff. In 2020 there was a backlog of 20,000, and in May of 2023 the backlog increased to 38,000.

The Ombudsman's report noted that service standards were not being met. For example, entering applications into the system was supposed to be completed within three days of receipt but was taking three months. Hearings for evictions and rent collection were supposed to be held within 25 days but were not being held for more than 66 days. Proceedings in French had longer delays and forms only identify the applicants, not the respondents, who require services in French.

The following areas were identified by the Ombudsman for improvement:

- Member recruitment and appointments
- Application screening
- Hearing scheduling and case triaging
- Managing adjournments
- Identification and processing of urgent cases
- Tracking of the expiration of member terms
- Order issuance
- Monitoring of outstanding orders and mediations
- Identification and processing of cases requiring French language services

The report outlines numerous stories of tenants and landlords suffering under the current system failures. A few of the examples provided:

- A couple living on disability support sought compensation from their landlord in March 2020 for water damage to their belongings. They did not get a hearing until December 2021. **(Paragraph 36)**
- A tenant who had health issues due to her landlord's harassment and unkempt property applied for a hearing in December 2020. She moved out in May 2021. Her hearing was set for January 2022, then moved to April 2022. **(Paragraph 37)**

- A tenant who complained of criminal harassment by her landlord in September 2020 was denied an expedited hearing. The hearing was set for November 2021, then adjourned to February 2022. **(Paragraph 39)**
- A 74-year-old landlord applied in December 2019 to evict a tenant who assaulted him and damaged property; an order wasn't issued until January 2021. **(Paragraph 41)**
- A 78-year-old woman who depended on income from a rental unit to pay for a personal support worker for her 90-year-old husband applied to evict an abusive and non-paying tenant in March 2020. She became depressed and suicidal after waiting more than six months to hear from the Board. **(Paragraph 44)**
- Two tenants on disability support who are legally blind and suffered in an unsafe, vermin-infested apartment for years sought an expedited hearing in November 2020. They were denied and told they filed the wrong form. They had moved before the matter was finally heard in June 2021. **(Paragraphs 157-160)**

Before the LTB proceeded with its virtual model, the former system provided mediators at every sitting, adjudicators were able to hear both tenant and landlord cases (which was particularly helpful when disputes regarding the same address were brought forward to the Board), and some locations offered municipally-resourced eviction prevention services on site. In Chatham-Kent residents and landlords knew these sessions and services took place at the WISH Centre three times a month. If someone needed assistance filing, they could receive that help in person. Vulnerable people living throughout Chatham-Kent could be provided with affordable transportation options through the Municipality or local service providers. The services and supports through the process were well-used and consistent.

The Chatham-Kent Legal Clinic (CKLC) staff and others have noted that the new system was intended to be more modern and efficient but instead has caused fewer tenants to attend their hearings and fewer tenants being able to participate due to the digital divide. CKLC staff have reported multiple Chatham-Kent cases being heard at the same time and having to jump between hearing blocks to try to support residents. The stress to overcome the digital divide is often too much to bear with tenants giving up before their case is even reviewed. This leaves tenants at a disadvantage and increases the number of lost tenancies that otherwise would have been maintained when the LTB provided regional in-person services. Again, each time an affordable unit is lost, the household is displaced and the affordable unit is lost to market rent forever.

Douglas Kwan, Director of Advocacy Centre for Tenants Ontario, will present the challenges with the current system as well as potential solutions. It is these solutions that are the focus of a proposed letter (Appendix A) from the Mayor and Council of Chatham-Kent, with the goal to promote changes providing a better system for all and preventing unfair evictions that could lead to homelessness.

While the province has taken some steps to improve efficiencies and fairness at the LTB, there appears to be much more to be done to achieve their mandate to provide “fair, accessible dispute resolution to thousands of Ontarians”.

Areas of Strategic Focus

This report supports the following areas of strategic focus:

			
Deliver Excellent Service	Promote Safety & Well-Being	Grow Our Community	Ensure Environmental Sustainability
	2A		

Consultation

The Director of Legal Services was consulted on this report. As well the Director of Advocacy Centre for Tenants Ontario and the Executive Director of The Chatham-Kent Legal Clinic were consulted in the preparation of this report.

Communication

The Chatham-Kent Communications Team will create awareness of the issues as well as the supports and services available now for tenants and landlords as part of the CK Cares public awareness campaign.

Diversity, Equity, Inclusion and Justice (DEIJ)

A fair and accessible landlord and tenant board system is essential to maintaining equity to justice in the residential tenancies act. This report and recommendation is very much about DEIJ for Chatham-Kent area residents for the following reasons:

- Lower income, rural, and First Nations households have less access to high-speed internet to participate in virtual meetings.
- Fewer tenants than landlords have access to video technology and have to participate by phone.
- Hearing adjournments are being denied even for French language needs.
- Access and affordability of transportation for in-person supports at regional offices for lower income residents, for example there is no bus to get from Wheatley to London.
- There is a lack of bilingual adjudicators.

Financial Implications

There are no financial implications resulting from the recommendations.

Prepared by: Polly Smith, B.A. Dipl. MM, Director, Employment and Social Services

Reviewed by: April Rietdyk, RN, BScN, MHS, PHD PUBH, General Manager, Health and Human Services

Consulted and confirmed the content of the consultation section of the report by:

Dave Taylor, Director, Legal Services

Attachments: Appendix A (letter)

c. Dave Taylor, Director, Legal Services

Submitted on Thu, 11/30/2023 - 10:41

Submitted by: Anonymous

Submitted values are:

Committee Requested

Committee
General Issues Committee

Will you be delegating in-person or virtually?
In-person

Will you be delegating via a pre-recorded video?
No

Requestor Information

Requestor Information
Brian Sibley
Hamilton East Kiwanis Non-Profit Homes Inc.
281 Queenston Road
Hamilton, Ontario. L8K 1G9
brian.sibley@kiwanishomes.ca
905-545-4654

Preferred Pronoun
he/him

Reason(s) for delegation request
I wish to delegate at the December 6, 2023, General Issues Committee in support of the Ontario Priorities Housing Initiative and Poverty Reduction Funding for 1540 Upper Wentworth Street (HSC22038(a)) (Ward 7)

Will you be requesting funds from the City?
No

Will you be submitting a formal presentation?
Yes



Presentation regarding:

The Ontario Priorities
Housing Initiative and
Poverty Reduction
Funding for 1540 Upper
Wentworth Street
(HSC22038(a)) (Ward 7)

December 6, 2023



Completed New Construction: Jack MacDonald Apartments (Ward 3)

60-unit mid-rise apartment building

32 units of deeply affordable rents

Completed September 2022

100% non-market rents



Affordable Home Ownership (Wards 1, 2, 3 & 4)

Program to assist first-time homebuyers to purchase a single-family dwelling

Commenced fall 2023

Partnership of:

- ▶ City of Hamilton
- ▶ Hamilton Community Foundation
- ▶ Kiwanis Homes



1880 MAIN STREET WEST (WARD 1)



Acquired February 2023

50 units

3 units are deeply
affordable

100% non-market rents



IN DEVELOPMENT:

1362 TO 1368 BARTON
STREET EAST

(WARD 4)

Intensification of existing
property

60 units

Focused on seniors' and
veterans housing

100% non-market rents

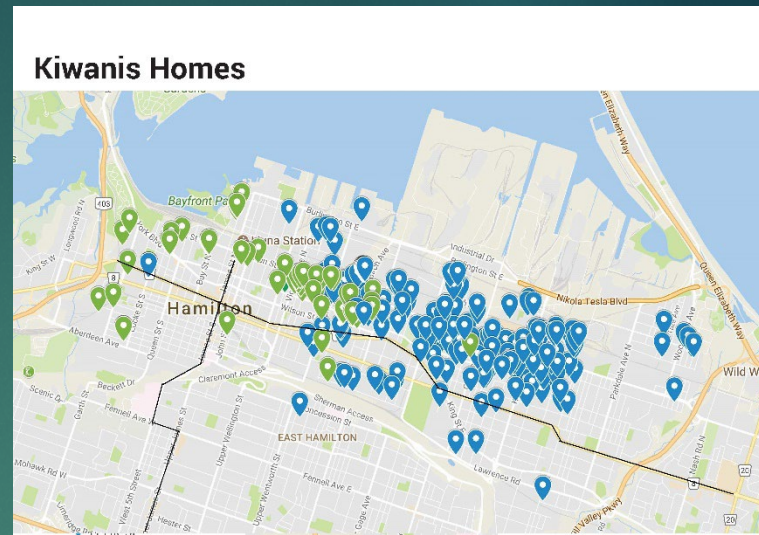


NORTH-WEST VIEW



NORTH-EAST VIEW

IN DEVELOPMENT: TRANSIT ORIENTED SMALL LOT DEVELOPMENT (WARDS 1, 2, 3, 4 & 5)

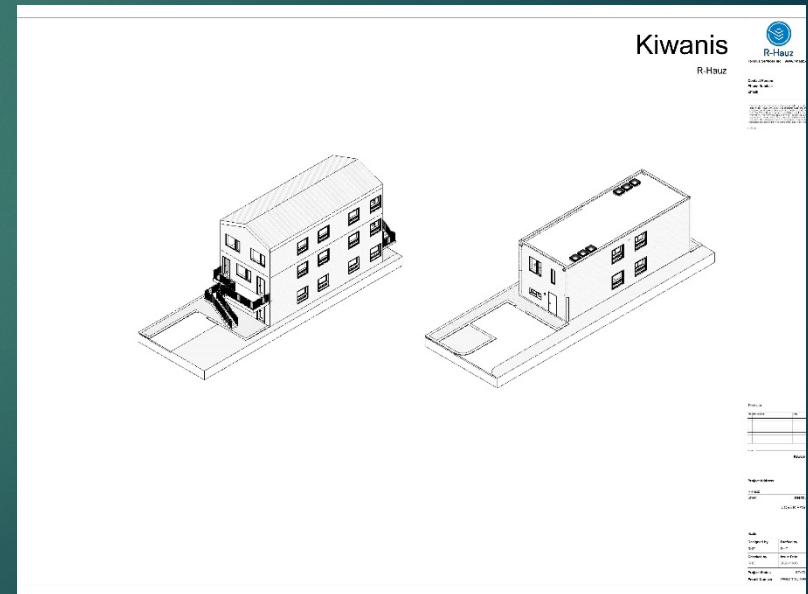


Intensification of existing properties

64 to 100 units

Focused on family housing

100% non-market rents



IN DEVELOPMENT

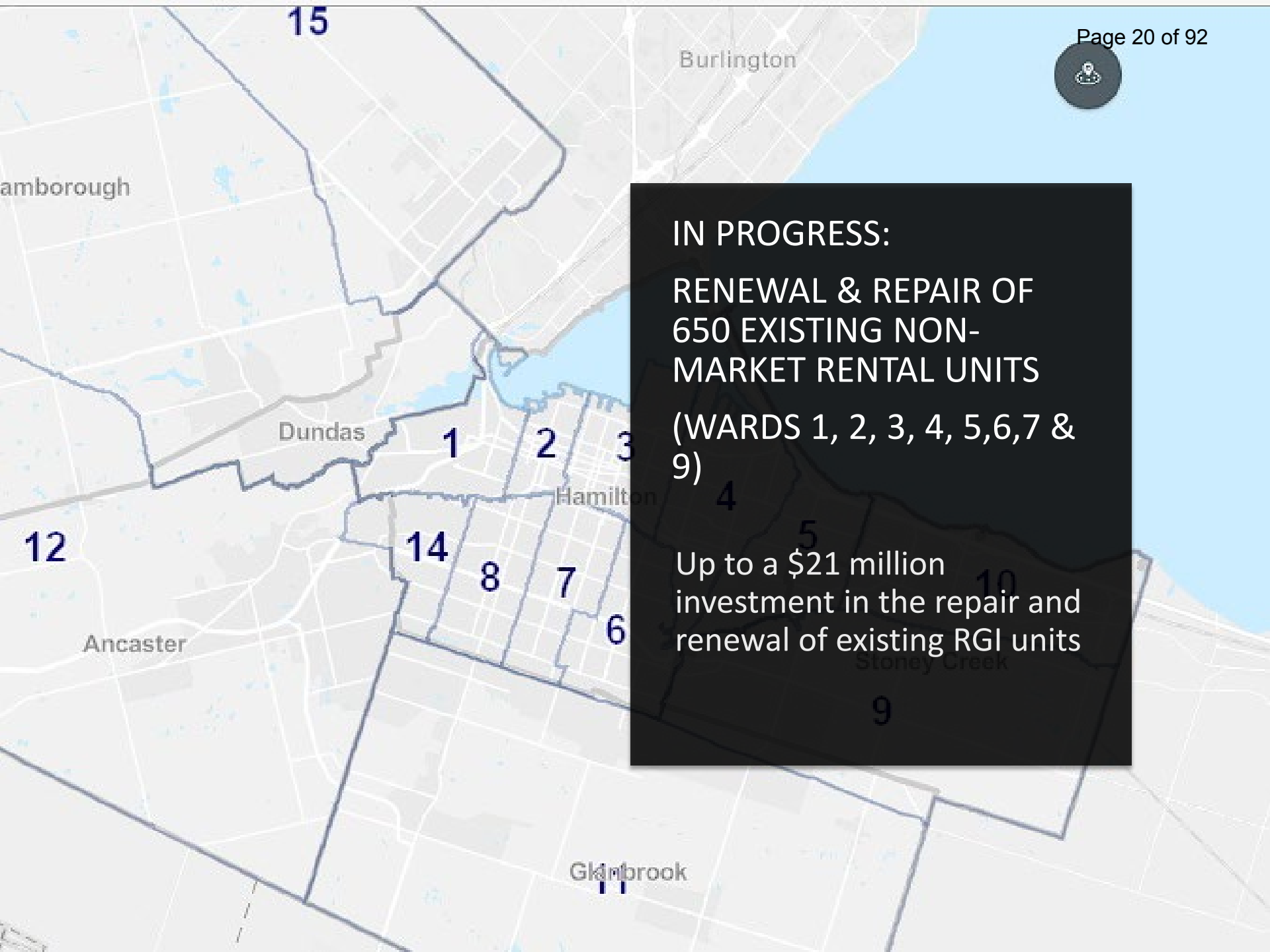
Caledon Community Collaborative (Ward 8)

261 units

Partnership with Victoria Park Community Homes Inc.

100% non-market rents





IN PROGRESS:

**RENEWAL & REPAIR OF
650 EXISTING NON-
MARKET RENTAL UNITS**

**(WARDS 1, 2, 3, 4, 5, 6, 7 &
9)**

**Up to a \$21 million
investment in the repair and
renewal of existing RGI units**

1540 Upper Wentworth Street (Ward 7)

126-unit, mid-rise
apartment building

51 units deeply
affordable

100% non-market rents



east

1540 Upper Wentworth St. Hamilton

Community Benefits



The project represents 36% of the City's annual affordable housing target of 350 units.



The project represents an investment in our community of \$55 to 60 million.



The project will have investment from all levels of government.



The single largest investor is Kiwanis Homes, with an investment of over 65% in equity and mortgage.



There will be a concurrent project to renew and repair the existing 70 on-site units.

Submitted on Mon, 12/04/2023 - 11:57

Submitted by: Anonymous

Submitted values are:

Committee Requested

Committee
General Issues Committee

Will you be delegating in-person or virtually?
In-person

Will you be delegating via a pre-recorded video?
No

Requestor Information

Requestor Information
Matt Johnston
Urban Solutions Planning & Land Development Consultants Inc.
3 Studebaker Place, Unit 1
Hamilton, Ontario. L8L 0C8
mjohnston@urbansolutions.info
9055461087

Reason(s) for delegation request
To address Committee in relation to the Hamilton Tax Increment Grant Program in relation to 75 James Street South, Hamilton, for a future GIC agenda.

Will you be requesting funds from the City?
No

Will you be submitting a formal presentation?
No

Submitted on Mon, 12/04/2023 - 13:37

Submitted by: Anonymous

Submitted values are:

Committee Requested

Committee
General Issues Committee

Will you be delegating in-person or virtually?
In-person

Will you be delegating via a pre-recorded video?
No

Requestor Information

Requestor Information
Glen Norton
Music Hall Alliance / New Vision Church

Preferred Pronoun
he/him

Reason(s) for delegation request
To provide an update and overview for plans for the Music Hall at New Vision Church

Will you be requesting funds from the City?
Yes

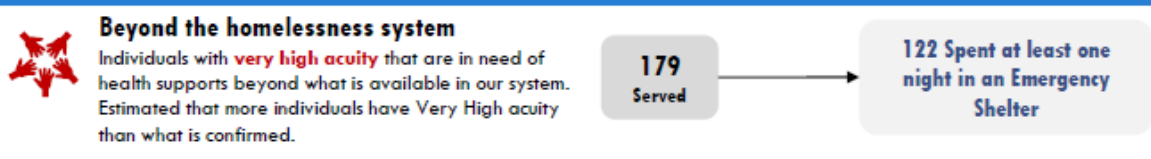
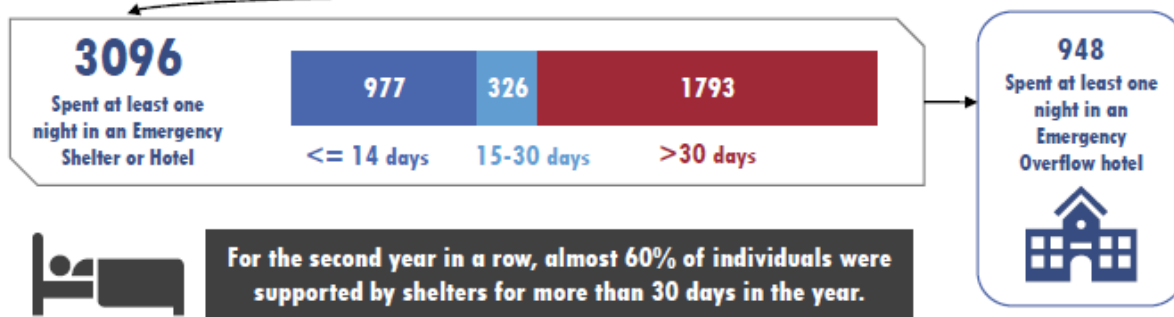
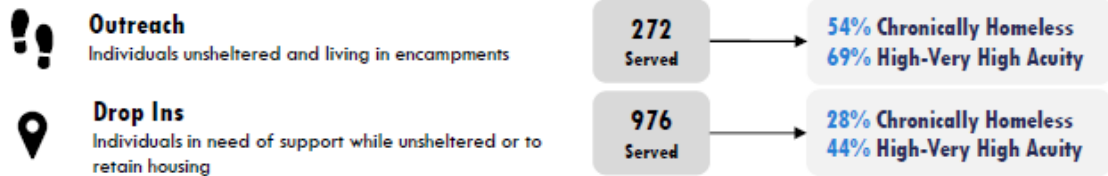
Will you be submitting a formal presentation?
Yes

Overview of Funded Homelessness Support Programs

Prevention Programs couple financial support (rent and utility arrears, etc.) with case management to achieve housing stabilization for those at imminent risk for homelessness.	Diversion Concentrates efforts in ensuring alternative arrangements are fully explored and supported where needed.	Outreach/Drop-ins Provide services to meet basic needs and connect to additional housing resources and supports	Emergency Shelters Housing-focused sheltering services include diversion, early intervention, intake and assessment, case management, a bed, and meals.	Transitional Housing Provides place-based time-limited support designed to move individuals to independent living or permanent housing. The length of stay is typically less than one year.	Rapid Rehousing (RRH) Provides targeted, time-limited financial assistance and support services to help people quickly exit emergency response services and retain housing.	Intensive Case Management (ICM) Longer-term case management and housing support to higher acuity participants facing long-term homelessness (chronic homelessness), addictions, mental health. The length of the intervention is generally between 12 and 24 months.
<p>Rent Ready/Housing Stability Benefit</p> <ul style="list-style-type: none"> Financial assistance to help cover costs of first and last month's rent, arrears, moving Open to all populations, includes Indigenous stream <p>Good Shepherd, Housing First Staying Home</p> <ul style="list-style-type: none"> Youth, single women, and families Financial assistance (i.e. rent arrears, utility arrears, moving costs) Brief case management (three months) to stabilize or locate housing <p>St. Matthew's House, Housing Outreach Prevention Eviction for Seniors (HOPES)</p> <ul style="list-style-type: none"> Case management supports to maintain or obtain housing Support to obtain financial supports where appropriate Advocacy and referrals to community resources <p>Housing Help Centre</p> <ul style="list-style-type: none"> All populations Short-term support to stabilize or locate housing Advocacy and referrals to community resources Administration of Municipal Housing Allowances 	<p>Shelter-based Diversion (all shelters)</p> <ul style="list-style-type: none"> Support households with finding appropriate alternatives to shelter Flex funds to maintain or acquire stable housing <p>Community Youth Housing Project Diversion</p> <ul style="list-style-type: none"> Divert youth 16-24 to appropriate housing Assessments available 24/7 Flex funds available to support placement in or access to housing <p>Early Intervention – Good Shepherd Men's Centre, Mission Services' Men's, Salvation Army</p> <ul style="list-style-type: none"> 14 days of intensive case management at the onset of shelter stay to quickly resolve homelessness <p>Target: 30% of people seeking shelter spaces are diverted to safe alternative housing</p>	<p>City of Hamilton Housing Services, Housing Focused Street Outreach</p> <ul style="list-style-type: none"> Daily 7am-7pm <p>Hamilton Regional Indian Centre, Indigenous Drop-in</p> <ul style="list-style-type: none"> M-F 8:30-6:30 <p>Living Rock Youth Drop-in (youth 13-25)</p> <ul style="list-style-type: none"> Daily 1-5pm <p>Mission Services, Willow's Place (women)</p> <ul style="list-style-type: none"> Daily drop-in 9am-8:30 pm <p>Wesley Day Centre (Closing Mar' 03)</p> <ul style="list-style-type: none"> M-F 8:30-4:30pm <p>YWCA, Carol Anne's Place (women)</p> <ul style="list-style-type: none"> Overnight Drop-in for women Daily 10pm-1pm (winter 6pm-1pm) <p>Winter Response: The Hub</p> <ul style="list-style-type: none"> Daily from 5 pm to 9 pm 	<p>Shelter System Total Beds: 408 (+112 beds in four Violence Against Women Shelters, not City-funded + temporary hotel overflow)</p> <p>Good Shepherd Men's Centre & West Ave (54 beds)</p> <p>Mission Services Men Centre (58 beds)</p> <p>Salvation Army Booth Centre (86 beds)</p> <p>Men's Total Beds: 198</p> <p>Good Shepherd Mary's Place (25 beds)</p> <p>St Joseph's Womankind (6 beds)</p> <p>Mission Services Emma's Place (15 beds)</p> <p>Cathedral Temporary to Mar '23 (63 beds)</p> <p>Women's Total Beds: 104</p> <p>Good Shepherd Family Centre (80 beds, 20 rooms)</p> <p>Family Beds: 80</p> <p>Good Shepherd Notre Dame House (21 beds)</p> <p>Youth Total Beds: 21</p> <p>Temporary Hotel Overflow: 30 rooms for families</p>	<p>YWCA Transitional Living Program</p> <ul style="list-style-type: none"> 65 transitional beds for women and people who are gender non-binary Duration up to one year Case management supports (e.g. skill building, safety planning) <p>Wesley Urban Ministries, Wesley Youth Housing</p> <ul style="list-style-type: none"> 15 placements with 24/7 staffing support Provide youth aged 16-21 temporary housing (up to 24 months) Assist clients in obtaining permanent housing placements 	<p>Mission Services, Housing UP Rapid Rehousing</p> <ul style="list-style-type: none"> Mobile case managers support document readiness Case management supports include one monthly in-home meeting Housing stabilization support up to nine months <p>Good Shepherd, Rapid Rehousing Program</p> <ul style="list-style-type: none"> Women and families Team structured to ensure no service interruption in the absence of an assigned case manager Supports provided up to six months after housing achieved 	<p>Hamilton Regional Indian Centre, Indigenous Housing Services</p> <ul style="list-style-type: none"> Supports Indigenous People experiencing homelessness to move into permanent housing Facilitates services and supports that promote housing stability. <p>Includes Indigenous drop-in, outreach, and shelter intervention as well as case management for people newly and chronically homeless</p> <p>Good Shepherd Housing First Intensive Case Management Program</p> <ul style="list-style-type: none"> Includes women (previously the SOS program), youth (previously Housing First for Youth), and families under one ICM program Support housing stabilization within 18-24 months <p>Mission Services Housing UP ICM</p> <ul style="list-style-type: none"> ICM support to men to move into housing Support housing stabilization within 18-24 months <p>Wesley Urban Ministries Wesley Hamilton Housing Services Intensive Case Management Housing</p> <ul style="list-style-type: none"> ICM support to men to move into housing Support housing stabilization for average of 18 months
<p>Prevention Target: 1777 clients stabilized into permanent housing situation</p>			<p>ICM, RRH, Transitional Housing Targets: 630 individuals + 121 families</p>			

Roadmap of Services Provided in the Homelessness Service Sector in Hamilton 2022

4037 Individuals accessed services in the homeless-serving system.
26% Chronically Homeless. **27%** High or Very High Acuity. **715** Housed as of Dec 31.





Hamilton

**ADVISORY COMMITTEE FOR PERSONS WITH
DISABILITIES
REPORT 23-011**

4:00 p.m.

Tuesday, November 14, 2023
Room 264, 2nd Floor Hamilton City Hall
71 Main Street West

Present: Councillor M. Tadeson, J. Kemp (Chair),
P. Kilburn (Vice Chair), M. Dent,
L. Dingman, A. Frisina, L. Janosi, T. Murphy,
K. Nolan and T. Nolan

Absent

with Regrets: P. Cameron, J. Cardno, M. McNeil and
R. Semkow

**THE ADVISORY COMMITTEE FOR PERSONS WITH
DISABILITIES PRESENTS REPORT 23-011 AND
RESPECTFULLY RECOMMENDS:**

- 1. APPOINTMENT OF COMMITTEE CHAIR AND VICE
CHAIR (Item 1)**

- (a) That James Kemp be appointed as Chair of the Advisory Committee for Persons with Disabilities for the remainder of 2023 and 2024, or until the new membership is appointed by Council.
- (b) That Paula Kilburn be appointed as Vice Chair of the Advisory Committee for Persons with Disabilities for the remainder of 2023 and 2024, or until the new membership is appointed by Council.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

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

14. GENERAL INFORMATION / OTHER BUSINESS

- 14.1 Introduction of the General Manager of Public Works – **WITHDRAWN**

CHANGES TO THE ORDER OF ITEMS:

- 14.2 Councillor Kroetsch respecting a Motion to Change the Name of the Advisory Committee for Persons with Disabilities - ***To be considered immediately following Item 4.1, Approval of the Minutes of the Previous Meeting.***

The Agenda for the November 14, meeting of the Advisory Committee for Persons with Disabilities, was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

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

(i) October 10, 2023 (Item 4.1)

The October 10, 2023, minutes of the Advisory Committee for Persons with Disabilities meeting, were approved, as presented.

(d) GENERAL INFORMATION / OTHER BUSINESS (Item 14)

(i) Councillor Kroetsch respecting a Motion to Change the Name of the Advisory Committee for Persons with Disabilities (Item 14.2)

Councillor Kroetsch was in attendance to update the Committee respecting his intention to introduce a motion to change of the Advisory Committee for Persons with Disabilities to reflect that it is a Sub-Committee.

The update from Councillor Kroetsch respecting a Motion to Change the Name of the Advisory Committee for Persons with Disabilities, was received.

(e) STAFF PRESENTATIONS (Item 8)

(i) HSR Fare Assist Program (Item 8.1)

Nancy Purser, Manager, Transit Support Services, provided the Committee with a presentation respecting the HSR Fare Assist Program, with the aid of a PowerPoint presentation.

The presentation Nancy Purser, Manager, Transit Support Services respecting the HSR Fare Assist Program, was received.

(ii) Safety Concerns respecting City Hall Stairs (Item 8.2)

Melissa McGinnis, Facilities Accessibility and Compliance Coordinator, provided the Committee a presentation respecting Safety Concerns respecting City Hall Stairs, with the aid of a PowerPoint presentation.

The presentation from Melissa McGinnis, Facilities Accessibility and Compliance Coordinator respecting Safety Concerns respecting City Hall Stairs, was received.

(f) CONSENT ITEMS (Item 9)

(i) Housing Issues Working Group (Item 9.2)

L. Dingman provided a verbal update respecting Residential Care Facilities.

(ii) Accessible Open Spaces and Parklands Working Group Update (Item 9.6)

T. Nolan provided a verbal update respecting the Accessible Open Spaces and Parklands Working Group.

The following Consent Items, were received:

(a) Housing Issues Working Group Update (Item 9.2)

(i) Housing Issues Working Group Meeting Notes – September 19, 2023 (Item 9.2(a))

(ii) Housing Issues Working Group Meeting Notes – October 17, 2023 (Item 9.2(b))

(iii) Housing Issues Working Group – Final Outstanding Business List – November 2023 (Item 9.2(c))

(b) Outreach Working Group Update (Item 9.3)

(i) Outreach Working Group Meetings Notes –

September 19, 2023 (Item 9.3(a))

(ii) Outreach Working Group Meetings Notes –
October 17, 2023 (Item 9.3(b))

(iii) Outreach Working Group – Final Outstanding
Business List – November 2023 (Item 9.3(c))

(c) Accessible Open Spaces and Parkland Working
Group Update (Item 9.6)

(g) DISCUSSION ITEMS (Item 11)

**(i) Advisory Committee for Persons with
Disabilities 2024 Budget Submission (Item 11.1)**

(1) That the Advisory Committee for Persons with
Disabilities base budget submission, in the
amount of \$23,172 be approved and referred
to the 2024 budget process for consideration.

J. Kemp relinquished the Chair to P. Kilburn.

(2) The Advisory Committee for Persons with
Disabilities 2024 Budget Submission was
deferred until the December 10, 2023, meeting
of the Advisory Committee for Persons with
Disabilities.

(h) MOTIONS (Item 12)

(i) Correspondence to City Council respecting the HSR Fare Assist Program and the Cancellation of the Temporary No Pay Program and the Temporary Voluntary Pay Program (Item 12.1)

- (1)** WHEREAS, the Advisory Committee for Persons with Disabilities has significant concerns regarding the cancellation of the Temporary No Pay Program and the Temporary Voluntary Pay Program without first addressing several insufficiencies with the current bus design and fare payment options; and

WHEREAS, the Advisory Committee for Persons with Disabilities has prepared correspondence to City Council regarding the HSR Fare Assist Program as well as the cancellation of the Temporary No Pay Program and the Temporary Voluntary Pay Program.

THEREFORE BE IT RESOLVED:

That the Advisory Committee for Persons with Disabilities approve the correspondence respecting the HSR Fare Assist Program and the Cancellation of the Temporary No Pay Program and the Temporary Voluntary Pay

Program attached as Appendix “A”, for submission to Council.

- (2) The motion respecting Correspondence to City Council respecting the HSR Fare Assist Program and the Cancellation of the Temporary No Pay Program and the Temporary Voluntary Pay Program, was deferred until the December 10, 2023, meeting of the Advisory Committee for Persons with Disabilities.

J. Kemp assumed the Chair.

(i) ADJOURNMENT (Item 16)

There being no further business, the Advisory Committee for Persons with Disabilities, adjourned at 6:06 p.m.

Respectfully submitted,

James Kemp, Chair
Advisory Committee for
Persons with Disabilities

Carrie McIntosh
Legislative Coordinator
Office of the City Clerk



CITY OF HAMILTON
Healthy and Safe Communities Department
Housing Services Division

TO:	Chair and Members General Issues Committee
COMMITTEE DATE:	December 6, 2023
SUBJECT/REPORT NO:	Family Shelter System (HSC23041(b)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Vanessa Parlette (905) 546-2424 Ext. 3863 Rob Mastroianni (905) 546-2424 Ext. 8035
SUBMITTED BY:	Michelle Baird Director, Housing Services Division Healthy and Safe Communities Department
SIGNATURE:	<i>Michelle Baird</i>

RECOMMENDATIONS

- (a) That up to \$1.852M be funded from a reserve determined appropriate by the General Manager of the Corporate Services Department and the General Manager of Healthy and Safe Communities Department with \$784K in 2024 and \$1.068M in 2025 and referred to the 2024 Tax Operating budget for Council consideration to extend temporary emergency supports between April 1, 2024 and December 31, 2024 and continuing to December 31, 2025 in order to address urgent program and staffing needs within Housing Services Division and Good Shepherd Hamilton related to family homelessness.
- (i) \$247K in 2024 and \$353K in 2025 for 2.0 Emergency Shelter Case Managers and 1.0 Supervisor Hotel Overflow with the City of Hamilton
- (ii) \$537K in 2024 and \$715K in 2025 for enhanced staffing and case management at Good Shepherd Family Centre Shelter and Hotel Overflow
- (b) That staff be directed to conduct a new Call for Applications with a longer timeline and expanded parameters to build capacity and address pressures in the Family Shelter System through December 2025 with report back for Council approval of recommended projects in Q2 2024.

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SUBJECT: Family Shelter System (HSC23041(b)) (City Wide) - Page 2 of 6

- (c) That staff be directed to report back by Q3 2025 to assess need for continued investment in enhanced staffing for the family shelter system.
- (d) That the General Manager of the Healthy and Safe Communities Department or their designate be directed and authorized, on behalf of the City of Hamilton, to enter into, execute and administer all agreements and documents necessary to implement the purchases and grants outlined above on terms and conditions satisfactory to the General Manager of the Healthy and Safe Communities Department or their designate and in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Hamilton continues to experience a crisis of unmet need and over-capacity in the Family Shelter System. This report recommends extension of temporary staffing supports within the existing Family Shelter and Hotel Overflow System that were approved through Emergency & Community Service Committee Report HSC23041(a). These enhanced staffing supports are currently approved through March 2024. Extension through December 2025 will ensure staffing resources are aligned with service demand to help stabilize the shelter environment and offer families supports in securing housing and navigating with additional community resources. There is additional need to develop and invest in immediate and long-term solutions to family homelessness, including additional shelter spaces and/or permanent housing for families. An initial Call for Applications conducted in October 2023 did not yield any successful proposals that would expand shelter capacity or flow-through to permanent housing options for families. This report recommends launching a subsequent Call for Applications in December 2023 to enable a longer timeline for applicants to develop proposals.

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

Financial: Staff are requesting that temporary enhanced staffing in the Family Centre shelter and hotel overflow be extended from April 2024 through December 2025, for a total of \$1.852M, to be funded from a reserve deemed appropriate by the General Manager of the Corporate Services Department and the General Manager of Healthy and Safe Communities Department and referred to the 2024 Tax Operating Budget for deliberation and approval. This is in addition to the currently approved funding to March 2024 received through report HSC23041(a) that requested \$1M funded by the COVID-19 reserve.

Additional costs associated with successful proposals to the Call for Applications will be referred for Council approval in Q2 2024.

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SUBJECT: Family Shelter System (HSC23041(b)) (City Wide) - Page 3 of 6

Recommendation	2024	2025	Total
(a)(i) 3 temporary FTEs	\$247,000	\$353,000	\$600,000
(a)(ii) Good Shepherd enhanced staffing	537,000	715,000	1,252,000
Total	\$784,000	\$1,068,000	\$1,852,000

Staffing: Implementation of recommendations in this report require the extension of three temporary FTE within Housing Services Division: 2.0 Emergency Shelter Case Managers, 1.0 Supervisor at an estimated cost of \$247K in 2024 and \$353K in 2025 for a total of \$600K.

Legal: N/A

HISTORICAL BACKGROUND

On March 23, 2023, the Emergency and Community Services Committee approved Report HSC23021 Ending Chronic Homelessness, outlining a comprehensive approach and investments required to end chronic homelessness in Hamilton.

On April 19, 2023, the General Issues Committee received and approved Report HSC23028, the Housing Sustainability and Investment Roadmap, which outlined actions to be taken to address the housing crisis.

In April 2023, City Council declared a state of emergency related to homelessness, mental health, and opioid addiction.

On September 13, 2023, Council approved General Issues Committee Reports HSC23041 and HSC23041(a), outlining the pressures in Hamilton's emergency shelter system, particularly the Family Shelter System, and investments required to support outflow to permanent housing solutions. Council directed staff to conduct an immediate Call for Applications to identify innovative and cost-effective solutions from the community to address the issue of family homelessness, including the creation of new emergency shelter or transitional housing spaces for families, and/or provision of services and supports to address root causes of family homelessness and/or create flow through the system to permanent housing.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

An initial Call for Applications was issued in October 2023 in alignment with Procurement By-Law No. 20-255 Schedule B Exemptions (3)(a)(ii). This clause applies to emergency sheltering and exempts this category of services from the requirements of the Procurement Policy, save and except for Policy # 2 – Approval Authority and Policy #13 – Authority to Execute Contracts (HSC23041(a)). In most cases, standardized City procurement practices require an authorized online Purchase Requisition to initiate a Purchase Order and/or formal Contract process. If there is to be an evaluative

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SUBJECT: Family Shelter System (HSC23041(b)) (City Wide) - Page 4 of 6

component involved in the determination of where funds are to be allocated, Procurement recommends a Request for Proposal be initiated through them. However, the Request for Proposal process typically takes a minimum of 6 months to see through completion. Due to the urgency of addressing the crisis of family homelessness, the standard Request for Proposals process does not enable timely selection and operationalization of supports. A subsequent Call for Applications is required to enable applicants more time to secure potential sites to offer family shelter and housing units that can be operationalized in 2024.

RELEVANT CONSULTATION

Housing Services Division routinely engages funded agencies within Hamilton's homeless-serving sector to understand and address evolving needs of individuals experiencing homelessness across family, women's, men's, and youth systems. Due to ongoing and escalating pressures in the Family Shelter System, City staff have further consulted with frontline staff and leadership who provide services to families experiencing homelessness to identify root causes and potential solutions. In October 2023, City staff ran a public Call for Applications for Family Shelter Solutions, the results of which are outlined below.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

General Issues Committee Report HSC23041(a) outlined the current state of crisis experienced in the family shelter system. The Family Shelter System continues to see unprecedented demand, leading to families being turned away from shelter along with conditions of over-crowding and insufficient staffing in the existing Family Shelter.

Continued Unprecedented Need Beyond System Capacity

The Good Shepherd Family Centre is currently the only permanent emergency shelter providing housing-focused shelter and support for families experiencing homelessness, offering 20 units for a total of 80 beds funded through Housing Services Division. The City is also contracting two hotels to provide shelter overflow space totalling 52 rooms, providing support for as many families as can be accommodated within those 52 rooms based on individual family size. Both permanent shelter beds and hotel spaces are over-capacity, leading to frequent turn aways from shelter. As of October 2023, there were 65 families staying at the Good Shepherd Family Centre or in an Emergency Overflow Hotel. This is more than double the space and staffing capacity of the permanent family shelter system.

Stabilizing Shelter and Staff Capacity

On September 13, 2023 Council approved investment of up to \$1M in temporary emergency supports between September 1, 2023 and March 31, 2024 in order to address urgent program and staffing needs within Housing Services Division and Good

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SUBJECT: Family Shelter System (HSC23041(b)) (City Wide) - Page 5 of 6

Shepherd Hamilton related to family homelessness. Extension of these supports through December 2025 is essential to stabilize the shelter environment, improve staff retention, and ensure sufficient staffing capacity to meet the complexity of needs experienced by families accessing the shelter system.

The investment of \$1.852M to extend supports from April 1, 2024 through December 31, 2025 will include the following:

- Two City of Hamilton Emergency Shelter Case Managers and a Supervisor to support the Family Shelter sector and work with families to connect them with income supports and the broader homelessness system.
- Four additional staff at the Family Centre Shelter to enable dedicated support for families in completing housing plans and applications, system navigation, and money management resources to support successful move-ins to long-term tenancies.
- Seven staff dedicated to supporting families staying in hotel overflow, offering on-site case management seven days per week to assist families in finding and securing housing as well as connection to additional community resources. This program will also include an on-site Child and Youth Worker five days per week.

Pursuing Long-term Solutions to Family Homelessness

Shelter staff and case managers in the Family System routinely speak to challenges securing housing for families due to the lack of deeply affordable units and units of a size appropriate for large families. This accounts for increasing lengths of stays in family shelters. In 2022, 26% of 206 (n=54) families accessing the shelter system experienced chronic homelessness of six months or more. There is an urgent need to secure new Family Shelter spaces to address immediate needs and permanent housing solutions to address the large bottleneck of people currently stuck in the shelter system.

Housing Services Division ran a Call for Applications from October 6 through October 21, 2023 seeking proponents to address family homelessness, as a way to consider new and innovative opportunities to expand system capacity to:

- serve up to an additional 50 families in emergency shelter or transitional housing through March 31, 2025
- provide services and supports that address root causes, complexity of need, and create flow through the shelter system to permanent housing

The timeline for applicants to respond to this Call for Applications was extremely short in order to allow sufficient time for report back to Council. As a result, only one application was received and there were no applications evaluated as successful at meeting the objectives of creating space in the Family Shelter System and/or flow-through to permanent housing solutions.

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SUBJECT: Family Shelter System (HSC23041(b)) (City Wide) - Page 6 of 6

It is recommended that staff be directed to run a subsequent Call for Applications with a longer submission window and inclusion of capital as an eligible expense. This would allow proponents more time to identify and secure potential building locations that could serve as potential temporary or long-term family housing. Staff would open the Call for Applications by the end of December with report back to Council by the end of Q1 2024.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

N/A



Hamilton

**INTERVIEW SUB-COMMITTEE TO THE
GENERAL ISSUES COMMITTEE**

REPORT 23-005

9:30 a.m.

Friday, December 1, 2023

Room 264, 2nd Floor

City Hall

Present: Councillor N. Nann (Chair)
Councillor T. Hwang (Vice-Chair)

**THE INTERVIEW SUB-COMMITTEE TO THE GENERAL ISSUES COMMITTEE
PRESENTS REPORT 23-005 AND RESPECTFULLY RECOMMENDS:**

1. Deliberations for the Climate Change Advisory Committee (Item 4.2)

- (a) That the direction provided to Staff in closed session be approved and remain confidential; and,
- (b) That the details of the Applicants for the Climate Change Advisory Committee remain confidential.

2. Amendments to the Terms the Climate Change Advisory Committee

That the Climate Change Advisory Committees' Terms of Reference, be amended to reflect the following membership composition:

- (a) Overall Membership:
 - (i) The Climate Change Advisory Committee will be comprised of 15 to 25 voting and non-voting members; and,
- (b) Voting Members:
 - (i) Three to Four (3-4) Community/Citizen Members;

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised that there were no changes to the agenda.

The agenda for the December 1, 2023 meeting of the Interview Sub-Committee to the General Issues Committee was approved, as presented.

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) APPROVAL OF THE PREVIOUS MINUTES (Item 3)

(i) November 24, 2023 (Item 3.1)

The minutes from the November 24, 2023 meeting of the Interview Sub-Committee to the General Issues Committee were approved, as presented.

(d) PRIVATE & CONFIDENTIAL (Item 4)

(i) Closed Session Minutes – November 24, 2023 (Item 4.1)

The Closed Session minutes from the November 24, 2023 meeting of the Interview Sub-Committee to the General Issues Committee were approved and remain confidential.

(ii) Committee moved into Closed Session for Item 4.2 pursuant to Section 9.3 sub-section (b) of the City's Procedural By-law 21-021, as amended, and Section 239(2), Sub-section (b) of the *Ontario Municipal Act, 2001*, as amended, as the subject matters pertain to personal matters about identifiable individuals, including municipal or local board employees.

(iii) Deliberations for the Climate Change Advisory Committee (Item 4.2)

For further disposition, refer to Item 1.

(e) ADJOURNMENT (Item 5)

There being no further business, the Interview Sub-Committee to the General Issues Committee adjourned at 2:48 p.m.


Respectfully submitted,

Councillor N. Nann, Chair
Interview Sub-Committee to the
General Issues Committee

Angela McRae
Legislative Coordinator
Office of the City Clerk



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

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	December 6, 2023
SUBJECT/REPORT NO:	2024 Property & Liability Insurance Renewal (LS23041) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Dana McLean (905) 546-2424 Ext. 4247 Manager, Risk Management Services
SUBMITTED BY:	Lisa Shields, City Solicitor Legal and Risk Management Services Division
SIGNATURE:	

RECOMMENDATION

- (a) That the Liability and Property Insurance coverages for the term December 31, 2023, to January 1, 2025, be renewed through Arthur J. Gallagher Canada Ltd. and Marsh Canada Ltd. at a cost of \$11,908,712 (plus applicable taxes) and be funded through the 2024 Risk Management Services Budget, in accordance with Appendix "A" and Appendix "B" to Report LS23041.
- (b) That the City Solicitor be authorized and directed to execute all associated documents related to the renewal of the Liability and Property Insurance coverages for the term December 31, 2023 to January 1, 2025, through Arthur J. Gallagher Canada Ltd. and Marsh Canada Ltd.
- (c) That the 2023 budget shortfall of \$600,000 be funded from Corporate year-end surplus or Tax Stabilization Reserve (110046).

EXECUTIVE SUMMARY

The purpose of this report is to obtain approval for renewal of the liability and property insurance policies that expire December 31st, 2023;

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SUBJECT: 2024 Property & Liability Insurance Renewal (LS23041) (City Wide)
Page 2 of 4

2024 Liability and Property Insurance Renewal

The City received the premium quote at a cost of \$11,908,712 (net of applicable taxes) to maintain liability and property coverages for the City through to January 1, 2025. The City's existing liability policy is set to expire on December 31st, 2023 while the property policies have an expiry date of January 1, 2024. The premium quoted for the liability policy (\$4,843,650) represents a 5% increase (annual basis), which, according to the City's broker, is below the industry average being experienced and is a reflection of the City's commitment to continued risk management efforts. The premium quoted for the property insurance coverages (\$6,887,134) saw a 0.5% reduction as compared to the expiring term. The City's Environmental Impairment Liability (EIL) Policy renews on a two-year term and has been quoted for renewal in 2024 at a premium of \$177,928.

It is recommended by Risk Management staff that insurance coverages for the term December 31, 2023 to January 1, 2025 be renewed through Marsh Canada Ltd., based on their ability to provide all coverages required, as recommended by Arthur J. Gallagher Canada Limited, ("Gallagher") the City's Broker of Record.

ALTERNATIVES FOR CONSIDERATION

There are no viable alternatives for the 2023-2024 renewal for Liability and Property Coverages, given the broker was only able to obtain coverage from the existing insurer. Municipal operations pose a unique challenge to insurers who generally prefer to concentrate their expertise on one sector of an industry. A single-tier municipality such as Hamilton has diverse operations such as Emergency Services including EMS, Police Services, and Fire, Public Works including Construction, Roads Maintenance etc., Transit, Parks, Recreation, Water and Wastewater, Public Health, and so on.

The underwriting criteria of general insurance markets does not easily accommodate a municipal entity the size and scope of Hamilton with its variety of operations. As a single-tier municipality, our scope of operations includes responsibility for all emergency services (Fire, Police & Ambulance and in some cases Public Health), plus large vehicle fleets, significant property exposures and large property schedules/values, accumulation of assets at one location (fire hall, public works garage), older assets (frame buildings), and water/waste water treatment plants.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The premiums for the property & liability policies (December 31, 2023 to January 1, 2025) will be funded by the 2024 Risk Management Budget with any shortfall, estimated at \$600,000, to be funded from Corporate year end surplus or the Tax Stabilization Reserve (110046).

SUBJECT: 2024 Property & Liability Insurance Renewal (LS23041) (City Wide)
Page 3 of 4

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

The City's Municipal Liability Insurance Policy will expire December 31, 2023. Most of the City's property insurance policies will expire January 1, 2024. A small number of policies under the City's insurance program have approaching expiry dates into early 2024. The City's insurance coverage is through Marsh Canada Ltd. The City has used Marsh Canada Ltd. since 2011. Marsh Canada Ltd. is a Managing General Agent who specializes in insuring municipal entities. A Managing General Agent is a party who is authorized by various insurers to act as an intermediary to accept placements from insurance brokers such as Gallagher.

Gallagher is currently the City's Broker of Record. Each year the broker searches the market with available insurers and oversees the placement of the City's insurance program as part of their contract duties.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Finance and Corporate Services and the City's Broker, Arthur J. Gallagher Canada Ltd.

Gallagher has sought to renew the City's coverage through consultations with the City's current insurer as well as other municipal insurers. No other municipal insurer has offered coverage to the City.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Staff are recommending approval of the renewal of the property and liability policies for the period of December 31, 2023 to January 1, 2025.

The City's insurance portfolio is comprised of various liability and property coverages including municipal liability, property, auto, environmental impairment, etc. The municipal liability policy has an expiry date of December 31, 2023, while many of the property policies have a January 1st, 2024 expiry date. Staff requested through the broker that the liability policy period renew with a January 1st date to align with the policy periods of the other policies. The underwriter's have approved this new renewal date by extending the period by one day at no additional premium expense. Therefore, upon

SUBJECT: 2024 Property & Liability Insurance Renewal (LS23041) (City Wide)
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renewal, the property & liability policies will now have a renewal date of January 1, 2025.

The premium for the renewal of the City's Property and Liability Insurance Policies has been quoted at \$11,908,712 (plus applicable taxes). This is comprised of the municipal liability policy premium of \$4,843,650 which saw an increase of 5% over the expiring term, the property policies quoted at \$6,887,135 which realized at 0.5% reduction and the EIL Policy quoted at \$177,928. The EIL Policy renews on a two-year term.

The hard market trend that commenced in the latter part of 2018 continues into 2024 as it appears that the hard market is "lingering" for municipalities as activities and operations are now back in full force following the pandemic which means the exposure to claims has increased.

The City has been advised that other factors for a hard insurance market exist, including: there are limited providers in the market as insurers find municipal portfolios unprofitable, the increase in municipal liabilities from the broad range of operations as well as increasing legal judgements and cost awards. Despite this fact, the City has received a reasonable quote for a 5% increase in its liability insurance premiums.

The broker attributes the City's minimal increase to the higher self-insured retention (SIR)/Deductible (\$5m) that the City incorporated into its program as of June 1, 2021 as well as a reflection of the City's commitment to continued risk management efforts. Staff understand from the broker that municipal rates for insurance are expected to continue to be high, with many municipalities anticipating a 10% to 12% increase in liability premium rates for 2024.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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 LS23041 – Liability Insurance Program and Summary of Premiums

Appendix "B" to Report LS23041 – Property Premiums Summary

City of Hamilton - Liability Insurance Program and Summary of Premiums


LIMIT		DEC. 1, 2022- DEC. 1, 2023			DEC. 1, 2023 - DEC. 31, 2023				DEC. 31, 2023 - JAN. 1, 2025					
	LIMIT OF INSURANCE	PREMIUM	Comments	TOTAL PREMIUMS INCLUDING 8% PROVINCIAL SALES TAX	PRO- RATED ADDITIONAL PREMIUM	TOTAL PREMIUM 13 MONTHS	PROVINCIAL 8%	TOTAL PREMIUMS INCLUDING TAX		LIMIT OF INSURANCE	PREMIUM	PROVINCIAL 8%	TOTAL PREMIUMS INCLUDING TAX	CHANGE
Primary Liability	\$5M	\$ 2,026,500	5% Premium Increase based on annualized premiums	\$ 2,188,620.00	\$ 166,173	\$ 2,192,673	\$ 175,413.84	\$ 2,368,086.84	AT \$45M TOTAL LIABILITY LIMIT	\$ 5,000,000	\$ 2,127,825	\$ 170,226.00	\$ 2,298,051.00	5% Overall Premium Increase
	with \$5m			\$ 2,365,200.00	\$ 179,580	\$ 2,369,580	\$ 189,566.40	\$ 2,559,146.40		\$ 15,000,000	\$ 2,299,500	\$ 183,960.00	\$ 2,483,460.00	
1st Excess	\$15M	\$ 2,190,000		\$ 374,220.00	\$ 28,413	\$ 374,913	\$ 29,993.04	\$ 404,906.04		\$ 25,000,000	\$ 363,825	\$ 29,106.00	\$ 392,931.00	
2nd Excess	25m	\$ 346,500												
Total	\$45M	\$ 4,563,000		\$ 4,928,040.00	\$ 374,166	\$ 4,937,166	\$ 394,973.28	\$ 5,332,139.28						
3rd Excess	\$5M	\$ 50,000		\$ 54,000	\$ 4,100	\$ 54,100	\$ 4,328.00	\$ 58,428.00	AT \$50M TOTAL LIABILITY LIMIT	\$ 5,000,000	\$ 52,500	\$ 4,200.00	\$ 56,700.00	
		\$ 4,613,000		\$ 4,982,040	\$ 378,266	\$ 4,991,266	\$ 399,301.28	\$ 5,390,567.28		\$ 50,000,000	\$ 4,843,650	\$ 387,492.00	\$ 5,231,142.00	

City of Hamilton – Property Premiums Summary

Policy	2023-2024 Premium	2024-2025 Premium
Environmental Impairment 2Yr Policy Period	n/a	\$177,928
Terrorism	\$140,000	\$145,000
CBNR (Chemical, Biological, Nuclear, Radiation)	\$92,500	\$97,125
Fleet	\$ 1,687,969	\$ 1,870,776
Transit	\$2,500,153	\$2,040,786
Garage	\$6,810	\$6,940
Property	\$2,423,403	\$2,651,907
Crime	\$20,000	\$20,000
Excess Crime	\$52,000	\$54,600
Total	\$6,922,835	\$7,065,062



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
General Manager's Office

TO:	Chair and Members General Issues Committee
COMMITTEE DATE:	December 6, 2023
SUBJECT/REPORT NO:	Red Hill Valley Parkway Inquiry Final Report (PW23029(a)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Pat Leishman (905) 546-2424 Ext. 2629 Andrea Vargas (905) 546-2424 Ext. 3867
SUBMITTED BY:	Carlyle Khan General Manager, Public Works Public Works Department
SIGNATURE:	

RECOMMENDATION

- a) That Council approve the formation of an interdepartmental Working Group led by the Public Works Department, for the purpose of responding to the recommendations noted in the Report of the Red Hill Valley Parkway Inquiry from the Honourable Mr. Justice Herman J. Wilton-Siegel dated November 29, 2023;
- b) That the General Manager, Public Works, or their designate be directed to provide an initial update to the General Issues Committee by March 31, 2024 on the establishment of the Working Group and associated Action Plan; and
- c) That the General Manager, Public Works, or their designate be directed to provide bi-annual updates to the General Issues Committee, on status of the Action Plan.

EXECUTIVE SUMMARY

On April 24, 2019, Council passed a resolution requesting that a judicial inquiry (the "**Inquiry**") be commenced to investigate a number of issues related to the Red Hill Valley Parkway (the "**RHVP**") and a consultant's report concerning friction testing on the RHVP in 2013 that was not previously disclosed to Council or the public.

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 Final Report (PW23029(a)) (City Wide)
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In May 2019, The Honourable Justice Herman J. Wilton-Siegel (the “**Commissioner**”) was appointed to preside over the Inquiry, which centered on 24 questions posed by Council referred to as the Terms of Reference. The City chose to proceed with the Inquiry because of the public nature of the hearings, in the interest of accountability and transparency and to maintain the trust of the public.

On November 29, 2023, the Commissioner released the “Report of the Red Hill Valley Parkway Inquiry” (“**Inquiry Report**”), which provides a summary of the key evidence received by the Inquiry and the Commissioner’s findings on the Terms of Reference, including recommendations to prevent any future incidents of non-disclosure of significant information to Council.

Report PW23029(a) provides a high-level summary of the Commissioner’s findings relating to the key Terms of Reference. A subsequent report will be provided to the General Issues Committee by March 31, 2024 which will include the membership and Terms of Reference of the Working Group, and initial Action Plan in response to the recommendations identified in the Inquiry Report.

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The costs associated with the advancement of the Red Hill Valley Parkway Inquiry through the report completion and post-report stages are estimated to be in the range of \$27 million and \$28 million. The costs are based upon the current status and anticipated effort required and are detailed in Red Hill Valley Parkway Inquiry Update report LS19036(t) dated October 18, 2023. These costs will be recovered from the Tax Stabilization Fund.

There are no additional costs anticipated for the establishment of the proposed interdepartmental Working Group. Any additional costs relating to the implementation of recommendations from the Inquiry Report will be addressed in subsequent reports to Council from the Working Group.

Staffing: Additional staffing is not anticipated at this time, as the proposed Working Group will be staffed and supported by current City employees.

Legal: As outlined in Report PW23029(a).

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A. Background

1. Events Leading to the Inquiry

In early 2019, City Council received information regarding a report by Tradewind Scientific Ltd. (“**Tradewind**”) related to friction testing conducted on the RHVP dated November 20, 2013 (the “**Tradewind Report**”) that was not previously disclosed to Council or the public.

Council was advised that the public and Council may have received inconsistent information regarding the Tradewind Report including in 2015 and 2017 in the face of speculation regarding asphalt conditions on the RHVP and the impact of these conditions on collisions.

Upon learning of the Tradewind Report, on April 24, 2019, Council passed a resolution requesting that the Inquiry be commenced. In May 2019, the Honourable Justice Herman J. Wilton-Siegel was appointed to preside over the Inquiry.

The Inquiry was a time-intensive and costly process. Spanning over 4 years and involving 130,000 documents, interviews of over 100 individuals and 85 hearing days, the Inquiry process allowed for a comprehensive investigation into 24 Terms of Reference in a public setting.

The City chose to proceed with the Inquiry because of the public nature of the hearings, in the interest of accountability and transparency and to maintain the trust of the public. Specifically, the hearing stage of the Inquiry was live streamed on YouTube and all evidence, including recordings and transcripts of witness testimony, documentary evidence, and the closing submissions are readily accessible on the Inquiry website.

On November 29, 2023, the Commissioner released the Inquiry Report, which provides a summary of the key evidence received by the Inquiry and the Commissioner’s findings on the Terms of Reference, including recommendations to prevent any future incidents of non-disclosure of significant information to Council.

2. Summary of the Inquiry Report

This report provides a high-level summary of the Commissioner’s findings relating to the key Terms of Reference, including regarding the safety performance of the RHVP, the disclosure of the Tradewind Report, friction testing completed by the Ministry of Transportation (the “**MTO**”) and the Commissioner’s recommendations. This report does not provide a comprehensive summary of the entire Inquiry Report, which is 1000 pages long.

For ease of reference, this report also includes the following additional appendices:

- Appendix “A” to Report PW23029(a) lists the 24 Terms of Reference and provides a high-level summary of the Commissioner’s findings for each.

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- Appendix “B” to Report PW23029(a) provides an index of some of the key individuals and entities involved in the Inquiry.
- Appendix “C” to Report PW23029(a) provides a detailed summary of the Commissioner’s recommendations.

B. Findings regarding the Safety Performance of the RHVP

This section provides a high-level summary of the Commissioner’s findings regarding the safety performance of the RHVP and specifically with respect to:

- 1) the design and construction of the RHVP;
- 2) the role of friction in collisions on the RHVP prior to its resurfacing in 2019; and
- 3) the impact of the non-disclosure of the Tradewind Report.

The Inquiry was primarily focused on the time-period between the design and construction of the RHVP to its resurfacing in 2019. The Commissioner does not make any findings concerning the safety performance of the RHVP since its resurfacing in 2019.

1. RHVP Design and Construction

The Inquiry received extensive evidence regarding the design and construction of the RHVP, including with respect to design guidelines, the type of asphalt used to construct the RHVP and the paving process. The Commissioner made three key findings with respect to these issues, detailed below.

The first two findings relate to two unique features of the RHVP pavement – the use of perpetual pavement and stone mastic asphalt, which the Commissioner described as “innovative in a municipal context”.

The RHVP was built using a perpetual pavement structure, which is intended to last longer than traditional pavement structures. Perpetual pavements have significant benefits, including a longer life cycle cost, lower rehabilitation costs, and better resistance to cracking. The only drawback to perpetual pavement is higher initial construction costs.

The Commissioner found that using perpetual pavement, which was primarily done at the direction of Mr. Gary Moore (at the time, the Manager of Design at the RHVP Project Office), “made good economic sense”.

The Commissioner also made findings regarding the use of stone mastic asphalt (“**SMA**”), a special type of asphalt that was used on the surface course of the RHVP.

The City’s paving contractor for the RHVP, Dufferin Construction, sourced the aggregate used in the SMA surface course from Demix Agrégats, located outside of Montreal, Quebec.

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The Commissioner confirmed that there was no evidence to suggest that the Demix aggregate was inadequate from a friction perspective or otherwise. The Commissioner further found that the use of SMA did not give rise to any friction issues on the RHVP. The Commissioner also made important findings concerning the design of the RHVP. Specifically, the Commissioner found that while the RVHP was generally designed and constructed in accordance with the prevailing Ontario design guidelines, certain “design features make some sections of the RHVP particularly challenging to drive”.

These design features include the differential between the design and posted speed limit, the radii of certain curves in the section between the Greenhill Avenue and Queenston Road interchanges and the spacing between certain on and off ramps.

The Commissioner further found that “individually and collectively, these design elements may result in ‘expectancy violations’ for some drivers leading to poor decision making”. Expectancy violations occur when roadway conditions are inconsistent with drivers’ reasonable expectations.

2. Role of Friction in Collisions on the RHVP prior to the 2019 Resurfacing

The Inquiry received considerable evidence regarding the role of friction in collisions on the RHVP from safety reports prepared by CIMA (the City’s safety consultant) and evidence from witnesses, including Brian Malone (VP of Transportation at CIMA) and expert witnesses engaged by Commission Counsel and the City.

The Commissioner made important findings on this issue. Most notably, he confirmed that any general comments or conclusions regarding the role of friction in collisions on the RHVP cannot be applied to any individual collision. The Commissioner further confirmed that a “full collision reconstruction” would be required to properly understand the cause of any individual collision.

The Commissioner found that the evidence did not indicate that the friction levels on the RHVP were “inordinately low or unsafe on their own”, but rather that, generally speaking, the RHVP needed more friction than other roadways due to certain characteristics of the RHVP, including the geometry and operating speeds. On this basis, the Commissioner found that there was “ample evidence” that friction levels were one of the contributing factors to collisions on the RHVP, particularly on wet pavement, noting:

... the friction levels on the RHVP, or a section thereof, were such that they did not supply adequate skid resistance to vehicles negotiating the roadway and thereby constitute a potential contributing factor to accidents on the roadway where there was a wet surface.

As part of Public Works’ ongoing efforts to improve road safety, various improvements have been made to the RHVP since the commencement of the Inquiry, including resurfacing and the lowering of the speed limit in 2019.

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3. Impact of Non-Disclosure of the Tradewind Report on Roadway Safety

The Tradewind Report concluded that the friction levels on the RHVP were “below or well below” the investigatory level of the standard used in the United Kingdom and recommended that the City do “a more detailed investigation” and consider “possible remedial action” to enhance surface texture and friction characteristics.

One of the key issues in the Inquiry was to understand the impact of the non-disclosure of the Tradewind Report and on the RHVP.

The Commissioner’s findings on this issue were based on an “objective standard of what internal municipal traffic safety professionals, acting with external advice, should reasonably have been expected to do” with the Tradewind Report.

The Commissioner found that the principal significance of Mr. Moore’s retention of the Tradewind Report (discussed further in section C) was that the City’s Traffic group and its safety consultant CIMA did not have the benefit of the findings of the Tradewind Report.

Specifically, the Commissioner noted that “it is reasonable to proceed on the basis that” if the Traffic group had received the Tradewind Report, the Traffic group would have:

- 1) investigated the friction levels, including perhaps through further friction testing; and
- 2) developed a more comprehensive view of the factors that were contributing to collisions in 2014.

The Commissioner also considered the extent to which these actions would have impacted the safety performance of the RHVP, noting that this was a “difficult question” to answer in hindsight.

The Commissioner stated that he cannot speculate on whether Traffic would have implemented certain recommendations from the City’s consultants that were not ultimately implemented but found that it is “reasonable to assume” that Traffic may have undertaken to implement the countermeasures that were completed on the RHVP “earlier than actually occurred”.

Specifically, the Commissioner found that “it is reasonable to assume” that Traffic would have taken the following three steps before 2019 if they had received a copy of the Tradewind Report and developed a more comprehensive approach to traffic safety:

- 1) Recommended a reduction in the posted speed limit on the RHVP;
- 2) Recommended more aggressive speed enforcement on the RHVP; and
- 3) Installed permanent raised reflective markings, notwithstanding the fact the RHVP was scheduled to be resurfaced in 2019.

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On the issue of whether users of the RHVP were put at risk because of the non-disclosure of the Tradewind Report, the Commissioner stated that it would be difficult to generate a definitive conclusion on this issue.

However, the Commissioner found that “it is logical to assume that the failure to disclose the Tradewind Report ... contributed to accidents and injuries on the RHVP since January 2014” if we assume that:

- 1) The Traffic group would have reduced the speed limit, arranged for more aggressive speed enforcement and installed permanent raised reflective markings before 2019; and
- 2) The implementation of these countermeasures would have actually been effective at reducing the demand for friction.

C. Disclosure of Tradewind Report

4. Why was the Tradewind Report not shared with Council after it was discovered in 2014?

One of the key issues driving the Inquiry was whether the Tradewind Report was shared with anyone once it was received by the City in 2014 and, if not, why not.

In answering these questions, the Commissioner made specific findings regarding the non-disclosure of the Tradewind Report and identified other systems and processes that allowed the Tradewind Report to go undetected in the 2014 – 2018 period. Each are reviewed below.

a. Who received the Tradewind Report?

The Commissioner found that upon receiving the Tradewind Report in January 2014, Mr. Gary Moore (the Director of Engineering Services) did not share a copy of the Report with other staff members in the City.

In 2017, Mr. Moore provided a copy of the Tradewind Report to the City’s external legal counsel in the context of ongoing litigation against the City concerning the RHVP, at their request.

Prior to his retirement as Director of Engineering Services in May 2018, Mr. Moore saved a copy of the Tradewind Report within the “Director’s Office (Engineering Services)” folder in the document management system used by Engineering Services. Mr. Gord McGuire (the Director of Engineering Services after Mr. Moore) found the saved copy of the Tradewind report in September 2018 after which he forwarded it to a number of other staff members at the City to assess next steps.

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b. Why was the Tradewind Report not shared?

The Commissioner found that although there was no requirement for Mr. Moore to disclose the Tradewind Report to Council upon receiving it in 2014, he did have an obligation to provide the report to the Traffic group so they could assess the Report from a traffic safety perspective.

The Commissioner was also tasked with identifying whether there was any misconduct associated with the non-disclosure of the Tradewind Report. The Commissioner defined “misconduct” in this context as “improper or unprofessional behaviour” or “bad management”.

The Commissioner found that Mr. Moore engaged in misconduct in the following ways:

- Did not provide the Traffic group with a copy of the Tradewind Report for the purposes of its traffic safety mandate;
- Provided inaccurate or incomplete information about the Tradewind Report to CIMA and to the Public Works Committee. Specifically, he advised the Committee in December 2015 that friction testing showed the RHVP was holding up “exceptionally well” such that there are “no concerns about the performance of the surface mix” of the RHVP; and
- Provided inaccurate statements to the Hamilton Spectator in July 2017 regarding the timing and nature of the friction testing completed on the RHVP and in January 2018 regarding the purpose of subsequent pavement testing on the RHVP.

In addition to the above, the Commissioner also identified other structures and processes that allowed the Tradewind Report to go undetected in the 2014 – 2018 period. Some examples of these are provided below.

- **More coordination and cooperation in Public Works:**
 The Commissioner found that the allocation of responsibilities related to the RHVP amongst various divisions and sections in Public Works excluded any sense of collective responsibility for the safety of the RHVP. In particular, the lack of a central authority over the RHVP had the effect of creating a lack of accountability where personnel in Engineering Services and Traffic disagreed or did not share information, expertise, or a common understanding about who was responsible for tasks concerning the RHVP.
- **A more comprehensive approach to traffic safety:**
 The Commissioner found that the RHVP would have benefited from a more comprehensive traffic safety program noting that (1) the Annual Collision Report program was paused between 2011 and 2017; and (2) better coordination between Traffic and Engineering Services was necessary to implement countermeasures that fall within the mandate of both groups, such as friction testing.

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- **More clarity and collaboration when working with consultants:**
 The Commissioner found that the engagement and work of CIMA (the City's safety consultant) in 2013 and 2015 would have benefited from more collaboration between staff from Traffic and Engineering Services and that this would have allowed for a more comprehensive approach to traffic safety.

Specifically, the Commissioner identified the lack of a project charter, which could have provided clarity on individual roles and respective responsibilities, and the lack of information sharing and coordination between Traffic and Engineering Services in particular during the implementation of consultant recommendations.

5. Steps Taken to Disclose the Tradewind Report to Council and the Public following its Discovery in the Fall of 2018

As stated above, the Tradewind Report was identified by Mr. McGuire in September 2018, and subsequently shared with other City staff members. In November 2018, the City also received a Freedom of Information request requesting the release of friction testing-related documents.

In 2019, two presentations regarding matters related to the Tradewind Report were made to Council, the first on January 23, 2019, and the second to the General Issues Committee ("**GIC**") on February 6, 2019.

The Commissioner was tasked with assessing staff's conduct to confirm whether there was any misconduct leading up to the report to Council in 2019 once the Tradewind Report was identified in 2018.

As detailed below, the Commissioner did not make findings of misconduct in this regard.

In addressing whether appropriate steps were taken to disclose the Tradewind Report, or the information and recommendations contained therein, once it was discovered in 2018, the Commissioner found that:

- There was an obligation to bring the Tradewind Report to the attention of Council.
- Mr. McGuire took appropriate steps upon locating the Tradewind Report in September 2018.
- The communications to Council and the public regarding the Tradewind Report was inadequate in its assessment of potential safety issues, and focused on possible reputational damage to the City that could result from release of the Tradewind Report.
- No members of staff involved in the preparation of the notification of the Tradewind Report to Council and the public during the 2018/2019 time period, engaged in misconduct, improper or unprofessional behaviour to warrant a finding of misconduct.

In the Commissioner's view, the Tradewind Report raised two obvious questions:

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- 1) whether the collision history of the RHVP and related complaints could be attributed, at least in part, to the friction levels on the RHVP; and
- 2) whether the actual friction levels in 2018 and 2019 posed a safety concern.

The Commissioner found that City staff did not comprehensively answer the questions above and did not review the significance of the Tradewind Report on traffic safety of the RHVP in their presentation to GIC, due to:

- Mr. McGuire and Mr. Soldo not interpreting the Tradewind Report and the 2014 Golder Report to be expressing an urgent safety concern;
- Mr. McGuire's and Mr. Soldo's understanding that the planned resurfacing of the RHVP which was scheduled to take place in 2019, would address any deficiencies in friction levels on the RHVP;
- the siloed structure of the Public Works Department resulting in the absence of effective communication among those involved, and leading to various divisions not taking responsibility for the possible impact of friction levels on the RHVP; and
- an undue focus on reputational damage to the City and possible liability exposure.

The Commissioner noted that City staff and senior staff members worked expeditiously to prepare the presentation to Council on the outstanding RHVP-related matters including the Tradewind Report within a reasonable time frame. However, as a result of the unclear and overlapping roles and responsibilities of those involved and the compressed timeframes, there was little actual collaboration in developing the content for the presentations to Council.

The Commissioner acknowledged and accepted that staff involved in the presentations to Council legitimately sought to be open and transparent with Council and the public, while noting that Council could have been provided with more information in the written materials to understand more comprehensively the factors contributing to accidents on the RHVP.

The Commissioner stated that despite the reservations expressed regarding the actions of staff after discovery of the Tradewind Report, each staff member ultimately addressed issues that fell within their respective areas of responsibility and within the City's organizational structure at the time.

D. MTO Results

The MTO completed friction testing on the RHVP in 2007 and between 2008 and 2014. The Inquiry received evidence regarding the circumstances around the friction testing, including the purpose of the testing, the extent to which the results were shared with the City, and the consequences of the non-disclosure of the MTO friction testing results. The City learned of the MTO's friction testing between 2008 and 2014 in 2019, after the City disclosed the Tradewind Report to Council and the public (the "**Post-2008 MTO Friction Testing**").

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The Commissioner noted that the Terms of Reference defined the “MTO Report” as the MTO friction testing in 2007 and, accordingly, focused on the MTO 2007 friction testing and not the Post-2008 MTO Friction Testing.

6. Why did the MTO perform friction testing on the RHVP?

On February 12, 2019, City staff learned from MTO staff and from a reporter at the Hamilton Spectator that the MTO had conducted friction testing on the RHVP between 2008 and 2014. At the time the Tradewind Report was disclosed to the public, City staff were unaware of the yearly friction testing from 2008 to 2014 (except for 2013), or the test results.

The Commissioner found that the MTO performed friction testing on the RHVP in 2007 at the request of the City’s pavement consultant Golder Associates Ltd. (“**Golder**”) on behalf of the City prior to the opening of the RHVP and performed the Post-2008 MTO Friction Testing to evaluate the roadway’s aggregate, and not for traffic safety purposes.

7. Why did the MTO not share these results?

The MTO shared the results of the 2007 RHVP friction testing with the City through its consultant, Golder. Mr. Moore and Mr. Marco Oddi were the only City staff who received the results. They did not distribute the friction testing results, but the Commissioner found that they were not required to do so by any by-law or policy and Council would not have expected to receive the 2007 results.

The Commissioner found that the MTO’s actions in respect of the Post-2008 MTO Friction Testing and the results were guided by the MTO’s practice and unwritten policy of not sharing DSM-related friction testing results with outside parties.

The Commissioner found that more importantly, the Post-2008 MTO Friction Testing was obtained by the MTO solely for Designated Source of Materials list purposes. It was not obtained as part of a broader investigation of a potential issue engaging public safety, nor was there any evidence to suggest that the MTO was aware of concerns pertaining to friction or safety of the RHVP.

8. What was the impact of non-disclosure of the MTO 2007 results?

The Commissioner found that there was no impact associated with the non-disclosure of the 2007 RHVP friction test results. If the results had been provided to Council in 2007, they would not have triggered any safety changes to the RHVP or prompted any further friction-related studies of the RHVP.

The Commissioner further found that there is no connection between the 2007 friction testing results and accidents, injuries, and fatalities that occurred on the RHVP after January 2014. The results were acceptable for a stone-mastic asphalt pavement that had not yet opened to the public and did not disclose any prospective pavement issue.

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E. Recommendations

The Commissioner has made a total of 36 recommendations in response to the matters outlined in the Terms of Reference. These recommendations include making changes to the City’s by-laws, policies, and procedures, and are aimed at preventing any future incidents of non-disclosure of information to Council.

The recommendations have been categorized into the following 8 categories:

1. Traffic Safety on the RHVP and LINC
2. Delineating the Roles and Responsibilities of City Staff
3. The Culture Within the Public Works Department
4. Information Sharing and Communication Among Staff
5. Staff’s Reporting Obligations
6. Staff Communications with the Media and Public
7. Consultant Engagements and Assignments
8. Staff Reports

A broad summary of the recommendations with respect to each specific category, as well as the steps already taken by the City to address some of the issues giving rise to the Commissioner’s recommendations, are discussed below.

A more detailed list of the specific recommendations for each category is provided in Appendix “C” to Report PW23029(a).

1. Traffic Safety on the RHVP and LINC

The Commissioner made a number of recommendations to improve the City’s approach to traffic safety on the Lincoln M. Alexander Parkway (the “**LINC**”) and the RHVP (together the “**Parkways**”). The Commissioner emphasized the importance of implementing processes that ensure effective management, efficient operation, and proper maintenance. Examples of the key recommendations on this issue are provided below:

- Implementing mechanisms to reinforce the joint responsibility of the Transportation Operations & Maintenance Division and Engineering Services towards traffic safety by designating a Public Works staff person with overall responsibility for the operation, maintenance, and traffic safety of the Parkways.
- Maintaining the City’s existing Parkway Management Committee so it can continue to provide leadership on the maintenance of the Parkways, and developing comprehensive guidelines based on industry best practices, such as project charters to ensure that desired outcomes are effectively actioned.

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- Adopting processes for a comprehensive traffic safety approach similar to the MTO to monitor and address traffic safety issues that arise on the Parkways, by regular collection and analysis of traffic statistics. We note that some of the recommendations on this issue are in regard to the processes in place between 2011 and 2017 and do not take into account the steps already taken by the City, including the review of collision through the Annual Collision Reports program, which resumed in 2017.

The City has already taken a number of steps to improve internal processes within Public Works with a view to better maintain oversight of the Parkways.

For example, the creation of the temporary (24-month) Chief Road Official (the “**CRO**”) role within the Public Works Department in March 2021 allowed for consistent coordination and addressing some fragmentation of the structure and systems involved in the design, build, operation and maintenance of city roads.

The Commissioner acknowledged the creation of the CRO position and confirmed that it is appropriately within the City’s purview as to whether the duties of the Chief Road Official duties could be combined with those of the Director of Transportation Operations & Maintenance. After 18 months of piloting the Chief Road Official role, and through Report PW21013(a), the duties of the Chief Road Official have been combined with the Director, Transportation Operations & Maintenance (TOM) to create the new position, Director, Transportation. This role has overall responsibility for the concerns identified in the recommendation.

The Commissioner also acknowledged that in 2020, the City implemented a Project Management Manual across Public Works as part of its new Public Works Quality Management System, which provides that project managers should create project charters as part of the initiating stage of their projects, consistent with the Commissioner’s recommendations.

2. Delineating Staff Roles and Responsibilities in Public Works

The Commissioner made recommendations aimed at bettering the delineation of responsibilities across the various Public Works divisions, with particular emphasis on situations where there are overlapping responsibilities amongst groups for matters of traffic safety. Examples of the key recommendations on this issue include:

- Designating a staff member most responsible for a project, including for developing a project charter ensuring that the scope, resources, and responsibilities of the various groups are clearly articulated.
- Implementing mechanisms that ensure that staff receive regular, practical, and job-specific training on the City’s Code of Conduct and accepted best practices for working collaboratively.

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The City has already taken some steps to improve the allocation of responsibilities across the various Public Works divisions by implementing the Project Management Manual, one of the key features of which is the Project Charter.

The Project Charter provides clear guidance and communication on who is accountable, what is expected to happen, and how success will be defined, serving as a work plan for all involved in a given project.

3. Culture Within Public Works

The Commissioner made a series of recommendations to further develop a culture of collaboration and cooperation between departments and divisions in Public Works. Examples of the key recommendations on this issue include:

- adding competencies such as collaboration, cooperation, transparency, and accountability in any performance related documents, such as evaluations.
- ensuring that Public Works staff receive training and attend conferences that address leadership and communication.
- establishing processes and procedures that stipulate when Public Works staff require intervention from a superior for any reason, request(s) for that intervention should be clear, explicit, and in writing.
- strengthening existing policies and channels dealing with internal complaint procedures and/or internal whistleblower policies.

4. Information Sharing and Communication Among Staff

The Commissioner made recommendations to improve access to records and reliable information sharing amongst various Public Works divisions, including:

- Having each division of Public Works maintain a library of all consultant and other third-party reports, staff reports to Council and formal internal reports, that is accessible to all staff in Public Works.
- Implementing formal project tracking processes for any case where multiple divisions in Public Works are working jointly to implement directions from Council.
- Establishing formal policies with respect to the transition of individuals in director and manager roles to ensure that institutional knowledge is not lost.

The City has already taken steps to improve information and document management. In particular, the Commissioner acknowledged that the City has taken steps to improve access to records and information, information storage, and the tracking of consultant reports since the events at issue in this Inquiry, including through the following policies and procedures:

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- ***The Records & Information Management Policy*** (September 2022)
Aimed at ensuring consistent standards and practices are maintained with respect to the management of records in the City's possession to ensure that information is available for decision-making, program and service delivery and access requests under the Municipal Freedom of Information and Protection of Privacy Act.
- ***The Public Works' Control of Records Procedure*** (October 2020)
Includes guidelines with respect to record retention, disposal, collection, storage and access to ensure that records are managed appropriately to facilitate the accessibility, accuracy and security of information to meet operational and legislative requirements.
- ***The Transportation, Operations, and Maintenance Division's Consultant Procedure Reports Tracking and Retention – Divisional Procedure*** (May 2021)
Establishes a process for tracking and retaining reports that consultants provide to City staff members in the Transportation Operations & Maintenance Division.

5. City Staff's Reporting Obligations

The Commissioner made recommendations with respect to staff reports and staff communication with Council to better ensure that staff conduct themselves with transparency and give their best objective advice to Council. These recommendations include:

- Delivering continuing education programs to Public Works staff on their relationship with Council, including to provide Council with objective information and recommendations to allow Council to make informed decisions.
- Supplementing the Council/Staff Relationship Policy to reiterate that information provided to Council and/or the public should be accurate, and that staff should not manipulate or present information in a misleading way.
- Revising existing policies to reiterate that staff must place the interests of objective, accurate, and timely reporting of information to Council, ahead of their own self-interest and/or concerns for the reaction of Council or the public to such information.
- Implementing a policy to track any commitments made by staff to Council outside of formal processes and requiring that staff make efforts to correct the record with Council in a timely manner, should they learn that inaccurate information has been provided to Council for any reason.

The City has taken a number of steps, including through enacting new policies, to better improve the relationship between City staff and Council, including with respect to reporting on matters that concern public safety.

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The Commissioner confirmed that the 2020 Code of Conduct and 2021 Council/Staff Relationship Policy set out some of the principles that underlie his recommendations and noted that his recommendations seek to expand some of the principles in these policies.

6. Staff Communications with the Media and Public

The Commissioner made recommendations regarding staff's communications with the media. These recommendations include:

- Ensuring that the Code of Conduct requires City staff to be truthful and accurate when speaking with the media and public and requires staff to advise their superiors if they become aware that another member of City staff has misrepresented facts or information to the public and/or media.
- Ensuring that Public Works staff that are spokespersons receive media training that emphasizes the importance of making accurate statements and ensure that any inaccuracies are corrected.

7. Consultant Engagements and Assignments

The Commissioner made recommendations regarding the use of consultants, including to further develop a culture within Public Works that emphasizes shared ownership of consultant reports, where applicable. The Commissioner's recommendations include:

- Maintaining a log of all consultant engagements accessible to all other City staff and implementing mechanisms which accurately capture the scope and nature of the consultant's involvement, including through creating a project charter with details proportionate to the scope of the project.
- Implementing procedures to ensure prioritization of consultant recommendations, with guidelines for when City staff may request changes to consultant reports.
- Developing procedures to ensure that Councillors, regardless of their ward, have equal access to information regarding consultant reports, even if the consultant's report is particularly relevant to a specific ward.
- Developing procedures to ensure that staff who learn of a risk to health or safety from a consultant, follow up with the consultant to obtain an informed understanding of the factors involved, if necessary.

The City has taken some steps towards improving the way in which consultant reports are tracked and reported on. The Commissioner confirmed that the 2021 Council/Staff Relationship Policy addresses some of his recommendations, particularly with respect to ensuring that all Councillors are provided with the same information on matters of general concern and/or matters to be discussed at Council or committee meetings.

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Public Works has also implemented the “Tracking and Sharing Consultant Report Recommendations, and Actions” procedure in January 2022. This procedure ensures that all consultant recommendations are documented and communicated to Council as appropriate.

8. Staff Reports

The Commissioner made recommendations regarding the preparation and presentation of staff reports to Council. These include:

- Developing policies to ensure that staff reports are objective, accurately summarize consultant reports and identify a full range of options for Council to consider with the risks and fiscal impacts of each option clearly.
- Ensuring consultant reports are appended to staff reports or are made available at the request of Councillors.
- Providing staff with training on drafting staff reports.
- Developing policies to ensure that draft staff reports are circulated to those involved for their review and input but not shared with individual Councillor unless expressly authorized by Council.

The City has already taken some steps towards improving staff reporting to Council. The Commissioner confirmed that the 2021 Council/Staff Relationship Policy incorporates some of his recommendations, namely that all Councillors should have equal access to information on matters of general concern and/or discussed before Council and notes that his recommendations should assist in further developing this policy.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

- Eli Lederman and Delna Contractor – external legal counsel, Lenczner Slaght LLP
- Belinda Bain – external legal counsel, Gowling WLG (Canada) LLP

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The Inquiry Report identified areas where Public Works has already taken action, including with respect to quality management, inter-divisional coordination meetings and project management guidance. However, the Inquiry Report also identified areas of opportunity where the City, and Public Works in particular, can continue to improve. The Commissioner’s eight (8) main recommendations are further delineated into 36 sub-recommendations that generally relate to four (4) issues: coordination and collaboration between Public Works divisions generally, and as related to the Parkways; better and more consistent reporting to Council; accurate disclosure of information to the media

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and public; and better understanding of the role of third-party consultants and the role of staff in the interactions with third party consultants.

The initial Action Plan will address the recommendations with a developed management response that includes actions to date, future opportunities, and potential impact to resources and cost. Reporting will include the status and progress of each action in the bi-annual reports to the General Issues Committee.

ALTERNATIVES FOR CONSIDERATION

N/A

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PW23029(a) – Answers to the Terms of Reference in the Inquiry Report

Appendix “B” to Report PW23029(a) – Index of Certain Referenced Individuals and Entities

Appendix “C” to Report PW23029(a) – Inquiry Report Recommendations

Answers to the Terms of Reference in the Inquiry Report

#	Term of Reference	Answer to Term of Reference
1	Identify all individuals who received a copy of the Report or were advised of the Report or the information and recommendations contained therein after it was provided to the City's Department of Engineering Services in January, 2014	<ul style="list-style-type: none"> • City Staff: Gary Moore, Diana Swaby, Mike Becke • Shillingtons LLP: Terry Shillington, David Thompson, Colleen Crawford • CIMA: Brian Malone*, Brian Applebee*, Giovani Bottesini*, Khaled Hawah*, Pedram Izadpanah* • Other: Tom Dziejko* (General Management, AME, Aecon Materials Engineering Corp.) <p>This list does not include those who were involved in the Tradewind Report's preparation or initial transmission to Mr. Moore. Individuals who received some information about the contents of the Tradewind Report without receiving a copy or having a full appreciation of its contents are identified with an asterisk.</p>
2	Based on the City's by-laws, policies and procedures, as they were in 2014, should Council have been made aware of the Report, or the information and recommendations contained therein, once the Report was submitted to the Department of Engineering Services in 2014?	<p>There was no requirement in 2014 under the City by-laws or policies to bring all consultant reports to Council.</p> <p>There was no obligation or best practice that required that Council be made aware of the Tradewind Report. However, as described in Question 3, Mr. Moore had an obligation to disclose the existence of the Tradewind Report to Traffic.</p>
3	Why was the information in the Report, or the information and recommendations contained therein, not provided to Council or the public once the Report was submitted to the Department of Engineering Services in 2014?	<p>Given the City's by-laws and policies as they existed from January 2014 to February 2019, Mr. Moore did not have an obligation to disclose the Tradewind Report, or the information and recommendations contained therein, to Council. Mr. Moore was obligated to provide the Tradewind Report to Traffic staff for their consideration in the context of traffic safety. Mr. Moore's decision not to provide it to Traffic staff foreclosed any analysis by Traffic of the significance of the Tradewind Report for traffic safety. Whether any such analysis would have resulted in disclosure to Council in connection with Traffic's recommendations for traffic safety is speculative.</p> <p>Mr. Moore kept the Tradewind Report to himself because his focus was on the state of the RHVP pavement with a view to preservation of the perpetual pavement. In addition, from Mr. Moore's perspective, the upcoming rehabilitation was a complete answer to Dr. Uzarowski's conclusions in 2014 that the friction levels were "relatively low". Mr. Moore's decision not to provide the Tradewind test results to Traffic staff notwithstanding that they had an involvement in traffic safety also reflected his approach of keeping all substantive matters relating to the RHVP to himself and his view that he was the person most capable of determining the reliability and utility of the Tradewind Report.</p> <p>Even if Mr. Moore saw no utility in the Tradewind Report from his perspective, the Tradewind Report should have been made available to Traffic to enable it to fulfill its mandate. If he had reservations about the Tradewind Report, he should have nevertheless provided the Tradewind Report and explained his reservations to his colleagues when he did so. If he had concerns regarding the circulation of the results within Public Works or publication of the results, Mr. Moore should also have identified those to his colleagues at the same time he provided the report.</p>

#	Term of Reference	Answer to Term of Reference
4	Who, if anyone, was responsible for the failure to disclose a copy of the Report, or the information and recommendations contained therein, to Council in 2014?	As the sole recipient of the Tradewind Report, Mr. Moore was responsible for the nondisclosure of the Tradewind Report, and the information and recommendations set out therein, to Council in January 2014.
5	Was there any negligence, malfeasance or misconduct in failing to provide the Report, or the information and recommendations contained therein, to Council or the public?	<p>The Commissioner expressly noted that a judicial inquiry cannot make findings of civil or criminal liability or whether a legal standard has been breached. The Commissioner was guided by the definition of misconduct as “improper or unprofessional behaviour” or “bad management” directly relevant to the subject matter of the Inquiry, which would have been considered improper at the time the conduct allegedly occurred. The term “misconduct” does not indicate findings of professional misconduct in the context of professional regulation.</p> <p>Mr. Moore’s failure to provide the Tradewind Report to the Traffic group for the purposes of its traffic safety mandate constituted misconduct.</p> <p>In addition, Mr. Moore provided inadequate, incomplete, or inaccurate information which constituted misconduct on three following occasions: (a) when he provided inadequate and incomplete data to Brian Malone regarding the nature and results of the Tradewind testing; (b) when made a statement to councillors at the PWC meeting on December 7, 2015 clearly inconsistent with the findings and recommendations in the Tradewind Report; and (c) when he made inaccurate statements to the Hamilton Spectator in advance of publication of an article on July 15, 2017.</p>
6	How was the Report discovered in 2018?	<p>In the weeks before his retirement in May 2018, Mr. Moore uploaded two emails from Dr. Uzarowski to the Director’s Office Folder in ProjectWise: the January 2014 Uzarowski Email with the averages of the Tradewind and 2007 MTO friction testing, and the December 2015 Uzarowski Email which attached a copy of the Tradewind Report.</p> <p>Mr. McGuire located the uploaded January 2014 Uzarowski Email on August 30, 2018. He also forwarded the December 2015 Uzarowski Email to a person that the Inquiry could not identify, but did not read the email or the standalone copy of the Tradewind Report that was attached to that email at that time.</p> <p>Mr. McGuire found and read the December 2015 Uzarowski Email and the Tradewind Report while looking at the contents of the Director’s Office Folder in ProjectWise on September 26, 2018. On that day or the following day, he or his assistant, Ms. Cameron, also located a hard copy of the 2014 Golder Report amongst the documents that Mr. Moore had left in his office.</p>

#	Term of Reference	Answer to Term of Reference
7	Identify all individuals who received a copy of the Report or were advised of the Report or the information and recommendations contained therein, in 2018	<ul style="list-style-type: none"> • Public Works Staff: Susan Jacob, Gord McGuire, Dan McKinnon, Edward Soldo, Dipankar Sharma • Legal Services/Risk Management Staff: Nicole Auty, Debbie Edwards, Byrdena MacNeil, John McLennan, Ron Sabo • Communications Staff: Jasmine Graham, John Hertel, Jen Recine • Audit Services Staff: Charles Brown, Domenic Pellegrini, Brigitte Minard • Administrative Staff: Diana Cameron, Nancy Wunderlich, Cathy Bojeski, Pam Delry • Mayor's Office: Mayor Fred Eisenberger, Drina Omazic • City Manager's Office: Mike Zegarac • External: David Boghosian (Boghosian LLP) and Ryan Ellis (Area Manager, National Walkway Safety Auditing) <p>This list does not include individuals who received a copy of the Tradewind Report and/or were advised of the Tradewind Report or the information and recommendations contained in it, before September 26, 2018 (addressed in Question 1) or anyone who received it after December 31, 2018.</p>
8	Were appropriate steps taken to disclose the Report, or the information and recommendations contained therein, once it was discovered in 2018?	<p>There was an obligation to bring the Tradewind Report to the attention of Council in light of the prior inconsistent statements made to Council and the media regarding friction testing on the RHVP, irrespective of whether the Tradewind Report was going to be provided to the FOI requestor.</p> <p>In part, the failure to consider whether the collision history of the RHVP and whether the actual friction levels in 2018 and 2019 posed a safety concern reflected an absence of a clear understanding between Mr. McGuire and Mr. Soldo regarding responsibility for addressing the significance for traffic safety on the RHVP of the Tradewind Report findings and recommendations because of the siloed structure of the Public Works department.</p> <p>It is not clear how or if the Tradewind Report would have been disclosed to Council absent the FOI request. When it became clear that the Tradewind Report would have to be disclosed under that request, City staff worked expeditiously to prepare a presentation to Council on the outstanding RHVP-related matters including the Tradewind Report. From that time onward, senior staff members worked hard to that end and provided notification to Council of the Tradewind Report within a reasonable time frame.</p> <p>Nevertheless, the content of the notification to Council of the Tradewind Report was deficient as a result of the unclear and overlapping roles and responsibilities of those involved and the compressed timeframe. This ultimately led to notification to Council and the public that focused on damage control.</p> <p>While the staff involved in the presentations to Council legitimately sought to be open and transparent with Council and the public, Council could have been provided with more information in the written materials to understand more comprehensively the factors contributing to accidents on the RHVP.</p>

#	Term of Reference	Answer to Term of Reference
9	<p>Was there any negligence, malfeasance or misconduct in failing to disclose the Report, or the information and recommendations contained therein, once the Report was discovered in 2018?</p>	<p>Although the Commissioner expresses certain reservations regarding the actions of staff after discovery of the Tradewind Report, he does not find that any individual engaged in improper or unprofessional behaviour, or bad management, to warrant a finding of misconduct.</p> <p>However, the absence of a joint project structure, effective communication among those involved, and the compressed timeframe had the result that there was no analysis of any significance on the critical issues in the presentations to Council – that is, the implications, if any, of the Tradewind Report for the present operating conditions on the RHVP and, more specifically, whether the traffic safety measures put in place over time were appropriate and sufficient.</p>
10	<p>Were users of the RHVP put at risk as a result of the failure to disclose the Report's findings?</p>	<p>It is not possible to provide a simple answer to this question. There are many potential contributing factors to collisions and other accidents on a roadway including factors relating to highway conditions, vehicles involved, and driver(s) involved.</p> <p>There is no evidence that the friction levels on the RHVP in or after 2013 were sufficiently low as to pose an increased risk of accidents in and of themselves. Additionally, the undisputed evidence is that inadequate friction levels are rarely the principal or proximate cause of a highway accident.</p> <p>However, inadequate friction levels can be a contributing factor to accidents along with other factors such as the road surface conditions, the geometry of the highway, and interchange spacing.</p> <p>It is reasonable to assume that Traffic would have recommended a reduction in the posted speed limit on the RHVP and enhanced speed enforcement earlier than 2019. It is also reasonable to assume that Traffic would have recommended implementation of the permanent raised pavement markings whose actual implementation was tied to Engineering Services' resurfacing schedule on an independent and earlier basis. To the extent that these actions did not occur, it is logical to assume that users of the RHVP were exposed to more risk than would have been the case if they had been implemented.</p>
11	<p>Did the Report contain findings or information that would have triggered Council to make safety changes to the roads or order further studies?</p>	<p>The Tradewind Report contained findings that not only required a further investigation but also called into question the simple explanation of bad driver behaviour that was provided to the PWC and Council as the explanation for the abnormal accident experience on the RHVP.</p> <p>It is therefore reasonable to assume that if the Traffic group had received the Tradewind Report, it would have conducted a further investigation of the roadway surface including the friction levels and would have developed a more comprehensive view of the factors that were contributing to the accident experience of the RHVP in 2014. The Commissioner has no doubt that Council would have authorized any study or investigation given the public attention and Council's ongoing engagement on RHVP matters.</p> <p>With respect to the countermeasures recommended by CIMA that were actually implemented between 2014 and 2019, it is reasonable to assume that, as a consequence of a more comprehensive approach to traffic safety, Traffic would have recommended to Council that such countermeasures be implemented earlier than actually occurred, including a reduction in posted speed limit and enhanced speed enforcement. It is also</p>

#	Term of Reference	Answer to Term of Reference
		reasonable to assume that Traffic would have recommended implementation of the countermeasures tied to the resurfacing schedule (e.g. permanent raised reflective markings) on an earlier and independent basis.
12	Did the failure to disclose the Report, or the information and recommendations contained therein, contribute to accidents, injuries or fatalities on the RHVP since January, 2014?	<p>The evidence for a definitive conclusion on this issue was not available to the Inquiry and would be difficult to generate, partly due to the COVID-19 pandemic and its effects on traffic patterns and the limitations of drawing statistically meaningful conclusions from the limited number of such incidents.</p> <p>However, to the extent that the earlier implementation of the countermeasures would have decreased the demand for friction on the RHVP, the expert evidence establishes that decreasing the demand for friction will decrease the number of collisions, injuries, and deaths even if it is not possible to quantify the effect.</p> <p>Accordingly, to the extent that the earlier implementation of these countermeasures did not occur, it is logical to assume that the failure to disclose the Tradewind Report, or the information and recommendations contained in the Tradewind Report, contributed to accidents and injuries on the RHVP since January 2014.</p>
13	Did anyone in the Public Works Office or Roads Department request, direct or conduct any other friction test, asphalt assessment, or general road safety reviews or assessments on the RHVP?	<p>The other friction tests, asphalt assessments, general road safety reviews, and other assessments of the RHVP from 2005 to 2020 are as follows:</p> <ul style="list-style-type: none"> • Golder Associates Ltd. <ul style="list-style-type: none"> ○ “Perpetual Pavement Feasibility Study, Red Hill Creek Expressway” (August 2005); ○ “Perpetual Pavement Design Study, Phase 2, Red Hill Creek Expressway” (issued in draft in March 2006); ○ Laboratory and field testing Quality Assurance services for the paving of the RHVP ramps and mainline (beginning in mid-2006 until November 2007); ○ Periodic engagements pertaining to data collection from the pavement instrumentation and monitoring system and the traffic data system installed in the RHVP mainline pavement (beginning in November 2007); ○ Phases I, II, and III of the City-wide “Pavement and Materials Technology Review” (between 2009 and 2013); ○ Inertial Profiler testing on the RHVP (to identify the location of dips and bumps on the parkway) (presented on March 4, 2016); ○ “Evaluation of Pavement Surface and Aggregates – Red Hill Valley Parkway, City of Hamilton” (March 2019); and ○ “Red Hill Valley Parkway HIR Suitability Study” (March 2019); • CIMA <ul style="list-style-type: none"> ○ “Red Hill Valley Parkway Safety Review” (December 2013); ○ “Lincoln Alexander Parkway Median Safety Study” (November 2015); ○ “Red Hill Valley Parkway Detailed Safety Analysis” (November 2015); ○ “Lincoln Alexander Parkway / Red Hill Valley Parkway Collision Rates” memo (January 2018); ○ “Hamilton LINC and RHVP Speed Study” (October 2018); ○ “Detailed LINC/RHVP Illumination Review” (January 2019);

#	Term of Reference	Answer to Term of Reference
		<ul style="list-style-type: none"> ○ “Roadside Safety Assessment – Red Hill Valley Parkway” (January 2019); ○ “Lincoln Alexander Parkway / Red Hill Valley Parkway Collision Rates” (January 2019); ○ “Red Hill Valley Parkway – Pavement Friction Testing Results Review” (February 4, 2019); ○ “Red Hill Valley Parkway – Review of MTO Pavement Friction Data 2008-2014” (February 26, 2019); ○ “Red Hill Valley Parkway Analysis” (April 2020); and ○ “Review of Red Hill Valley Parkway Friction Test Results” (May 2020). <p>The City of Hamilton also published Annual Collision Reports from 2017 and onward.</p>
14	<p>Did subsequent consultant reports provide additional support or rebuttal to the conclusions contained in the Report?</p>	<p>Subsequent friction test results and reports supported the results and conclusions in the Tradewind Report.</p> <p>The MTO test results reflected a decline in the friction levels on the RHVP from 2008 to 2012 which levelled off by 2014 at a level slightly in excess of the friction level of FN30 on an average basis for each lane in each direction.</p> <p>The friction testing conducted by Englobe in May 2019 before resurfacing of the RHVP confirm a reduction in friction levels of approximately 20% which levelled off after 2013 or 2014.</p> <p>The MTO test results and the ARA test results obtained prior to the resurfacing in 2019 were obtained using a locked-wheel test device and the results are therefore not directly comparable to the Tradewind results. However, the technical experts engaged considered the Tradewind results to be generally consistent with the MTO test results and the results obtained by ARA and Englobe.</p> <p>The various CIMA reports prepared subsequent to the Tradewind Report, even though issued in ignorance of the Tradewind Report, contained collision history statistics and analysis suggesting that low friction might be a contributing factor to the accident experience on the RHVP.</p>
15	<p>Identify any changes to the City’s bylaws, policies and procedures to prevent any such future incidents of non-disclose of significant information to Council</p>	<p>The Commissioner’s recommendations are outlined at section E of this Recommendation Report. The Commissioner’s recommendations specific to bylaws, policies, and procedures can also be found in Volume 2 of the Report at pp. <u>309 to 319</u>.</p>
16	<p>Did the MTO Report provide additional support or rebuttal to the conclusions contained in the Report?</p>	<p>The MTO 2007 friction test results in the MTO Report provided neither support nor rebuttal to the conclusions of the Tradewind Report.</p> <p>The condition of the RHVP pavement surface at the time of the Tradewind testing in 2013 was different from that at the time of the 2007 MTO testing. The frictional performance in 2007 prior to opening was distinct from, and cannot be compared to, the parkway’s frictional performance six years later in 2013 when tested by Tradewind.</p>

#	Term of Reference	Answer to Term of Reference
17	Why was the MTO Report not provided to Council or made publicly available?	<p>The 2007 test results were sent by the MTO to Golder. MTO's distribution to Golder staff, rather than directly to the City, was consistent with the MTO's standard distribution practice for municipal testing requirements.</p> <p>Dr. Uzarowski subsequently forwarded Dr. Raymond's email and the 2007 test results to Mr. Moore and Mr. Oddi at the City. Mr. Moore and Mr. Oddi were the only City staff who received the 2007 friction test results. Further distribution of the results within the City, including to Council, therefore rested with either or both of Mr. Moore and Mr. Oddi. Neither distributed the results further, nor was there any by-law or policy requiring that they do so.</p> <p>Mr. Moore made an operational decision not to share the 2007 results with anyone within Public Works. Having received satisfactory results for newly placed SMA pavement that disclosed no issues, there was nothing to report to Council. Mr. Moore's decision not to share the results was not inappropriate in the circumstances.</p> <p>Council would not have expected to receive the 2007 results in October 2007 because (a) RHV Project Office staff had delegated authority over operational and construction-related decisions pertaining to the RHVP; (2) the 2007 results were of an overall acceptable nature such that no further steps were required; and (3) the 2007 results were not accompanied by any assessment or interpretation.</p>
18	Who was briefed within the MTO's office about the MTO Report?	<p>For the purposes of this Question, "briefed" includes all individuals at the MTO who received a standalone copy of the 2007 test results in 2007 and/or information pertaining to the 2007 results between 2008 and 2019.</p> <ul style="list-style-type: none"> • Frank Marciello performed RHVP friction testing on October 16, 2007 and prepared the spreadsheets • In 2007: Dr. Chris Raymond, Becca Lane, Chris Rogers, Bob Gorman, Tom Kazmierowski, Dennis Billings, Henry Bykerk, and Rob Kohlberger • At least one of 2008 to 2012 and 2014: Bob Gorman, Dr. Chris Raymond, Joseph Ponniah, Stephen Senior, Becca Lane, Karen Smith, and Stephen Lee • In 2014, Hanna Schell, Becca Lane, Pamela Marks, Seyed Tabib, Stephen Senior, Stephen Lee, Anil Virani and Imran Bashir were given a copy of, or a link to access, a presentation given by Tom Dziedziejko which included average FN and FN ranges from the 2007 friction test results as well as the average friction values from Tradewind's testing • On February 12, 2019, Kevin Bentley received a spreadsheet containing MTO 2008 to 2014 RHVP friction test results. Several staff in the MTO's communications branch were also copied on the email and thus received the results.

#	Term of Reference	Answer to Term of Reference
19	Did the MTO Report contain findings or information that would have triggered Council to make safety changes to the roads or order further studies?	<p>Even if the 2007 friction test results had been provided to Council in 2007, they would not have triggered any safety changes to the RHVP or prompted any further friction-related studies of the parkway.</p> <p>The uncontroverted evidence before the Inquiry was that no further assessment, remediation, or action was warranted in 2007 because the results were acceptable for newly paved SMA pavement and friction levels were expected to increase shortly after the parkway opened at that time.</p>
20	Did the failure to disclose the MTO Report, or the information and recommendations contained therein, contribute to accidents, injuries or fatalities on the RHVP since January, 2014?	<p>The non-disclosure of the MTO's 2007 test results to Council did not contribute to any RHVP collisions after 2014.</p> <p>The 2007 RHVP friction test results were considered acceptable in the context of the early age low friction characteristic of an SMA pavement. No contemporaneous safety concerns arose from the 2007 results, which were expected to (and did) increase after traffic wore down the asphalt film layer on the surface of the RHVP SMA.</p> <p>The 2007 testing was performed six years prior to 2013, and friction levels had, as expected, increased in the following year from the measurements taken in October 2007 to a materially higher level from which they declined thereafter.</p>
21	Did the MTO request, direct or conduct any friction tests, asphalt assessments, or general road safety reviews or assessments on the RHVP other than the MTO Report?	<p>The MTO conducted friction testing on the RHVP in 2008, 2009, 2010, 2011, 2012, and 2014. All of this testing was conducted pursuant to the MTO's standard procedures for assessing applications for a DSM listing and for maintenance of an existing listing. It was not performed or analyzed for traffic safety purposes.</p> <p>The MTO did not distribute the 2008 to 2014 test results externally, including to anyone at the City or Golder, until February 12, 2019, when Mr. Bentley shared the 2007 to 2014 results with the City and the results were shared with the media. The MTO did not conduct or direct any other asphalt and/or road safety reviews or assessments, aside from the aforementioned DSM-related friction testing, in respect of the RHVP.</p>
22	What is the standard in Ontario, if any, with respect to the acceptable levels of friction on a roadway?	<p>There is no formal standard for acceptable levels of friction on a roadway in Ontario. The MTO also does not publish any friction measurement standards or friction level investigatory limits in respect of highways in Ontario.</p> <p>However, in practice, for traffic safety purposes, the MTO uses a tested friction level of FN30 (measured at the posted speed) as an informal investigatory level guideline for assessing roadway friction based on testing using its locked-wheel trailer testing equipment. This informal threshold is applied flexibly in different circumstances.</p> <p>While this guideline is not published, the MTO's use of this informal guideline was not a secret within the asphalt or paving industries in Ontario, although it was not universally known during the relevant period for the Inquiry.</p>

#	Term of Reference	Answer to Term of Reference
23	<p>What information with respect to the friction levels of the roadways in Ontario is publicly available?</p>	<p>The MTO does not broadly share its friction data externally as a rule, although on occasion MTO friction data may be published or shared in technical papers and industry presentations.</p> <p>There is no formal MTO directive governing responses to friction-related inquiries, but in practice MTO staff appear to have limited their responses to generic, high-level information avoiding the provision of specific information regarding friction results on specific MTO highways, any MTO views regarding appropriate threshold levels, and any interpretation of friction results.</p>
24	<p>To what extent do other factors, including, but not limited to, driver behaviour, lighting and weather conditions, contribute to motor vehicle accidents when compared to the impact of friction levels on motor vehicle accidents on the RHVP?</p>	<p>The combination of geometry, the posted speed, driver expectations, road surface conditions, and the friction levels are all contributing factors to collisions on the RHVP. The evidence before the Inquiry does not support a ranking of these factors in order of importance.</p> <p>The evidence establishes that the friction supplied by the RHVP, particularly in the areas experiencing the highest frequency of accidents, was low relative to the friction demanded and was a contributing factor to collisions on the RHVP, particularly wet road collisions.</p> <p>There are, however, many potential contributing factors to collisions and other accidents on a roadway, which can be broken down into three categories: factors related to the highway conditions, factors related to the vehicles involved, and factors related to the driver(s) involved. Pavement friction is particularly important in circumstances where other factors that increase friction demand are present.</p> <p>The motorist is the primary contributor to collisions, and individuals react faster and more accurately to events, conditions, and hazards that are “expected” compared to those that are unexpected or a surprise. When the environment deviates from expectations, all else being equal, the potential for collisions and conflicts increases.</p> <p>It is estimated that road design, operations, and maintenance is a contributing factor in approximately one quarter of motor vehicle collisions. This significant contribution suggests that, in particular, roadway infrastructure must be designed, operated, and maintained so that motorists understand the system they are using and will make rapid and appropriate decisions in selecting speed and path.</p>

Index of Certain Referenced Individuals and Entities

The below lists set out the names and relevant positions of certain individuals and entities referenced in Chapters 1 to 13 of the Report who were centrally involved in the events at issue in the Inquiry's mandate. This list does not include all individuals and entities referenced in the Inquiry Report. An asterisk indicates those individuals who gave evidence to the Inquiry.

1. Individuals

Individual	Title	Referenced in Chapter(s)
Andoga, Richard*	Senior Project Manager, Infrastructure Programming, Asset Management, Engineering Services, Environment & Sustainable Infrastructure Division, Public Works, Hamilton (until late 2012/early 2013)	4, 5, 6, 7, 8, 11
	Senior Project Manager, Infrastructure Programming, Asset Management, Engineering Services, Public Works, Hamilton (late 2012/early 2013 onwards)	
Auty, Nicole*	City Solicitor, Legal Services, Finance & Corporate Services, Hamilton	4, 10, 11, 12
Becke, Mike*	Project Manager, Design, Engineering Services, Environment & Sustainable Infrastructure Division, Public Works, Hamilton (until late 2012/early 2013)	4, 5, 7, 8, 9, 10, 11, 12
	Project Manager, Design, Engineering Services, Public Works, Hamilton (late 2012/ early 2013 to 2016)	
	Senior Project Manager, Design, Engineering Services, Public Works, Hamilton (2016 onwards)	
Boghosian, David*	Managing Partner, Boghosian & Allen LLP	10, 11, 12
Cameron, Diana*	Administrative Assistant to the Director of Engineering, Engineering Services, Public Works, Hamilton	6, 8, 9, 10
Cooper, Stephen*	Project Manager, Traffic Engineering, Traffic Operations & Engineering; Energy, Fleet & Traffic; Corporate Assets & Strategic Planning, Public Works, Hamilton (until February 2017)	4, 6, 7, 8, 9, 11
	Project Manager, Traffic Engineering, Traffic Operations & Engineering, Transportation, Public Works, Hamilton (February 2017 to 2018)	
	Project Manager, Traffic Engineering, Traffic Operations & Engineering, Roads & Traffic, Public Works, Hamilton (2018 to February 2019)	

Individual	Title	Referenced in Chapter(s)
Davis, Gerry*	General Manager, Public Works, Hamilton	4, 5, 6, 7, 8, 12
Eisenberger, Fred*	Mayor of Hamilton	4, 7, 8, 9, 10, 11, 12
Ferguson, David*	<p>Superintendent, Traffic Engineering, Traffic Operations & Engineering; Energy, Fleet & Traffic; Corporate Assets & Strategic Planning; Public Works, Hamilton (until February 2017)</p> <p>Superintendent, Traffic Engineering, Traffic Operations & Engineering, Transportation, Public Works, Hamilton (February 2017 to 2018)</p> <p>Superintendent, Traffic Engineering, Traffic Operations & Engineering, Roads & Traffic, Public Works, Hamilton (2018 to February 2019)</p> <p>Superintendent, Traffic Safety, Transportation Operations, Transportation Operations & Maintenance, Public Works, Hamilton (February 2019 onwards)</p>	4, 6, 7, 8, 9, 10, 11, 12
Field, Mike*	<p>Project Manager, Street Lighting & Electrical Engineering, Geomatics & Corridor Management, Engineering Services, Public Works, Hamilton (until 2017)</p> <p>Senior Project Manager, Lighting & Electrical, Geomatics & Corridor Management, Engineering Services, Public Works, Hamilton (2017 to February 2019)</p>	4, 6, 7, 8, 9, 11, 12
Henderson, Dr. Vimy*	Pavement & Materials Engineer, Golder	1, 3, 5, 6, 7, 9, 10
Hertel, John*	Director, Strategic Partnerships & Communications, City Manager's Office, Hamilton	10, 11
Jacob, Susan*	<p>Manager, Design, Engineering Services, Environment & Sustainable Infrastructure Division, Public Works, Hamilton (until late 2012/early 2013)</p> <p>Manager, Design, Engineering Services, Public Works, Hamilton (late 2012/early 2013 onwards)</p>	4, 5, 8, 9, 10, 11, 12
Lupton, Geoff*	Director, Energy, Fleet & Traffic; Corporate Assets & Strategic Planning, Public Works, Hamilton	4, 6, 7, 8, 12
Malone, Brian*	Partner, Vice-President, Transportation, CIMA	6, 7, 8, 9, 10, 11, 12

Individual	Title	Referenced in Chapter(s)
Mater, John*	<p>Director, Corporate Assets & Strategic Planning, Public Works, Hamilton (late 2012/ early 2013 to February 2017)</p> <p>Interim General Manager, Public Works, Hamilton (April to September 2016)</p> <p>Associate General Manager & Director, Transportation, Public Works, Hamilton (February 2017 to 2018)</p> <p>Associate General Manager, Public Works, Hamilton (2018)</p>	4, 6, 7, 8, 11, 12
McGuire, Gord*	<p>Manager, Geomatics & Corridor Management, Engineering Services, Public Works, Hamilton (until June 2018)</p> <p>Director, Engineering Services, Public Works, Hamilton (June 2018 onwards)</p>	2, 4, 6, 7, 8, 9, 10, 12
McKinnon, Dan*	General Manager, Public Works, Hamilton	3, 4, 8, 9, 10, 11, 12
McLennan, John*	<p>Manager, Risk Management, Finance & Corporate Services, Hamilton (until April 2018)</p> <p>Manager, Risk Management, Legal & Risk Management Services, Finance & Corporate Services, Hamilton (April 2018 onwards)</p>	4, 6, 8, 9, 10, 11, 12
Moore, Gary*	<p>Senior Project Manager, East-West North- South Transportation Corridor Project, Region of Hamilton-Wentworth (1988 to 1993)</p> <p>Manager, Special Project Office, Region of Hamilton-Wentworth (1993 to 2000)</p> <p>Manager, Design, Capital Planning & Implementation, Public Works, Hamilton (2001 to 2009)</p> <p>Manager, Design, Red Hill Valley Project, Public Works, Hamilton (2002 to 2007)</p> <p>Director, Engineering Services, Environment & Sustainable Infrastructure Division, Public Works, Hamilton (2009 to 2012)</p> <p>Director, Engineering Services, Public Works, Hamilton (2012 to May 2018)</p> <p>Senior Technical Lead, City of Hamilton LRT Project (June 2018 onwards)</p>	2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

* continued on next page *

Individual	Title	Referenced in Chapter(s)
Oddi, Marco*	<p>Project Manager, Special Projects Office, Regional Municipality of Hamilton-Wentworth (1991 to 2001)</p> <p>Senior Project Manager, Red Hill Valley Project, Public Works (2003 to 2007)</p> <p>Senior Project Manager, Construction Management, Construction, Engineering Services, Environment & Sustainable Infrastructure Division, Public Works, Hamilton (March 2009 until late 2012/early 2013)</p> <p>Senior Project Manager, Construction, Engineering Services, Public Works, Hamilton (late 2012/early 2013 to January 2016)</p> <p>Manager, Construction, Engineering Services, Public Works, Hamilton (January 2016 onwards)</p>	2, 3, 4, 5, 6, 7, 8, 9, 10, 11
Pellegrini, Domenic*	Senior Internal Auditor, Office of the Auditor General (Audit Services), City Manager's Office, Hamilton	4, 9, 10, 11
Sabo, Ron*	Deputy City Solicitor, Dispute Resolution, Legal Services, Finance & Corporate Services, Hamilton	4, 8, 9, 10, 11, 12
Soldo, Edward*	<p>Director, Roads & Traffic, Public Works, Hamilton (August 2018 to February 2019)</p> <p>Director, Transportation, Operations & Maintenance, Public Works, Hamilton (February 2019 to June 2021)</p> <p>Chief Roads Official, Public Works, Hamilton (June 2021 to January 2023)</p>	3, 4, 9, 10, 11, 12
Swaby, Diana*	<p>Claims Supervisor, Risk Management, Finance & Corporate Services, Hamilton (until April 2018)</p> <p>Claims Supervisor, Risk Management, Legal Services, Finance & Corporate Services, Hamilton (April 2018 onwards)</p>	4, 8, 9, 10, 11, 12
Uzarowski, Dr. Ludomir*	Principal, Pavement & Materials Engineering, Golder	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

* continued on next page *

Individual	Title	Referenced in Chapter(s)
White, Martin*	<p>Superintendent, Traffic Field Operations; Energy, Traffic Operations & Facilities;</p> <p>Transportation, Energy & Facilities Division; Public Works, Hamilton (2009 to late 2012/ early 2013)</p> <p>Manager, Traffic Operations & Engineering; Energy, Fleet & Traffic; Corporate Assets & Strategic Planning, Public Works, Hamilton (2013 to February 2017)</p> <p>Manager, Traffic Operations & Engineering, Transportation, Public Works, Hamilton (February 2017 to 2018)</p> <p>Manager, Traffic Operations & Engineering, Roads & Traffic, Public Works, Hamilton (2018 to February 2019)</p> <p>Manager, Transportation Operations, Transportation Operations & Maintenance, Public Works, Hamilton (February 2019 onwards)</p>	4, 5, 6, 7, 8, 9, 10, 11, 12
Zegarac, Mike*	Interim City Manager, Hamilton	4, 10, 11, 12

2. Entities

Entity	Relevance to the Inquiry	Referenced in Chapter(s)
CIMA +	The City's safety consultant, engaged to complete various assessments of the RHVP, including safety reviews, in 2013, 2015, 2018, and 2019	4, 6, 7, 8, 9, 10, 11, 12
Dufferin Construction Company	The City's paving contractor for the RHVP construction	2, 3, 4, 6, 12
Golder Associates Ltd.	The City's Quality Assurance consultant for the RHVP paving, engaged to complete various assessments of the pavement of the RHVP in 2005-2007, 2009-2014, 2016 and 2019. Golder engaged Tradewind Scientific Ltd. to conduct friction testing on the RHVP and LINC in 2013, which resulted in the Tradewind Report	4, 5, 6, 7, 8, 9, 10, 11, 12
Ontario Ministry of Transportation ("MTO")	The MTO conducted friction testing on sections of the RHVP in 2007 to 2014 (with the exception of 2013)	1, 2, 3, 6, 7, 9, 11, 12
Tradewind Scientific Ltd.	A company retained by Golder to conduct friction testing on the RHVP and LINC	6

Inquiry Report Recommendations

Recommendations Specific to Traffic Safety on the RHVP and LINC

#	Recommendation	Responsibility
1	Implement mechanisms that reinforce traffic safety, particularly traffic safety on the RHVP and the LINC, as a concern and a responsibility of all members of Public Works and as a joint responsibility of the Transportation Operations & Maintenance Division and Engineering Services.	Public Works
1(a)	Designate a Public Works staff person with overall responsibility for the operation, maintenance, and traffic safety of the municipal expressways, reporting directly to the General Manager of Public Works (a "Designated Road Authority Official").	Public Works
1(b)	<p>Maintain the City's existing Parkway Management Committee or another such committee to provide leadership on the safe and efficient operation and maintenance of the LINC and the RHVP.</p> <p>This committee should include:</p> <ul style="list-style-type: none"> (i) management-level staff from all divisions within Public Works whose mandates include responsibility for the RHVP and the LINC, (ii) the General Manager of Public Works, and (iii) the Designated Road Authority Official. <p>Management-level staff on the committee should have the authority to resolve any issues as between divisions of the Public Works department in connection with the responsibility to investigate and recommend countermeasures pertaining to traffic safety on the expressways.</p>	Public Works
1(c)	<p>Develop a guideline document for the management of the operation and maintenance of the LINC and RHVP, which should:</p> <ul style="list-style-type: none"> (i) define the roles and responsibilities of relevant divisions, the management committee, and the Designated Road Authority Official; (ii) provide guidelines based on industry best practices or consultation with traffic safety or other highway management professionals for the overall maintenance and operations of the municipal expressways; 	Public Works

#	Recommendation	Responsibility
	<p>(iii) establish reporting requirements to the Designated Road Authority Official, the General Manager, and to Council or to the appropriate standing committee(s) of Council; and</p> <p>(iv) require the creation of project charters for all ongoing, ad hoc, or special projects relating to the RHVP and the LINC, which should include:</p> <ol style="list-style-type: none"> 1. a designated most responsible person, 2. the individuals on a project team, 3. the project manager(s), 4. the project scope, 5. the timelines for the project, relevant stakeholders, 6. consultant retainers and roles of the consultant(s), 7. the roles and responsibilities of the divisions, sections, groups, and individuals on the project team, and 8. desired outcomes of a project. <p>The project charters should state that issues that cannot be resolved at the project team level should be referred to the Parkway Management Committee or another committee charged with responsibility for the RHVP and LINC for a decision.</p>	
2	Adopt processes for a comprehensive traffic safety approach similar to the MTO to monitor and address traffic safety issues that arise on the RHVP and LINC.	Public Works
2(a)	Regularly collect traffic statistics to permit identification of any "hot spots" or other abnormal accident experience.	Public Works
2(b)	Analyze traffic statistics on the LINC and the RHVP on a regular basis by personnel from both the Traffic group and Engineering Services to determine whether further investigation, countermeasures, or other recommendations to the Parkway Management Committee (or another such committee charged with responsibility for the RHVP and LINC) are warranted.	Public Works

#	Recommendation	Responsibility
2(c)	Circulate summaries of traffic statistics and the analyses, and recommendations from the Traffic group and Engineering Services in respect of these statistics and the analyses, to the Parkway Management Committee (or another such committee charged with responsibility for the RHVP and LINC) for review on a regular basis.	Public Works
2(d)	The Traffic group and Engineering Services should jointly participate in the management of any traffic safety project whether conducted internally or by an external consultant.	Public Works
2(e)	<p>Develop a practice relating to friction that requires:</p> <ul style="list-style-type: none"> (1) consideration of friction testing in identified "hot spots" areas or areas with an abnormal accident experience, or (2) measurement of friction on a fixed schedule to take advantage of the City's knowledge of existing baseline friction levels on the RHVP, and (3) assessment thereof by appropriate personnel in the Traffic group and Engineering Services, and (4) circulation of the assessment to appropriate personnel in the Traffic group and Engineering Services staff. 	Public Works
3	The Parkway Management Committee should consider whether to undertake a field investigation or survey to determine if the 420 m radius curve between the King Street and Greenhill Avenue interchanges was constructed with a superelevation of at least 6%.	Public Works
4	Clearly delineate the responsibilities of the Public Works divisions, sections, and/or groups, where there are overlapping responsibilities for matters of traffic safety.	Public Works
5	<p>Designate a most responsible staff member where a continuing matter or project crosses departmental, divisional, or other organizational lines within the City.</p> <p>The most responsible staff member should develop a project charter with detail that is proportionate to the scope of the project, to clearly articulate the scope, resources, responsibilities of the divisions, sections, or groups, and the desired outcomes of the project.</p> <p>Settle any difference of opinion regarding the respective roles and responsibilities of staff for a project at the outset in connection with the creation of the project charter.</p>	City Wide

#	Recommendation	Responsibility
	The project charter should also indicate that issues that cannot be resolved at the project team level will be referred to a pre-determined senior level for a decision.	
6	Management should ensure that staff receive regular, practical, and job-specific training on the Code of Conduct, as updated, and best practices for working collaboratively where divisions of Public Works have overlapping responsibilities.	Public Works

Recommendations on the Culture within Public Works

#	Recommendation	Responsibility
7	Include competencies such as collaboration, cooperation, transparency, and accountability in performance documents to ensure that staff are clear about their duties and the desired behaviours of individuals across the organization.	Public Works
8	Ensure middle managers receive training and attend leadership conferences that address leadership competencies, including transparency and escalation.	Public Works
9	Public Works staff should receive training on communicating respectful disagreement and/or other contentious issues to their colleagues, in a manner consistent with the existing requirements set out in the 2020 Code of Conduct.	Public Works
10	Implement processes such as 360 reviews and employee surveys to measure whether Public Works staff in leadership roles are practicing collaboration, cooperation, transparency, and accountability.	Public Works
11	Establish policies, procedures, or standard practices stipulating that when Public Works staff require intervention from a superior, staff's request(s) for that intervention should be clear, explicit, and in writing.	Public Works
12	Strengthen existing policies, procedures, and channels by which Public Works staff can bring forward concerns that they do not feel comfortable speaking about with their supervisors, including: <ul style="list-style-type: none"> (i) an internal complaint procedure, (ii) and/or internal whistleblower policies, and (iii) ensure that staff have confidence in such procedures. 	Public Works

Recommendations for Information Sharing and Communication Among Staff

#	Recommendation	Responsibility
13	<p>Each division of Public Works should maintain a library of all consultant and other third-party reports, staff reports to Council and formal internal reports (including collision statistics and analyses, consultant retainer agreements and project proposals). This library should be:</p> <ul style="list-style-type: none"> (i) accessible to staff in all divisions within Public Works, (ii) catalogued and retained in a manner which is easily accessible to staff within the division, (iii) accessible to the General Manager of Public Works, the Designated Road Authority Official, and the City Manager, and (iv) maintained in accordance with the City’s confidentiality provisions and all applicable privacy legislation. 	Public Works
14	<p>Implement a formal project tracking process for any case where multiple divisions in Public Works are working jointly to implement directions from Council. The General Manager of the Public Works department should be responsible for designating which divisions are in leading and supporting roles.</p> <p>This tracking process could include:</p> <ul style="list-style-type: none"> a) guidance or process for escalating any issue of the delineation of responsibilities to the General Manager, a process by which the General Manager formally assigns responsibility for each action item approved by Council, including those resulting from staff and consultant reports, to an appropriate division within Public Works for implementation; and b) additional safeguards for situations in which managerial staff, such as directors or managers, take primary responsibility for overseeing projects, consultant engagements, and/or consultant assignments. 	Public Works
15	<p>Implement formal expectations and requirements for directors and managers within Public Works in their transition to retirement or in planned departures to ensure that institutional knowledge is not lost with the retirement or departure of senior staff.</p>	Public Works

Recommendations on Staff's Reporting Obligations

#	Recommendation	Responsibility
16	Public Works staff should receive continuing education on their relationship with Council.	Public Works
17	<p>Public Works staff should conduct themselves with transparency and give their best advice to Council.</p> <p>Supplement the Council/Staff Relationship Policy to provide that:</p> <ul style="list-style-type: none"> (i) staff must not conceal or manipulate information in dealings with Council, (ii) staff must conduct themselves with integrity, courtesy, and respect at meetings of Council, and (iii) staff must refrain from making statements carelessly which would have the result, intentionally or otherwise, of misleading Council or the public. <p>Public Works staff should receive training that if staff have concerns about a proposed course of action, it is their role to identify objections in an objective manner and to communicate those objectives to Council as appropriate.</p>	Public Works
18	Make it explicit in the Code of Conduct, Council/Staff Relationship Policy, and/or another City policy that staff must place the interests of objective, accurate, and timely reporting of information to Council, including information that may not be received favourably by Council, ahead of their own self-interest and/ or concerns for the reaction of Council or the public to such information.	City Wide
19	<p>Develop a policy that tracks any commitments made by staff to Council outside of formal processes.</p> <p>If a commitment is made to Council by staff outside of the formal process, staff must inform the General Manager of Public Works about this commitment to ensure the General Manager is aware of the commitment and can take steps to ensure it is met.</p>	Public Works
20	<p>Develop a policy that stipulates:</p> <ul style="list-style-type: none"> (i) that staff should make efforts to correct the record with Council in a timely manner if and when they learn that inaccurate information has been provided to Council, (ii) a clear process for staff to report material errors in staff reports to Council or committees of Council, and 	Public Works

#	Recommendation	Responsibility
	(iii) if staff are uncertain as to how to correct the record with Council or about the materiality of an error, they should escalate the issue to their superior.	
21	<p>Stipulate in the Code of Conduct that City staff have an obligation to report if they have reasonable grounds to believe that a staff member (or “employee” as defined in the 2020 Code of Conduct) has concealed, withheld, and/or misrepresented facts or information to Council.</p> <p>Develop a policy regarding the mechanisms for staff to bring reports of this nature to the immediate attention of their superior and leadership of the department, or to an alternative individual in the event that a staff member’s immediate superior is the subject of the report.</p>	City Wide

Recommendations for Staff Communications with the Media and Public

#	Recommendation	Responsibility
22	Provide in the Code of Conduct that City staff shall endeavour to be truthful and accurate at all times when speaking with the media and public.	City Wide
23	<p>Provide media training for staff identified as media spokespersons which should include:</p> <ul style="list-style-type: none"> a) the importance of making accurate and truthful statements to the media; and b) the need to ensure that any inaccuracies are corrected promptly when identified and the proper procedure to so do. 	Public Works
24	<p>Stipulate in the Code of Conduct that if staff become aware, or have reason to believe that another member of City staff has misrepresented facts or information to the public and/or media, they have an obligation to bring this information to the attention of their superior.</p> <p>Put a process in place to escalate such misrepresentations to directors, who should then pass the information on to corporate communications staff and the City Manager for review.</p>	City Wide

Recommendations on Consultant Engagements and Assignments

#	Recommendation	Responsibility
25	<p>Clearly document all consultant engagements within Public Works in a retainer agreement which identifies:</p> <ul style="list-style-type: none"> (i) the responsible City staff contact for the assignment, (ii) the scope of the assignment, and (iii) the anticipated timelines for the assignment. <p>Where an assignment emanates from the City's roster program, and there is no retainer agreement for the project, document the consultant's engagement through a consultant proposal.</p>	Public Works
26	Create a project charter for each consultant assignment within Public Works, with detail proportionate to the scope of the project.	Public Works
27	Each division of Public Works should maintain a log of all consultant engagements, assignments, and/or projects, which is accessible to all other City staff.	Public Works
27(a)	<p>The log of consulting engagements should contain information about:</p> <ul style="list-style-type: none"> (i) the governing retainer agreement and/or project charter, (ii) the purpose of the consulting engagement, (iii) whether the consulting engagement is responsive to a Council motion (and if so, details of that motion), (iv) the staff member(s) responsible for the consulting engagement, and (v) the status of the consulting engagement. 	Public Works
27(b)	<p>Update the log of consulting engagements once a consulting engagement is completed to reflect that the consultant report and covering staff report has been uploaded into the library of reports (referenced in recommendation 13).</p> <p>If no consultant report is finalized further to the consultant engagement, record the rationale for this decision on the log.</p> <p>If staff do not present a staff report to Committee or Council in connection with the consultant engagement, record the rationale for this decision in the log.</p>	Public Works

#	Recommendation	Responsibility
27(c)	<p>The directors of each division should review this log with the managers reporting to them at regular intervals.</p> <p>In turn, the General Manager of Public Works should review this log with the directors in Public Works at regular intervals.</p>	Public Works
28	<p>Develop a policy that establishes the principles for dealing with external consultants that includes:</p> <ul style="list-style-type: none"> (a) a process to encourage the sharing of information and reports of relevance to all City staff (including the establishment of the library as proposed in recommendation 13); (b) processes to document changes in scope (minor or material); (c) appropriate communication channels for discussions with consultants working on City projects; (d) processes for prioritization of consultant recommendations (based on urgency and/or effectiveness); (e) guidelines for when City staff may request changes to consultant reports; (f) processes for the finalization of consultant reports; (g) procedures stipulating that councillors should have equal access to information; and (h) processes and a culture that emphasizes shared ownership of consultant reports. 	Public Works
29	<p>Ensure that staff who learn from a consultant of a risk to the health or safety of the citizens of Hamilton connected to the RHVP or LINC follow up with the consultant to obtain an informed understanding of the risk, whether or not the risk falls into the definition of "imminent" set out in the existing City policies on the disclosure of consultant reports to supervisors and/or Council.</p> <p>Staff should use their professional judgement, exercised in good faith and in consultation with their superior and the General Manager of Public Works where appropriate, to make recommendations to mitigate, remove, or otherwise address the risk.</p>	Public Works

Recommendations on Staff Reports

#	Recommendation	Responsibility
30	<p>Provide in the 2021 Council/Staff Relationship Policy that:</p> <ul style="list-style-type: none"> (a) staff reports must be objective and identify a full range of options for Council to consider with the risks and fiscal impacts of each option clearly and fully presented; (b) it is not the role of staff to pre-empt discussion by Council, even if staff are of the view that a proposed course of action is not feasible or realistic; and (c) staff should express such views in the staff report for Council's review and consideration. 	City Wide
31	Staff should receive training on how to draft clear, accurate, objective, and comprehensive staff reports to Committee and Council.	City Wide
32	<p>Circulate a draft of any staff report to the project teams, divisions, and/or departments with involvement in the issue for their review and input on the content of the report.</p> <p>The Code of Conduct should be clear that if staff see anything in the draft report that they question or that raises concerns during their review, they should reach out to the drafter of the report. If their questions or concerns are not subsequently addressed, the staff person who raised the issue should escalate them to someone more senior within their division or department.</p>	City Wide
33	Expand the 2021 Council/Staff Relationship Policy to stipulate that staff reports should not be shared or disclosed in draft form to an individual councillor unless expressly authorized by Council.	City Wide
34	Council should not either formally or informally delegate an issue of traffic safety on the LINC or RHVP to a subset of individual councillors, including those whose wards are contiguous to the expressways, outside delegation to a standing committee.	City Wide
35	<p>If a councillor requests information from a staff person on a matter of general significance, the requested information should be provided to all Council members.</p> <p>Provide in the Code of Conduct that staff should make every effort to ensure that each councillor has the same information.</p>	City Wide
36	Develop a policy to address procedures, processes, and best practices for staff reports that summarize consultant reports (together with recommendation 30), with a view to the following principles:	Public Works

#	Recommendation	Responsibility
	<p>(a) where City staff summarize a consultant report, they have an obligation to do so accurately and comprehensively (in accordance with recommendation 17);</p> <p>(b) if a consultant report is complex or technical in nature, the consultant should provide an executive summary of the report for staff to utilize in their staff report, rather than for staff to attempt to summarize or explain the findings of the report. The consultant should be available to speak to the relevant Committee or to Council and to respond to questions and issues that arise, particularly if the consultant's report is lengthy or complex; and</p> <p>(c) consultant reports should be appended to staff reports or be made available at the request of councillors. If the consultant's report deals with traffic safety on the RHVP or the LINC, it is highly preferable for the report to be made available to councillors in advance of the Committee or Council meeting where the corresponding staff report is presented and for the consultant to be present to speak to Council about the substance of the consultant's findings and the consultant's recommendations to avoid any misunderstanding.</p>	

CITY OF HAMILTON

NOTICE OF MOTION

General Issues Committee: December 6, 2023

MOVED BY COUNCILLOR C. CASSAR.....

Stormwater Funding Review (City Wide)

WHEREAS, City Council at its meeting of June 28, 2023 approved a new Stormwater Rate Structure;

WHEREAS, City Council at its meeting of June 28, 2023 directed staff to develop and report back regarding the implementation of a Stormwater Incentives Program;

WHEREAS, City staff have undertaken consultations with the community regarding the implementation of a Stormwater Incentives Program; and

WHEREAS, the rural community has expressed significant concern regarding the application of the Stormwater Rate Structure to agricultural properties;

THEREFORE, BE IT RESOLVED:

- (a) That staff, in the report back regarding the implementation of a Stormwater Incentives Program, include specific recommendations regarding a stormwater rate structure and incentives program that recognizes rural agricultural properties as different from Industrial, Commercial, Institutional and Multi-Residential properties; and,
- (b) That staff clearly explain the financial impacts of the stormwater rate structure and incentives program for rural agricultural properties, including alignment to the Council approved guiding principles: Fair and equitable, Climate resilient and environmentally sustainable, Affordable and financially sustainable, Justifiable, and Simple.